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The Local Government Finance (Unoccupied Properties Etc.) (Scotland) Bill

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The Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill was introduced in Parliament on 26 March 2012. It is a short Bill with three main provisions. The Bill proposes to :

- Allow the Scottish Government to bring forward regulations to alter the level of empty property relief for certain empty commercial properties under the non-domestic rates regime
- Enable the Scottish Government to bring forward regulations to allow Scottish local authorities to increase council tax charges on certain long-term empty homes
- Abolish the requirement on the Scottish Government to pay Housing Support Grant, currently only paid to the Shetland Islands Council.

It is anticipated that all measures would be in effect from April 2013, subject to the Bill and subsequent regulations being approved.

This briefing covers each of the three main provisions, explaining the current position, the proposed changes, their anticipated cost and reaction to the proposals.

The Scottish Parliament
Pàrlamaid na h-Alba

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Non-domestic rates

The Bill, and proposed subsequent regulations, would give the Scottish Government power to alter the empty property rates relief scheme. At present, all commercial and industrial properties benefit from 100% rates relief for the first 3 months in which they are empty. After 3 months, standard commercial properties then receive a discount of 50% on their rates bill. Under the new proposals, all properties would continue to benefit from 100% rates relief for the first 3 months in which they are empty. However, after 3 months, standard commercial properties would only be entitled to only 10% relief, rather than 50%. The current exceptions would continue to apply i.e. listed properties, industrial properties and those with a rateable value of less than £1,700 would continue to benefit from 100% rates relief for an indefinite period while they are empty. As at present, unoccupied parts of premises would also qualify for relief under the new proposals.

The Scottish Government states that the proposed changes to the empty property rates relief regime would discourage property owners from leaving properties empty and would also raise additional revenue. Scottish Government estimates suggest that the changes proposed would reduce the cost of empty property rates relief by £18m per year, which compares with an estimated cost of £152m in 2012-13. The cost of empty property rates relief is volatile, with costs typically rising in economic downturns.

There was no formal consultation on the proposals, which were signalled in the 2012-13 Draft Budget. In responding to the Draft Budget, several business organisations argued that empty properties reflect a lack of demand, rather than an active choice on the part of property owners. As such, they argued that the proposals would have a limited effect on vacancy rates but would add to the financial pressures of businesses already facing challenging economic circumstances. They also highlighted the English experience, arguing that changes to empty property rates relief in England had not had an appreciable effect on vacancy rates and had possibly resulted in some undesirable outcomes, such as demolition of properties or a disincentive to speculative investment. In addition, the potential cost to the public sector, resulting from empty properties owned by public sector bodies in Scotland was considered by some to be understated in the Bill's costings.

Council tax

The Bill, and proposed subsequent regulations, would give councils the power to charge owners of long term empty homes up to an increase of 100% of the standard council tax rate for an occupied property, after a year of being empty i.e. owners could pay double the standard council tax. Currently, owners of long term empty homes are entitled to receive a discount on the standard council tax rate of between 10% and 50% depending on the local council's policy. The policy aim of the proposal is to encourage owners of long-term empty homes to bring their properties back into use as well as enabling local authorities to raise additional revenue to support their local priorities.

Generally, the proposals have been relatively uncontroversial, although a number of individuals were opposed to any increase in council tax either because they felt they would be unfairly

penalised or they felt Government should not interfere in people's rights to leave their home empty if they wish to do so.

The Scottish Government estimates that up to an additional £15m could be raised through the proposed changes. However, this estimate assumes that all councils would use the powers. As the use of the powers would be discretionary a council would need to consider the benefits of using the powers weighed against the scale of the problem in their area and any cost of enforcing the changed policy. If not all councils chose to use the power, or chose to charge less than double the standard council tax rate then the additional income achieved could be substantially reduced.

The Scottish Government proposes that any additional money raised through increases in council tax charges should be retained by councils to spend as they see fit. The decision was made in response to arguments from councils and COSLA about the benefits of being able to meet local priorities. However, other stakeholders have argued that any additional income raised should be ring-fenced with the aim of meeting affordable housing needs, including bringing empty properties back into use.

Housing Support Grant

The Bill also proposes to abolish the requirement on the Scottish Government to pay Housing Support Grant (HSG) to Scottish local authorities from April 2013. HSG is payable when a local authority has difficulty balancing its council housing revenue account (HRA) without resorting to substantially increasing rents or cutting management, maintenance or borrowing for capital expenditure on the stock. Since 2006, Shetland Islands Council is the only council that has received HSG, which for the year 2012-13 will be £0.761m. All respondents to the Scottish Government's consultation (except Shetland Islands Council), who commented on this matter, agreed that the HSG should be abolished, although some said transitional arrangements should be in place. Shetland Islands Council did not agree to the abolition of HSG unless one-off or transitional arrangements could be put in place to secure the long term sustainability of their HRA. The Scottish Government is currently considering the Council's request for transitional arrangements to be put in place.

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INTRODUCTION

The Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill was introduced in Parliament on 26 March 2012. It is a short Bill with three main provisions. The Bill proposes to:

- Allow the Scottish Government to bring forward regulations to alter the level of empty property relief for certain empty commercial properties under the non-domestic rates regime
- Enable the Scottish Government to bring forward regulations to allow Scottish local authorities to increase council tax charges on certain long-term empty homes
- Abolish the requirement on the Scottish Government to pay Housing Support Grant, currently only paid to the Shetland Islands Council.

It is anticipated that all measures would be in effect from April 2013, subject to the Bill and subsequent regulations being approved.

This briefing covers each of the three main provisions, explaining the current position, the proposed changes, their anticipated cost and reaction to the proposals.

Non-Domestic (Business) Rates

The Bill, and proposed subsequent regulations, would allow the Scottish Government to alter the level of empty property relief from April 2013 for certain empty commercial properties under the non-domestic rates regime.

The remainder of this section provides a background to non-domestic rates and sets out the current empty property rates regime. The proposed changes and a summary of reaction to these proposals are then considered.

BACKGROUND TO NON-DOMESTIC RATES

Owners of non-domestic properties are liable to pay non-domestic (or business) rates. Certain types of properties are exempt from business rates, such as agricultural land and buildings and public parks. Exempt properties do not have an entry on the Valuation Roll. All other non-domestic properties will be entered on the Valuation Roll and assigned a rateable value. This rateable value, combined with the non-domestic poundage rate, which is set by the Scottish Government, determines the non-domestic rates bill for the property. For 2012-13, the poundage rate for properties with a rateable value of less than £35,000 is 45.0p. For larger properties with a rateable value of more than £35,000, the poundage rate is 45.8p. Any properties with a rateable value of £300,000 or more that sell both alcohol and tobacco are required to pay a further supplement of 9.3p.

A range of relief schemes operate and entitle property owners to discounts on their non-domestic rates bills if their properties meet certain criteria. These include relief schemes for small businesses, owners of empty properties, charities, certain sports clubs, certain rural properties and premises used for religious worship. Some of these schemes are mandatory and will apply in exactly the same way across all local authority areas, while some are discretionary and individual Councils will determine how these are to be implemented in their particular area. Table 1 summarises the value of the various relief schemes in operation. In 2010-11, the total value of the relief schemes in operation was £502.8m. Of the various relief schemes, empty property rates relief was the most expensive, accounting for 29% of the total cost of all relief schemes at an estimated £146m in 2010-11. To set this in context, total income from non-domestic rates in 2010-11 was £2.1bn. (Scottish Government, 2012a)

