

This document relates to the Non-Domestic Rates (Scotland) Bill as amended at Stage 2 (SP Bill 44A)

# Non-Domestic Rates (Scotland) Bill

[As Amended at Stage 2]

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## Supplementary Financial Memorandum

### Introduction

1. This memorandum has been prepared by the Scottish Government in accordance with Rule 9.7. 8B of the Parliament's Standing Orders, in relation to the Non-Domestic Rates (Scotland) Bill ("the Bill"). It provides best estimates of the costs flowing from the amendments to the Bill at Stage 2. It also provides updated costings for two policies in the Bill on introduction, entering activity on parks in the valuation roll and charging it rates and removing eligibility for charitable rates relief from charitable mainstream independent schools.

2. The contents of the Memorandum are entirely the responsibility of the Scottish Government and have not been endorsed by the Parliament. This supplementary memorandum should be read in conjunction with the Financial Memorandum accompanying the Bill on introduction and the Scottish Fiscal Commission's (SFC) Supplementary Costings: Non-Domestic Rates (Scotland) Bill, published on 18<sup>th</sup> December 2019<sup>1</sup>.

### Background

3. The Memorandum provides estimates for the direct impact on ratepayers' liabilities, and concurrent opposite impact on non-domestic rates liabilities for the following provisions in the Bill:

- Those arising from new policies as a result of Stage 2:
  - Entering certain student accommodation in valuation roll (section 4A)

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<sup>1</sup> <http://www.fiscalcommission.scot/publications/supplementary-costings/non-domestic-rates-supplementary-costings-december-2019/>

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- Ending reliefs and removing the Large Business Supplement made under section 153 of the 1994 Act following the repeal of the Scottish Ministers' power to prescribe by regulations the amount payable as non-domestic rate in respect of any lands and heritages (section 8C)
- Devolving Empty Property Relief (section 11A)
- Those arising from modified policies as a result of Stage 2: civil penalties for failure to comply with assessor information notices (section 18)
- Those updated from the Financial Memorandum accompanying the Bill on introduction:
  - Removing charity relief from mainstream independent schools (section 10)
  - Entering certain activity on parks in the valuation roll (section 4)
  - Earlier debt recovery by local authorities (section 13)

4. Section 9B of the Bill makes public schools which select pupils on the basis of musical ability or potential; follow a curriculum which includes classes aimed at developing musical excellence; and are wholly or mainly used for the purpose of developing musical excellence, eligible for non-domestic rates relief under Section 4 of the Local Government (Financial Provisions etc.) (Scotland) Act 1962. This Memorandum provides an estimate of the savings to ratepayers that this policy could potentially deliver if section 9B was amended to deliver its intention of including public schools that deliver, as part of a larger school, music schools that are known as National Centres of Excellence.

5. The Memorandum also provides an update of the administrative costs (from those outlined in the original Financial Memorandum) on assessors for 2020-21 of implementing the Barclay Review. This now includes the administrative cost to the Scottish Government (which had previously been costed separately in the Financial Memorandum) relating to a communication exercise to all proprietor, tenants and occupiers around the reforms to non-domestic rates as a result of the Bill. The administrative cost of the Bill to the Scottish Government is therefore now considered to be nil. The administrative costs of non-Government Stage 2 amendments for assessors, namely entering certain student accommodation in valuation roll are expected to be minimal. Some Stage 2 amendments will also have a minor impact on administrative costs for local authorities. However, any

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additional costs are expected to be minimal relative to the Financial Memorandum published for the Bill on introduction.

6. None of the cost estimates provided in the Memorandum include any behavioural responses as a result of the policies, the exception being around civil penalties for non-provision of information where an illustrative rate of non-response is set out.

7. The following policies resulting from Stage 2 amendments have (except for the change to the material change of circumstances provision) been costed on an illustrative basis. There requires to be further policy development work – informed by public consultation – carried out and this will enable more refined costings to be determined:

