

Local Government, Housing and Planning Committee

8th Meeting, 2023 (Session 6)

Tuesday, 14 March 2023

SSI cover note for: Non-Domestic Rates (Levying and Miscellaneous Amendment) (Scotland) Regulations 2023

SSI 2023/30

Title of Instrument: Non-Domestic Rates (Levying and Miscellaneous Amendment) (Scotland) Regulations 2023

Type of Instrument: Negative

Laid Date: 9 February 2023

Circulated to Members: 16 February 2023

Meeting Date: 14 March 2023

Minister to attend meeting: No

Motion for annulment lodged: No

Drawn to the Parliament's attention by the Delegated Powers and Law Reform Committee? No

Reporting deadline: 27 March 2023

Recommendation

1. The Committee is invited to consider any issues which it wishes to raise on this instrument.
2. An electronic copy of the instrument is available at: [Non-Domestic Rates \(Levying and Miscellaneous Amendment\) \(Scotland\) Regulations 2023](#)

3. Copies of the Scottish Government's Explanatory and Policy Notes are included in **Annexe A**.

Purpose

4. The policy note states that "The Regulations provide for a number of non-domestic rates policies:

- Provision in 2023-24 for reductions in non-domestic rates as a result of the Small Business Bonus Scheme and poundage supplements, the combined Basic Property Rate (i.e. poundage) and supplements which, combined with the poundage, give the Intermediate Property Rate and Higher Property Rate, on non-domestic properties with a rateable value in excess of £51,000 and £100,000 respectively.
- Provision for Fresh Start relief from 1 April 2023 for properties that have been unoccupied for 6 months or more before becoming re-occupied, and where the rateable value does not exceed £100,000.
- Provision for Fresh Start Relief awarded in respect of 2022-23, and where the period of relief continues in full into 2023-24, regardless of the rateable value following revaluation. An amendment to The Non-Domestic Rates (Enterprise Areas) (Scotland) Regulations 2016 to extend Enterprise Areas relief by one year until 31 March 2024.
- An amendment to The Non-Domestic Rates (Telecommunication Installations) (Scotland) Regulations 2016 to reflect mast location changes to the previously published grid references, and incorporate grid references of additional eligible new mast locations.
- An amendment to the Non-Domestic Rates (Day Nursery Relief) (Scotland) Regulations 2018 to remove the end date of the relief.
- An amendment to the Non-Domestic Rates (Relief for New and Improved Properties) (Scotland) Regulations 2022 to account for the effect of revaluation and to clarify that this relief under these regulations is not available to properties that have been awarded transitional relief available for properties in parks."

5. The policy note further states that "changes to the Small Business Bonus Scheme, Intermediate/Higher Property rateable value thresholds, Fresh Start, Business Growth Accelerator relief and the extension of Enterprise Areas relief were set out in the Scottish Budget 2023-24.

6. In respect of telecommunications, the policy note states that "relief for new mobile telecommunications masts in specified locations is aimed at incentivising mobile operators to build masts and/or improve the viability of mobile operators' business case to provide mobile services in those areas."

7. The policy note also explains that the Scottish Government completed an evaluation of Day Nursery Relief in 2022, as recommended by The Barclay Review of

Non-Domestic Rates. The removal of the end date of the relief was then announced on 6 October 2022.

Delegated Powers and Law Reform Committee consideration

8. At its meeting on 28 February 2023¹ the DPLR Committee considered the instrument and agreed not to draw it to the attention of the relevant lead committee.

Procedure for Negative Instruments

9. Negative instruments are instruments that are “subject to annulment” by resolution of the Parliament for a period of 40 days after they are laid. All negative instruments are considered by the Delegated Powers and Law Reform Committee (on various technical grounds) and by the relevant lead committee (on policy grounds). Under Rule 10.4, any member (whether a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the instrument. If the motion is agreed to, the Parliamentary Bureau must then lodge a motion to annul the instrument for consideration by the Parliament.

10. If that is also agreed to, Scottish Ministers must revoke the instrument. Each negative instrument appears on a committee agenda at the first opportunity after the Delegated Powers and Law Reform Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to allow correspondence to be entered into or a Minister or officials invited to give evidence. In other cases, the Committee may be content simply to note the instrument and agree to make no recommendation on it.

