

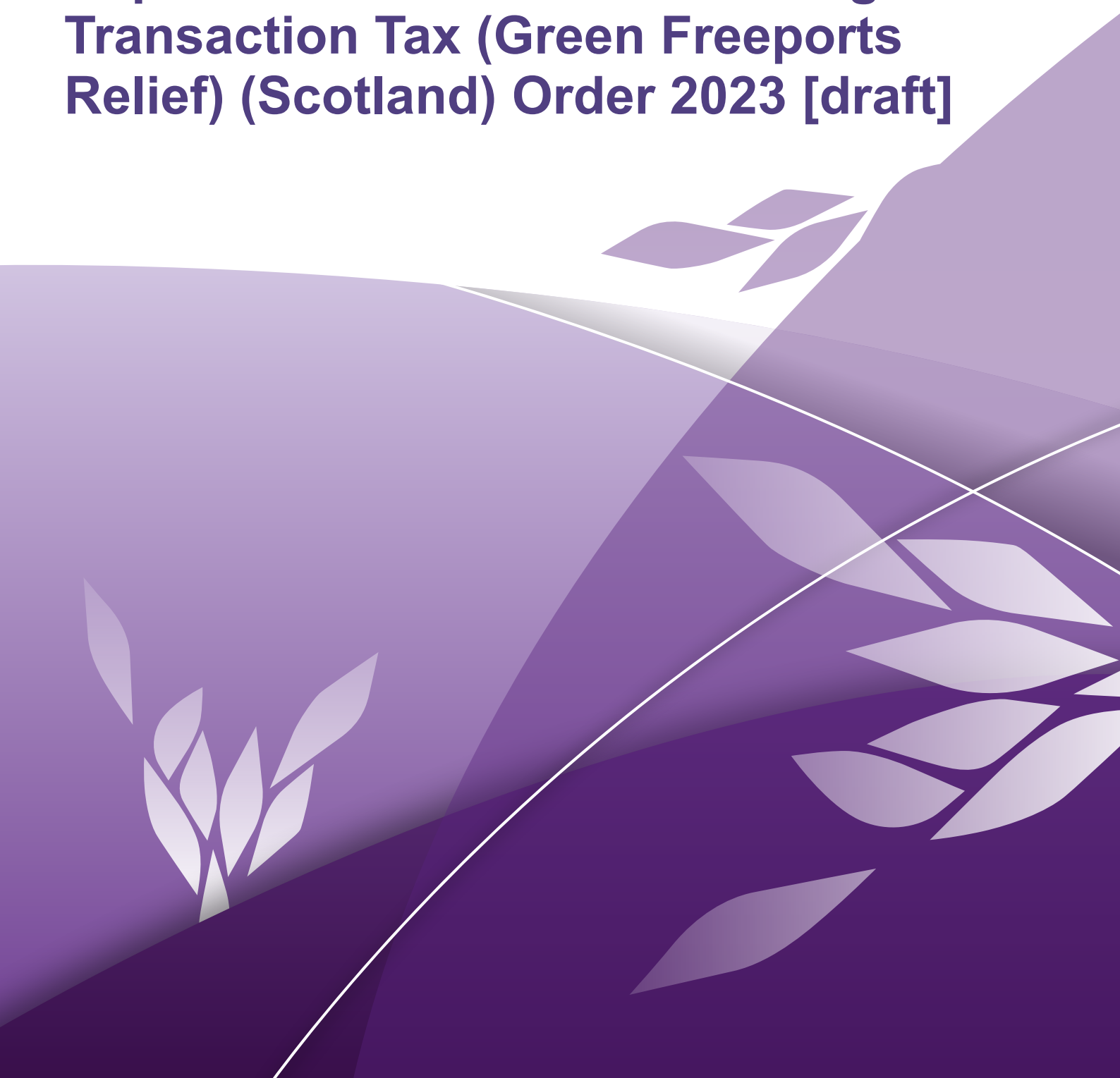


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Finance and Public Administration Committee

Report on the Land and Buildings Transaction Tax (Green Freeports Relief) (Scotland) Order 2023 [draft]



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Finance and Public Administration Committee

To consider and report on the following (and any additional matter added under Rule 6.1.5A)—

(a) any report or other document containing proposals for, or budgets of, public revenue or expenditure or proposals for the making of a Scottish rate resolution, taking into account any report or recommendations concerning such documents made by any other committee with power to consider such documents or any part of them;

(b) any report made by a committee setting out proposals concerning public revenue or expenditure;

(c) Budget Bills; and

(d) any other matter relating to or affecting the revenue or expenditure of the Scottish Administration or other monies payable into or expenditure payable out of the Scottish Consolidated Fund.

