

Delegated Powers and Law Reform Committee

4th Meeting, 2024 (Session 6), Tuesday, 30 January 2024

Instrument Responses

Non-Domestic Rates (Transitional Relief) (Scotland) Regulations 2024 (SSI 2024/5)

On 18 January, the Committee asked the Scottish Government

1. In the preamble, should the reference to section 145 of the Non-Domestic Rates (Scotland) Act 2020 be to section 14(5)?
2. In regulation 11, reference is made to section 24(3) of the Local Government (Scotland) Act 1966 which appears to have been repealed. Is this an error?

Please confirm whether any corrective action is proposed, and if so, what action and when.

On 23 January, the Scottish Government responded:

The reference in the preamble should indeed be to section 14(5) of the Non-Domestic Rates (Scotland) Act 2020. There is no section 145 of the Non-Domestic Rates (Scotland) Act 2020. The omission of the brackets was a typographical error. The Scottish Government is of the view that this does not affect the legal validity of the instrument, as the reference to the section in question concerns compliance with a consultation requirement and that requirement to consult has been fulfilled irrespective of whether or not the preamble accurately narrates the basis of the requirement. Unfortunately, clearance has not been given to use a correction slip to fix the error, and it is not possible to amend preambles. However, the Scottish Government intends to insert the following correction note after the final paragraph of the explanatory note:

“CORRECTION

Page 14, in the Explanatory Note, after the final paragraph insert a new paragraph which should read: “The consultation requirement in section 14 of the Non-Domestic Rates (Scotland) Act 2020, though cited in the preamble as being in section 145, is in section 14(5). The Scottish Government’s explanation is available on the Scottish Parliament website: [\[link to this response\]](#)”

The reference to section 24(3) of the Local Government (Scotland) Act 1996 in regulation 11 is an error. Section 24 was repealed by section 19(2) of the Non-Domestic Rates (Scotland) Act 2020 with effect from 1 April 2023. The Scottish Government intends to bring forward amending regulations to remove the erroneous reference to section 24(3) and to make certain other changes to

regulation 11 that have been identified following a review of the regulation in light of the Committee's question. It is intended that these amending regulations will have a coming into force date of 1 April 2024, coinciding with that of the principal Regulations.

Council Tax (Dwellings and Part Residential Subjects) (Scotland) Amendment Regulations 2024 (SSI 2024/10)

On 19 January, the Committee asked the Scottish Government

New regulation 5A(4) of the principal regulations (inserted by regulation 2(2) of the instrument) provides:

“The assessor must treat the lands and heritages not falling within the class of self-catering holiday accommodation...”.

Should this instead be a requirement to treat the lands and heritages “as” not falling with that class (or other wording to that effect)? Is the meaning of this provision sufficiently clear?

Please confirm whether any corrective action is proposed, and if so, what action and when.

On 23 January, the Scottish Government responded:

This should indeed be a requirement to treat the lands and heritages “as” not falling within the class of self-catering holiday accommodation. The omission of the word “as” was a typographical error. The Scottish Government considers that the meaning of the provision is sufficiently clear, notably in light of the other references to the assessor treating lands and heritages “as” not being self-catering holiday accommodation in regulation 2(3) and (4) of the same instrument, and in the Explanatory Notes and Policy Note that accompany the instrument. Nevertheless, the Scottish Government accepts that the clarity of the provision would be increased by the insertion of the word “as”. The Scottish Government will therefore arrange to have the word inserted by correction slip prior to the coming into force date of the Regulations.