Local Government, Housing and Planning Committee
Tuesday 11 March 2025
8th Meeting, 2025 (Session 6)

Note by the Clerk: Subordinate legislation

Overview

1. At this meeting, the Committee will consider five negative Scottish Statutory Instruments (SSIs), four of which are subject to annulment by resolution of the Parliament until 31 March with the fifth being subject to annulment until 1 April. The Committee is invited to consider the instruments and decide what, if any, recommendations to make.

2. Further information about the instruments is provided in the annexes to this paper as follows—

   - Annexe A – Non-Domestic Rate (Scotland) Order 2025 (2025/37)
   - Annexe B – Non-Domestic Rates (Levying and Miscellaneous Amendment) (Scotland) Regulations 2025 (2025/38)
   - Annexe C – Non-Domestic Rates (Transitional Relief) (Scotland) Regulations 2025 (2025/39)
   - Annexe D – The Non-Domestic Rates (Hospitality Relief) (Scotland) Regulations 2025 (2025/40)
   - Annexe E – Local Government Pension Scheme (Scotland) (Amendment) Regulations 2025 (2025/48)

Procedure

3. Under the negative procedure, an instrument is laid after it is made and is subject to annulment by resolution of the Parliament for a period of 40 days beginning on the day it is laid.

4. Once laid, the instrument is referred to:

   - the Delegated Powers and Law Reform (DPLR) Committee, for scrutiny on various technical grounds, and

   - a lead committee, whose remit includes the subject-matter of the instrument, for scrutiny on policy grounds.

5. Any MSP may propose, by motion, that the lead committee recommend annulment of the instrument. If such a motion is lodged, it must be debated at a meeting of the Committee, and the Committee must then report to the Parliament (by the advisory deadline referred for Chamber consideration as set out in the annexes below).

6. If there is no motion recommending annulment, the lead committee is not required to report on the instrument.

Delegated Powers and Law Reform Committee consideration

7. The Delegated Powers and Law Reform Committee considered all five instruments on 4 March 2025 and reported on them. The DPLR Committee made no recommendations in relation to any of the instruments under consideration at this meeting.

Committee consideration

8. So far, no motion recommending annulment of any instrument has been lodged.

9. Members are invited to consider all five instruments and decide whether there are any points they wish to raise. If there are, options include:

    - seeking further information from the Scottish Government (and/or other stakeholders) through correspondence, and/or

    - inviting the Minister (and/or other stakeholders) to attend the next meeting to give evidence on the instrument.

10. It would then be for the Committee, at its next meeting, to consider any additional information gathered and decide whether to make recommendations in relation to any instrument.

11. If members have no points to raise, the Committee should note the instruments (that is, agree that it has no recommendations to make).

12. However, should a motion recommending annulment of any instrument be lodged later in the 40-day period, it may be necessary for the Committee to consider some or all of the instruments again at a later date.

Clerks to the Committee
March 2025

ANNEXE A: Note by the Clerk on The Non-Domestic Rate (Scotland) Order 2025 (2025/37)

Overview

1. At this meeting, the Committee will consider the following Scottish Statutory Instrument (SSI), which is subject to annulment by resolution of the Parliament until 31 March 2025. The Committee is invited to consider the instrument and decide what, if any, recommendations to make.

2. Further information about the instrument is summarised below:

   Title of instrument: Non-Domestic Rate (Scotland) Order 2025

   Laid under: Local Government (Scotland) Act 1975

   Laid on: 20 February 2025

   Procedure: Negative

   Deadline for committee consideration: 24 March 2025

   Deadline for Chamber consideration: 31 March 2025

   Commencement: 1 April 2025

Purpose of the instrument

3. The attached Policy Note states that the purpose of the Order is “to set the non-domestic rate poundage in Scotland at 49.8 pence for 2025-26.”

4. The Policy Note further explains that this will result in the poundage which applies to non-domestic properties in Scotland from 1 April 2025 to 31 March 2026 being set at the same rate as in the three prior financial years.

5. As a result, the Basic Property Rate which applies to properties with a rateable value up to and including £51,000, will be 49.8p in 2025-26.

6. The Policy Note also confirms that that “the policy provided for in this instrument was set out in the Scottish Budget 2025-26 which was passed by the Parliament on 25 February.

7. In respect of impact assessments, the Policy Note states that “no Business and Regulatory Impact Assessment (BRIA) is required because the present instrument will not impose new regulatory burdens on businesses, charities or the voluntary sector compared with the Non-Domestic Rate (Scotland) Order 2024 which it replaces.” A Child Rights and Wellbeing Impact Assessment has been completed which concluded that the Order would have no overall impact on children’s rights.

8. The Policy Note further states that the Scottish Budget 2025-26, which provided for the policy set out by the Order, was accompanied by several impact assessments in Annexe D (page 131).

9. In terms of financial effects, the Scottish Fiscal Commission's Economic and Fiscal Forecast published on 4 December 2024 forecast revenue for non-domestic rates in 2025-26 to be £3,052 million.

10. The Policy Note also states that the instrument "has no additional financial effects on the Scottish Government, local government or on business."

Clerks to the Committee
March 2025

Scottish Government Policy Note

THE NON-DOMESTIC RATE (SCOTLAND) ORDER 2025

SSI 2025/37

The above instrument was made in exercise of the powers conferred by section 7B(1) of the Local Government (Scotland) Act 1975. The instrument is subject to the negative procedure.

Summary Box

The purpose of this instrument is to set the non-domestic rate poundage in Scotland at 49.8 pence for 2025-26.

Policy Objectives

This instrument will result in the poundage which applies to non-domestic properties in Scotland from 1 April 2025 to 31 March 2026 being 49.8 pence, the same as in the three prior financial years.

As a result, the Basic Property Rate which applies to properties with a rateable value up to and including £51,000, will be 49.8p in 2025-26.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, the Scottish Ministers certify that, in their view, The Non-Domestic Rate (Scotland) Order 2025 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

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

Consultation

There is no statutory requirement to consult on this Order.

The policy provided for in this instrument was set out in the Scottish Budget 2025-26[1].

Impact Assessments

The policy provided for in this instrument was set out in the Scottish Budget 2025-26, which was accompanied by a number of impact assessments in Annex D[2].

No Business and Regulatory Impact Assessment is required because the present instrument will not impose new regulatory burdens on businesses, charities or the voluntary sector compared with the Non-Domestic Rate (Scotland) Order 2024 which it replaces.

A Child Rights and Wellbeing Impact Assessment has been carried out in relation to the Order.

Financial Effects

The Scottish Fiscal Commission's Economic and Fiscal Forecast[3] published on 4 December 2024 forecasted revenue for non-domestic rates in 2025-26 to be £3,052 million.

The instrument has no additional financial effects on the Scottish Government, local government or on business.