(e) matters relating to public service reform and the National Performance Framework within the responsibilities of the Deputy First Minister and public administration.

2. The Committee may also consider and, where it sees fit, report to the Parliament on the timetable for the Stages of Budget Bills and on the handling of financial business.

3. In these Rules, “public expenditure” means expenditure of the Scottish Administration, other expenditure payable out of the Scottish Consolidated Fund and any other expenditure met out of taxes, charges and other public revenue.



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Introduction


1. [The Land and Buildings Transaction Tax \(Green Freeports Relief\) \(Scotland\) Order 2023 \[draft\]](#) (hereafter referred to as the draft Order) was laid in the Scottish Parliament on 16 June 2023. ¹ The Scottish Government explains that this draft Order “inserts new Schedule 16D to the 2013 Act to provide for relief from LBTT for eligible transactions within a Green Freeport designated tax site.” ²
2. The draft Order is subject to affirmative procedure, which requires Parliament to approve them within a 40-day period. The Delegated Powers and Law Reform Committee, which considers the technical aspects of the instrument, considered the draft Order on [27 June 2023](#) and had no issues to report. ³
3. The Committee received [5 submissions](#) to its call for views which are available on its website. The Committee then took evidence from the Scottish Property Federation (SPF) and from Unite the Union (hereafter referred to as 'Unite') at its meeting on 5 September 2023. At its meeting on 12 September the Committee took evidence from the Minister for Community Wealth and Public Finance, Tom Arthur MSP, and Scottish Government officials. The [Official Reports](#) of these meetings can also be found on the Committee's website and set out the full range of issues discussed with SPF, Unite and the Minister and his officials. ⁴
4. The Committee thanks all those who provided their views which informed the Committee's consideration of the draft Order.

Land and Buildings Transaction Tax (Green Freeports Relief) (Scotland) Order 2023 [draft]

5. This draft Order is intended to provide relief from Land and Buildings Transaction Tax (LBTT) in certain circumstances to “support the Scottish Government’s objectives in delivering the green freeports programme by encouraging long-term investment in specified tax sites which are deemed, at the point of designation, to be underdeveloped.”²
6. The Schedule to the draft Order provides for relief in the case of transactions relating to land in a green freeport tax site as follows—
 - Part 2 makes provision about the circumstances in which relief is available,
 - Part 3 defines key terms,
 - Part 4 makes provision about withdrawal of the relief, and
 - Part 5 makes provision about cases involving alternative finance arrangements.¹
7. The Policy Note to the draft Order also explains that there are no impacts arising from the draft Order on equal opportunities, human rights, privacy, island communities, local government (over and above their current duties) and sustainable development. A Business Regulatory Impact Assessment will be “published in due course in the context of the wider green freeports programme, of which this relief forms part”.²
8. On 13 January 2023, Inverness and Cromarty Firth Green Freeport and Forth Green Freeport were jointly selected by the Scottish and UK governments to become Scotland’s first green freeports. The Scottish Government explains that green freeports are designed to boost innovation and inclusive growth within communities, while supporting Fair Work First practices, creating new green jobs, upholding the highest environmental protections and supporting economic transformation.
9. At the Committee's meeting on 5 September, the SPF welcomed the green freeports initiative as very positive but suggested that the five years provided in the draft Order as the effective date of a transaction may be insufficient to attract the type of investment being sought for green freeports. SPF suggested that seven years may be more appropriate “to give them the best chance of maximum success”.⁴ As the Minister explained, tax relief can be claimed only following tax site designation by HM Revenue and Customs and HM Treasury and then within five years.⁵
10. SPF also sought clarity over how the tax relief provisions at green freeports would apply in relation to the forward funding arrangements sometimes used by developers. Forward funding arrangements generally involve an investment fund (or

funds) acquiring land from a developer (subject to a pre-let tenancy agreement being in place), with that fund then financing the land to be developed before then granting a lease to the pre-let tenant.

