
SCOTTISH STATUTORY INSTRUMENTS

2023 No. 28

RATING AND VALUATION

The Non-Domestic Rates (Restriction of Relief) (Scotland) Regulations 2023

Made - - - - 7th February 2023
Laid before the Scottish Parliament - - - - 9th February 2023
Coming into force - - 1st April 2023

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 153 of the Local Government etc. (Scotland) Act 1994⁽¹⁾ and all other powers enabling them to do so.

Citation, commencement and application

1.—(1) These Regulations may be cited as the Non-Domestic Rates (Restriction of Relief) (Scotland) Regulations 2023 and come into force on 1 April 2023.

(2) These Regulations apply to the financial year beginning with 1 April 2023 and each subsequent financial year.

Interpretation

2. In these Regulations—

“the 2022 Act” means the Subsidy Control Act 2022⁽²⁾,

“the applicable period” has the meaning given in section 36(2) of the 2022 Act,

“minimal financial assistance” has the meaning given in section 36(3) of the 2022 Act,

“minimal or SPEI financial assistance” has the meaning given in section 42(8) of the 2022 Act, and

“the subsidy control requirements” has the meaning given in section 1(2) of the 2022 Act.

(1) 1994 c. 39. Section 153 was amended by section 67 of the Climate Change (Scotland) Act 2009 (asp 12), section 15 of the Non-Domestic Rates (Scotland) Act 2020 (asp 4) and paragraph 7 of schedule 4 of the Coronavirus (Scotland) (No. 2) Act 2020 (asp 10). 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).

(2) 2022 c. 23.

Conditions on granting non-domestic rates relief

3.—(1) The conditions in paragraphs (3) and (4) apply to relief that is available under the Regulations specified in paragraph (2) to a person who is liable to pay non-domestic rates levied under section 7B of the Local Government (Scotland) Act 1975(3).

(2) The Regulations are—

- (a) the Non-Domestic Rates (Renewable Energy Generation Relief) (Scotland) Regulations 2010(4),
- (b) the Non-Domestic Rates (Enterprise Areas) (Scotland) Regulations 2016(5),
- (c) the Non-Domestic Rates (Telecommunication Installations) (Scotland) Regulations 2016(6),
- (d) the Non-Domestic Rates (Rural Areas) (Scotland) Regulations 2017(7),
- (e) the Non-Domestic Rates (District Heating Relief) (Scotland) Regulations 2017(8),
- (f) the Non-Domestic Rates (Transitional Relief) (Scotland) Regulations 2017(9),
- (g) the Non-Domestic Rates (Day Nursery Relief) (Scotland) Regulations 2018(10),
- (h) the Non-Domestic Rates (Coronavirus Reliefs) (Scotland) Regulations 2022(11), and
- (i) Regulation 15 of the Non-Domestic Rates (Transitional Relief) (Scotland) Regulations 2023(12).

(3) Any relief granted to a person under the Regulations specified in paragraph (2) that is to be given as minimal financial assistance is to be granted only where—

- (a) the total amount of minimal or SPEI financial assistance given to that person within the applicable period does not exceed the amount specified in section 36(1) of the 2022 Act,
- (b) the procedural requirements in section 37 of the 2022 Act are followed, and
- (c) the requirements as to transparency in Chapter 3 of Part 2 of the 2022 Act are followed in respect of relief that exceeds the amount specified in section 36(4) of the 2022 Act.

(4) Any relief granted to a person under the Regulations specified in paragraph (2) that is not given as minimal financial assistance is to be granted only to the extent that such relief is—

- (a) compatible with the subsidy control requirements in the 2022 Act, and
- (b) granted in accordance with those requirements.

Amendment of the Non-Domestic Rates (Restriction of Relief) (Scotland) Regulations 2021

4. For regulation 1(2) (citation, commencement and application) of the Non-Domestic Rates (Restriction of Relief) (Scotland) Regulations 2021(13), substitute—

“(2) These Regulations apply to the financial years beginning with 1 April 2021 and 1 April 2022.”

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- (3) 1975 c. 30. Section 7B was inserted by section 110(2) of the Local Government Finance Act 1992 (c. 14). A new subsection (2) was substituted by paragraph 100(4) of schedule 13 of the Local Government etc. (Scotland) Act 1994.
 - (4) S.S.I. 2010/44, which was amended by S.S.I. 2010/440, S.S.I. 2016/121, S.S.I. 2017/60, S.S.I. 2018/64, S.S.I. 2020/391 and S.S.I. 2021/64.
 - (5) S.S.I. 2016/119 which was amended by S.S.I. 2020/391 and S.S.I. 2022/48.
 - (6) S.S.I. 2016/122, which was amended by S.S.I. 2018/63, S.S.I. 2019/41, S.S.I. 2020/41, S.S.I. 2021/65 and S.S.I. 2022/48.
 - (7) S.S.I. 2017/22.
 - (8) S.S.I. 2017/61, which was amended by S.S.I. 2020/391 and S.S.I. 2021/64.
 - (9) S.S.I. 2017/85, which was amended by S.S.I. 2018/76, S.S.I. 2019/44, S.S.I. 2020/42, S.S.I. 2020/101, S.S.I. 2020/230, S.S.I. 2020/391, S.S.I. 2021/65, S.S.I. 2021/151 and S.S.I. 2022/48.
 - (10) S.S.I. 2018/65, which was amended by S.S.I. 2018/74, S.S.I. 2020/391 and S.S.I. 2021/65.
 - (11) S.S.I. 2022/47.
 - (12) S.S.I. 2023/31.
 - (13) S.S.I. 2021/145.

St Andrew's House,
Edinburgh
7th February 2023

TOM ARTHUR
Authorised to sign by the Scottish Ministers

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations place conditions on the granting of certain relief from non-domestic rates to ensure that the granting of such relief is compatible with the Subsidy Control Act 2022 (“the 2022 Act”).

The 2022 Act imposes various requirements (the subsidy control requirements) that apply to the giving of certain forms of financial assistance that are considered subsidies (as defined in that Act). The 2022 Act provides that the subsidy control requirements in that Act do not apply to minimal financial assistance given to an enterprise (as defined in that Act) where the total amount of minimal or SPEI (services of public economic interest) financial assistance given to the enterprise over the applicable period does not exceed a specified threshold.

The relief to which these Regulations apply is that specified in the Regulations listed in regulation 3(2).

Regulation 3(3) provides that any such relief that is to be given as minimal financial assistance is to be granted only where certain conditions contained in the 2022 Act are met. These are that (a) the total amount of minimal or SPEI financial assistance given within the applicable period does not exceed the amount specified in section 36(1) of the 2022 Act (currently £315,000), (b) the procedural requirements in section 37 of the 2022 Act are followed, and (c) where the relief exceeds the amount specified in section 36(4) of the 2022 Act (currently £100,000), certain requirements as to transparency (i.e. making an entry in the subsidy database) are followed.

Regulation 3(4) provides that any relief granted to a person under the Regulations specified in regulation 3(2) that is not given as minimal financial assistance is to be granted only to the extent that such relief is (a) compatible with the subsidy control requirements in the 2022 Act, and (b) granted in accordance with those requirements.

Regulation 4 amends the Non-Domestic Rates (Restriction of Relief) (Scotland) Regulations 2021 so that they only apply to the financial years beginning 1 April 2021 and 1 April 2022. Thereafter, these Regulations will apply.