STATUTORY INSTRUMENTS

2009 No. 3175

RATING AND VALUATION, ENGLAND

The Non-Domestic Rating (Small Business Rate Relief) (England) (Amendment) (No.2) Order 2009

Made - - - -	*3rd December 2009*
Laid before Parliament	*9th December 2009*
Coming into force - -	*1st April 2010*

The Secretary of State, in exercise of the powers conferred by sections 43(4B)(a)(ii) and (iii) and (4C) and 143(1) and (2) of the Local Government Finance Act 1988(**a**), makes the following Order:

Application, citation and commencement

1. This Order, which applies to England only, may be cited as the Non-Domestic Rating (Small Business Rate Relief) (England) (Amendment) (No.2) Order 2009 and shall come into force on 1st April 2010.

Amendments to the Non-Domestic Rating (Small Business Rate Relief) (England) Order 2004

2. The Non-Domestic Rating (Small Business Rate Relief) (England) Order 2004(**b**) is amended as follows.

Conditions for relief

3. In article 3—

(a) in paragraph (3)(a) for "£21,499" substitute "£25,499";

(b) in paragraph (3)(b) for "£14,999" substitute "£17,999";

(c) in paragraph (4), for "The" substitute "Subject to paragraphs (8) and (9), the";

(d) in paragraph (6)(b) for "£2,199" substitute "£2,599";

(e) after paragraph (7) insert the following—

"(8) Where—

(a) in respect of a valuation period ("the first valuation period"), a ratepayer has served an application under paragraph (4) on the billing authority concerned ("the existing application");

(**a**) 1988 c.41. Sections 43(4A) to (4D) were inserted by section 61 of the Local Government Act 2003 (c.26). See section 146(6) for the definition of "prescribed".

(**b**) S.I. 2004/3315 amended by S.I. 2006/2313 and 2009/354.

(b) the ratepayer has not served on the billing authority concerned an application in respect of the valuation period which follows the first valuation period ("the new valuation period"); and

(b) on the first day of the new valuation period the conditions in paragraphs (2), (3) and (5) of this article are fulfilled as regards the hereditament and the ratepayer,

the existing application, in addition to its effect as regards the first valuation period, shall be treated as also having effect as an application under paragraph (4) served by the ratepayer in respect of the hereditament and the new valuation period; and the other provisions of this Order shall be construed accordingly.

(9) Where—

(a) in respect of the first valuation period, a ratepayer has served an application under paragraph (4) on the billing authority concerned ("the existing application");

(b) paragraph (8) applies as regards the existing application;

(c) the ratepayer has not served on the billing authority concerned an application under paragraph (4) as regards the hereditament and the subsequent relevant valuation period concerned; and

(d) on the first day of the subsequent relevant valuation period concerned the conditions in paragraphs (2), (3) and (5) of this article are fulfilled as regards the hereditament and the ratepayer,

the existing application, in addition to its effect as regards the first valuation period and the new valuation period, shall be treated as also having effect as an application under paragraph (4) served by the ratepayer in respect of the hereditament and the subsequent valuation period concerned; and the other provisions of this Order shall be construed accordingly.

(10) In paragraph (9) "subsequent relevant valuation period" means a valuation period beginning at any time after the end of the new valuation period, so long as on the first day of—

(a) the valuation period concerned; and

(b) each valuation period falling between the end of the new valuation period and the beginning of the valuation period concerned (if any),

such conditions as apply on that first day by virtue of this article are fulfilled as regards the hereditament and the ratepayer.".

Amount of E

4. In article 6—

(a) for "£5,000", in each place, substitute "£6,000";

(b) for "£10,000", in each place, substitute "£12,000"; and

(c) in paragraph (1)(b), for "10,000" substitute "12,000".

Form of application

5. For the Schedule substitute—

"SCHEDULE Article 4

FORM OF APPLICATION

Form ***

1. State—

(a) name, address, facsimile number (where applicable), telephone number and electronic mail address (where applicable) of the ratepayer—

……

(b) the valuation period or partial valuation period for which relief is sought—

……

2. If the application is the first application in the valuation period in respect of a hereditament, give the full address of—

(a) the hereditament for which small business rate relief is sought—

……

(b) any other hereditament in England the ratepayer occupies—

……

3. If the application is being made to notify the billing authority of a change in circumstances but the hereditament for which the ratepayer is seeking relief remains unchanged, state—

(a) the hereditament in England which the ratepayer has started to occupy since making a first application for the valuation period—

……

(b) the date on which the ratepayer started to occupy that hereditament—

……

*I confirm that the hereditaments listed in paragraph 2 are the only hereditaments in England occupied by [*insert name of ratepayer*]

……

OR

*I confirm that the change listed in paragraph 3 is the only change relating to the hereditaments in England occupied by [*insert name of ratepayer*]

……

and the date of the change has been accurately recorded.

Signature of the ratepayer or person authorised to sign on behalf of the ratepayer

……

Capacity of the person signing

……

Date

……

*Delete as appropriate

Notes

This form may be used for a first application for small business rate relief in a valuation period in respect of a property or for a fresh application that is required because the ratepayer has taken up occupation of an additional property. Paragraph 2 must be completed for a first application in a valuation period and paragraph 3 for a fresh application. The appropriate part of the declaration must also be completed and the part which is not applicable deleted.

