Passage of the

Local Government Finance (Unoccupied Properties Etc.) (Scotland) Bill 2012

SPPB 180
Passage of the

Local Government Finance (Unoccupied Properties etc.)
(Scotland) Bill 2012

SP Bill 12 (Session 4), subsequently 2012 asp 11

SPPB 180

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We welcome written correspondence in any language.
## Contents

**Foreword**

**Introduction of the Bill**

<table>
<thead>
<tr>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bill (As Introduced) (SP Bill 12)</td>
<td>1</td>
</tr>
<tr>
<td>Explanatory Notes (and other accompanying documents) (SP Bill 12-EN)</td>
<td>7</td>
</tr>
<tr>
<td>Policy Memorandum (SP Bill 12-PM)</td>
<td>28</td>
</tr>
<tr>
<td>Delegated Powers Memorandum (SP Bill 12-DPM)</td>
<td>44</td>
</tr>
</tbody>
</table>

**Stage 1**

<table>
<thead>
<tr>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stage 1 Report, Local Government and Regeneration Committee (including Annexes A and B)</td>
<td>51</td>
</tr>
<tr>
<td>Oral evidence and associated written evidence (Annexe C to Stage 1 Report)</td>
<td>121</td>
</tr>
<tr>
<td>Other written evidence (Annexe D to Stage 1 Report)</td>
<td>233</td>
</tr>
<tr>
<td>Written evidence from Scottish Retail Consortium</td>
<td>278</td>
</tr>
<tr>
<td>Visit by a delegation of the Committee to Shetland (Annexe E to Stage 1 Report)</td>
<td>283</td>
</tr>
<tr>
<td>Report by the Finance Committee (Annexe F to Stage 1 Report)</td>
<td>286</td>
</tr>
<tr>
<td>Extract from the Minutes, Finance Committee, 25 April 2012</td>
<td>331</td>
</tr>
<tr>
<td>Official Report, Finance Committee, 25 April 2012</td>
<td>332</td>
</tr>
<tr>
<td>Extract from the Minutes, Finance Committee, 2 May 2012</td>
<td>346</td>
</tr>
<tr>
<td>Official Report, Finance Committee, 2 May 2012</td>
<td>347</td>
</tr>
<tr>
<td>Written evidence submitted to Finance Committee</td>
<td>373</td>
</tr>
<tr>
<td>Scottish Parliament Information Centre briefing for Finance Committee</td>
<td>445</td>
</tr>
<tr>
<td>Report by the Subordinate Legislation Committee (Annexe G to Stage 1 Report)</td>
<td>463</td>
</tr>
<tr>
<td>Extract from the Minutes, Subordinate Legislation Committee, 15 May 2012</td>
<td>473</td>
</tr>
<tr>
<td>Official Report, Subordinate Legislation Committee, 15 May 2012</td>
<td>474</td>
</tr>
<tr>
<td>Extract from the Minutes of the Parliament, 6 September 2012</td>
<td>479</td>
</tr>
<tr>
<td>Official Report, Meeting of the Parliament, 6 September 2012</td>
<td>480</td>
</tr>
</tbody>
</table>

**After Stage 1**

<table>
<thead>
<tr>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scottish Government Response to Stage 1 Report, 10 September 2012</td>
<td>510</td>
</tr>
</tbody>
</table>

**Stage 2**

<table>
<thead>
<tr>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scottish Government Response to Subordinate Legislation Committee Report, 5 September 2012</td>
<td>517</td>
</tr>
<tr>
<td>Extract from the Minutes, Subordinate Legislation Committee, 18 September 2012</td>
<td>520</td>
</tr>
<tr>
<td>Official Report, Subordinate Legislation Committee, 18 September 2012</td>
<td>521</td>
</tr>
</tbody>
</table>

**Scottish Government Consolidated Financial Information on Empty Property Relief Proposals, 25 September 2012** | 522 |
<table>
<thead>
<tr>
<th>Document</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Marshalled List of Amendments for Stage 2 (SP Bill 12-ML)</td>
<td>533</td>
</tr>
<tr>
<td>Groupings of Amendments for Stage 2 (SP Bill 12-G)</td>
<td>539</td>
</tr>
<tr>
<td>Extract from the Minutes, Local Government and Regeneration Committee, 26 September 2012</td>
<td>541</td>
</tr>
<tr>
<td>Official Report, Local Government and Regeneration Committee, 26 September 2012</td>
<td>543</td>
</tr>
<tr>
<td>Bill (As Amended at Stage 2) (SP Bill 12A)</td>
<td>561</td>
</tr>
<tr>
<td>Revised Explanatory Notes (SP Bill 12A-EN)</td>
<td>567</td>
</tr>
<tr>
<td>Supplementary Financial Memorandum (SP 12A-FM)</td>
<td>571</td>
</tr>
<tr>
<td>Revised Delegated Powers Memorandum (SP 12A-DPM)</td>
<td>575</td>
</tr>
</tbody>
</table>

**After Stage 2**

<table>
<thead>
<tr>
<th>Document</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Report on Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill as amended at Stage 2, Subordinate Legislation Committee</td>
<td>583</td>
</tr>
<tr>
<td>Letter to Convener of Local Government and Regeneration Committee from Minister for Local Government and Planning, 24 October 2012</td>
<td>588</td>
</tr>
</tbody>
</table>

**Stage 3**

<table>
<thead>
<tr>
<th>Document</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Marshalled List of Amendments selected for Stage 3 (SP Bill 12A-ML)</td>
<td>592</td>
</tr>
<tr>
<td>Groupings of Amendments for Stage 3 (SP Bill 12A-G)</td>
<td>599</td>
</tr>
<tr>
<td>Extract from the Minutes of the Parliament, 31 October 2012</td>
<td>601</td>
</tr>
<tr>
<td>Official Report, Meeting of the Parliament, 31 October 2012</td>
<td>603</td>
</tr>
<tr>
<td>Bill (As Passed) (SP Bill 12B)</td>
<td>647</td>
</tr>
</tbody>
</table>
Foreword

Purpose of the series

The aim of this series is to bring together in a single place all the official Parliamentary documents relating to the passage of the Bill that becomes an Act of the Scottish Parliament (ASP). The list of documents included in any particular volume will depend on the nature of the Bill and the circumstances of its passage, but a typical volume will include:

- every print of the Bill (usually three – “As Introduced”, “As Amended at Stage 2” and “As Passed”);
- the accompanying documents published with the “As Introduced” print of the Bill (and any revised versions published at later Stages);
- every Marshalled List of amendments from Stages 2 and 3;
- every Groupings list from Stages 2 and 3;
- the lead Committee’s “Stage 1 report” (which itself includes reports of other committees involved in the Stage 1 process, relevant committee Minutes and extracts from the Official Report of Stage 1 proceedings);
- the Official Report of the Stage 1 and Stage 3 debates in the Parliament;
- the Official Report of Stage 2 committee consideration;
- the Minutes (or relevant extracts) of relevant Committee meetings and of the Parliament for Stages 1 and 3.

All documents included are re-printed in the original layout and format, but with minor typographical and layout errors corrected. An exception is the groupings of amendments for Stage 2 and Stage 3 (a list of amendments in debating order was included in the original documents to assist members during actual proceedings but is omitted here as the text of amendments is already contained in the relevant Marshalled List).

Documents in each volume are arranged in the order in which they relate to the passage of the Bill through its various stages, from introduction to passing. The Act itself is not included on the grounds that it is already generally available and is, in any case, not a Parliamentary publication.

Outline of the legislative process

Bills in the Scottish Parliament follow a three-stage process. The fundamentals of the process are laid down by section 36(1) of the Scotland Act 1998, and amplified by Chapter 9 of the Parliament’s Standing Orders. In outline, the process is as follows:

- Introduction, followed by publication of the Bill and its accompanying documents;
- Stage 1: the Bill is first referred to a relevant committee, which produces a report informed by evidence from interested parties, then the Parliament debates the Bill and decides whether to agree to its general principles;
- Stage 2: the Bill returns to a committee for detailed consideration of amendments;
• Stage 3: the Bill is considered by the Parliament, with consideration of further amendments followed by a debate and a decision on whether to pass the Bill.

After a Bill is passed, three law officers and the Secretary of State have a period of four weeks within which they may challenge the Bill under sections 33 and 35 of the Scotland Act respectively. The Bill may then be submitted for Royal Assent, at which point it becomes an Act.

Standing Orders allow for some variations from the above pattern in some cases. For example, Bills may be referred back to a committee during Stage 3 for further Stage 2 consideration. In addition, the procedures vary for certain categories of Bills, such as Committee Bills or Emergency Bills. For some volumes in the series, relevant proceedings prior to introduction (such as pre-legislative scrutiny of a draft Bill) may be included.

The reader who is unfamiliar with Bill procedures, or with the terminology of legislation more generally, is advised to consult in the first instance the Guidance on Public Bills published by the Parliament. That Guidance, and the Standing Orders, are available on the Parliament’s website (www.scottish.parliament.uk).

The series is produced by the Legislation Team within the Parliament’s Chamber Office. Comments on this volume or on the series as a whole may be sent to the Legislation Team at the Scottish Parliament, Edinburgh EH99 1SP.

Notes on this volume

The Bill to which this volume relates followed the standard 3 stage process described above.

