

2006 No. 2313

RATING AND VALUATION, ENGLAND

**The Non-Domestic Rating (Small Business Rate Relief)
(Amendment) (England) Order 2006**

<i>Made</i>	- - - -	<i>23rd August 2006</i>
<i>Laid before Parliament</i>		<i>1st September 2006</i>
<i>Coming into force</i>	- -	<i>1st October 2006</i>

The Secretary of State, in exercise of the powers conferred by sections 43(4B)(a)(ii) and (iii) and (4C) and 143(1) and (2) of the Local Government Finance Act 1988(a), makes the following Order:

Citation, application and commencement

1.—(1) This Order, which applies to England only, may be cited as the Non-Domestic Rating (Small Business Rate Relief) (Amendment) (England) Order 2006 and shall come into force on 1st October 2006.

(2) Nothing in this Order shall apply for the purposes of, or in relation to, any application for small business rate relief made under section 43(4B)(a)(iii) of the Local Government Finance Act 1988 in respect of a chargeable day in a chargeable financial year beginning before 1st April 2007.

Amendments to the Non-Domestic Rating (Small Business Rate Relief) (England) Order 2004

2.—(1) The Non-Domestic Rating (Small Business Rate Relief) (England) Order 2004(b) is amended as follows.

(2) For article 1(2) (Citation, application, commencement and interpretation), substitute—

“(2) In this Order—

“the Act” means the Local Government Finance Act 1988;

“relevant billing authority” means a billing authority to which an application is made under section 43(4B)(a)(iii) of the Act;

“relevant financial year” means the first financial year in a valuation period in respect of which an application is made under section 43(4B)(a)(iii) of the Act; and

“valuation period” means the period for which a local non-domestic rating list remains in force under section 41(3) of the Act.”.

(3) For article 3 (Conditions for relief), substitute—

(a) 1988 c.41. Sections 43(4A) to (4D) were inserted by section 61 of the Local Government Act 2003 (c.26). See section 146(6) for the definition of “prescribed”.
(b) S.I. 2004/3315.

“3.—(1) For the purposes of section 43(4B)(a)(ii) of the Act, the conditions to be satisfied are the conditions in paragraphs (2) to (5).

(2) The first condition is that, subject to paragraph (6), on the chargeable day the ratepayer occupies only one hereditament in England.

(3) The second condition is that the rateable value of the hereditament as shown in the local non-domestic rating list for—

- (a) the first day of the relevant financial year;
- (b) the chargeable day; and
- (c) each day (if any) falling after the first day of the relevant financial year and before the chargeable day,

is not more than the amount prescribed, as regards the hereditament, in article 2.

(4) The third condition is that, except where a fresh application under section 43(4B)(a)(iii) is required by article 4A(2), the ratepayer serves on the billing authority concerned an application in respect of the valuation period, or so much of the valuation period as remains—

- (a) no earlier than 1st October in the financial year preceding the relevant financial year; and
- (b) no later than—
 - (i) 30th September in the financial year following the end of the valuation period; or
 - (ii) where, in relation to the hereditament to which the application relates, the second condition becomes satisfied due to an alteration of a local non-domestic rating list, the date mentioned in paragraph (i) or the day that falls six months after the date on which the billing authority concerned is notified of the alteration pursuant to regulations under section 55 of the Act (alteration of lists), whichever is later.

(5) The fourth condition is that, subject to paragraph (7), on the chargeable day, where applicable, the ratepayer has given notice to the billing authority of the following matters—

- (a) an increase in the rateable value shown in the local non-domestic rating list for any hereditament listed in the ratepayer’s application under section 43(4B)(a)(iii) of the Act which is situated in the area of a billing authority other than the relevant billing authority; and
- (b) the ratepayer coming into occupation of any hereditament not mentioned in that application.

(6) In determining whether the first condition is satisfied for a day the ratepayer’s occupation of any other hereditament in England shall be disregarded where—

- (a) the chargeable amount for that hereditament for that day is not calculated in accordance with subsection 43(4A)(a) of the Act;
- (b) its rateable value shown in the local non-domestic rating list for that day is not more than £2,199; and
- (c) the aggregate rateable value on that day of all the hereditaments the ratepayer occupies in England is not more than the amount prescribed, as regards the hereditament for which relief is sought, in article 2.

(7) In determining whether the fourth condition is satisfied for a day, if notice is given to the billing authority within four weeks of the day following the day on which the event giving rise to the notice occurred, the notice shall be deemed to have been given on the day on which the event occurred and each day, if any, between that day and the day the notice was given.”.

(4) After article 4 (The application), insert the following—

“Notices under article 3(5)

4A.—(1) A notice in respect of the matter mentioned in article 3(5)(a) must be given in writing.

(2) A notice in respect of the matter mentioned in article 3(5)(b) must be given by way of a fresh application unless, because of the change being notified, the ratepayer is no longer entitled to relief in which case the notice may alternatively be given in writing.”.

(5) In article 5 (Service of applications)—

(a) in paragraph (1), after “Act” insert “and a notice under article 3(5)”; and

(b) in paragraph (2), after “application” insert “or notice”.

