Council Tax (High Value Dwellings etc.) (Scotland) Bill

Explanatory Notes

Introduction

1. As required under Rule 9.3.2A of the Parliament's Standing Orders, these Explanatory Notes are published to accompany the Council Tax (High Value Dwellings etc.) (Scotland) Bill, introduced in the Scottish Parliament on 18 November 2026.

2. The following other accompanying documents are published separately:
   - a Financial Memorandum (SP Bill 2–FM);
   - a Policy Memorandum (SP Bill 2–PM);
   - a Delegated Powers Memorandum (SP Bill 2–DPM);
   - statements on legislative competence made by the Presiding Officer and the Scottish Government (SP Bill 2–LC).

3. These Explanatory Notes have been prepared by the Scottish Government in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.

4. These Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section or a part of a section does not seem to require any explanation or comment, none is given.

Note on interpretation

5. The Bill's freestanding text (that is, any provision which is not a textual amendment of another piece of legislation) is to be interpreted in accordance with the Interpretation and Legislative Reform (Scotland) Act 2010 ("ILRA"). In the main, that only relates to the final provisions of the Bill.

6. Text that the Bill inserts into another enactment falls to be interpreted in accordance with the interpretation legislation that applies to that enactment. The

interpretation legislation applicable to Acts of the UK Parliament, such as the Local Government Finance Act 1992 (the "1992 Act"), is the Interpretation Act 1978.

Crown application

7. Section 20 of ILRA provides that the Crown will be bound by an Act of the Scottish Parliament or Scottish statutory instrument unless the provision expressly exempts it. As such, technically this Bill applies to the Crown in the same way as it applies to everyone else. However, where a Bill amends an existing enactment, it makes no change to the application of the enactment to the Crown. This Bill makes extensive modifications to the 1992 Act. The 1992 Act does not, by itself, bind the Crown but the King is liable for council tax in respect of his private estates by virtue of section 8 of the Crown Private Estates Act 1862 ("the 1862 Act"). Therefore, modifications made to provisions in the 1992 Act will apply to the King by virtue of section 8 of the 1862 Act.[1]

Overview of the Bill

8. The Bill contains 11 sections. Commentary on the effect of individual sections follows below. In summary, the Bill—

- **Creates new Council Tax bands for high value dwellings**: The Bill introduces band I (exceeding £1m and not exceeding to £2m) and band J (exceeding £2m) from April 2028, using property values reflecting market conditions at 1 April 2026. It also makes provision for transitional relief for certain taxpayers moving into the new bands, limiting annual bill increases until full liability is reached (see sections 1 to 5).
- **Gives councils greater flexibility to reduce Council Tax liability**: Local authorities will gain a new discretionary power to reduce Council Tax liability through locally determined reduction schemes (see section 6).
- **Modernises the rules for significant cognitive impairment**: The Bill replaces the term "severe mental impairment" with "significant cognitive impairment", updates the statutory definition, and provides that entitlement to a Council Tax discount may be determined by reference to the period of significant cognitive impairment covered by a medical certificate, even where the prescribed conditions are fulfilled later during that period (see section 7).
- **Contains general provision (see sections 8 to 11)**.

[1] For further information, please see paragraphs A.17 and A.18 of Appendix A to the paper on King's and Prince's Consent, published by Office of the Parliamentary Counsel in October 2022.

High value dwellings

Section 1: New valuation bands for high value dwellings

9. This section amends the 1992 Act to introduce 2 new Council Tax valuation bands, bands I and J, for high value dwellings and to make associated changes to the valuation framework.

10. Section 74 of the 1992 Act establishes the Council Tax banding system in Scotland. It currently provides for 8 valuation bands, A to H, specifies the proportions payable in relation to each band, and sets out the value ranges that determine the band into which a dwelling falls. Those value ranges are presently based on dwelling values assessed as at 1 April 1991. Under section 93(1) of the 1992 Act, each council must, in each financial year, set an amount of council tax to be paid in respect of a chargeable dwelling in valuation band D. The amounts for the other bands then follow automatically from the fixed proportions in section 74(1) of the 1992 Act, where band D is 360. Under section 78 of the 1992 Act, the amount for a dwelling's band is then turned into a daily liability, which is subject to discounts and reductions. Section 74(3) also contains powers to substitute the council tax proportions and valuation bands by order.