Table 1: Non-Domestic Rates Reliefs By Relief Type

£ thousands

		2006-07	2007-08	2008-09	2009-10	2010-11[1]
Mandatory	Unoccupied Property/Partly Unoccupied Property	130,155	119,957	127,385	153,361	145,936
	Charities	93,423	97,361	102,475	110,264	123,417
	Sports Clubs[2]	-	-	-	2,683	4,394
	Disabled persons relief	40,079	40,040	42,914	45,484	51,888
	SBRRS/SBBS[3]	24,321	24,686	72,553	108,420	123,259
	Religious Properties	18,439	18,146	18,986	20,218	24,016
	Rural Rate Relief	927	924	936	960	1,059
	Former Agricultural Premises[4]	12	14	.	.	.
	Renewable Energy Relief Scheme[5]	-	-	-	-	3,560
Discretionary	Charities & other organisations	9,428	10,405	10,943	11,867	13,314
	Sports Clubs	9,309	9,173	9,651	8,921	8,835
	Rural Rate relief	2,964	2,977	2,952	2,958	3,070
	Backdated relief for Sports Clubs & Charities	181	38	101	45	56
	Hardship	3	20	27	19	4
	Former Agricultural Premises[4]	4	5	.	.	.
	Stud Farms	-	-	-	-	-
Gross Amount		**329,244**	**323,746**	**388,921**	**465,201**	**502,810**

1. Notified estimate of relief expenditure for 2010-11
2. The mandatory element of Sports Club relief was not collected separately prior to 2009-10
3. From 1 April 2008, the Small Business Rates Relief Scheme was replaced with the Small Business Bonus Scheme.
4. Relief for Former Agricultural Premises was a time limited relief which ended at 31 March 2008

Source: Scottish Government (2012a)

CURRENT EMPTY PROPERTY RELIEF SCHEME

At present, owners of unoccupied non-domestic properties are eligible for a reduction on their non-domestic rates bill. The current empty property relief regime entitles all property owners to 100% rates relief for the first 3 months for which the property is empty. After 3 months, standard commercial properties are entitled to a 50% discount on their rates bill until the occupancy status of the property changes. The property must be occupied for at least six weeks before eligibility for the discount ceases. Certain types of property receive 100% empty property rates relief indefinitely. These are:

- Listed properties
- Industrial properties
- Properties with a rateable value of less than £1,700

Provisions for empty property rate relief were first set out in sections 24 and 24A of the Local Government (Scotland) Act 1966, with further provisions introduced by the Non-Domestic Rating (Unoccupied Property) (Scotland) Regulations 1994, as amended by SSI 2000/55 and SSI 2008/83. Section 24A of the 1966 Act provides a similar system of relief for premises that are partly unoccupied for a short time. It allows for the temporary apportionment of the rateable value of the premises between the occupied and unoccupied parts, so that the unoccupied part of the premises qualifies for rates relief.

The Scottish Government estimates that there are currently around 20,000 properties benefitting from empty property rates relief (Scottish Government 2012, personal communication). The number of businesses benefitting will be lower than this as a single business may have several properties benefitting from empty property rates relief. The estimated number of properties benefitting from empty property rates relief excludes zero-rated properties, because properties have no rateable value and hence no non-domestic rates bill on which to get relief.

The current empty property rates relief regime will cost the Scottish Government an estimated £152m in 2012-13 (Scottish Government, 2012b). Figures for earlier years, as well as forecast costs for the period to 2014-15 are shown in Table 2. As the figures show, the cost of empty property rates relief fluctuates from year to year, as properties move in and out of use. There was a particularly sharp rise in 2009-10, when the cost of empty property rates relief rose by 20%, coinciding with a sharp decline in economic growth and the onset of recession. In 2012-13, the Scottish Government is forecasting a 5% increase in the cost of empty property rates relief, followed by rises of 2% and 5% in 2013-14 and 2014-15 respectively (excluding the impact of the proposed empty property relief reform). This will reflect a combination of economic factors, the impact of appeals and changes in the non-domestic poundage rate.

Table 2: Cost of empty property rates relief, Scotland

	Cost (£m)	% change on previous year
2006-07	130	..
2007-08	120	-8%
2008-09	127	6%
2009-10	153	20%
2010-11	146	-5%
2011-12	145	-1%
2012-13	152	5%
2013-14	155	2%
2014-15	162	5%

Note: figures for 2006-07 to 2009-10 are audited figures; figures for 2010-11 and 2011-12 are estimates; figures for 2012-13 to 2014-15 are forecasts

Source: Scottish Government 2012, personal communication

PROPOSALS FOR REFORM

Section 1 of the Bill would allow the Scottish Government to introduce regulations to alter the level of empty property relief from April 2013. The Government's intention to amend the empty property rates regime was first signalled in the Scottish Spending Review 2011 and Draft Budget 2012-13, which stated:

> "Empty property relief will be reformed to provide strong incentives to bring vacant premises back into use, reducing the prevalence of empty shops in town centres and supporting urban regeneration." (Scottish Government, 2011a)

According to the Scottish Government (2012c), the proposed changes to the empty property rates relief regime would:

- Discourage property owners from leaving properties empty; and
- Raise additional revenue

The Bill's Policy Memorandum states that:

> "Long term empty business premises are a potentially wasted resource, are often poorly maintained, and can become a blight on Scotland's town centres and business districts. Incentivising owners to bring these properties back into use could be an important part of regenerating our town centres and allowing them to become more successful." (Scottish Government, 2012c)

Under the new proposals, all properties would continue to benefit from 100% rates relief for the first 3 months in which they are empty. However, after 3 months, standard commercial properties would only be entitled to 10% relief, rather than 50%. The current exceptions would continue to apply i.e. listed properties, industrial properties and those with a rateable value of less than £1,700 would continue to benefit from 100% rates relief for an indefinite period while they are empty. As at present, unoccupied parts of premises would also qualify for relief under the new proposals.

Table 3, taken from the Bill's Financial Memorandum, summarises the changes proposed. The only category of property affected by the Bill's provision is highlighted – standard commercial properties that have been empty for more than 3 months.

Table 3: Empty property relief current and proposed rates in Scotland

	Current position	Intended position post-legislation
Standard or "commercial" empty property relief first 3 months	100% relief (i.e. no rates payable)	**No change** 100% relief (i.e. no rates payable)
Standard or "commercial" empty property relief after 3 months	50% relief (until occupancy status changes)	10% relief (until occupancy status changes)
Exceptions:		
Listed property	100% relief	**No change** 100% relief
Industrial property	100% relief	**No change** 100% relief
Low rateable value property (rateable value less than £1,700)	100% relief	**No change** 100% relief

Source: Scottish Government (2012b)

Financial implications

The Financial Memorandum (FM) accompanying the Bill summarises the costs relating to the Bill and associated regulations as shown in Table 4.

Table 4: Costs and savings associated with changes to empty property rates relief, £m

	Scottish administration	Local authorities	Other bodies, individuals and businesses	Total
Estimated costs (+) or savings (-)	-18.0 (per year)	0.0	+18.0 (per year)	0.0

Source: Scottish Government (2012b)

Scottish Government

The Scottish Government estimates that the proposed reforms would result in a saving to the Scottish Government of £18m due to the reduced cost of relief. This represents 12% of the estimated cost of relief in 2013-14 (£155m). The estimated savings are relatively modest compared to the overall cost of relief because many properties would not be affected, or would be eligible for other forms of relief if they were no longer eligible for empty property rates relief, such as the small business bonus scheme or rates relief available to charities. (Properties can only claim relief under one scheme, even if they are eligible for a number of schemes, so would claim under whichever scheme provides the greatest financial savings).

The Scottish Government estimates that the reduction in rates relief to 10% for properties currently on 50% relief, as well as the impact of those moving to 10% relief during the year once they have been empty for at least 3 months, would reduce the cost of empty property rates relief by £23m per year. However, the changes proposed are likely to result in some properties currently benefitting from empty property rates relief switching to different forms of rates relief e.g. the small business bonus scheme, thereby reducing the overall savings delivered by the reforms. The Scottish Government estimates that around 5,000 properties might switch to different forms of rates relief, reducing the estimated savings by £5m to a total of £18m.

The savings delivered by the proposed changes to the empty property rates relief scheme will accrue to the Scottish Government. The Scottish Government guarantees an agreed level of funding to local authorities which represents a combination of non-domestic rates income (NDRI) and general revenue grant (GRG). Any increase in NDRI as a result of changes to the empty property rates relief regime will result in a corresponding reduction in GRG so as to maintain the agreed level of funding to local authorities. As a result, the Scottish Government will benefit to the full extent of any savings realised and local authority finances will be unaffected.