- The introduction of the power to levy fees on proposal – section 7(6)(da) as this is an enabling power for Scottish Ministers by regulations to make provision for or about fees payable in connection with a proposal (including provision about circumstances in which a fee may be repaid). The financial implications of any regulations made under this new power would be considered at the time the policy therein was developed and the regulations drafted. Using 2017 Revaluation appeal data and a fee range based on the English and Republic of Ireland’s Valuation Tribunal charges to derive an illustrative cost to ratepayers: around 73% of the circa 74,000 2017 Revaluation appeals have been resolved with no change in rateable value so 27% is a reasonable proxy for “successful” proposals. Based on a fee range of between £50 and £100 then we estimate that the introduction of fees for the proposal stage could cost ratepayers between £2.7M and £5.4M.
- The change to the definition of material change of circumstances (section 8B) by excluding economic factors, and specifically a change in rent, or of valuation or the value of the lands and heritages generally. This position aligns primary legislation with recent case law, and therefore the impact of this on appeals losses is considered nil.
- Enabling Scottish Ministers to prescribe by regulations the amount payable as non-domestic rate in respect of lands and heritages contributing to the net-zero emissions target (section 9A) i.e. in a different manner to other lands and heritages. The financial implications of any regulations made under this new power would be

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considered at the time the policy therein was developed and the regulations drafted. There are a number of existing reliefs specifically targeted at reducing carbon emissions and supporting the renewables sector and district heating schemes. There are currently twenty-nine district heating schemes in Scotland receiving circa relief in the region of £450,000 per annum. Given this existing provision, and depending on the design of the new relief, there may be a significant overlap with ratepayers likely to choose the relief that provides the greatest benefit to them. Factoring in six district heating networks that are already scheduled for deployment, and assuming a new relief incentivises changes in behaviour resulting in a further increase in the number of newly built schemes, we estimate that a new relief could cost the Scottish Government around £450,000.

- Electronic communication of information which provides Scottish Ministers with the power to make regulations specifying that notices relating to valuation may (or must, as the case may be) be sent by electronic means (section 13A). The financial implications of any regulations made under this new power would be considered at the time the policy therein was developed and the regulations drafted. An indicative illustration of the potential savings to Local Authorities through no longer being required to annually issue circa 250,000 rates bills would be circa £153,000 (based on second class postage rates). The Scottish Assessors issued circa 400,000 notices at the 2017 Revaluation, so an indicative illustration of the potential savings would be circa £244,000 (based on second class postal rates).

## Methodology

8. The impact of Stage 2 amendments to the Bill on non-domestic rates liabilities was produced by the SFC, which may, under the Scottish Fiscal Commission Act 2016, produce forecasts on “fiscal factors” other than those it is statutorily requires to produce. Fiscal factors are defined as “anything which the Scottish Ministers use to ascertain the amount of resources likely to be available for the purposes of sections 1 to 3 of the Public Finance and Accountability (Scotland) Act 2000.” The Protocol for engagement between the Scottish Fiscal Commission and the Scottish Government<sup>2</sup> notes that the SFC may produce forecasts where it considers

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<sup>2</sup>Protocol <http://www.fiscalcommission.scot/media/1563/scottish-fiscal-commission-protocol-version-30-september-2019-final.pdf>

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the policy, or policies, to have a “non-negligible impact on receipts or expenditure.”

9. The SFC also provided updated costings for two policies in the Bill on introduction: entering activity on parks in the valuation roll and charging it rates; and removing eligibility for charitable rates relief from charitable mainstream independent schools. Cost estimates for these two policies were provided in the Financial Memorandum published to accompany the Bill on introduction by the Scottish Government in March 2019.<sup>3</sup>

10. Other non-domestic rates revenue estimates including administrative costs, penalty values and assessor costs have been derived by Scottish Government.

## Cost estimates

### **Removing charity relief from mainstream independent schools**

#### **Update to cost on ratepayers**

11. The removal of charity relief from mainstream independent schools will lead to an increase in ratepayers’ liabilities and concurrent increase in non-domestic rates income. The SFC provided an update to the costs (Table 1) provided in the Financial Memorandum for the Bill on introduction relating to the removal of charitable rates relief from mainstream independent schools. This policy will commence on 1 September 2020.<sup>4</sup> As the methodology remains the same as the Financial Memorandum, differences in the costings are due to an update in the Office for Budget Responsibility’s (OBR) forecast for the Consumer Price Index (CPI), an update to the list of mainstream independent schools and a change in the commencement date of the policy, which was assumed to be 1 April 2020 in the Financial Memorandum accompanying the Bill on introduction.

