

Local Government, Housing and Planning Committee

8th Meeting, 2023 (Session 6)

Tuesday, 14 March 2023

SSI cover note for: Non-Domestic Rates (Transitional Relief) (Scotland) Regulations 2023

SSI 2023/31

Title of Instrument: Non-Domestic Rates (Transitional Relief) (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 \(Transitional Relief\) \(Scotland\) 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 these regulations make provision to cap the amount payable as non-domestic rates for properties in 2023-24 in certain circumstances. They apply only to 2023-24.

5. The Policy Note further states that the regulations provide for “the three transitional relief schemes in 2023-24 which are set out below—

- **General Revaluation Transitional Relief** (available for all property types capping gross bill increases at a specified percentage increase, dependent on the rateable value on 1 April 2023)
- **Small Business Transitional Relief** (capping the maximum increase in the net rates liability relative to 31 March 2023 at £600 in 2023-24 after any relief is available for properties:
 - entitled to Small Business Bonus Scheme Relief (SBBS) and/or
 - entitled to mandatory or discretionary Rural Relief on 31 March 2023 and no longer entitled on 1 April 2023 due to their rateable value increasing at the 2023 revaluation beyond the qualifying threshold(s) set out in the Non-Domestic Rating (Rural Areas and Rateable Value Limits) (Scotland) Order 2005, as amended.)
- **Parks Transitional Relief** (providing for 67% relief for parts of parks, or parks, that existed but were not rateable on 31 March 2023, and which become rateable on 1 April 2023 following the coming into force of section 5 of the Non-Domestic Rates (Scotland) Act 2020.)

6. The Scottish Budget 2023-24 announced both the General Transitional Relief and the Small Business Transitional Relief. The Parks Transitional Relief was later confirmed following analysis of the draft 2023 valuation roll.

7. The Regulations also amend the Non-Domestic Rates (Relief for New and Improved Properties) (Scotland) Regulations 2022 to specify the formula for the calculation of the transitional limit and base liability for properties that are in receipt of both the General Revaluation Transitional Relief and Business Growth Accelerator relief on a day.

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**

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

Annexe A

Scottish Government Explanatory Note

These Regulations make provision as to the amount payable in certain circumstances as non-domestic rates in respect of non-domestic properties in Scotland. They apply to the financial year 2023-24. The Regulations cease to apply where a non-domestic property is shown in a merged, split or reorganised entry in the valuation roll which takes effect during the financial year 2023-24.

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

Part 2 deals with amounts payable in respect of lands and heritages which are shown in the valuation roll as at 31 March 2023 and 1 April 2023. For every day of the relevant year, the notional rates liability for a non-domestic property (that is, the gross amount ordinarily payable as rates before any reliefs are applied) must be compared against that property's transitional limit. If the notional liability, calculated in accordance with regulation 9, is more than the transitional limit, the amount payable will be equal to the transitional limit. This is provided for by regulation 7. The transitional limit is calculated by multiplying the lands and heritages' base liability, calculated under regulation 10, by whichever is the appropriate factor as provided for by regulation 9.

Part 3 deals with reductions, remissions and exemptions. Regulation 11 provides for reductions under other enactments to apply in cases where the amount of rates payable is determined under regulation 7 of these Regulations in the same way as they apply in cases where these Regulations do not have effect.

Regulation 12 provides for calculation of rates liability in respect of lands and heritages which are partially unoccupied, and to which regulation 7 applies, where there is an apportionment between the rateable value of the parts of the lands and heritages which are occupied, and those which are unoccupied. In determining liability, the rateable value is taken to be the figure attributed only to the part of the property which is occupied.

In terms of regulation 13, nothing in the Regulations requires the payment of rates on property on a day on which it is entirely exempt from rates under any other enactment, or prejudices the power of a rating authority to grant discretionary reductions or remissions.

Part 4 (regulation 14) provides for a cap on increase in rates liability on certain lands and heritages in respect of which there is entitlement to small business bonus scheme relief under regulation 3 of the Non-Domestic Rates (Levying and Miscellaneous Amendment) (Scotland) Regulations 2022 or rural property relief under schedule 2 of the Local Government and Rating Act 1997, as at 31 March 2023. In relation to rural property relief, the cap applies only where entitlement to the relief is lost on 1 April 2023 as a result of an increase in rateable value taking it above whichever limit as set down by article 3(1) of the Non-Domestic Rating (Rural Areas and Rateable Value Limits) (Scotland) Order 2005 applies (in relation to mandatory relief) or article 3(2), in the case of discretionary relief. The cap can be

relied upon as an alternative to reliance on regulation 7, where reliance on this Part provides a more favourable result in relation to entitlement to relief than application of the transitional limit calculated in accordance with regulation 9.