Scottish Government
Local Government and Housing Directorate February 2025

---

[1] https://www.gov.scot/publications/scottish-budget-2025-2026/
[2] https://www.gov.scot/publications/scottish-budget-2025-2026/pages/18/
[3] https://fiscalcommission.scot/wp-content/uploads/2025/01/Scotlands-Economic-And-Fiscal- Forecasts-December-2024-Revised-22-January-2025.pdf

ANNEXE B: Note by the Clerk on The Non-Domestic Rates (Levying and Miscellaneous Amendment) (Scotland) Regulations 2025 (2025/38)

Overview

1. At this meeting, the Committee will consider the following Scottish Statutory Instrument (SSI), which is subject to annulment by resolution of the Parliament until 31 March 2025. The Committee is invited to consider the instrument and decide what, if any, recommendations to make.

2. Further information about the instrument is summarised below:

   Title of instrument: The Non-Domestic Rates (Levying and Miscellaneous Amendment) (Scotland) Regulations 2025

   Laid under: Local Government etc. (Scotland) Act 1994

   Laid on: 20 February 2025

   Procedure: Negative

   Deadline for committee consideration: 24 March 2025

   Deadline for Chamber consideration: 31 March 2025

   Commencement: 1 April 2025

Purpose of the instrument

3. The attached Policy Note states that the Regulations provide for a number of non-domestic rates policies which take effect on 1 April 2025 as follows:

   - Provision in the financial year 2025-26 for reductions in non-domestic rates as a result of the Small Business Bonus Scheme and Fresh Start Relief.
   - The two supplements which, added to the poundage, respectively provide the non-domestic rate applicable in 2025-26 to properties with a rateable value in excess of £51,000 and up to £100,000 (which are liable for the Intermediate Property Rate), and to properties with a rateable value in excess of £100,000 (which are liable for the Higher Property Rate).
   - Revocation of the previous Coronavirus Reliefs that were available from 1 April 2020 to 30 June 2022 and will now close to new applications or requests from 1 April 2025.

4. The Policy Note then provides more detailed explanations of the policy intent underpinning each of the provisions set out above along with confirmation of where the reliefs are following on from similar reliefs applied in previous years.

Poundage Supplements (Property Rates)

5. The Policy Note confirms that the instrument provides for a poundage supplement of 5.6p in the pound to apply to all non-domestic properties liable for the Intermediate Property Rate (5.6p supplement + poundage = Intermediate Property Rate at 55.4p).

6. It also confirms that a poundage supplement of 7p in the pound would apply to all non-domestic properties with a rateable value liable for the Higher Property Rate (7p supplement + poundage = Higher Property Rate at 56.8p).

7. The poundage is set out annually in the Non-Domestic Rate (Scotland) Order made under section 7B(1) of the Local Government (Scotland) Act 1975 which is also under consideration at today's meeting.

Small Business Bonus Scheme

8. The instrument also provides for the Small Business Bonus Scheme in 2025-26 which provides relief to non-domestic properties where the cumulative rateable value is £35,000 or less. The Policy Note provides a full breakdown (including illustrative tables) of the levels of reduction to which ratepayers would be entitled on the basis of the cumulative rateable value of their non-domestic property and whether they were liable for a single property or for multiple properties.

9. The Policy Note further confirms that no Small Business Bonus Scheme relief would be available for individual properties where the cumulative rateable is over £35,000 or for unoccupied properties. Advertisements, car parks, betting shops and properties used for payday lending are not eligible for Small Business Bonus Scheme relief.

Fresh Start Relief

10. The Policy Note explains that "the Fresh Start relief was introduced on 1 April 2016 and initially offered 50% relief for up to 12 months upon re-occupation to shops, offices, restaurants, pubs and hotels with a rateable value up to and including £65,000, and that had been empty for over 12 months before becoming re-occupied." This has since been expanded as part of the Scottish Government's response to the independent Barclay Review of Non-Domestic Rates and from 2023-24 offers 12 months 100% relief to all properties (with the exception of payday lending) where the property became reoccupied after 6 months or more of being unoccupied and the rateable value does not exceed £100,000.

11. Properties used for payday lending are not eligible for Fresh Start relief and it is not available where the property is unoccupied.

Coronavirus Reliefs

12. The Policy Note states that non-domestic rates reliefs were available from the period covering 1 April 2020 to 30 June 2022 to mitigate financial hardship during the COVID-19 pandemic. These reliefs will now close to new requests and applications from 1 April 2025 although any applications or requests for these reliefs made before the 1 April 2025 will still be processed accordingly.

13. The Committee considered the Non-Domestic Rates (Coronavirus Reliefs) (Scotland) Regulations 2022 on 15 March 2022. The meeting papers and official report can be accessed on the Committee's website.

Business Growth Accelerator Relief

14. Finally, the Policy Note explains that from 1 April 2023, the Scottish Government introduced provisions to allow Business Growth Accelerator Improvement Relief awarded in 2022-23 to be continued in 2023-24 at the same percentage rate where appropriate, but on the basis of the new rateable value following the revaluation which took effect on 1 April 2023. It goes on to state that these provisions are now being revoked "as they are no longer required."

15. The Committee also considered the Non-Domestic Rates (Relief for New and Improved Properties) (Scotland) Regulations 2022 at its meeting on 15 March 2022.

Consultation and impact assessments

16. The Policy Note states that there is no statutory requirement to formally consult on these Regulations although it notes that the policies provided for in the regulations were set out in the Scottish Budget 2025-26 which was passed by the Parliament on 25 February.

17. A Child Rights and Wellbeing Impact Assessment has been completed which concluded that the Regulations would have a positive or neutral impact on children's rights. It states that policy provisions are "unlikely to relate to children and young people's rights but that "insofar as the regulations provide relief and therefore lower NDR bills for benefitting ratepayers, this may have an indirect positive impact on some children via an increase in the household income of the relief beneficiary."

18. In terms of financial impacts, the Policy Note confirms that "the impacts on the amount of non-domestic rates payable is in line with the policy objectives as outlined above." It further notes that the Scottish Fiscal Commission's 'Scotland's Economic and Fiscal Forecasts' published on 4 December 2024 forecasts the non-domestic rates income to be raised, and the cost of each relief, for 2025-26.

Scottish Government Policy Note

THE NON-DOMESTIC RATES (LEVYING AND MISCELLANEOUS AMENDMENT) (SCOTLAND) REGULATIONS 2025

SSI 2025/38

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

Summary Box

The Regulations provide for a number of non-domestic rates policies which take effect on 1 April 2025:

- Provision in the financial year 2025-26 for reductions in non-domestic rates as a result of the Small Business Bonus Scheme and Fresh Start Relief
- The two supplements which, added to the poundage, respectively provide the non- domestic rate applicable in 2025-26 to properties with a rateable value in excess of £51,000 and up to £100,000 (which are liable for the Intermediate Property Rate), and to properties with a rateable value in excess of £100,000 (which are liable for the Higher Property Rate).
- Revocation of the previous Coronavirus Reliefs that were available from 1 April 2020 to 30 June 2022, and will now close to new applications or requests from 1 April 2025.