Annexes C to G of the Local Government and Regeneration Committee’s Stage 1 Report were originally published on the web only. The material contained in each of those annexes is reproduced in this volume in full after the Stage 1 Report (with one written submission that was (in error) not published originally included after the Annexe D material and additional material relevant to the reports by the Finance Committee and the Subordinate Legislation Committee included after each of those reports). Various other items of correspondence (such as the Scottish Government’s response to the Stage 1 Report) are also included at the appropriate places.

Web-links to external sources or documents not incorporated in this volume have not been checked prior to publication, with the result that links which were effective in the original documents may not remain effective in this volume. Links to documents that are included in this volume now link to the appropriate place in this volume rather than back to the Scottish Parliament’s website. The Scottish Parliament is not responsible for the content of external Internet sites. The links in this volume will not be monitored after publication, and no guarantee can be given that all currently effective links will continue to be effective.
Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill

[AS INTRODUCED]

An Act of the Scottish Parliament to amend the law regarding non-domestic rates and council tax in respect of unoccupied properties; and to repeal certain provisions that allow grants to be made to local authorities to meet housing needs in their areas.

Unoccupied properties

1 Rating of unoccupied lands and heritages

(1) The Local Government (Scotland) Act 1966 (c.51) is amended in accordance with this section.

(2) In section 24(3) (unoccupied lands and heritages)—

(a) for “this section” substitute “subsection (2)”,

(b) for “one half” substitute “50%”,

(c) after “occupied”, in the first place it appears, insert “or a rate equal to such other percentage, not exceeding 90%, of that amount as the Scottish Ministers may prescribe by regulations in relation to that class”.

(3) In section 24A(4) (lands and heritages partly unoccupied for a short time), for paragraph (b) substitute—

“(b) either—

(i) 50% of the value apportioned to the unoccupied part of the lands and heritages; or

(ii) where the Scottish Ministers prescribe by regulations a different percentage, not exceeding 90%, in relation to the class into which the lands and heritages fall, that percentage of the value apportioned to the unoccupied part of the lands and heritages.”.

2 Council tax: variation for unoccupied dwellings

(1) Section 33 of the Local Government in Scotland Act 2003 (asp 1) (council tax: discount for unoccupied dwellings) is amended in accordance with this section.

(2) In subsection (1)—
(a) paragraph (a) and the word “and” immediately following it are repealed,
(b) in paragraph (b)—
   (i) the words “(whether by amendment of that section or otherwise)” are
       repealed,
   (ii) for “discount”, in both places where it appears, substitute “variation”.

(3) In subsection (4)—
   (a) for “discount” substitute “variation”,
   (b) for “or minimum amount” substitute “discount or maximum increase”.

(4) In the title of the section, for “discount” substitute “variation”.

3 Amendment of the Local Government Finance Act 1992

(1) The Local Government Finance Act 1992 (c.14) is amended in accordance with this
    section.

(2) In section 71(2)(d) (liability to be determined on a daily basis), for “discount”, in both
    places where it appears, substitute “variation”.

(3) In paragraph 4 of Schedule 2 (administration)—
   (a) in sub-paragraphs (2) and (3), for “discount”, in each place where it appears,
       substitute “variation”,
   (b) after sub-paragraph (5) insert—
       “(5A) The regulations may include provision that where—

(a) in accordance with any provision included under sub-paragraph (4) the
    authority informs the person concerned of its assumption; and

(b) at any time before the end of the financial year following the financial
    year concerned, the person has reason to believe—

   (i) that the authority’s assumption is based on a misapprehension
       about the period during which there will be, or was, no resident of
       the dwelling; and

   (ii) that misapprehension has resulted in the authority incorrectly
       assuming that the chargeable amount is not subject to any increase,
       or in the authority underestimating the amount of the increase,

       the person must, within such period as may be prescribed, notify the
       authority of that belief.

(5B) The regulations may include provision—

(a) that any person appearing to an authority to be a resident, owner or
    managing agent of a particular dwelling must supply to the authority
    such information as fulfils the following conditions—

   (i) it is in the possession or control of the person concerned;

   (ii) the authority requests the person concerned to supply it; and
(iii) it is requested by the authority for the purpose of ascertaining whether the chargeable amount is subject to any variation on the basis that, in respect of any period specified in the request, there is, was or will be no resident of the dwelling;

(b) that the information is to be supplied within a prescribed period of the request being made and, if the authority so requires, in a form specified in the request; and

(c) that a request may be served on the person concerned either by name or by such description as may be prescribed."

(c) in sub-paragraph (6), for “the reference in sub-paragraph (5)(b)” substitute “the references in sub-paragraphs (5)(b), (5A)(b)(ii) and (5B)(a)(iii)”.

(4) The italic cross-heading immediately preceding paragraph 4 of Schedule 2 becomes “Variation”, instead of “Discount”.

(5) In paragraph 2 of Schedule 3 (failure to supply information to or notify local authority)—

(a) after sub-paragraph (1) insert—

“(1A) Where a person is requested by a local authority to supply information under any provision included in regulations under paragraph 4(5B) of Schedule 2, the authority may impose on the person a penalty not exceeding £200 if—

(a) the person fails to supply the information in accordance with the provision; or

(b) in purported compliance with the provision the person knowingly supplies information which is inaccurate in a material particular.”,

(b) in sub-paragraph (2)(a), for “4” substitute “4(5)”;

(c) after sub-paragraph (2) insert—

“(2A) A local authority may impose on a person a penalty not exceeding £200 in any case where—

(a) the person is required by any provision included in regulations under paragraph 4(5A) of Schedule 2 to notify the authority; and

(b) the person fails to notify the authority in accordance with the provision.”,

(d) in sub-paragraph (3), after “(1)” insert “or (1A)”.

Abolition of housing support grants to local authorities

4 Abolition of housing support grants

The following provisions are repealed—

(a) in the Housing (Scotland) Act 1987 (c.26)—

(i) sections 191 to 193 (housing support grants to local authorities),

(ii) in section 338 (interpretation), the definition of “housing support grant”,

(iii) in Part 2 of Schedule 15 (housing revenue account), paragraph 2(1)(c),

(b) in the Housing (Scotland) Act 1988 (c.43), paragraphs 4 and 5 of Schedule 8,
Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill

(c) in the Housing (Scotland) Act 2001 (asp 10), section 94(1) (alteration of housing finance arrangements).

General

5 Commencement

(1) This Act (other than section 4) comes into force on the day of Royal Assent.

(2) Section 4 comes into force on 1 April 2013.

6 Short title

The short title of this Act is the Local Government Finance (Unoccupied Properties etc.) (Scotland) Act 2012.
Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill
[AS INTRODUCED]

An Act of the Scottish Parliament to amend the law regarding non-domestic rates and council tax in respect of unoccupied properties; and to repeal certain provisions that allow grants to be made to local authorities to meet housing needs in their areas.

Introduced by: Alex Neil
On: 26 March 2012
Supported by: John Swinney
Bill type: Executive Bill
These documents relate to the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill (SP Bill 12) as introduced in the Scottish Parliament on 26 March 2012

LOCAL GOVERNMENT FINANCE (UNOCCUPIED PROPERTIES ETC.) (SCOTLAND) BILL

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)

CONTENTS

1. As required under Rule 9.3 of the Parliament’s Standing Orders, the following documents are published to accompany the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill introduced in the Scottish Parliament on 26 March 2012:
   
   • Explanatory Notes;
   • a Financial Memorandum;
   • a Scottish Government Statement on legislative competence; and
   • the Presiding Officer’s Statement on legislative competence.

A Policy Memorandum is printed separately as SP Bill 12–PM.
EXPLANATORY NOTES

INTRODUCTION

2. 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.

3. The 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 schedule, or a part of a section or schedule, does not seem to require any explanation or comment, none is given.

THE BILL

4. The Bill will amend the law regarding non-domestic rates and council tax in respect of unoccupied properties. For non-domestic rates, it allows the Scottish Ministers greater flexibility to vary the relief that applies in relation to the rates payable in respect of such properties. For council tax, the Bill enables variation (including an increase) of the tax payable where a property is unoccupied and amends powers in respect of the ability of councils to require provision of information. The Bill also repeals provisions that allow grants to be made to local authorities in order to allow them to balance their housing revenue account.

COMMENTARY ON SECTIONS

Section 1 – Rating of unoccupied lands and heritages

5. This section relates to non-domestic (business) rates relief in respect of unoccupied premises. The Bill will amend sections 24 and 24A of the Local Government (Scotland) Act 1966 to allow the Scottish Ministers, by regulations (subject to the negative procedure), to vary the amount of rate relief in relation to unoccupied premises (or unoccupied parts of premises where there has been an apportionment under section 24A of the 1966 Act).

6. Currently, section 24 of the 1966 Act provides that no rates are payable in respect of wholly unoccupied premises (meaning there is 100% rates relief). However, it also allows the Scottish Ministers to provide, in regulations, that in respect of prescribed classes of premises a 50% relief applies. Section 24A of the 1966 Act provides a similar system of relief in respect of premises that are partly unoccupied for a short time. It permits the temporary apportionment of the rateable value of the premises between the occupied and unoccupied parts. The default position is that a nil value is attributed to the unoccupied part (which means, in effect, 100% rates relief is given in relation to that part). Like section 24, section 24A allows the Scottish Ministers to provide in regulations that a 50% relief applies to the unoccupied part in respect of prescribed classes of premises.