11. The Minister explained that the five-year timescale within which investors can claim relief ensures parity with freeports elsewhere in the UK. The Scottish Government also wants to incentivise investment and development happening at the earliest stage possible given the urgency of the decarbonisation and net zero agendas. He added that "Of course, we will keep the overall five-year period under review should there be any delays or unanticipated problems regarding tax site designation." Laura Duffy from the Scottish Government committed to provide more information on the criteria HM Treasury and HMRC use to determine whether land is undeveloped or underdeveloped as part of their scrutiny of proposed tax sites. ⁵
12. Unite welcomed the projected 75,000 jobs for the two green freeports in Scotland as a great step forward in what can be brought into the economy. They, however, had concerns about the negative impacts of the potential displacement of jobs to green freeports from other Scottish communities should companies relocate in order to benefit from freeport tax reliefs. ⁴
13. The Minister responded that displacement was an active part of its consideration when it came to engaging with the green freeport sites but stressed that the Scottish Government's policy is about "creating new, high-quality jobs as opposed to moving jobs from one part of the country to another." If displacement were to occur then the Minister hoped that it would be from other parts of the UK rather than from within Scotland. ⁵
14. In relation to the infrastructure that green freeports will need to accommodate the new workers at green freeport sites (such as schools, housing and hospitals), the Minister explained that local government has a role in ensuring the appropriate mitigations and adaptations that are required, and the additional infrastructure that is necessary, are both in place. He added that —

 If particular areas of pressure are identified and we need to consider solutions that go beyond what an individual local authority or group of local authorities was capable of, we would have those discussions at that point, just as local authorities routinely raise a number of areas. ⁵
15. Unite also questioned the quality and sustainability of the 75,000 jobs projected for the two agreed green freeports in Scotland and the basis upon which those jobs will be defined as 'green' and align with the Government's plans for a just transition. The role of procurement and recognition for unions were also highlighted by Unite as important in ensuring that the Scottish Government's fair work ambitions for green freeports are realised. ⁴
16. The Minister explained that there has been an evolution in the language used with climate change and gave examples of different definitions of 'green jobs' being provided by: the Office of National Statistics; as part of the Scottish Government's green jobs fund as well as a wider definition provided in its climate emergency action plan. In relation to green freeports—

- ” As outline business cases are developed and we monitor and evaluate the progress that is made through the green freeport model, there will be further refinement and greater understanding of what we mean by a green job. ⁵
17. Whilst the Minister highlighted that the Scottish Government had engaged with trade unions when initially considering the freeports proposal he noted that "it is for individual local authorities to choose how to engage with the trade unions" once the sites were announced. The Committee heard that the Scottish Government has made a strong recommendation for the workers' voice to be recognised in the governance structure of green freeports. Laura Duffy from the Scottish Government set out the approach to developing the green freeports, including how the fair work ambitions of the Government will be embedded—
- ” the business case will come in two parts: we will look at the outline business case first, which is the part that unlocks the tax incentives alongside the tax-site designation, then at the full business case, which focuses more fully on the detailed financial aspects—the broader brush skills, security, risk, governance, and fair work. ⁵
18. The Minister was challenged on how the Scottish Government will ensure that the tax relief businesses secure at green freeports will not result in those savings being diverted into offshore tax havens rather than being passed on to the wider Scottish economy. He explained that those reliefs (a mix of reserved and devolved reliefs) will only be available once development has begun and involves development that "would otherwise not have taken place", and the approach taken is the same as that taken across the UK. Revenue Scotland's compliance work and the general anti-avoidance provisions (set out in the Revenue Scotland and Tax Powers Act 2014) will be used to determine whether a claimant meets the criteria for relief. Relief can also be withdrawn if development doesn't take place within 3 years. ⁵
19. Laura Duffy from the Scottish Government added that—
- ” Bidders will be required to adhere to the code of conduct for clean free trade zones, as set out by the Organisation for Economic Co-operation and Development, and to meet the obligations in the UK anti-money laundering regulations. Green freeports will not be a regulation-free zone; they will be required to meet the same regulations as in other parts of the country. ⁵
20. The Minister committed to provide further written information on any discussions the Scottish Government has had with the UK Government to establish how it will counter tax avoidance and tax evasion; as well as its approach to ensuring that fair work and the living wage apply to businesses seeking to benefit from reliefs within green freeports. He also committed to provide an update to the Committee, as the Outline Business Cases progress and green freeports come online, in order to provide additional confidence that robust processes such as in relation to money laundering and security are in place. ⁵
21. The Minister confirmed that a monitoring and evaluation framework for the programme was being developed which will sit across the whole programme "and there will be transparency through the information and data that will be published [on LBTT revenue] by Revenue Scotland." The Scottish Government is working with

the green freeports to provide clarity on the monitoring and evaluation requirements that will be in place to provide the Scottish Government with a clear picture of the impacts of the programme.⁵

22. The Committee heard about the range of material that had been set out on the UK Government website on various aspects of the criteria for applying and bidding for green freeport status. The Minister was questioned on why this approach was not also used to decide on investment zone areas in Scotland (which had not been subject to a bidding or application process). The Minister explained that he was responsible for green freeports but not for investment zones. He however committed to write with further information on the decision-making process and the criteria for investment zones and the reason for the differences in approaches between these and green freeports.⁵

23. The Committee notes the commitment of the Minister to provide additional information on a range of issues and requests that this information is provided as soon as possible.

