

Ministear airson Ionmhas Poblach agus Eaconomaidh  
Dhìdseatach  
Ceit Fhoirbheis BPA  
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10 October 2019

Dear Mr Dornan,

**NON-DOMESTIC RATES (SCOTLAND) BILL  
RESPONSE TO LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE STAGE 1 REPORT**

I am grateful to the Committee for its detailed scrutiny of our proposals set out in the Non Domestic Rates (Scotland) Bill, and its conclusions in the Stage 1 report. The Scottish Government welcomes the Committee's support for the general principles of the Bill.

I would like to respond in more detail to the issues raised and the recommendations made in the Report. I have provided this more detailed response by way of the attached Annex.

I hope the Committee finds this information helpful.

**KATE FORBES**

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<p><b>Outline of the Bill</b>                      The Committee invites the Scottish Government to respond to the Delegated Power and Law Reform Committee's views that ancillary powers in sections 3, 6, 7, 9 18, 19, 20 and 29 of the Bill are of uncertain and possibly too broad scope, and that the Government should revisit the drafting at Stage 2 (<b>Paragraph 28</b>).</p> <p>Noting that the Bill amends a number of existing Acts, the earliest from 1854, the Committee believes that where, over the course of Parliamentary consideration of this Bill, there are opportunities for the Scottish Government to modernise drafting aspects in those Acts, these should be taken (<b>Paragraph 29</b>).</p>	<p>The Scottish Government wrote to the Clerk of the Delegated Powers and Law Reform (DPLR) Committee on 28 June, noting the Committee had submitted its Stage 1 report to the Local Government and Communities (Lead) Committee and published the report on the Scottish Parliament website. The Scottish Government committed to formally responding to the DPLR Committee in full following receipt of the Lead Committee's Stage 1 report. A letter will issue shortly to the DPLR Committee and a copy will be sent to the Lead Committee for their information.</p> <p>The Scottish Government notes the Lead Committee's comments.</p>
<p><b>Provisions on revaluation and on appeals</b>                      The Committee welcomes section 2 of the Bill which, together with changes being made elsewhere, will change the revaluation cycle from five to three years and reduce the lag between the date at which market value was calculated and real-time market conditions for business premises. This is a business-friendly change that, if implemented effectively, may also lead to a reduction in the number of speculative appeals against revaluation (<b>Paragraph 51</b>).</p>	<p>The Scottish Government notes the Lead Committee's positive response as regards Section 2 (Revaluation years) of the Bill.</p>

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<p><b>Provisions on revaluation and on appeals (continued)</b>                      Proposals to reform the appeals process in sections 6 to 8 are also a step in the right direction. The present system is unsustainable: there are far too many speculative appeals, leading to lengthy and resource-sapping backlogs that are not in the interests of ratepayers or administrators. Evidence at Stage 1 has raised a number of important questions and concerns about the detail of any new process. The Committee notes that provisions in the Bill are a framework and that it will be important to get the detail of the appeals process right. We encourage the Scottish Government to continue to consult widely with assessors, councils, ratepayers and other stakeholders <b>(Paragraph 52)</b>.</p>	<p>The Scottish Government welcomes the Lead Committee’s recognition that the Bill provisions aim to address weaknesses in the current appeals system. As the Minister for Finance and Digital Economy noted in her letter of 3 September to the Lead Committee, the Scottish Government will continue with the consultative approach it has taken throughout the implementation phase of the Barclay Review. The Scottish Government aims to produce a set of illustrative appeals regulations by the end of this year to provide the relevant parliamentary Committees and key stakeholders with an opportunity to see the Scottish Government’s detailed draft proposals, and to comment on both the illustrative regulations and the suitability of the enabling powers.</p>