11. Section 86 of the 1992 Act provides for the valuation of dwellings by local assessors for the purposes of compiling Council Tax valuation lists; the assessor being required to determine which valuation band applies to each dwelling in its area. Under the current arrangements, dwellings are valued by reference to 1 April 1991, subject to assumptions and principles prescribed in regulations made under section 86(2) of the 1992 Act[2].

12. Subsection (2) of this section modifies section 74 of the 1992 Act. The modifications create two new valuation bands for high value dwellings and insert the statutory proportions used to calculate the amounts payable in relation to those bands. Paragraph (a)(ii) provides that the proportions payable will be 1039 for band I and 1666 for band J. Paragraph (c) inserts a new table which provides that new band I applies to dwellings with a value exceeding £1 million but not exceeding £2 million, and new band J applies to dwellings with a value exceeding £2 million. Paragraph (c) also signposts the different valuation dates that apply to the existing and new bands by cross-referring to the provisions in section 86 that specify the dates by reference to which those values are to be assessed (see the explanatory note relating to section 2 of the Bill). Paragraph (d) modifies and expands the power in section 74(3) to permit consequential amendments to the 1992 Act, and to subordinate legislation made under it, where considered necessary or expedient in consequence of provision made under section 74(3)(a) or (b) (which, as modified, will enable substitution of proportions or valuation bands for bands A to J).

[2] The Council Tax (Valuation of Dwellings) (Scotland) Regulations 1992 – 1992/1329.

13. Subsection (3) makes a consequential amendment to section 84 of the 1992 Act so that valuation lists may record dwellings falling within the new bands I and J.

14. Subsection (4) amends section 86 of the 1992 Act so that the valuation provisions apply to the new bands I and J. It also makes a change to better reflect the duty on assessors under section 84 of the 1992 Act and the practical reality that assessors must **maintain** and update existing valuation lists, particularly as a consequence of the addition of the new valuation bands.

15. Together, these amendments establish the framework required for assessors to identify and list dwellings falling within the new high-value bands.

Section 2: Valuation of dwellings for purposes of new valuation bands

16. This section amends the valuation provisions in section 86 of the 1992 Act to establish the valuation basis for new Council Tax bands I and J and to ensure that those bands take precedence where a dwelling meets the relevant value thresholds.

17. Section 86 of the 1992 Act requires local assessors to value dwellings for the purpose of compiling and maintaining Council Tax valuation lists. The valuation determines the band into which a dwelling falls. Currently, all dwellings are valued by reference to 1 April 1991 market conditions and in accordance with assumptions and principles prescribed in regulations. This section provides that where a dwelling clearly falls within a particular band, the assessor is not required to carry out an individual valuation. The resulting band is then recorded in the valuation list maintained under section 84 of the 1992 Act.

18. Subsection (2) of this section amends section 86 of the 1992 Act. Paragraph (a) amends section 86(2) to make clear that the existing valuation basis, using values as at 1 April 1991, applies only for the purpose of determining whether a dwelling falls within bands A to H. Paragraph (b) inserts new section 86(2A), which provides that the valuation of dwellings for the purpose of determining whether band I or J applies is instead to be carried out by reference to 1 April 2026. As with the existing valuation arrangements, the valuation is to be undertaken on such assumptions and in accordance with such principles as may be prescribed in regulations. Paragraph (c) makes a further consequential change to section 86(3) to reflect that individual valuations need not be carried out where it is clear to an assessor that a dwelling clearly falls within valuation band I or J. Paragraph (d) inserts new subsections (6A) and (6B) into section 86. These provisions ensure that, where a local assessor determines that a dwelling falls within band I or band J, whether following a valuation under new section 86(2A) or a determination under section 86(3), any separate determination that the dwelling falls within one of bands A to H is disregarded. The valuation list must instead show band I or, as the case may be, band J. This prevents a dwelling from being allocated simultaneously to both the existing banding

structure and one of the new high-value bands and ensures that valuation band I or J takes precedence.

19. Subsections (3) and (4) make consequential changes to sections 87 and 88, respectively, of the 1992 Act.

Section 3: Alteration of valuation lists for purposes of new valuation bands

20. This section makes special provision for the alteration of Council Tax valuation lists to give effect to the introduction of the new bands I and J from financial year 2028-29 onwards.

21. Section 87 of the 1992 Act sets out a framework for valuation lists to be altered after they have been compiled. The section enables regulations to make provision about when and how local assessors may alter a list, who may propose alterations, appeals, the effective date of alterations and related administrative matters. The existing framework is designed principally for ongoing changes to valuation lists rather than for a one-off exercise affecting a large number of dwellings across Scotland. This existing law is set out in The Council Tax (Alteration of Lists and Appeals) (Scotland) Regulations 1993 (1993/355).

