
SCOTTISH STATUTORY INSTRUMENTS

2023 No. 92

The Non-Domestic Rates (Miscellaneous Anti-Avoidance Measures) (Scotland) Regulations 2023

PART 2

Treatment of owners as liable to pay non-domestic rates

Notification of owner of intention to treat as liable for payment of non-domestic rates

5.—(1) Where a local authority intends to treat the owner of lands and heritages as liable to pay non-domestic rates, the local authority must inform the owner, by sending a notice to them in writing.

(2) A notice under paragraph (1) must—

- (a) set out the local authority's intention to treat the owner as being liable to pay non-domestic rates,
- (b) explain the basis, under regulation 4, on which the local authority proposes to do so,
- (c) set out the date with effect from which the local authority proposes that the treatment will have effect, with an explanation of how this has been calculated in accordance with regulation 6,
- (d) advise that, where an owner is treated as liable to pay non-domestic rates on a subsequent occasion, the liability will have effect from a date determined in accordance with regulation 6(2),
- (e) advise that any relief from liability to non-domestic rates in respect of the lands and heritages which was previously available will cease to be available, with effect from whichever is the relevant date under regulation 6.

(3) Any owner who receives a notice under paragraph (1) may—

- (a) make representations as to why they consider—
 - (i) that the tenancy or other arrangement under which the lands and heritages are occupied does not have as its main purpose, or one of its main purposes, the gaining of an advantage within the meaning of section 38 of the 2020 Act, and
 - (ii) that the tenancy or other arrangement is not an artificial non-domestic rates avoidance arrangement within the meaning of sections 39 and 40 of the 2020 Act, or
- (b) agree a payment arrangement with the local authority in respect of the non-domestic rates for the relevant lands and heritages.

(4) Representations under paragraph (3)(a)—

- (a) must be in writing,
- (b) must be sent to the local authority within the period of 28 days beginning with the day on which the notice under paragraph (1) is presumed to have been received, and
- (c) may be sent by means of electronic communication.

(5) A notice under paragraph (1) is to be presumed to have been received 48 hours after it is sent.

(6) The owner of lands and heritages is not to be treated as being liable to pay non-domestic rates where the owner demonstrates, to the satisfaction of the local authority, that both of the conditions in paragraph (3)(a) are met.

(7) Unless paragraph (3)(b) applies, the local authority must, within the period of 28 days beginning with the day on which representations under paragraph (3)(a) are received or, where no representations are submitted, the last day on which any representations could be submitted, send to the owner a final notice advising—

- (a) whether or not the owner is to be treated as liable to pay the non-domestic rates,
- (b) the reasons for the decision, including a summary of consideration of any representations submitted, and
- (c) where the owner is to be treated as liable to pay the non-domestic rates—
 - (i) the liability resulting from that, including a statement as to the relief, if any, removed in accordance with regulation 6, and
 - (ii) the date from which the treatment and, where relevant, the removal of relief has effect.