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<p>We also note widely shared views that the more transparent and intelligible the revaluations process is, the fewer appeals there will be, and invite the Scottish Government to confirm whether it sees opportunities, as the Bill continues through the Parliament, to ensure that the process will be more transparent in future <b>(Paragraph 53)</b>.</p>	<p>The Barclay Review recommended that <i>“the Assessors should provide more transparency and consistency of approach”</i>. The Scottish Government accepted this recommendation. The Scottish Assessors Association (SAA) responded constructively to this recommendation and published a detailed action plan on the SAA website on 29 September 2017 <a href="https://www.saa.gov.uk/barclay-report-rec-12-saa-action-plan/">https://www.saa.gov.uk/barclay-report-rec-12-saa-action-plan/</a>. The Scottish Government looks to the SAA to continue their diligent work to progress the actions listed in this action plan.</p> <p>There are a number of provisions contained already within the Bill which are targeted at improving the valuation system and reduce the need for appeals by building clarity and transparency in the system, examples being:</p> <ul style="list-style-type: none"> <li>• three yearly revaluations to better reflect economic conditions and reduce the volatility of rateable values;</li> <li>• greater information powers for assessors to enable a “right first time” valuation to reduce the number of changes on appeal and start to build trust in the system; and</li> <li>• enabling power to allow Ministers to set out in regulations the information an assessors must provide on a property’s valuation –to build trust in the system longer term.</li> </ul>

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<p><b>Provisions on revaluation and on appeals (continued)</b></p> <p>The Committee understands the Scottish Government's concerns about access to justice but also notes concerns at Stage 1 about the risk of the revised system being as clogged with appeals as the current one. In our view, fees could mitigate this risk, and this potentially applies to "proposals" under the new process, as well as to appeals. We ask the Scottish Government to set out what options it is considering in relation to possible fee structures. The Committee notes that these could include mechanisms to return fees in appropriate cases, or not to charge fees in certain categories of cases <b>(Paragraph 54)</b>.</p> <p>The Committee has heard concerns about pressures a switch to three-yearly revaluation will place on assessors, under current staffing levels. We also note the profession's views that meeting the 1 April 2022 revaluation target, and subsequent three-year cycles, will be a "challenge". We ask the Scottish Government whether it has a plan to address problems of recruitment and retention in the assessors' profession <b>(Paragraph 55)</b>.</p>	<p>The Scottish Government notes the Lead Committee's views on the introduction of fees at both the proposal and appeal stage of the new appeals process. As the Minister for Finance and Digital Economy indicated when appearing before the Lead Committee on 11 September, she has yet to reach a conclusion on this matter and welcomes the Committee's position. The Minister for Finance and Digital Economy awaits receipt of the Barclay Implementation Advisory sub-Group on Appeals Report and will carefully consider this.</p> <p>Should the Scottish Government elect to introduce fees as part of the new appeals process then as part of the normal consultation procedure on draft regulations consideration will be given to possible fee structures. In the meantime the Scottish Government notes the Lead Committee's helpful suggestions in this regard.</p> <p>The Scottish Government provided additional provision of £2.5 million in the 2019-2020 local government finance settlement to support assessors and help them prepare for the implementation of Barclay. Assessors are independent of the Scottish Ministers. Each of the 32 local authorities within Scotland is a valuation authority and responsible for appointing an assessor. There are however only 14 Assessors in Scotland, four are appointed directly by a single Council and the remaining 10 are appointed by valuation joint boards comprising elected members appointed by two or more local authorities. Responsibility for recruitment and retention in the assessors' profession rests with the relevant local authority or valuation joint board.</p>

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<p><b>Provisions on revaluation and on appeals (continued)</b>                      The Committee notes stakeholders' views that a move to a predominantly digital system for administering revaluations and appeals is overdue. We welcome the small steps taken so far in the Bill but urge the Scottish Government to seize the opportunity to consider further ways to streamline and modernise the process <b>(Paragraph 56)</b>.</p>	<p>The Scottish Government strongly supports the move towards greater digital paperless interaction between ratepayers, local authorities and the assessor services. The Scottish Government will continue to engage fully with stakeholders including councils, assessors, Digital Office and ratepayer representatives to maximise the opportunities to take this forward and mitigate any risks associated with a transition to a more digitally based system.</p>
<p><b>(New or improved properties (the “business growth accelerator”))</b>                      The Committee welcomes the introduction, in this Bill and in recent subordinate legislation, of the business growth accelerator, which reduces the rates bills of firms that have invested in their growing business's premises. The Committee also welcomes associated provisions in the Bill to exempt newbuild properties from rates in the first year. In view of evidence that divergences in council practice in applying the accelerator have already emerged, and that there is uncertainty over the interpretation of some key terms, we invite the Scottish Government to consider issuing guidance on the accelerator to councils and ratepayers <b>(Paragraph 65)</b>.</p>	<p>The Scottish Government has responsibility for setting non-domestic rates policy (including rates, reliefs and exemptions) and the legislative framework for the tax. Responsibility for the day to day administration of the non-domestic rates system, including interpreting the rates legislation, the billing and collection of rates rests with each of Scotland's 32 local authorities. Notwithstanding this the Scottish Government has previously co-produced guidance with COSLA, local authorities and the Institute of Revenues, Rating and Valuation which is published on the Scottish Government website and available to all who wish to view it. The Scottish Government is happy to liaise further with the aforementioned partner bodies to consider the possible co-production of further guidance to address any remaining concerns over the application of the business growth accelerator relief.</p>