22. Subsection (2) inserts new section 87A into the 1992 Act. New section 87A applies for financial year 2028-29 and subsequent financial years. Its purpose is to require local assessors to identify dwellings which fall within the new bands I and J, alter existing valuation lists accordingly, and thereafter maintain those lists.

23. New section 87A(2) and (3) modify various provisions of Part 2 of the 1992 Act so that they operate appropriately for this exercise. In particular, references to compiling valuation lists are to be read as references to altering existing valuation lists, and references to maintaining compiled lists are to be read as references to maintaining lists as altered. The modifications also adapt sections 84 and 85 so that assessors must carry out the necessary valuations in accordance with section 86(2A) and provide local authorities with copies of the altered valuation lists by 15 March 2028, before the new bands take effect.

24. New section 87A(3)(d) makes special provision for dwellings already included in a valuation list on 1 January 2028. For the purpose of determining whether band I or J applies, the dwelling is to be valued by reference to market conditions on 1 April 2026, but on the assumption that its size, layout and the physical state of its locality on that date were the same as they were on 1 January 2028. This allows improvements, alterations and changes to the dwelling or its locality, occurring before the introduction of the new bands, to be taken into account while maintaining a common valuation date (i.e. improvements or changes between 1 April 2026 and 1 January 2028). New dwellings entered in the valuation list after the commencement of bands I and J are valued under section 86(2A) and may be placed directly into those bands where appropriate. Existing dwellings are

thereafter subject to the ordinary valuation-list maintenance arrangements under section 87, including the existing rules governing alterations following material increases in value followed by sale.

25. New section 87A(4) provides that the section is subject to other powers and provisions in the 1992 Act relating to valuation bands, valuation assumptions and the compilation of valuation lists. These provisions ensure that the special arrangements for introducing bands I and J operate coherently with the wider Council Tax valuation framework.

Section 4: Exclusion of certain dwellings from new valuation bands

26. This section enables the Scottish Ministers to exclude specified categories of dwelling from the new Council Tax bands I and J, allowing those dwellings to remain within the existing band A to H valuation framework.

27. Section 86 of the 1992 Act provides for the valuation of dwellings by local assessors for the purposes of compiling and maintaining Council Tax valuation lists. As inserted by section 2 of the Bill, section 86(6A) and (6B) requires a dwelling that is determined to fall within band I or band J to be entered in the valuation list in that band, with any determination that it falls within one of bands A to H being disregarded.

28. Subsection (2) inserts new subsections (6C) and (6D) into section 86. New section 86(6C) enables the Scottish Ministers, by regulations, to specify descriptions of dwelling to which the requirement to place a dwelling in band I or J does not apply. In relation to such dwellings, an assessor may only determine that one of the existing valuation bands in section 74(2) applies, and the valuation list must show the band so determined.

29. The power may be exercised after the new bands have been introduced. Where a dwelling has been entered in band I or band J and subsequently falls within a description of dwelling excluded from those bands by regulations made under new section 86(6C), the dwelling would instead fall to be entered, or re-entered, in one of the existing bands A to H in accordance with the regulations and the assessor's valuation by reference to 1991 market conditions.

30. New section 86(6D) makes further provision about the regulations. In particular, it allows an exception to have effect indefinitely or for a specified period, to apply subject to specified conditions, and to make different provision for different areas.[3] This is intended to provide flexibility to exclude particular categories of dwelling from the new high-value banding regime where that is considered

[3] This can be done by virtue of section 113(1) of the 1992 Act, which will apply to regulations made under new section 86(6C).

appropriate. It would also enable different exceptions to apply to different local authority areas (or parts of such areas).

Section 5: Transitional relief for dwellings moving to new valuation bands

31. This section provides transitional protection for certain dwellings moving into the new Council Tax bands I and J, limiting the rate at which Council Tax liability may increase following the introduction of those bands.

32. Section 78 of the 1992 Act sets out how the basic amount of Council Tax payable for a dwelling is calculated. The amount payable depends on the valuation band shown in the valuation list and the amount set by the local authority for that band. The basic amount determined under section 78 is then subject to any discounts under section 79 and any reductions provided for under section 80.

33. Subsection (2) amends section 78 so that the basic calculation is subject not only to sections 79 and 80, but also to the new transitional relief provisions inserted by this section.

