
STATUTORY INSTRUMENTS

1992 No. 58

**The Ports Act 1991 (Levy on
Disposals of Land, etc.) Order 1992**

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Ports Act 1991 (Levy on Disposals of Land, etc.) Order 1992 and shall come into force on the day after the day on which it is made.

Interpretation

2.—(1) In this Order, unless the context otherwise requires—

“the 1970 Act” means the Income and Corporation Taxes Act 1970⁽¹⁾;

“the 1988 Act” means the Income and Corporation Taxes Act 1988⁽²⁾;

“the 1991 Act” means the Ports Act 1991;

“annual reporting date”, in relation to a disposal period, means—

(a) the day falling 180 days after the last day of that period; or

(b) if the last disposal period ends with a date other than the last day of a financial year, then, in relation to that disposal period, the day falling 180 days after the last day of the financial year in which that disposal period ends;

or, if that day is not a business day, the next succeeding business day;

“base rate” shall be construed in accordance with paragraph (3) of article 15;

“business day” means any day other than a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882⁽³⁾;

“chargeable disposal” has the meaning given to it by article 6;

“company” means any body corporate or unincorporated association but does not include a partnership, a local authority or a local authority association;

“disposal date”, in relation to a disposal, means, subject to the provisions of this Order, the date on which the disposal is made for the purposes of the 1979 Act⁽⁴⁾;

“disposal period”, in relation to a chargeable company, means a financial year, provided that—

(a) the first disposal period shall begin with the first day of the levy period and end with the final day of the financial year in which that day falls; and

(b) the last disposal period shall end with the last day of the levy period, whether or not that day is the end of a financial year;

“disposal statement” means a statement required to be furnished under article 36;

(1) 1970 c. 10.

(2) 1988 c. 1.

(3) 1882 c. 61; section 92 was amended by sections 3(1) and (3) and 4(4) of the Banking and Finance Dealings Act 1971 (c. 80).

(4) Capital Gains Tax Act 1979 (c. 14).

“disregarded disposal” means a disposal on which, by virtue of paragraph (6) of article 8, no gain is regarded as having accrued;

“financial year”, in relation to a chargeable company, means the financial year of that company within the meaning given by section 223 of the Companies Act 1985⁽⁵⁾;

“group”, in relation to a chargeable company, means (except in the expression “wholly-owned group”) the group formed by—

- (a) that chargeable company;
- (b) any company or other person of which that chargeable company is an effective subsidiary;
- (c) any company which is an effective subsidiary of that chargeable company; and
- (d) any company which is an effective subsidiary of any company or other person of which the chargeable company is an effective subsidiary;

and for this purpose a company (“A”) is an effective subsidiary of another company or other person (“B”) if—

- (i) A would be an effective 51 per cent subsidiary of B for the purposes referred to in subsection (1) of section 272 of the 1970 Act by virtue of subsections (1E) and (1F) of that section⁽⁶⁾ if paragraph (a) of subsection (1) of that section and the words in parenthesis in subsection (2) of that section were omitted and the word “and” between paragraphs (a) and (b) of subsection (1E) were replaced by the word “or”; or
- (ii) B, or B together with any person connected with B, has control of A (and for this purpose any question whether a person is connected with another shall be determined in accordance with the provisions of section 839 of the 1988 Act, but as if the exception in subsection (4) were omitted; and “control” has the meaning given by section 840 of that Act);

“lease” has the same meaning as it has for the purposes of paragraph 10(1)(a) of Schedule 3 to the 1979 Act (and accordingly includes, amongst other things, a sub-lease);

“market value”, subject to article 18, has the meaning given by section 150 of the 1979 Act;

“quarter date” shall be construed in accordance with paragraphs (2) to (5) of article 13;

“referee” means a person appointed under article 38;

“retail prices index” means the general index of retail prices (for all items) published by the Central Statistical Office of the Chancellor of the Exchequer, and, if that index is not published for any month, any substituted index or index figures published by that Office for that month;

“section 278 disposal” means a disposal which is treated as taking place by virtue of section 278(3) or (3C) of the 1970 Act⁽⁷⁾ or section 17(6) of the 1991 Act;

“small disposal” means a disposal on which, by virtue of article 8(2), no gain is regarded as having accrued;

“wholly-owned group”, in relation to a chargeable company, means the group formed by—

- (a) the chargeable company; and
- (b) every company which would be a member of the same group as the chargeable company for the purposes of section 272 of the 1970 Act if—

(5) 1985 c. 6; section 223 was inserted by section 3 of the Companies Act 1989 (c. 40).

(6) Subsection (1) was amended by the Finance Act 1989 (c. 26), section 138(1), and by the Finance Act 1990 (c. 29), section 70(2) and (9) and section 132 and Schedule 19, Part IV; subsections (1E) and (1F) were inserted by the Finance Act 1989, section 138(2).

(7) Subsection (3C) was inserted by the Finance Act 1989, section 138(5).

- (i) subsections (1B) to (1D) of that section were omitted (and subsections (1)(b), (1A) and (1F) were construed accordingly)⁽⁸⁾; and
- (ii) the references to “75 per cent”, “51 per cent” and “more than 50 per cent” in that section and in subsection (1)(b) of section 838 and Schedule 18 to the 1988 Act were each references to 100 per cent.

(2) In this Order a reference to the 1979 Act or to any provision of that Act or to any other statutory provision relating to corporation tax on chargeable gains is, except in so far as it applies in determining whether there is a disposal of land or an interest in land for the purposes of section 17 of the 1991 Act, a reference to that Act or that provision as it applies immediately before the coming into force of this Order; and references to the purposes of the 1979 Act or of the statutory provisions relating to corporation tax on chargeable gains include references to the purposes of the 1979 Act as it applies by virtue of subsection (6) of section 17 of the 1991 Act.

⁽⁸⁾ Subsections (1A) to (1D) and (1F) were inserted by the Finance Act 1989, section 138(2).