The Scottish Government estimates are based on analysis of the valuation roll, combined with analysis of Council returns relating to non-domestic rates relief. The figures in the FM are based on Council returns from April 2011. Further detailed analysis is currently underway based on more recent Council returns. This will provide a more detailed assessment of the characteristics of current recipients of empty property rates relief and allow the Scottish Government to review its estimates.

Other public sector costs

The FM assumes that there will be no additional Scottish Government or local authority staff costs in relation to the reforms. This is based on the assumption that any additional work related to the Bill's provisions would be relatively minor in scale and could be undertaken by existing staff.

No account is taken of any potential increase in the non-domestic rates bill for Scottish Government or local authorities, as a result of any properties that they own which are empty. The FM states that there are less than a dozen Scottish Government properties that would be affected and so any impact would be minor. However, a written PQ answer suggested that the impact on local authorities could be up to £1.8m:

> "Reform of empty property relief will save an estimated £18 million annually across all sectors from 2013-14 onwards, of which, the impact on councils is estimated to be less than 10 per cent of that total." (Scottish Parliament, 2012a)

In written submissions to the Finance Committee, two local authorities (Glasgow and Angus) gave estimates of the impact they would expect the reforms to empty property rates relief to have on the rates bill for their local authority because of properties within their ownership that are empty. Glasgow City Council estimated that it would result in additional costs of £0.5m-1.0m per annum. Angus Council estimated that additional costs of £20,000 would result. (Scottish Parliament, 2012b)

The Scottish Property Federation (SPF) has questioned the estimate of the impact on the public sector and suggests that it has been understated, not only in respect of local authorities, but also for the Scottish Government as well as other public sector bodies such as Scottish Enterprise. In their submission to the Finance Committee, the SPF suggests that up to 20% of the total impact would fall on the public sector i.e. up to £3.6m based on the FM estimates. (Scottish Property Federation, 2012)

These additional costs to the public sector are not reflected in the FM. They would act to reduce the anticipated savings to the Scottish administration and would represent an additional cost to local authorities.

Businesses

The cost to businesses is presented in the FM as identical to the savings to the Scottish Government i.e. £18m according to the estimates presented in the FM. However, as highlighted above, some of this cost is likely to fall to the public sector, as a result of empty properties that are owned by the Scottish Government, local authorities or other public bodies. This will have the effect of reducing the net savings to the public sector resulting from the reforms.

Main assumptions and sensitivity of FM estimates

A range of assumptions underpin the estimate presented in the FM. Any revisions to the underlying assumptions would affect the overall estimate of savings. The main assumptions that affect the costings are:

- The total number of current recipients of empty property rates relief – if the number of empty property rates relief recipients is higher (or lower) than estimated in the FM, the resulting savings could be higher (or lower) than currently estimated, depending on the characteristics of those properties.

- The split between different types of properties – in particular, if there are more properties currently benefitting from 50% rates relief than estimated in the FM, then the savings to the Scottish Government (and by implication, the cost to businesses) would be higher than the £18m given in the FM.

- The numbers of standard commercial properties moving from 100% to 50% rates relief during the year because they have been empty for more than three months – it is not clear from the FM what assumption has been made, but any variation in this would affect the overall savings

- Eligibility for other types of relief – the FM assumes that 5,000 properties will be eligible for other types of relief if they cease to be eligible for empty property rates relief; if fewer properties are able to claim other types of relief (as suggested by the SPF), the savings to the Scottish Government would be higher than £18m, and the cost to businesses correspondingly higher.

Despite the fact that encouraging owners to bring vacant properties back into use is one of the primary aims of the reforms, the FM costings do not appear to assume that any such behaviour will result i.e. there does not appear to be any assumed reduction in the overall number of empty properties as a result of the reforms.

As mentioned earlier in this paper, the Scottish Government is currently undertaking more detailed analysis to gain a better understanding of the current profile of properties claiming empty property rates relief. This could result in a revised estimate of the impact of the proposed reforms.

It should also be noted that any estimate will only represent the position at a given point in time, dependent on the number of businesses claiming empty property rates relief. As noted above, this is a volatile area, with properties moving in and out of use all the time. The FM does not give a range of estimates, so it is not possible to assess how different assumptions about future volatility in the cost of relief might impact on the estimated savings (for example, different assumptions about economic growth and/or future poundage rates, which are currently set in line with English rates).

Consultation and comment on proposals

There has been no formal consultation on the proposed changes to the empty property rates relief regime and no business and regulatory impact assessment (BRIA) has been prepared. The Scottish Government states that, as the intention to reform empty property rates relief was signalled in the Draft Budget, the consultation relating to the Budget provided an opportunity for interested parties to comment on the proposals. The Scottish Government also refers, in the Bill's Policy Memorandum, to engagement with stakeholders throughout the legislative process to date, through business meetings and events, offering opportunities for comment on the proposals.

In its submissions to both the Local Government and Regeneration Committee and the Economy, Energy and Tourism Committee following the Draft Budget, CBI Scotland called for a BRIA to be conducted in relation to the proposals for empty property rates relief. (CBI Scotland, 2011)

When questioned on this issue by the Local Government and Regeneration Committee following the Draft Budget, the Cabinet Secretary for Finance, Employment and Sustainable Growth said:

> "I have not undertaken an impact assessment of those two specific measures—the public health levy and empty property relief—and I do not plan to. I consider that carrying out an impact assessment would be disproportionate to the size of the revenues that are being raised. However, as the budget makes clear, I am involved in consultation on the contents of the budget, and many points are being made to me about both the public health levy and empty property relief." (Scottish Parliament, 2011a)

In response to similar calls from a member of the Economy, Energy and Tourism Committee, the Cabinet Secretary for Finance, Employment and Sustainable Growth said:

> "The changes that we are making are at such a level that I do not consider that a regulatory impact assessment is required. We are in a period of consultation on the question of empty property relief and the changes that the Government is proposing to make, so I will listen to the representations that are made to me. I will shortly be seeing the Scottish Property Federation, which has made representations to me on the issue." (Scottish Parliament, 2011b)

The main concerns relating to the reform of empty property rates relief, which were raised either in responses to the 2012-13 Draft Budget, or in responses to the Finance Committee's call for written evidence in relation to the Bill's FM, are summarised below.

Impact on businesses and effect of proposed changes

Concerns have been raised by business organisations about the cost to businesses, especially small businesses, which are already facing challenging economic circumstances. The SPF has indicated that it considers that the FM significantly underestimates the impact on businesses (Scottish Property Federation, 2012). Along with other business organisations, the SPF argues that empty property is far more likely to be an indication of wider economic conditions, rather than an active decision on the part of property owners. Business organisations argue that property owners already do all they can to ensure that properties are occupied, so as to maintain income streams. A lack of demand is the more fundamental issue and it is argued that a change in the empty property rates relief regime will be ineffectual so long as weak demand persists. As such, the SPF and others argue that the proposed measures will impose a financial penalty on businesses that are already struggling, without proving effective at dealing with the issue of empty property.

Adverse incentives

A number of organisations have highlighted that the proposed changes to empty property relief could influence decisions made by property owners and result in undesirable consequences (Scottish Parliament, 2012b).

It has been suggested that reform of empty property relief could act as a disincentive to speculative property development and/or regeneration, with developers or investors reluctant to face the additional costs associated with the risk of property remaining empty once developed.

There is also the risk that property owners might consider the costs of keeping property empty prohibitive and opt to demolish hard-to-let property rather than continuing to seek tenants or seeking to improve the property. The British Property Federation claims that, in England, this type of activity has resulted from empty property rates and has led to empty property rates being labelled as the "bombsite Britain" tax. However, it is difficult to disentangle the effects of changes to empty property rates from the impact of other factors, such as the onset of recession and access to finance.

Other organisations argue that the reduced availability of property that could result might in turn have negative effects on local economies, because a lack of property availability could inhibit economic growth once the recovery gets underway. In addition, a lower overall stock of non-domestic property has implications for the overall level of NDRI.

