

EXPLANATORY NOTES

Non-Domestic Rates (Liability for Unoccupied Properties) (Scotland) Act 2026 (asp 1)

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NON-DOMESTIC RATES (LIABILITY FOR UNOCCUPIED PROPERTIES) (SCOTLAND) ACT 2026

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes have been prepared by the Scottish Government in order to assist the reader of the Non-Domestic Rates (Liability for Unoccupied Properties) (Scotland) Act 2026. They do not form part of the Act and have not been endorsed by the Parliament.

2. These Notes should be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section, or a part of a section, does not seem to require any explanation or comment, none is given.

CROWN APPLICATION

3. Section 20 of the Interpretation and Legislative Reform (Scotland) Act 2010 ("ILRA") provides that the Crown will be bound by an Act of the Scottish Parliament or Scottish statutory instrument unless the provision expressly exempts it. As such, technically this Act applies to the Crown in the same way as it applies to everyone else.

4. However, section 1 of the Act amends legislation which predated ILRA and which did not bind the Crown when enacted – and so the amendments made by section 1 of the Act will also not bind the Crown.

OVERVIEW OF THE ACT

5. The purpose of the Act is to reverse a repeal made in error by the Non-Domestic Rates (Scotland) Act 2020 ("the 2020 Act") in relation to liability for the payment of non-domestic rates for unoccupied properties. The Act establishes the position in law, with retroactive effect from 1 April 2023, whereby liability for rates in respect of unoccupied properties falls on their owner, subject to any reliefs that local authorities or the Scottish Ministers may choose to put in place under existing discretionary powers.

6. Non-domestic rates are a property tax based on the rateable value of a property. The legislative framework for non-domestic rates in Scotland is complex, having evolved over many decades with numerous piecemeal amendments and limited consolidation.

7. Section 24 of the Local Government (Scotland) Act 1966 ("the 1966 Act") had previously provided for a general rule that no rates were payable for unoccupied properties, with a power for the Scottish Ministers to levy a reduced level of rates on the owners of such properties – but section 24 was repealed by the 2020 Act with effect from 1 April 2023. Since this repeal there has been no legal basis to levy non-domestic rates on owners who are not in occupation.

8. This is because the existence of section 16(1) of the Valuation and Rating (Scotland) Act 1956 ("the 1956 Act") was not taken account of when section 24 of the 1966 Act was repealed. That provision states that every rate levied by a rating authority is payable by *occupiers* only, and that any statutory reference to a rate payable by *owners* is to be interpreted accordingly. As a result, express statutory authority is needed to impose liability on the owners of properties to pay non-domestic rates.

9. At the time the 2020 Act was passed by the Scottish Parliament, it was believed that repealing section 24 of the 1966 Act – which had stated that "no rates shall be payable in respect of lands and heritages which are unoccupied" – would restore a default position whereby owners *would* be liable for empty properties. But the effect of section 16 of the 1956 Act was overlooked.

10. The intention behind the 2020 Act had been to devolve empty property relief to local authorities, but the repeal of section 24 of the 1966 Act inadvertently removed the legal basis for levying rates on the owners of unoccupied properties. Therefore the Act gives effect to the intention of the Scottish Parliament in enacting the 2020 Act, while bringing the legislative position into line with the (mistaken) understanding of councils, ratepayers and commentators (see e.g. *Armour on Valuation for Rating*, para 14-12 (R.37 August 2024)) during the period between the coming into force of the 2020 Act and the introduction of the Act.

COMMENTARY ON PROVISIONS

Section 1: Non-domestic rates: liability of owners of unoccupied properties

11. Section 1(2) of the Act amends the 1966 Act in order to insert new section 24ZA, which imposes liability for non-domestic rates, in respect of a property which has no occupier, on the owner of the property. In this context the terms "occupier" and "owner" have the meanings given by section 379 of the Local Government (Scotland) Act 1947.

12. The liability as set out in new section 24ZA(1) is for the owner to pay the amount of the rate that would have been payable if the property did have an occupier. Section 24ZA(2) then provides that all other legislation relating to rating (including UK and Scottish Acts) applies as if the property were occupied by the owner.

13. This general rule is subject to any rates reduction or relief that may be put in place under section 3A of the Local Government (Financial Provisions etc.) (Scotland) Act 1962 (which provides for a rating authority (i.e. a council) to provide for relief, regulations under section 153 of the Local Government etc. (Scotland) Act 1994 (under which the Scottish Ministers may provide for relief), or any other legislation which provides for the rates leviable in respect of lands and heritages to be reduced or remitted (such as, for example, rates relief for new or improved properties through regulations made under section 14 of the Non-Domestic Rates (Scotland) Act 2020).