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<sup>3</sup> Financial Memorandum:

<https://www.parliament.scot/parliamentarybusiness/Bills/111337.aspx>

<sup>4</sup> Local Government and Communities Committee, Official Report, Wednesday 4 December 2019, Scottish Parliament:

<http://www.parliament.scot/parliamentarybusiness/report.aspx?r=12413&mode=pdf>

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12. The costing was based on data from the local authority Billing System Snapshot compiled by the Scottish Government, which contains a record of entries on the valuation roll claiming relief at a set point in time. It also used a list of independent schools provided by the Scottish Government using the Independent schools in Scotland: register<sup>5</sup> to identify which schools will be affected by the policy change. It calculated an estimate of the total amount of charity relief claimed by the mainstream independent schools in 2018-19 and grew this estimate using their forecast for the poundage. These costs represent an increase in ratepayers' liabilities, and concurrent increase in non-domestic rates income.

**Table 1: Direct cost to ratepayers (impact on non-domestic rates liabilities) from removing charity relief from mainstream independent schools, £ million**

	2020-21	2021-22	2022-23	2023-24	2024-25
SFC Update December 2019	4	7	8	8	7
Scottish Government Costing March 2019	7	7	7	8	8

13. The SFC attached “a reasonably high degree of certainty to this costing”<sup>6</sup>, the two uncertainties being 1) the forecast around the poundage, which relies on the OBR’s forecast for CPI inflation and Scottish Government policy; and 2) whether all mainstream independent schools were correctly identified.

<sup>5</sup> <https://www.gov.scot/publications/independent-schools-in-scotland-register/>

<sup>6</sup> Supplementary Costings: Non-Domestic Rates (Scotland) Bill, December 2019

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## **Administrative cost on local authorities and indirect impacts**

14. The administrative cost saving to local authorities in relation to not having to administer charitable rates relief for these schools is covered in the Financial Memorandum for the Bill on introduction.

15. The potential behavioural impact of the removal of charitable rates relief eligibility for mainstream independent schools is covered in the final business and regulatory impact assessment published alongside the Bill on introduction.

## **Entering certain activity on parks in the valuation roll**

### **Update to cost on ratepayers**

16. The entering of certain activity on parks in the valuation roll will lead to an increase in ratepayers' liabilities, and concurrent increase in non-domestic rates income. The SFC provided an update to the costs provided in the Financial Memorandum for the Bill on introduction relating to entering certain activity in parks on the valuation roll (section 4 of the Bill). This policy will commence on 1 September 2022.<sup>7</sup> There is no difference between the SFC's and the Scottish Government costings in the Financial Memorandum for the Bill on introduction. The minor differences in costings are due to an update in the Office for Budget Responsibility's (OBR) forecast for the Consumer Price Index (CPI) only.

17. While amendments were made to section 4 of the Bill to offer further clarification on the policy intent, this was not considered to warrant a change in methodology and the SFC adopts the same methodology as used in the Barclay Review and the Financial Memorandum. The Barclay Review, published in August 2017, assumed, based on discussions with assessors at the time, that commercial facilities in parks have an average rateable value of £20,000 and that there are five such properties in each of the 32 local authorities.

18. The SFC attach a very high degree of uncertainty for this costing, mainly due to the identification of the cost base given these properties are

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<sup>7</sup> Local Government and Communities Committee, Official Report, Wednesday 11 September 2019, Scottish Parliament:  
<http://www.parliament.scot/parliamentarybusiness/report.aspx?r=12246&mode=pdf>

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not currently on the valuation roll. There is thus no reliable estimate of their rateable values, or any relief entitlement they may have.

### **Administrative cost on local authorities**

19. The administrative cost to local authorities in relation to having to administer rates for these new entries in the valuation roll is covered in the Financial Memorandum for the Bill on introduction.

### **Earlier debt recovery by local authorities**

20. Section 13 of the Bill brings the enforcement position for non-domestic rates broadly into line with that which pertains under council tax. This means that a local authority will be able to commence recovery action against a non-domestic ratepayer as soon as payment of any instalment is missed. This applies where payments are made in instalments as provided for in section 8(1) of the Local Government (Scotland) Act 1975, and not to any alternative payment plans.

21. The SFC deem this to have no overall effect on non-domestic rates income.

22. The administrative cost to local authorities of this reform are set out in the Financial Memorandum accompanying the Bill on introduction.

### **Entering certain student accommodation in valuation roll**

#### **Cost on ratepayers**

23. Section 4A of the Bill provides that certain ‘institutional providers’ (excluding universities, central institutions, designated institutions and certain other institutions) of student accommodation are liable to be rated on that accommodation, if planning permission for the construction, conversion or change of use of the property was given on the basis that it would be used predominantly for housing students. It is assumed for the purposes of this Memorandum that this policy commences at the next revaluation on 1 April 2022.