A further possibility that has been raised is that businesses in difficulty (or their lenders) may more readily consider the option of administration or insolvency, so that they would be exempt from non-domestic rates, rather than continue in business and face liability for rates on empty properties. For similar reasons, landlords may choose not to terminate a lease for insolvent tenants. Alternatively, property owners may be less selective in choosing tenants, so as to ensure continued occupation of properties, which could have implications for collection rates and the viability of high streets. Both of these factors would have implications for overall levels of NDRI.

Additional rate recovery costs

In responses to the Finance Committee's call for written evidence, Angus Council and North Ayrshire Council highlighted the potential additional recovery costs resulting from the proposed changes. North Ayrshire Council pointed out that around 10% of ratepayers that currently have a 50% liability for non-domestic rates reach Summary Warrant stage and are therefore passed on to sheriff officers for collection. They considered that a reduction in relief could exacerbate this issue and result in higher fees for councils in relation to rate recovery costs. (Scottish Parliament, 2012b)

English experience

The empty property rates relief regime in Scotland has been more generous than the relief in England and Wales since April 2008 and would remain so even after proposed reform. Empty property rates relief was reformed in England and Wales in April 2008. In 2008-09, properties could only claim 100% relief for the first 3 months (or 6 months for industrial properties) of being empty, after which they were liable for full rates. As such, the reforms in England went further than those proposed for Scotland. Some concessions were introduced for smaller properties in 2009-10, whereby properties with a rateable value of less than £15,000 received 100% rates relief. In 2010-11, the threshold was raised to £18,000 but was then reduced to £2,600 in 2011-12.

Table 5 shows the cost of empty property rates relief in England for the period 2006-07 to 2010-11. As these figures show, the cost of the relief scheme more than halved in 2008-09, the first year following reform of the relief scheme. However, in 2009-10, the cost of the scheme rose by 86% to £1.1bn – almost as high as the pre-reform cost. This will reflect both the effect of the introduction of the £15,000 threshold, as well as the impact of recession – the cost of empty property rates relief also rose sharply in Scotland in 2009-10.

Table 5: Cost of empty property rates relief, England

	Cost (£m)	**% change on previous year**
2006-07	1,377.8	..
2007-08	1,366.3	-0.8%
2008-09	606.3	-55.6%
2009-10	1,125.3	85.6%
2010-11	1,129.9	0.4%

Source: Department for Communities and Local Government (2011)

A number of business organisations have questioned the effectiveness of the reforms in England and claim that they have failed in their stated aim of reducing the prevalence of empty properties. The SPF states that, despite the reforms in England, retail vacancy rates have risen from 3% in 2007 to 14% in 2011 (Scottish Property Federation, 2012).

Research undertaken by the Royal Institution of Chartered Surveyors (RICS, 2009) and Lambert Smith Hampton following the reforms in England found that:

- Over a third of respondents stated that the reforms to empty property rates relief had had no effect on the number of vacant properties; over a quarter said that the reforms had led to an *increase* in the number of vacant properties, but this may reflect a comment on the impact of recession on the level of vacancies, rather than the impact of the reforms

- 93% felt that the reforms to empty property rates relief had exacerbated the financial difficulties of property companies and occupiers

- Over 80% stated that empty property rates liability was a factor in determining whether a property should be demolished, and was a more important factor than location, age or size.

- 85% of respondents said that the reforms to empty property rates were having a detrimental effect on town regeneration and a similar proportion said that the reforms were acting as a deterrent to speculative development

Data from the Department for Communities and Local Government show that the proportion of non-domestic properties that are empty has risen from 14% prior to reform of empty property rates relief to 16% in 2011. (Department for Communities and Local Government, 2011)

Welsh experience

Wales has mirrored the English empty property rates regime, including the temporary thresholds introduced in 2009-10 and 2010-11. The Welsh Government has set up an independent task force to review business rates policy in Wales. The group is due to report in May 2012. In written responses received in relation to the consultation document issued, a number of respondents called for empty property rates to be scrapped or for the relief thresholds to be reinstated or extended. There were also calls for empty property rates to be eliminated on new commercial properties, or for an exemption period to be introduced. (Welsh Government, 2012)

COUNCIL TAX AND LONG TERM EMPTY PROPERTIES

The Bill, and proposed subsequent regulations, would enable local authorities to remove current council tax discounts on dwellings which are classed as long term empty (LTE), and to impose an additional council tax charge. The increase would apply after the dwelling has been empty for at least 12 months.

The remainder of this section considers the current legislation and policy framework and the number of empty properties in Scotland. The details of the Bill, and proposed regulations, along with stakeholder reaction to the proposals are then considered.

CURRENT LEGISLATION

Empty and unfurnished homes currently benefit from a six month exemption from council tax as set out in the Council Tax (Exempt Dwellings) (Scotland) Order 1997.[1] Prior to April 2005, after this exemption ended the owners of empty and unfurnished homes would receive a 50% discount of the appropriate council tax charge.

However, in April 2005, the Council Tax (Discount for Unoccupied Dwellings) (Scotland) Regulations 2005 came into force which provide that after receiving the 50% discount for 6 months local authorities can chose to reduce the council tax discount for owners of long term empty (LTE) properties to a minimum of 10% (i.e. owners would be required to pay up to 90% of the appropriate council tax). The aim of this policy change was to provide an incentive for owners to bring their homes back into use and to raise additional income for affordable housing purposes. The 10% minimum discount was retained in order to allow empty properties to be identified.

This means that currently, a LTE unfurnished dwelling receives an exemption from council tax for 6 months, followed by a 50% discount for 6 months, followed by a discount between 50% and 10% depending on local authority policy. A discount of between 50% and 10% also applies

[1] Technically this exemption applies to a property which is both unoccupied and unfurnished; and (b)in respect of which less than 6 months have elapsed since the end of the last period of 6 weeks or more throughout which it was continually occupied or furnished.

to second homes from the point they become a second home. The regulations provide that the 50% discount cannot be varied for purpose built holiday homes and job related dwellings.

THE SCALE OF EMPTY DWELLINGS IN SCOTLAND

The Scottish Government monitors the level of empty dwellings through annual collection of the Council Tax Base (CTAXBASE) statistical return from local authorities. The total number of empty dwellings is measured by counting the number of dwellings which are exempt from paying council tax because they are unoccupied (unoccupied exemptions), plus the number of dwellings receiving a council tax discount because they are LTE. Unoccupied exemptions are set out in the Council Tax (Exempt Dwellings) (Scotland) Order 1997), and include, for example, exemptions where the liable person has moved to receive or to provide personal care.

In September 2011, there were approximately 71,000 empty dwellings in Scotland. Of these, 46,000 were exempt from council tax because they were unoccupied and around 25,000 were classified as LTE and owners would pay council tax at a discounted rate (Scottish Parliament 2012c). As Table 6 shows, the number of LTE properties has increased in numerical terms over the years – from 2010 to 2011 there was a 3% rise in the number of LTE dwellings. However, as a proportion of total council tax chargeable dwellings numbers remained fairly constant at around 1%.

Table 6: Council Tax Chargeable dwellings, Discounts and Exemptions

	2008	**2009**	**2010**	**2011**
Total Dwellings	**2,462,571**	**2,477,397**	**2,488,928**	**2,500,769**
Exempt Dwellings	112,838	112,168	111,454	111,740
Chargeable Dwellings	**2,349,733**	**2,365,229**	**2,377,474**	**2,389,029**
Chargeable dwellings subject to:				
Second Homes Discount	35,036	37,060	38,002	39,250
Long Term Empty (LTE) Discount	22,784	22,169	24,598	25,356
LTE Discount Properties as a % of total dwellings	0.9	0.9	1.0	1.1

Note: As at the first Monday in September of each year. It is not possible for some councils to separately identify second homes and long term empty dwellings. For these councils, the total number of second homes and long term empty dwellings have been recorded under second homes. Source: Scottish Government (2011) Local Government Finance Statistics (2011) http://www.scotland.gov.uk/Publications/2012/02/2421/2#t26

Local Authority Breakdown

Annex 1 shows the local authority breakdown of number of properties receiving the LTE dwelling discount. Generally, rural local authorities have a higher than the average, 1% proportion of LTE dwellings in their areas, for example Shetland has 3.6%, Angus 2.8% and Moray 2.7%. Urban (particularly affluent) areas tend to have lower than average proportion, for example, East Renfrewshire 0.2%, North Lanarkshire 0.3% and East Dunbartonshire at 0.2%.