Policy Objectives

Poundage Supplements (Property Rates)

This instrument provides for a poundage supplement of 5.6p in the pound to apply to all non- domestic properties with a rateable value from £51,000 up to and including £100,000 (5.6p supplement + poundage = Intermediate Property Rate at 55.4p); and a poundage supplement of 7p in the pound to apply to all non-domestic properties with a rateable value exceeding

£100,000 (7p supplement + poundage = Higher Property Rate at 56.8p) on any day in the financial year 2025-26. The poundage is set out annually in the Non-Domestic Rate (Scotland) Orders made under section 7B(1) of the Local Government (Scotland) Act 1975.

Small Business Bonus Scheme

This instrument provides for the Small Business Bonus Scheme in 2025-26. This scheme provides relief (bill discounts) to non-domestic properties where the cumulative rateable value – i.e. the rateable value of the total number of premises that a person (the ratepayer) is liable to pay rates for in Scotland, is £35,000 or less. The scheme offers 100% relief to eligible individual properties with a cumulative rateable value of £12,000 or less, regardless of whether the ratepayer is liable to pay non-domestic rates in respect of only one entry, or multiple entries, in the valuation roll.

For ratepayers liable to pay non-domestic rates in respect of only one entry in the valuation roll, relief for eligible properties tapers from 100% to 25% for individual properties with rateable values from £12,001 to £15,000; and tapers from 25% to 0% for properties with ratable values from £15,001 to £20,000.

Where a ratepayer is instead liable to pay rates for multiple entries in the valuation roll and where the cumulative rateable value is between £12,001 and £35,000, then relief of 25% is available on each individual eligible property with a rateable value of £15,000 or less, and relief tapers from 25% to 0% for individual eligible properties with rateable values between £15,001 and £20,000.

Table 1 shows the Small Business Bonus Scheme relief for eligible non-domestic properties where the ratepayer is liable for rates for only one entry in the valuation roll.

Table 1: Small Business Bonus Scheme relief where the ratepayer has only one property on the valuation roll

Rateable value range	Percentage of relief
£12,000 or less	100%
£12,001 to £15,000	Relief percentage = $100 - (75 \times 1 - \frac{(15000 - RV)}{3000}))$
£15,001 to £19,999	Relief percentage = $25 \times (\frac{(20000 - RV)}{5000})$

Table 2 shows the Small Business Bonus Scheme relief available for eligible non-domestic properties where the ratepayer is liable for non-domestic rates on multiple entries in the valuation roll.

Table 2: Small Business Bonus Scheme relief where the ratepayer has more than one property on the valuation roll

Cumulative rateable value range	Percentage of relief
£12,000 or less	100%
£12,001 to £35,000	25% on each individual property with a rateable value of £15,000 or less For individual properties with rateable value £15,001 to £19,999, relief percentage = $25 \times (\frac{(20000 - RV)}{5000})$

No Small Business Bonus Scheme relief is available for individual properties where the cumulative rateable value that the ratepayer pays non-domestic rates for in Scotland is over £35,000.

Advertisements, car parks, betting shops and properties used for payday lending are not eligible for Small Business Bonus Scheme relief.

Unoccupied properties are not eligible for Small Business Bonus Scheme relief.

Fresh Start Relief

These regulations provide for Fresh Start relief for 2025-26.

Fresh Start relief was introduced on 1 April 2016 and initially offered 50% relief for up to 12 months upon re-occupation to shops, offices, restaurants, pubs and hotels with a rateable value up to and including £65,000, and that had been empty for over 12 months before becoming re-occupied. This has since been expanded as part of the Scottish Government’s response to the independent Barclay Review of Non-

Domestic Rates and from 2023-24 offers 12 months 100% relief to all properties (with the exception of payday lending) where the property became reoccupied after 6 months or more of being unoccupied and the rateable value does not exceed £100,000.

Properties used for payday lending are not eligible for Fresh Start relief. Fresh Start relief is not available where the property is unoccupied.

An application requires to be made by the ratepayer to the council for Fresh Start relief. Where relief spans two financial years however, the regulations only require that an application be made in relation to the first financial year.

Coronavirus Reliefs

In response to the outbreak of COVID-19, non-domestic rates reliefs were available from the period covering 1 April 2020 to 30 June 2022 to mitigate financial hardship during the pandemic. These reliefs will now close to new requests and applications from 1 April 2025. Any applications or requests for these reliefs made before the 1 April 2025 will still be processed accordingly.

Business Growth Accelerator Relief

From 1 April 2023, the Scottish Government introduced provisions to allow Business Growth Accelerator Improvement Relief awarded in 2022-23 to be continued in 2023-24 at the same percentage where appropriate, but on the basis of the new rateable value following the revaluation which took effect on 1 April 2023. These provisions (regulation 11A of the Non- Domestic Rates (Relief for New and Improved Properties) (Scotland) Regulations 2022) are being revoked as they are no longer required.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the Non-Domestic Rates (Levying And Miscellaneous Amendment) (Scotland) Regulations 2025 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

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

Consultation

There is no statutory requirement to consult on these regulations.

The policies provided for in this instrument were set out in the Scottish Budget 2025-26[1].

Impact Assessments

As stated, the policies provided for in this instrument were set out in the Scottish Budget 2025-26, which was accompanied by a number of impact assessments in Annex D[2].

A Child Rights and Wellbeing Impact Assessment has been carried out in relation to the Regulations.

Financial Effects

The impacts on the amount of non-domestic rates payable is in line with the policy objectives as outlined above.

The Scottish Fiscal Commission's *'Scotland's Economic and Fiscal Forecasts'*[3] published on 4 December 2024 forecasts the non-domestic rates income to be raised, and the cost of each relief, for 2025-26.

Scottish Government
Local Government and Housing Directorate February 2025.

[1] https://www.gov.scot/publications/scottish-budget-2025-2026/
[2] https://www.gov.scot/publications/scottish-budget-2025-2026/pages/18/
[3] https://fiscalcommission.scot/publications/scotlands-economic-and-fiscal-forecasts-december-2024/

ANNEXE C: Note by the Clerk on Non-Domestic Rates (Transitional Relief) (Scotland) Regulations 2025 (SSI 2025/39)

Overview

1. At this meeting, the Committee will consider the following Scottish Statutory Instrument (SSI), which is subject to annulment by resolution of the Parliament until 31 March 2025. The Committee is invited to consider the instrument and decide what, if any, recommendations to make.

2. Further information about the instrument is summarised below:

   Title of instrument: The Non-Domestic Rates (Transitional Relief) (Scotland) Regulations 2025

   Laid under: Section 153 of the Local Government etc. (Scotland) Act 1994 and section 14 of the Non-Domestic Rates (Scotland) Act 2020

   Laid on: 20 February 2025

   Procedure: Negative

   Deadline for committee consideration: 24 March 2025

   Deadline for Chamber consideration: 31 March 2025

   Commencement: 1 April 2025

Purpose of the instrument

3. The attached Policy Note explains that the purpose of the Regulations is to provide for the two transitional relief schemes available in 2025-26 as set out below. Both reliefs were announced in the Scottish Budget for 2023-24.

