POLICY NOTE

THE NON-DOMESTIC RATES (SCOTLAND) ACT 2020 (COMMENCEMENT NO. 1 AND TRANSITIONAL PROVISION) REGULATIONS 2020

SSI 2020/107 (C. 11)

The above instrument is made in exercise of the powers conferred by section 44(2) and section 44(4)(a) of the Non-Domestic Rates (Scotland) Act 2020 ("the Act") on 1 April 2020. This instrument is not subject to any Parliamentary procedure.

The purpose of these Regulations is to commence section 13 of the Non-Domestic Rates (Scotland) Act 2020.

Purpose of instrument

Section 13 of the Non-Domestic Rates (Scotland) Act 2020 amends the definition of a material change of circumstances (MCC) as set out in section 37 of the Local Government (Scotland) Act 1975 so that it no longer includes economic factors and specifically excludes a change in rent, or of valuation or the value of the lands and heritages generally. This brings the definition back to what it was prior to being amended by Rating and Valuation (Amendment) (Scotland) Act 1984 It also aligns more closely with the position in the rest of the UK.

The effect of the current definition of MCC will change the day these Regulations come into force, as section 13 comes into force on that day. Appeals may be lodged on the basis of an MCC under the current definition until the day before these Regulations come into force. From that day appeals may only be lodged on the basis of the definition of an MCC as amended by section 13 of the Act. A decision by a committee, court or tribunal on an appeal lodged prior to the Act coming into force, that Covid-19 constitutes an MCC on the basis of a change in rent, or of valuation or the value of the lands and heritages generally, would not be relevant to other valuations, where no appeal has been taken.

Policy Objectives

The current definition of MCC may potentially be deemed to cover the economic situation resulting from the COVID-19 pandemic. This puts substantial public revenue at risk in the form of decreased non-domestic rates income at a time when the duration of the pandemic and the extent of public support that will be required to deal with this situation are unknown.

UK and Scottish public finances are under significant and unprecedented pressure as a consequence of COVID-19. Commencing section 13 of the Act is considered a necessary and urgent step to protect public revenue at a time when the scale of the Covid-19 crisis and the need for further public support cannot be estimated.

The Scottish Government stepped in rapidly to substantially support businesses following the outbreak of the COVID-19 pandemic, committing a package of measures worth £2.2 billion from 1 April 2020. This includes 1.6% relief for all properties in 2020-21, a full year's 100% non-domestic rates relief for retail, hospitality, airport and leisure and a Business Grant Support Funding Scheme of one-off grants of £10,000 or £25,000 for business ratepayers.

The rates relief package alone will already reduce non-domestic rates bills for ratepayers by an estimated £875 million in 2020-21.

The Scottish Government will continue to monitor the impact on businesses of COVID-19 and, working with the UK Government, consider what further support may be required, including further rates relief measures.

Consultation

There is no statutory obligation to consult on these Regulations.

Section 13 was introduced as an amendment at Stage 2 of the Non-Domestic Rates (Scotland) Bill.

A number of written submissions in response to the Local Government and Community Committee’s call for evidence on that Bill called for the definition of MCC to be reviewed in order to remove existing ambiguity and improve consistency of interpretation.

The Scottish Assessor’s Association written submission recommended that the provisions relating to MCC introduced by the Rating and Valuation (Amendment) (Scotland) Act 1984 be removed, noting that moving to three-yearly revaluations, coupled with a one-year tone date in future, as recommended by the Barclay Review, would ensure that rating assessments would be more closely aligned to current market levels than they may have been in recent revaluations.

Impact Assessments

No Business and Regulatory Impact Assessment is required.

Financial Effects

This instrument has no direct financial implications.

Scottish Government
Local Government and Communities Directorate
April 2020