24. The Committee also seeks clarification from the Scottish Government as to:

- whether it will provide guidance on how the tax reliefs will impact on forward funding structures;
- which specific definition of green jobs will be used to determine whether the jobs arising in green freeports are "green";
- the indicative timescale for finalising the monitoring and evaluation framework and whether that framework will include regular reporting to Parliament.

25. Following the evidence session on the draft Order, the Minister for Community Wealth and Public Finance moved motion S6M-09584 in his name—

That the Finance and Public Administration Committee recommends that the Land and Buildings Transaction Tax (Green Freeports Relief) (Scotland) Order 2023 [draft] be approved.

26. After debate, motion S6M-09584 was agreed to by division: For 6 (Kenneth Gibson, Michael Marra, Jamie Halcro Johnston, John Mason, Liz Smith, Michelle Thomson), Against 1 (Ross Greer), Abstentions 0.

27. The Finance and Public Administration Committee therefore recommends that the Land and Buildings Transaction Tax (Green Freeports Relief) (Scotland) Order 2023 [draft] be approved.

Annexe A - Extracts from the Minutes of Finance and Public Administration Committee Meetings

[21st meeting 2023 \(Session 6\), Tuesday 5 September 2023](#)

3. Subordinate legislation: The Committee took evidence on the Land and Buildings Transaction Tax (Green Freeports Relief) (Scotland) Order 2023 (SSI 2023/draft) from—

David Melhuish, Director, Scottish Property Federation;

Derek Thomson, Scottish Secretary and Liz Cairns, Researcher, Unite the Union.

[22nd meeting 2023 \(Session 6\), Tuesday 12 September 2023](#)

1. Subordinate legislation: The Committee took evidence on the Land and Buildings Transaction Tax (Green Freeports Relief) (Scotland) Order 2023 [draft] from—

Tom Arthur, Minister for Community Wealth and Public Finance, Laura Parker, LBTT Policy Lead, Directorate for Tax and Revenues and Laura Duffy, Head of Green Freeports Policy and Delivery Unit, Directorate for Economic Development, Scottish Government.

2. Subordinate legislation: Tom Arthur (Minister for Community Wealth and Public Finance) moved—

S6M-09584—That the Finance and Public Administration Committee recommends that the Land and Buildings Transaction Tax (Green Freeports Relief) (Scotland) Order 2023 [draft] be approved.

The motion was agreed to (by division: For 6, Against 1, Abstentions 0).

Annexe B - Evidence

Official Reports (substantially verbatim transcripts) of meetings of the Finance and Public Administration Committee

[5 September 2023](#): evidence from stakeholders

[12 September 2023](#): evidence from the Scottish Government

Written Submissions

The Committee received the following written submissions to its call for views on the draft Order:

[McHale, Angela](#)

[Law Society of Scotland](#)

[Scottish Property Federation](#)

[Scottish Trades Union Congress](#)

[Unite the Union](#)

- [1] The Scottish Government. (2023). The Land and Buildings Transaction Tax (Green Freeports Relief) (Scotland) Order 2023. Retrieved from <https://www.legislation.gov.uk/sdsi/2023/9780111057735> [accessed 18 September 2023]
- [2] The Scottish Government. (2023, June). Policy Note: The Land and Buildings Transaction Tax (Green Freeports Relief) (Scotland) Order 2023. Retrieved from https://www.legislation.gov.uk/sdsi/2023/9780111057735/pdfs/sdsipn_9780111057735_en_001.pdf [accessed 11 September 2023]
- [3] Delegated Powers and Law Reform Committee. (2023, June 28). Report on Subordinate Legislation Considered by the Delegated Powers and Law Reform Committee on 27 June 2023. Retrieved from <https://sp-bpr-en-prod-cdnep.azureedge.net/published/DPLR/2023/6/28/2d4401a9-1918-478e-93e4-b0e084bbe432/DPLRS062023R46.pdf> [accessed 11 September 2023]
- [4] Finance and Public Administration Committee meeting on 12 September. (2023, September 13). Official Report. Retrieved from <https://www.parliament.scot/api/sitecore/CustomMedia/OfficialReport?meetingId=15425> [accessed 18 September 2023]
- [5] Finance and Public Administration Committee. (2023, September 12). Official Report. Retrieved from <https://www.parliament.scot/api/sitecore/CustomMedia/OfficialReport?meetingId=15436> [accessed 18 September 2023]

Finance and Public Administration Committee

Report on the Land and Buildings Transaction Tax (Green Freeports Relief) (Scotland) Order 2023 [draft], 7th Report, 2023
(Session 6)

