



OFFICIAL REPORT
AITHISG OIFIGEIL

Local Government, Housing and Planning Committee

Tuesday 24 May 2022

Session 6



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Pàrlamaid na h-Alba

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LOCAL GOVERNMENT, HOUSING AND PLANNING COMMITTEE

16th Meeting 2022, Session 6

CONVENER

*Ariane Burgess (Highlands and Islands) (Green)

DEPUTY CONVENER

*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)

COMMITTEE MEMBERS

*Miles Briggs (Lothian) (Con)

*Mark Griffin (Central Scotland) (Lab)

*Paul McLennan (East Lothian) (SNP)

*Marie McNair (Clydebank and Milngavie) (SNP)

*Annie Wells (Glasgow) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Tom Arthur (Minister for Public Finance, Planning and Community Wealth)

CLERK TO THE COMMITTEE

Euan Donald

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Local Government, Housing and Planning Committee

Tuesday 24 May 2022

[The Convener opened the meeting at 10:30]

Non-Domestic Rates (Coronavirus) (Scotland) Bill: Stage 2

The Convener (Ariane Burgess): Good morning and welcome to the 16th meeting in 2022 of the Local Government, Housing and Planning Committee.

Annie Wells, Marie McNair and Mark Griffin will be joining us remotely. I ask all members and witnesses to ensure that their mobile phones are set to silent and that all notifications are turned off during the meeting.

Agenda item 1 is stage 2 consideration of the Non-Domestic Rates (Coronavirus) (Scotland) Bill. I welcome to the meeting Tom Arthur, the Minister for Public Finance, Planning and Community Wealth, who is accompanied by Scottish Government officials Sandra Reid, who is the bill team leader; David Smith, who is a lawyer; and Gavin Sellar, who is parliamentary counsel.

Members should refer to the marshalled list and the groupings for stage 2 of the bill, which were circulated last Thursday.

Section 1—Effect of coronavirus on net annual values and rateable values of lands and heritages

The Convener: Amendment 1, in the name of the minister, is in a group on its own.

The Minister for Public Finance, Planning and Community Wealth (Tom Arthur): Broadly speaking, the bill's principal rule is that, in the calculation of the net annual value or rateable value in relation to any property in the 2017 valuation roll, no account can be taken of any matter occurring on or after 2 April 2020 that is directly or indirectly attributable to coronavirus. That date is consistent with non-domestic rates policy regarding the definition of "material change of circumstances", and the circumstances in which general economic factors can be regarded as being relevant to a change in valuation.

Amendment 1 will add a new subsection to section 1 to make it clear, for the avoidance of doubt, that in the application of the bill's principal

rule, 2 April 2020 is the effective date from which a determination cannot reflect any matter that is attributable to coronavirus in rateable value or net annual value. It clarifies that, in the calculation of the net annual value or rateable value of any lands and heritages for the purposes of an entry in the valuation roll, should a matter that is attributable to coronavirus first occur before 2 April 2020 and continue to occur on or after that date, no account can be taken of that matter, with effect from 2 April 2020 onwards. Amendment 1 aims to strengthen the policy intention, and we have discussed it with assessors to ensure, from a technical perspective, that it will do so.

I hope that members will agree with the rationale that I have set out and will agree to amendment 1.

Amendment 1 moved—[Tom Arthur]—and agreed to.

Section 1, as amended, agreed to.

Section 2—Alteration of valuation roll

The Convener: Amendment 2, in the name of the minister, is grouped with amendment 3.

Tom Arthur: Broadly speaking, the aim of the bill is to ensure that, with effect from 2 April 2020, no matter that is attributable to coronavirus can be taken into account in a non-domestic property's net annual value or rateable value in the 2017 valuation roll.

Section 2 will amend section 2(1)(e) of the Local Government (Scotland) Act 1975, which places a legal duty on assessors to alter the valuation roll in certain circumstances while the roll is in force. The 2017 roll is in force until 31 March 2023. Section 2 will expand those circumstances by adding "the coming into force" of the bill.

