

**2022 No. 49**

**RATING AND VALUATION**

**The Non-Domestic Rates (Relief for New and Improved Properties) (Scotland) Regulations 2022**

*Made* - - - - *8th February 2022*

*Laid before the Scottish Parliament* *10th February 2022*

*Coming into force* - - *1st April 2022*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 14(1), (2) and (3) of the Non-Domestic Rates (Scotland) Act 2020(a) and all other powers enabling them to do so.

In accordance with section 14(5) of that Act, the Scottish Ministers have consulted such persons as they consider appropriate.

**PART 1**

**Introduction and interpretation**

**Citation and commencement**

1. These Regulations may be cited as the Non-Domestic Rates (Relief for New and Improved Properties) (Scotland) Regulations 2022 and come into force on 1 April 2022.

**Interpretation**

2. In these Regulations—

“the 1975 Act” means the Local Government (Scotland) Act 1975(b),

“the 2019 Regulations” means the Non-Domestic Rates (Relief for New and Improved Properties) (Scotland) Regulations 2019(c),

“rateable value” in relation to lands and heritages and a particular date, means—

(a) in the case of part residential subjects, as defined by section 99(1) of the Local Government Finance Act 1992(d), the rateable value entered in the valuation roll for that date and apportioned to the non-residential use of those subjects, and

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(a) 2020 asp 4.

(b) 1975 c. 30.

(c) S.S.I. 2019/40 which was amended by S.S.I. 2019/116, S.S.I. 2020/40 and S.S.I. 2021/65.

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

- (b) in any other case, the rateable value entered in the valuation roll for that date in respect of those lands and heritages,  
and includes a rateable value so entered with retrospective effect, and  
“the relevant year” means the financial year 2022-23.

## PART 2

### New property

#### **Availability of relief - new building entered in the valuation roll under section 2(1)(b) of the 1975 Act**

3.—(1) Regulation 4 grants relief to a person who is liable to pay non-domestic rates in respect of lands and heritages on a day in the relevant year if—

- (a) they are shown in an entry in the valuation roll which is made in pursuance of section 2(1)(b) of the 1975 Act (new entry),
- (b) that entry takes effect from a day on or after 1 April 2018, and
- (c) one or more buildings or parts of a building are shown in that entry, none of which were shown in any entry in the valuation roll for the day prior to the day that entry takes effect.

(2) No relief is granted by regulation 4 unless the lands and heritages satisfy one of the conditions in paragraph (3).

(3) The conditions are that the entry in the valuation roll in respect of the lands and heritages took effect—

- (a) within the previous 12 months,
- (b) more than 12 months previously, but the lands and heritages have been continuously unoccupied since that day,
- (c) more than 12 months previously, but less than 12 months have elapsed since the property first became occupied.

(4) Where relief has been granted under regulation 4 and as a result of division of the lands and heritages separate entries are made in the valuation roll for parts of the lands and heritages, relief is to continue to be available for the lands and heritages in each entry—

- (a) where no building or any part of a building shown in any separate entry has been occupied since that relief was granted, for 12 months in respect of each of the later entries from the date a building or any part of a building shown in that individual entry first becomes occupied (regardless of whether there is such occupation in respect of other entries), or
- (b) where any building or part of a building shown in any separate entry has been occupied at any time since that relief was granted, for the remainder of the period of 12 months from the date that building or part of a building first became occupied.

#### **Relief granted - new building entered in the valuation roll under section 2(1)(b) of the 1975 Act**

4.—(1) The relief granted is that the amount of non-domestic rates payable is to be reduced by 100%.

(2) No relief is granted if, immediately prior to the entry referred to in regulation 3(1)(a) the lands and heritages—

- (a) were a dwelling as defined by section 72(2) of the Local Government Finance Act 1992 (dwellings chargeable to council tax), or
- (b) included a building, but were not shown in an entry in the valuation roll because of an enactment providing for them not to be entered in the valuation roll.