7. Thus sections 24 and 24A of the 1966 Act allow regulations to vary the level of relief in respect of prescribed classes of unoccupied premises from the default 100% to 50%. The Bill will amend those sections to permit regulations made under them to vary the percentage of relief that applies to the classes of premises prescribed. The power to vary the percentage of relief will
These documents relate to the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill (SP Bill 12) as introduced in the Scottish Parliament on 26 March 2012

however be subject to the limitation that the level of relief cannot be reduced to less than 10% (i.e. unoccupied premises, or unoccupied parts of premises, cannot be charged more than 90% of the rates that would be payable were the premises, or the part, occupied).

Section 2 – Council tax: variation for unoccupied dwellings

8. Existing provision in section 33 of the Local Government in Scotland Act 2003 gives the Scottish Ministers the power, by regulations, to provide for a council tax discount in respect of unoccupied dwellings. It also allows the Scottish Ministers to make regulations that confer a power on local authorities to vary the level of council tax discount provided for such dwellings in their areas. These powers were used to make the Council Tax (Discount for Unoccupied Dwellings) (Scotland) Regulations 2005 (“the 2005 Regulations”; S.S.I. 2005/51) which allowed for discounts of between 10% and 50% for unoccupied properties.

9. Section 2 of the Bill will amend section 33 of the 2003 Act so that the Scottish Ministers may, by regulations, vary the amount payable, or allow local authorities to vary the amount payable, in relation to such unoccupied properties as are specified in the regulations. This power will include the ability to provide for an increased charge either by removing the discount or imposing an increase. The regulations retain the power to set a maximum discount and, by virtue of the amendment, include a power to set a maximum increase (e.g. no more than a maximum of 100% (i.e. double the council tax rate)). As enacted, the powers conferred by section 33 of the 2003 Act are exercisable subject to the affirmative procedure (as defined by section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010) and the Bill will not change that.

10. Section 2 of the Bill will also repeal section 33(1)(a) of the 2003 Act, on account of that provision being spent, the provision which it enabled having been used to make the 2005 Regulations. A power to amend section 33, which is contained in subsection (1)(b) of that section, is revoked, it being unnecessary as a result of the changes made by the 2005 Regulations.

Section 3 – Amendment of the Local Government Finance Act 1992

11. This section amends paragraph 4(2) of Schedule 2 to the Local Government Finance Act 1992 (“the 1992 Act”) to permit the Scottish Ministers, by regulations, to require local authorities to take reasonable steps to ascertain whether the amount of council tax to be charged is subject to any variation (section 2 of the Bill having replaced references to “discounts” with “variations” in the Local Government in Scotland Act 2003 where the references relate to unoccupied dwellings). It also amends paragraph 4(3) of Schedule 2 to the 1992 Act to ensure that the provisions in the regulations for assumptions that a local authority can make in calculating a chargeable amount can include an increased council tax charge as well as any circumstances where the dwelling is believed to be eligible for a discount. There is a consequential change to section 71 of the 1992 Act.

12. The section inserts a new paragraph 4(5A) into Schedule 2 to the 1992 Act, which allows the Scottish Ministers, by regulations, to impose a duty on owners to notify their local authority 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. The local
authority may impose a penalty, not exceeding £200, on any person who fails to notify it within the period prescribed in regulations (this is provided for by section 3(5)(c) of the Bill).

13. The section also inserts paragraph 4(5B) into Schedule 2 to the 1992 Act in order to impose a requirement 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. New paragraph 2(1A) of Schedule 3 to the 1992 Act is inserted by section 3(5)(a) of the Bill to enable the local authority to impose a penalty not exceeding £200 on any person who fails to comply with a request. Section 3(5)(d) provides a consequential change to paragraph 2(3) of Schedule 3 to the 1992 Act in order to enable a local authority to impose a further penalty of £200 on a person if the local authority makes a further request for information to that person under the new paragraph 4(5B) of Schedule 2 to the 1992 Act and that person again fails to supply the information requested or knowingly supplies inaccurate information.

14. Section 3 of the Bill modifies the powers conferred by section 4 of the 1992 Act. Those powers, as enacted, are exercisable subject to the negative procedure (as defined by section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010) and the Bill will not change that.

Section 4 – Abolition of housing support grants

15. This section removes the requirements in the Housing (Scotland) Act 1987 on the Scottish Ministers to pay housing support grants to local authorities. These grants are payable by the Scottish Ministers to assist local authorities to meet reasonable housing needs in their areas. Section 4 will remove the legislative requirement to pay such grants from 1 April 2013. Two consequential changes to other legislation are also made.

Section 5 – Commencement

16. This section provides that the Act the Bill will become, if passed, will come into force on the day of Royal Assent. Section 4 is excepted and will come into force on 1 April 2013.

FINANCIAL MEMORANDUM

INTRODUCTION

17. This document relates to the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill introduced to the Scottish Parliament on 26 March 2012. It has been prepared by the Scottish Government to satisfy Rule 9.3.2 of the Parliament’s Standing Orders. It does not form part of the Bill and has not been endorsed by the Parliament.
EMPTY PROPERTY RELIEF ON NON-DOMESTIC RATES

Background

18. The Bill will allow the Scottish Ministers, by regulations, to vary the percentage of non-domestic rate relief available for defined classes of unoccupied premises. Currently the amount of liability can only be varied from 0% (which is the default rate) to 50%. That power has been used to apply the 50% rate to certain classes of property that have been empty for three months, for an indefinite period thereafter. The Scottish Government proposes to use the powers in the Bill to make regulations that would introduce from 2013-14, for the classes currently subject to a 50% liability, an increase to a 90% liability following the initial 3 month zero-rated period, and that this 90% rate would apply for an indefinite period. Paragraphs 19 to 26 assume reform as set out above. The powers in the Bill would also allow the Scottish Ministers flexibility to make regulations that would decrease the liability for the classes currently subject to a 50% liability (following the initial 3 month zero-rated period), though there is no intention to use the powers for this purpose at present. If the powers were used to decrease liability in this way there would be a cost to the Scottish Government budget (for reasons set out in paragraph 21 below) and an equivalent saving for owners of long-term empty premises eligible for non-domestic rates discount, dependent on the level of decrease in liability.

Revenue estimate

19. The cost to the Scottish Government of non-domestic rates income foregone in 2012-13 is estimated to be over £150 million. The proposed reform from 2013-14 onwards (as set out in paragraph 18 and summarised in table 2), would reduce the cost to the Scottish Government of providing the relief by an estimated £18 million per year. Current forecasts for the cost of empty property relief over the 3 year spending review period before and after introduction of legislation are:

Table 1 – Current forecasts for the cost of empty property relief over the 3 year spending review period

<table>
<thead>
<tr>
<th></th>
<th>On current levels of discount (£m)</th>
<th>On proposed new levels of discount (£m)</th>
<th>Saving (£m)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012-13*</td>
<td>152</td>
<td>152</td>
<td>0</td>
</tr>
<tr>
<td>2013-14</td>
<td>155</td>
<td>137**</td>
<td>18</td>
</tr>
<tr>
<td>2014-15</td>
<td>162</td>
<td>144**</td>
<td>18</td>
</tr>
</tbody>
</table>

*Legislation will not apply until April 2013, therefore no effect on 2012-13 cost.

**These figures are estimates only as it is possible that there will be transfer to other eligible forms of relief upon introduction of legislation.

20. The reduction in the cost of providing empty property relief from the proposed reform in paragraph 18 was estimated by first identifying the total rateable value of properties receiving empty property relief and the proportion of those in receipt of 50% relief. A reduction in the cost of relief as a result of the proposed relief changing from 50% to 10% was calculated. This was modelled by a combination of taking data from both actual rates bills and the valuation roll. A final adjustment was applied to take into account that some properties may switch over to another type of relief after reform of empty property relief. For example an empty property with a rateable value of £10,000 currently benefitting from 100% empty property relief may
(depending on circumstances) be eligible for another form of relief, such as the Small Business Bonus Scheme or charity relief and will apply for that relief. This will increase the costs of those other reliefs, in turn reducing the net savings from the reform of empty property relief. For those properties that switch to another form of relief, the reform of empty property relief will have a reduced impact.

**Costs on the Scottish Administration**

21. No additional costs are expected from these proposals. While there would be staff time required in developing regulations and guidance following the passage of the Bill, this would be taken forward by existing staff so would not be an additional cost. The reduction in the discount level would lead to a saving in the Scottish Government budget of around £18 million per year. The annual local government finance settlement is shared out between all 32 local authorities using a needs-based formula. This formula determines how much money each local authority should get for the year ahead in comparison to the relative need of all the other local authorities. The Scottish Government guarantees that calculated figure through a combination of non-domestic rate income (NDRI) and general revenue grant (GRG) from the Scottish Budget. Any drop in NDRI collected is automatically compensated for by the Scottish Government providing an equivalent additional amount of GRG to offset this. Conversely any increase in NDRI, for example by collecting an additional £18 million NDRI after empty property relief is reformed, leads to the Scottish Government reducing the level of GRG by £18 million accordingly and this £18 million reduced GRG is a saving to the Scottish Government. As a result the amount of NDRI collected by an individual authority has no direct impact on its total funding allocation. The approximately £18 million per year saving from reducing the empty property relief discount level would therefore accrue to the Scottish Government for reallocation within the Scottish Budget.

