

Local Government, Housing and Planning Committee

5th Meeting, 2024 (Session 6)

Tuesday, 6 February 2024

SSI cover note for: The Non-Domestic Rates (Transitional Relief) (Scotland) Regulations 2024

SSI 2024/5

Title of Instrument: Non-Domestic Rates (Transitional Relief) (Scotland) Regulations 2024

Type of Instrument: Negative

Laid Date: 11 January 2024

Circulated to Members: 11 January 2024

Meeting Date: 6 February 2024

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: 26 February 2024

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

Purpose

4. The Policy Note explains that the purpose of the instrument is to “make provision to cap the amount payable as non-domestic rates for properties in 2024-25 in certain circumstances. They apply only to 2024-25.”
5. The Policy Note further explains that the regulations provide for the following three transitional relief schemes available in 2024-25—
- **General Revaluation Transitional Relief** (available for all property types. The relief caps increases in ‘gross bills’ for any day in 2024-25 relative to 31 March 2023 at a specified percentage increase dependent on the rateable value of the property.)
 - **Small Business Transitional Relief** (defines the increase in the net rates bill at revaluation on 1 April 2023 at a maximum of £1200 in 2024-25, subject to certain criteria)
 - **Parks Transitional Relief** (provides for 33% relief in 2024-25 for parts of parks, or parks, that existed but were not rateable on 31 March 2023, and which became rateable on 1 April 2023 following the coming into force of section 5 of the Non-Domestic Rates (Scotland) Act 2020)).
6. Both the General Transitional Relief and the Small Business Transitional Relief were announced in the Scottish Government budget for 2024-25. The Parks Transitional Relief was later confirmed following analysis of the draft 2023 valuation roll.

Delegated Powers and Law Reform Committee consideration

7. At its meeting on 30 January 2024¹ the DPLR Committee considered the instrument and agreed not to draw it to the attention of the relevant lead committee.

Procedure for Negative Instruments

8. 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.
9. 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

<https://digitalpublications.parliament.scot/Committees/Report/DPLR/2024/1/31/8f16b51f-2eee-415a-902f-549edc893225#0e2be8bd-e3aa-4096-95af-a750b183e336.dita>

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

Scottish Government Explanatory Note

These Regulations make provision as to the amount payable in certain circumstances as non-domestic rates in Scotland. They apply to the financial year 2024-2025. The Regulations do not 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 2024-2025.

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

Part 2 deals with amounts payable in respect of lands and heritages which were shown in the valuation roll as at 31 March 2023 and 1 April 2023. For every day of the financial year 2024-25 the notional rates liability for a non-domestic property (that is, the gross amount ordinarily payable as rates before any reliefs are applied, calculated in accordance with regulation 8) must be compared against that property's transitional limit. If the notional liability, calculated in accordance with regulation 8, 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 base liability of the lands and heritages, 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 regulation 7 does 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 was 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 was 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. Regulation 14(6) provides that where there is an entitlement to relief under both regulations 7 and 14, relief under regulation 14 is to be applied to the rates liability arrived at through applying regulation 7.

Part 5 (regulation 15) provides for relief for lands and heritages consisting of certain types of parks or parts of parks which became 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 33% relief on the daily gross rates payable in respect of the lands and heritages for a day in the financial year 2024-2025. Where the entry in a valuation roll is split or reorganised on or after 1 April 2023, a 33% 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, unless relief under the equivalent provisions of the Non-Domestic Rates (Transitional Relief) (Scotland) Regulations

2023 has been granted in respect of the financial year 2023-2024. In that case no application for relief is required for the financial year 2024-2025.

Regulation 17 amends regulation 10 of the Non-Domestic Rates (Relief for New and Improved Properties) (Scotland) Regulations 2022, to narrow its application so that it only applies to the financial year 2023-24, as well as making some changes to clarify the provision in relation to its application to transitional relief. It also inserts a new regulation 10A to deal with the financial year 2024-2025. Further, it expands regulation 16 to refer to the provision of the Non-Domestic Rates (Transitional Relief) (Scotland) Regulations 2024 which provides relief for parks which became 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.