General Revaluation Transitional Relief

4. The Policy Note states that "a General Revaluation Transitional Relief is available for all property types and caps increases in 'gross bills' for any day in 2025-26, 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.

5. The General Revaluation Transitional Relief provides that any increase in the gross bill in 2025-26 is to be no more than the following percentage (cash terms) of the annual gross bill for 2024-25, subject to adjustment in respect of any changes in rateable value taking effect after the date of revaluation, i.e. 1 April 2023:

   - 37.5% for properties with a rateable value at revaluation on 1 April 2023 up to and including £20,000 (basic rate).

- 75% for properties with a rateable value at revaluation on 1 April 2023 from £20,001 and up to and including £100,000 (intermediate rate).
- 112.5% for properties with a rateable value at revaluation on 1 April 2023 in excess of £100,000 (higher rate).

6. The Policy Note goes on to provide a detailed explanation of the policy intent underpinning specific elements of the Regulations along with illustrative tables showing the annual and cumulative impact of General Revaluation Transitional Relief on annual gross bill increase limits for qualifying properties.

7. The Policy Note also clarifies that “an application is not required for the General Revaluation Transitional Relief; this should therefore be automatically applied on gross bills by local authorities.”

Small Business Transitional Relief

8. The Regulations also provide for a Small Business Transitional Relief capping the maximum increase in the net rates liability relative to 31 March 2023 at £1,800 in 2025-26 after any relief is available for properties which are—

   - Entitled to Small Business Bonus Scheme relief 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.

9. Subject to certain eligibility criteria as described in the Policy Note, “the increase in the net rates bill at revaluation on 1 April 2023 is maximum £1,800 in 2025-26” (after any other relief has been applied, including the General Revaluation Transitional Relief if applicable).

10. The Policy Note also explains that the Regulations amend 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.”

11. The Committee considered the Non-Domestic Rates (Relief for New and Improved Properties) (Scotland) Regulations 2022 at its meeting on 15 March 2022.

Consultation and impact assessments

12. The Policy Note states that 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.” It confirms that “small clarifications were made in the regulations in respect of the requirements for applications for relief in response to their comments.”

13. A Child Rights and Wellbeing Impact Assessment has been completed which concluded that the Regulations would have no overall impact on children's rights.

14. In terms of financial impacts, the Policy Note confirms that "the impacts on the amount of non-domestic rates payable is in line with the policy objectives as outlined above." It further notes that the Scottish Fiscal Commission's 'Scotland's Economic and Fiscal Forecasts' published on 4 December 2024 estimates that the General Revaluation Transitional Relief and Small Business Transitional Relief will cumulatively reduce non-domestic rates income by £30 million in 2025-26.

Scottish Government Policy Note

THE NON-DOMESTIC RATES (TRANSITIONAL RELIEF) (SCOTLAND) REGULATIONS 2025

SSI 2025/39

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 2025-26 in certain circumstances.

Policy Objectives

These regulations provide for the two transitional relief schemes available in 2025-26 which are set out below.

The Scottish Budget 2023-24[1] was published on 15 December 2022 and announced both of these reliefs.

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 2025-26, 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 2025-26 is to be no more than the following percentage (cash terms) of the annual gross bill for 2024-25, subject to adjustment in respect of any changes in rateable value taking effect after the date of revaluation, i.e. 1 April 2023:

- 37.5% for properties with a rateable value at revaluation on 1 April 2023 up to and including £20,000
- 75% for properties with a rateable value at revaluation on 1 April 2023 from £20,001 and up to and including £100,000
- 112.5% for properties with a rateable value at revaluation on 1 April 2023 in excess of £100,000.

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	2025-26
Annual cap	12.5%	25.0%	37.5%
Cumulative cap	12.5%	40.6%	93.3%
Cumulative multiplier	1.125	1.406	1.933

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

	2023-2024	2024-2025	2025-26
Annual cap	25.0%	50.0%	75.0%
Cumulative cap	25.0%	87.5%	228.1%
Cumulative multiplier	1.250	1.875	3.281

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

	2023-2024	2024-2025	2025-26
Annual cap	37.5%	75.0%	112.5%
Cumulative cap	37.5%	140.6%	411.3%
Cumulative multiplier	1.375	2.406	5.113

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 on the day of 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 £1,800 in 2025-26 after any relief is available for properties:

- Entitled to Small Business Bonus Scheme relief 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 £1,800 in 2025-26 – 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.

Applications for Relief

Regulation 15 requires that an application be made for the Small Business Transitional Relief however regulation 14(8) clarifies that where these reliefs had already been granted in respect of 2023-24 under The Non-Domestic Rates (Transitional Relief) (Scotland) Regulations 2023 or in respect of 2024-25 under The Non-Domestic Rates (Transitional Relief) (Scotland) Regulations 2024, then no application needs to be made in respect of 2025-26.

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 16 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.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the Non-Domestic Rates (Transitional Relief) (Scotland) Regulations 2025 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

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. Small clarifications were made in the regulations

in respect of the requirements for applications for relief in response to their comments.

Impact Assessments

A Child Rights and Wellbeing Impact Assessment has been carried out in relation to the Regulations.

Financial Effects

The decrease in the amount of non-domestic rates payable as a result of the reliefs is in line with the policy objectives outlined above.

The Scottish Fiscal Commission's *'Scotland's Economic and Fiscal Forecasts'*[3] published on 4 December 2024 estimate that the General Revaluation Transitional Relief and Small Business Transitional Relief will cumulatively reduce non-domestic rates income by £30 million in 2025-26.

Scottish Government
Local Government and Housing Directorate February 2025

[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.

[3] https://fiscalcommission.scot/publications/scotlands-economic-and-fiscal-forecasts-december-2024/

ANNEXE D: Note by the Clerk on Non-Domestic Rates (Hospitality Relief) (Scotland) Regulations 2025 (2025/40)

Overview

1. At this meeting, the Committee will consider the following Scottish Statutory Instrument (SSI), which is subject to annulment by resolution of the Parliament until 31 March 2025. The Committee is invited to consider the instrument and decide what, if any, recommendations to make.

2. More information about the instrument is summarised below:

   Title of instrument: Non-Domestic Rates (Hospitality Relief) (Scotland) Regulations 2025

   Laid under: Local Government etc. (Scotland) Act 1994

   Laid on: 20 February 2025

   Procedure: Negative

   Deadline for committee consideration: 24 March 2025

   Deadline for Chamber consideration: 31 March 2025

   Commencement: 1 April 2025

Purpose of the instrument

3. The attached Policy Note states that the Regulations provide for temporary non-domestic rates relief for the 2025-26 financial year only.