22. Any properties in the Scottish Government estate that are empty could also see their rates bill increase as a result. The Scottish Government expects that this will only affect a very small number of properties each year (less than a dozen properties are estimated to be affected).

**Costs on local authorities**

23. Local authorities currently carry out the work required to establish if a property is eligible for empty property relief and apply the discount at the two different levels available. The change proposed will only vary the level of discount, and will make no changes in terms of eligibility or timings of discount. It is anticipated that there will be a small administrative cost to local authorities in amending the level of discount applied to existing bills for non-domestic rates, and explaining the changes to ratepayers. The legislation and subsequent regulations, by reducing the discount available, will reduce the financial incentive to keep a property empty, and thereby reduce the incentive to avoid incurring liability for full business rates. As a possible consequence, if the number of declared empty properties is reduced, local authorities may need to spend less time monitoring the ongoing status of declared empty properties. Any properties occupied by local authorities that are empty will also be affected by any change to the level of empty property relief offered.
These documents relate to the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill (SP Bill 12) as introduced in the Scottish Parliament on 26 March 2012

Costs on other bodies, individuals and businesses

24. Some owners/occupiers of premises eligible for empty property relief for non-domestic rates will be affected by the regulations that would follow the introduction of legislation. The Scottish Government proposes, by regulations, to introduce a 10% discount in place of the 50% discount that currently exists. The reform would apply to owners/occupiers of empty premises in the public sector currently in receipt of empty property relief.

25. A summary of the main types of empty property relief currently available and the proposed rates that will be introduced by regulations are shown in table 2.

Table 2 – Empty property relief current and proposed rates in Scotland*

<table>
<thead>
<tr>
<th>Current position</th>
<th>Intended Position post legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Standard or “commercial” empty property relief first 3 months</strong></td>
<td>100% relief (i.e. no rates payable)</td>
</tr>
<tr>
<td><strong>Standard or “commercial” empty property relief after 3 months</strong></td>
<td>50% relief (until occupancy status changes)</td>
</tr>
</tbody>
</table>

* In England and Wales empty property relief was reformed in 2008 and currently offers 100% commercial relief for 3 months, then 0%. For listed/ industrial property 100% relief is offered for 6 months, then 0% thereafter.

26. It is estimated that the total cost to business of the reduced discount would be in the region of £18 million in each of 2013-14 and 2014-15 (which accounts for approximately 12% of the annual cost of the discount that currently benefits businesses). The impact of this will fall solely on businesses who currently take up the discount or who may in the future. The figure of £18m is a best estimate based on data held on vacant property identified on the valuation rolls and data on properties in actual receipt of empty property relief provided by councils. This figure may vary as property is built/demolished, existing property moves in and out of use or changes occupier (which in turn may lead to a change in relief entitlement).

COUNCIL TAX INCREASE ON LONG-TERM EMPTY HOMES

Background

27. Under the current legislation, homes which are empty and unfurnished are entitled to a six month exemption from council tax from the point that they become empty. Properties are
normally regarded as long-term empty (LTE) after they have been unoccupied for six months, unless they benefit from a longer term exemption from council tax under Schedule 1 to the Council Tax (Exempt Dwellings) (Scotland) Order 1997\(^1\). Owners not eligible for further exemption are entitled to a council tax discount of 50% for the first six months after the dwelling becomes classed as LTE (so normally between six and twelve months after it becomes empty). After that six month period, local authorities have the flexibility to offer a discount of between 10% and 50%. Where a local authority has offered a discount of less than 50%, the additional revenue that this generates is retained by the local authority. Currently, local authorities receive around £7 million per year through reduced council tax discounts on LTE homes.

28. The Bill will enable the Scottish Government, by regulations, to vary the level of council tax charges for unoccupied dwellings, by either allowing, or requiring, local authorities to increase the level of charges or to increase the level of discount. However, the Scottish Government does not presently intend to make regulations providing for increased discounts. The Scottish Government’s present intention is that the new regulations will have the following practical effect: as currently, there will be no charge for the first six months a home is empty (provided it is unfurnished), followed by a council tax discount of between 10% and 50% for the next six months\(^2\) (whether the home is furnished or unfurnished). After that, owners could be subject to a council tax increase if the local authority chooses to apply such an increase. If the maximum increase intended to be permitted through regulations (100%) was applied, the owner would pay double the standard rate of council tax for the applicable council tax band. Regulations will set out how this will happen in practice, together with classes of time-limited exemption from the council tax increase (which would enable the owner to continue to pay council tax at a discount rate).

29. This memorandum represents the financial position based on the Scottish Government’s intentions for regulations; the Bill itself would not lead to additional costs for local authorities or home owners as it primarily provides enabling powers.

30. The Bill and subsequent regulations will also impose a duty on property owners to report changes of occupancy status to the local authority and enable local authorities to impose a charge of up to £200 on owners who fail to meet the requirements to provide information set out in the regulations or supply false information in relation to those requirements. Any monies raised through this charge will be retained by local authorities. Assuming Parliament passes the Bill and approves the subsequent regulations, local authorities will be able to implement the increase from 1 April 2013 (although they could choose to delay implementation to a later year if they wished).

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\(^2\) A home is normally regarded as “long-term empty” (LTE) for council tax purposes after it has been empty for six months, although in some cases the home may only become classed as LTE after a longer period if the owner was previously eligible for an exemption from council tax in relation to the home. The Scottish Government intends to use existing powers to amend the definition of an LTE home through the regulations so that it no longer needs to be unfurnished; this is in order to prevent owners from easily avoiding being liable for the increase due to their home being classified as a second home, even where it is never occupied.
Revenue estimate

31. The Scottish Government has created a model to estimate the potential revenue that could be generated as a result of the council tax increase. The model uses actual numbers of long-term empty homes liable for council tax, actual council tax rates and takes into account the distribution of properties across council tax bands. In producing its calculations, the model assumes that all local authorities will apply the same level of discount or increase and that 10% of properties will be returned to use each year.

32. If all local authorities were to charge a maximum 100% increase for all LTE homes liable for council tax, a maximum of £33.9 million per year could be collected (assuming a 100% collection rate). This is provided as an average over four years because it is difficult to produce robust estimates of how many homes would be brought into use each year as a result of the increase (or other factors); it assumes no increase in council tax rates, no additional LTE homes and 10% of homes being brought back into use each year. This estimate also includes revenue which is already received through reduced council tax discounts (of less than 50%) on LTE homes (about £7 million per year).

33. The Scottish Government proposes that the increase should only be charged after a property has been empty for at least one year. Whilst the Scottish Government does not have data on the number of homes empty for one year or more, a sample of local authorities has provided data in relation to this. Based on numbers supplied by four local authorities, about 70% of current LTE homes have been empty for 1 year or more (with around 30% empty for between 6 and 12 months). Assuming that this rate is constant across all local authority areas, it would have the effect of reducing the £33.9 million maximum revenue level per year to £23.8 million per year.

34. The Scottish Government also proposes a mandatory exemption from the increase for up to one year after the initial six month period of a home being classed as LTE for homes actively being marketed for sale. No accurate information is available as to the number of LTE homes advertised for sale (and thus able to qualify for the proposed exemption). However, the Scottish Government estimates that in the region of 3-6% of LTE homes could potentially qualify for the, time-limited exemption proposed. This estimate is based on data on the number of homes marketed for sale each year (currently approximately 3% of Scottish homes based on numbers of Energy Performance Certificates prepared), along with an assumption that higher proportions of empty homes are likely to be for sale than occupied homes as anecdotal evidence suggests they can often take longer to sell than an occupied home. The maximum projected revenue would therefore reduce to approximately £22.3-23 million per year to take account of up to 3% to 6% of owners being eligible to continue paying council tax at a discount rate.

35. The regulations may provide that, effectively, local authorities set the level of discount or increase themselves. However, the Scottish Ministers will be able to set a maximum discount or maximum increase that cannot be exceeded by local authorities. The Bill itself does not set those maximums so they could be set to produce a wide range (e.g. 100% discount to 100% increase). This would introduce significant margins of uncertainty in projected revenue. Although the Scottish Government does not intend to use this flexibility to reduce the current discounts further or to change the level of discount in relation to other classes of unoccupied homes that are not LTE, if it did increase the maximum discount to 100% for LTE homes and this was applied
These documents relate to the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill (SP Bill 12) as introduced in the Scottish Parliament on 26 March 2012

across all local authorities, a total cost to local authorities of approximately £8.7 million per year would result (through reduced council tax revenue). As the Scottish Government estimates a maximum revenue of £16.05 million per year, the potential range of impacts varies between a cost of £8.7 million per year for local authorities and a revenue income of up to £16.05 million per year.

