

Finance and Public Administration Committee
1st Meeting 2025 (Session 6)
Tuesday 7 January 2025

Land and Buildings Transaction Tax (Additional Amount: Transactions relating to second homes etc.) (Scotland) Amendment Order 2024 (SSI 2024/367)

Overview

1. This paper invites the Committee to take evidence from the Minister for Public Finance, in relation to the Land and Buildings Transaction Tax (Additional Amount: Transactions relating to second homes etc.) (Scotland) Amendment Order 2024 (SSI 2024/367), (referred to hereafter as ‘the LBTT Order’).
2. As a provisional affirmative Order, this SSI came into force on 5 December. It will only remain in force permanently, however, if the Scottish Parliament approves the Order within a 28-day period of it having been made.

Title of instrument: [Land and Buildings Transaction Tax \(Additional Amount: Transactions relating to second homes etc.\) \(Scotland\) Amendment Order 2024 \(SSI 2024/367\)](#)

Laid under: [Land and Buildings Transaction Tax \(Scotland\) Act 2013](#)

Laid on: 4 December 2024

Lead committee to report by: 13 January 2025

Purpose of the instrument

3. Land and Buildings Transaction Tax (LBTT) is payable on transactions of residential and non-residential properties and land. Additional Dwelling Supplement (ADS) is a surcharge on purchases of additional residential properties. Individuals purchasing a second or subsequent home must pay the ADS on any residential property at a price of more than £40,000.
4. This LBTT Order amends the Land and Buildings Transaction Tax (Scotland) Act 2013 (‘the 2013 Act’) to increase the rate of ADS from 6% to 8% from transactions with an effective date of on, or after, 5 December 2024. The Scottish Government explains that this is “intended to prevent forestalling of transactions, which would be expected to arise should the date of introduction be later”. It does not apply to transactions with an effective date on, or after, 5 December 2024 “where the contract for the transaction was entered into prior to 5 December 2024”.

Policy objectives

5. The [Policy Note](#) accompanying the LBTT Order explains that the increase in ADS to 8% is “intended to support the Scottish Government’s drive to protect opportunities for first-time buyers in Scotland, reinforcing the progressive approach in place for LBTT rates and bands”.
6. The Scottish Government confirms that there is no statutory requirement to consult on this instrument. The increase in the rate in ADS “was announced by the Cabinet Secretary for Finance and Local Government and published in the Scottish Budget 2025-26”.
7. The Policy Note states that the LBTT Order does not discriminate unlawfully in any way with respect to protected characteristics either directly or indirectly; does not infringe on or affect any subject areas of the European Convention on Human Rights and that no privacy impacts have been identified. In addition, no new impacts on Island Communities have been identified; and the Order will have no impact on sustainable development. In relation to Local Government there will “not be any additional administrative or compliance burdens specifically affecting local government beyond those duties local authorities are already subject to under the LBTT legislation”.
8. The Note also explains that a Business and Regulatory Impact Assessment has been published for the regulations and orders associated with the 2013 Act. In its [Child Rights and Wellbeing Impact Assessment](#) for the LBTT Order, the Scottish Government states that in relation to ADS:
 - it “is payable in around 22% of transactions - around 21,000 of all residential transactions in 2023-24”.
 - whilst a range of buyers will be affected, “in respect of home-movers, the ADS can be reclaimed, where relevant conditions are met, within 36 months”.
 - it “is not possible to identify from the LBTT return the purposes for which a transaction occurs, however, in 2023-24 reclaims by home movers accounted for 12% of all ADS transactions”.
9. The Scottish Fiscal Commission (SFC) has set out its assessment of the impact of these amendments on overall LBTT revenues as part of [Scotland’s Economic and Fiscal Forecasts December 2024](#), which were published alongside the Scottish Budget 2025-26 on 4 December 2024. The SFC forecasts that LBTT revenue will increase as a result of the Scottish Government’s decision to increase ADS from 6% to 8% effective from 5 December 2024. The SFC expects this increase to raise an additional £32 million in 2025-26.
10. The SFC explains that “an increase to the rate means more ADS will be paid per ADS-liable transaction [and] we expect a behavioural effect whereby an increase in the ADS rate means some individuals decide not to purchase a property that would otherwise qualify for ADS”. This also has a spillover impact on residential LBTT revenues as ADS-liable transactions also pay main residential LBTT. The

SFC notes that “home-movers and first-time buyers are in a position to absorb most of the lost ADS transactions, so we expect some of the lost residential LBTT associated with the discouraged ADS-liable transactions to be recouped by them still going ahead as non-ADS-liable transactions”.

Delegated Powers and Law Reform Committee consideration

11. The Delegated Powers and Law Reform (DPLR) Committee considered the draft Order on 17 December 2024. The DPLR reported on the draft Order in its [78th Report, 2024](#) and made no recommendations in relation to the Order.

Procedure for scrutiny

12. To inform the Committee’s consideration of the motion, there is an opportunity to take evidence on the draft Order from the Minister and his officials at Agenda item 1 before moving to formal consideration of the motion at Agenda Item 2.

13. During formal consideration of this motion, Standing Orders provide that only the Minister and Members may participate in the debate.

14. As lead Committee for consideration of this instrument, the Finance and Public Administration Committee is then invited to consider and vote on motion [S6M-15749](#), lodged in the name of the Cabinet Secretary for Finance and Local Government—

That the Finance and Public Administration Committee recommends that the Land and Buildings Transaction Tax (Additional Amount: Transactions relating to second homes etc.) (Scotland) Amendment Order 2024 (SSI 2024/367) be approved.

15. Following its decision on the LBTT Order, the Committee will publish a report to the Parliament setting out its consideration and decision.

Committee Clerking Team
December 2024