Reasons for Long Term Empty Properties

There are a range of reasons why dwellings become empty and remain empty. Research has suggested that:

> "The majority of private homes are most likely to become vacant when the previous occupant died, moved to hospital or institutional care or was evicted or repossessed. In these cases, owners are often difficult to trace or the property is lying in probate. Where owners are known, an unwillingness to let is a major barrier which can partly be related to finding the prospect of becoming a landlord too onerous a responsibility. The poor state of an empty property and the cost of repairs to upgrade or convert it, are less of a reason for homes becoming empty but a significant cause for them remaining empty.
>
> There are also urban and rural factors that can come into play. In urban areas, empty private homes can be linked with areas of low demand and unpopularity that are under-going regeneration while in rural areas, empty homes can relate to remote location with attendant problems of low demand and high repair and improvement costs. (Flint and Currie 2009).

The same research also found that most owners of empty homes appear to be individuals and the number of empty homes owned by professional landlords appears to be low.

Action on Empty Properties

Use of Existing LTE dwelling Council Tax Discounts

As explained above, since April 2005, councils have been able to reduce the council tax discount on LTE properties from 50% to 10%. The Table in Annex 2 shows that at December 2005, 20 councils had reduced the discount on LTE dwellings to 10% (and one had reduced it to 25%). By April 2012, 30 councils had reduced the council tax discount to the minimum of 10% (Glasgow and Renfrewshire have kept the discount at 50%). Three of these councils reduced the discount from April 2012. No councils have made use of the power available to them in the 2005 regulations to vary the discount in different parts of their area.

Guidance issued by the then Scottish Executive in December 2005 (Scottish Executive 2005) advised that the resulting additional income from reduced council tax discounts on LTE dwellings and second homes should be retained locally by councils in an "affordable housing account" and should be routed for investment through Registered Social Landlords (RSLs). The funding could support a range of innovative projects including:

- specific RSL new build projects;
- site acquisition for future RSL development;
- water and waste water infrastructure costs associated with housing
- development; and

- Rural Home Ownership Grants (RHOGs) - provision of affordable housing to meet locally determined priorities (normally through self-build projects, but could involve off the shelf purchase of homes, including ones needing renovation work).

This guidance was replaced in 2009 (Scottish Government 2009) and the scope for using the proceeds from additional income was widened to include (in addition to those purposes specified in the 2005 guidance):

- new council house building
- bringing empty properties back into affordable housing use;
- land acquisition for affordable housing development;
- purchasing off-the-shelf houses from private developers for affordable housing use.

Currently, around £19-20m is raised each year from reduced council tax discounts for LTE and second homes. Of this revenue, approximately £7m comes from LTE homes. Based on information supplied from local authorities to the Scottish Government from 2009-10 to 2010-11 Scottish local authorities used this revenue (from both LTE and second homes) to contribute to 2,500 affordable homes. Of these homes, approximately 95% also received funding from the Scottish Government with 5% receiving no Scottish Government funding.

According to returns from local authorities, in 2009-10, of the revenue raised from reduced discounts spent in year, 53% was spent on costs associated with council house building. The remaining 47% was provided to other bodies. These other bodies were primarily registered social landlords (although there was also a small proportion spent on other projects, e.g. off the shelf purchases from developers, infrastructure or demolition costs or land purchases for other bodies, such as Trusts). Evidence suggests that the majority of this money is used by councils to support new build developments and that relatively little of it is used to bring empty properties back into use, although this is anticipated to increase in the future (Scottish Government personal communication).

In the future the Scottish Government will get annual updates from local authorities on the levels of council tax revenue spent on affordable housing and the projects supported along with Councils' Strategic Housing Investment Plans (SHIPs).

Other action on empty properties

In addition to using council tax discount powers, councils can take a range of actions to deal with LTE dwellings in their area. This could include, for example, the provision of information and advice to owners of empty properties about the options for bringing them back into use. Argyll and Bute's strategy for empty private sector homes, for example, identifies a menu of tools for bringing empty homes back into use. These include leasing homes to the council, private sector leasing, rent deposit guarantee schemes and conversion to holiday rentals. Their strategy does recognise that in many circumstances no action will be both appropriate and acceptable to all parties (Argyll and Bute Council 2011).

Recently, the Scottish Empty Homes Partnership, funded by the Scottish Government and housed by Shelter Scotland, was set up to help councils and their partners pursue work to bring private sector empty homes back into use. Shelter Scotland has produced some on-line summary guidance for empty homes owners. The partnership also funded the use of the website reportemptyhomes.com where members of the public can report the address or postcode of a suspected empty home, although this is temporarily being funded by Channel 4 as part of its Great British Property Scandal series. Information is then fed back to the appropriate officer in the council responsible for that area. At least 19 councils have signed up to this web initiative, which was launched on the 22nd November 2010.

On 27 March 2012, the Scottish Government announced that a £2 million loan fund would be made available and would be specifically targeted at projects to bring empty homes into use for affordable housing. For example, this could include council or housing association schemes offering loans to help owners renovate their homes in exchange for the properties being made available as affordable housing. Further details on the fund and how organisations can apply for funding will be provided later in the year (Scottish Government 2012d). This announcement follows an award, of just over £400,000, made by the Scottish Government through their Innovation and Investment Fund to South Ayrshire Council to employ an empty homes officer and to develop and run an empty homes loan fund.

South Ayrshire Council's new loan fund will be specifically targeted at projects to bring empty homes into use for affordable housing. Once the properties have been refurbished, the Council will use the properties as either temporary accommodation through the Private Sector Leasing Scheme or as affordable housing available at a mid-market rent and managed by the Council. The owners would be committed to leasing their properties to the Council for a 3-5 year period (South Ayrshire Council 2011).

THE BILL'S PROVISIONS

The Bill's provisions are largely enabling in nature. The explanatory notes to the Bill provide a full description of what the provisions would do. The following provides a summary of the main sections.

Section 2 of the Bill proposes to amend section 33 of the Local Government in Scotland Act 2003, which allows Scottish Ministers to make regulations regarding local authority powers to vary the level of council tax discount provided for unoccupied dwellings in their areas. These powers were used to make the Council Tax (Discount for Unoccupied Dwellings) (Scotland) Regulations 2005 referred to earlier on. The general effect of this section would be to allow Scottish Ministers, by regulations, to vary the amount of council tax payable, or allow local authorities to vary the amount payable, in relation to unoccupied properties as specified in the regulations. This power will include the ability to provide for an increased council tax charge.

Section 3 of the Bill makes various amendments to the Local Government Finance Act 1992. The main effect of this section would be to allow regulations to be made with the aim of facilitating the administration of any council tax increases implemented by the local authority.

PROPOSED REGULATIONS

While the Bill is enabling in nature, the Scottish Government has indicated its proposed approach to regulations in the consultation paper on the bill and in the Policy Memorandum. The approach can be summarised as:

- Property owners would continue to benefit from an exemption from council tax for the first six months their home is empty, providing it is unfurnished (this is currently the case and no change is proposed). Following the period of exemption owners should receive a discount between 50% and 10% for the next six months depending on the council policy (currently after the exemption ends owners receive a 50% discount for 6 months followed by a discount of between 50% and 10%).

