

2012 No. 148

RATING AND VALUATION, ENGLAND

**The Non-Domestic Rating (Small Business Rate Relief)
(England) Order 2012**

<i>Made</i>	- - - -	<i>23rd January 2012</i>
<i>Laid before Parliament</i>		<i>26th January 2012</i>
<i>Coming into force</i>	- -	<i>25th February 2012</i>

The Secretary of State, in exercise of the powers conferred by sections 43(4B)(a), 44(9)(a) and 143(1) and (2) of the Local Government Finance Act 1988(a), makes the following Order:

Citation, application, commencement and interpretation

1.—(1) This Order, which applies in relation England only, may be cited as the Non-Domestic Rating (Small Business Rate Relief) (England) Order 2012 and shall come into force on 25th February 2012.

(2) This Order applies for the purposes of—

- (a) determining whether section 43(4B) of the Act applies as regards a ratepayer and a hereditament, and
- (b) calculating the chargeable amount for a chargeable day under section 43(4A)(a) of the Act,

in respect of chargeable days falling on or after 1st April 2012.

(3) In this Order, “the Act” means the Local Government Finance Act 1988.

Conditions for relief

2. For the purposes of section 43(4B)(a)(ii) of the Act, the condition to be satisfied is that the rateable value of the hereditament as shown in the local non-domestic rating list for the chargeable day is not more than—

- (a) for a hereditament situated in Greater London, £25,499;
- (b) for a hereditament situated outside Greater London, £17,999.

(a) 1988 c.41. Sections 43(4A) to (4D) and 44(7) to (9) were inserted by section 61 of the Local Government Act 2003 (c. 26). Subsections (4B) to (4D) of section 43 were amended by section 70 of the Localism Act 2011 (c. 20). Section 44 has been amended by sections 139 and 194 of Schedules 5 to the Local Government and Housing Act 1989 (c.42), section 117 of and Schedule 13 to the Local Government Finance Act 1992 (c.14) and section 61 of the Local Government Act 2003. These powers are now vested in the Welsh Ministers so far as they are exercisable in relation to Wales. They were previously transferred to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672); *see* the entry in Schedule 1 for the Local Government Finance Act 1988. By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c.32), they were transferred to the Welsh Ministers.

Amount of E

3.—(1) Except where article 4 applies, the amount of E prescribed for the purposes of subsection 44(9) of the Act shall be found in accordance with paragraphs (2) to (6).

(2) Where the ratepayer occupies only one hereditament in England and the rateable value of that hereditament shown in the local non-domestic rating list for the chargeable day concerned is not more than £6,000, E shall be 2.

(3) Where the ratepayer occupies only one hereditament in England and the rateable value of that hereditament shown in the local non-domestic rating list for the chargeable day concerned is more than £6,000 and not more than £12,000, E shall be, subject to paragraph (5), the amount derived from dividing 12,000 by the rateable value of the hereditament shown in the local non-domestic rating list for that day.

(4) In any case not falling within paragraph (2) or (3), E shall be 1.

(5) Amounts calculated under paragraph (3), shall be calculated to three decimal places only—

- (a) adding one thousandth where (apart from this sub-paragraph) there would be more than five ten-thousandths; and
- (b) ignoring the ten-thousandths where (apart from this sub-paragraph) there would be five, or less than five, ten-thousandths.

(6) In determining, for the purposes of paragraphs (2) or (3), whether the ratepayer occupies only one hereditament in England (“hereditament A”), the ratepayer’s occupation of any other hereditament in England (“hereditament B”) shall be disregarded where—

- (a) the rateable value of hereditament B shown in the local non-domestic rating list for the chargeable day concerned is not more than £2,599;
- (b) the aggregate rateable value on the chargeable day concerned of all the hereditaments the ratepayer occupies in England is not more than the amount prescribed in article 2 in relation to hereditament A; and
- (c) the amount of E for the chargeable day concerned in relation to hereditament B is not determined in accordance with paragraph (2) of this article.

Amount of E for the financial year beginning on 1st April 2012

4.—(1) This article applies where the chargeable day falls in the financial year beginning on 1st April 2012.

(2) Where this article applies, the amount of E prescribed for the purposes of subsection 44(9) of the Act shall be found in accordance with paragraphs (3) to (7).