**Clerks,
Local Government, Housing and Planning Committee**

Annexe A

¹ <https://digitalpublications.parliament.scot/Committees/Report/DPLR/2023/2/28/31dd5c50-cd7e-4c2c-afb4-3538f49774ec#Annex-A>

Scottish Government Explanatory Note

EXPLANATORY NOTE

These Regulations make provision for the amount payable as non-domestic rates in certain circumstances in respect of certain non-domestic properties in Scotland. The non-domestic rate for properties not covered by these Regulations is fixed by Order made under the Local Government (Scotland) Act 1975. For the financial year 2023-2024, the rate is fixed by the Non-Domestic Rate (Scotland) Order 2023 (S.S.I. 2023/29).

These Regulations also make miscellaneous amendments to the Non-Domestic Rates (Enterprise Areas) (Scotland) Regulations 2016, the Non-Domestic Rates (Telecommunication Installations) (Scotland) Regulations 2016, the Non-Domestic Rates (Day Nursery Relief) (Scotland) and the Non-Domestic Rates (Relief for New and Improved Properties) (Scotland) Regulations 2022.

Part 1 provides the title of these Regulations and for their commencement. Part 2 contains provisions in respect of the levying of non-domestic rates.

Regulation 3 provides for the general reduction in rates liability of a ratepayer in relation to non-domestic properties which comprise only one entry in the valuation roll and have a rateable value of less than £20,000.

Regulation 3(4) provides for a reduction in rate relief (calculated in accordance with regulation 3(3)) if the enactments listed in regulation 3(4)(a) or (b) already provide for a reduction or determination. Regulation 3(5) provides that no relief is granted in respect of lands and heritages that are receiving relief on account of being unoccupied or are wholly or mainly used for payday lending, or as car parks, individual car parking spaces, betting shops or for the accommodation of advertisements in the form of signs, devices, placards or boards, whether they are illuminated or not. Identical provision is made by regulation 4(5).

Regulation 4 provides for the general reduction in rates liability of a ratepayer in relation to non-domestic properties which comprise more than one entry in the valuation roll, and cumulatively have a rateable value of no more than £35,000.

Regulation 4(4) provides for a reduction in rate relief (calculated in accordance with regulation 4(3)) if the enactments listed in regulation 4(4)(a) or (b) already provide for a reduction or determination.

Regulation 5 provides a formula for the additional amount payable as rates for lands and heritages with a rateable value exceeding £51,000, but not exceeding £100,000, together with setting out situations where no additional amount is payable. Regulation 6 provides a formula for the additional amount payable as rates for lands and heritages with a rateable value exceeding £100,000, together with setting out situations where no additional amount is payable. Regulations 5(6) and 6(8) make clear that the provision for an additional amount does not over-ride any provision for non-domestic rates relief.

Regulations 3 to 6 apply to the financial year 2023-2024.

Regulation 7 provides for 100% relief on non-domestic rates liability, for a period of 12 months, on non-domestic properties which become re-occupied immediately after having been unoccupied for a period of at least 6 months and where the rateable value does not exceed £100,000.

Regulation 8 allows for exemptions and discretionary reductions and remissions. It makes clear that nothing provided for in relation to levying in Part 2 cuts across any complete exemption from liability to pay rates, nor prevents a local authority from granting a discretionary reduction or remission of rates under specified provisions. Similarly, it makes clear that a local authority is not prevented from issuing a ratepayer with a notice under section 20 of the Non-Domestic Rates (Scotland) Act 2020.

Regulation 9 revokes the provisions in Part 2 of the Non-Domestic Rates (Levying and Miscellaneous Amendments) (Scotland) Regulations 2022, with a saving provision to preserve their operation in respect of the financial year 2022-2023.

Part 3 contains miscellaneous amendments in respect of Non-Domestic Rating Regulations.

Regulation 10 amends the Non-Domestic Rates (Enterprise Areas) (Scotland) Regulations 2016, which provide relief from non-domestic rates in specified enterprise areas. The relief granted under those Regulations was due to expire on 31 March 2023, but regulation 10 extends the relief until 31 March 2024.

