

2017 No. 85

RATING AND VALUATION

**The Non-Domestic Rates (Transitional Relief) (Scotland)
Regulations 2017**

<i>Made</i> - - - -	<i>16th March 2017</i>
<i>Laid before the Scottish Parliament</i>	<i>16th March 2017</i>
<i>Coming into force</i> - -	<i>1st April 2017</i>

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SCHEDULE — Specified Purposes

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

PART 1
Introductory

Citation and commencement

1. These Regulations may be cited as the Non-Domestic Rates (Transitional Relief) (Scotland) Regulations 2017 and come into force on 1st April 2017.

Interpretation – general

2. In these Regulations—

“the 1962 Act” means the Local Government (Financial Provisions etc.) (Scotland) Act 1962^(b);

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

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

“the 1978 Act” means the Rating (Disabled Persons) Act 1978^(e);

“the 1992 Act” means the Local Government Finance Act 1992^(f);

“the 1997 Act” means the Local Government and Rating Act 1997^(g);

“the 2016 Regulations” means the Non-Domestic Rates (Levy) (Scotland) Regulations 2016^(h);

“the 2017 Regulations” means the Non-Domestic Rates (Levy) (Scotland) Regulations 2017⁽ⁱ⁾;

“new entry”, in relation to a split, merged or reorganised entry, means an entry in the roll taking effect from the day on which the merged, split or reorganised entry takes effect;

(a) 1994 c.39; section 153 was amended by section 67 of the Climate Change (Scotland) Act 2009 (asp 12). 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).
(b) 1962 c.9.
(c) 1966 c.51.
(d) 1975 c.30.
(e) 1978 c.40.
(f) 1992 c.14.
(g) 1997 c.29.
(h) S.S.I. 2016/114.
(i) S.S.I. 2017/9.

“old entry”, in relation to a merged, split or reorganised entry, means an entry in the roll for the day immediately prior to the day from which the merged, split or reorganised entry takes effect;

“part residential subjects” has the meaning assigned to it in section 99(1) of the 1992 Act;

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

- (a) in the case of part residential subjects, the rateable value entered in the roll for that date and apportioned to the non-residential use of those subjects; and
- (b) in any other case, the rateable value entered in the roll for that date in respect of those lands and heritages,

and includes a rateable value so entered with retrospective effect;

“rates” means non-domestic rates levied under section 7B of the 1975 Act(a);

“relevant lands and heritages” means any lands and heritages which—

- (a) are used wholly or mainly for a purpose specified in the schedule; and
- (b) were so used as at 31st March 2017 or, if unoccupied on that date, were so used when last occupied;

“the relevant year” means the period of 12 months beginning with 1st April 2017; and

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

Interpretation – mergers

3. In these Regulations—

- (a) “a merged entry” means any entry in the roll taking effect on a day in the relevant year as a result of lands and heritages shown in two or more old entries being shown in a single new entry, where—
 - (i) none of the lands and heritages shown in the relevant old entries are shown in a new entry, other than in the merged entry; and
 - (ii) the merged entry does not show any lands and heritages shown in an old entry, other than in the relevant old entries; and
- (b) “the relevant old entries”, in relation to a merged entry, means the old entries which showed the lands and heritages shown in the merged entry.

Interpretation – splits

4. In these Regulations—

- (a) “a split entry” means any entry in the roll taking effect on a day in the relevant year as a result of lands and heritages shown in a single old entry being shown in two or more new entries, where—
 - (i) none of those new entries show lands and heritages shown in an old entry, other than in the relevant old entry; and
 - (ii) no lands and heritages shown in the relevant old entry are shown in a new entry, other than in those new entries; and
- (b) “the relevant old entry”, in relation to a split entry, means the old entry which showed the lands and heritages shown in the split entry.

(a) Section 7B was inserted by section 100(2) of the Local Government Finance Act 1992 (c.14) and was amended by paragraph 100(4) of schedule 13 of the Local Government etc. (Scotland) Act 1994 (c.39).

(b) 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).

