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STATUTORY INSTRUMENTS

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**2013 No. 468**

**RATING AND VALUATION, ENGLAND  
COUNCIL TAX, ENGLAND**

**The Non-Domestic Rating and Council Tax (Definition of  
Domestic Property and Dwelling) (England) Order 2013**

<i>Made</i>	- - - -	<i>1st March 2013</i>
<i>Laid before Parliament</i>		<i>6th March 2013</i>
<i>Coming into force</i>	- -	<i>1st April 2013</i>

The Secretary of State, in exercise of the powers conferred by section 66(9) of the Local Government Finance Act 1988(1) and by section 3(6) of the Local Government Finance Act 1992(2), makes the following Order:

**Citation, commencement and application**

1.—(1) This Order may be cited as the Non-Domestic Rating and Council Tax (Definition of Domestic Property and Dwelling) (England) Order 2013 and comes into force on 1st April 2013.

(2) This Order applies to England only.

**Amendment of the Local Government Finance Act 1988 (definition of domestic property)**

2. In section 66 of the Local Government Finance Act 1988 (domestic property) after subsection (1) insert—

“(1A) Property in England is also domestic if—

- (a) it is used wholly or mainly for the activity mentioned in subsection (1B), and
- (b) it is situated in or on property which is—
  - (i) used wholly for the purposes of living accommodation, or

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(1) 1988 c.41. Relevant amendments made by the Caravans (Standard Community Charge and Rating) Act 1992, section 1; the Local Government Finance Act 1992, section 117 and Schedules 13 and 14; the Rating (Caravans and Boats) Act 1996, section 1; the Local Government Finance Act 2012, section 6; S.I. 1990/162; S.I. 1991/474; and S.I. 1993/542. Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) article 2, Schedule 1.

(2) 1992 c.14. Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) article 2, Schedule 1.

(ii) a yard, garden, outhouse or other appurtenance belonging to or enjoyed with property used wholly for the purposes of living accommodation.

(1B) That activity is the generation of electricity or the production of heat by a source of energy or a technology mentioned in section 26(2) of the Climate Change and Sustainable Energy Act 2006(3), where—

- (a) the majority of the electricity or heat is generated or produced for use by such persons as may be in the living accommodation, or
- (b) the plant or equipment used to generate the electricity or produce the heat has a capacity not exceeding 10 kilowatts or 45 kilowatts thermal, as the case may be.”.

**Amendment of the Local Government Finance Act 1992 (meaning of dwelling)**

**3.** In section 3 of the Local Government Finance Act 1992 (meaning of “dwelling”), after subsection (4) insert—

“(4A) Subject to subsection (6) below, domestic property falling within section 66(1A) of the 1988 Act is not a dwelling except in so far as it forms part of a larger property which is itself a dwelling by virtue of subsection (2) above.”.

Signed by authority of the Secretary of State for Communities and Local Government

*Hanham*  
Parliamentary Under Secretary of State  
Department for Communities and Local  
Government

1st March 2013

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

Section 66 of the Local Government Finance Act 1988 describes domestic property (property which is not subject to non-domestic rates).

Section 3 of the Local Government Finance Act 1992 defines dwellings for the purposes of assessing liability to council tax.

Article 2 of this Order amends the definition of ‘domestic property’ in section 66 of the Local Government Finance Act 1988 so as to include property used for the purpose of microgeneration (small-scale energy generation using sustainable technologies such as solar and wind) installed on or within domestic properties as domestic property.

Article 3 of this Order amends the definition of ‘dwelling’ for the purposes of Part 1 of the Local Government Finance Act 1992 so as to exclude property used for the purpose of microgeneration installed on or within domestic properties from the definition of dwellings except in so far as they form part of a larger property which is itself a dwelling.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.