Table 3 (total projected revenue over and above the proposed minimum 50% discount including existing revenue raised of approximately £7m)

<table>
<thead>
<tr>
<th>Council Tax Level</th>
<th>6 months plus</th>
<th>1 year plus</th>
<th>1 year plus + 3% for sale</th>
<th>1 year plus + 6% for sale</th>
</tr>
</thead>
<tbody>
<tr>
<td>100% increase (200% council tax)</td>
<td>33,943,275</td>
<td>23,760,292</td>
<td>23,047,484</td>
<td>22,334,675</td>
</tr>
<tr>
<td>No Discount (100% council tax)</td>
<td>11,314,425</td>
<td>7,920,097</td>
<td>7,682,495</td>
<td>7,444,892</td>
</tr>
<tr>
<td>10% Discount (90% council tax)</td>
<td>9,051,540</td>
<td>6,336,078</td>
<td>6,145,996</td>
<td>5,955,913</td>
</tr>
<tr>
<td>50% Discount (50% council tax)</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

Table 4 (adjusted figures to remove existing revenue raised from reduced discounts)

<table>
<thead>
<tr>
<th>Council Tax Level</th>
<th>6 months plus</th>
<th>1 year plus</th>
<th>1 year plus + 3% for sale</th>
<th>1 year plus + 6% for sale</th>
</tr>
</thead>
<tbody>
<tr>
<td>100% increase (200% council tax)</td>
<td>26,943,275</td>
<td>16,760,292</td>
<td>16,047,484</td>
<td>15,334,675</td>
</tr>
<tr>
<td>No Discount (100% council tax)</td>
<td>4,314,425</td>
<td>920,097</td>
<td>682,495</td>
<td>444,892</td>
</tr>
</tbody>
</table>

36. Table 3 sets out the potential revenue at varying levels of council tax discount or increase and assumptions regarding the time the property has been empty for and the number of homes for sale. Meanwhile, table 4 has been adjusted to remove existing revenue raised by councils who have reduced their council tax discounts on LTE homes from 50% to 10%. As indicated above, there are significant margins of uncertainty in relation these estimates. In particular, this is due to uncertainty about whether and to what extent local authorities will use the new powers, which could lead to very significant variations in the revenue raised. In addition, there are other, slightly less significant, uncertainties in relation to the:

- rates of collection of the increased council tax, which could reduce the maximum revenue (given that these could be somewhat lower than local authorities’ average rates as owners may seek to evade payment);
- number of homes which are brought back into use, which could also reduce (or potentially increase) the maximum revenue. This has been estimated at 10% per year as a result of increases and other factors (such as work by local authorities to tackle
empty homes), but the Scottish Government would hope that a higher proportion of empty homes would be brought back into use;

- number of new homes which become empty and are classed as LTE, which could increase the maximum revenue. For modelling purposes, a starting point of 25,000 LTE homes eligible for any increase has been assumed, although in reality additional homes will become empty while other existing LTE homes will be brought back into use in the meantime. In addition, increased checks by local authorities following the revised definition of an LTE home which the Scottish Government intends to provide through the regulations may lead to an increase in numbers of homes which are classified as LTE;

- rate of discount applied for the first six months a home is classed as LTE (i.e. normally where homes have been empty for between six and twelve months). For modelling purposes, the existing standard discount rate of 50% has been assumed, but if most local authorities chose to decrease the discount rate to 10% during this period, this would lead to a significant increase in revenue;

- number of homes which are eligible for a time-limited exemption from the council tax increase, which could reduce the level of maximum revenue further.

**Costs on the Scottish Administration**

37. Minimal additional costs are expected. While there would be staff time required in developing regulations and guidance following the passage of the Bill, this would be taken forward by existing staff so would not be an additional cost. There could be additional costs to the Scottish Administration in relation to empty homes owned by the Scottish Government or its agencies. The Scottish Government now only owns a very small number of residential properties; six of these homes are currently known to be empty and therefore could potentially be liable for a council tax increase from April 2013, although the Scottish Government hopes they may be brought back into use before then. However, others might become empty in future.

**Costs on local authorities**

38. In order to be able to apply an increased council tax charge, local authorities may incur set-up costs to ensure that their computer systems are able to calculate the tax due (although in some cases no IT changes would be required, depending on the local authority’s individual system) and would incur ongoing costs to administer and enforce the increase.

39. The main costs to local authorities will be in enforcing the increase. Some councils will also have to pay the increase for their LTE council homes (although where these are scheduled for demolition, they are not liable for council tax). While 3095 council homes were classified as empty for longer than six months in 2011, feedback from local authorities suggests the majority of these homes are likely to be due for demolition so the numbers of council homes liable for the increase would be much smaller than this.

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3 Based on data provided by local authorities to the Scottish Government – see http://www.scotland.gov.uk/Topics/Statistics/Browse/Housing-Regeneration/HSFS/VacantStoc
Set-up costs

40. In applying a tax increase, the discount would have to be removed and provision made to apply an increased charge. Two local authorities have advised us that the likely cost of this change would be approximately £10,000 each, although there may be the opportunity for some local authorities who use the same IT provider to jointly procure the required system change. Not all local authorities use the same council tax collection systems and, depending on the system in use, some local authorities believe they might not need to make system changes to allow for a tax increase and will therefore not incur any additional costs.

41. Based on the information provided by two local authorities, the average cost for IT system updates where an authority decides to apply a council tax increase in its area is estimated to be a one-off cost of approximately £5,000 to £10,000 per local authority (£160,000 to £320,000 for the whole of Scotland if all local authorities choose to apply an increase).

42. Depending on the quality of local authorities’ current billing data, additional set-up resource in the form of staff time may be required to ensure accurate and up to date information for initial billing purposes. These staff would verify that the correct properties have been classified as LTE, undertaking a similar role to that detailed under “ongoing costs” below. In particular, two local authorities currently do not differentiate between LTE homes and second homes on their IT systems, while others are also likely to need to review their data to ensure that homes are correctly categorised (particularly given that the Scottish Government intends to amend the definition of an LTE home in regulations to include furnished, as well as unfurnished, properties). In practice, this would mean that the additional staff may be required to be in post approximately three months before the increase is applied in their area. Depending on the number of staff required (which will vary by the number of LTE homes), the cost per local authority for additional staff for three months in 2012-13 to prepare to implement the increase would be in the range of £7,125 for one member of staff to £21,375 for three. This equates to up to £228,000 to £684,000 for the whole of Scotland if all local authorities were to put in place additional staff in advance to prepare for implementation in April 2013.

43. The Scottish Government is not expecting local authorities to spend additional monies on publicising any increase. Each year local authorities write out to each council tax payer in respect of the year’s charges for each property so local authorities would be expected to include details of any increased charge in this communication where appropriate.

Ongoing costs

44. As there would be a financial incentive for some owners to avoid paying the increase, correct identification of LTE homes, including through inspections, spot checks and seeking written evidence from owners (such as copies of utility bills) is likely to be required. This is likely to need additional staffing to police it correctly, although it would be up to each local authority to determine the appropriate level of enforcement to be carried out.

45. The small sample of local authorities who provided information estimated that this will require an additional two to three staff per authority to carry out the function on an ongoing basis, although those who provided information were medium or larger local authorities so the
Scottish Government believes that smaller local authorities with fewer LTE homes may be able to operate a tax increase effectively with only one additional staff member.

46. Based on information provided to the Scottish Government by one local authority, the estimated cost for a member of staff would be approximately £28,500 per year (including National Insurance and superannuation). Some authorities may decide to staff the roles with more junior grades, in which case the actual costs could be lower. The cost for two additional staff would therefore be approximately £57,000 per year per authority (including National Insurance and superannuation). The cost of three additional staff would be approximately £85,500 per year per authority. The number of staff required will vary depending on the number of LTE homes in each area – a local authority with a small number of LTE homes should be able to manage with a single additional officer at approximately £28,500 per year.

47. The average additional staffing costs for a local authority are therefore estimated at approximately £28,500 to £85,500 per year or £912,000 to £2,736,000 per year for the whole of Scotland (including National Insurance and superannuation). However, as noted above depending on the size of the local authority and number of empty homes, many local authorities would not require three additional staff so the upper end estimate is very unlikely to be reached. It will be for each local authority to decide, based on their own unique circumstances, whether or not the potential benefits in terms of tackling empty homes and/or additional revenue justify the introduction of the tax increase in their area.

48. Using the maximum revenue levels in table 4, this level of ongoing costs could lead to a maximum net revenue for local authorities in the range of £12.59 million to £15.14 million per year from 2013-14 (excluding one-off set up costs). As with all council tax revenue, any revenue raised from a council tax increase would be retained for spending by the local authority. It will be for local authorities to determine how they wish to spend any additional revenue raised as a result of the new powers which will be provided through the Bill and subsequent regulations.

Costs on other bodies, individuals and businesses

49. All owners of LTE homes could be liable for a council tax increase unless they qualify for an existing exemption from council tax or for one of the new exemptions from the increase which are to be provided through regulations. Whilst the Scottish Government does not have access to council tax information regarding current owners of LTE homes, from discussions with local authorities and contact with some owners, it seems that the vast majority are owned by individuals. Some LTE homes are owned by rural estate businesses and housing associations (as at March 2011, 554 homes owned by Registered Social Landlords were empty for longer than six months\(^4\)), although a number of properties that fall into these categories are already likely to be exempt under existing provisions for agricultural properties or for social rented properties due for demolition.

50. There may also be some LTE homes owned by private landlords who are registered as businesses, although feedback from the Scottish Association of Landlords suggests most

\(^4\) Data from the Scottish Housing Regulator
http://www.scotland.gov.uk/Topics/Statistics/Browse/Housing-Regeneration/HSfS/socialtables
landlords actively seek to avoid leaving their homes empty due to the opportunity cost of lost rental income. A few private developers also have new build homes which have been classified as completed (and therefore entered on the council tax register) for more than six months, along with some homes they purchase from buyers through part exchange deals, although most developers actively seek to avoid leaving homes empty long-term by selling at a discount or letting them.

