

Non-Domestic Rates (Scotland) Bill

2nd Groupings of Amendments for Stage 2

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- a list of any amendments already debated;
- the text of amendments to be debated on the second day of Stage 2 consideration, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

Groupings of amendments

Charitable relief: independent schools

73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83

Eligibility of certain public schools for rates relief

15

Effect of relief for arms-length and other bodies

93

Power to reduce or remit rates for certain organisations: guidance

94, 95, 40, 41

Unoccupied properties

42, 43

Failure to pay instalments

44, 45, 46, 47, 48, 49

Electronic communication of information

50, 51

Procedure for power to prescribe amount of non-domestic rates

4

Civil penalties for failure to comply with assessor information notices

53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 66

Duty to notify change of circumstances: timescale

96

Penalties under section 20: enforcement

67, 69

Anti-avoidance regulations: recovery of rates

101

Procedure for anti-avoidance regulations: consultation

70

Amendments already debated

Appropriate assessor

With 23 – 52

Ancillary powers

With 86 – 97, 65, 98, 99, 68, 100, 71, 72

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Amendments in debating order

Charitable relief: independent schools

Liz Smith

73 After section 9, insert—

<Charitable relief

In section 4 of the 1962 Act (reduction and remission of rates payable by charitable and other organisations), after subsection (5) insert—

“(5A) For the avoidance of doubt, any body entered in the Scottish Charity Register is eligible for remission or reduction in rates leviable on lands and heritages falling under subsection (1).”>

Liz Smith

74 In section 10, page 8, line 21 after <which> insert <, subject to subsection (9ZA),>

Liz Smith

75 In section 10, page 8, line 24, at end insert—

<“(9ZA) If lands and heritages are wholly or mainly used for the purpose of carrying on of nursery classes provided by an independent school then they—

(a) must be entered into the valuation roll separately from the lands and heritages used for the purpose of carrying on the independent school that the nursery classes are provided by,

(b) are eligible for reduction and remission of rates.>

Liz Smith

76 In section 10, page 8, line 30 after <is> insert <—

(i)>

Liz Smith

77 In section 10, page 8, line 30 after second <school> insert <, or

(ii) an independent school which is not itself a special school, but which provides education specially suited to the additional support needs of children or young persons selected for attendance at the school, class or (as the case may be) unit by reason of those needs>

Liz Smith

78 In section 10, page 8, line 34, at end insert—

<“(ab) “nursery class” has the meaning given by section 135(1) of the Education (Scotland) Act 1980,”>

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Liz Smith

79 Leave out section 10

Graham Simpson

80 In section 30, page 20, line 13, at end insert—

<() Section 10 comes into force on 1 August 2021.>

Liz Smith

81 In section 30, page 20, line 14, at beginning insert <Subject to subsection (2A)>

Liz Smith

82 In section 30, page 20, line 15, at end insert—

<(2A) Regulations under subsection (2) bringing section 10 into force may not be made until after the first revaluation year following the Bill for this Act receiving Royal Assent.>

Liz Smith

83 In section 30, page 20, line 15, at end insert—

<(2A) Regulations under subsection (2) bringing section 10 into force may not be made until—

(a) the Scottish Ministers have consulted—

(i) independent schools,

(ii) such other persons as they consider appropriate,
about the financial effects of that section,

(b) the Scottish Ministers have laid a report on that consultation before the Scottish Parliament,

(c) after the first revaluation year following the Bill for this Act receiving Royal Assent.

(2B) Subsection (2A)(a) is not complied with if the consultation took place, or began, before the Bill for this Act received Royal Assent.>

Eligibility of certain public schools for rates relief

Andy Wightman

15 After section 9, insert—

<Eligibility of certain public schools for rates relief

(1) Section 4 of the 1962 Act (reduction and remission of rates payable by charitable and other organisations) is amended as follows.

