

**2018 No. 75**

**RATING AND VALUATION**

**The Non-Domestic Rates (New and Improved Properties)  
(Scotland) Regulations 2018**

*Made* - - - - - *23rd February 2018*

*Laid before the Scottish Parliament* *23rd February 2018*

*Coming into force* - - - *1st April 2018*

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

**Citation and commencement**

1. These Regulations may be cited as the Non-Domestic Rates (New and Improved Properties) (Scotland) Regulations 2018 and come into force on 1st April 2018.

**Interpretation**

2. In these Regulations—

“the 1966 Act” means the Local Government (Scotland) Act 1966(b);

“the 1975 Act” means the Local Government (Scotland) Act 1975(c);

“the 2017 Regulations” means the Non-Domestic Rates (Transitional Relief) (Scotland) Regulations 2017(d);

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

“part residential subjects” has the meaning prescribed by and under section 99(1) of the Local Government Finance Act 1992(f);

“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 roll for that date and apportioned to the non-residential use of those subjects; and

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(a) 1994 c.39 (“the 1994 Act”). Section 153 was amended by section 67 of the Climate Change (Scotland) Act 2009 (asp 12). 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) 1966 c.51.

(c) 1975 c.30.

(d) S.S.I. 2017/85 as amended by S.S.I. 2018/76

(e) 1854 c.91 (17 and 18 Vict.). Section 42 was amended by the Statute Law Revision Act 1892 (c.19) and section 152(2) of the 1994 Act.

(f) 1992 c.14. There are amendments to section 99(1) not relevant to these Regulations

(b) in any other case, the rateable value entered in the roll for that date in respect of those lands and heritages,

and includes a rateable value so entered with retrospective effect;

“rates” means non-domestic rates levied under section 7B of the 1975 Act(a);

“reference amount” means the total amount of any relevant increases made in respect of the lands and heritages taking effect on a day within the previous 12 months;

“relevant increase” means an increase in the rateable value of lands and heritages shown in an entry in the roll, taking effect on a day on or after 1st April 2018, made in pursuance of section 2(1)(d) of the 1975 Act(b) which —

(a) is caused (in whole or part) by—

- (i) the refurbishment or expansion of one or more buildings or parts of a building which form part of the lands and heritages; or
- (ii) the erection or construction of one or more buildings or parts of a building which form part of the lands and heritages; and

(b) is not caused (in whole or in part) by—

- (i) the combination, division or reorganisation of lands and heritages which were shown, in whole or in part, in a different entry in the roll for the day immediately prior to that day; or
- (ii) the change of use of the lands and heritages;

“relevant new build lands and heritages” means lands and heritages—

(a) which are shown in an entry in the roll which is altered in pursuance of section 2(1)(d) of the 1975 Act and which alteration takes effect on a day on or after 1 April 2018;

(b) for which there is an increase in rateable value on the day the alteration mentioned in paragraph (a) takes effect;

(c) comprising one or more buildings or parts of a building none of which were shown in any entry in the roll for the day immediately prior to the day the alteration mentioned in paragraph (a) takes effect; and

(d) which —

- (i) have been continuously unoccupied since the day the alteration mentioned in paragraph (a) takes effect;
- (ii) were continuously unoccupied from that day up to a day within the previous 12 months; or
- (iii) are lands and heritages—

(aa) in respect of which the date the alteration mentioned in paragraph (a) takes effect is within the previous 12 months; and

(bb) shown in an entry in the roll which, for the day immediately prior to the day the alteration takes effect, showed lands and heritages which were unoccupied and in respect of which the person entitled to possession was in receipt of relief under section 24 of the 1966 Act(c);

“relevant new entry lands and heritages” means lands and heritages —

(a) which are shown in an entry in the roll which is made in pursuance of section 2(1)(b) of the 1975 Act with effect from a day on or after 1st April 2018; and

(b) comprising one or more buildings or parts of a building none of which were part of lands and heritages shown in any entry in the roll on 31st March 2018;

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(a) Section 7B was inserted by section 110(2) of the Local Government Finance Act 1992 (c.14) and amended by paragraph 100(4) of schedule 13 of the Local Government etc. (Scotland) Act 1994.

(b) Section 2(1)(d) was amended by S.S.I. 2000/285.

(c) Section 24 was substituted by section 154 of the Local Government etc. (Scotland) Act 1994 and amended by section 1(2) of the Local Government Finance (Unoccupied Properties etc.) (Scotland) Act 2012 (asp 11).

“the relevant year” is the financial year 2018-19;

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

**Amount payable as rates – relevant new entry lands and heritages and relevant new build lands and heritages**

**3.**—(1) This regulation grants relief to a person who is liable to pay rates in respect of lands and heritages on a day in the relevant year if—

- (a) they are—
  - (i) relevant new entry lands and heritages; or
  - (ii) relevant new build lands and heritages; and
- (b) an application for relief is made in accordance with regulation 6.

(2) The amount of rates payable is to be reduced by 100%.

**Amount payable as rates – lands and heritages in respect of which a relevant increase has been made within the previous 12 months**

**4.**—(1) This regulation grants relief to a person who is liable to pay rates in respect of lands and heritages on a day in the relevant year if—

- (a) they are lands and heritages in respect of which one or more relevant increases have been made with effect from a date within the previous 12 months;
- (b) they are not—
  - (i) relevant new build lands and heritages; or
  - (ii) relevant new entry lands and heritages; and
- (c) an application for relief is made in accordance with regulation 6.