A valuation period is the period of five years for which a local non-domestic rating list is in force (i.e. the period between revaluations of non-domestic hereditaments) and if ratepayers do not take up occupation of any additional properties they may not need to apply for relief again. If they have made an application in respect of one valuation period and the conditions for relief which apply on the first day of a new valuation period are satisfied, their existing application in respect of the earlier valuation period will count as an application in respect of the new valuation period. In such cases, ratepayers do not need to make a fresh application in respect of the new valuation period.

Small business rate relief can only be claimed for one property. A first application for relief in a valuation period in respect of a property should be made using paragraph 2 (paragraph 3 is not applicable) and all properties in England occupied by the ratepayer must be listed. Where the ratepayer starts to occupy a new property after making an application but wishes to continue receiving relief in respect of the same property, a fresh application must be made by completing paragraph 3 (paragraph 2 need not be completed). It should be noted that, for any particular day, the billing authority will disregard the ratepayer's occupation of an additional property in England where—

(a) its rateable value shown in the local non-domestic rating list for that day is not more than £2,599; and
(b) the aggregate rateable value on that day of all the properties the ratepayer occupies in England is not more than £25,499 (where the property for which relief is sought is situated in Greater London) or £17,999 (where the property for which relief is sought is situated outside Greater London).

Therefore, if ratepayers occupy more than one property, their entitlement to relief depends on the rateable values of the other properties they occupy. Where ratepayers occupy properties in more than one area, if the rateable value of a property outside the area of the billing authority granting the relief goes up, they must notify that billing authority of the increase. This does not require a fresh application but must be done in writing.

If ratepayers are uncertain about which billing authority area any of the properties they occupy is in, they should contact the authority which grants the relief.

The application must be signed by the ratepayer or a person authorised to sign on behalf of the ratepayer. This means, where the ratepayer is—

(a) a partnership, a partner of that partnership;

(b) a trust, a trustee of that trust;

(c) a body corporate, a director of that body, and

in any other case, a person duly authorised to sign on behalf of the ratepayer.

Warning – it is a criminal offence for a ratepayer to give false information when making an application for small business rate relief.

”

Signed by authority of the Secretary of State for Communities and Local Government

Barbara Follett
Parliamentary Under Secretary of State
3rd December 2009 Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Non-Domestic Rating (Small Business Rate Relief) (England) Order 2004 (“the 2004 Order”).

Article 3 of that Order prescribes conditions to be satisfied to obtain small business rate relief under Part 3 of the Local Government Finance Act 1988 (“the 1988 Act”).

The first condition, for which provision is made in article 3(2) of the 2004 Order, is that the ratepayer occupies only one hereditament in England. However, this must be read subject to paragraph (6) of article 3 which provides that the ratepayer’s occupation of any other hereditament in England shall be disregarded where (amongst other things) the rateable value of that hereditament is not more than the amount prescribed. Article 3(d) of this Order increases the amount prescribed to £2,599 with effect from 1st April 2010.

The second condition, for which provision is made in article 3(3) of the 2004 Order, is that the rateable value of the hereditament in respect of which the application is made does not exceed the amount prescribed. Paragraphs (a) and (b) of article 3 of this Order substitute new amounts so that, with effect from 1st April 2010, the amount is £25,499 for hereditaments situated in Greater London and £17,999 for hereditaments situated outside Greater London.

The third condition, for which provision is made in article 3(4) of the 2004 Order, is that the ratepayer serves on the billing authority concerned an application in respect of the valuation period, or so much of the valuation period that remains, by the date prescribed. A valuation period is the period of five years for which a non-domestic rating list is in force. Paragraph (c) of article 3 of this Order amends paragraph (4) of article 3 of the 2004 Order, and paragraph (e) inserts new paragraphs (8), (9) and (10). The effect of these amendments is that where a ratepayer has made an application in respect of one valuation period and the conditions for relief which apply on the first day of a new valuation period are satisfied, the existing application in respect of the earlier

valuation period will count as an application in respect of the new valuation period. The provision made in paragraphs (9) and (10) means that this will continue to be the case in relation to subsequent valuation periods as long as the conditions which apply on the first day of the subsequent valuation period concerned are satisfied.

Article 6 of the 2004 Order prescribes the amount of E, which determines the amount of relief to be given to a particular hereditament under the formula in section 43(4A) of the 1988 Act. The amount of E varies depending on the rateable value of the hereditament. Article 4 of this Order amends article 6 of the 2004 Order by substituting new figures to be used, with effect from 1st April 2010, when calculating the amount of E.

Article 5 of this Order substitutes a new Schedule to the 2004 Order, which prescribes the form of application for relief. The substituted form of application takes account of the amendments made by articles 3 to 6 of this Order.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Department for Communities and Local Government's Business Rates and Valuation Division (telephone 0303 44 43609) and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website (www.opsi.gov.uk).

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