4. Specifically, the Regulations provide for:

   - a 40% non-domestic rates relief for eligible properties used for specified hospitality purposes, including as live music venues with a maximum capacity of 1,500, on the Scottish mainland (excluding properties granted Islands and Remote Areas Hospitality Relief), capped at a maximum of £110,000 per ratepayer; and
   - extending the Islands and Remote Areas Hospitality relief for a further year to 31 March 2026 and also extend it to cover live music venues with a maximum capacity of 1,500, in respect of the financial year 2025-2026.

5. The Policy Note confirms that Hospitality Relief is not available to properties which are granted Islands and Remote Areas Hospitality Relief.

6. The Regulations make provision to continue for a further year the Islands and Remote Areas Hospitality Relief that was introduced on 1 April 2024. This is a temporary relief that will provide 100% non-domestic rates relief to eligible

hospitality properties on islands which are surrounded by the sea on all sides, or in three specified remote areas, up to a maximum value of £110,000 per ratepayer. The specified remote areas are prescribed locations within Cape Wrath, Knoydart and Scoraig "in recognition of the unique circumstances of these areas which are not connected to a main road network and are only accessible by boat or on foot."

7. The Committee considered the Non-Domestic Rates (Islands and Remote Areas Hospitality Relief) (Scotland) Regulations 2024 at its meeting on 26 March 2024.

Consultation and impact assessments

8. The Policy Note states that there is no statutory requirement to consult on these Regulations and notes that the policies provided for in this instrument were set out in the Scottish Budget 2025-26 which was passed by the Parliament on 25 February.

9. A Child Rights and Wellbeing Impact Assessment has been completed which concluded that the Regulations would have a positive or neutral impact on children's rights as "insofar as the regulations provide relief and therefore lower NDR bills for benefitting ratepayers, this may have an indirect positive impact on some children via an increase in the household income of the relief beneficiary."

10. An Islands Communities Impact Assessment has also been completed which found that "the relief is unlikely to have any significantly negative impacts for island communities, businesses or local authorities, and is appropriately targeted to benefit hospitality businesses - a key sector of island business and a key source of employment that has been particularly affected by their reliance on ferries."

11. In terms of financial impacts, the Policy Note confirms that "the impacts on the amount of non-domestic rates payable is in line with the policy objectives as outlined above." It further notes that the Scottish Fiscal Commission's 'Scotland's Economic and Fiscal Forecasts' published on 4 December 2024 estimates that the Hospitality Relief will cost £28 million in 2025-26.

Scottish Government Policy Note

THE NON-DOMESTIC RATES (HOSPITALITY RELIEF) (SCOTLAND) REGULATIONS 2025 (SSI 2025/40)

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

Summary Box

These Regulations provide for temporary non-domestic rates relief for the 2025-26 financial year only. The regulations provide for a 40% non-domestic rates relief for eligible properties used for specified hospitality purposes, including as live music venues with a maximum capacity of 1,500, on the Scottish mainland (excluding properties granted Islands and Remote Areas Hospitality Relief), capped at a maximum of £110,000 per ratepayer. The regulations also extend the Islands and Remote Areas Hospitality relief for a further year to 31 March 2026 and also extend it to cover live music venues with a maximum capacity of 1,500, in respect of the financial year 2025-2026.

Policy Objectives

Hospitality Relief

The regulations provide for a temporary 40% relief for the 2025-26 financial year to eligible properties used for hospitality premises, including live music venues with a maximum capacity of 1,500 persons, and which have a rateable value not exceeding £51,000, up to a maximum value of £110,000 per ratepayer.

The relief is not available to properties which are granted Islands and Remote Areas Hospitality Relief.

Islands and Remote Areas Hospitality Relief

This instrument also continues for a further year the Islands and Remote Areas Hospitality Relief that was introduced on 1 April 2024. This is a temporary relief that will provide 100% non-domestic rates relief to eligible hospitality properties on islands which are surrounded by the sea on all sides, or in three specified remote areas, up to a maximum value of £110,000 per ratepayer. The specified remote areas are prescribed locations within Cape Wrath, Knoydart and Scoraig in recognition of the unique circumstances of these areas which are not connected to a main road network and are only accessible by boat or on foot.

The instrument extends this relief from 1 April 2025 to music venues with a maximum capacity of 1,500 persons.

The award of these reliefs must be compatible with the Subsidy Control Act 2022.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the Non-Domestic Rates (Hospitality Relief) (Scotland) Regulations 2025 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

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

Consultation

There is no statutory requirement to consult on these regulations.

The policies provided for in this instrument were set out in the Scottish Budget 2025-26[1].

Impact Assessments
As stated, the policies provided for in this instrument were set out in the Scottish Budget 2025-26, which was accompanied by a number of impact assessments in Annex D[2].

An Island Communities impact assessment has been completed and is attached. The assessment has identified that the relief is unlikely to have significantly negative impacts for island communities, businesses or local authorities, and is appropriately targeted to benefit hospitality businesses – a key sector of island business and a key source of employment that has been particularly affected by their reliance on ferries.

A Child Rights and Wellbeing Impact Assessment has been carried out in relation to the Regulations.

Financial Effects

The decrease in the amount of non-domestic rates payable as a result of the reliefs is in line with the policy objectives outlined above.

The Scottish Fiscal Commission's *'Scotland's Economic and Fiscal Forecasts'*[3] published on 4 December 2024 included a cost estimate of £28 million in 2025-26 for the policy.

Scottish Government
Local Government and Housing Directorate February 2025

[1] https://www.gov.scot/publications/scottish-budget-2025-2026/
[2] https://www.gov.scot/publications/scottish-budget-2025-2026/pages/18/
[3] https://fiscalcommission.scot/publications/scotlands-economic-and-fiscal-forecasts-december-2024/

ANNEXE E: Note by the Clerk on Local Government Pension Scheme (Scotland) (Amendment) Regulations 2025 (SSI 2025/48)

Overview

1. At this meeting, the Committee will consider the following Scottish Statutory Instrument (SSI), which is subject to annulment by resolution of the Parliament until 1 April 2025. The Committee is invited to consider the instrument and decide what, if any, recommendations to make.

2. Further information about the instrument is summarised below:

   Title of instrument: The Local Government Pension Scheme (Scotland) (Amendment) Regulations 2025

   Laid under: Public Service Pensions Act 2013

   Laid on: 21 February 2025

   Procedure: Negative

   Deadline for committee consideration: 31 March 2025

   Deadline for Chamber consideration: 1 April 2025

   Commencement: 2 April 2025

Purpose of the instrument

3. The attached Policy Note explains that these Regulations "amend the principal Scottish Local Government Pension Scheme Regulations 2018 ("the LGPS regulations"), in order to create a discretion for administering authorities to determine the amount of exit credit which should be payable to an employer leaving the Local Government Pension Scheme." It confirms that these changes are in line with previous amendments made in England and Wales by the Department for Levelling up, Housing and Communities in March 2020 and that they are being introduced following requests to do so from stakeholders.

