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Finance and Public Administration Committee

Report on the Land and Buildings Transaction Tax (Miscellaneous Amendments) (Scotland) Order 2024 (SSI 2024/draft)



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Contents

The draft Order	1
Evidence	3
Committee consideration	5

Finance and Public Administration Committee

To consider and report on the following (and any additional matter added under Rule 6.1.5A)—

(a) any report or other document containing proposals for, or budgets of, public revenue or expenditure or proposals for the making of a Scottish rate resolution, taking into account any report or recommendations concerning such documents made by any other committee with power to consider such documents or any part of them;

(b) any report made by a committee setting out proposals concerning public revenue or expenditure;

(c) Budget Bills; and

(d) any other matter relating to or affecting the revenue or expenditure of the Scottish Administration or other monies payable into or expenditure payable out of the Scottish Consolidated Fund.

(e) matters relating to public service reform and the National Performance Framework within the responsibilities of the Deputy First Minister and public administration.

2. The Committee may also consider and, where it sees fit, report to the Parliament on the timetable for the Stages of Budget Bills and on the handling of financial business.

3. In these Rules, “public expenditure” means expenditure of the Scottish Administration, other expenditure payable out of the Scottish Consolidated Fund and any other expenditure met out of taxes, charges and other public revenue.



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The draft Order

1. Land and Buildings Transaction Tax (LBTT) is payable on transactions of residential and non-residential properties and land in Scotland. Additional Dwelling Supplement (ADS) is a surcharge of 6% on purchases of additional residential properties.
2. On 19 January 2024, the Scottish Government introduced the Land and Buildings Transaction Tax (Miscellaneous Amendments) (Scotland) Order 2024, which makes various amendments to the Land and Buildings Transaction Tax (Scotland) Act 2013. These amendments set out in the draft Order include establishing a new targeted relief from LBTT for local authorities and provide exemptions from LBTT ADS in certain circumstances relating to joint buyers, inherited property, ownership interest, divorce, dissolution of a civil partnership or judicial separation. The draft Order also increases the timelinesⁱ in the ADS legislation from 18 months to 36 months.
3. The [Policy Note](#) accompanying the draft Order explains that the Scottish Government's public consultation on the draft legislation was published on 8 February 2023 and ran until 5 April 2023. The consultation received [42 responses](#) from individual taxpayers, housing providers and tax and accountancy professionals. A [summary of the responses received](#) and the resulting Scottish Government amendments were published on 19 January 2024.
4. This followed an earlier Scottish Government consultation on the ADS, which ran from 16 December 2021 until 11 March 2022. That consultation received [67 responses](#). The Scottish Government published an [analysis of the responses received](#) on 8 February 2023.
5. The Policy Note states that there are no impacts arising from the draft Order on equal opportunities, human rights, privacy, island communities, or sustainable development. The draft Order introduces a new relief for certain transactions entered into by local authorities. The Policy Note states that "there will not be any additional administrative or compliance burdens specifically affecting local government beyond those duties local authorities are already subject to under the LBTT legislation".
6. The Policy Note also explains that a Business and Regulatory Assessment has been published for the regulations and orders associated with the 2013 Act, and that the Scottish Fiscal Commission (SFC) has set out its assessment of the impact of these amendments on overall LBTT revenues as part of [Scotland's Economic and Fiscal Forecasts December 2023](#), which were published on 19 December 2023. The SFC is forecasting £730 million in overall LBTT revenue in 2024-25, rising to £1,072m in 2028-29, with these proposed policy changes factored into that forecast.

ⁱ The timelines referred to include the time available to purchase a new main residence after disposing of a previous main residence, the time available to dispose of a previous main residence after purchasing a new main residence, and therefore claim a repayment of the ADS, and the time period for considering whether a property was a buyer's only or main residence in the period prior to the purchase of a new main residence.

7. The draft Order is subject to affirmative procedure. Subject to the approval of Parliament, this SSI will come into force on 1 April 2024. Therefore, the new and amended provisions will apply to transactions with an effective date on 1 April 2024 or after this date.