24. The entering of certain student accommodation in the valuation roll will lead to an increase in ratepayers’ liabilities, and a concurrent increase in non-domestic rates income. Table 2 summarises the SFC’s estimate of this policy, which represents a cost to the ratepayer and a benefit to non-



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domestic rates income, there being no concurrent reduction in Council Tax since students are not liable for it. The SFC used data from National Records of Scotland (NRS) that contains all properties that are classified as either 'student accommodation' or 'halls of residence', and excluded those that are owned by the universities or colleges by excluding those flagged as being managed by a 'Government department/agency'. Each property is assumed to have an average weekly rent per room of £155 to derive a hypothetical achievable turnover, to which is applied a figure of 15% to estimate the rateable value, this being the middle of the range of values used by assessors to derive rateable values for budget hotels, which are considered to be the closest proxy for student accommodation that is currently valued.

**Table 2: Direct cost to ratepayers (impact on non-domestic rates liabilities) from entering certain student accommodation in valuation roll, £ million**

2020-21	2021-22	2022-23	2023-24	2024-25
		18	19	18

25. The SFC notes there is a high degree of uncertainty to this costing because of uncertainty around the cost base and uncertainty around the exact effect of section 4A of the Bill.

**Administrative cost on local authorities**

26. Any additional costs to this reform are expected to be minimal given the small number of properties affected of which 114 were identified. Despite the uncertainty around this number, the total number of properties affected is likely to be low relative to the number of properties on the valuation roll. There would be a minor administrative cost to the local authority of having to process non-domestic rates liabilities for student accommodation, partly offset by the cost reduction of not having to process student exemptions from Council Tax.

**Administrative cost on assessors**

27. There will be an administrative cost to assessors of entering student accommodation on the valuation roll and removing it from the Council Tax list. Given the total number of properties on the valuation roll, any additional administrative costs are also expected to be minimal.

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## **Repeal of the Scottish Ministers’ power to prescribe by regulations the amount payable as non-domestic rate in respect of any lands and heritages**

### **Cost on ratepayers**

28. Section 8C of the Bill is intended, as per the discussion at Stage 2 (Day 2) in the Local Government and Communities Committee, to return rate-setting to local authorities, providing the Scottish Ministers with the power to set the poundage only if the local authority does not do so. The SFC did not cost the impact of this reform, stating:<sup>8</sup> “In the absence of information on the rates Local Authorities would set, our best judgement would be for poundage to continue to match our central forecast, where the announced poundage rate (set for 2019-20) is uprated by the forecast Consumer Price Index (CPI) inflation rate. There would be no effect on the amount of NDR paid in our forecasts.”

29. Section 8C also repeals Section 153 of the Local Government etc. (Scotland) Act 1994 (“the 1994 Act”), which allows the Scottish Ministers by regulations to prescribe the amount payable as non-domestic rate in respect of any lands and heritages. The regulations providing for a number of rates reliefs, as well as the Large Business Supplement (LBS), are made under the powers conferred by this section. These reliefs are set out in Table 1. The effect of commencing section 8C (3) of the Bill would be that these regulations, and LBS will cease to have effect from the date set out in the commencement order.

30. The repeal of reliefs made under section 153 and termination of LBS will affect ratepayers’ liabilities, and have the opposite effect on non-domestic rates income. The SFC provided a cost estimate (Table 3) of this, namely the termination of all reliefs made under section 153 of the 1994 Act and of LBS, the former representing an increase in non-domestic rates income and a cost to the ratepayer, the latter a decrease in non-domestic rates income and a concurrent saving to the ratepayer. It assumed this policy would take effect on 1 April 2024.

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<sup>8</sup> Supplementary Costings: Non-Domestic Rates (Scotland) Bill, December 2019

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**Table 3: Direct cost to ratepayers (impact on non-domestic rates liabilities) from ending all reliefs made under section 153 of the 1994 Act and the Large Business Supplement**

	2020-21	2021-22	2022-23	2023-24	2024-25
Impact of ceasing reliefs					355
Impact of ceasing LBS					-128
Net total					226

**Administrative cost on local authorities**

31. There will be an administrative cost saving as a result of the termination of all reliefs made under section 153 of the 1994 Act to local authorities as they will not have to administer these reliefs. This has not been costed. Given, however, that these reliefs represent over 40% of total relief spend as at 31 May 2019,<sup>9</sup> this is likely to lead to a non-negligible saving in the cost of administering reliefs for local authorities.