Interpretation – reorganisations

5. In these Regulations—

- (a) “a reorganised entry” means any entry in the roll taking effect on a day in the relevant year which is not a split or merged entry, and which shows lands and heritages—
 - (i) which were to any extent shown in two or more old entries; or
 - (ii) which are part only of lands and heritages shown in a single old entry and the other part of which is shown to any extent in one or more other new entries;
- (b) “reorganisation” means a situation where, with effect from a day in the relevant year, lands and heritages shown immediately before that day in two or more old entries are shown in two or more new entries, each of which is a reorganised entry; and
- (c) “the relevant old entries”, in relation to a reorganised entry, means the old entries affected by the reorganisation which gave rise to that entry.

PART 2

Lands and heritages on roll on 1st April 2017

Application of Part 2

6.—(1) Subject to paragraphs (2) and (3), this Part applies to relevant lands and heritages—

- (a) which are shown in the roll on 1st April 2017;
- (b) in respect of all or any part of which there was an entry, or were entries, in the roll on 31st March 2017; and
- (c) in respect of which an application for relief is made in accordance with regulation 17.

(2) This Part does not apply to lands and heritages shown in an entry in the roll on 1st April 2017 if—

- (a) that entry shows a nil rateable value; or
- (b) the only lands and heritages shown in that entry which were to any extent shown in the roll on 31st March 2017 then have a nil rateable value.

(3) This Part ceases, as from the date of any merged, split or reorganised entry taking effect subsequent to 1st April 2017, to apply to the lands and heritages shown in that entry.

Amount payable as rates

7. Where the notional liability in respect of any lands and heritages to which this Part applies and any day in the relevant year is more than the transitional limit in respect of these lands and heritages and that day (ascertained in accordance with regulation 9 or 11), the amount payable as rates in respect of those lands and heritages and that day is, subject to Part 3, that transitional limit.

Notional liability

8. The notional liability in respect of any lands and heritages to which this Part applies and any day is to be calculated in accordance with the formula—

$$\frac{RV \times PF}{365}$$

where—

RV is the rateable value for those lands and heritages on that day; and

PF is the poundage figure of—

- (i) 0.492 where the lands and heritages have a rateable value exceeding £51,000; or
- (ii) 0.466 in any other case.

Transitional limit

9. The transitional limit in respect of any lands and heritages to which this Part applies and any day is, subject to regulation 11, to be calculated in accordance with the formula—

$$\frac{BL \times 1.1475}{365}$$

where—

BL is the base liability of those lands and heritages, ascertained in accordance with regulation 10.

Base liability

10.—(1) The base liability in respect of any lands and heritages is—

- (a) in the case of lands and heritages shown in a split or reorganised entry taking effect on 1st April 2017, to be calculated in accordance with the formula—

$$\frac{NL \times 365}{1.25}$$

where—

NL is the notional liability of those lands and heritages on 1st April 2017 calculated in accordance with regulation 8;

- (b) in any other case, the deemed amount (or, in the case of a merged entry taking effect on 1st April 2017, the total deemed amount) in respect of those lands and heritages calculated in accordance with paragraph (2).

(2) In paragraph (1)(b), the “deemed amount” in respect of any lands and heritages is the amount which would have been payable as rates in respect of those lands and heritages for the year ending 31st March 2017, had that amount been calculated on the basis of the rateable value of those lands and heritages on that date, including any additional amount of rates payable in terms of regulation 4 of the 2016 Regulations, but before applying any reliefs.

Changes in rateable value after 1st April 2017

11.—(1) Where, subsequent to 1st April 2017, the rateable value of lands and heritages to which this Part applies is increased with effect from a day in the relevant year (the “effective day”), the transitional limit in respect of those lands and heritages is, as regards days in that year on and after that effective day, to be calculated in accordance with the formula—

$$TL + \frac{(IRV - RV) \times PF}{365}$$

where—

TL is the transitional limit in respect of those lands and heritages and the day immediately prior to the effective day;

IRV is the increased rateable value of those lands and heritages;
RV is their rateable value immediately prior to the effective day; and
PF is the poundage figure of—

- (i) 0.492 where the lands and heritages have a rateable value exceeding £51,000; or
- (ii) 0.466 in any other case.