4. The Policy Note explains that where a scheme employer ceases to have any active members in the LGPS and is not planning to enrol anyone further in the scheme, an actuarial valuation is carried out. Previously scheme employers were responsible for any estimated shortfall against their liabilities at the point of exit but could not receive any surplus. The Regulations were changed in 2018 to enable an exit credit to be paid if the employer's pension liabilities are calculated to be less than the assets held by the fund at the date of their exit.

5. Changes were subsequently made to the Regulations in England and Wales in 2020 to provide that administering authorities have a discretion to determine the amount of exit credit which should be payable to an employer leaving the LGPS.

6. The Policy Note states that the funding position of LGPS funds “has improved significantly, as indicated by the latest 2023 valuations, partly due to the effect of persistent high inflation on gilts.” The Scottish Government has been made aware that “the increase in pension exit credits, which funds may be required to pay when an employer leaves the fund, could have a negative impact on cash flow and result in any subsequent risk being passed on to the remaining employers of the fund.”

Consultation and Impact Assessments

7. The Policy Note states that twelve responses were received in response to a “short technical consultation” and that some agreed with the proposed changes whilst others “primarily representing charities” did not.

8. In response to concerns raised by actuaries representing third sector employers, funds “will be required to provide guidelines in their published Funding Strategy Statement on their policy for dealing with exit credits, to take all pertinent facts into account and how discretion will be applied to ensure a consistent approach in all cases.”

9. Concerns were also raised about the negative impact of exit credits on a fund’s cashflow. However, the Scottish Government’s position is that any employer exit is known and planned for in advance, as required by the LGPS Regulations 2018. Clear timescales are also provided to allow for an employer to discuss the exit payment with their finance partners and to ensure employers are paid (or pay) the outstanding balance within a reasonable time.

10. The Policy Note also states that unions are concerned that if the regulations are not changed, “the current surplus could lead to an increase in employers leaving the scheme to access a large exit credit and offering a different pension provision to members, resulting in inferior pension benefits on retirement.”

11. The Policy Note confirms that a Business and Regulatory Impact Assessment (BRIA) has been carried out by The Government Actuary Department (GAD) on behalf of The Scottish Public Pensions Agency to assess any risk to employers, including those in the third sector. The Policy Note further states that this assessment—

    > “Makes it clear that third sector employers can be impacted by the regulation changes from both perspectives; as an exiting employer, but also as a remaining employer when other employers exit the scheme. The considerations are similar to those of other types of scheme employer in that, should there be a scheme deficit, the employers who remain in the LGPS, will share the cost of those resulting liabilities.”

12. The BRIA is attached as an annexe to this paper.

13. A Child Rights and Wellbeing Impact Assessment has also been completed which concluded that the Regulations would have no overall impact on children’s rights.

14. The Policy Note is unclear on whether a formal equality impact assessment has been completed and none has been published on legislation.gov, although it does discuss suggestions that the amendment could lead to a reduction in an employer's exit credit which could have a negative consequence on that employer's ability to provide services to more marginalised groups. Conversely, the Policy Note states that "75% of LGPS members are women, who are the members most likely to take maternity leave, carer's leave, look after children before school age and ageing parents, which limits the amount of pension they will accrue during their working lives." It further notes that employers leaving the Scheme to gain access to an exit credit "are expected to change their pension provision to a cheaper alternative scheme, resulting in inferior benefits provided to women in retirement."

Scottish Government Policy Note

THE LOCAL GOVERNMENT PENSION SCHEME (SCOTLAND) (AMENDMENT) REGULATIONS 2025

SSI 2025/48

The above instrument was made in exercise of the powers conferred by sections 1, 2 and 3 and Schedule 2 of the Public Services Pensions Act 2013. The instrument is subject to negative procedure.

Purpose of the instrument.

These Regulations amend the principal Scottish Local Government Pension Scheme Regulations 2018 ("the LGPS regulations"), in order to create a discretion for administering authorities to determine the amount of exit credit which should be payable to an employer leaving the Local Government Pension Scheme. These changes are in line with previous amendments made in England & Wales (E&W) by the Department for Levelling up, Housing and Communities (DLUHC).

Policy Objectives

These provisions amend the Local Government Pension Scheme (Scotland) Regulations 2018 (SSI 2018/141) by creating a discretion for administering authorities to determine the amount of exit credit which should be payable to an employer leaving the Local Government Pension Scheme, in line with changes made in E&W by DLUHC in March 2020.

Under Regulation 61, where a scheme employer ceases to have any active members in the LGPS and is not planning to enrol anyone further in the scheme, an actuarial valuation is carried out. Previously scheme employers were responsible for any estimated shortfall against their liabilities at the point of exit but could not receive any surplus.

A change to the Regulations was made in 2018 to allow pension risks to be shared more fairly between employers and administering authorities. As a result, an exit

credit is now due if the employer's pension liabilities are calculated to be less than the assets held by the fund at the date of their exit.

Changes were subsequently made to the Regulations in E&W in 2020, to provide that administering authorities have a discretion to determine the amount of exit credit which should be payable to an employer leaving the Local Government Pension Scheme (the LGPS).The funding position of LGPS funds has improved significantly, as indicated by the latest 2023 valuations, partly due to the effect of persistent high inflation on gilts.

We have been made aware that the increase in pension exit credits, which funds may be required to pay when an employer leaves the fund, could have a negative impact on cash flow and result in any subsequent risk being passed on to the remaining employers of the fund.

We were asked by stakeholders to make amendments to the regulations in Scotland, similar to those made in E&W. These Regulations will amend the Local Government Pension Scheme Regulations 2018 to create a discretion for administering authorities to determine the amount of exit credit which should be payable to an employer, leaving the Local Government Pension Scheme, based on their own contributions and risk

Consultation

A short technical consultation was carried out, commencing on Thursday 9 May until Thursday 30 May 2024. There were twelve responses, some in agreement with the proposed changes and others, primarily those representing charities, were not.

In response to concerns raised by actuaries representing the third sector employers i.e. charities, funds will be required to provide guidelines in their published 'Funding Strategy Statement' (FSS) on their policy for dealing with exit credits, to take all pertinent facts into account and how discretion will be applied to ensure a consistent approach in all cases.

Concerns were also raised about the negative impact of exit credits on a fund's cashflow. However, an employer exit is known and planned for in advance, as required by the LGPS Regulations 2018. These regulations also provide that for 90 days after the valuation of the exit credit (or debit) that amount is fixed to allow for an employer to discuss the exit payment with their finance partners. The 6-month deadline for payment ensures that employers are paid (or pay) the balance within a reasonable time. Others in their consultation response suggested that exit credits/debits are not usually material in the context of the cashflow position of the fund.

Unions are concerned that if the regulations are not changed, the current surplus could lead to an increase in employers leaving the scheme to access a large exit credit and offering a different pension provision to members, resulting in inferior pension benefits on retirement.

The UK Government consulted on and made similar changes to their LGPS regulations for E&W in March 2020.

Impact Assessments

A business impact assessment has been carried out by The Government Actuary Department (GAD) on behalf of The Scottish Public Pensions Agency to assess any risk to employers, including those in Third Sector.