Part 5 (regulation 15) provides for relief for lands and heritages consisting of certain types of parks or parts of parks which become rateable on 1 April 2023 as a result of the taking effect of amendments to section 19 of the Local Government (Financial Provisions) (Scotland) Act 1963. The relief granted is 67% relief on the rateable value of the lands and heritages as it applied when the park was added to the valuation roll at revaluation on 1 April 2023. Where the entry in a valuation roll is split or reorganised on or after 1 April 2023, a 67% reduction is made on the gross rates liability on each part of the lands and heritages which is the subject of an entry in the valuation roll.

Part 6 deals with general matters. Regulation 16 provides the process for making an application for relief. An application is required for relief under regulations 14 and 15.

Regulation 17 makes amendments to regulation 10 of the Non-Domestic Rates (Relief for New and Improved Properties) (Scotland) Regulations 2022, to replace references to the Non-Domestic Rates (Transitional Relief)(Scotland) Regulations 2017 (S.S.I. 2017/85) with references to these Regulations.

POLICY NOTE

THE NON-DOMESTIC RATES (TRANSITIONAL RELIEF) (SCOTLAND) REGULATIONS 2023

SSI 2023/31

The above instrument was made in exercise of the powers conferred by powers conferred by section 153 of the Local Government etc. (Scotland) Act 1994. The instrument is subject to negative procedure and comes into effect on 1 April 2023.

These regulations make provision to cap the amount payable as non-domestic rates for properties in 2023-24 in certain circumstances. They apply only to 2023-24.
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Policy Objectives

These regulations provide for the three transitional relief schemes in 2023-24 which are set out below. The Scottish Government also annually publishes a Local Government finance circular containing non-statutory rates relief guidance on the Scottish Government's website.

The Scottish Budget 2023-24 was published on 15 December 2022 and announced both the General Transitional Relief and the Small Business Transitional Relief. The Parks Transitional Relief was later confirmed following analysis of the draft 2023 valuation roll.

General Revaluation Transitional Relief

A General Revaluation Transitional Relief is available for all property types capping gross bill increases at a specified percentage increase, dependent on the rateable value on 1 April 2023.

Under regulation 6, in order to be eligible for this relief, the property requires to have been shown in an entry on the valuation roll on both 31 March 2023 and 1 April 2023. Properties with a nil rateable value on 1 April 2023, or which had a nil rateable value on 31 March 2023 are not eligible. Equally, eligibility ceases if there is a merger, split or reorganisation of the valuation roll entry for the property occurring on a day after 1 April 2023, from the day the merger, split or reorganisation takes effect.

Subject to the above, the General Revaluation Transitional Relief provides that any increase in the 'gross bill'¹ for a day in 2023-24 is to be no more than the following per cent (cash terms) of the gross bill for 31 March 2023 ('factors'):

- 12.5% for properties with a rateable value at revaluation on 1 April 2023 up to £20,000
- 25% for properties with a rateable value at revaluation on 1 April 2023 from £20,001 to £100,000
- 37.5% for properties with a rateable value at revaluation on 1 April 2023 over £100,000

¹ The gross bill for the purposes of this note is the rateable value on that day multiplied by a poundage factor; the poundage factor being the non-domestic property rate for that year - the Basic Property Rate, Intermediate Property Rate or Higher Property Rate, as the case may be.

Regulation 7 in Part 2 of the regulations specifies that where a property's notional liability on a day is more than the transitional limit calculated in accordance with regulation 9, the amount of rates payable is equal to that transitional limit (subject to Part 3).

Regulation 8 sets out the calculation for the notional liability on any day in the relevant year - this is the gross bill (i.e. before any reliefs are applied). The non-domestic rate (Basic, Intermediate or Higher Property Rate) to be applied in calculating the notional liability depends on the rateable value on the day under consideration.

Regulation 9 sets out the formula which should be used to calculate the transitional limit. The transitional limit is calculated by multiplying the 'base liability' by the relevant factor (which depends on the rateable value of the property). Any increases in rateable value after revaluation are not subject to the cap, and any decrease in rates caused by a decrease in rateable value after revaluation would also be taken into proportionate account.