(2) Where the rateable value of lands and heritages to which this Part applies is reduced with effect from a day in the relevant year subsequent to 1st April 2017, as a result of—

- (a) a material change of circumstances (within the meaning of section 37(1) of the 1975 Act(a)); or
- (b) the assessor amending or adding an apportionment note under paragraph 2 of schedule 5 of the 1992 Act,

the transitional limit in respect of those lands and heritages is, as regards days in that year on and after that effective day, to be calculated in accordance with the formula—

$$\frac{TL \times RRV}{RV}$$

where—

TL and RV have the same meanings as in paragraph (1); and
RRV is the reduced rateable value of those lands and heritages.

PART 3

Reductions, remissions and exemptions

Charitable and other reductions

12.—(1) This regulation has effect for determining the amount payable as rates in respect of relevant lands and heritages and a day in the relevant year where—

- (a) that amount falls to be reduced by virtue of one or more of the following enactments—
 - (i) section 4(2) of the 1962 Act(b);
 - (ii) section 24(3) of the 1966 Act(c);
 - (iii) section 4 or 5 of the 1978 Act(d);
 - (iv) paragraph 3 of schedule 2 of the 1997 Act(e);

(a) The relevant definition in section 37(1) was amended by section 20 and paragraph 17 of schedule 2 of the Rating and Valuation (Amendment) (Scotland) Act 1984 (c.31), schedule 6 of the Abolition of Domestic Rates etc. (Scotland) 1987 Act (c.47) and paragraph 100(8) of schedule 13 of the Local Government etc. (Scotland) Act 1994 (c.39).

(b) Section 4(2) was amended by sections 5(a)(i) and 13 and schedule 4 of the Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c.23) and section 98(2)(a) of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10).

(c) Section 24(3) was amended by section 1(2)(a), (b) and (c) of the Local Government Finance (Unoccupied Properties etc.) (Scotland) Act 2012 (asp 11).

(d) Section 4 was amended by section 86(1) and paragraph 49(c) of schedule 10 of the Social Security Act 1986 (c.50) and paragraph 48 of schedule 2 of the Social Security (Consequential Provisions) Act 1992 (c.6). Section 5 was amended by section 5(1)(a), (b) and (c) of the Rating and Valuation (Amendment) (Scotland) Act 1984 (c.31).

(e) Paragraph 3 was amended by section 29 of the Local Government in Scotland Act 2003 (asp 1) and paragraph 25 of schedule 8 and paragraph 148 of schedule 12 of the Postal Services Act 2011 (c.5). Paragraph 3A was inserted by section 28(3) of the Local Government in Scotland Act 2003 (asp 1).

- (v) regulation 3 of the 2017 Regulations;
- (b) regulation 7 has effect as regards those lands and heritages and that day; and
- (c) regulation 14 does not have effect as regards those lands and heritages and that day.

(2) The amount payable is to be determined by applying the enactments referred to in paragraph (1)(a) to the amount determined under regulation 7 in the same manner as those enactments are applied to the full amount payable as rates in a case where the only relief applicable is relief under those enactments.

(3) This regulation is subject to regulation 13.

Former full relief properties

13.—(1) This regulation has effect for determining the amount payable as rates in respect of a former full relief property and a day in the relevant year, but it does not apply where the entry in the roll in respect of that property and that day is a merged entry, split entry or reorganised entry.

(2) The amount payable is to be 50% of the amount otherwise payable (that amount otherwise payable having been calculated in accordance with regulations 7 and 12 where applicable).

(3) In paragraph (1), “former full relief property” means relevant lands and heritages in respect of which—

- (a) the rateable value on 31st March 2017 was no more than £10,000; and
- (b) the amount payable as rates for 31st March 2017 had been reduced to nil by virtue of any enactment.

Partially unoccupied lands and heritages

14.—(1) This regulation has effect for determining the amount payable as rates in respect of relevant lands and heritages and a day in the relevant year where—

- (a) on that day those lands and heritages are subject to an apportionment under section 24A of the 1966 Act^(a); and
- (b) regulation 7 has effect as regards those lands and heritages and that day.