34. Subsection (3) inserts new section 78A into the 1992 Act. New section 78A applies where a dwelling included in a valuation list on 31 March 2028 is allocated to band I or band J for any day in financial year 2028-29 and is the sole or main residence of a person. Where the conditions for relief are met, the relief applies automatically and does not require an application.

35. New section 78A(2) provides that transitional relief applies where, in simple terms, the difference between the amount that would otherwise be payable for the dwelling in the current financial year ("A") and the amount payable in the previous year ("B") is at least £1,500 or 50% of B. Where that condition is met, section 78 operates as if A were replaced by a lower amount determined under section 78A(3). For these purposes, A and B are determined on the basic (or gross) amount determined under section 78, before the application of any discount under section 79 or reduction under section 80.

36. New section 78A(3) provides that the substituted amount is B plus the lesser of £1,500 or 50% of B. The effect is to limit annual increases in Council Tax liability to no more than £1,500 or 50% of the previous year's protected amount, whichever is lower. The limitation is reapplied in subsequent years until the dwelling reaches its full band I or band J liability.

37. New section 78A(4) defines A and B for these purposes. In financial year 2028-29, B is the gross, or basic, amount payable for the dwelling in 2027-28 as determined under section 78 of the 1992 Act, before the application of any discount or reduction. In later years, B is the amount payable after application of the transitional relief in the previous financial year, but before any further discounts or reductions were applied. Accordingly, B is determined by reference

to the amount payable following the application of any transitional relief in the previous financial year. This creates a stepped transition from the previous liability to the full liability associated with the new valuation band.

38. Any discount under section 79, including a single-person discount, or reduction under section 80, including Council Tax Reduction, is applied after any entitlement to transitional relief has been determined under new section 78A and the amount payable has been reduced in accordance with that relief.

39. The effect of the relief can be illustrated as follows.[4] Assuming a dwelling had a Council Tax liability of £4,000 in 2027-28 (before the application of any discount or reduction) and would otherwise become liable for £8,000 on entering band I in 2028-29,[5] the increase would initially be capped at £1,500 and the amount payable would be £5,500. In 2029-30, the protected amount from the previous year (£5,500) becomes the benchmark amount, producing a payable amount of £7,000. In 2030-31, the remaining increase to the full liability (£8,000) is less than £1,500 and so the transitional relief ceases to apply. From that year onward, the dwelling then becomes liable for the full amount that would otherwise be payable under section 78, i.e. £8,000.

Council tax reduction

Section 6: Schemes for reduction of council tax

40. This section confers a new discretionary power on local authorities to reduce Council Tax liability through locally determined reduction schemes.

41. Subsection (2) amends the title of existing section 80A of the 1992 Act to make clear that it relates specifically to schemes providing reductions in connection with energy efficiency improvements.

42. Subsection (3) inserts new section 80B into the 1992 Act. New section 80B(1) gives a local authority power to reduce the amount of Council Tax payable by a person in accordance with a scheme made by that authority. New section 80B(2) provides that a scheme may contain such provision as the authority considers appropriate, including provision about the publication of the scheme, the dwellings, classes of dwelling, persons or classes of person to which it applies, the circumstances in which it applies, the duration of the scheme, the amount of any reduction and arrangements for reviewing decisions made under the scheme. Whether to include provision about the publication of a scheme or arrangements for reviewing decisions made under it is a matter for the authority making the scheme. A scheme may reduce a person's liability to nil.

[4] For the sake of simplicity, assuming a council tax freeze year on year.
[5] The figures used here are purely to illustrate how the relief will be calculated and should not be taken as indicative of the council tax rates that might be set. It is for individual councils to set the council tax appropriate to their own areas.

43. New section 80B(3) provides that a reduction under a local scheme is additional to any other reduction or discount available under the 1992 Act. This allows the new power to operate alongside existing discounts and reductions.

44. New section 80B(4) requires a local authority, when making a scheme, to have regard both to its expenditure and income and to the interests of persons liable to pay Council Tax in its area.

Persons subject to significant cognitive impairment

Section 7: Exemptions and discounts: persons subject to significant cognitive impairment

45. This section updates Council Tax legislation relating to discounts and exemptions for persons currently described as “severely mentally impaired”. It replaces that expression with the term “persons subject to significant cognitive impairment”, introduces a revised statutory definition, and enables the terminology and definition to be updated by regulations in future.

46. Subsections (2) to (4) amend sections 75, 77 and 77A of the 1992 Act by replacing references to “the severely mentally impaired” with references to “persons subject to significant cognitive impairment”.