14. Section 1(4) of the Act makes a consequential amendment to section 16 of the 1956 Act, so that it is clear to the reader of the 1956 Act that the general rule in section 16(1) of the 1956 Act making occupiers liable for rates rather than owners is now subject to new section 24ZA of the 1966 Act.

15. Section 1(5) of the Act gives retrospective effect to the amendment of the 1966 Act so that the amendment takes effect from 1 April 2023. This means that there will be continuity in the imposition of liability for rates in respect of unoccupied properties: up until 1 April 2023, section 24(3) of the 1966 Act provided for owner liability, and from that date, new section 24ZA of the 1966 Act provides for that liability. Section 1(5) also gives retrospective effect to the consequential amendment of the 1956 Act.

Section 2: Ancillary provision

16. This section gives the Scottish Ministers a freestanding regulation-making power to make any incidental, supplementary, consequential, transitional, transitory or saving provision that they consider appropriate for the purposes of, in connection with, or for giving full effect to, the Act.

17. Subsection (2) allows regulations under this section to make provision about the reimbursement of enforcement costs to any ratepayers who had to pay them during the period between 1 April 2023 and the Act coming into force. Regulations could therefore, for example, if the Scottish Ministers considered it appropriate, provide for reimbursement of the 10% surcharge which is automatically added to the non-domestic rates bill of ratepayers in arrears of payments under section 247 of the Local Government (Scotland) Act 1947 if and when a summary warrant is issued.

18. Subsection (3) allows regulations to modify any legislation, including the Act itself.

19. Subsection (4) requires the Scottish Ministers, before making regulations under subsection (1), to consult such persons as they consider representative of persons liable to pay non-domestic rates in relation to unoccupied properties.

20. Regulations under section 2 are subject to the affirmative procedure (as defined by section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010).

Section 3: Commencement

21. This section provides that the Act comes into force on the day after Royal Assent.

Section 4: Short title

22. This section provides that the Act, once enacted, will be referred to as the Non-Domestic Rates (Liability for Unoccupied Properties) (Scotland) Act 2026.

PARLIAMENTARY HISTORY

23. The following is a list of the proceedings in the Scottish Parliament on the Bill for the Act and significant documents connected to the Bill published by the Parliament during the Bill's parliamentary passage.

Proceedings and reports	**Reference**
Bill as introduced	SP Bill 78 Non-Domestic Rates (Liability for Unoccupied Properties) (Scotland) Bill [as introduced] Session 6 (2025)
Explanatory Notes	SP Bill 78 Non-Domestic Rates (Liability for Unoccupied Properties) (Scotland) Bill [explanatory notes] Session 6 (2025)
Policy Memorandum	SP Bill 78 Non-Domestic Rates (Liability for Unoccupied Properties) (Scotland) Bill [policy memorandum] Session 6 (2025)
Financial Memorandum	SP Bill 78 Non-Domestic Rates (Liability for Unoccupied Properties) (Scotland) Bill [financial memorandum] Session 6 (2025)
Delegated Powers Memorandum	SP Bill 78 Non-Domestic Rates (Liability for Unoccupied Properties) (Scotland) Bill [delegated powers memorandum] Session 6 (2025)
Stage 1	
Chamber, 26 November 2025	SP OR 26 November 2025
Stage 2	
Marshalled List of Amendments for Stage 2	SP Bill 78 Non-Domestic Rates (Liability for Unoccupied Properties) (Scotland) Bill [marshalled list of amendments for stage 2] Session 6 (2025)
Groupings of Amendments for Stage 2	SP Bill 78 Non-Domestic Rates (Liability for Unoccupied Properties) (Scotland) Bill [groupings of amendments for stage 2] Session 6 (2025)
Chamber, 27 November 2025	SP OR 27 November 2025
Stage 3	
Marshalled List of Amendments for Stage 3	SP Bill 78A Non-Domestic Rates (Liability for Unoccupied Properties) (Scotland) Bill [marshalled list of amendments for stage 3] Session 6 (2025)
Groupings of Amendments for Stage 3	SP Bill 78A Non-Domestic Rates (Liability for Unoccupied Properties) (Scotland) Bill [groupings of amendments for stage 3] Session 6 (2025)
Chamber, 27 November 2025	SP OR 27 November 2025
Post passage	
Royal Assent, 7 January 2026	2026 asp 1

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