Regulation 11 amends the Non-Domestic Rates (Telecommunication Installations) (Scotland) Regulations 2016 (“the 2016 Regulations”). Regulation 11(2) amends a reference to a document in the definition of a “Mobile Masts Pilot Area” in the 2016 Regulations. These areas are either shown in a specified document with grid coordinates or delineated on three maps named in the 2016 Regulations. A new document is being referred to. Regulation 11(3) provides relief for areas shown in the document for the 2023-24 financial year. The document and maps are available for inspection online at <https://www.gov.scot/publications/4g-infill-programme-non-domestic-rates-relief-mobile-masts/>

Regulation 12 amends the Non-Domestic Rates (Day Nursery Relief) (Scotland) Regulations 2018 to remove the cut-off date for availability of the relief.

Regulation 13 amends the Non-Domestic Rates (Relief for New and Improved Properties) (Scotland) Regulations 2022 (“the 2022 Regulations”) to enable an application for relief to be made in respect of every financial year from 2022-23 onwards. It also provides that an application for relief may be made in respect of the financial year preceding the year in which the application is actually made. Further, it provides that, where relief is granted under regulation 10 of the 2022 Regulations for a period which covers 1 April 2023, this will be based on the same percentage relief for the full duration, regardless of any change to rateable value as a result of revaluation on 1 April 2023, though rates liability may not be reduced to an amount less than nil. Finally it excludes the availability of the relief in respect of lands and heritages consisting of certain types of parks added to the valuation roll on 1 April 2023 in terms of section 19 of the Local Government (Financial Provisions) (Scotland) Act 1963, as amended by the Non-Domestic Rates (Scotland) Act 2020, where they are granted relief under regulation 15 of the

Transitional Relief (Scotland) Regulations 2023. This will include, amongst others, parks which, although occupied by a local authority or by the Crown, at least some members of the public are charged a fee to access part of them.

Part 4 (regulation 14) provides that a non-domestic property which becomes occupied during the financial year 2022-23, and which falls to be treated as unoccupied under regulation 4 of the Non-Domestic Rating (Unoccupied Property) (Scotland) Regulations 2018 (“the 2018 Regulations”), receives 100% rates relief for a full period of 12 months, beginning with the date of occupation. This will be the case regardless of any change in rateable value as a result of revaluation on 1 April 2023, and of the revocation with effect from 1 April 2023 of the power under which regulation 4 of the 2018 Regulations is made.

POLICY NOTE

THE NON-DOMESTIC RATES (LEVYING AND MISCELLANEOUS AMENDMENT) (SCOTLAND) REGULATIONS 2023

SSI 2023/30

The above instrument was made in exercise of the powers conferred by section 153 of the Local Government etc. (Scotland) Act 1994 and all other powers enabling them to do so. The instrument is subject to the negative procedure.

The Regulations provide for a number of non-domestic rates

- Provision in 2023-24 for reductions in non-domestic rates as a result of the Small Business Bonus Scheme and poundage supplements, the combined Basic Property Rate (i.e. poundage) and supplements which, combined with the poundage, give the Intermediate Property Rate and Higher Property Rate, on non-domestic properties with a rateable value in excess of £51,000 and £100,000 respectively.
- Provision for Fresh Start relief from 1 April 2023 for properties that have been unoccupied for 6 months or more before becoming re-occupied, and where the rateable value does not exceed £100,000.
- Provision for Fresh Start Relief awarded in respect of 2022-23, and where the period of relief continues in full into 2023-24, regardless of the rateable value following revaluation. An amendment to The Non-Domestic Rates (Enterprise Areas) (Scotland) Regulations 2016 to extend Enterprise Areas relief by one year until 31 March 2024.
- An amendment to The Non-Domestic Rates (Telecommunication Installations) (Scotland) Regulations 2016 to reflect mast location changes to the previously published grid references, and incorporate grid references of additional eligible new mast locations.
- An amendment to the Non-Domestic Rates (Day Nursery Relief) (Scotland) Regulations 2018 to remove the end date of the relief.
- An amendment to the Non-Domestic Rates (Relief for New and Improved Properties) (Scotland) Regulations 2022 to account for the effect of revaluation and to clarify that this relief under these regulations is not available to properties that have been awarded transitional relief available for properties in parks.

Policy Objectives

Poundage Supplements (Property Rates)

This instrument provides for a poundage supplement of 1.3p in the pound for all non-domestic properties with a rateable value of between £51,001 and £100,000 (supplement + poundage = Intermediate Property Rate); and a poundage supplement of 2.6p in the pound for all non-domestic properties with a rateable value exceeding £100,000 (supplement + poundage = Higher Property Rate) on any day in the financial year 2023-24.

