

2021 No. 445

RATING AND VALUATION

The Valuation and Rating (Coronavirus) (Scotland) Order 2021

Made - - - - *30th November 2021*

Coming into force - - *1st December 2021*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 6 and 37(1) of the Local Government (Scotland) Act 1975(a) and all other powers enabling them to do so.

In accordance with section 6(7) of that Act, a draft of this Order has been laid before and approved by resolution of the Scottish Parliament.

In accordance with section 6(4) of that Act, the Scottish Ministers have consulted such associations of local authorities and persons carrying on undertakings as appeared to them to be concerned, and such local authorities, persons or associations of persons with whom consultation appeared to them to be desirable.

Citation, commencement and date of effect

1.—(1) This Order may be cited as the Valuation and Rating (Coronavirus) (Scotland) Order 2021 and comes into force on the day after the day on which it is made.

(2) This Order has effect from 1 April 2021(b).

Interpretation

2. In this Order—

“the 1975 Act” means the Local Government (Scotland) Act 1975,

“assessor” means an assessor appointed under section 27(2) of the Local Government etc. (Scotland) Act 1994(c) and includes a depute assessor,

“date” means any day on or after 1 April 2021,

(a) 1975 c. 30. Section 6(1) to (7) was substituted by section 1 of the Local Government (Scotland) Act 1978 (c. 4). Section 6(1) was subsequently substituted by paragraph 11 of schedule 12 of the Local Government Finance Act 1988 (c. 41) and amended by paragraph 42 of schedule 13 of the Local Government Finance Act 1992 (c. 14). Section 6(1A) was repealed by schedule 14 of the Local Government etc. (Scotland) Act 1994 (c. 39). Section 6(5A) was inserted by section 160 of the Local Government etc. (Scotland) Act 1994. Section 37(1) contains a definition of “*prescribed*” which is relevant to the exercise of the powers under which this Order is made and which was amended by paragraph 43(c) of schedule 13 of the Local Government Finance Act 1992 and S.S.I. 2016/123. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(b) In terms of section 6(6) of the Local Government (Scotland) Act 1975, an Order under section 6 may provide that the Order shall have effect as from the beginning of the financial year in which it is made.

(c) 1994 c. 39.

“lands and heritages” has the meaning prescribed by and under section 42 (interpretation) of the Lands Valuation (Scotland) Act 1854(a),

“rateable value”, in relation to lands and heritages and a particular date, means—

- (a) in the case of part residential subjects, the rateable value entered in the valuation roll made up under section 1 (the valuation roll and revaluation) of the 1975 Act(b) for that date and apportioned to the non-residential use of those subjects, and
- (b) in any other case, the rateable value entered in that valuation roll for that date in respect of those lands and heritages,

and includes a rateable value so entered with retrospective effect, and

“valuation roll” means a valuation roll made up on 1 April 2017 and maintained by the assessor for each valuation area under Part 1 of the 1975 Act.

Specified lands and heritages

3.—(1) The lands and heritages specified for the purposes of section 6(1) of the 1975 Act are any lands and heritages in Scotland in respect of which a relevant determination is made.

(2) For the purposes of this Order, a relevant determination means calculation of a rateable value or altered value to lands and heritages, or some part of lands and heritages, for the purposes of any new or altered entry in the valuation roll.

(3) For the purposes of this Order, a relevant determination does not include a determination as to whether lands and heritages, or some part of lands and heritages, are or are not to be included in the valuation roll.

Rateable values

4.—(1) For the purposes of section 6(1) of the 1975 Act, the rateable value of any specified lands and heritages must be determined in accordance with this article.

(2) In calculating the rateable value of any specified lands and heritages, no account is to be taken of any matter arising on or after 1 April 2021 that is (whether directly or indirectly) attributable to coronavirus.

(3) But paragraph (2) does not apply to the physical state of the lands and heritages in respect of which the determination is made, including whether that state affects the mode or category of occupation of the lands or heritages (which, accordingly, is a matter that may be taken into account in making a relevant determination, whether or not it is attributable to coronavirus).

(4) For the purposes of this Order, matters attributable to coronavirus include (but are not limited to)—

- (a) anything done by any person—
 - (i) with a view to compliance with any legislation which concerns the incidence or spread of coronavirus,
 - (ii) with a view to compliance with any legislation for reasons relating to the incidence or spread of coronavirus, or
 - (iii) in response to, or otherwise in consequence of, any advice or guidance given by a public authority relating to the incidence or spread of coronavirus, and
- (b) any change—
 - (i) in the rent of the lands and heritages in respect of which a relevant determination is made (or any other lands and heritages) that is attributable to coronavirus, or

(a) 1854 c. 91. Section 42 was amended by section 1 and the schedule of the Statute Law Revision Act 1892 (c. 19) and section 152(2) of the Local Government etc. (Scotland) Act 1994 (c. 39).

(b) Section 1 was amended by section 34 and schedule 6 of the Abolition of Domestic Rates etc. (Scotland) Act 1987 (c. 47), paragraph 1 of schedule 14 of the Local Government etc. (Scotland) Act 1994, paragraph 1 of schedule 4 of the Local Government and Rating Act 1997 (c. 29) and section 7 of the Non-Domestic Rates (Scotland) Act 2020 (asp 4).

(ii) in the level of valuations generally or in the value of lands and heritages generally that is attributable to coronavirus.

(5) In this article—

“coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2),

“specified lands and heritages” means the lands and heritages specified for the purposes of section 6(1) of the 1975 Act in article 3 of this Order.

TOM ARTHUR

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
30th November 2021

EXPLANATORY NOTE

(This note is not part of the Order)

This Order sets out a rule for the determination of rateable values of specified lands and heritages, for the purposes of section 6(1) of the Local Government (Scotland) Act 1975 (“the 1975 Act”). The rule clarifies that, in calculating the rateable value of any specified lands and heritages in a valuation roll made up on 1 April 2017, no account is to be taken of any matter arising on or after 1 April 2021 that is directly or indirectly attributable to coronavirus.

Article 1(2) provides that the Order has effect as from 1 April 2021, which is the beginning of the financial year in which the Order is made. This is in accordance with section 6(6) of the 1975 Act.

Article 3(1) specifies lands and heritages in Scotland in respect of which a relevant determination is made for the purposes of section 6(1) of the 1975 Act. Article 3(2) and (3) set out, respectively, what is and what is not a relevant determination for the purposes of the Order.

Article 4 sets out the rule in accordance with which the rateable value of prescribed lands and heritages are to be determined. Article 4(2) requires that, in calculating the rateable value of any specified lands and heritages, no account is to be taken of any matter arising on or after 1 April 2021 that is attributable to coronavirus. Article 4(3) sets out an exception to the rule, to the effect that the physical state of the lands and heritages may be taken into account in making a relevant determination, whether or not the matter is attributable to coronavirus. Article 4(4) provides examples of “matters attributable to coronavirus” for the purposes of the Order.

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