**Charitable rates relief for public schools of musical excellence**

Cost on ratepayers

32. Section 9B makes public schools which select pupils on the basis of musical ability or potential; which follow a curriculum which includes classes aimed at developing musical excellence; and which are wholly or mainly used for the purpose of developing musical excellence, eligible for non-domestic rates relief under Section 4 of the Local Government (Financial Provisions etc.) (Scotland) Act 1962. This provides 80% mandatory relief, with a further 20% discretionary top-up by the local authority.

33. Non-domestic rates are collected by local authorities, notionally collated centrally and then redistributed to local authorities on the same

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[https://www.parliament.scot/S5\\_Local\\_Gov/General%20Documents/NDRK ateForbes.pdf](https://www.parliament.scot/S5_Local_Gov/General%20Documents/NDRK ateForbes.pdf)

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basis as they were collected. The Scottish Government guarantees the combined General Revenue Grant (GRG) and non-domestic rates income and any reduction in net non-domestic rates income is offset by an increase in GRG. Local authorities are liable for the non-domestic rates due on the public schools in their area. There would be a net gain to the local authority from being able to claim charitable rates relief on public schools as the Scottish Government ‘funds’ 100% of mandatory charitable rates relief, and 75% of discretionary charitable rates relief.

34. Making public schools of musical excellence eligible for charitable rates relief may have an impact on ratepayers’ liabilities, and concurrent opposite impact in non-domestic rates income. However, the SFC, assuming this policy would commence on 1 April 2020, stated: “The amendment relating to music schools in the state sector is categorised as having no financial effect. It is uncertain under current drafting whether these music school buildings would qualify for the relief (...) Even under a full exemption the maximum cost of the policy would be £1.1 million in 2020-21.”<sup>10</sup>

35. There are currently no public schools in Scotland that are wholly or mainly used for the purpose of developing musical excellence. Therefore, no schools would become eligible for rates relief under section 9B.

36. Four public schools in Scotland deliver, as part of a larger school, music schools that are known as National Centres of Excellence. These are not defined in statute. Assuming that the wording of section 9B was such that these four public schools were eligible for 80% charitable rates relief, and applied for it, the reduction in non-domestic rates income would be £885,249 as set out in Table 4.

**Table 4: Direct cost to ratepayers (impact on non-domestic rates liabilities) from giving music schools that are National Centres of Excellence 80% relief, as at 1 December 2019**

	Rateable value (£)	Gross rates bill (£)	80% relief
Douglas Academy	775,500	400,158	320,126
Plockton High	220,000	113,520	90,816

<sup>10</sup> Supplementary Costings: Non-Domestic Rates (Scotland) Bill, December 2019

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Broughton High School	803,000	414,348	331,478
Dyce Academy	346,000	178,536	142,829
Total	2,144,500	1,106,562	885,249

37. Alternatively, if the wording of section 9B were such that only the portion of these four public schools used as specialist music schools were eligible for 80% mandatory charitable rates relief, the ‘cost’ of the relief would be much less. Assuming, for illustrative purposes, that an arbitrary 10% of the premises occupied by the schools in Table 1 is used as a specialist music school, the ‘cost’ of the relief would be £88,525.

**Administrative costs on local authorities and assessors**

38. There would be a minor administrative cost to the assessor if an apportionment, or the creation of a separate entry in the valuation roll for musical part of the public school, was required. Any additional costs as a result of this are expected to be minimal.

39. Any additional administrative costs to local authorities as a result of this reform (administering rates relief and potentially providing the assessor with information allowing the latter to value the musical part of the public school) are expected to be negligible and will be absorbed within existing budgets.

**Ending empty property relief**

40. The intention of Section 11A is to cease empty property relief at a national level. It repeals section 24 of the Local Government (Scotland) Act 1966 (“section 24”) which specifies that no rates shall be payable in respect of lands and heritages which are unoccupied except in circumstances prescribed by regulations (enabling rates to be set at up to 90%). Empty property relief is currently set out in The Non-Domestic Rating (Unoccupied Property) (Scotland) Regulations 2018, which will cease to have effect when section 24 is repealed.<sup>11</sup> Further, the following rates exemptions will also end for empty properties:

- not comprising one or more buildings or a part of a building;

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<sup>11</sup> These regulations also provide for Fresh Start and New Start which apply to properties that are occupied but had been previously unoccupied. These reliefs do not form part of empty property relief.