- After 12 months of a property being empty, councils could reduce the council tax discount to 0%, so that the owner would pay the standard council tax charge, or also increase the council tax charges up to a maximum of 100% of the standard rate of an occupied dwelling, i.e. the owner of a LTE home could pay up to double the council tax rate payable for an occupied dwelling

- Councils would have discretion to decide to impose a longer minimum period (i.e. longer than 12 months) for which a home can be empty before imposing a council tax increase
- Councils would have discretion to apply the council tax increase in certain parts of their area if they feel that is appropriate.
- A mandatory exemption from a council tax increase for up to 12 months would apply to owners who are proactively trying to sell their home at a reasonable price. Each council would be able to decide what sort of evidence they would be willing to accept from owners as sufficient in order to grant an exemption.
- Councils would have the power to offer a discretionary time-limited exemption from any additional council tax charge in two circumstances:
    - 1) where the council was satisfied that the owner was actively trying to let their property and
    - 2) where a RSL has homes which are needed for use as temporary accommodation, but are sometimes left empty for long periods because their use is linked to a demolition and new build programme(s).
- The definition of LTE will be changed so that a property does not need to be unfurnished in order to be classed as a LTE. This is in order to prevent owners from avoiding being liable for an increase in council tax by furnishing their home (properties will continue to need to be unfurnished in order to claim an exemption from council tax for the first six months they are empty). The definition of second home will also be amended as the proposals only apply to LTE properties- the current regulations apply to both LTE properties and second homes.
- A duty would be imposed on owners to notify their council where their dwelling is unoccupied in cases where they are not paying sufficient council tax due to the local authority being unaware of the fact that the dwelling is unoccupied. A local authority may impose a penalty not exceeding £200 on any person who fails to notify the local authority within the period prescribed in regulations.
- A requirement would be imposed on residents, owners or their managing agents to provide information to a local authority on request in relation to ascertaining whether or not a dwelling is, has been or will be unoccupied, for the purpose of determining whether there should be any variation of the chargeable amount. A local authority may also impose a penalty not exceeding £200 on any person who fails to provide the local authority with the information requested in line with the requirements in the regulations (or who is found to have provided false information).

The proposed regulations will be subject to consultation and those enabled by section 2 of the Bill will need to be approved by Parliament through the affirmative procedure, so the proposals may be subject to some change during that period.

CONSULTATION AND ISSUES

The Scottish Government’s desire to tackle the problem of empty homes was outlined in the 2010 discussion document *Housing: Fresh Thinking, New Ideas* *(Scottish Government 2010)* The idea of increasing council tax charges for owners of empty homes was largely welcomed by those who participated in the discussion. The Government’s 2011 housing policy paper, *Homes Fit for the 21st Century (*Scottish Government 2011b), confirmed that the Scottish Government proposed to take forward legislation to permit additional council tax charges for owners of empty homes.

In October 2011 the consultation paper *Council Tax on Long-Term Empty Properties and the Housing Support Grant – Consultation on Proposals for Legislation* was issued (Scottish Government 2011c). A total of 57 written responses were received to the Scottish Government's consultation on the proposals. A consultation analysis report was published by the Scottish Government at the end of March (Scottish Government 2012e), which also took account of the outcome of round table consultation events with local authorities and other stakeholders. The report found that most respondents (about two thirds and the great majority of organisations) were broadly supportive of the proposal to increase council tax on LTE dwellings. A number of individuals were opposed to any increase in council tax either because they felt they would be unfairly penalised or they felt Government should not interfere in people's rights to leave their home empty if they wish to do so.

The following considers, in more detail, some of the key issues raised by the proposals.

Use of the Proposed Measures

As the Bill is enabling, and use of the proposed regulations would be discretionary, it is unclear how extensively the proposed powers would be used. As mentioned earlier, all but two councils have used existing powers to reduce the council tax discount on LTE homes, although a few have only chosen to do this recently. Councils would need to consider the issues particular to their areas and to decide whether the benefits of implementing the change would outweigh any of the potential costs associated with implementing the proposals. There may be initial start-up costs, for example, arising through changes to IT systems, and on-going enforcement costs.

COSLA's submission to the consultation noted that current LTE dwelling discount acts as an incentive for owners to register their homes as 'empty and unfurnished'. However, this incentive would no longer exist if an increased charge was in place. COSLA argue:

> "The desire to evade tax may rise as the charges increase, and this is likely to impact on the administration required to police the system. Similarly an increase in the number of false claims being made on second homes in order to avoid the levy is anticipated which leads to more time-consuming enforcement checks on sole/main residences. Directors of Finance regard this as a difficult tax to collect, and it will have an adverse impact on collection rates. There may be additional workloads placed upon Councils to introduce inspection regimes to ensure that properties are indeed second homes and not in fact being falsely claimed as occupied". (COSLA 2011)

The FM states that the main costs to councils will be in enforcing the increase (para 39). Using information from a small sample of local authorities the Scottish Government estimated that councils may require between one to three additional members of staff to be employed, although it would be for each local authority to determine the appropriate level of enforcement to be carried out.

Effectiveness of the measures in helping to bring empty properties back into use

The Policy Memorandum states that the aim of the proposal is "about encouraging owners of properties which are considered as long term empty...to bring them back into use" (para 20). However, it is unclear the extent to which the proposals will actually help achieve this. There seems to be a lack of available evidence as to how effective using the tax system is in encouraging owners to bring their properties back into use. As research, published in 2009, noted:

> "There is a lack of data available to demonstrate whether or not tax incentives have had any success in bringing empty properties back into use though there is anecdotal evidence that they can actually act as penalties and have negative effects. The reduction in the CT discount particularly tends to convey the image of the "stick" rather than the "carrot". (Flint and Currie 2009)

The Scottish Government does recognise, in the Policy Memorandum (para 32), "that a council tax increase cannot be the only answer to tackling empty homes. On its own, it will only work in certain circumstances. The proposed flexibility in this Bill will provide an additional tool for local authorities to help them to tackle empty homes, particularly in areas with high levels of need for affordable or market housing. It is expected to encourage home owners to bring their properties back into use – either for rent or sale".

In the consultation document on the proposals, the Scottish Government encouraged councils to make use of the powers alongside other measures to help empty home owners bring their properties back into use and referred to the work of the Scottish Empty Homes Partnership. As noted earlier, the Government has also recently announced the £2m loan fund to help bring empty properties back into use.

Related to this point, is the issue of how any additional income raised from increased council tax charges will be used. As the Scottish Borders Council response to the consultation noted,

> "The current legislation does not seem to have had the desired effect. There seems to be no analysis of why and no evidence to support the principle that an increased levy will achieve the desired change in behaviour. This will be seen as a way to generate income from those, who in their view, are unable to dispose of their property for a number of reasons. The link between the reduced discount/increased levy, and assisting owners in making their properties available for housing will need to be made rather than increasing revenue to fund housing through RSLs etc". (Scottish Borders Council 2011)

Shelter Scotland's response to the consultation argued that councils should commit at least a proportion of the income directly to bringing empty homes back into use, that this should be reflected in Scottish Government guidance and that.." the powers will have greatest impact if seen as part of a package – with incentives as well as sanctions – designed to increase re-use of empty homes, rather than simply being a measure to increase revenue."

As noted earlier, the Scottish Government expects that local authorities will spend the additional income raised from existing reduced discounts for LTE properties and second homes for specified activities in relation to affordable housing provision, as set out in guidance agreed with COSLA. The Scottish Government intends to keep these arrangements in place but will not put in place any ring-fencing arrangements for any further income arising from further reduced discounts or increases in council tax charges. Instead, it will be at local authorities' discretion to determine how they spend any additional income.

Initially, the government had proposed that the additional income be ring-fenced for affordable housing but this was changed in response to consultation feedback, particularly from local authorities who argued that it was appropriate for councils to have full discretion over how their revenue is targeted. South Lanarkshire Council's response to the consultation, for example, noted that, "The guidance issued in February 2009 is fairly broad in its scope. However it is important to recognise that many of the solutions sought / progressed will involve non affordable housing – i.e. houses being returned to the market for outright sale or for private renting” (South Lanarkshire Council 2012).