(3) Where the lands and heritages qualify for relief by satisfying the condition in regulation 3(3)(a), the relief granted ends 12 months after the new building is first occupied, or four years after the date on which the entry in the valuation roll took effect, whichever is sooner.

(4) Where the lands and heritages qualify for relief by satisfying the condition in regulation 3(3)(b) or (c), the relief ends 12 months after the building is first occupied, or on date A, whichever is sooner.

(5) In paragraph (4), “date A” is the last day of the period of four years beginning with the date on which the entry in the valuation roll took effect, or 31 March 2025, whichever is later.

(6) No relief is granted unless an application is made in accordance with regulation 12.

#### **Availability of relief – new building resulting in an alteration to the valuation roll under section 2(1)(d) of the 1975 Act**

5.—(1) Regulation 6 grants relief to a person who is liable to pay non-domestic rates in respect of lands and heritages on a day in the relevant year—

- (a) if they are shown in an entry in the valuation roll which is altered in pursuance of section 2(1)(d) of the 1975 Act<sup>(a)</sup> (alteration due to a material change of circumstances),
- (b) if that alteration takes effect on a day on or after 1 April 2018,
- (c) for which there is an increase in rateable value on the day that alteration takes effect, and
- (d) if one or more buildings or parts of a building are shown in that entry, none of which were shown in any entry in the valuation roll for the day immediately prior to the day that alteration takes effect.

(2) No relief is granted by regulation 6 unless the lands and heritages satisfy one of the conditions in paragraph (3).

(3) The conditions are that the alteration to the valuation roll in respect of the lands and heritages took effect—

- (a) within the previous 12 months,
- (b) more than 12 months previously, but the lands and heritages have been continuously unoccupied since that day,
- (c) more than 12 months previously, but less than 12 months have elapsed since the property first became occupied.

(4) No relief is granted by regulation 6 unless the lands and heritages were unoccupied on the day immediately prior to the day on which the alteration to the valuation roll took effect.

(5) Where relief has been granted under regulation 6 and as a result of division of the lands and heritages separate entries are made in the valuation roll for parts of the lands and heritages, relief is to continue to be available for the lands and heritages in each entry—

- (a) where no building or any part of a building shown in any separate entry has been occupied since that relief was granted, for 12 months in respect of each of the later entries from the date a building or any part of a building shown in that individual entry first becomes occupied (regardless of whether there is such occupation in respect of other entries), or
- (b) where any building or part of a building shown in any separate entry has been occupied at any time since that relief was granted, for the remainder of the period of 12 months from the date that building or part of a building first became occupied.

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

**Relief granted – new building resulting in an alteration to the valuation roll under section 2(1)(d) of the 1975 Act**

6.—(1) The relief granted is that the amount of non-domestic rates payable is to be reduced by 100%.

(2) Where the lands and heritages qualify for relief by satisfying the condition in regulation 5(3)(a), the relief granted ends 12 months after the new building is first occupied, or four years after the date on which the alteration to the valuation roll took effect, whichever is sooner.

(3) Where the lands and heritages qualify for relief by satisfying the condition in regulation 5(3)(b) or (c), the relief granted ends 12 months after the building is first occupied, or on date B, whichever is sooner.

(4) In paragraph (3), “date B” is the last day of the period of four years beginning with the date on which the alteration to the valuation roll took effect, or 31 March 2025, whichever is later.

(5) No relief is granted unless an application is made in accordance with regulation 12.

**Availability of relief – further works to lands and heritages granted relief under regulation 4 or 6**

7. Regulation 8 grants relief to a person who is liable to pay non-domestic rates in respect of lands and heritages on a day in the relevant year if—

- (a) the person has been awarded relief under regulation 4 or 6,
- (b) the entry in the valuation roll for the lands and heritages is altered in pursuance of section 2(1)(d) of the 1975 Act,
- (c) that alteration takes effect on a day on or after 1 April 2019,
- (d) there is a relevant increase in rateable value within the meaning of section 2A(5) of the 1975 Act(a) on the day the alteration takes effect.