(2) Subject to regulation 5, where regulation 7 of the 2017 Regulations does not apply to the lands and heritages the amount of rates payable is—

- (a) zero where the reference amount exceeds the rateable value; or
- (b) in any other case the amount that would have been payable had the rateable value been lower than that shown in the roll by an amount equal to the reference amount.

(3) Subject to regulation 5, where regulation 7 of the 2017 Regulations applies to the lands and heritages for the purposes of regulation 9(3) of those Regulations—

- (a) in respect of lands and heritages for which the rateable value exceeds the sum of the rateable value on 1st April 2017 and the reference amount, the transitional limit is calculated in accordance with the formula—

$$\frac{(BL \times 1.329) + ((ARV - RV) \times PF)}{365}$$

where—

ARV is the adjusted rateable value, found by subtracting the reference amount from the rateable value of the lands and heritages;

BL is the base liability of the lands and heritages ascertained in accordance with regulation 10 of the 2017 Regulations;

RV is the rateable value of the lands and heritages on 1st April 2017; and

PF is the poundage figure of—

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

- (i) 0.506 where ARV exceeds £51,000; or
- (ii) 0.48 in any other case; or
- (b) in any other case, the transitional limit is calculated in accordance with the formula—

$$\frac{BL \times 1.329 \times ARV}{365 \times RV}$$

where—

ARV, BL and RV have the same meanings as in sub paragraph (a).

### **Additional relief**

**5.—**(1) The amount payable as rates on a day in the relevant year determined in accordance with regulation 4 is to be reduced (but not to an amount less than nil) by an amount calculated in accordance with the formula—

$$Z - X$$

where—

X is the reduction applied by the reliefs listed in paragraph (2); and

Z is the reduction that would have been applied by one or more of the reliefs listed in paragraph (2) had the rateable value been lower than that shown in the roll by an amount equal to the reference amount.

(2) The reliefs are those provided by the following enactments:—

- (a) section 24(3) of the 1966 Act(a);
- (b) paragraph 3 of schedule 2 of the Local Government and Rating Act 1997(b);
- (c) regulations 3 and 3B of the Non-Domestic Rates (Renewable Energy Generation Relief) (Scotland) Regulations 2010(c);
- (d) regulation 5 of the Non-Domestic Rates (Enterprise Areas) (Scotland) Regulations 2016(d); and
- (e) regulation 3 of the Non-Domestic Rates (Levying)(Scotland) Regulations 2018(e);

### **Application for relief**

**6.—**(1) An application for relief under these Regulations must—

- (a) be signed by the ratepayer or a person authorised to sign on behalf of the ratepayer; and
- (b) be made to the local authority by—
  - (i) addressing it to the local authority; and
  - (ii) delivering it or sending it to the local authority’s office by post or electronic communication.

(2) For the purposes of paragraph (1)—

“electronic communication” has the meaning given to it by section 15(1) of the Electronic Communications Act 2000 (“the 2000 Act”)(f);

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(a) Section 24(3) was substituted by section 154 of the Local Government etc.(Scotland) Act 1994 (c.39) and amended by section 1(2)(a),(b) and(c) of the Local Government Finance (Unoccupied Properties etc.) (Scotland) Act 2012.

(b) 1997 c.29. Paragraph 3 was amended by section 29 of the Local Government in Scotland Act 2003 (asp 1) and paragraph 25 of schedule 8 of the Postal Services Act 2000 (c.26) and paragraph 148 of schedule 12 of the Postal Services Act 2011 (c.5).

(c) S.S.I 2010/44 as amended by S.S.I. 2010/440, S.S.I. 2016/121. S.S.I 2017/60 and S.S.I. 2018/64.

(d) S.S.I. 2016/119.

(e) S.S.I 2018/74.

(f) 2000 c.7. Section 15(1) was amended by paragraph 158 of schedule 17 of the Communications Act 2003 (c.21).

“local authority” means the rating authority in whose roll the entry for the lands and heritages appears;

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

- (a) a partnership, a partner of that partnership;
- (b) a trust, a trustee of that trust;
- (c) a body corporate, a director of that body; and

“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>(a)</sup>.

*DEREK MACKAY*

A member of the Scottish Government

St Andrew’s House,  
Edinburgh  
23rd February 2018

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<sup>(a)</sup> Section 7(2) was amended by S.I. 2016/696.

## **EXPLANATORY NOTE**

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

These Regulations make provision for the amount payable in non-domestic rates in respect of certain lands and heritages.

Regulation 3 provides that new build lands and heritages falling within the definitions of relevant new build lands and heritages and relevant new entry lands and heritages are eligible for 100% relief.

Regulation 4 sets out the relief which is available for lands and heritages that do not fall within those definitions but in respect of which there has been a relevant increase. Regulation 4(2) sets out the amount of rates payable for those lands and heritages which are not subject to transitional relief in terms of the Non-Domestic Rates (Transitional Relief) (Scotland) Regulations 2017 and regulation 4(3) sets the transitional limit for those lands and heritages which are subject to transitional relief.

Regulation 5 provides for a further reduction in the amount payable as rates to be calculated in accordance with the formula set out in paragraph (1).

An application must be made to obtain the relief and regulation 6 sets out how the application is to be made.

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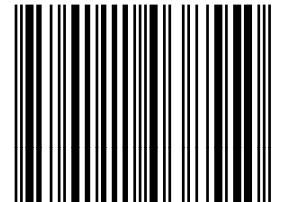


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