51. The actual additional cost that an owner would be expected to pay will depend on several factors:

- whether or not the local authority has decided to implement the increase and, if so, at what level up to the proposed maximum of 100% increase;
- if the increase is not applied, the level of discount they choose to apply, if any (between 0% and 50%);
- the council tax band of the property;
- whether or not the owner is eligible for any exemptions at that time – either from council tax or, under the proposed future regulations, from the additional increase\(^5\).

52. LTE homes fall across all council tax bands. However, Scottish Government CTAXBASE data shows that, at September 2011, 53% of LTE homes were in the lowest two bands i.e. A and B, with 31% in the lowest council tax band (band A). The average band B council tax in 2011-12 is £892.79 per year.

53. Table 5 provides an illustration of the additional costs that an owner with a band B property could be liable for. If the local authority currently offers an LTE home discount of 50% (the maximum allowable) the person would pay £446.39 per year. If that local authority were to move to a maximum 100% increase, the owner of the property would pay £1,785.58 – a difference of £1,339.19 per year. This is highly unlikely as the great majority of councils currently offer a 10% discount for long-term empty properties; in this case the extra charge for each band B home would be £982.07 per year based on the local authority charging a maximum 100% increase.

Table 5 – Illustrative difference in council tax charges for band B average homes

<table>
<thead>
<tr>
<th>Annual council tax charge for a Band B home</th>
<th>Cost per year</th>
<th>Difference to no discount</th>
<th>Difference to 10% discount</th>
</tr>
</thead>
<tbody>
<tr>
<td>With maximum 50% discount</td>
<td>£446.39</td>
<td>-£446.39</td>
<td>-£357.12</td>
</tr>
<tr>
<td>With 10% discount</td>
<td>£803.51</td>
<td>-£89.28</td>
<td>£0.00</td>
</tr>
<tr>
<td>With no Discount</td>
<td>£892.79</td>
<td>£0.00</td>
<td>£89.28</td>
</tr>
<tr>
<td>With 25% increase</td>
<td>£1,115.99</td>
<td>£223.20</td>
<td>£312.48</td>
</tr>
<tr>
<td>With 50% increase</td>
<td>£1,339.18</td>
<td>£446.39</td>
<td>£535.67</td>
</tr>
<tr>
<td>With 75% increase</td>
<td>£1,562.38</td>
<td>£669.59</td>
<td>£758.87</td>
</tr>
<tr>
<td>With maximum 100% increase</td>
<td>£1,785.58</td>
<td>£892.79</td>
<td>£982.07</td>
</tr>
</tbody>
</table>

\(^5\) As at September 2011, 45,937 unoccupied homes were exempt from council tax due to qualifying for one of the exemptions in Schedule 1 of the Council Tax (Exempt Dwellings) (Scotland) Order 1997
54. The total maximum increase in costs to individuals, businesses and public sector bodies who own long-term empty homes would be up to £15.33-16.05 million per year based on the Scottish Government’s intentions for regulations.

HOUSING SUPPORT GRANT

Background

55. Housing Support Grant (HSG) is currently payable to one local authority in Scotland (Shetland Islands Council), largely for historical reasons. The need for HSG has fallen away (or not occurred) in the rest of Scotland over time for various reasons including central government debt reduction measures imposed between 1996-97 and 2003-04, stock transfers between 2002-03 and 2006-07 and prudential borrowing by local government since 2004-05. The HSG payment to Shetland Islands Council is currently £0.761 million for 2012-13 and this is still a significant sum locally.

56. The level and importance of HSG paid to the Council has been decreasing over the long term however and specifically in each of the last seven years. This means the Council has been required to adjust its Housing Revenue Account (HRA) financial position over time to bring it more closely into line with the other 25 authorities with council stock who do not receive HSG. Discussions have been ongoing with the Council for approximately two years as to how their HRA can adjust further to the removal of the subsidy, whilst minimising the impact on rent levels. By the time of the proposed abolition of HSG (in 2013-14), a further year will have elapsed for the Council to consider any measures it wishes to take to minimise the impact on tenants’ rents. Latterly, these discussions have included the possibility of the transitional assistance the Council requested in its consultation response. The Scottish Government is currently considering this request.

57. The total HSG paid out in 2012-13 will be £0.761 million. The expected profile of HSG over time if it were not abolished and no other local authorities claim HSG apart from Shetland Islands Council, using the current methodology, is as laid out in table 6:

Table 6 – Projected Housing Support Grant (HSG) payments if the grant were to continue

<table>
<thead>
<tr>
<th></th>
<th>2013-14</th>
<th>2014-15</th>
<th>2015-16</th>
<th>2016-17</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>HSG</td>
<td>£0.524m</td>
<td>£0.282m</td>
<td>£0.034m</td>
<td>£0.0m</td>
<td>£0.840m</td>
</tr>
</tbody>
</table>

Costs on the Scottish Administration

58. No additional costs are expected as a result of the abolition of HSG. There would be savings in the costs of paying out any HSG claims to Shetland Islands Council totalling £0.84 million, along with some modest savings on administration due to the freeing up of officials’ time on, for example, the production of an annual Scottish statutory instrument required to pay it out. These savings would be offset by any amount the Scottish Government may choose (assuming it does choose) to pay in transitional assistance but as this amount is currently unknown it is not possible to provide a “net” figure for the costs/savings to the Scottish Administration.
Costs on local authorities

59. As stated above, only Shetland Islands Council presently receives HSG and it will therefore be the only local authority affected by its abolition. The projected cost to the Council in each year from 2013-14 (when it is proposed the abolition will take effect) is outlined in table 6.

60. Abolition of the grant from 2013-14 onwards would therefore involve a reduction in income to Shetland Islands Council’s HRA of approximately £0.84 million. This figure represents the total loss to the local authority sector, unless other local authorities were also to claim HSG at some point in the future.

61. The greatest margins of uncertainty regarding the future costs to local authorities lie in predicting how many might one day claim HSG, what the size of each claim might be and how long each claim might last. It is therefore extremely difficult for the Scottish Government to provide cost estimates for the potential costs of HSG if other councils began claiming as this would involve making sweeping assumptions about the rate at which individual local authorities might accumulate debt and the rents they might charge over the coming years. Not even the councils themselves would be in a position to estimate these variables. However, it is clear that any claims, in addition to Shetland’s, are likely to be significantly higher than £0.84 million simply because Shetland Islands Council is one of the smallest local authority landlords in Scotland. The nature of HSG means it becomes payable at different points depending on the relative costs, rents and debt levels of each authority (i.e. there is not one level of debt per unit of stock, for example, that triggers HSG payment). Using the current projected levels of HSG for Shetland Islands Council, the importance of this grant in Scottish terms and in the local context is laid out in table 7.

Table 7 – Projected Housing Support Grant as a proportion of Scottish and Shetland Islands Housing Revenue Account rental income

<table>
<thead>
<tr>
<th></th>
<th>2013-14</th>
<th>2014-15</th>
<th>2015-16</th>
<th>2016-17</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Projected HSG</td>
<td>£0.524m</td>
<td>£0.282m</td>
<td>£0.034m</td>
<td>£0.00m</td>
<td>£0.840m</td>
</tr>
<tr>
<td>B. Proportion of</td>
<td>0.1%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Projected HRA rental</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>income (across</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Scotland)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C. Proportion of</td>
<td>8.6%</td>
<td>4.5%</td>
<td>0.5%</td>
<td>0.0%</td>
<td>4.5%</td>
</tr>
<tr>
<td>Projected HRA rental</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>income (Shetland</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Islands)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1. These projections assume an annual increase in average rents in Shetland Council rents of 5.3% in 2012-13 (as approved by the Council in February 2012) and increases in Shetland Islands Council and Scottish rents generally of 2.5% in 2013-14, 2014-15 and 2015-16. Larger increases in rent over time will reduce the impact of the loss of grant further.

62. Line B in table 7 illustrates that HSG has virtually no national context any longer, representing only a maximum of 0.1% of estimated total council house rental income in Scotland in 2013-14. Line C shows the local context (i.e. that HSG represents 8.6% of total estimated rental income of the Shetland Islands Council in 2013-14 but that this will decline over time). The Scottish Government has for some considerable time been discussing with Shetland Islands
Council how the local impact of losing this source of external income over time could be managed by a combination of a number of measures relating to the costs of running the HRA. Such measures are alternatives to rent increases aimed at minimising the impact of the declining grant on tenants. Such measures might include bringing down the rate of income lost through void properties to (or below) Scottish median levels; reductions in the costs of the repair and maintenance service per unit to (or below) Scottish median levels; and close examination of the housing capital expenditure programme to ensure it is tightly focused on specific elements of the Scottish Housing Quality Standard as laid out in Scottish Government Guidance dated March 2011. The Council has already been using some management cost reduction measures as the grant has declined over the last seven years so Scottish Government would simply expect that process to continue and to broaden as necessary as indeed it should under the prudential regime.

63. The financial impact could be further moderated by Shetland Islands Council reviewing the terms of its loan arrangements or the use of its wider portfolio of reserves. It is not, however, the role of the Scottish Government to impose any of these potential measures on the Council, but for the Council to manage the transition with declining grant as it has been doing successfully in recent years.