Level of additional income raised

Currently, around £7m is raised from existing reduced council tax discounts on LTE homes (FM para 27). The FM estimates that the proposed changes to council tax on LTE homes would result in net additional revenues of £12.6m-£15.1m per year (excluding one-off set up costs). This estimate is based on:

- Current numbers of LTE homes, but assuming that the reforms would lead to 10% of LTE properties being returned to use each year
- An estimate of the number of LTE homes empty for more than one year (to whom any increase would apply)
- An assumed 100% increase in council tax applied by all councils after one year on LTE homes i.e. owners of LTE homes would pay double council tax after one year
- A downward adjustment to allow for those who are actively trying to sell their properties (and would be exempt from any increase for up to a year, following the first six month period of being classed as LTE)
- A further adjustment to allow for additional staff costs relating to the reforms e.g. for enforcement activities

The estimates are based on a model set up by the Scottish Government based on data provided by local authorities on numbers of LTE homes in their area. In addition, one-off set up costs of £0.4m-£1.0m are estimated

The Scottish Government points out that there are, “significant margins of uncertainty about these estimates”(FM para 36). The main elements of uncertainty concerns how many local authorities would actually use the new power and how much the additional charge would be. As the estimates are based on all local authorities using the power and charging the maximum 100% increase, these estimates could be significantly reduced if the maximum 100% increase was not charged or not all local authorities choose to use the power

The FM does present an alternative scenario where all councils shift to a ‘no discount’ position after 12 months i.e. owners of LTE properties would pay the standard council tax charge (compared to the current 10% discount offered by the majority of councils). This would reduce estimated revenues (before allowing for enforcement costs) from £15.3m-£16.0m to only £0.4m-0.7m.

Most local authorities have not yet given any indication of their likely response to any new regulations, so assuming that all local authorities would charge the maximum 100% increase in council tax (when two local authorities have not used existing powers to reduce the discounts available) risks overstating the potential revenue gains to local authorities. In evidence to the Finance Committee, Angus Council, for example, indicated that it is unlikely to implement any increased charge within the next 1-2 years as it has only just made use of existing powers to reduce the discounts (Scottish Parliament 2012b).

HOUSING SUPPORT GRANT

The following section concerns the Bill's proposals in relation to housing support grant (HSG).Section 4 of the Bill would remove the requirements in the Housing (Scotland) Act 1987 on the Scottish Ministers to pay housing support grant (HSG) to local authorities.

HSG is payable when a local authority has difficult balancing its council housing account (known as the housing revenue account or HRA) without resorting to substantially increasing rents or cutting management, maintenance or borrowing for capital expenditure. Since 2006, Shetland Islands Council is the only council that has received HSG.

HSG has been available in its present form since the late 1970s under the Housing (Financial Provisions) (Scotland) Act 1978. The Scottish Government's consultation paper noted that the payment of HSG usually occurred in the past when HRAs have taken on too much debt over too short a space of time for the accounts to adjust properly. This happened, for example, in the 1960s and 1970s when a number of urban Scottish councils built extensive council housing estates consisting of thousands of properties per estate (Scottish Government 2011c).

The need for HSG has declined for various reasons including central government debt reduction measures e.g. requirements on the use of a proportion of council house receipts to redeem debt, council house stock transfers which have allowed councils to clear, or reduce, outstanding debt and the introduction of the prudential borrowing framework where councils self-regulate their borrowing levels.

The Policy Memorandum argues that, "the continuing availability of Housing Support Grant leaves open the possibility, and indeed creates a theoretical incentive, for local authorities to increase their housing revenue account debt levels to unsustainable levels and receive on-going Scottish Government subsidy for doing so" (PM para 63). Furthermore, the Scottish Government "would prefer to increase the supply of housing through the provision of capital grant for social housing rather than using scarce resources to service historic debt on an on-going basis" (PM para 64).

HSG is currently only payable to Shetland Islands Council which in 2012-13 is worth £0.761m. Although the level of HSG to Shetland Islands Council has decreased over the years and would continue to decrease over time – it was £1.603m in 2008-09, it currently makes up about 15% of Shetland's total council house income.

Reaction to the Proposals

The Policy Memorandum (para 73) reports that 26 of the written responses provided to the Scottish Government's consultation provided views in relation to HSG and that all of them, except Shetland Islands Council, agreed to the idea that HSG should be abolished, although eight, including COSLA, qualified this by saying that the Shetland Islands Council should be subject to some kind of transitional arrangement.

Shetland Islands Council's response was concerned that the withdrawal of the HSG would have a "significant" impact on its 1,800 tenants and that "Shetland Islands Council therefore do not agree to the abolition of the Housing Support Grant from 2012 unless and until appropriate one-off or transitional arrangements can be put in place to secure the long term sustainability of the housing revenue account"(Shetland Islands Council 2011).

Financial Impact

The FM estimates that the effect to Shetland Islands Council of the removal of HSG would be £0.840m over the four year period 2013-14 to 2016-17 inclusive. If the council aimed to recover all this reduced revenue from tenants this would lead to an estimated rental increase of £3.04 per week on average over the three year period which represents an average annual rental increase of 4.7% above inflation. It may be worth noting that even in the absence of abolition of HSG, above inflation rent increases would be possible and perhaps necessary as has been the case elsewhere in Scotland.

However, the actual effect on tenants in Shetland would depend on how the council chooses to manage its housing debt levels. The FM states that there are a number of measures which the council could take to reduce the effect on tenant's rents such as reducing the income lost through void properties, reductions in the costs of repair and maintenance service per unit and reviewing the terms of its loan arrangements (FM paras 62 and 63)

The Scottish Government has already been in discussions with the council as to how their HRA can adjust further to the removal of the subsidy, whilst minimising the impact on rent levels. The Scottish Government is currently considering the Council's request for transitional arrangements to be put in place (FM para 56). Shetland Islands Council's response to the consultation indicated that the council was pleased to be working with the Scottish Government to seek a resolution to this matter.

SOURCES

Argyll and Bute Council (2011) *Strategy for Empty Private Sector Homes.* Available at: http://www.argyll-bute.gov.uk/sites/default/files/EmptyHomesStrategyFinal2011.pdf

CBI Scotland (2011), *Submission from Confederation of British Industry – Scotland.* Available at: http://www.scottish.parliament.uk/S4_LocalGovernmentandRegenerationCommittee/Inquiries/DBS_08_-_Confederation_of_British_Industry_Scotland.pdf

COSLA (2011) *Scottish Government Consultation on Council Tax on Long Term Empty Properties and the Housing Support Grant. COSLA's Response.*[Online] Available at: http://www.scotland.gov.uk/Resource/0038/00387620.pdf

Department for Communities and Local Government (2011), *National Non-Domestic Rates Collected by Local Authorities in England 2010-11.* Available at: http://www.communities.gov.uk/publications/corporate/statistics/nondomesticrates201011

Flint, A and Currie, H (2009) *Review of the Private Rented Sector Bringing Private Sector Empty Houses into Use Volume 4*. Edinburgh: Scottish Government. Available at: http://www.scotland.gov.uk/Resource/Doc/264877/0079338.pdf

Royal Institution of Chartered Surveyors (2009), *Empty Property Rates Survey*. Available at: http://www.rics.org/site/scripts/download_info.aspx?fileID=387&categoryID=354

Scottish Borders Council. (2011) *Council Tax on Long Term Empty Properties and the Housing Support Grant – Consultation on Proposals for Legislation. Response from Scottish Borders Council*. Available at: http://www.scotland.gov.uk/Resource/0038/00387638.pdf

Scottish Government. (2005) *Guidance on Local Authority Discretion to Reduce Council Tax Discount on Second Homes and Long Term Empty Properties*. Available at: http://www.scotland.gov.uk/Publications/2005/03/20825/54256

Scottish Government. (2009) *Letter from Local Government Division, 5 February 2009. Amended Guidance on Local Authority Discretion to Reduce Council Tax Discount on Second Homes and Long Term Empty Properties*. Available at: http://www.scotland.gov.uk/Resource/Doc/1070/0121477.pdf

Scottish Government (2011a) *Scottish Spending Review 2011 and Draft Budget 2012-13.* Available at: http://www.scotland.gov.uk/Resource/Doc/359651/0121519.pdf