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- which are listed buildings;
- which are subject of a building preservation order;
- with a rateable value under £1,700;
- where the owner is in administration (or subject to an administration order);
- where the owner is a company or limited liability partnership subject to a winding-up order made under the Insolvency Act 1986 or being wound up voluntarily under that Act;
- occupation prohibited by law;
- where action has been taken by or on behalf of the Crown or any public authority with a view to prohibiting occupation or to acquisition (e.g. compulsory purchase order);
- where a person is entitled to possession only so entitled as a liquidator, as the trustee under a trust deed for creditors or an award of sequestration, or as the executor of a deceased person's estate.

41. The Scottish Government committed in the Scottish Budget 2019 to devolve empty property relief to local authorities on 1 April 2022.

### Cost on ratepayers

42. The termination of empty property relief will have an impact on ratepayers' liabilities and a concurrent opposite effect on non-domestic rates income. The SFC provided a cost estimate for this reform (Table 5). The amounts represent an increase in taxpayers' liabilities, and a concurrent increase in non-domestic rates income as a result of this reform.

**Table 5: Direct cost to ratepayers (impact on non-domestic rates liabilities) from ending empty property relief, £ million**

	2020-21	2021-22	2022-23	2023-24	2024-25
Devolution of Empty Property Relief			102	103	102

43. The SFC notes that the main uncertainty around this costing comes from potential errors in their central forecast for empty property relief. A second source of uncertainty comes from the adjustments to the empty property relief forecast made as a result other measures that come into

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force on 1 April 2020, namely the two measures that the Scottish Government has committed to and which will be provided for by regulations – the restriction of relief to properties in active occupation and the increase of the reset period for empty property relief from six weeks to six months.

### **Administrative cost on local authorities**

44. There will be a minor administrative cost saving as a result of the termination of empty property relief to local authorities as they will not have to administer these reliefs. This has not been costed. However, as an indication, as at 1 May 2019, there were 15,340 empty property relief recipients, or 9% of the total number of relief recipients.<sup>12</sup>

45. The Scottish Government is committed to providing local authorities with an increase in their revenue funding equal to the ‘cost’ of empty property relief. The nature of this transfer will be discussed with COSLA nearer the 2022 revaluation. Local authorities will have full flexibility over how they deploy those extra resources locally. Local authorities could seek to replicate the former national relief, or introduce any local relief using the powers given to them by the Community Empowerment (Scotland) Act 2015.

### **Changes to the civil penalties for failure to comply with assessor information notice**

46. The civil penalty structure for failure to comply with assessor information notices was amended at Stage 2. At Introduction, the amounts were £100 (amount A) if the assessor information notice was not complied with after 56 days, with a further penalty of £100 after 21 days if the failure to provide the information continues, and £20 each day after the failure continues after those 21 days (Amount C).

47. These penalties were amended in the following ways at Stage 2:

- The 56-day period for return of information was reduced to 28;
- The 21-day period after which the penalty first increases was increased to 28;

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<sup>12</sup> <https://www2.gov.scot/Topics/Statistics/Browse/Local-Government-Finance/NDR-Rates-Relief/NDRReliefs2019>

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- Amount A above was replaced with the greater of £200, and 1% of the rateable value of the lands and heritages concerned for the day on which the penalty notice is given; and £1,000 where the lands and heritages not yet entered in the Valuation Roll;
- Amount B and the structure and amounts under Amount C were replaced with the greater of £1,000, and 20% of the rateable value of the lands and heritages concerned for the day on which the penalty notice is given, and £10,000 where the lands and heritages concerned are not entered on the Valuation Roll yet;
- The addition of a third penalty level - 56 days of receiving a penalty for non-provision of information, when the person failing to comply with the assessor information notice becomes liable to a further penalty equal to the rateable value of the lands and heritages concerned for the day on which the penalty notice was given, or £50,000 where the lands and heritages are not yet entered on the Valuation Roll.

48. In effect, if an information notice is served and the person fails to comply, they are liable after 28 days to a penalty equal to 1% of the rateable value (or £200, whichever is greater); to a penalty equal to 20% of the rateable value (or £1,000, whichever is greater) 28 days after the penalty notice is served, and the full rateable value 56 days after the penalty notice was served. These amounts are cumulative.

### Costs on ratepayers

Table 6 shows the individual penalty amounts at each of the three steps, and Table 7 shows the total (cumulated) amount for illustrative rateable values, as well as the average and median rateable values and where the lands and heritages have not been entered in the valuation roll.