**Relief granted –further works to lands and heritages granted relief under regulation 4 or 6**

8.—(1) The relief granted is the amount of non-domestic rates payable that has resulted from the increase in rateable value referred to in regulation 7(d).

(2) The relief granted is in addition to any relief that is payable under regulation 4 or 6, and is granted for a period of 12 months (whether or not relief under regulation 4 or 6 ceases).

(3) No relief is granted unless an application is made in accordance with regulation 12.

## PART 3

### Improved property

**Availability of relief – lands and heritages in respect of which a relevant increase has been made within the previous 12 months**

9.—(1) Regulations 10 and 11 grant relief to a person who is liable to pay non-domestic 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 within the meaning of section 2A(5) of the 1975 Act have been made with effect from a date within the previous 12 months,
- (b) they are not lands and heritages which are eligible for relief under regulation 4, 6 or 8, and

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(a) Section 2A was inserted by section 3 of the Non-Domestic Rates (Scotland) Act 2020 (asp 4). The definition of “relevant increase” in section 2A(5) of the Local Government (Scotland) Act 1975 was amended by S.S.I. 2022/XX.

- (c) the relevant increase results from an entry in the valuation roll for the lands and heritages being altered in pursuance of section 2(1)(d) of the 1975 Act (alteration due to a material change of circumstances).

(2) Where the rateable value of the lands and heritages is reduced during a period of works as described in section 2A(5)(a) of the 1975 Act, the relevant increase is the increase in the rateable value between that when the works commenced and that when the entry is altered due to the material change of circumstances as a result of the completion of the works.

**Relief granted – lands and heritages in respect of which a relevant increase has been made within the previous 12 months**

**10.**—(1) The relief granted is that the amount of non-domestic rates payable is to be reduced as set out in paragraph (4) or, as the case may be, paragraph (5).

- (2) The amount of relief granted depends on—
  - (a) whether regulation 7 of the 2017 Regulations applies (transitional relief in the amount of rates payable),
  - (b) 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 (“the reference amount”).
- (3) No relief is granted unless an application is made in accordance with regulation 12.
- (4) Where regulation 7 of the 2017 Regulations does not apply to the lands and heritages—
  - (a) the amount of non-domestic rates payable is to be calculated on the rateable value minus the reference amount, but
  - (b) if the rateable value minus the reference amount is a negative figure, then no relief is granted (and the amount of non-domestic rates payable is to be calculated on the rateable value).
- (5) Where regulation 7 of the 2017 Regulations applies to the lands and heritages, the amount of non-domestic rates payable is the transitional limit described in that regulation, and for these purposes the transitional limit is to be calculated—
  - (a) in respect of lands and heritages for which the rateable value exceeds the sum of the rateable value on 1 April 2017 and the reference amount, in accordance with the formula—

$$\frac{(BL \times 2.247) + ((ARV - RV) \times PF)}{365}$$

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 1 April 2017, and

PF is the poundage figure of—

- (i) 0.524 where ARV exceeds £95,000,
- (ii) 0.511 where ARV exceeds £51,000, but does not exceed £95,000, or
- (iii) 0.498 in any other case, or
- (b) in any other case, in accordance with the formula—

$$\frac{BL \times 2.247 \times ARV}{365 \times RV}$$

where—

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

(6) In this regulation “the 2017 Regulations” means the Non-Domestic Rates (Transitional Relief) (Scotland) Regulations 2017(a).

**Additional relief granted – lands and heritages in respect of which a relevant increase has been made within the previous 12 months**

**11.**—(1) Relief is granted in addition to that granted by regulation 10 where “reduction X” is less than “reduction Z”.

(2) In this regulation—

- (a) “reduction X” is the reduction applied by the provisions listed in paragraph (3), and
- (b) “reduction Z” is the reduction that would have been applied by those provisions if the rateable value of the lands and heritages were lowered by the reference amount described in regulation 10(2)(b).