(3) Where the ratepayer occupies only one hereditament in England and the rateable value of that hereditament shown in the local non-domestic rating list for the chargeable day concerned is not more than £6,000, E shall be 5,000,000.

(4) Where the ratepayer occupies only one hereditament in England and the rateable value of that hereditament shown in the local non-domestic rating list for the chargeable day concerned is more than £6,000 and not more than £12,000, E shall be (subject to paragraph (6)) the amount derived from dividing 6000 by the figure reached by subtracting 6000 from the rateable value of the hereditament shown in the local non-domestic rating list for that day.

(5) In any case not falling within paragraph (3) or (4), E shall be 1.

(6) Amounts calculated under paragraph (4), shall be calculated to three decimal places only—

- (a) adding one thousandth where (apart from this sub-paragraph) there would be more than five ten-thousandths; and
- (b) ignoring the ten-thousandths where (apart from this sub-paragraph) there would be five, or less than five, ten-thousandths.

(7) In determining, for the purposes of paragraphs (3) or (4), whether the ratepayer occupies only one hereditament in England (“hereditament A”), the ratepayer’s occupation of any other hereditament in England (“hereditament B”) shall be disregarded where—

- (a) the rateable value of hereditament B shown in the local non-domestic rating list for the chargeable day concerned is not more than £2,599;
- (b) the aggregate rateable value on the chargeable day concerned day of all the hereditaments the ratepayer occupies in England is not more than the amount prescribed in article 2 in relation to hereditament A; and
- (c) the amount of E for the chargeable day concerned in relation to hereditament B is not determined in accordance with paragraph (3) of this article.

Revocations

5. The Non-Domestic Rating (Small Business Rate Relief) (England) Order 2004^(a) is revoked in respect of chargeable days falling after 31st March 2012.

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

23rd January 2012

Bob Neill
Parliamentary Under Secretary of State
Department for Communities and Local Government

^(a) S.I. 2004/3351, amended by S.I. 2006/2313, S.I. 2009/354, S.I. 2009/3175, S.I. 2010/1655 and S.I. 2011/1664.

EXPLANATORY NOTE

(This note is not part of the Order)

Article 1 provides that this Order has effect for the purposes of determining eligibility for, and calculating the amount of, small business rate relief in respect of days falling on or after 1st April 2012. The existing order – the Non-Domestic Rating (Small Business Rate Relief) (England) Order 2004 (S.I. 2004/3315) (as amended) – which is revoked by article 5 of this order in respect of chargeable days falling after 31st March 2012, will continue to have effect in relation to chargeable days falling prior to 1st April 2012.

Article 2 of this Order, together with section 43(4B) of the Local Government Finance Act 1988 (“the 1988 Act”), provides that the condition to be satisfied to obtain small business rate relief is that the hereditament must have a rateable value which is not more than £17,999 if situated outside Greater London and £24,999 if situated in Greater London.

Article 4 (in respect of the 2012/13 financial year) and article 3 (in respect of subsequent financial years) prescribe the amount of E under section 44(9)(a) of the 1988 Act, which determines the amount of relief to be given to a particular hereditament under the formula in section 43(4A)(a) of the 1988 Act. The effect of article 4 is to provide for a higher level of relief for the 2012/13 financial year.

Small business rate relief has two elements. Firstly, all hereditaments which satisfy the condition in article 2 will have their rates liability under section 43 of the 1988 Act calculated using the lower small business non-domestic rating multiplier (determined under Schedule 7 to the 1988 Act, as amended by the Local Government Act 2003) instead of the standard national non-domestic rating multiplier. Secondly, a hereditament which satisfies the condition in article 2, is the sole property occupied by the ratepayer concerned (subject to the provisions on hereditaments to be disregarded for these purposes in articles 3(6) and 4(7)), and which has a maximum rateable value of £12,000 will, in addition, benefit from a percentage reduction in its rates liability of up to 100% for the 2012/13 financial year and up to 50% for subsequent financial years.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector has been laid before Parliament and copies placed in the library of each House. A copy is available from the Department for Communities and Local Government’s Business Rates and Valuation Division (telephone 0303 44 41765).

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