Evidence

8. At its meeting on [6 February 2024](#), the Finance and Public Administration Committee took evidence from the Minister for Community Wealth and Public Finance, Tom Arthur MSP, in relation to the draft Order.
9. To inform this evidence session, the Committee sought written views from respondents to the recent Scottish Government consultations on the proposed changes to the ADS. The Committee received [six responses](#). These responses, though broadly supportive of the draft legislation, highlighted several areas for the Committee’s attention, including—
 - the scope of the instrument, and whether provisions for further ADS exemptions should be considered in the future. CIOT described the draft legislation as “overly restrictive”,
 - the complexity of the legislation, with several submissions calling for the Scottish Government to produce clear and well-publicised guidance for taxpayers and advisors,
 - concerns relating to potential taxpayer and legislative uncertainty arising from the absence of a transitional arrangement in relation to the extension of the relevant timescales from 18 to 36 months as provided for in the draft Order,
 - concerns regarding the decision to limit ADS relief involving two parties to spouses, former spouses and civil partnerships, excluding cohabitants and unmarried couples,
 - general comments on the clarity of the draft legislation,
 - the status of the Scottish Police Authority (SPA) within the legislation, as a body which sits outwith the qualifying criteria for a local authority, meaning that no exemption from LBTT or ADS is available for the SPA; and
 - the process for maintaining and amending legislation regarding devolved taxes in the future.
10. Many of these issues were explored further by Committee Members in evidence with the Minister on 6 February.
11. Asked whether reliefs could have been extended to the SPA as part of this legislation, the Minister indicated that, while it was not possible to address the issue in this instrument, “we are looking at the matter carefully, and I am very happy to engage directly with the SPA on the matter and to update the Committee in due course”. He, however, indicated that he was not in a position to give timescales for consideration of the issue. The Minister said he was also happy to further consider the points made by South Lanarkshire Council relating to the need for greater flexibility for local government to take decisions on specific groups regarding LBTT and the ADS.
12. The Scottish Property Federation suggested that a power to enable a relief for exceptional circumstances, to be applied at the discretion of Revenue Scotland,

could bring additional fairness to the ADS system. The Minister explained that the Scottish Government has in this instrument taken a targeted approach to addressing specific concerns raised about the way in which ADS has operated previously, and “that is why we have not pursued an exceptional circumstances provision”.

13. Asked to respond to concerns raised by respondents regarding the complexity of the ADS system, the Minister told the Committee that Revenue Scotland will be producing comprehensive guidance on the draft Order and it also intends to host a series of webinars ahead of the draft Order coming into effect on 1 April 2024.
14. The Committee also discussed with the Minister the current approach to tax reforms and the merits of introducing an annual finance bill in which all amendments to legislation are included. The Minister said he was “keen to look for ways to build on [the work of the Devolved Taxes Legislation Working Group] ... , but it is important to recognise that ... , we need to take account of the views of Parliament on how that could be managed”.
15. Scottish Government official, Laura Parker, clarified that relief is estimated to increase to £7m a year by the end of the forecast period (2028-29), compared to £1m in 2026-27.

Committee consideration

16. The Delegated Powers and Law Reform Committee, which considers the technical aspects of the instrument, considered the draft Order on [30 January 2024](#) and had [no issues to report](#).
17. Following evidence to the FPA Committee on 6 February 2024, the Minister for Community Wealth and Public Finance, Tom Arthur MSP, moved motion [S6M-11928](#), lodged in his name—

That the Finance and Public Administration Committee recommends that the Land and Buildings Transaction Tax (Miscellaneous Amendments) (Scotland) Order 2024 [draft] be approved.

18. **Motion S6M-11928 was agreed to without division. The Finance and Public Administration Committee therefore recommends that the Land and Buildings Transaction Tax (Miscellaneous Amendments) (Scotland) Order 2024 [draft] be approved.**

