SCOTTISH STATUTORY INSTRUMENTS

2022 No. 51

RATING AND VALUATION

The Non-Domestic Rating (Unoccupied Property) (Scotland) Amendment 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 sections 24(2) and (3) and 24A(4) of the Local Government (Scotland) Act 1966(**a**) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Non-Domestic Rating (Unoccupied Property) (Scotland) Amendment Regulations 2022 and come into force on 1 April 2022.

Amendment of the Non-Domestic Rating (Unoccupied Property) (Scotland) Regulations 2018

2.—(1) The Non-Domestic Rating (Unoccupied Property) (Scotland) Regulations 2018(**b**) are amended as follows.

(2) In regulation 2 (rating of unoccupied lands and heritages)—

(a) at the beginning of paragraph (1)(a)(ii) insert "except where paragraph (1B) applies,",

(b) after paragraph (1) insert—

"(1A) Paragraph (1B) applies only to lands and heritages which are let under a lease agreement and which subsequently—

(a) become unoccupied within the period of 6 months beginning with the date on which the lands and heritages first became occupied under that lease, and

(b) become unoccupied on or after 1 April 2022.

(**a**) 1966 c. 51. Section 24 was substituted, and section 24A was inserted, by sections 154 and 155 of the Local Government etc. (Scotland) Act 1994 (c. 39). Both sections were amended by the Local Government Finance (Unoccupied Properties etc.) (Scotland) Act 2012 (asp 11). The functions of the Secretary of State under sections 24(2) and 24A(4) were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(**b**) S.S.I. 2018/77 which was amended by S.S.I. 2020/43 and S.S.I. 2021/65.

(1B) Where the condition specified in paragraph (d) or (e) of Part 1 of the schedule would apply to such lands and heritages but for this paragraph, neither condition is to be regarded as applying if—

(a) the rent charged for the lands and heritages is significantly below the level of the rent which could reasonably have been obtained for the lands and heritages at the time the lease was entered into, in all the circumstances,

(b) payment of the rent is optional in terms of the relevant lease, or

(c) any arrangements made to fulfil the condition specified in paragraph (d) or (e) of Part 1 of the schedule are identified in the lease as being for the purpose of mitigating rates liability.

(1C) Paragraphs (1A) and (1B) do not prevent a rating authority making, and are without prejudice to the application of, any scheme under section 3A of the Local Government (Financial Provisions etc.) (Scotland) Act 1962(**a**) (schemes for reduction and remission of rates) which provides for the rates leviable in respect of the lands and heritages to be reduced or remitted by virtue of the lands and heritages being unoccupied.".

(3) In regulation 3 (rating of lands and heritages unoccupied for a short time)—

(a) at the beginning of paragraph (1)(a)(ii) insert "except where paragraph (1B) applies,",

(b) after paragraph (1) insert—

"(1A) Paragraph (1B) applies only to lands and heritages which are let under a lease agreement and which subsequently—

(a) become unoccupied within the period of 6 months beginning with the date on which the lands and heritages first became occupied under that lease, and

(b) become unoccupied on or after 1 April 2022.

(1B) Where the condition specified in paragraph (d) or (e) of Part 1 of the schedule would apply to such lands and heritages but for this paragraph, neither condition is to be regarded as applying if—

(a) the rent charged for the lands and heritages is significantly below the level of the rent which could reasonably have been obtained for the lands and heritages at the time the lease was entered into, in all the circumstances,

(b) payment of the rent is optional in terms of the relevant lease, or

(c) any arrangements made to fulfil the condition specified in paragraph (d) or (e) of Part 1 of the schedule are identified in the lease as being for the purpose of mitigating rates liability.

(1C) Paragraphs (1A) and (1B) do not prevent a rating authority making, and are without prejudice to the application of, any scheme under section 3A of the Local Government (Financial Provisions etc.) (Scotland) Act 1962 which provides for the rates leviable in respect of the lands and heritages to be reduced or remitted by virtue of the lands and heritages being unoccupied.".

TOM ARTHUR
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
8th February 2022

(**a**) 1962 c. 9. Section 3A was inserted by section 140(1) of the Community Empowerment (Scotland) Act 2005 (asp 6).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to the Non-Domestic Rating (Unoccupied Property) (Scotland) Regulations 2018 ("the 2018 Regulations").

Sections 24 and 24A of the Local Government (Scotland) Act 1966 provide as to the rating of unoccupied property and of property partially unoccupied for a short time. Where a property is completely unoccupied, no rates are payable except in the case of a property falling within a class prescribed by regulations. Where a property is partially unoccupied for a short time and the relevant rating authority requests the assessor to apportion the rateable value between the occupied and unoccupied parts, rates are only payable in respect of the value apportioned to the occupied part except in the case of a property falling within a class prescribed by regulations.

Regulations 2 and 3 of the 2018 Regulations prescribe classes of lands and heritages for these purposes. Exceptions are made for properties in relation to which conditions specified in the 2018 Regulations are met.

Regulation 2(2) amends regulation 2 of the 2018 Regulations in relation to the rating of unoccupied properties. It provides for a set of circumstances in which a condition involving liquidation or the winding up of a company or limited liability partnership is to be regarded as not applying. The amendments only apply to properties which are let under a lease agreement which become unoccupied on or after 1 April 2022 and within the period of 6 months beginning with the date on which the property first became occupied under the lease agreement. The amendments also apply only where, but for the amendments, the liquidation or winding up conditions would otherwise apply. In addition, at least one of three further indicators connected to reduction or mitigation of rates liability must also be established.

Regulation 2(3) amends regulation 3 of the 2018 Regulations, with similar effect in relation to the rating of property partly unoccupied for a short time.

In situations in which the amendments apply, the effect will be that the rules on rates liability applicable to lands and heritages falling within a class prescribed by regulations made under the Local Government (Scotland) Act 1966 will apply.

The amendments made by these Regulations do not affect the ability of a rating authority to put in place a scheme for empty property relief relying on the power in section 3A of the Local Government (Financial Provisions etc.) (Scotland) Act 1962.

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