

*Status: Point in time view as at 01/04/2023.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Non-Domestic Rates (District Heating Relief) (Scotland) Regulations 2017. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

## SCOTTISH STATUTORY INSTRUMENTS

# 2017 No. 61

## RATING AND VALUATION

### The Non-Domestic Rates (District Heating Relief) (Scotland) Regulations 2017

<i>Made</i>	- - - -	<i>2nd March 2017</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>3rd March 2017</i>
<i>Coming into force</i>	- -	<i>1st April 2017</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 153 of the Local Government etc. (Scotland) Act 1994 <sup>M1</sup> and all other powers enabling them to do so.

#### Modifications etc. (not altering text)

- C1** Regulations restricted (with application to the financial year beginning 1.4.2021 and each subsequent financial year) by [The Non-Domestic Rates \(Restriction of Relief\) \(Scotland\) Regulations 2021 \(S.S.I. 2021/145\)](#), regs. 1, 3
- C2** Regulations restricted (with application to the financial year beginning 1.4.2023 and each subsequent financial year) by [The Non-Domestic Rates \(Restriction of Relief\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/28\)](#), regs. 1, 3

#### Marginal Citations

- M1** 1994 c.39 (“the 1994 Act”); [section 153](#) was amended by the [Climate Change \(Scotland\) Act 2009 \(asp 12\)](#), [section 67](#). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of the [Scotland Act 1998 \(c.46\)](#), [section 53](#).

#### Citation and commencement

1. These Regulations may be cited as the Non-Domestic Rates (District Heating Relief) (Scotland) Regulations 2017 and come into force on 1st April 2017.

#### Interpretation

2. In these Regulations—

“the 1962 Act” means the Local Government (Financial Provisions etc.) (Scotland) Act 1962 <sup>M2</sup>,

**Status:** Point in time view as at 01/04/2023.

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Non-Domestic Rates (District Heating Relief) (Scotland) Regulations 2017. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

“the 1966 Act” means the Local Government (Scotland) Act 1966 <sup>M3</sup>;

“the 1975 Act” means the Local Government (Scotland) Act 1975 <sup>M4</sup>;

“the 2000 Act” means the Electronic Communications Act 2000 <sup>M5</sup>;

“communal heating” means the distribution of thermal energy in the form of steam, hot water or chilled liquids from a central source in a building which is occupied by more than one final customer, for the use of space or process heating, cooling or hot water;

“district heating network” means the distribution of thermal energy in the form of steam, hot water or chilled liquids from a central source of production through a network to multiple buildings or sites for the use of space or process heating, cooling or hot water and includes any attached communal heating;

“electronic communication” has the meaning given to it in section 15(1) of the 2000 Act <sup>M6</sup>;

“lands and heritages” has the meaning prescribed by and under section 42 of the Lands Valuation (Scotland) Act 1854 <sup>M7</sup>;

“local authority” means the rating authority in whose valuation roll the entry for the lands and heritages appears; <sup>F1</sup>...

[<sup>F2</sup>“renewable generation” means heat or power produced from the following sources—

- (a) biomass,
- (b) biofuels,
- (c) fuel cells,
- (d) photovoltaics,
- (e) water (including waves and tides, but excluding production from the pumped storage of water),
- (f) wind,
- (g) solar power,
- (h) geothermal sources,
- (i) heat or cold unavoidably generated as a by-product of another process, which would be wasted if not used for the purposes of a district heating network,
- (j) the thermal treatment or incineration of waste materials that would not otherwise be recycled or reused, and]

“valuation roll” means the roll made up under section 1 of the 1975 Act.

#### Textual Amendments

- F1** Word in [reg. 2](#) omitted (1.4.2021) by virtue of [The Non-Domestic Rates \(District Heating Relief and Renewable Energy Generation Relief\) \(Scotland\) Amendment Regulations 2021 \(S.S.I. 2021/64\)](#), regs. 1, [2\(2\)](#)
- F2** Words in [reg. 2](#) inserted (1.4.2021) by [The Non-Domestic Rates \(District Heating Relief and Renewable Energy Generation Relief\) \(Scotland\) Amendment Regulations 2021 \(S.S.I. 2021/64\)](#), regs. 1, [2\(2\)](#)

#### Marginal Citations

- M2** 1962 (10 and 11 Eliz., c.9).
- M3** 1966 c.51.
- M4** 1975 c.30.
- M5** 2000 c.7.

