

Email: ndr@gov.scot

Local Government Finance Circular No. 3/2021

By e-mail to:

Directors of Finance of Scottish Local Authorities
Chief Executive, Convention of Scottish Local
Authorities (COSLA)

25 February 2021

Dear Directors,

Statutory Guidance: Sports Club Relief

In 2017, the independent Barclay Review of Non-Domestic Rates made 30 recommendations including that:

Sports Club relief should be reviewed to ensure it supports affordable community-based facilities, rather than members clubs with significant assets which do not require relief.

The Scottish Government accepted this, and in 2020 formed a working group to advise on establishing guidance on relief awarded under section 4(5)(c) of the Local Government (Financial Provisions etc.) (Scotland) Act 1962, the fully discretionary element of Sports Club Relief. Members of the group included revenue staff from local authorities, sports representative bodies and the Scottish Charity Regulator (OSCR).

This guidance will come into effect on 1 April 2021, however we appreciate that it may take some time for local authorities to make any changes to this relief having regard to this statutory guidance which can be found at Annex A.

We thank all stakeholders who have contributed to this guidance.

Yours sincerely,

Non-Domestic Rates Team
Scottish Government

**The Non-Domestic Rates (Scotland) Act 2020
Local Government (Financial Provisions etc.) (Scotland) Act 1962**

Statutory Guidance: Sports Club Relief

ANNEX A – STATUTORY GUIDANCE: SPORTS CLUB RELIEF

Contents

| | |
|-----------------------------------|---|
| Introduction | 3 |
| Purpose of the Statutory Guidance | 4 |
| Sports Club Relief | 5 |

**The Non-Domestic Rates (Scotland) Act 2020
Local Government (Financial Provisions etc.) (Scotland) Act 1962**

Statutory Guidance: Sports Club Relief

Introduction

Non-domestic rates (NDR), often referred to as business rates, are levied on non-domestic properties, subject to statutory exemptions and reliefs.

A number of reliefs are available for certain types of property under Scottish law. Some reliefs are mandatory (i.e. they must be applied) and some are discretionary (i.e. local authorities have discretion as to their application).

The independent Barclay Review of Non-Domestic Rates concluded with a report published on 22 August 2017 and made 30 recommendations intended to support growth, improve administration of the rates system and to increase fairness.

The Scottish Government accepted the majority of these recommendations including number 27 – *Sports club relief should be reviewed to ensure it supports affordable community-based facilities, rather than members clubs with significant assets which do not require relief.*

This guidance has been produced by the Scottish Government with assistance from the Non-Domestic Rates (Scotland) Act 2020 – Section 18 Working Group comprised of stakeholders from the public and private sectors.

The Non-Domestic Rates (Scotland) Act 2020
Local Government (Financial Provisions etc.) (Scotland) Act 1962

Statutory Guidance: Sports Club Relief

Purpose of the Statutory Guidance

Section 4 of the Local Government (Financial Provisions etc.) (Scotland) Act 1962 (“the 1962 Act”) provides for the power to reduce or remit non-domestic rates payable for lands and heritages occupied by organisations not established or conducted for profit.

This guidance, issued under section 4(7A) of the 1962 Act¹, is intended to support rating authorities (i.e. local authorities) with regards to the exercise of powers conferred by subsections (5) to (7) of that section, in relation to lands and heritages of the type mentioned in subsection (5)(c), namely “any lands and heritages occupied for the purposes of a club, society or other organisation not established or conducted for profit, and which are wholly or mainly used for purposes of recreation.” This is one of two discretionary elements of what is commonly referred to as ‘sports club relief’ – the other element being a discretionary top-up of up to 20% under section 4(5)(a) for registered charities or Community Amateur Sports Clubs (CASCs) only, these being also eligible for 80% mandatory sports relief under section 4(2). In this guidance, ‘sports club relief’ refers only to the first element of discretionary sports relief.

Local authorities must have regard to this guidance when choosing to award this relief.

This document is provided as guidance only and does not amount to legal advice. A local authority may wish to seek their own advice to ensure compliance with all legal requirements when administering non-domestic rates reliefs.

¹ Section 4 was amended by section 18 of the Non-Domestic Rates (Scotland) Act 2020, to introduce the power for Ministers to issue statutory guidance.

The Non-Domestic Rates (Scotland) Act 2020
Local Government (Financial Provisions etc.) (Scotland) Act 1962

Statutory Guidance: Sports Club Relief

Sports Club Relief

Sports Club Relief is statutorily only available on premises occupied for the purposes of a club, society or other organisation not established or conducted for profit, and which are wholly or mainly used for purposes of recreation.

Local authorities should consider targeting sports relief to support organisations that provide facilities for recreation and that:

- Are set up with a formal constitution or governing document;
- Are open to the whole community (taking into account reasonable exclusions);
- Have affordable membership and/or participation fees;
- Are organised on an amateur basis; and
- Are managed by 'fit and proper persons'

This is a discretionary relief and local authorities can adopt additional specifications or local policies with regards to this relief if they wish to do so.

What is meant by 'formal constitution or governing document'?