Small Business Bonus Scheme

The Small Business Bonus Scheme provides relief (bill discounts) to non-domestic properties (advertisements, car parks, betting shops and payday lending are excluded) in Scotland, the cumulative rateable value (i.e. the rateable value of the total number of premises that a person is liable to pay rates for) of which is £35,000 or less on any day in the financial year 2023-24. Subject to this, the Scheme offers 100% relief to individual properties with a cumulative rateable value of £12,000 or less, regardless of whether the ratepayer is liable to pay rates in respect of only one entry, or multiple entries, in the valuation roll.

For ratepayers liable to pay rates in respect of only one entry in the valuation roll, relief tapers from 100% to 25% for individual properties with rateable values from £12,001 to £15,000; and tapers from 25% to 0% for properties with rateable values from £15,001 to £20,000.

Where a ratepayer is instead liable to pay rates for multiple entries in the valuation roll and where the cumulative rateable value is between £12,001 and £35,000, then relief of 25% is available on each individual property with a rateable value of £15,000 or less and relief tapers from 25% to 0% for individual properties with rateable values between £15,001 and £20,000.

The Scheme provides the following reliefs from 1 April 2023 for non-domestic properties where the ratepayer is liable for rates for only one entry in the valuation roll:

| <i>Column 1 Rateable value range (single entry in valuation roll)</i> | <i>Column 2 Percentage of rate relief</i> $\frac{(15000 - RV)}{3000}$ |
|---|--|
| £12,000 or less | 100% |
| £12,001 to £15,000 | Relief percentage = $100 - (75 \times \frac{(1 -)}{3000})$ |
| £15,001 to £20,000 | Relief percentage = $\frac{(20000 - RV)}{5000} \times 25$ (%) |

The Scheme provides the following reliefs from 1 April 2023 for non-domestic properties where the ratepayer is liable for rates for multiple entries in the valuation roll:

| <i>Column 1 Cumulative rateable value range (multiple entries in valuation roll)</i> | <i>Column 2 Percentage of rate relief</i> |
|--|---|
| £12,000 or less | 100% |

| | |
|---------------------------|---|
| <p>£12,001 to £35,000</p> | <p>25% on each individual property with a rateable value of £15,000 or less</p> <p>For individual properties with rateable value £15,001 to £20,000, relief percentage =</p> $25 \times \left(\frac{20000 - RV}{5000} \right)$ |
|---------------------------|---|

No relief is available for individual properties where the cumulative rateable value is over £35,000. Unoccupied properties are not eligible for Small Business Bonus Scheme relief.

Fresh Start relief

Fresh Start relief was introduced on 1 April 2016 and initially offered up to 12 months 50% relief on re-occupation to shops, offices, restaurants, pubs or hotels with a rateable value of up to £65,000, and that had been empty for over 12 months before becoming occupied again. This has since been expanded as part of the Scottish Government’s response to the Barclay Review of Non-Domestic Rates and offers 12 months 100% relief to all properties (with the exception of payday lending) where the property became reoccupied after 6 months of being vacant and the rateable value does not exceed £95,000.

These regulations provide for Fresh Start relief from 1 April 2023, following the revocation of the previous primary legislation that the relief was delivered through.

The Scottish Government is committed to supporting the recovery of the Scottish economy in the post-Covid-19 period. These regulations expand the relief by increasing the rateable value threshold to which a property may be eligible from £95,000 to £100,000 from 1 April 2023.

The regulations also ensure that relief continues to be available in full for properties that were awarded Fresh Start relief in respect of 2022-23 and where relief continues in 2023-24 for the period remaining on the relief award, regardless of the new rateable value of the property following revaluation.

Enterprise Areas relief

The Scottish Government is committed to supporting inclusive growth throughout the Scottish economy. Four themed Enterprise Areas, which span 16 different sites and complement wider support as a part of the Scottish Government’s inclusive growth agenda, aim to support the development of key sectors (Life Sciences, Low Carbon Industries, Manufacturing and Food and Drink) and creation of high quality jobs.

These regulations will continue provision of non-domestic rates relief until 31 March 2024 in these Enterprise Areas to incentivise businesses operating in a number of key economic sectors to locate on strategic geographic sites thereby encouraging the growth of those sectors and of the Scottish economy as a whole. Without these

regulations, the relief would end on 31 March 2023.

