
SCOTTISH STATUTORY INSTRUMENTS

2018 No. 77

The Non-Domestic Rating (Unoccupied Property) (Scotland) Regulations 2018

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Non-Domestic Rating (Unoccupied Property) (Scotland) Regulations 2018 and come into force on 1st April 2018.

(2) In these Regulations—

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

“the 1975 Act” means the Local Government (Scotland) Act 1975⁽¹⁾;

“the 1986 Act” means the Insolvency Act 1986⁽²⁾;

“the 1994 Regulations” means the Non-Domestic Rating (Unoccupied Property)(Scotland) Regulations 1994⁽³⁾;

“the 1997 Act” means the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997⁽⁴⁾;

“the 2009 Order” means the Non-Domestic Rating (Petrol Filling Stations, Public Houses and Hotels) (Scotland) Order 2009⁽⁵⁾;

“industrial lands and heritages” means lands and heritages (other than retail lands and heritages) comprising one or more buildings which is, or all of which are—

- (a) constructed or adapted for use in the course of a trade or business; and
- (b) constructed or adapted for use for one or more of the following purposes, or one or more such purposes and one or more purposes ancillary thereto:—
 - (i) the manufacture, repair or adaptation of goods or materials;
 - (ii) the subjection of goods or materials to any process;
 - (iii) storage (including the storage or handling of goods in the course of their distribution);
 - (iv) the working or processing of minerals;
 - (v) the generation of electricity;

“payday lending” means, in the course of a business involving lending, the making of, or advertising the availability of, loan agreements in relation to which the credit provided is to be repaid or substantially repaid over a period that does not exceed twelve months and being loan agreements with an annual percentage rate of interest equal to or exceeding 100%;

“public house or hotel” has the same meaning as it is given by article 2 of the 2009 Order;

(1) 1975 c.30

(2) 1986 c.45.

(3) S.I. 1994/3200; amended by S.S.I.2000/55, S.S.I. 2008/83, S.S.I. 2013/37, S.S.I. 2014/31, S.S.I. 2016/124 and S.S.I. 2017/43.

(4) 1997 c.9.

(5) S.S.I. 2009/69

“relevant lands and heritages” means any lands and heritages comprising one or more buildings or a part of a building;

“restaurant” means lands and heritages which are premises in which the sole or principal use is the sale of food or refreshments to members of the public for consumption on those premises and includes any café, coffee shop, bistro, fast food restaurant or snack bar that is so used;

“retail lands and heritages” means any lands and heritages where any building or part of a building comprised in them is constructed or adapted for the purpose of the retail provision of—

- (a) goods; or
- (b) services (other than storage for distribution services) on or from the lands and heritages;

“roll” means a valuation roll made up under section 1 of the 1975 Act⁽⁶⁾;

“use as office premises” means that the sole or principal use of the lands and heritages takes place there in a building or part of a building that is used wholly or mainly for the purposes of administration, clerical work or handling money, and for these purposes “clerical work” includes writing, book-keeping, sorting papers, filing, data processing, drawing and the editorial preparation of material for publication; and

“use as shop premises” means that the sole or principal use of the lands and heritages takes place there in a building or part of a building that is used wholly or mainly for the retail sale of goods to members of the public who visit the building to buy goods for consumption or use elsewhere, whether or not by the buyer, for purposes unconnected with a trade or business.

Rating of unoccupied lands and heritages

2.—(1) The following are prescribed as classes of lands and heritages under section 24(2) of the 1966 Act—

- (a) all relevant lands and heritages, other than—
 - (i) industrial lands and heritages;
 - (ii) lands and heritages to which any of the conditions specified in Parts 1 or 3 of the schedule applies;
 - (iii) lands and heritages to which the conditions specified in Part 2 of the schedule apply; or
 - (iv) lands and heritages that are by virtue of regulation 4 to be treated as unoccupied for the purposes of section 24 of the 1966 Act.
- (b) all relevant lands and heritages which—
 - (i) are industrial lands and heritages;
 - (ii) have been unoccupied for a continuous period of more than 6 months; and
 - (iii) are not—
 - (aa) lands and heritages to which any of the conditions specified in Parts 1 or 3 of the schedule applies;
 - (bb) lands and heritages to which the conditions specified in Part 2 of the schedule apply; or
 - (cc) lands and heritages that are by virtue of regulation 4 to be treated as unoccupied for the purposes of section 24 of the 1966 Act; and

⁽⁶⁾ Section 1 was amended by section 34 and schedule 6 of the Abolition of Domestic Rates etc. (Scotland) Act 1987 (c.47), paragraph 1 of 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).