**Table 6 – Individual penalty amounts for selected rateable values**

Rateable values	Penalty 1 (the day of the Penalty Notice - 28 days from information request)	Penalty 2 (28 days from the day of Penalty Notice)	Penalty 3 (56 days from the day of the Penalty Notice)
10,000	200	2,000	10,000
50,000	500	10,000	50,000
100,000	1,000	20,000	100,000



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1,000,000	10,000	200,000	1,000,000
No Entry in Roll	1,000	10,000	50,000
Average (£28,949)	289	5,790	28,949
Median (£5,400)	200	1,080	5,400

**Table 7 – Cumulative penalty amounts for selected rateable values**

Rateable values	Penalty 1 (the day of the Penalty Notice - 28 days from information request)	Penalty 2 (28 days from the day of Penalty Notice)	Penalty 3 (56 days from the day of the Penalty Notice)
10,000	200	2,200	12,200
50,000	500	10,500	60,500
100,000	1,000	21,000	121,000
1,000,000	10,000	210,000	1,210,000
No Entry in Roll	1,000	11,000	61,000
Average (£28,949)	289	6,079	35,028
Median (£5,400)	200	1,280	6,680

49. The penalty income represents a cost to the ratepayer and a concurrent increase in public sector revenue.

50. Assessors issue an information notice at each revaluation to collect data at the tone date, such as lease information, to value all lands and heritages. The next revaluation is 1 April 2022, with a tone date on 1 April 2020. Taking the number of properties in the valuation roll as at 1 October 2019 as a proxy for the number of information assessor notices that are going to be served for the 2022 revaluation (with a tone date on 1 April 2020),<sup>13</sup> the following assumptions are made to provide an illustrative

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<sup>13</sup> This number will be different as a result of changes in the lands and heritages between May 2019 and April 2020, as well as the number of notices the assessor serves on each property they have the function of valuing – given that a notice may be served on any person who the

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estimate of the income resulting from the civil penalties for failure to comply with assessor information notices:

- The rate of non-return of information by properties is 10 to 25% (as per the Financial Memorandum for the Bill on introduction). This is based on a 50% return of rental and turnover information for the 2017 revaluation from the licensed premises which was reported by the SAA<sup>14</sup> and assumes that the introduction of civil penalties will lead to a higher return than that reported for this sector.<sup>15</sup>
- The assessor remits penalties for 10 to 50% of the properties that do not return information.
- 66% of properties face the first penalty, 33% face the second and 1% faces the third. These properties are randomly selected.

51. Properties were selected at random from the valuation roll.<sup>16</sup> Table 8 shows the illustrative impact of civil penalties for failure to return information to assessors.

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assessor thinks has information which is reasonably required for the purpose of valuing the lands and heritages.

<sup>14</sup> Local Government and Communities Committee, 12th Meeting 2017, Written submission from the SAA, Agenda:  
[https://www.parliament.scot/S5\\_Local\\_Gov/Meeting%20Papers/20170426\\_MeetingPapers.pdf](https://www.parliament.scot/S5_Local_Gov/Meeting%20Papers/20170426_MeetingPapers.pdf)

<sup>15</sup> Heather Honeyman from the SAA also noted in oral evidence to the Local Government and Communities Committee: “we ask for information, and we get a low percentage of returns in some areas.” Wednesday 29 May 2019, Official Report:  
<http://www.parliament.scot/parliamentarybusiness/report.aspx?r=12138&mode=pdf>

<sup>16</sup> This random sample was taken by assigning each property a random number from the uniform distribution and then selecting either 25%, 15% or 10% to provide a range of scenarios. This process was repeated 1,000 times with the average penalty income estimates being presented in the tables above. This helps to reduce the effect of unrepresentative properties being included in an individual random sample. Designated utilities have been excluded as these are cumulo (subjects which normally fall into more than one valuation area and which are the subject of a single entry in a specified valuation roll) entries with very high rateable values. Properties

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that have yet to be added to the roll are also excluded. This process was repeated 1,000 times with the average penalty income estimates being presented in the tables above. This helps to reduce the effect of unrepresentative properties being included in an individual random sample.