The Scottish Government have carried out a Child Rights and Wellbeing Impact Assessment (CRWIA) and this has been published alongside the laying of these Regulations. The CRWIA has concluded that there is no impact on the rights or wellbeing of children.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, the Scottish Ministers certify that, in their view, the Local Government Pension Scheme (Scotland) (Amendment) Regulations 2025 are compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

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

Financial Effects

The GAD assessment makes it clear that Third sector employers can be impacted by the regulation changes from both perspectives; as an exiting employer, but also as a remaining employer when other employers exit the scheme. The considerations are similar to those of other types of scheme employer in that, should there be a scheme deficit, the employers who remain in the LGPS, will share the cost of those resulting liabilities.

Equality Impact Assessment

Employers in the LGPS include housing associations, leisure centres, women's aid organisations and providers of mental health services. These non-profit organisations provide a service to local communities, providing support to those in need by reason of age, ill-health, disability and financial hardship. It has been suggested that as a result of this amendment, a reduction in an employer's exit credit could have a negative consequence on that employer's ability to provide services. Conversely, 75% of LGPS members are women, who are the members most likely to take maternity leave, carer's leave, look after children before school age and ageing parents, which limits the amount of pension they will accrue during their working lives. Employers leaving the Scheme to gain access to an exit credit are expected to change their pension provision to a cheaper alternative scheme, resulting in inferior benefits provided to women in retirement.

Scottish Public Pensions Agency

An Agency of the Scottish Government January 2025

Business and regulatory impact assessment (BRIA)

Exit credit regulations
High-level analysis of possible impacts on third sector employers

Background

Employers within the Local Government Pension Scheme (LGPS) Scotland are responsible for the pension liabilities of their employees. Under Regulation 61 of the LGPS (Scotland) Regulations 2018, when a body ceases to be a scheme employer, that employer is liable to pay an exit payment, or to receive an exit credit on departure. Policies on employers leaving a fund are generally set out in each fund's Funding Strategy Statement.

An exit payment may arise if an employer's liabilities exceed the assets allocated to them, hence an exit payment is necessary to cover this shortfall upon leaving. An exit credit may arise if an employer's liabilities are less than the assets allocated to them.

The basis used to calculate this assessment will depend on the individual circumstances, but for an employer with no ongoing guarantor in the fund this will typically be assessed on a more prudent basis than the ongoing actuarial valuation basis. The broad intention is to minimise the risk that remaining employers in funds would be required to be pay future contributions to meet the liabilities in respect of former employers that have since left the fund.

Following changes made to the LGPS England and Wales regulations in 2020, to provide administering authorities with more discretion to determine the amount of any exit credit payable to employers, Scottish Ministers/SPPA have now consulted on making broadly equivalent changes to the LGPS Scotland regulations. The consultation notes improved funding positions revealed at the 2023 valuations. This may mean an increase in the exit credits that a fund has to pay when an employer leaves a fund, and this may have a negative impact on cashflow and subsequent risks being passed on to remaining employers.

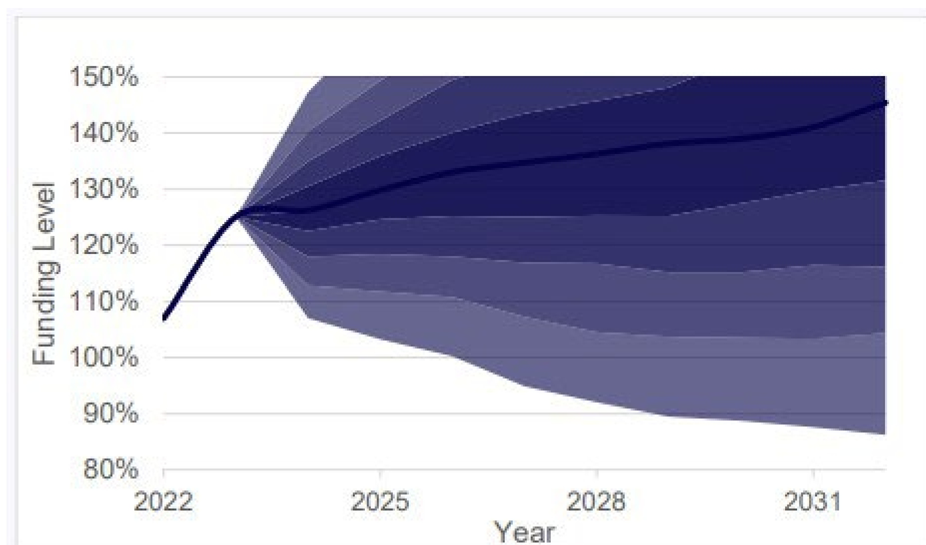
As part of the consultation process, SPPA have received comments over possible outcomes for third sector employers and the need for guidance to accompany regulation changes. SPPA have asked GAD to consider high-level funding impact analysis for LGPS third sector employers (such as charities, voluntary and non-profit organisations) in relation to possible future exit payments/credits payable, as a result of proposed regulation changes set out in the consultation.

Volatility of funding positions

An actuarial valuation of a pension scheme is a snapshot picture at a valuation date in terms of the assets being held to meet an assessment of liabilities and the resultant funding position is subject to change, to the extent the assumptions made are borne out in practice.

The 31 March 2023 actuarial valuations of the LGPS Scotland funds were finalised earlier this year, reporting an aggregate funding level of 141%. This represented a 37% increase on the aggregate funding level of 104% assessed as at 31 March 2020. The funding level assessed at 31 March 2017 was 102%. The LGPS Scotland funding level assessed using the ongoing bases adopted for triennial funding valuations has therefore been changeable over recent years, but has improved steeply over the 2020-23 triennial period.

The following graph is taken from the LGPS England and Wales Section 13 2022 report, which is the output of asset liability modelling to demonstrate a range of possible future funding position outcomes (the funnel widens in the future reflecting more uncertainty in outcomes at later dates). For reference, the LGPS England and Wales approximate 2016 and 2019 funding positions were 85% and 98%, respectively, highlighting variance in funding position over time. This analysis is not specifically prepared for the LGPS Scotland Section 13 report, but a similarly wide range of outcomes could be expected, to the extent that a similar risk profile exists. This indicates there is a level of uncertainty around future funding positions (albeit over these timescales, any LGPS Scotland analysis may yield funding levels more than 100% under most scenarios). Work in respect of the LGPS Scotland Section 13 2023 report is underway at present.



Whilst this analysis is considered at a scheme level, the funding levels of individual employers may similarly be subject to volatility which may have implications for exit credits/payments. While assets held at an employer level may currently be greater than liabilities, this is subject to change in the future and exit payments are based

on the employer funding position at the time of leaving the scheme. We note that the timing of an employer's exit from the scheme will be largely determined by that employer, whilst the risks linked to adverse changes to future funding levels will remain with the scheme.