Costs on other bodies, individuals and businesses

64. An alternative view of HSG is that it is not in fact a subsidy to local authorities, but a subsidy to the individual tenants who, without receipt of the grant, might face higher weekly rental payments. This has often been the argument made by local authorities for retention of the subsidy in the past. If the grant is considered in this way, the individual impact of removal per unit of local authority stock (a broad proxy for the impact per tenant) for the 1,774 council dwellings in Shetland Islands is shown in table 8.

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6 This Guidance can be found on the Scottish Government website at: http://www.scotland.gov.uk/Topics/Built-Environment/Housing/16342/shqs/guidance.
Table 8 – Loss of Housing Support Grant to Shetland Islands Council: rent impact projections per unit of stock

<table>
<thead>
<tr>
<th></th>
<th>2013-14</th>
<th>2014-15</th>
<th>2015-16</th>
<th>2016-17</th>
<th>Total over the period 2013-14 to 2015-16</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Projected HSG</td>
<td>£0.524m</td>
<td>£0.282m</td>
<td>£0.034m</td>
<td>£0.00m</td>
<td>£0.840m</td>
</tr>
<tr>
<td>payment lost</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B. Projected impact</td>
<td>£296</td>
<td>£159</td>
<td>£19</td>
<td>£0</td>
<td>£474</td>
</tr>
<tr>
<td>per unit of stock</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>per annum (i.e. the</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>effective subsidy</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>per unit of stock</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>per annum)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C. Impact per unit</td>
<td>£5.69</td>
<td>£3.06</td>
<td>£0.36</td>
<td>£0.00</td>
<td>£9.11</td>
</tr>
<tr>
<td>of stock per week</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(based on 52 payments</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>per annum i.e. the</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>effective subsidy</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>per week)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>D. Impact in terms</td>
<td>8.8%</td>
<td>4.6%</td>
<td>0.5%</td>
<td>0.0%</td>
<td>14.1%</td>
</tr>
<tr>
<td>of projected average</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>rent increase above</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>inflation required to</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>cover the loss of</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>grant (%)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>E. Annual average</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>£3.04</td>
</tr>
<tr>
<td>impact on weekly</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>rents (£)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>F. Annual average</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>4.7%</td>
</tr>
<tr>
<td>impact on weekly</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>rents (%)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1. These projections assume an annual increase in Shetland Islands Council rents of 5.3% in 2012-13 (as approved by the Council in February 2012) and increases of 2.5% in 2013-14, 2014-15 and 2015-16.

65. These impacts are another way of describing the rental subsidy for Shetland Islands Council tenants, which is not generally available to tenants of other social landlords. This table also assumes that rents will stay constant in real terms from 2013-14 onwards and assumes a general inflation rate of 2.5%. If some modest real terms increases in rents were introduced (as has been happening generally across other social landlords in Scotland) then the impact of the removal of HSG would fall further. However, the impact of the real rent increases on the tenants would still occur – as they are occurring in many other parts of Scotland – it is just that these increases would not be attributable to the reduction in HSG, but wider economic factors facing all tenants across Scotland. In addition, the dwindling impact HSG is having on tenants could be softened further by the local authority taking some or all of the efficiency and financial reserves measures mentioned at paragraphs 62 and 63.
66. The Scottish Government recognises that a possible, potential impact of the Bill for Shetland Islands Council tenants is that they may face some rent increases. Table 8 suggests that the removal of HSG subsidy would, at most, cost tenants an average of £3.04 per week over three years or an average real rent increase of 4.7% per year over the three years. However, this is the maximum possible effect if the local authority chooses not to implement any further efficiency or financial reserve measures regarding its HRA. This need not therefore be the actual outcome for tenants – there are alternative measures available other than raising rents as outlined above.

67. The Scottish Government believes that establishing what other social tenants in rural areas (including those in the island areas) already pay in terms of rent is critical to any analysis of abolishing HSG on tenants. Publicly available data can be assembled on the average weekly rents paid across the 22 rural social landlords identified by the Scottish Housing Regulator’s peer group analysis (with the addition of five rural local authorities in Scotland). The Scottish Government believes that comparing Shetland Islands Council tenants’ rent levels with the Scottish national average is not necessarily the most appropriate comparison in the same way as comparisons of building costs between sparsely populated rural/island areas and densely populated central belt areas can also be misleading. This rural-only comparison tells us that, for 2010-11, Shetland Islands Council tenants paid an average of £61.04 per week in rent which compares to a median for the rural peer group of social landlords of £64.88 per week. This means Shetland Islands Council tenants pay approximately £200 per year or £3.84 per week (or about 6%) less than the median across the rural social landlords peer group. For Shetland Islands Council’s closest geographical comparator, Hjaltland Housing Association, which operates solely on the Shetland Islands, the average rent per week in 2010-11 was £67.07. This means Hjaltland tenants paid a premium of approximately £314 per year or £6.03 per week (or about 10%) over and above the average rents payable by Shetland Islands Council tenants in that year.

68. The abolition of HSG does not have any financial effects on any other bodies or the business sector.

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SUMMARY OF ESTIMATED COSTS AND SAVINGS ASSOCIATED WITH THE BILL

<table>
<thead>
<tr>
<th>Bill provisions</th>
<th>Costs to the Scottish administration (£m)</th>
<th>Costs to local authorities (£m)</th>
<th>Costs to other bodies, individuals and businesses (£m)</th>
<th>Estimated total cost for each Bill provision (£m)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-domestic rates – empty property relief*</td>
<td>-18.00 per year (see paras 21 and 22)</td>
<td>0.00** (see para 23)</td>
<td>18.00 per year (see table 2 and paras 24 to 26)</td>
<td>0.00</td>
</tr>
<tr>
<td>Council tax – increase on long-term empty homes*</td>
<td>0.00</td>
<td>Set-up – up to 0.388-1.004 Ongoing – up to -12.59 to -15.14 per year (see paras 38 to 48) ***</td>
<td>Up to 15.33-16.05 per year (see tables 3 to 5 and paras 49 to 54)</td>
<td>0.388-1.004 (set up) plus up to 0.91-2.74 per year (ongoing)</td>
</tr>
<tr>
<td>Housing Support Grant – abolition</td>
<td>-0.84 (see para 58)</td>
<td>0.84 (see paras 59 to 63 and tables 7 and 8)</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>Estimated total costs by type of body</td>
<td>-0.84 (total for 2013-14 to 2015-16) plus -18.00 per year</td>
<td>1.228-1.844 plus -12.61 to -15.14 per year</td>
<td>33.33-34.05m per year</td>
<td>0.388-1.004 plus up to 0.91 to 2.74 per year****</td>
</tr>
</tbody>
</table>

* – please note that in relation to empty property relief and the proposed council tax increase on long-term empty homes, the Bill itself would not have any direct cost impacts on any organisation. However, this Financial Memorandum seeks to estimate the likely costs which would result from the regulations which will be taken forward if the Bill is agreed.

** – it is estimated that there would be a small administrative cost for local authorities in amending the level of discount applied to existing bills for non-domestic rates, and explaining the changes to rates payers, but it is not possible to estimate the cost for each local authority at this stage.

*** – please note that this is the maximum potential saving for local authorities. This figure assumes that all local authorities choose to implement the council tax increase. While any set up costs would be likely to be fixed, it would be up to local authorities to determine how much additional resource they spend on administering/enforcing the increase. The level of savings has been calculated by deducting the estimated level of revenue from the estimated additional running costs.

**** – please note this includes totals for each Bill provision. This does not exactly match the total of cost provided by type of body because the net revenue range for the council tax provisions were calculated by subtracting the maximum running cost from the lower estimated revenue figure in table 4 (minimum of the range) and subtracting the minimum running cost from the maximum revenue figure (maximum of the range).
SCOTTISH GOVERNMENT STATEMENT ON LEGISLATIVE COMPETENCE

69. On 26 March 2012, the Cabinet Secretary for Infrastructure and Capital Investment (Alex Neil MSP) made the following statement:

“In my view, the provisions of the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”

PRESIDING OFFICER’S STATEMENT ON LEGISLATIVE COMPETENCE

70. On 22 March 2012, the Presiding Officer (Tricia Marwick MSP) made the following statement:

“In my view, the provisions of the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”
INTRODUCTION

1. This document relates to the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill introduced in the Scottish Parliament on 26 March 2012. It has been prepared by the Scottish Government to satisfy Rule 9.3.3(c) of the Parliament’s Standing Orders. The contents are entirely the responsibility of the Scottish Government and have not been endorsed by the Parliament. Explanatory Notes and other accompanying documents are published separately as SP Bill 12–EN.

2. The Bill covers two subjects. The first is the treatment of empty property, under non-domestic rating legislation and council tax legislation. For that, the Bill will provide powers to the Scottish Government by regulations to amend the arrangements for charges in relation to unoccupied commercial properties and homes. Under the second subject, the Bill provisions will abolish the Housing Support Grant.

POLICY OBJECTIVES: OVERVIEW OF THE BILL

3. The Bill will deliver the following changes:

- allow the Scottish Government to bring forward regulations to alter the level of empty property relief from April 2013 for certain empty commercial properties under the non-domestic rates regime. This change aims to help disincentivise owners from leaving properties empty and to raise additional revenue to help counter part of the shortfall in the Scottish Government block grant due to the budget reductions imposed by the UK Government over the forthcoming Spending Review period.