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<p><b>Small business bonus scheme</b>                      (Paragraph 66) The Committee puts on record that it welcomes the independent review of the small business bonus scheme that is now underway, and hopes that its remit will allow it to consider whether current aspects of the scheme discourage entrepreneurialism or effective longer-term decision-making. Whilst fully respecting the independence of the review, we ask the Scottish Government to pass on to the review our observations based on Stage 1 evidence and information-gathering that there are "cliff edges" in the current set-up, which can adversely affect enterprises' planning and decision-taking <b>(Paragraph 66)</b>.</p> <p><b>Parks</b>                      The Committee accepts that there is no good reason in principle why businesses in most public parks should continue to enjoy automatic exemption from the business rates regime. We therefore support the principle of, and intention behind, section 4 of the Bill, which contributes to an overall policy of ensuring that everyone contributes their fair share of rates for local services. We note views at Stage 1 that increased revenue as a result of section 4 might be relatively modest but, if so, this is not a reason in itself, for not proceeding <b>(Paragraph 75)</b>.</p>	<p>The Scottish Government will arrange for a copy of the Local Government and Communities Stage 1 Report to be passed to the independent contractor undertaking a review of the Small Business Bonus Scheme.</p> <p>The Scottish Government welcomes the support of the Lead Committee on this matter.</p>

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<p><b>Parks (continued)</b></p> <p>The Committee notes uncertainties about the scope and effect of section 4. Councils and ratepayers want to know more clearly what activity the Scottish Government intends to capture and which would be exempt (or partly exempt) from rates, whether that is a result of policy decisions to exclude particular bodies (e.g., not-for-profits) or whether as a result of reliefs being available. The Committee asks the Scottish Government to elucidate its policy more fully (<b>Paragraph 76</b>).</p> <p><b>Charitable relief and the Bill: ALEOS, independent schools and sports clubs</b></p> <p>The Committee welcomes section 11 of the Bill, which empowers the Scottish Government to issue guidance to local authorities on the exercise of their discretionary power to grant relief to sports clubs. We suggest that the underlying aim of any guidance should be to ensure that recognition is given to sports clubs which are rooted in, and accessible to, the local community; which improve community well-being and local pride; and which contribute to better physical and mental health in the local area. Good guidance should not "punish" clubs that are financially well-managed and live within their means, but equally it should enable councils to prioritise those clubs meeting these suggested criteria who need relief the most. We welcome the Scottish Government's commitment to consult sporting bodies about the guidance (<b>Paragraph 94</b>).</p>	<p>The Scottish Government acknowledges the Lead Committee's comments and recognises the importance of the Scottish Government's policy position on the entering of parks in the valuation roll being clear and easy to operate. The Bill's Policy Memorandum notes that – subject to the successful completion of the parliamentary process – the intention is to bring the affected properties onto the valuation roll in time for the next revaluation in 2022. The Scottish Government is fully committed to working in partnership with COSLA, local authorities and the Institute of Revenues, Rating and Valuation to produce guidance – which will include a clear policy statement - for local authority staff which will be published on the Scottish Government website and available to all. The Scottish Government will continue its positive engagement with the Scottish Assessors Association to ensure the assessors have the clarity they require to enable them to carry out their valuation role with regard to parks.</p> <p>The Scottish Government notes the Lead Committee's positive response as regards Section 11 (Power to reduce or remit rates for certain organisations: guidance) of the Bill.</p> <p>The Scottish Government's policy intent here is to continue to support, and encourage local authorities to support, affordable community based facilities that give people the chance to take part in sporting facilities thus cutting physical inactivity in adults, teenagers and young children which in turn can improve mental health and general wellbeing. The Scottish Government will draw the Lead Committee's helpful comments, on this guidance, to the attention of the members of the small working group progressing this matter.</p>