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**Table 8: Illustrative cost of civil penalties for failure to return information to assessors on ratepayers**

25% Of Properties Don't Return Information

£m

	10% Face Penalties		50% Face Penalties	
	Income	Number	Income	Number
1 <sup>st</sup> Penalty	1.60	4,219	7.99	21,097
2 <sup>nd</sup> Penalty	12.26	2,110	61.28	10,548
3 <sup>rd</sup> Penalty	2.04	64	10.16	320
Total	15.90	6,393	79.43	31,965

15% Of Properties Don't Return Information

£m

	10% Face Penalties		50% Face Penalties	
	Income	Number	Income	Number
1 <sup>st</sup> Penalty	0.96	2,532	4.80	12,658
2 <sup>nd</sup> Penalty	7.35	1,266	36.99	6,329
3 <sup>rd</sup> Penalty	1.16	38	6.08	192
Total	9.47	3,836	47.86	19,179

10% Of Properties Don't Return Information

£m

	10% Face Penalties		50% Face Penalties	
	Income	Number	Income	Number
1 <sup>st</sup> Penalty	0.64	1,688	3.19	8,439
2 <sup>nd</sup> Penalty	4.90	843	24.54	4,219
3 <sup>rd</sup> Penalty	0.80	26	4.10	128
Total	6.34	2,557	31.84	12,786

52. Assuming at the low end that the rate of non-return of information is 10% and assessors levy penalties on only 10% of these properties (i.e. 1% of the total number of properties on the valuation roll), or 2,557 properties, the total raised in the 2022 revaluation cycle would be £6.3 million.

Assuming at the high end that 25% of properties do not return information, and assessors levy penalties on half of these (12.5% of the total) or 31,965 properties, the total raised would be £79.4 million.

53. The figures in Table 8 are intended for illustrative purposes only as limited to no information is available to estimate the share of properties that will pay a penalty, and what the amount of that penalty will be. There is

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thus a high degree of uncertainty around the money that will be raised from the civil penalties for failure to return information to assessors. Further, while these penalties are not intended to raise revenue, they are high because they are intended to influence behaviours. Part of the uncertainty around penalty revenue estimates therefore relates to the fact it is unclear how many ratepayers will continue not to respond to assessor information notices once the penalties are in place.

54. The SAA estimated that the set-up costs for civil penalties would cost £64,000 in 2020-21 to administer (Table 9).

**Total cost on assessors**

55. The SAA provided updated administrative cost estimates for 2020-21 (Table 9) for the implementation of the Barclay Review to the Scottish Government on 6<sup>th</sup> November 2019. These include the same reforms that it had included in its cost estimates for the Financial Memorandum on introduction (none of the Stage Two amendments except those relating to the appeal system, in other words none of the non-Government amendments). The only additional costing is that of writing out to all proprietors, tenants or occupiers. This estimate assumes 375,000 letters will have to be sent and a print/postage cost of 40p, equating to £150,000.<sup>17</sup> The SAA notes: “We would expect to save something where a P/T/O occupies multiple properties but exactly how much that would be will not be clear until we do the exercise.

**Table 9: Updated administrative costs for assessors for 2020-21**

	Feb-19	Nov 2019 estimate	Difference	
Personnel	4.0	4.4		0.4
ICT	0.5	0.4	-	0.1
SAA Portal	0.1	0.1	-	0.0
Other	0.1	0.2		0.1
Civil Penalties	n/a	0.064		0
Total	4.6	5.1		0.5

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<sup>17</sup> The Scottish Government had estimated this cost at £234,000 in March 2019.

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56. The SAA notes the increase in staffing costs compared to the Financial Memorandum in March 2019 are due to:

- Certain assessors reviewed their estimates for valuation/proposal/appeal disposal costs as the legislation developed after the Bill was introduced. These costs include the issuance by post of only one draft valuation notice at revaluation – i.e. it assumes that one of the draft valuation notice, or the valuation notice, will be issued electronically at the next revaluation. Section 13A, added at Stage 2 allows Scottish Ministers to make regulations specifying that notices relating to valuation may (or must, as the case may be) be sent by electronic means.
- A number of assessors have revised the administrative costs of civil penalties. The figure under civil penalties in Table 9 relates only to set-up costs and not to any staff administrative costs as the intention is these can be deducted from the revenue by assessors. Section 19A of the Bill sets out that an assessor must pay any money recovered from these penalties into the Scottish Consolidated Fund, after deduction of reasonable expenses incurred in relation to the giving of penalty notices and the collection of penalties. The cost of administering the penalties will therefore be nil to the assessor and will fall to the Scottish Government.
- There has been a general increase in staff costs because the pay rises that were awarded in 2018 (after the estimates were submitted) was slightly higher than expected

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# Non-Domestic Rates (Scotland) Bill

## [As Amended at Stage 2]

### Supplementary Financial Memorandum

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