POLICY NOTE

THE NON-DOMESTIC RATES (RELIEF FOR NEW AND IMPROVED PROPERTIES) (SCOTLAND) REGULATIONS 2022

SSI 2022/49

These Regulations are made by the Scottish Ministers in exercise of the powers conferred by section 14(1), (2) and (3) of the Non-Domestic Rates (Scotland) Act 2020 and all other powers enabling them to do so. The Regulations are subject to the negative procedure and come into force on 1 April 2022.

In accordance with section 14(5) of that Act, the Scottish Ministers have consulted such persons as they consider appropriate.

Purpose

These Regulations provide the following non-domestic rates relief from 1 April 2022:
• 100% relief on new properties for up to 12 months until after they are first occupied;
• 100% relief for 12 months on property improvements.

Policy Background

The independent Barclay Review of Non-Domestic Rates recommended (Recommendation 1) the creation of a Business Growth Accelerator – "to boost business growth, a 12 month delay should be introduced before rates are increased when an existing property is expanded or improved and also before rates apply to a new build property."

The Scottish Government went further, and introduced on 1 April 2018:

- 100% relief on new properties for 12 months after they are first occupied;
- 100% relief for 12 months on property improvements.

The relief has, until now, been delivered relying on powers conferred by section 153 of the Local Government etc. (Scotland) Act 1994

These Regulations are now made in exercise of the powers conferred by section 14(1), (2) and (3) of the Non-Domestic Rates (Scotland) Act 2020, which make provision specifically for Scottish Ministers to make regulations for relief from payment of non-domestic rates for newly built lands and heritages, and improved lands and heritages, as defined in section 2A(3) and (4) of the Local Government (Scotland) Act 1975 respectively.Section 2A was inserted by section 3 of the Non-Domestic Rates (Scotland) Act 2020.

Policy Objectives

These Regulations, have effect from 1 April 2022, and make provision for the Business Growth Accelerator relief from payment of non-domestic rates for newly built lands and heritages, and improved lands and heritages.

The Regulations are structured as follows.

Part 2 provides for relief for newly built lands and heritages:

To receive the relief the entry in the valuation roll should have taken effect within the previous 12 months, or either of:

- more than 12 months previously, but the lands and heritages have been continuously unoccupied since that day,
- more than 12 months previously, but less than 12 months have elapsed since the property first became occupied.

Where, at the point entitlement to the relief is being considered, a new build has been entered in the valuation roll within the past 12 months, 100% relief will be available according to which of the following dates is reached sooner:

- 12 months after the property becomes occupied, or
- four years after the date on which the entry in the valuation roll took effect.

Where, at the point entiltmenet to the relief is being considered, the entry of a new build in the valuation roll has taken effect more than 12 months previously, , 100% relief will be available until whichever falls sooner as between the date 12 months after the property becomes occupied, and the later of the following dates:

- 31 March 2025; or
- four years after the date that the entry in the valuation roll took effect.

The 31 March 2025 date provides for existing unoccupied new build properties that are already in receipt of 100% Business Growth Accelerator relief prior to 1 April 2021 – this date corresponding to the Scottish Budget 2021-22 commitment that unoccupied new builds would be able to claim the relief for up to three years – ensuring that they will continue to receive the relief for more than three years, up to 31 March 2025. For all other new builds, 100% relief will be available until the sooner of 12 months after the property was first occupied, or for four years after the date that the entry in the roll took effect. This ensures that either the full 12 months, or up to four years, will be enjoyed as appropriate regardless of the length of time between an entry in the valuation roll taking effect, and entitlement to business growth accelerator relief being considered. The 31 March 2025 date will not act as a cut-off, unless the four years of relief (or more) has by then already been enjoyed, as in the case of unoccupied new build properties already in receipt of business growth acclerator relief prior to 1 April 2021.

Regulations 3 to 6 set out the various circumstances in which newly built lands and heritages may be eligible for relief:

- where a new entry is made in the valuation roll that includes a building or part of a building, and the building or part of a building has not previously been shown in the valuation roll;

- where an existing entry in the valuation roll is altered to reflect a material change of circumstances, rather than a new entry made – although the altered entry must still show one or more buildings or parts of a building that has not previously been shown in the valuation roll, and there is an additional requirement that the property was unoccupied on the day before the alteration to the valuation roll took effect; and

- where a building, in relation to which a grant of relief is ongoing, is occupied in stages which result in separate valuation roll entries being made for parts of the building, the relief will continue to be available for each part.

- The relief is not available where the new entry in the valuation roll is the result of a property that was subject to council tax becoming subject to non-domestic rates; or where the building existed on lands and heritages that were exempt from being entered in the roll, but cease to be exempt, and are entered in the valuation roll as a result of a change of use.

A transitional provision preserves relief under regulation 4 of the Non-Domestic Rates (Relief for New and Improved Properties)(Scotland) Regulations 2019 ("the 2019 Regulations"), in relation to lands and heritages on which there is a building, but which were not added to the valuation roll at the time when the building was "new" in the sense of having been recently built. The focus here is on lands and heritages which are subsequently added to the roll as a result of a change in use. The transitional provision only applies where relief was payable in relation to such lands and heritages on 31 March 2020, and would otherwise have stopped being payable as a result of the amendment made to the 2019 Regulations by regulation 2(3) of the Non-Domestic Rates (Relief for New and Improved Properties) (Scotland) Amendment Regulations 2020. The amendment prevents business growth accelerator relief being enjoyed in relation to such properties.

Regulations 7 and 8 make provision for relief where a property that qualifies for new property relief is improved during the period for which relief under new property relief has been granted.

Part 3 for improvement of existing property

Properties where there has been a qualifying property improvement resulting in an increase in the rateable value of the property are eligible for 100% relief for 12 months.

Regulations 9 to 11 make provision for the improvement relief where an existing property has been subject to refurbishment, expansion or construction, within the previous 12 months, thereby causing a "relevant increase" in the rateable value of the lands and heritages. The installation of certain types of plant and machinery, including, in certain circumstances, solar panels and solar cells, can also cause a relevant increase. This is all subject to the condition that the increase is not in any way attributable to the combination, division or reorganisation of lands and heritages which were already shown in in the valuation roll, albeit in separate entries, on the day immediately before the day on which the alteration to the valuation roll takes effect. A property is "improved" where the changes made result in an alteration to its entry in the valuation roll to reflect an increase in rateable value as a result of a material change of circumstances.

"Relevant increase" is defined in section 2A(5) of the Local Government (Scotland) Act 1975. Relief is only granted in relation to the increase in rateable value between the value immediately before the works leading to the increase began, and the value when the entry in the valuation roll is altered to reflect the improvement. No account is taken of any intermediate reduction in the rateable value (for example as a result of partial demolition of a building to be expanded).

Regulation 10 sets out the amount of rates payable for those lands and heritages which are also subject to transitional relief in terms of the Non-Domestic Rates (Transitional Relief) (Scotland) Regulations 2017, as amended, in addition to business growth accelerator relief.

Other Provisions

An application must be made to obtain the Business Growth Accelerator relief, except where an ongoing grant of the relief is in place, under the 2019 Regulations, on the day these Regulations come into force, or where an application made under the 2019 Regulations has yet to be determined at the time of coming into force.

Consultation

Scottish Ministers have consulted such persons as they consider appropriate, namely local authorities and the Institute of Revenue Rating and Valuation.

Impact Assessments

No Business and Regulatory Impact Assessment is required.

Financial Implications

The instrument has no direct financial implications.

Scottish Government
Local Government and Communities Directorate
February 2022