(2) In subsection (2) (which provides for lands and heritages which are eligible for a reduction or remission in rates)—

(a) after paragraph (aa) insert—

“(ab) are occupied by a public school which—

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- (i) selects pupils on the basis of musical ability or potential,
 - (ii) follows a curriculum which includes classes aimed at developing musical excellence, and
- are wholly or mainly used for the purpose of developing musical excellence,”
- (b) after “paragraphs (a), (aa)” insert “, (ab)”.
- (3) In subsection (9) after “trustee” insert “or as a public school within the meaning of subsection (2)(ab)”.
 - (4) In subsection (10) after paragraph (a) insert—
 - “(ab) “public school” has the meaning given by section 135(1) of the Education (Scotland) Act 1980.”.>

Effect of relief for arms-length and other bodies

Sarah Boyack

93 After section 10, insert—

<Charitable relief: arms-length bodies and external organisations

- (1) Section 4 of the 1962 Act (reduction and remission of rates payable by charitable and other organisations) is amended as follows.
- (2) After subsection (13) insert—
 - “(14) Any reduction or remission of rates under subsection (5) in respect of lands and heritages which are wholly or mainly used by bodies where a local authority is a trustee should not be offset by a reduction in annual central government grants to that authority.”.>

Power to reduce or remit rates for certain organisations: guidance

Sarah Boyack

94 In section 11, page 9, line 18, after <must> insert <—

- (a) lay a draft of the proposed guidance before the Scottish Parliament,
- (b)>

Sarah Boyack

95 In section 11, page 9, line 22, at end insert—

- <(7DA) The Scottish Ministers must not issue guidance under subsection (7A) until after a period of 40 days beginning with the day on which the draft guidance was laid before the Parliament under subsection (7D)(a).
- (7DB) If, within that period, the Parliament resolves that the guidance proposed should not be issued, Ministers must not issue it.

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(7DC) In calculating any period of 40 days for the purposes of subsection (7DA) or (7DB) above, no account is to be taken of any time during which the Parliament is dissolved or is in recess for more than 4 days.>

Kate Forbes

- 40 In section 11, page 9, line 26, leave out <publish,> and insert <—
() as soon as reasonably practicable after issuing guidance under subsection (7A), lay a copy of that guidance before the Scottish Parliament, and
() publish the guidance>

Kate Forbes

- 41 In section 11, page 9, line 27, leave out <, any guidance issued under subsection (7A)>

Unoccupied properties

Kate Forbes

- 42 After section 11, insert—
- <Unoccupied properties**
- (1) The Local Government (Scotland) Act 1966 is amended as follows.
 - (2) Section 24 (unoccupied lands and heritages) is repealed.
 - (3) In section 24A (lands and heritages partly unoccupied for a short time)—
 - (a) in subsection (2), the words “, subject to subsection (4),” are repealed,
 - (b) subsection (4) is repealed,
 - (c) in subsection (5), for “, (3)(a), (c) and (d) and (4)” substitute “and (3)(a), (c) and (d)”,
 - (d) subsection (6) is repealed.
 - (4) In section 24B (certain lands and heritages to be treated as unoccupied)—
 - (a) in subsection (1)—
 - (i) for “section 24” substitute “section 24A”,
 - (ii) for “lands and heritages” where it first occurs substitute “a part of lands and heritages”,
 - (iii) for “they” where it first occurs substitute “the part”,
 - (iv) for “lands and heritages” where it second occurs substitute “part”,
 - (v) in paragraph (a), for “lands and heritages when they were” substitute “part of the lands and heritages when it was”,
 - (vi) in paragraph (b), for “lands and heritages” substitute “part”,
 - (b) subsections (2) to (4) are repealed.

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- (5) In section 25(1) (provisions supplementary to section 24), for “section 24 of this Act” substitute “any scheme under section 3A of the Local Government (Financial Provisions etc.) (Scotland) Act 1962 which provides for the rates leviable in respect of lands and heritages to be reduced or remitted by virtue of the lands and heritages being unoccupied”.
- (6) The section title of section 25 becomes “**Newly erected, altered etc. buildings: completion notices**”.
- (7) In schedule 3 (rating of unoccupied property), in paragraph 2—
 - (a) for “section 24 of this Act” substitute “any scheme under section 3A of the Local Government (Financial Provisions etc.) (Scotland) Act 1962 which provides for the rates leviable in respect of lands and heritages to be reduced or remitted by virtue of the lands and heritages being unoccupied”,
 - (b) in paragraph 5, the words “under section 24 of this Act” are repealed.>

Kate Forbes

- 43 In section 12, page 9, line 34, leave out <24 to 25> and insert <24A and 24B>

Failure to pay instalments

Kate Forbes

- 44 In section 13, page 11, line 4, leave out <rating authority has issued a demand note for the payment of> and insert <person (the “ratepayer”) is liable to pay the>