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Non-Domestic Rates (District Heating Relief) (Scotland) Regulations 2017. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- M6** 2000 c.7. Section 15(1) was amended by the [Communications Act 2003 \(c.21\)](#), [schedule 17](#), paragraph 158.
- M7** 1854 17 and 18 Vict. c.91. Section 42 was amended by the [Statute Law Revision Act 1892 \(c.19\)](#) and the 1994 Act, section 152(2).

### Amount payable as rates – lands and heritages used for the purposes of a district heating network

**3.**—(1) This regulation grants relief to a person who is liable to pay rates levied under section 7B of the 1975 <sup>M8</sup> Act in respect of lands and heritages on a day where—

- (a) that person uses the lands and heritages wholly or mainly for the purposes of a district heating network; and
- (b) application for relief is made in accordance with regulation 5.

(2) Subject to regulation 4, the relief granted under paragraph (1) is a reduction of the amount of rates payable by 50%.

[<sup>F3</sup>(3) No relief is granted by this regulation—

- (a) to any lands and heritages that qualify for relief under regulation 3A, or
- (b) for any day after the financial year ending with 31 March 2032.]

#### Textual Amendments

- F3** [Reg. 3\(3\)](#) inserted (1.4.2021) by [The Non-Domestic Rates \(District Heating Relief and Renewable Energy Generation Relief\) \(Scotland\) Amendment Regulations 2021 \(S.S.I. 2021/64\)](#), regs. 1, [2\(3\)](#)

#### Marginal Citations

- M8** [Section 7B](#) was inserted by the [Local Government Finance Act 1992 \(c.14\)](#), [section 110\(2\)](#) and amended by the 1994 Act, schedule 13, paragraph 100(4).

### [<sup>F4</sup>Amount payable as rates – lands and heritages used for the purpose of a district heating network powered by renewable generation

**3A.**—(1) This regulation grants relief to a person who is liable to pay rates levied under section 7B of the 1975 Act in respect of lands and heritages on a day where—

- (a) that person uses the lands and heritages wholly or mainly for the purposes of a district heating network,
- (b) that network is powered wholly or mainly by renewable generation, and
- (c) application for relief is made in accordance with regulation 5.

(2) The relief granted under paragraph (1) is a reduction of the amount of rates payable by 90%.

(3) This regulation applies—

- (a) only to lands and heritages first entered in the valuation roll as used for the purposes of a district heating network on or after 1 April 2021, and
- (b) for any day in the financial years beginning with 1 April 2021 and ending with 31 March 2024.]

**Status:** Point in time view as at 01/04/2023.

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Non-Domestic Rates (District Heating Relief) (Scotland) Regulations 2017. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

**Textual Amendments**

**F4** Reg. 3A inserted (1.4.2021) by The Non-Domestic Rates (District Heating Relief and Renewable Energy Generation Relief) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/64), regs. 1, **2(4)**

**Relief – further provisions**

4.—(1) Where the amount of rates payable in respect of lands and heritages is reduced by virtue of one or more of the enactments specified in paragraph (2), then in relation to those lands and heritages—

- (a) relief under [<sup>F5</sup>regulation 3(1) or 3A(1)] is to be reduced to the extent of the reduction under those enactments; <sup>F6</sup>...
- (b) no relief is to be granted under regulation 3(1) where the amount of the reduction under those enactments is 50% or more of the rates which would otherwise be payable, [<sup>F7</sup>and
- (c) no relief is to be granted under regulation 3A(1) where the amount of the reduction under those enactments is 90% or more of the rates which would otherwise be payable.]

(2) Those enactments are—

- (a) section 4(2) of the 1962 Act;
- (b) section 4(5)(c) of the 1962 Act;
- (c) section 24(3) of the 1966 Act;
- (d) section 24A of the 1966 Act; and
- (e) regulation 3 of the [<sup>F8</sup>Non-Domestic Rates (Levying and Miscellaneous Amendments) (Scotland) Regulations 2021].

<sup>F9</sup>(3) .....