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<p><b>Charitable relief and the Bill: ALEOS, independent schools and sports clubs (continued)</b></p> <p>The Committee notes that the guidance issued under section 11 has no relevance or application in relation to councils' discretion to "top up" the 80% mandatory relief to which that sports clubs registered as charities or with HMRC are entitled. We ask the Scottish Government to explain what reason it has for not making the guidance apply in these circumstances as well. We also ask the Scottish Government to clarify whether it agrees with the Barclay Review that the award of mandatory relief to sports clubs is not, in all cases, an effective use of public money and, if so, to explain why it has not legislated to address this in the Bill <b>(Paragraph 95)</b>.</p> <p>The Committee notes views from the Delegated Powers and Law Reform Committee that guidance under section 11 is sufficiently important to merit making it subject to Parliamentary scrutiny under the negative procedure. We invite the Scottish Government to respond to this <b>(Paragraph 96)</b>.</p>	<p>The Scottish Government notes the Lead Committee's comments. It might be helpful to clarify that the reference to sports club relief in the Bill's policy memorandum relates to relief granted by local authorities exercising their discretion under section 4(5)(c) of the Local Government (Financial Provisions etc) (Scotland) Act 1962 ("the 1962 Act"). The discussion under recommendation 27 in the Barclay Report centres around the appropriateness or otherwise of certain sporting facilities being able to benefit from relief. The examples referenced relate to sporting facilities granted relief by local authorities exercising their discretion under section 4(5)(c) of the 1962 Act. The Scottish Government agreed with Barclay Recommendation 27 that the granting of this "discretionary" relief by local authorities should be reviewed to ensure it reaches and therefore supports the intended recipients which are affordable community based sporting facilities. The Scottish Government's 2018 consultation on the Barclay recommendations which were likely to require primary legislation commented that the vast majority of sporting facilities currently in receipt of this "discretionary" relief will be unaffected.</p> <p>The Scottish Government wrote to the Clerk of the DPLR Committee on 28 June, noting the Committee had submitted its Stage 1 report to the Lead Committee and that the report had been published on the Scottish Parliament website. The Scottish Government committed to responding to the DPLR Committee in full following receipt of the Lead Committee's Stage 1 report. A letter will issue shortly to the DPLR Committee and a copy will be sent to the Lead Committee for their information.</p>