(3) The provisions are—

- (a) section 24(3) of the Local Government (Scotland) Act 1966(b) (empty buildings relief),
- (b) paragraph 3 of schedule 2 of the Local Government and Rating Act 1997(c) (rural rate relief),
- (c) regulations 3 and 3B of the Non-Domestic Rates (Renewable Energy Generation Relief) (Scotland) Regulations 2010(d) (renewable energy generation relief),
- (d) regulation 5 of the Non-Domestic Rates (Enterprise Areas) (Scotland) Regulations 2016(e) (enterprise areas relief), and
- (e) regulation 3 of the Non-Domestic Rates (Levying and Miscellaneous Amendments) (Scotland) Regulations 2022(f) (the Small Business Bonus Scheme).

(4) The additional relief granted is the amount by which reduction Z exceeds reduction X (but the amount payable is not to be reduced to less than nil).

(5) For the avoidance of doubt, relief under this regulation ceases, in respect of a relevant increase, 12 months after the date from which it had effect.

## PART 4

### Applications for relief

#### Applications for relief

**12.**—(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

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(a) 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. 2021/65, S.S.I. 2021/151 and S.S.I. 2022/48.

(b) 1966 c. 51. 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 (asp 11). Section 24 of the 1966 Act will be repealed when section 19 of the Non-Domestic Rates (Scotland) Act 2020 comes into force.

(c) 1997 c. 29. Paragraph 3 was amended by section 29 of the Local Government in Scotland Act 2003 (asp 1), 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).

(d) 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 and S.S.I. 2020/391.

(e) S.S.I. 2016/119 which was amended by S.S.I. 2020/38, S.S.I. 2020/391 and S.S.I. 2022/48.

(f) S.S.I. 2022/48.

- (b) be made to the rating authority in whose valuation roll the entry for the lands and heritages appears by—
  - (i) addressing it to that authority, and
  - (ii) delivering it or sending it to that 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”)(a),

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

- (a) a partnership, a partner of that partnership or any other person authorised by it,
- (b) a trust, a trustee of that trust or any other person authorised by it,
- (c) a body corporate, a director of that body or any other person authorised by it, 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(b).

## PART 5

### Revocation, saving and transitional provision

#### Revocation and saving

**13.**—(1) Subject to paragraph (2), the following are revoked—

- (a) the 2019 Regulations,
- (b) the Non-Domestic Rates (Relief for New and Improved Properties) (Scotland) Amendment Regulations 2019(c),
- (c) the Non-Domestic Rates (Relief for New and Improved Properties) (Scotland) Amendment Regulations 2020(d), and
- (d) regulation 12 of the Non-Domestic Rates (Levying and Miscellaneous Amendments) (Scotland) Regulations 2021(e).

(2) Nothing in paragraph (1) affects the continuing operation of the instruments mentioned in paragraph (1)(a) to (c) and regulation 12 of the instrument mentioned in paragraph (1)(d) as regards the financial years starting with 2019-20 and ending with 2021-22.

#### Transitional provision

**14.**—(1) Any person described in paragraph (2) is deemed to have made an application under these Regulations on 1 April 2022.

(2) For the purposes of paragraph (1) the persons are any person—

- (a) who is entitled to a grant of relief under the 2019 Regulations on 31 March 2022, or
- (b) who made an application under the 2019 Regulations before 31 March 2022 which is not determined on or before 31 March 2022.

**15.**—(1) Regulation 4(2)(b) does not apply in respect of a person described in paragraph (2), until such time as the lands and heritages cease to satisfy a condition in regulation 3(3).

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

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

(c) S.S.I. 2019/116.

(d) S.S.I. 2020/40.

(e) S.S.I. 2021/65.