As the committee will be aware, we have extended the disposal date for appeals until 31 December 2023 so that appellants can make an informed decision as to whether they wish to pursue an appeal once Parliament has finished considering the bill. Should any appeals continue to be pursued after the passage of the bill, it is possible that they might not be determined by 31 March 2023, given the time that it can take for complex appeals to be resolved.

Amendment 2 will remove section 2 and introduce an altogether new provision that creates a new duty requiring the assessor to apply the rule in section 1 to the current valuation roll and to make any resulting change to the net annual value or rateable value of any lands and heritages. The new provision also makes it clear that that obligation applies both while the current 2017 valuation roll is still in force and thereafter.

Our intention is to make it very clear that, should appeals continue to be pursued after the bill is passed, and should any values be reduced with effect from any period prior to 2 April 2020 as a result of a matter that is attributable to coronavirus, the assessor would be required to reverse that change with effect from 2 April 2020 in the 2017 valuation roll. As I have explained, there is no change to the policy intention. Instead, the amendments are intended to strengthen it, and we have discussed them with assessors to ensure that, from a technical perspective, they will do so. I hope that the committee agrees that the new wording makes that intention clearer, while also recognising that any Covid-19 appeals that appellants wish to pursue might not be resolved by 31 March 2023, particularly given the extended disposal deadline of 31 December 2023.

Amendment 3, which is consequential on amendment 2, will add to section 3 a definition of the term “assessor” for the purposes of the bill and ensure that references to that term in the bill are interpreted consistently and with reference to existing legislation. I hope that members will support both amendments.

I move amendment 2.

Amendment 2 agreed to.

Section 2, as amended, agreed to.

Section 3—Interpretation

Amendment 3 moved—[Tom Arthur]—and agreed to.

Section 3, as amended, agreed to.

Sections 4 to 6 agreed to.

Long title agreed to.

The Convener: That ends consideration of the bill at stage 2. I thank the minister and his officials. Mr Arthur will remain at the table for our next item of business.

I suspend the meeting to allow for a change of witnesses.

10:38

Meeting suspended.

10:39

On resuming—

Subordinate Legislation

Non-Domestic Rates (Valuation Notices) (Scotland) Regulations 2022 [Draft]

The Convener: The next item is to take evidence on the draft Non-Domestic Rates (Valuation Notices) (Scotland) Regulations 2022 from Tom Arthur, the Minister for Public Finance, Planning and Community Wealth. I welcome Mr Arthur and his Scottish Government officials. Anouk Berthier is from non-domestic rates policy, and Susan Robb is a solicitor. Before I open up to questions from the committee, I ask Mr Arthur to make a short opening statement.

Tom Arthur: Thank you, convener, and I thank the committee for the opportunity to give evidence on a second piece of NDR legislation today.

The Scottish Government is keen to ensure that non-domestic property valuations are better understood by ratepayers. The draft instrument that we are considering increases accountability in the non-domestic rates system ahead of the 2023 revaluation.

The Barclay review of non-domestic rates called for assessors to provide more information to property owners and occupiers when making rateable value calculations. The Barclay implementation appeals sub-group, which is an expert group that was set up to inform and advise Scottish ministers in respect of NDR reforms to the appeals system, specifically recommended that assessors should provide, alongside property valuations, the addresses of let properties, the rental evidence on which was used to inform the calculation of the basic rate to be applied to the property.

It proposed that four categories of property be covered in the first instance—standard shops, offices, warehouses and workshops—and that the list be expanded in the future.

We consulted on a draft instrument that sought to require that assessors provide that information in draft and final valuation notices in respect of revaluation. On one hand, some responses called for the proposed information-sharing requirements on the assessor to be expanded to more property types, or to more valuation methodologies. On the other hand, some raised a concern that, if the requirements were expanded, confidential and commercially sensitive information such as trading accounts or lease details could potentially be provided to third parties.