Kate Forbes

- 45 In section 13, page 11, line 5, after <year> insert <, or part of a year,>

Kate Forbes

- 46 In section 13, page 11, line 7, leave out <person who is liable to pay the rates (the “ratepayer”)> and insert <ratepayer>

Kate Forbes

- 47 In section 13, page 11, line 21, after <year> insert <(or part of the year)>

Kate Forbes

- 48 In section 13, page 11, line 28, after <year> insert <(or part of the year)>

Kate Forbes

- 49 In section 13, page 12, line 1, after <year> insert <(or part of the year) to which the notice relates>

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Electronic communication of information

Kate Forbes

50 After section 13, insert—

<Electronic communications

Electronic communication of information

- (1) The Scottish Ministers may by regulations make provision allowing or requiring a notice falling within subsection (2) to be given by electronic means.
- (2) A notice falls within this subsection if it—
 - (a) is to be given to a person in accordance with an enactment, and
 - (b) relates to—
 - (i) the valuation of lands and heritages under the Valuation Acts,
 - (ii) the valuation roll,
 - (iii) the charging and collection of non-domestic rates (including relief from payment of rates or reduction or remission of rates),
 - (iv) any other matter connected with the assessment of liability to or levying of non-domestic rates.
- (3) Regulations under subsection (1) may include provision for or about—
 - (a) the manner in which a notice may be given, including circumstances in which information to be given in a notice to a particular person may be so given by being made available to that person and to others (for example, by publication on a website),
 - (b) information to be provided to facilitate the giving or receipt of a notice by electronic means (for example, an electronic address),
 - (c) circumstances in which a notice may be given by electronic means only with the consent of the intended recipient,
 - (d) exceptions to a provision allowing or requiring a notice to be given by electronic means,
 - (e) the calculation of the date on which a notice given by electronic means is to be treated as having been given,
 - (f) such other matters in connection with the giving of a notice by electronic means as the Scottish Ministers consider appropriate.
- (4) Regulations under subsection (1) may—
 - (a) modify any enactment (including this Act),
 - (b) make different provision for different purposes,
 - (c) make incidental, supplementary, consequential, transitional, transitory or saving provision.
- (5) In this section—

“notice” includes any information given to another person,

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“the Valuation Acts” means the 1854 Act, the Acts amending that Act, and any other enactment relating to valuation.>

Kate Forbes

51 After section 13, insert—

<Procedure for regulations under section (*Electronic communication of information*)

- (1) Regulations under section (*Electronic communication of information*) are subject to the affirmative procedure.
- (2) Before laying a draft of a Scottish statutory instrument containing regulations under section (*Electronic communication of information*) before the Scottish Parliament, the Scottish Ministers must consult—
 - (a) such person or persons as appear to the Scottish Ministers to represent the interests of—
 - (i) local authorities, or
 - (ii) assessors,as the Scottish Ministers consider appropriate,
 - (b) such person or persons as appear to the Scottish Ministers to represent the interests of ratepayers or potential ratepayers, and
 - (c) such other persons as the Scottish Ministers consider appropriate.
- (3) The Scottish Ministers must, as soon as reasonably practicable after consultation under subsection (2) begins, notify the Scottish Parliament about the consultation.
- (4) The Scottish Ministers must have regard to any representations about the regulations proposed to be made under section (*Electronic communication of information*) as a result of the consultation.>

Procedure for power to prescribe amount of non-domestic rates

Andy Wightman

4 After section 13, insert—

<PART

PROCEDURE FOR POWER TO PRESCRIBE AMOUNT OF NON-DOMESTIC RATES

Procedure for power to prescribe amount of non-domestic rates

In section 153 of the Local Government etc. (Scotland) Act 1994 (power of Secretary of State to prescribe amount of non-domestic rate) in subsection (6) for “shall be subject to annulment in pursuance of a resolution of either House of Parliament” substitute “is subject to the affirmative procedure”.>

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Civil penalties for failure to comply with assessor information notices

Kate Forbes

53 In section 14, page 12, line 21, leave out <56> and insert <28>

Kate Forbes

54 In section 18, page 13, line 31, leave out <of £100> and insert <determined in accordance with subsection (2A)>

Kate Forbes

55 In section 18, page 13, line 32, leave out <(4)> and insert <(3A)>

Kate Forbes

56 In section 18, page 13, line 33, at end insert—

<(2A) For the purposes of subsection (2)(b)—

(a) where the lands and heritages concerned are entered in the valuation roll, the penalty is the greater of—