(2) Paragraph (1) applies where—

- (a) on 31 March 2020 a person had been granted relief under regulation 4 (relief granted – new building entered in the valuation roll under section 2(1)(b) of the 1975 Act) of the 2019 Regulations, and
- (b) that person would not have continued to be entitled to relief under that regulation on 1 April 2020 solely as a result of the amendment to that regulation made by regulation 2(3) of the Non-Domestic Rates (Relief for New and Improved Properties) (Scotland) Amendment Regulations 2020 (exclusion of relief where the building is not new).

*TOM ARTHUR*

Authorised to sign by the Scottish Ministers

St Andrew's House,  
Edinburgh  
8th February 2022



## EXPLANATORY NOTE

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

These Regulations make provision for reliefs to be granted to the amount payable in non-domestic rates in respect of certain lands and heritages which are newly built, or which have been improved, within the meaning of section 2A of the Local Government (Scotland) Act 1975. The relief relates to the 2022-23 financial year.

Part 2 provides for new property and Part 3 for improvement of existing property.

In Part 2, regulation 3 provides that where a new entry is made in the valuation roll that includes a building, and that entry shows no building, or parts of a building, that has previously been shown in the valuation roll, the lands and heritages are eligible for 100% relief. That relief is available for one year from the date the building is first occupied.

Regulation 3(4) provides that if a building is occupied in stages, which result in separate valuation roll entries being made for parts of the building, the relief will continue to be available for each part. The effect is that the occupation of a separate part will not prevent continued availability of relief for an unoccupied part.

Regulation 4 sets out the relief which is available and provides that it is not available in two situations. One is where the new entry in the valuation roll is the result of a property that was subject to council tax (broadly, a dwellinghouse) becoming subject to non-domestic rates. The other is where the building existed on lands and heritages that were exempt from being entered in the valuation roll, but cease to be exempt, such as a building on agricultural lands and heritages which was exempt from entry in the valuation roll, but is entered in the roll as a result of a change of use. This is subject to a transitional provision in regulation 15 preserving relief under regulation 4 of the Non-Domestic Rates (Relief for New and Improved Properties)(Scotland) Regulations 2019 (“the 2019 Regulations”) where it applied on 31 March 2020 and would ordinarily have come to an end on 1 April 2020, owing to a change in treatment of lands and heritages on which there is a building, but which are included in the valuation roll for the first time at a point when the building is no longer “new” in the sense of having been recently built.

Regulations 5 and 6 make similar provision for situations where an existing entry in the valuation roll is altered, rather than a new entry made. There is, however, an additional requirement that the property was unoccupied on the day before the day on which the alteration to the valuation roll took effect.

Part 3, regulations 9 to 11, makes provision for lands and heritages that do not qualify for new property relief, but where existing property has been improved by refurbishment, expansion or construction. Paragraph (2) of regulation 9 provides that the relief is granted on the extent by which the works result in the rateable value increasing, ignoring any intermediate reduction in the rateable value (for example as a result of partial demolition of a building to be expanded).

Regulation 10(4) sets out the amount of non-domestic 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 10(5) sets the transitional limit for those lands and heritages which are subject to transitional relief. Relief is available for one year (see regulation 9(1)(a)).

Relief under regulations 9 to 11 is not available for properties that qualify for relief under Part 2. Regulations 7 and 8 make provision for relief where a property that qualifies for new property relief is improved during the period for which relief under Part 2 has been granted.

An application must be made to obtain any relief under these Regulations, other than in cases where there is an ongoing grant of the relief in place under the 2019 Regulations at the time these Regulations come into force, or where an application has been made under the 2019 Regulations but is yet to be determined (see regulation 14). Regulation 12 sets out how an application is to be made.

Regulation 13 revokes provisions which are superseded by these Regulations, but with a saving so that they continue to operate for the financial years for which they were in force prior to the 2022-23 financial year.

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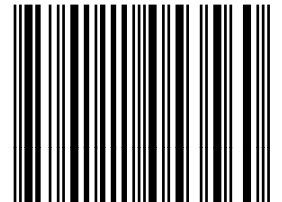
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