Further information may be found at: Enterprise Areas - Supporting business.

Telecommunications Mobile Masts relief

These regulations include a routine update to Telecommunications Mobile Masts relief to reflect mast location changes to the previously published grid references, and incorporate grid references of additional eligible new mast locations.

Relief for new mobile telecommunications masts in specified locations is aimed at incentivising mobile operators to build masts and/or improve the viability of mobile operators' business case to provide mobile services in those areas.

Achieving improved mobile coverage in Scotland is a key objective set out in the Scottish Government's *Mobile connectivity: action plan* (2016)¹. It is referenced in the Scottish Government's Digital Strategy: '*A Changing Nation: How Scotland will Thrive in a Digital World*' (2021)² and the Scottish Government's '*A Fairer, Greener Scotland: Programme for Government 2021-22*' (2021)³. The non-domestic rates relief is part of the Scottish Government's commitment to working in collaboration with the mobile industry to set the right conditions to incentivise infrastructure investment in non-commercial areas (so-called "notspots"). The Scottish Government's expectation is that new mobile masts built in the eligible areas will provide 4G mobile services to notspots in (and potentially around) the eligible areas.

Day Nursery Relief

These regulations will continue provision of 100% non-domestic rates relief for properties wholly or mainly used as day nurseries (within the meaning of section 135 of the Education (Scotland) Act 1980) which also provide day care of children (as defined in paragraph 13 of schedule 12 of the Public Services Reform (Scotland) Act 2010) beyond 30 June 2023.

Day Nursery relief was introduced in 1 April 2018 following the Barclay Review's recommendation that the Scottish Government should introduce a new relief for day nurseries to help ensure the workforce is supported by convenient, affordable and accessible childcare. The Scottish Government accepted this recommendation in 2017.

Business Growth Accelerator Relief

The regulations continue provision of Business Growth Accelerator relief. They also provide for continuation of improvement relief awarded in respect of 2022-23, where the period of relief continues into 2023-24. Improvement relief awarded in 2022-23 under regulation 10 of the Non-Domestic Rates (Relief for New and Improved Properties) (Scotland) Regulations 2022 and continuing into 2023-24 will be awarded at the same percentage of relief as applies at 31 March 2023, but on the basis of the rateable value following the revaluation taking effect on 1 April 2023.

The regulations clarify that Business Growth Accelerator relief is not available for properties eligible for the transitional relief for properties added to the roll on 1 April 2023 as a result of section 19 of the Local Government (Financial Provisions)

(Scotland) Act 1963.

Consultation

There is no statutory requirement to formally consult on these Regulations.

The Barclay Review of Non-Domestic Rates recommended that an evaluation of Day Nursery Relief be carried out. This was completed by the Scottish Government during 2022. This evaluation included obtaining the views of private and third sector childcare providers, to obtain their views on the impact of the relief. The Nursery Rates Relief: Evaluation report can be found on the Scottish Government's website. The removal of the end date of the relief was announced on 6 October 2022 and this announcement can be accessed on the Scottish Government's website.

Changes to the Small Business Bonus Scheme, Intermediate/Higher Property rateable value thresholds, Fresh Start, Business Growth Accelerator relief and the extension of Enterprise Areas relief were set out in the Scottish Budget 2023-24.

Impact Assessments

No Business and Regulatory Impact Assessment has been carried out.

Financial Effects

The decrease in the amount of non-domestic rates payable is in line with the policy objectives as outlined above.

The Scottish Fiscal Commission's Scotland's Economic and Fiscal Forecasts published on 15 December 2022 forecasted that the reliefs set out in these regulations would cost the following in 2023-24:

- Small Business Bonus Scheme relief – £306 million
- Fresh Start relief – £5 million
- Enterprise Areas relief – £1 million
- Mobile Masts relief – less than £1 million
- Day Nursery relief – £10 million
- Business Growth Accelerator relief - £17 million

Scottish Government
Local Government and Housing Directorate

February 2023

- 1 <https://www.gov.scot/publications/mobile-action-plan/>
- 2 <https://www.gov.scot/publications/a-changing-nation-how-scotland-will-thrive-in-a-digital-world/documents/>
- 3 <https://www.gov.scot/publications/fairer-greener-scotland-programme-government-2021-22/documents/>