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<p><b>Charitable relief and the Bill: ALEOS, independent schools and sports clubs (continued)</b></p> <p>A majority of the Committee supports section 10 of the Bill, by virtue of which mainstream independent schools will no longer be able to claim charitable relief. The Committee agrees that this change is necessary to create a "level playing field" between the state and independent sectors. It will also generate more revenue for councils to spend on services for citizens. The majority accepts that there will be a financial impact on independent schools, but notes the Scottish Government's view that on average the additional cost would equate to about 1.3% of annual fees. A minority of the Committee does not support section 10, considering the case that this would be fairer is not clearly supported by the evidence. It also has concerns about the potential negative impact of this change on the independent sector <b>(Paragraph 116)</b>.</p> <p>The Committee accepts the case for excepting independent special schools from the new general provision laid down in section 10. We are not persuaded that the case for treating independent specialist music schools (in practice, one school at present) any differently from any other independent schools has been clearly made. There are a number of independent and state schools that could be said to make a distinctive contribution to musical culture or in other areas, such as Scotland's National Centres for Excellence <b>(Paragraph 117)</b>.</p>	<p>The Scottish Government notes the Lead Committee's position regarding the impact of Section 10 of the Bill on mainstream independent schools.</p> <p>The Scottish Government notes the Lead Committee's position with regard to independent special schools and independent specialist music schools.</p>
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<p><b>Charitable relief and the Bill: ALEOS, independent schools and sports clubs (continued)</b></p> <p>The Committee invites the Scottish Government to clarify whether a private nursery's entitlement to relief is affected by whether or not it forms part of an independent school estate and if so, whether this is how the relief was intended to operate (<b>Paragraph 118</b>).</p>	<p>The Barclay Review Team said that one of the most important ways to support economic growth is to ensure that the workforce is supported by convenient, affordable and accessible childcare – hence the recommendation to introduce new day nursery rate relief. The Scottish Government &amp; local authorities have committed to making an unprecedented level of investment in early learning and childcare (ELC) through the near doubling of the funded ELC entitlement from 600 to 1140 hours per year from August 2020 for all 3 &amp; 4 year olds, &amp; eligible 2 year olds. This will be high quality, flexible ELC that is accessible and affordable for families.</p> <p>The Non-Domestic Rates (Day Nursery Relief) (Scotland) Regulations 2018 provide that premises wholly or mainly used as day nurseries – whether in the private, public or third sector - are exempt from paying rates for the period 1 April 2018 until 31 March 2021. All sectors are therefore treated equitably. Most private &amp; third sector nurseries will be located in premises that are wholly or mainly used as day nurseries, whilst many public sector settings will be part of a premise mainly used as a school and will not be eligible for the relief. Private and third sector providers, including childminders, have an important role to play in delivering the funded ELC entitlement; and will continue to do so beyond August 2020.</p>

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<p><b>Debt recovery</b>                      The Committee welcomes section 13, which will modernise debt recovery procedures for rates by bringing them largely into alignment with those for council tax. We ask the Scottish Government to note views about the importance of publicising the change in advance (<b>Paragraph 123</b>).</p> <p>We ask the Scottish Government to clarify whether, under the new rules, councils will have discretion not to enforce payment within particular time periods (<b>Paragraph 124</b>).</p>	<p>The Scottish Government recognises that all the changes to the rating system flowing from the Barclay Review must be clearly and timeously communicated to ratepayers.</p> <p>Various strands of work are currently underway in this regard; for example exploring how best to use existing communication channels – including local authority websites, the assessors portal and the Scottish Government website. A commitment has been given by membership organisations such as the Federation of Small Businesses, Scottish Retail Consortium and Scottish Property Federation to use their networks to ensure their members are aware of the reforms.</p> <p>Consideration is also been given to using existing processes such as annual billing, valuation notices and information request forms as vehicles to raise awareness of the reforms.</p> <p>Work will pick up pace as we move forward into 2020 and continue as appropriate right up to the 2022 revaluation and beyond as necessary.</p> <p>The Scottish Government liaised with local authorities and the Institute of Revenues, Rating and Valuation on this provision. The view of those consulted was that the creation of a specific discretionary power in this regard was not required as local authorities currently exercise a degree of discretion/flexibility when collecting a range of payments due to the local authority. Local knowledge of the individuals concerned helps inform the decision making process. Where ratepayers are experiencing financial difficulties then they should contact their local authority at an early stage to explore the possibility of setting up an individual payment agreement with the local authority.</p>

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<p><b>Measures to secure information from ratepayers</b></p> <p>The Committee supports the overall direction of travel set out in sections 14 to 22 of the Bill, which seek to strengthen and modernise the powers of assessors and councils to obtain the information they need to carry out their crucial roles within the ratings system of valuation, administration, and enforcement <b>(paragraph 134)</b>.</p> <p>Whilst there was broad support for the thrust of these reforms, there was a divergence of views on some key points, such as levels of penalty, time limits for compliance, and whether powers to request information were framed too broadly or, conversely, too narrowly. On these and other points, there have been points made on both sides throughout Stage 1. This may indicate that the Bill has got the balance about right, or that some important points of policy might benefit from more discussion at amending stages of the Bill <b>(paragraph 135)</b>.</p>	<p>The Scottish Government is pleased to note that the Lead Committee supports the overall direction of travel in relation to the Bill provisions covering information notices and notifications of changes of circumstances.</p> <p>The Scottish Government acknowledges that the written and oral Stage 1 evidence submitted to the Committee highlighted a divergence of views on a number of key points. The responses to the Scottish Government 2018 Barclay consultation provided a similar picture. The Minister for Public Finance and Digital Economy will reflect further on these matters and welcomes the opportunity for further discussion at the amending stages of the Bill.</p>