(i) £200, and

(ii) 1% of the rateable value of the lands and heritages concerned for the day on which the penalty notice is given,

(b) where the lands and heritages concerned are not so entered, the penalty is £1,000.>

Kate Forbes

57 In section 18, page 13, line 34, leave out <21> and insert <28>

Kate Forbes

58 In section 18, page 13, leave out lines 36 to 38 and insert—

<(a) where the lands and heritages concerned are entered in the valuation roll, to a further penalty of the greater of—

(i) £1,000, and

(ii) 20% of the rateable value of the lands and heritages concerned for the day on which the penalty notice is given,

(b) where the lands and heritages concerned are not so entered, to a further penalty of £10,000.>

Kate Forbes

59 In section 18, page 13, line 38, at end insert—

<(3A) If the person fails to comply with the assessor information notice within the period of 56 days beginning with the day on which the penalty notice is given, the person is liable—

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- (a) where the lands and heritages concerned are entered in the valuation roll, to a further penalty of the rateable value of the lands and heritages concerned for the day on which the penalty notice is given,
- (b) where the lands and heritages are not so entered, to a further penalty of £50,000.>

Kate Forbes

- 60 In section 18, page 14, line 1, leave out subsection (4)

Kate Forbes

- 61 In section 18, page 14, line 6, leave out <subsection (4)(a)> and insert <subsections (2A), (3) and (3A)>

Kate Forbes

- 62 In section 18, page 14, line 9, at beginning insert <in a case where subsection (2A)(a), (3)(a) or (3A)(a) applies,>

Kate Forbes

- 63 In section 18, page 14, line 12, leave out from <make> to end of line 13 and insert <modify the penalties to which a person may become liable under this section, including by increasing or decreasing any sum or percentage for the time being set out in subsections (2A), (3) or (3A) or by otherwise modifying the way in which any penalty is determined.>

Kate Forbes

- 64 In section 19, page 14, line 33, after <18(3)> insert <or (3A)>

Kate Forbes

- 66 After section 19, insert—

<Payment of penalties into the Scottish Consolidated Fund

- (1) An assessor must pay any money recovered under or by virtue of section 18 into the Scottish Consolidated Fund.
- (2) But an assessor may do so after deduction of reasonable expenses incurred in relation to the giving of penalty notices under section 18 and the collection of penalties.
- (3) The Scottish Ministers may by regulations make provision about the expenses that may be deducted under subsection (2).
- (4) Regulations under subsection (3) are subject to the negative procedure.>

Duty to notify change of circumstances: timescale

Sarah Boyack

- 96 In section 16, page 13, line 14, leave out <21> and insert <42>

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Penalties under section 20: enforcement

Kate Forbes

67 In section 21, page 16, line 27, leave out subsection (5)

Kate Forbes

69 After section 21, insert—

<Penalties under section 20: enforcement

- (1) A penalty under section 20 is recoverable as a civil debt due to the local authority.
- (2) The Scottish Ministers may by regulations make further provision about the collection of penalties imposed under section 20.
- (3) Regulations under subsection (2) may in particular—
 - (a) provide for penalties to be included in a demand note or an adjustment to a demand note under section 8 of the 1975 Act (payment of rates by instalments) as if they were a liability to rates,
 - (b) provide that, where an appeal is made against the imposition of a penalty, the penalty is not payable while the appeal is outstanding,
 - (c) make provision for cases where the penalty is mitigated or remitted, and may in particular provide for the reimbursement of a penalty by way of deduction from a sum due.
- (4) Regulations under subsection (2)—
 - (a) may modify any enactment (including this Act),
 - (b) may make different provision for different purposes,
 - (c) may make incidental, supplementary, consequential, transitional, transitory or saving provision.
- (5) Regulations under subsection (2) are subject to—
 - (a) the affirmative procedure, if they add to, replace or omit any part of the text of an Act,
 - (b) otherwise, the negative procedure.>

Anti-avoidance regulations: recovery of rates

Sarah Boyack

101 In section 23, page 17. line 16, at end insert—

- <() Regulations under subsection (1) may make provision for the recovery of rates from the proprietor, tenant or occupier of lands and heritages where any of those persons has sought to obtain an advantage arising from a non-domestic rates avoidance arrangement.>

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Procedure for anti-avoidance regulations: consultation

Kate Forbes

- 70** In section 27, page 19, line 5, after <must> insert <, as soon as reasonably practicable after consultation under subsection (2) begins,>

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