47. Subsection (5) amends schedule 1 of the 1992 Act[6], which deals with persons disregarded for Council Tax discount purposes. It replaces references to severe mental impairment with references to significant cognitive impairment and substitutes a new definition. Under the new definition, a person is subject to significant cognitive impairment if they have a severe and permanent mental condition or neurological change that affects the brain's ability to function and has a significant impact on their daily life.

48. Subsection (5) further modifies schedule 1 to amend the conditions for a Council Tax discount in respect of a person who is subject to significant cognitive impairment. It provides that, where a registered medical practitioner certifies that a person is, or is likely to be, subject to significant cognitive impairment during a particular period, the prescribed conditions may be fulfilled at any time during the period or part of the period to which the certificate applies. The effect is entitlement to a Council Tax discount may be determined by reference to the period of significant cognitive impairment covered by the certificate rather than the date on which the prescribed conditions happen to be fulfilled. Accordingly, a person may qualify for a discount in respect of days falling before the prescribed conditions were fulfilled, provided those conditions are fulfilled during the period covered by the certificate.

[6] Section 79(5) provides that schedule 1 of the 1992 Act determines the categories of person who are to be disregarded for the purposes of council tax discounts in Scotland.

49. Subsection (5) also confers a power on the Scottish Ministers to amend the statutory expression and definition by regulations and to make any consequential amendments to Part 2 of the 1992 Act that may be required.

50. Subsections (6) and (7) make consequential amendments to the Council Tax (Exempt Dwellings) (Scotland) Order 1997 (1997/728) and the Council Tax (Discounts) (Scotland) Consolidation and Amendment Order 2003 (2003/176) to ensure that the terminology used throughout the Council Tax discount and exemption framework is consistent.

Final provisions

Section 8: Consequential modifications: regulations

51. This section makes a number of modifications to the 1992 Act in consequence of the insertion into that Act of new powers for the Scottish Ministers to make regulations, namely—

- section 86, new subsection (2A), the power to prescribe assumptions and principles in relation to the valuation of dwellings for the purposes of the new valuation bands I and J,
- section 86, new subsection (6C), the power to exclude certain specified descriptions of dwellings from inclusion in the new bands,
- schedule 1, paragraph 2(3) (as substituted by section 7(5)(f)), the power to modify or replace the meaning of “significant cognitive impairment” and related expressions.

52. The modification made to section 113 of the 1992 Act (the general orders and regulations section) relate to parliamentary procedure for these regulations and are achieved in part by disapplying section 113(3) of the 1992 Act so that regulations under the new powers are to be made by Scottish Statutory Instrument (see section 27 of ILRA).

53. The picture is completed by new section 86(12), which provides that regulations made under new section 86(2A) and (6C) are subject to the negative procedure (see section 28 of ILRA), and new paragraph 2(4) of schedule 1, which provides the same for regulations under new paragraph 2(3).

Section 9: Ancillary provision

54. This section empowers the Scottish Ministers, by regulations, to make various types of ancillary provision for the purposes of, in connection with, or to give full effect to the Act.

55. Regulations under this section may modify any enactment (including the Bill itself once enacted). The word “enactment” is defined in schedule 1 of ILRA and includes Acts of the Scottish or UK Parliaments as well as secondary legislation.

56. If regulations under this section textually amend an Act, then they are subject to the affirmative procedure, but otherwise they are subject to the negative procedure (see sections 28 and 29 of ILRA).

Section 10: Commencement

57. This section sets out when the provisions of the Bill, once enacted, will come into force (i.e., take effect).

58. Some of the final sections, including this section, will come into force automatically on the day after the Bill receives Royal Assent. The substantive provisions will be commenced in accordance with regulations made by the Scottish Ministers under this section. Such regulations may include transitional, transitory or saving provision related to commencement and may make different provision for different purposes. In particular, this allows different provisions to be commenced on different days.

59. Regulations under this section will, unless exercised in conjunction with powers under other sections, be laid before the Scottish Parliament but will not be subject to any parliamentary procedure (see section 30 of ILRA).

Section 11: Short title

60. This section provides for the resulting Act (if the Bill is passed and given Royal Assent) to be known as the Council Tax (High Value Dwellings etc.) (Scotland) Act 2027.

This document relates to the Council Tax (High Value Dwellings etc.) (Scotland) Bill (SP Bill 2) as introduced in the Scottish Parliament on 18 November 2026

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