**Textual Amendments**

- F5** Words in reg. 4(1)(a) substituted (1.4.2021) by The Non-Domestic Rates (District Heating Relief and Renewable Energy Generation Relief) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/64), regs. 1, **2(5)(a)**
- F6** Word in reg. 4(1) omitted (1.4.2021) by virtue of The Non-Domestic Rates (District Heating Relief and Renewable Energy Generation Relief) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/64), regs. 1, **2(5)(b)**
- F7** Reg. 4(1)(c) and word inserted (1.4.2021) by The Non-Domestic Rates (District Heating Relief and Renewable Energy Generation Relief) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/64), regs. 1, **2(5)(c)**
- F8** Words in reg. 4(2)(e) substituted (1.4.2021) by The Non-Domestic Rates (District Heating Relief and Renewable Energy Generation Relief) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/64), regs. 1, **2(5)(d)**
- F9** Reg. 4(3) omitted (1.1.2021) by virtue of The Non-Domestic Rates (Restriction of Relief and Consequential Amendments) (Scotland) Regulations 2020 (S.S.I. 2020/391), regs. 1, **6**

**Applications for relief**

5.—(1) An application for relief must be signed by the ratepayer or a person authorised to sign on behalf of the ratepayer, and—

- (a) “person authorised to sign on behalf of the ratepayer” means, where the ratepayer is—

- (i) a partnership, a partner of that partnership;
  - (ii) a trust, a trustee of that trust;
  - (iii) a body corporate, a director of that body; and
- (b) “sign” or “signed”, in relation to an application made by electronic communication means an electronic signature, as defined in section 7(2) of the 2000 Act <sup>M9</sup>.
- (2) An application under paragraph (1) must be made to the local authority by—
- (a) addressing it to the authority; and
  - (b) delivering it or sending it to the authority's office by post or electronic communication.

#### Marginal Citations

**M9** Section 7(2) was amended by S.I. 2016/696.

### Exemptions and discretionary reductions and remissions

6. Nothing in these Regulations—
- (a) requires rates to be paid in respect of lands and heritages for any day where those lands and heritages are under any enactment entirely exempt from rates for that day; or
  - (b) prejudices any power of a rating authority to grant a reduction or remission of rates under section 3A or 4(5) of the 1962 Act <sup>M10</sup>, section 25A of the 1966 Act <sup>M11</sup> or paragraph 4 of schedule 2 of the Local Government and Rating Act 1997 <sup>M12</sup>.

#### Marginal Citations

**M10** Section 4 is relevantly amended by the 1994 Act, schedule 13, paragraph 57, the [Local Government and Rating Act 1997 \(c.29\)](#), [schedule 3](#), paragraph 2(a) and the [Charities and Trustee Investment \(Scotland\) Act 2005 \(asp 10\)](#), [section 98\(3\)](#).

**M11** Section 25A was inserted by the 1994 Act, section 156.

**M12** [1997 c.29](#). Paragraph 4 was amended by the Local Government in [Scotland Act 2003 \(asp 1\)](#), [section 28](#).

St Andrew's House,  
Edinburgh

*DEREK MACKAY*  
A member of the Scottish Government

**Status:** Point in time view as at 01/04/2023.

**Changes to legislation:** There are outstanding changes not yet made by the [legislation.gov.uk](https://legislation.gov.uk) editorial team to The Non-Domestic Rates (District Heating Relief) (Scotland) Regulations 2017. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

---

## EXPLANATORY NOTE

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

These Regulations make provision to reduce the amount payable as non-domestic rates in respect of subjects in Scotland used wholly or mainly for the purposes of a district heating network. They apply from the start of the 2017-2018 financial year.

Regulation 3 provides for a 50% reduction in rates where the lands and heritages are used wholly or mainly as a district heating network. Regulation 4 provides for a reduction in relief if the enactments listed already provide for a reduction and that any relief must be compatible with state aid rules.

Regulation 5 provides that an application must be made to obtain the relief. Regulation 6 allows for exemptions and discretionary reductions.

**Status:**

Point in time view as at 01/04/2023.

**Changes to legislation:**

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Non-Domestic Rates (District Heating Relief) (Scotland) Regulations 2017. Any changes that have already been made by the team appear in the content and are referenced with annotations.