(2) The amount payable is, subject to paragraphs (3) and (4), to be calculated in accordance with the formula—

$$A \times \frac{ARV}{RV}$$

where—

A is the amount for the day determined under regulation 7;

ARV is the applicable rateable value, being the rateable value treated for rating purposes as the rateable value of the lands and heritages in terms of subsection (2), or as the case may be subsection (4), of section 24A of the 1966 Act; and

RV is the rateable value shown in the roll for those lands and heritages.

(3) Where—

- (a) this regulation has effect as regards lands and heritages and a day; and
- (b) the amount payable as rates in respect of those lands and heritages and that day falls to be reduced by virtue of an enactment referred to in paragraph (1)(a)(i), (iii), (iv) or (v) of regulation 12,

(a) Section 24A was inserted by the Local Government etc. (Scotland) Act 1994 (c.39), section 155 and amended by the Local Government Finance (Unoccupied Properties etc.) (Scotland) Act 2012 (asp 11), section 1(3).

the amount payable is to be determined in accordance with paragraph (2) of regulation 12, but as if for the words “regulation 7” in that paragraph there were substituted the words “regulation 14(2)”.

(4) Where—

- (a) this regulation has effect as regards lands and heritages and a day; and
- (b) the amount payable as rates in respect of those lands and heritages and that day falls to be reduced by virtue of regulation 13,

the amount payable is to be determined in accordance with paragraph (2) of regulation 13, but as if for the words “regulation 7” in that paragraph there were substituted the words “regulation 14(2)”.

Exemptions and discretionary reductions and remissions

15. Nothing in these Regulations—

- (a) requires rates to be paid in respect of lands and heritages and a day where those lands and heritages are under any enactment entirely exempt from rates for that day; or
- (b) prejudices the power of a rating authority to grant a reduction or remission of rates under section 3A or 4(5) of the 1962 Act(a), section 25A of the 1966 Act(b) or paragraph 4 of schedule 2 of the 1997 Act(c).

Relief-further provision

16. Any relief granted under these Regulations is to be made only to the extent that such relief is compatible with article 107(1) of the Consolidated Version of the Treaty on the Functioning of the European Union(d).

PART 4

General

Applications for relief

17.—(1) An application for relief must be signed by the ratepayer or a person authorised to sign on behalf of the ratepayer, and—

- (a) “person authorised to sign on behalf of the ratepayer” means, where the ratepayer is—
 - (i) a partnership, a partner of that partnership;
 - (ii) a trust, a trustee of that trust;
 - (iii) a body corporate, a director of that body; and
- (b) “sign” or “signed” in relation to an application made by electronic communication means an electronic signature, as defined in section 7(2) of the Electronic Communications Act 2000(e).

(2) An application under paragraph (1) must be made to the local authority by—

- (a) addressing it to the authority; and
- (b) delivering it or sending it to the authority’s office by post or electronic communication.

(a) Section 3A was inserted by section 140(1) of the Community Empowerment (Scotland) Act 2015 (asp 6). Section 4(5) was amended by section 5(1)(b) of the Local Government and Planning (Scotland) Act 1982, section 5(1)(b), paragraph 57 of schedule 13 of the Local Government etc. (Scotland) Act 1994 (c.39), paragraph 2(a) of schedule 3 of the Local Government and Rating Act 1997(c.29) and section 98(3) of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10).

(b) Section 25A was inserted by the Local Government etc. (Scotland) Act 1994 (c.39), section 156.

(c) Paragraph 4 was amended by section 28(4)(a), (b) and (d) of the Local Government in Scotland Act 2003 (asp 1).

(d) OJ C 326, 26.10.2012, p.47.

(e) 2000 c.7; section 7(2) was amended by S.I. 2016/696.