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<p><b>Addressing rates avoidance</b></p> <p>The Committee welcomes the intention behind section 5: to close the loophole that enables some second home owners to effectively avoid both council tax and rates. The approach outlined in the Policy Memorandum has been broadly welcomed at Stage 1, with some questions raised over the detail of policy. Consultation and awareness raising are important next steps in developing policy in this area before any binding regulations are issued (<b>Paragraph 145</b>).</p> <p>We ask the Scottish Government to note views that the core test should be whether the property was, in fact, let for a minimum number of days. We agree with the Scottish Government that it is appropriate that councils should be able to waive this requirement where there are extenuating circumstances, but are aware of the risk of new loopholes being created if the criteria for granting waivers are not robust. It appears to the Committee that the key criterion should be whether there were external factors outwith the owner's control that made letting difficult or impossible for an extended period during the year, especially where this fell during the high season. Guidance to councils and ratepayers could be helpful (<b>Paragraph 146</b>).</p> <p>The Committee asks the Scottish Government whether it gave consideration to amending the qualifying criteria for the small business bonus scheme, as an alternative means of closing the loophole. This approach might address concerns at Stage 1 that councils are not best placed to be gatekeepers of the Valuation Roll, even in the relatively narrow circumstances envisaged under section 5. We consider that the matter that section 5 seeks to address should be within the remit of the independent review of the small business bonus scheme (<b>Paragraph 147</b>).</p>	<p>The Scottish Government is pleased to note that the Lead Committee welcomes the policy intention behind section 5. The Scottish Government will enter into discussions with both COSLA and the Institute of Revenues, Rating and Valuation and the Scottish Assessors Association to establish the most efficient and effect way of transferring this policy intention into a workable process.</p> <p>The Scottish Government agrees that careful consideration will require to be given to the qualifying criteria to limit, as far as practical, any unforeseen outcomes.</p> <p>The Scottish Government is fully committed to working in partnership with COSLA, local authorities and the Institute of Revenues, Rating and Valuation to produce guidance for local authority staff which will be published on the Scottish Government website and available to all.</p> <p>The Scottish Government established the independent evaluation of the small business bonus scheme with the key objectives of: establishing who is in receipt of this relief; assessing the impact of the scheme on relief recipients and to identify wider benefits and costs; and considering whether the current scheme could be improved. The specification was explicit that the successful applicant should collaborate with the Short-Term Lets Delivery Group specifically in relation to the small business bonus scheme and self-catering accommodation to inform the delivery of the Programme for Government commitment on short term lets.</p>

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<p><b>Addressing rates avoidance (continued)</b></p> <p>Consideration of section 5 overlaps to some extent with the much wider question of how government at all level should treat the short-term letting industry. The Committee is aware that a Scottish Government consultation on short-term lets is ongoing. Whilst it is right in this Bill to treat closing the holiday let loophole as a priority, the Committee counsels the Scottish Government to ensure that any new initiatives that affect short-term lets are aligned with each other and that, overall, there is joined up thinking about the issue. The Committee looks forward to being part of future discussions about the Scottish Government's short-term letting policy (<b>Paragraph 148</b>).</p> <p>The Committee supports section 12 of the Bill, which seeks to address instances where an empty property is purportedly being used for a particular purpose in order to claim relief. We ask the Scottish Government to consider points raised in evidence at Stage 1, as outlined above, in particular:</p> <ul style="list-style-type: none"> <li>• uncertainty over the appeal process (if any) where a council decides, under this section, to cease providing relief;</li> <li>• views that a definition of, or guidance on, the meaning of "active occupancy" would be helpful both to councils and proprietors (<b>Paragraph 156</b>).</li> </ul>	<p>The Scottish Government recognises the importance of the need for a "joined up" approach across Scottish Government policy areas to ensure all relevant matters are considered in its approach to further policy development on short-term lets. Work is being taken forward within the Scottish Government by the Short-Term Lets Delivery Group which is co-ordinating input from a range of policy areas across the Scottish Government including housing, planning, local government, non-domestic rates, council tax, licensing law, tourism, community empowerment and consumer policy. The outcome of this cross-cutting work will ensure that any new initiatives recommended to Scottish Ministers are aligned.</p> <p>The Scottish Government welcomes the Committee's support for section 12 (Non-use or underuse of lands and heritages: notification) and will reflect on the points raised in evidence at Stage 1.</p>