- (c) all lands and heritages that are by virtue of regulation 4(b) to be treated as unoccupied for the purposes of section 24 of the 1966 Act.
- (2) In determining the period during which lands and heritages have been continuously unoccupied for the purposes of paragraphs (1)(b)(ii) and (3)(a)—
 - (a) they are to be regarded as having been occupied in any period during which—
 - (i) any of the conditions in Parts 1 or 3 of the schedule applied to them; or
 - (ii) the conditions in Part 2 of the schedule applied to them; and
 - (b) they are to be regarded as having been unoccupied during any period of occupation—
 - (i) that ends within 6 weeks of beginning; or
 - (ii) in which they were by virtue of regulation 4 of these Regulations or regulation 4 of the 1994 Regulations treated as unoccupied.
- (3) 90% is the percentage prescribed under section 24(3) of the 1966 Act in relation to lands and heritages—
 - (a) within the class prescribed by paragraph (1)(a) which have been unoccupied for a continuous period of more than 3 months; and
 - (b) within the class prescribed by paragraph (1)(b).

Rating of lands and heritages partly unoccupied for a short time

- 3.—(1) The classes of lands and heritages prescribed under section 24A(4) of the 1966 Act are—
- (a) all relevant lands and heritages, other than—
 - (i) industrial lands and heritages; or
 - (ii) lands and heritages to which any of the conditions specified in Parts 1 or 4 of the schedule applies; and
 - (b) all relevant lands and heritages—
 - (i) which are industrial lands and heritages;
 - (ii) part of which has been unoccupied for a continuous period of more than 6 months; and
 - (iii) which are not lands and heritages to which any of the conditions specified in Parts 1 or 4 of the schedule applies.
- (2) Where the part of the lands and heritages prescribed by virtue of paragraph (1) which has been unoccupied becomes occupied on any day and becomes unoccupied again on the expiration of a period of less than 6 weeks beginning with that day, then for the purposes of paragraphs (1)(b)(ii) and (3)(a) that part shall be treated as having been unoccupied on that day and throughout that period.
- (3) 90% is the percentage prescribed under section 24A(4)(b)(ii) of the 1966 Act in relation to lands and heritages—
- (a) within the class prescribed by paragraph (1)(a) which have been unoccupied for a continuous period of more than 3 months; and
 - (b) within the class prescribed by paragraph (1)(b).

Lands and heritages to be treated as unoccupied

4. The classes of lands and heritages prescribed under section 24B(3) are—
- (a) all lands and heritages which have been continuously occupied since a date on or after 1 April 2018 in respect of which the following conditions are met—

- (i) for a continuous period of 6 months immediately prior to being occupied the lands and heritages were unoccupied and the person or persons entitled to possession of the lands and heritages during that period were in receipt of relief under section 24 of the 1966 Act;
 - (ii) the rateable value of the lands and heritages is no greater than £65000;
 - (iii) no longer than 12 months have elapsed since the lands and heritages became occupied;
 - (iv) the lands and heritages are not used for payday lending; and
 - (v) the person entitled to possession of the lands and heritages has submitted an application to the rating authority in whose roll the entry for the lands and heritages appear, requesting that they are treated as unoccupied, along with such information as is necessary for that authority to establish that the conditions in this paragraph are met.
- (b) all lands and heritages which have been continuously occupied since a date prior to 1 April 2018 in respect of which the following conditions are met—
- (i) for a continuous period of 12 months immediately prior to being occupied the lands and heritages were unoccupied and the person or persons entitled to possession of the lands and heritages during that period were in receipt of relief under section 24 of the 1966 Act;
 - (ii) either—
 - (aa) when last previously occupied, the lands and heritages were in use as office premises or in use as shop premises or were used as a restaurant, public house or hotel; or
 - (bb) where the lands and heritages have never previously been occupied, they are in use as office premises or in use as shop premises or are being used as a restaurant, public house or hotel;
 - (iii) the rateable value of the lands and heritages is no greater than £65000;
 - (iv) no other reduction is being made to the liability of the person entitled to possession of the lands and heritages to pay rates;
 - (v) no longer than 12 months have elapsed since the lands and heritages became occupied;
 - (vi) the lands and heritages are not used for payday lending; and
 - (vii) the person entitled to possession of the lands and heritages has submitted an application to the rating authority in whose roll the entry for the lands and heritages appear, requesting that they are treated as unoccupied, along with such information as is necessary for that authority to establish that the conditions in this paragraph are met.

Revocation

5.—(1) The 1994 Regulations (7) are revoked.

(2) Despite their revocation the 1994 Regulations continue to have effect for the purpose of regulation 2(2)(b)(ii) and paragraph (d) of Part 2 of the schedule of these Regulations.

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