Amendment of the Non-Domestic Rates (Levy) (Scotland) Regulations 2017

18. After paragraph (3) of regulation 4 (amount payable as rates – lands and heritages with rateable value more than £51,000) of the 2017 Regulations, insert—

“(4) No additional amount is payable under paragraph (3) for a day on which relief under regulation 7 of the Non-Domestic Rates (Transitional Relief) (Scotland) Regulations 2017 has effect in respect of the lands and heritages in question.”.

St Andrew’s House,
Edinburgh
16th March 2017

DEREK MACKAY
A member of the Scottish Government

SCHEDULE

Specified Purposes

Regulation 2

Class 1 Bed and breakfast accommodation

Use as bed and breakfast accommodation.

Class 2 Camping site

Use as a camping site.

Class 3 Caravan

Use as a caravan (within the meaning of Part 1 of the Caravan Sites and Control of Development Act 1960(a)).

Class 4 Caravan site

Use as a caravan site (within the meaning of Part 1 of the Caravan Sites and Control of Development Act 1960).

Class 5 Chalet and holiday hut

Use as a chalet or holiday hut.

Class 6 Guest house, hotel and hostels

Use as a guest house, hotel or hostel, where no significant element of care is provided.

Class 7 Public house

Use as a public house or nightclub where the following conditions are satisfied—

- (i) a premises licence authorising the sale of alcohol for consumption both on and off the premises, has been issued by a licensing board under section 26 of the Licensing (Scotland) Act 2005(b);
- (ii) the premises are used for such sales to members of the public, principally for consumption on the premises, in accordance with the operating plan contained in the premises licence; and
- (iii) the operating plan contained in the premises licence does not include any provision that such sales are made subject to those members of the public residing at, or consuming food on, the premises.

Class 8 Restaurants

Use for the sale of food or refreshments to members of the public for consumption on those premises, including any café, coffee shop, bistro, fast food restaurant or snack bar that is so used.

Class 9 Renewable energy generation

Use for the generation of renewable heat or power (or both) from water (including waves and tides but excluding production from the pumped storage of water) having a total installed capacity of up to 1 megawatt.

Class 10 Self-catering holiday accommodation

Use as self-catering holiday accommodation.

(a) 1960 c.62.

(b) 2005 asp 16.

Class 11 Timeshare accommodation

Use as timeshare accommodation.

Class 12 Offices

Use as offices where the lands and heritages are situated in the following local authority areas—

- (i) City of Aberdeen;
- (ii) Aberdeenshire.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision as to the amount payable in certain circumstances as non-domestic rates in respect of non-domestic subjects in Scotland. They apply only to the financial year 2017-18 (“the relevant year”) and to subjects which are used wholly or mainly for the purpose specified in the schedule (“relevant lands and heritages”). The Regulations cease to apply where a non-domestic subject is shown in a merged, split or reorganised entry in the valuation roll which takes effect during the relevant year.

Part 1 makes provision as to citation, commencement and interpretation.

Part 2 deals with amounts payable in respect of relevant lands and heritages which are shown in the valuation roll as at 1st April 2017 and 31st March 2017. For every day of the relevant year, the notional rates liability for a non-domestic subject (that is, the full amount ordinarily payable as rates) must be compared against that subject’s transitional limit. If the notional liability is more than the transitional limit, the amount payable will be equal to the transitional limit (regulation 7). The transitional limit is calculated by multiplying the relevant lands and heritages’ notional rates liability for 2016/2017 (its “base liability”) by a set figure (regulation 8). Regulation 10 makes provision for the calculation of base liability. Regulation 11 specifies how the transitional limit is to be recalculated in cases where the rateable value of the relevant lands and heritages changes during the relevant year.

Part 3 deals with reductions, remissions and exemptions. Regulation 12 provides for reductions under other enactments to apply in cases where the amount payable is determined under Part 2 in the same way as they apply in cases where these Regulations do not have effect.

Regulation 13 provides for a reduction in rates of 50% for relevant lands and heritages which received 100% relief on 31st March 2017.

Nothing in the Regulations requires the payment of rates on property which is entirely exempt from rates under any other enactment, or prejudices the power of a rating authority to grant discretionary reductions or remissions (regulation 15).

Regulation 17 provides that an application must be made to obtain the relief.

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