(6) For the Schedule, substitute—

“SCHEDULE

Article 4

FORM OF APPLICATION

<p>1. State—</p> <p>(a) name, address, facsimile number (where applicable), telephone number and electronic mail address (where applicable) of the ratepayer—</p> <p>(b) the valuation period or partial valuation period for which relief is sought—</p> <p>2. If the application is the first application in the valuation period in respect of a hereditament, give the full address of—</p> <p>(a) the hereditament for which small business rate relief is sought—</p> <p>(b) any other hereditament in England the ratepayer occupies—</p> <p>3. If the application is being made to notify the billing authority of a change in circumstances but the hereditament for which the ratepayer is seeking relief remains unchanged, state—</p> <p>(a) the hereditament in England which the ratepayer has started to occupy since making their first application for the valuation period—</p> <p>(b) the date on which the ratepayer started to occupy that hereditament—</p>
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*I confirm that the hereditaments listed in paragraph 2 are the only hereditaments in England occupied by *[insert name of ratepayer]*

.....

OR

*I confirm that the changes listed in paragraph 3 are the only changes relating to the hereditaments in England occupied by *[insert name of ratepayer]*

.....

and the date of those changes has been accurately recorded.

Signature of the ratepayer or person authorised to sign on behalf of the ratepayer

.....

Capacity of the person signing

.....

Date

.....

*Delete as appropriate

Notes

This form may be used for a first application for small business rate relief in a valuation period in respect of a property or for a fresh application that is required because the ratepayer has taken up occupation of an additional property. Paragraph 2 must be completed for a first application in a valuation period and paragraph 3 for a fresh application. The appropriate part of the declaration must also be completed and the part which is not applicable deleted.

A valuation period is the period of five years for which a local non-domestic rating list is in force (i.e. the period between revaluations of non-domestic hereditaments) and if the ratepayer does not take up occupation of any additional properties they will not need to apply for relief more than once in each valuation period.

Small business rate relief can only be claimed for one property. A first application for relief in a valuation period in respect of a property should be made using paragraph 2 (paragraph 3 is not applicable) and all properties in England occupied by the ratepayer must be listed. Where the ratepayer starts to occupy a new property after making an application but wishes to continue receiving relief in respect of the same property, a fresh application must be made by completing paragraph 3 (paragraph 2 need not be completed). It should be noted that, for any particular day, the billing authority will disregard the ratepayer's occupation of an additional property in England where—

- (a) its rateable value shown in the local non-domestic rating list for that day is not

more than £2,199; and

(b) the aggregate rateable value on that day of all the properties the ratepayer occupies in England is not more than £21,499 (where the property for which relief is sought is situated in Greater London) or £14,999 (where the property for which relief is sought is situated outside Greater London).

Therefore, if the ratepayer occupies more than one property, their entitlement to relief is dependant on the rateable values of the other properties they occupy. Where the ratepayer occupies properties in more than one area, if the rateable value of a property outside of the area of the billing authority granting the relief goes up, the ratepayer must notify that billing authority of the increase. This does not require a fresh application but must be done in writing.

If the ratepayer is uncertain about which billing authority area any of the properties they occupy is in, they should contact the authority which grants the relief.

The application must be signed by the ratepayer or a person authorised to sign on behalf of the ratepayer. This 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

in any other case, a person duly authorised to sign on behalf of the ratepayer.

Warning – it is a criminal offence for a ratepayer to give false information when making an application for small business rate relief.

”.

Signed by authority of the Secretary of State

23rd August 2006

Phil Woolas
Minister of State
Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Non-Domestic Rating (Small Business Rate Relief) (England) Order 2004 (“the 2004 Order”). Article 3 of that Order prescribed conditions to be satisfied to obtain small business rate relief under Part 3 of the Local Government Finance Act 1988 (“the 1988 Act”).

Article 2(3) of this Order substitutes a new article 3 in the 2004 Order. In particular, it replaces a condition in that Order that ratepayers annually apply for small business rate relief. Instead, it requires an application to be made in respect of the five year period between revaluations of non-domestic hereditaments in England under Part 3 of the Act, or so much of such a period as remains when the application is made (new article 3(4) of the 2004 Order).

Where relief is granted, certain changes in circumstances will need to be notified to the billing authority by the ratepayer. These are—

- (a) the ratepayer taking up occupation of a property they did not occupy at the time of making their application for relief; and
- (b) an increase in the rateable value of a property occupied by the ratepayer in an area other than the area of the billing authority which granted the relief (new article 3(5) of the 2004 Order).

Article 2(4) of this Order inserts a new article 4A in to the 2004 order. Under that new article, notification that the ratepayer has taken up occupation of an additional property must be by way of a fresh application for relief; a notice of an increase in rateable value must be in writing. Provided that such changes are notified within four weeks of the day after the day on which they occurred and the ratepayer continues to be entitled to relief, they will continue to benefit from the relief uninterrupted (new article 3(7) of the 2004 Order).

Article 2(6) of this Order substitutes a new Schedule to the 2004 Order, which prescribes the form of application for relief.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business is available from the Department for Communities and Local Government, Non-Domestic Rates Policy Branch; telephone 020 7944 3810 or email ndr@communities.gov.uk.

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