This document should set out the purpose and structure of the organisation, the rules by which and by whom it is managed, and may be helpful in determining if an organisation meets the criteria set out in this guidance.

The council should aim to satisfy themselves that this document has been formally adopted by the organisation, for example it may be signed and dated by officers or lodged with the relevant registrar (if applicable).

What is meant by 'open to the whole community (taking into account any reasonable exclusions)'?

Membership or use of the facilities of the organisations being considered for this relief should be open to people of all ethnicities, nationalities, sexual orientations, religions or beliefs, sexes, ages and ability – except where there is a reasonable cause for exclusions or segregations to apply such as to ensure the health and safety or dignity of participants. Membership or use of the facilities by persons with disabilities should not be discouraged, and organisations should display a willingness to make reasonable adjustments for such persons.

An organisation should not discriminate between classes or categories of members (except where this is reasonable e.g. different facility use for adults and children), and it must make its facilities available within reason and without discrimination, to all members.

The organisation's membership admission procedures should also be clear and open. They should be free from any restrictions that might foster discrimination, for example, proposing and seconding applications for membership.

The Non-Domestic Rates (Scotland) Act 2020
Local Government (Financial Provisions etc.) (Scotland) Act 1962

Statutory Guidance: Sports Club Relief

What is meant by 'affordable membership fees'?

Fees should be set at a level that does not pose a significant obstacle to membership or use of the facilities. There should be no "hidden" exclusions based on ability or wealth.

An organisation may offer different classes of membership depending on factors such as the age of the member, whether the member is waged or unwaged, or whether the member is a playing or non-playing member. They may offer other concessions to facilitate affordability such as payments by instalments, pay-as-you-go options or hardship support.

In determining what is affordable, the council should have regard to the fact that the costs of providing facilities or activities and the fees and membership packages may differ from organisation to organisation, sport to sport, and have different inclusive benefits such as insurance, coaching sessions, use of kit or equipment, etc.

The local authority may also wish to give consideration to the level of assets (including facilities) of the organisation in considering whether they meet this guidance, in recognition that different sports may require different levels of assets, may require reserve funds for maintenance, repair or replacement of facilities and some organisations may have inherited assets which they hold or maintain. They may wish to request sight of the organisation's financial accounts as part of this consideration.

What is meant by 'organised on an amateur basis'?

The organisation must meet the requirement set by section 4(5)(c) of the 1962 Act, of not being established or conducted for profit and:

- Where income exceeds expenditure (or receipts exceeds payments if the accounts are on a cash basis), that excess income must only be used to further the objectives of the organisation. This applies to any excess of income in any year and any excess of income which is held in reserve;
- It must only pay expenses for matches and tours where players take part in and promote the organisation's sport or objectives;
- It must not pay more than necessary and reasonable expenses to all players in a year. This does not refer to staff costs for coaching/management or activities that advance public participation in the sport; and
- It must provide the benefits reasonably associated with an amateur sports club, e.g. use of equipment, coaching, post-match refreshments.

The governing document should also state that any assets left after settlement of all proper debts and liabilities upon dissolution of the organisation are to be used only by a Community Amateur Sports Club, charity or other community sport organisation.

Staff costs for coaching/management should be consistent with the local commercial rate of pay.

The Non-Domestic Rates (Scotland) Act 2020
Local Government (Financial Provisions etc.) (Scotland) Act 1962

Statutory Guidance: Sports Club Relief

What is meant by ‘fit and proper persons’?

For the purposes of this guidance, an organisation’s managers are individuals who have the general control and/or management of the administration of the organisation. This includes committee members and therefore can be unpaid.

The definition of ‘a fit and proper person’ should include that the organisation’s managers will ensure, or are likely to ensure, that the savings on non-domestic rates made from claiming sports club relief are invested in the organisation.

Local authorities can take into account any appropriate information that they deem relevant to the question of whether an individual is a fit and proper person. They should take into account whether, for instance the individual has been:

- Convicted in relation to tax fraud or other fraudulent behaviour;
- Engaged in non-domestic rates avoidance arrangements that are artificial as defined under sections 39 and 40 of the Non-Domestic Rates (Scotland) Act 2020;
- Removed or disqualified as a charity trustee or company director.

Awarding or Removal of Relief

Local authorities must have regard to subsections (6) to (7) of section 4 of the 1962 Act with regards to how award of a relief may be granted or modified/terminated.

Related Information

Report of the Barclay Review of Non-domestic Rates

<https://www.gov.scot/publications/report-barclay-review-non-domestic-rates/>

Non-domestic rates: Implementation plan in response to the Barclay review

<https://www.gov.scot/publications/barclay-review-of-non-domestic-tax-rates-implementation-plan/>

Section 18 – Non-Domestic Rates (Scotland) Act 2020

<https://www.legislation.gov.uk/asp/2020/4/section/18>

Section 4 – Local Government (Financial Provisions etc.) (Scotland) Act 1962

<https://www.legislation.gov.uk/ukpga/Eliz2/10-11/9/section/4>

Part 4 – Non-Domestic Rates (Scotland) Act 2020

<https://www.legislation.gov.uk/asp/2020/4/part/4/enacted>