Possible impacts on third sector employers

Third sector employers can be impacted by the regulation changes being considered from multiple perspectives. These employers may be impacted as the exiting employer, but also as a remaining employer whilst other employers are exiting. We therefore consider the impact from both perspectives. The considerations are similar to those of other types of scheme employer.

Exiting employers

The proposed amendments to the regulations note that any discretion towards capping being applied to exiting employers must have regard to certain factors:

(a) the extent to which there is an excess of assets in the fund relating to that employer over the liabilities specified in paragraph (2)(a),
(b) the proportion of this excess of assets which has arisen because of the value of the employer's contributions,
(c) any representations to the administering authority made by the exiting employer and, where that employer participates in the scheme by virtue of an admission agreement, any body listed in paragraphs 8(a) to (d)(ii) of Part 2 of Schedule 2 of these Regulations,
(d) any other relevant factors.

Hence factors such as the extent of any notional surplus of assets attributable to the existing employer or the degree to which any notional surplus has arisen due to employer contributions being paid by the exiting employer (rather than having arisen due to changes in market conditions or other experience) will impact on the whether capping is applied i.e. where any surplus is mainly due to other factors rather than employer contributions paid, this may mean an increased likelihood of the cap being applied. Hence, less favourable outcomes may be experienced where consideration of the above factors leads to the exit credit being capped by the fund.

We note that third sector employers do not typically have guarantees from another employer within LGPS. However, to the extent that any guarantor does exist for the exiting employer (and this guarantor is a participating employer in the same LGPS fund), this may act to limit the capping being applied or reduce the likelihood of a cap being applied to the exit credit. This does, however, depend on the nature of the guarantee being provided, for example:

- If the guarantee meant that throughout the period of the third sector employer's participation in the fund, the guarantor rather than the third sector employer was responsible for the third sector employer's funding risk,

then this may give reasonable justification for any surplus to belong to the guarantor rather than be due as an exit credit to the third sector employer.

- If the third sector employer was responsible for funding risks throughout the contract, and the guarantor is only responsible for future deficits that may arise after the third sector employer's exit, then any surplus may reasonably be payable to the third sector employer.

Note that an employer with no ongoing guarantor in the fund will typically be assessed on a more prudent basis for calculating any exit amount, hence reducing the likelihood of an exit credit being payable, or reducing the level. We expect most third sector employers fall under this category.

Overall, the impact on third sector employers of the proposed regulation changes, from an exiting employer perspective, is generally expected to not be more favourable as it introduces the possibility of a capped exit credit (this is the case for any employer in the LGPS, not only third sector employers). However, the extent to which this is or whether this is less favourable depends on factors such as the size of the surplus, the level of contributions paid by the exiting employer over the period of their participation and the employer's exposure to funding risk over that period.

Remaining employers

As well as the possible impacts at the leaving date for remaining employers, it may also be useful to consider the impact under some future scenarios:

- Scenario 1 - funding position of exiting employer in future improves significantly.
- Scenario 2 - funding position of exiting employer in future worsens significantly.

	Exit credit paid in full	**Exit credit capped**
Remaining employers (including third sector employers) *(potential impact considered at different dates / under different scenarios)*	*At leaving date:* Broadly no impact, as remaining employer assets not impacted due to ring-fencing of employer assets in most cases	*At leaving date:* Broadly no impact, as remaining employer assets not impacted due to ring-fencing of employer assets in most cases
	Scenario 1: Broadly no impact, as above	*Scenario 1:* Broadly no impact, as above
	Scenario 2: Less favourable outcome - greater than expected costs relative to assets (which are lower due to exit credit being paid in full) may ultimately be met by remaining employers	*Scenario 2:* More favourable outcome than had exit credit been paid in full, as greater assets are available to meet liabilities associated with exiting employers

- Note there are broadly no impacts expected for remaining employers at the

exit date under the exit credit being paid in full or capped, as employer assets are generally ringfenced to their own liabilities. This is subject to any cross-employer funding arrangements (pooling) that may involve the exiting employer.

- There are similarly broadly neutral impacts expected if future exiting employer funding positions improve whether the exit credit is paid in full or capped, due to the ringfencing of assets and there being no new deficit arising in respect of the exiting employers' liabilities.

- If future funding positions were to worsen to the extent that the exiting employers' remaining liabilities were greater than the corresponding assets, this new deficit arising would be the responsibility of the remaining employers. If an exit credit was paid out in full, this creates a higher risk of new deficits falling to remaining employers, than if an exit credit was capped.

  Note that the assessment of the funding position of an employer that has exited may be carried out on an ongoing basis for the purpose of determining whether any new deficit needs to be funded by the remaining employers. Where the exit valuation has been determined on a more prudent basis than the ongoing basis, it would be expected that the probability of a deficit arising on the ongoing basis (and therefore costs being shared with the remaining employers) to be low. This will depend on each fund's funding strategy.

- Actual impacts on third sector employers will, of course, depend on the extent to which updated exit credit regulations may be applied by administering authorities and the policies they may set.

- Given the general nature of third sector employers, the associated payroll, liabilities and assets tend to be relatively small relative to the payroll, liabilities and assets of other employers in LGPS. Hence any subsequent impacts of new deficit arising in respect of employers who have exited is likely to have a relatively small impact on the contribution rates for remaining third sector employers (whether those costs are spread relative to payroll, liabilities or assets).

- Where an employer exits a fund, we would typically expect the former assets and liabilities to still be held separately, but unassigned to a specific remaining employer (although this may be subject to any funding pooling arrangements).

There may be significant variations in policies/practices adopted between different LGPS funds.

The impacts noted above consider possible impacts on future funding positions and contribution requirements only, and don't consider any other risks employers are potentially exposed to in relation to the proposed regulation changes.

Conclusion

Improved funding positions in the LGPS may act to increase the likelihood and amount of exit credits being payable to exiting employers, subject to any amendments to regulations made.

Based on the high-level analysis carried out, there is the potential for both more and less favourable funding / contribution outcomes to be experienced by third sector employers due to the proposed amendments to regulations, as per the SPPA consultation. This may depend on whether the third sector employer is the exiting party, plans to remain in the scheme following other employer exits, and also whether any contractual guarantees are applicable. Hence there is not a uniquely positive or negative impact, based on the high-level, limited analysis considered.

There may be fund variations in existing policies/practices in place, meaning any subsequent impacts may differ accordingly.

Further any resultant impacts may depend on any guidance that is ultimately issued alongside the proposed regulations, and each fund's resulting exit credit policy.

Compliance

This high-level note has been prepared at the request of SPPA in their considerations of the regulation changes referred to. The information in this document should not be relied upon or assumed to be appropriate for any other purpose, or by any other person.

This note should be considered in conjunction with the individual 2023 LGPS Scotland valuation reports, noting that these have been prepared by third parties and do not necessarily represent GAD's views.

To the extent applicable, this document has been prepared in accordance with the Technical Actuarial Standards: TAS 100 and TAS 300 issued by the Financial Reporting Council (FRC). The FRC sets technical standards for actuarial work in the UK.

[REDACTED] FFA December 2024