We considered that concern and, as a result, this draft instrument goes beyond the appeals subgroup's recommendation. It requires that, for 32 categories of property that are valued using the comparative method and a basic valuation rate, the assessor must provide the addresses of comparable properties used to calculate that rate and state where that information can be accessed. Requiring that a list of addresses be produced only where two or more properties have been used for comparison for the valuation will avoid the risk that commercially sensitive information can be worked out indirectly.

I believe that our response to the consultation demonstrates our commitment to greater accountability in the rates system while ensuring that our reforms do not place an unrealistic burden on assessors. I hope that members will welcome that, given the points that the committee raised about assessor workload in its stage 1 report on the Non-Domestic Rates (Coronavirus) (Scotland) Bill.

We remain committed to greater accountability in the rates system and will explore how to expand on the information-sharing requirements in advance of the 2026 revaluation.

The draft instrument also contributes to modernising the NDR system by allowing for draft valuation notices to be sent electronically where that has been requested by the owner or occupier and has been agreed in writing between the assessor and owner or occupier.

I hope that members will support the draft instrument.

The Convener: Thanks very much for that opening statement. I open up the session to questions from members. I will begin.

In your opening statement, you touched on the 32 specific property classes for which additional information will need to be provided in respect of the valuation. Can you explain the rationale for the selection of those 32 property classes?

Tom Arthur: I touched on a number of aspects in my opening remarks. One is the need to ensure that we recognise commercial sensitivity issues, which is why there is a focus on the use of a comparative methodology as opposed to a receipts and expenditure or constructor's basis method.

10:45

Another aspect that I touched on is the practicality of delivery, in recognition of assessors' workloads. We have a revaluation from 1 April 2023 and a one-year tone date to which assessors are working. For the first time, assessors are being

required to produce a draft valuation notice for 30 November this year.

Taking all that into account, and through engagement and in collaboration with assessors, we settled on the 32 property classes that are included in the draft order.

Marie McNair (Clydebank and Milngavie) (SNP): Good morning, minister. Will you provide further details on the Scottish Government's position on expanding the list of property types for which additional information must be provided?

Tom Arthur: As I said in my opening remarks, we are committed to greater accountability and transparency in the non-domestic rates system. I recognise that that is of interest to MSPs and businesses across Scotland. Ahead of the 2026 revaluation, we will explore ways in which requirements can be expanded to allow for a larger share of properties to be on the valuation roll.

However, it was sensible in the first instance to focus on properties that are valued using the comparative method of valuation, because of the aforementioned commercial sensitivities that would come into play with the other methods of valuation.

Annie Wells (Glasgow) (Con): Following on from Marie McNair's question, when might an expansion to the list of property types that are covered come into effect?

Tom Arthur: We have set out what we intend to do for the revaluation in 2023. The next revaluation is scheduled for 2026, so we will continue to look at ways in which we can expand the amount of information that is provided ahead of the 2026 revaluation. The Parliament will of course be fully notified of and included in that process.

Annie Wells: Do you have a timeframe in mind? You are saying that it will happen before 2026, but do you have anything planned in the meantime?

Tom Arthur: The revaluation that is scheduled for 2023 has a tone date of April this year. We have a one-year tone date, so the tone date for the revaluation for April 2026 will be April 2025.

The time between the 2023 revaluation being completed and the start of the 2026 revaluation is the period during which there will be further consideration of how more information can be provided and what information that will be. We will try to strike a balance to deliver as much information across as many property classes as possible, while recognising commercial sensitivity and, importantly, assessor workload, as I mentioned.

Following the 2023 revaluation, we will continue to engage with assessors and consult them on how we can expand the amount of information that is provided ahead of the 2026 revaluation.

Paul McLennan (East Lothian) (SNP): Minister, some stakeholders commented that address information is insufficient and that further details such as rent values should be provided. You touched on that in your opening statement, but is there anything that you want to add?