Regulation 18 amends the Non-Domestic Rates (Restriction of Relief) (Scotland) Regulations 2023 to add relief under regulation 15 of the Non-Domestic Rates (Transitional Relief) (Scotland) Regulations 2024 to the list of reliefs which require to meet certain conditions if they are to be given as minimal financial assistance.

Regulation 19 amends regulation 15 of the Non-Domestic Rates (Transitional Relief) (Scotland) Regulations 2023, on parks which became rateable on 1 April 2023, to restrict its application to the financial year 2023-24.

Policy Note

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

The above instrument was made in exercise of the powers conferred by section 153 of the Local Government etc. (Scotland) Act 1994 and section 14 of the Non-Domestic Rates (Scotland) Act 2020. The instrument is subject to the negative procedure.

Summary Box

These regulations make provision to cap the amount payable as non-domestic rates for properties in 2024-25 in certain circumstances. They apply only to 2024-25.

Policy Objectives

These regulations provide for the three transitional relief schemes available in 2024-25 which are set out below.

The Scottish Budget 2023-24¹ 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 and caps increases in 'gross bills'² for any day in 2024-25 relative to 31 March 2023 at a specified percentage increase. The cap that applies depends on the rateable value of the property 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 in 2024-25 is to be no more than the following percentage (cash terms) of the annual gross bill for 2023-24, subject to adjustment in respect of any changes in rateable value taking effect after the date of revaluation, i.e. 1 April 2023:

- 25% for properties with a rateable value at revaluation on 1 April 2023 up to and including £20,000
- 50% for properties with a rateable value at revaluation on 1 April 2023 from £20,001 and up to and including £100,000
- 75% for properties with a rateable value at revaluation on 1 April 2023 in excess of £100,000.

¹ <https://www.gov.scot/publications/scottish-budget-2023-24/documents/>

² 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.

Tables 1-3 below show the annual and cumulative impact of General Revaluation Transitional Relief on annual gross bill increase limits for qualifying properties.

Table 1: Properties with rateable value on 1 April 2023 up to and including £20,000

	2023-2024	2024-2025
Annual cap	12.5%	25.0%
Cumulative cap	12.5%	40.6%
Cumulative multiplier	1.125	1.406

Table 2: Properties with rateable value on 1 April 2023 from £20,001 and up to and including £100,000

	2023-2024	2024-2025
Annual cap	25.0%	50.0%
Cumulative cap	25.0%	87.5%
Cumulative multiplier	1.250	1.875

Table 3: Properties with rateable value on 1 April 2023 in excess of £100,000

	2023-2024	2024-2025
Annual cap	37.5%	75.0%
Cumulative cap	37.5%	140.6%
Cumulative multiplier	1.375	2.406

Regulation 7 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 increase in rateable value after revaluation is not subject to the cap, and any decrease in rates caused by a decrease in rateable value after revaluation should also be taken into account proportionately.

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 31 March 2023, 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 and up to and including £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 £1,200 in 2024-25 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 £1200 in 2024-25 – 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 33% relief in 2024-25 for parts of parks, or parks, that existed but were not rateable on 31 March 2023, and which became 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 however regulations 14(8) and 15(5) clarify that where these reliefs had already been granted in respect of 2023-24 under The Non-Domestic Rates (Transitional Relief) (Scotland) Regulations 2023, then no application needs to be made in respect of 2024-25.

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.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

Scottish Ministers have consulted such persons as they consider appropriate in the design of these regulations, namely local authorities and members of the Institute of Revenues, Rating and Valuation.

Impact Assessments

No Business and Regulatory Impact Assessment has been carried out.

Financial Effects

The Scottish Fiscal Commission's Scotland's Economic and Fiscal Forecasts published on 19 December 2023 estimate that the General Revaluation Transitional Relief, Small Business Transitional Relief and Parks Transitional Relief will cumulatively reduce non-domestic rates income by £56 million in 2024-25.

Scottish Government
Local Government and Housing Directorate
January 2024