

2009 No. 69

RATING AND VALUATION

The Non-Domestic Rating (Petrol Filling Stations, Public Houses and Hotels) (Scotland) Order 2009

Made - - - - *24th February 2009*

Coming into force - - *1st September 2009*

The Scottish Ministers make the following Order in exercise of the powers conferred by section 8(3) of, and paragraph 3(2)(c)(ii) of Schedule 2 to, the Local Government and Rating Act 1997(a) and all other powers enabling them to do so.

In accordance with section 8(2) of that Act a draft has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. This Order may be cited as the Non-Domestic Rating (Petrol Filling Stations, Public Houses and Hotels) (Scotland) Order 2009 and comes into force on 1st September 2009.

Interpretation

2. In this Order—

“the 2005 Act” means the Licensing (Scotland) Act 2005(b);

“petrol filling station” means lands and heritages which are premises where petrol or other automotive fuels are sold by retail to the general public for fuelling motor vehicles intended or adapted for use on roads;

“public house or hotel” means lands and heritages which are premises which satisfy the following conditions—

- (i) a premises licence authorising the sale of alcohol for consumption both on and off the premises, has been issued by a licensing board under section 26 of the 2005 Act;
- (ii) the premises are used for such sales to members of the public, principally for consumption on the premises, in accordance with the operating plan contained in the premises licence; and
- (iii) the operating plan contained in the premises licence does not include any provision that such sales are made subject to those members of the public residing at, or consuming food on, the premises; and

“the ratepayer” means the person occupying the lands and heritages.

(a) 1997 c.29. 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). Section 8 has been amended, but not in a way that is relevant to this Order.
(b) 2005 asp 16.

Prescribed conditions

3. The conditions prescribed for the purposes of paragraph 3(2)(c)(ii) of Schedule 2 to the Local Government and Rating Act 1997 are that the whole or part of the premises in the settlement concerned is used as–

- (a) a petrol filling station, where the ratepayer in relation to that petrol filling station is not the ratepayer in relation to any other petrol filling station in Scotland; or
- (b) a public house or hotel, where–
 - (i) the ratepayer in relation to that public house or hotel is not the ratepayer in relation to any other public house or hotel in Scotland; and
 - (ii) there is no other public house or hotel in the settlement concerned.

Revocation

4. The Non-Domestic Rating (Petrol Filling Stations, Public Houses and Hotels) (Scotland) Order 2003(a) is revoked.

St Andrew's House,
Edinburgh
24th February 2009

JOHN SWINNEY
A member of the Scottish Executive

(a) S.S.I. 2003/188.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision to ensure that particular licensed premises and petrol filling stations in rural areas can continue to qualify for the relief from non-domestic rates, provided for by paragraph 3(2)(c)(ii) of Schedule 2 to the Local Government and Rating Act 1997, following implementation of the Licensing (Scotland) Act 2005. There will no longer be specific hotel and public house licences.

Schedule 2, paragraph 3 to the Local Government and Rating Act 1997 makes provision for mandatory relief from non-domestic rates for certain lands and heritages in rural settlements. Paragraph 3(2)(c)(ii) of that Schedule allows the Scottish Ministers to prescribe conditions by order and if these are satisfied, along with the other requirements of sub-paragraph (2), then the land and heritages will qualify for mandatory relief.

This Order replaces the Non-Domestic Rating (Petrol Filling Stations, Public Houses and Hotels) (Scotland) Order 2003, which is revoked. The mandatory relief for petrol filling stations, public houses and hotels, all as defined in article 2, is retained, subject to satisfying the conditions prescribed by article 3. There are no changes in relation to petrol filling stations.

Paragraph (b) of article 3 provides that the relief in the case of public houses and hotels will only apply where—

- (a) the public house or hotel is the only public house or hotel in Scotland which the ratepayer occupies; and
- (b) there is no other public house or hotel, as described in article 2, in the settlement concerned.

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