Tom Arthur: I reiterate the point that, ultimately, this comes from the agreement that was reached with the Barclay implementation appeals subgroup, which considered a wide range of options. That goes back to the point about commercial sensitivity.

Another aspect is what the Institute of Revenues Rating and Valuation said in its response to the consultation, in which it recognised that addresses provide a sufficient level of information for ratepayers and professional representatives to do their own research.

Miles Briggs (Lothian) (Con): Further to the previous question, is the Government looking to expand the information that assessors will be required to provide, so that it includes more than just an address?

Tom Arthur: As I said, we will consider what we can do. One concern would be that, if we were to start factoring in information on rental agreements, leases and the cost of buildings, we would get into the territory of commercially sensitive information. That is particularly the case when we look at the other two methodologies of valuation: the receipts and expenditure method and the contractor's basis method. That issue also touches on, for example, how rateable value is calculated for hotels, restaurants and pubs, because turnover is an input into that process.

We must consider these matters carefully. However, the Government is committed to providing as much information and transparency as possible, so that users of the non-domestic rates system have the greatest understanding of how RVs are calculated.

Miles Briggs: Great. Thanks.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): I want to ask about the wider issues that apply and the criteria that assessors use to set rateable values. You have clearly explained that assessors will provide a set of equivalent or adjacent addresses on which the assessment was based. Are current economic circumstances ever a factor in the equation? You can imagine a scenario in which adjacent shops are shut. In that case, why should a rateable value go up, and how does that represent market value, as opposed to

there being an assessment of the practical circumstances that are evident in a local economy?

Tom Arthur: As you would expect, I will caveat my answer by recognising the independence of assessors. The question is apropos of the legislation that we were considering earlier. General economic and market conditions are best considered at revaluation. The reforms that we have implemented in which we have moved from a five-year revaluation cycle to a three-year cycle, and from a two-year tone date to a one-year date, mean that valuations will be more reflective of prevailing market conditions. However, in the legislative context in which we operate, it is of course for individual assessors to determine the RV for properties, and there is a well-established process for appeals to be raised by individual ratepayers who wish to do so.

Willie Coffey: I do not know who sets the criteria that assessors use. Are market conditions part of their consideration? If not, should they be? You can imagine a situation in which rateable values go up and up but a lot of shops on all our high streets might remain closed. It does not seem to make sense that the RV would increase if local economic circumstances pointed us in a different direction.

Tom Arthur: RV is derived from net annual value, which is derived from a reflection of what would be a property's yearly rental income on the open market. Ultimately, the rental market will be determined by market forces. By dint of how the methodology works, the prevailing national and local economic conditions will feed into how that is considered and, consequently, the RV. Therefore, it is factored into the process.

That shows the importance of having revaluation on a three-yearly cycle, with a tone date of one year, to ensure that, when the revaluation comes into effect, it is as up to date as it possibly can be. That, of course, is a reform that we introduced ahead of schedule.

Willie Coffey: Okay. Thanks for that.

The Convener: I thank the minister and his officials for their evidence.

We turn to agenda item 3, which is consideration of the motion on the instrument. I invite the minister to move motion S6M-04283.

Motion moved,

That the Local Government, Housing and Planning Committee recommends that the Non-Domestic Rates (Valuation Notices) (Scotland) Regulations 2022 be approved.—[Tom Arthur]

Motion agreed to.

The Convener: The committee will, in the coming days, publish a report setting out its recommendations on the instrument.

**Local Government Pension Scheme
(Scotland) (Miscellaneous Amendments)
Regulations 2022 (SSI 2022/153)**

10:54

The Convener: The final item on our agenda is consideration of a negative instrument. There is no requirement for the committee to make any recommendation on such instruments. As no member wishes to comment, does the committee agree that it does not wish to make any recommendation on the instrument?

Members indicated agreement.

Meeting closed at 10:55.

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