Scottish Government (2011b) *Homes Fit for the 21st Century: the Scottish Government's Strategy and Action Plan for Housing in the Next Decade 2011-2020*. Available at: http://www.scotland.gov.uk/Publications/2011/02/03132933/0

Scottish Government (2011c) *Council Tax on Long-Term Empty Properties and the Housing Support Grant – Consultation on Proposals for Legislation*. Available at: http://www.scotland.gov.uk/Publications/2011/10/17105007/0

Scottish Government (2012a) *Scottish Local Government Financial Statistics 2010-11.* Available at: http://www.scotland.gov.uk/Publications/2012/02/2421/0

Scottish Government (2012b) *Local Government Finance (Unoccupied Properties etc.)(Scotland) Bill: Explanatory Notes (SP Bill 12-EN).* Available at: http://www.scottish.parliament.uk/S4_Bills/Local%20Government%20Finance%20Unoccupied%20Properties/b12s4-introd-en.pdf

Scottish Government (2012c) *Local Government Finance (Unoccupied Properties etc.)(Scotland) Bill: Policy Memorandum (SP Bill 12-PM).* Available at: http://www.scottish.parliament.uk/S4_Bills/Local%20Government%20Finance%20Unoccupied%20Properties/b12s4-introd-pm.pdf

Scottish Government. (2012d) *Empty Homes Crackdown*. News Release 27 March 2012. Available at: http://www.scotland.gov.uk/News/Releases/2012/03/empty-homes27032012

Scottish Government (2012e) *Consultation Analysis Report: Council Tax on Long-Term Empty Properties and the Housing Support Grant*. Available at: http://www.scotland.gov.uk/Resource/0039/00390207.pdf

Scottish Parliament (2011a), *Official Report of the Local Government and Regeneration Committee, 2 November 2011 col 305*. Available at: http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=6502&mode=pdf

Scottish Parliament (2011b), *Official Report of the Economy, Energy and Tourism Committee, 2 November 2011 col 495*. Available at: http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=6761&mode=pdf

Scottish Parliament (2012a), *Written answer S4W-06087.* Available at: http://www.scottish.parliament.uk/parliamentarybusiness/28877.aspx?SearchType=Advance&ReferenceNumbers=S4W-06087&ResultsPerPage=10

Scottish Parliament (2012b), *Written submissions to Finance Committee in relation to the Local Government Finance (Unoccupied Properties etc.)(Scotland) Bill*. Available at: http://www.scottish.parliament.uk/S4_PublicAuditCommittee/Meeting%20Papers/Local_Government_Finance_Unoccupied_Properties_etc._Introduction_and_papers.pdf

Scottish Parliament (2012c).*Written Answer S4W-05868* Available at: http://www.scottish.parliament.uk/S4_ChamberDesk/WA20120307.pdf

Scottish Property Federation (2012), *Written submission to Finance Committee in relation to the Local Government Finance (Unoccupied Properties etc.)(Scotland) Bill*. Available at: http://www.scottish.parliament.uk/S4_PublicAuditCommittee/Meeting%20Papers/Local_Government_Finance_Unoccupied_Properties_etc._Introduction_and_papers.pdf

Shetland Islands Council (2011) *Response to Scottish Government Consultation on Council Tax on Long Term Empty Properties and the Housing Support Grant***.** Available at: http://www.scotland.gov.uk/Resource/0038/00387643.pdf

South Ayrshire Council (2011) Report by the Executive Director, Children and Community to South Ayrshire Council of 17th November 2011. Available at:. http://ww4.south-ayrshire.gov.uk/portal/page/portal30/CommitteePapers/CommitteePapers2011/SouthAyrshireCouncil/17th%20November%202011/Item%204.pdf

South Lanarkshire Council. (2011) *South Lanarkshire Council - Feedback on Proposals for Council Tax on Long term empty properties*. Available at: http://www.scotland.gov.uk/Resource/0038/00387644.pdf

Responses to the Scottish Government consultation. Available online at: http://www.scotland.gov.uk/Publications/2012/02/7761/downloads

Welsh Government (2012), *Business Rates Policy Review: Call for Evidence – Summary of Responses.* Available at: http://wales.gov.uk/docs/det/policy/120328bratesen.pdf

Annex 1 Local authority breakdown of number of properties receiving the LTE dwelling council tax discount.

	2008	2009	2010	2011	2011 number as a % of chargeable dwellings
Aberdeen City	990	919	825	944	0.92
Aberdeenshire	1,639	1,850	1,980	2,101	1.95
Angus	1,357	1,385	1,449	1,506	2.85
Argyll & Bute	571	578	631	718	1.60
Clackmannanshire	0	0	0	0	0.00
Dumfries & Galloway	695	765	767	823	1.16
Dundee City	942	762	837	570	0.86
East Ayrshire	523	447	479	486	0.88
East Dunbartonshire	169	233	148	150	0.35
East Lothian	619	670	341	340	0.78
East Renfrewshire	240	64	57	73	0.20
Edinburgh City	2,393	2,434	2,552	2,244	1.04
Eilean Siar	301	298	295	288	2.10
Falkirk	374	386	346	391	0.56
Fife	1,483	599	1,689	1,724	1.05
Glasgow City	1,740	1,621	1,805	2,153	0.78
Highland	1,119	1,321	1,345	1,402	1.29
Inverclyde	763	784	784	626	1.69
Midlothian	64	71	309	362	1.02
Moray	753	778	999	1,134	2.81
North Ayrshire	1,013	1,043	1,170	1,230	1.89
North Lanarkshire	438	568	500	510	0.35
Orkney	163	155	142	144	1.45

Perth & Kinross	577	671	797	903	1.34
Renfrewshire	0	0	0	0	0.00
Scottish Borders	1,111	1,266	1,342	1,422	2.61
Shetland	399	379	385	384	3.71
South Ayrshire	309	515	549	537	1.02
South Lanarkshire	757	948	1,004	883	0.63
Stirling	176	353	399	494	1.32
West Dunbartonshire	397	395	288	389	0.90
West Lothian	709	501	384	425	0.58
Scotland	**22,784**	**22,169**	**24,598**	**25,356**	1.06%

1. It is not possible for some councils – Renfrewshire and Clackmannashire to separately identify second homes and long term empty dwellings. For these councils, the total number of second homes and long term empty dwellings have been recorded under second homes.

2. Source: Information supplied by Scottish Government officials date

Annex 2: Use of Council Tax Powers to Reduce Discounts for Unoccupied Properties

	Dec-05		Apr-12	
	2nd Homes Disct (%)	**Long Tem Disct (%)**	**2nd Homes Disct (%)**	**Long Tem Disct (%)**
Aberdeen	10	10	10	10
Aberdeenshire	10	10	10	10
Angus	10	50	10	10
Argyll & Bute	10	10	10	10
Clackmannanshire	50	50	10	10
Dumfries & Galloway	10	10	10	10
Dundee City	50	50	10	10
East Ayrshire	50	50	10	10
East Dunbartonshire	50	50	10	10
East Lothian	10	10	10	10
East Renfrewshire	50	50	10	10
Edinburgh	10	10	10	10
Falkirk	10	10	10	10
Fife	10	10	10	10
Glasgow City	50	50	10	50
Highland	10	10	10	10
Inverclyde	10	50	10	10
Midlothian	10	10	10	10
Moray	10	10	10	10
North Ayrshire	10	10	10	10
North Lanarkshire	10	10	10	10
Orkney Islands	10	10	10	10
Perth & Kinross	10	10	10	10

Renfrewshire	50	50	50	50
Scottish Borders	10	10	10	10
Shetland	10	10	10	10
South Ayrshire	25	25	10	10
South Lanarkshire	10	10	10	10
Stirling	10	10	10	10
West Dunbartonshire	50	50	10	10
West Lothian	10	50	10	10
Western Isles	10	10	10	10

Source: Information supplied by Scottish Government officials

Angus, Clackmannanshire and East Ayrshire reduced their discount to 10% from April 2012.

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