The 'base liability' is defined in regulation 10 and corresponds, if there has not

been a split or reorganised entry on 1 April 2023, to the amount which would have been payable as rates in respect of those lands and heritages for the year ending 31 March 2023, had that amount been calculated on the basis of the rateable value of the lands and heritages on that date, including any additional amounts of rates payable (Basic, Intermediate or Higher Property Rate as the case may be), but before applying any reliefs.

If the property is shown in a split or reorganised entry taking effect on 1 April 2023, a reduction is applied to the gross bill and then uplifted by the relevant factor to calculate the transitional limit. The reduction is:

- 1.2 for properties with a rateable value up to £20,000
- 1.25 for properties with a rateable value on the day from £20,001 to £100,000
- 1.4 for properties with a rateable value on the day over £100,000

The above measures interact with reductions to the amounts payable under other reliefs such as Charity relief. Regulation 11 in Part 3 provides for such reductions to apply to the transitional limit if that is the amount of rates payable under regulation 7.

Regulation 12 sets out the calculation for the amount payable for partially unoccupied properties where regulation 7 applies. This is the amount determined under regulation 7, multiplied by the rateable value treated for rating purposes as the rateable value of the property (namely the apportioned amount) divided by the total rateable value of the property.

Regulation 13 specifies that nothing in these regulations requires rates to be paid if the property is exempt from rates under any other legislation, and that councils may still choose to offer local relief to any property receiving a reduction under these regulations.

Small Business Transitional Relief

Under regulation 14, a Small Business Transitional Relief capping the maximum increase in the net rates liability relative to 31 March 2023 at £600 in 2023-24 after any relief is available for properties:

- entitled to Small Business Bonus Scheme Relief (SBBS) and/or
- entitled to mandatory or discretionary Rural Relief on 31 March 2023 and no longer entitled on 1 April 2023 due to their rateable value increasing at the 2023 revaluation beyond the qualifying threshold(s) set out in the Non-Domestic Rating (Rural Areas and Rateable Value Limits) (Scotland) Order 2005, as amended.

Under regulation 6, in order to be eligible for this relief, the property requires to have been shown in an entry on the valuation roll on both 31 March 2023 and 1 April 2023. Properties with a nil rateable value on 1 April 2023, or which had a nil rateable value on 31 March 2023 are not eligible. Equally, eligibility ceases if there is a merger, split or reorganisation of the valuation roll entry for the property occurring on a day after 1 April 2023, from the day the merger, split or reorganisation takes effect.

Subject to the above, the increase in the net rates bill at revaluation on 1 April 2023 is maximum £600 – this is after any other relief has been applied, including the General Revaluation Transitional Relief if applicable. Any increases in rateable value after revaluation are not subject to the cap, and any decrease in rates caused by a decrease in rateable value after revaluation would also be taken into proportionate account.

Parks Transitional Relief

Under regulation 15, a ‘Parks’ Transitional Relief provides for 67% relief for parts of parks, or parks, that existed but were not rateable on 31 March 2023, and which become rateable on 1 April 2023 following the coming into force of section 5 of the Non-Domestic Rates (Scotland) Act 2020, amending section 19 of the Local Government (Financial Provisions) (Scotland) Act 1963.

Applications for relief

Regulation 16 requires that an application be made for the Small Business Transitional Relief and the Parks Transitional Relief. An application is not required for the General Revaluation Transitional Relief, this should therefore be automatically applied on gross bills by local authorities.

Changes to Business Growth Accelerator relief

Regulation 17 amends the Non-Domestic Rates (Relief for New and Improved Properties) (Scotland) Regulations 2022 to specify the formula for the calculation of the transitional limit and base liability for properties that are in receipt of both the General Revaluation Transitional Relief and Business Growth Accelerator relief on a day.

Consultation

There is no requirement to consult on these regulations.

Impact Assessments

No Business and Regulatory Impact Assessment has been carried out. Financial Effects

The Scottish Fiscal Commission forecast that the General Revaluation Transitional Relief and Small Business Transitional Relief will reduce non-domestic rates income by £100 million in 2023-24.

The Parks Transitional Relief was not considered material to the non-domestic rates income forecast.

Scottish Government
Local Government and Housing Directorate February 2023