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<p><b>Addressing rates avoidance (continued)</b>                      The Committee welcomes sections 23 to 27 of the Bill, which empower the Scottish Ministers to introduce general anti-avoidance provisions for nondomestic rates. We do note that anti-avoidance provisions are relatively new in UK legislation and await a full "stress test" in the courts system, but if their existence alone serves as a deterrent to some avoidance that is a good starting point (<b>Paragraph 164</b>).</p>	<p>The Scottish Government recognises that anti avoidance provisions are relatively new in Scottish and indeed UK Legislation and have yet to be fully tested in the courts. The Scottish Government considers it is important to send out a clear signal to ratepayers through the introduction of general anti-avoidance regulations provisions and the more targeted anti-avoidance provisions set out elsewhere in this Bill that it wishes to promote a culture of responsible tax paying to protect the interests of compliant tax payers and the users of public services.</p>
<p>The Committee notes that businesses like certainty, and asks the Scottish Government to note calls in evidence for guidance on the application of regulations under section 23, and for any such guidance to be updated regularly. We also ask the Scottish Government to respond to the Delegated Powers and Law Reform Committee's view that there should be more specification as to the parameters of the section 23 power on the face of the Bill (<b>Paragraph 165</b>).</p>	<p>The Scottish Government notes the Committee's comments in relation to guidance and the general anti avoidance regulations.</p> <p>The Scottish Government wrote to the Clerk of the DPLR Committee on 28 June, noting the Committee had submitted its Stage 1 report to the Lead Committee and that the report had been published on the Scottish Parliament website. The Scottish Government committed to responding to the DPLR Committee in full following receipt of the Lead Committee's Stage 1 report. A letter will issue shortly to the DPLR Committee and a copy will be sent to the Lead Committee for their information.</p>



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<p>Tax avoidance corrode public confidence in the tax system and the shared sense that everyone plays by the same rules, especially when it is carried out openly and blatantly. The Committee therefore urges the Scottish Government to continue to explore innovative legislative or policy solutions to the problem of phoenix companies. The Committee invites the Scottish Government to clarify whether amendment of reliefs or of the small business bonus scheme to enable benefits to be made unavailable to "repeat offenders" has been considered and, if so, what conclusions were reached. We also ask the Scottish Government to clarify whether it is their view that the section 23 power could be used to frustrate avoidance by phoenix companies <b>(Paragraph 166)</b>.</p>	<p>The Scottish Government considers it is important to set out a clear signal to ratepayers through the introduction of the general anti avoidance regulation (GAAR) provisions in the Bill that it wishes to promote a culture of responsible tax paying to protect the interests of compliant taxpayers and the users of public services. The Scottish Government favours the overarching approach of GAAR rather than making legislative changes to individual rate reliefs. The Scottish Government considers that would only add a further layer of complexity to the current rate relief legislation.</p> <p>Phoenix companies are a UK wide issue and company law is a reserved matter. On GAAR, the power is being sought to allow abuse to be tackled, and phoenix companies are a form of abuse of the rating system. Subject to the Bill successfully completing the parliamentary process, the Scottish Government intends to consult - in line with section 27(2) - local authorities on this issue; in essence to explore with local authorities - on the basis of the evidence local authorities are able to provide – what regulatory options there might be.</p>
<p><b>General principles of Bill</b> The Committee recommends to the Parliament that it supports the general principles of the Non-Domestic Rates (Scotland) Bill <b>(Paragraph 174)</b>.</p>	<p>The Scottish Government welcomes the Local Government and Communities Committee support for the general principles of this Bill.</p>