- enable the Scottish Government to bring forward regulations to allow Scottish local authorities to increase council tax charges on certain long-term empty homes from April 2013. This aims to encourage owners to bring their empty homes back into use, as well as enabling local authorities to raise additional revenue to support their local priorities.

- abolish the requirement on the Scottish Government to pay Housing Support Grant to Scottish local authorities from April 2013.
EMPTY PROPERTY RELIEF FOR NON-DOMESTIC RATES

Policy objectives

4. Reform of empty property relief will provide incentives to bring vacant commercial premises back into use and raise additional revenue for the Scottish Government. The Scottish Government’s 2011 Regeneration Strategy¹ highlights the importance of strong and vibrant town centres and business districts as vital to the economic and social fabric of Scotland. Persistently empty properties are an obstacle to the regeneration of town centres. The Government announced, in its 2011 Spending Review² document, its intention to introduce incentives to bring vacant premises back into use, reduce the prevalence of empty properties in town centres and support urban regeneration by reforming empty property relief from April 2013.

5. The Bill will allow the Scottish Government, by regulations, to vary the percentage of non-domestic rate relief available for defined classes of unoccupied premises. The proposals are aimed at encouraging owners of non-domestic empty properties to bring them back into use. The Scottish Government intends to do this by using the power provided by the Bill to reduce the relief on the rates payable on such properties from 50% to 10%.

Background to the problem

6. 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.

Current provision

7. The provisions that currently govern non-domestic rate relief (discount) for empty or unoccupied premises are found in sections 24 and 24A of the Local Government (Scotland) Act 1966² (the “1966 Act”)³. Further provision is made by the Non-Domestic Rating (Unoccupied Property) (Scotland) Regulations 1994⁴ (“the 1994 regulations”), as amended by two Scottish statutory instruments, SSI 2000/55⁵ and SSI 2008/83⁶.

8. Section 24 of the 1966 Act states that no rates are payable in respect of unoccupied “lands and heritages” (the technical name for the properties that attract liability to pay rates). This enables Scottish Ministers to prescribe classes of lands and heritages by regulations that pay an amount equal to one half of the amount of non-domestic rates which would have been payable had the premises been occupied.

¹ See http://www.scotland.gov.uk/Publications/2011/12/09110320/0
9. Schedule 1 to the 1994 regulations sets out the land and heritages to which the 50% liability currently applies. They operate according to the use when the premises were last occupied. In general terms, after lands and heritages have been unoccupied for three months, the 50% liability applies (i.e. the tax increases from the zero liability to a 50% liability). However, there are exceptions, such as premises last used for industrial purposes and premises with a rateable value below £1,700, which continue to benefit from the zero liability. A period of occupation of at least 6 weeks is required before a 50% liability can revert to the zero liability rate.

10. In addition, section 24A of the 1966 Act allows a rating authority (i.e. a council) to agree that premises which are partially unoccupied can be temporarily split, allowing the benefit of relief for the unoccupied part. Section 24B provides that plant and machinery can be left on lands and heritages without that being classed as “occupation”. Schedule 3 to the 1966 Act makes special provision for newly erected and altered buildings. The provisions set out in this schedule and in section 24B are unaffected by what is proposed in this Bill.

Proposals for legislation

11. The proposals are aimed at encouraging owners of empty properties that are currently liable to pay business rates to bring them back into use.

12. As noted above, the proposals within the Bill will allow the Scottish Government, by regulations, to vary the percentage of non-domestic rate relief available for defined classes of unoccupied premises. Currently the amount of liability can only be set at 0% (which is applied as the default percentage for the first three months) and 50% (which is applied for prescribed classes of lands and heritages for an indefinite period thereafter). Under the proposals, the legislation would allow the Scottish Government increased flexibility to respond to changing property markets, by regulations, to set out a higher or lower percentage of rate relief applicable on unoccupied properties. The Scottish Government proposes that, for the classes currently subject to the 50% relief, the rate payable is prescribed in regulations as 90%, in other words giving a rate of relief of 10%. This rate would apply following the initial 3 month zero-rated period, for an indefinite period.

13. The Bill will not remove relief altogether or vary the conditions for full relief. No changes are proposed for other classes of unoccupied property, such as industrial premises as set out in the 1994 regulations, or for listed premises.

14. The cost to the Scottish Government of non-domestic rates income forgone in 2012-13, based on existing provisions for empty property relief, is estimated to be in the region of £152 million. The proposed reform will reduce this cost by an estimated £18 million per year.

Alternative approaches

15. The proposals to reform empty property relief are aimed at encouraging owners of empty properties that are currently liable for business rates to bring them back into use. As set out in the Scottish Government’s 2011 Regeneration Strategy, these proposals are part of a package of measures aimed at providing more support for our town centres. In considering the overall costs of business rate relief as part of the Draft Budget process, maintaining the status quo for empty
property relief was unaffordable within budget constraints – the relief currently costs in excess of £150 million per year.

16. Reform of empty property relief to bring it into line with the 2008 reform in England and Wales was a further option, but this was rejected in order to ensure Scottish businesses retained a competitive edge. After reform, the relief for empty commercial properties in Scotland, particularly for industrial and listed categories, will remain significantly more generous. In England and Wales empty property relief was reformed in 2008 and currently offers 100% commercial relief for 3 months, then 0%. For listed/industrial property 100% relief is currently offered for 6 months, then 0% thereafter. The current and proposed levels of relief in Scotland are set out in table 2 of the Financial Memorandum to this Bill.

Consultation

17. The broad policy proposals have been consulted on as part of the consultation on the Scottish Budget. A small number of responses were received to the Draft Budget which mentioned reform of empty property relief, both in support e.g. to welcome measures to encourage vacant town centre business properties to be filled and in opposition e.g. about the potential impact on future developments. In addition, engagement with key stakeholders has taken place throughout the process in the course of regular and ad hoc meetings with business groups and business events.

Effects on equal opportunities, human rights, island communities, local government, sustainable development etc.

18. The Scottish Government does not have any data on the characteristics of owners of empty shops, pubs and business premises to provide any analysis of the impact on equalities groups. As the policy has the intention of encouraging empty premises back into use, it does support sustainable development. However, there has been no objection raised to the proposals from any group on the basis of an inequitable burden being placed on equalities groups, island communities or local government, or any suggestion that the provisions are contrary to human rights legislation or incompatible with sustainable development.

COUNCIL TAX INCREASE ON LONG-TERM EMPTY HOMES

Policy objectives

19. Proposals for increased council tax charges for long-term empty homes were originally set out in the 2010 discussion document Housing: Fresh Thinking, New Ideas. As the outline plans were broadly welcomed, in February 2011 the Scottish Government’s strategy and action plan for housing in the next decade, Homes Fit for the 21st century confirmed that the Scottish Government proposed to take forward primary legislation to permit additional council tax charges on certain long-term empty homes to encourage better use of existing housing stock and to raise additional revenue for local authorities to spend on their local priorities.

8 See http://www.scotland.gov.uk/Publications/2011/02/03132933/0
20. The proposal to allow local authorities to impose an increase in council tax on certain empty homes is about encouraging owners of properties which are considered as long-term empty (LTE) (those that have been empty for six months or more and are liable for council tax\(^9\)) to bring them back into use.

21. Existing provision in section 33 of the Local Government in Scotland Act 2003 (the 2003 Act) (council tax: discount for unoccupied dwellings) gives the Scottish Ministers the power, by regulations, to provide for or give local authorities discretion in relation to providing a council tax discount in respect of unoccupied dwellings. It also allows for regulations:

- to vary those discounts depending on the type of unoccupied home (such as LTE or second homes);
- to require different levels of discount to be applied to homes in different circumstances or locations;
- to allow local authorities to vary the level of discount applied in different parts of their area and in different circumstances.

22. The Bill’s provisions will amend section 33 of the 2003 Act to allow for increased council tax charges for certain classes of LTE homes. It will enable the Scottish Ministers to make regulations to require or allow for variations in council tax charges on unoccupied homes. However, the Scottish Government intends to use these regulations to give local authorities wider discretionary powers to vary these council tax charges, rather than to place requirements on local authorities to increase their charges, given that local circumstances and markets differ significantly across Scotland. The proposed regulations would allow them in future to reduce the discount to 0% and also to increase charges (by a maximum of 100%). The regulations made as a result of the provisions in this Bill will set out in detail the terms of and exemptions from local authorities’ powers to increase council tax. The regulations will make provision using the full range of existing powers under section 33 in order to set out how any council tax increase is intended to operate.

23. It is proposed that the tax increase would only apply to LTE homes. It is the Scottish Government’s intention that homes which are not a household’s sole or main residence, but which are sometimes occupied as a second home, would not be charged any increased council tax. It is intended that the regulations will also amend the existing definition of both a LTE and a second home (although the Scottish Government already has powers under section 33 of the 2003 Act to bring forward regulations in relation to these definitions). This is required because a home will no longer be required to be unfurnished in order to be classed as LTE (in order to prevent owners from easily avoiding being liable for an increase by furnishing their home).

24. Provisions in the Bill also aim to facilitate the administration of any tax increase by local authorities by allowing them (once regulations have so provided) to require owners to provide information in relation to whether or not a home is occupied, requiring owners proactively to inform their local authority in certain circumstances that their home is empty, or of a change in

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\(^9\) A home normally becomes classed as LTE after it has been empty for six months, although in some cases homes may only become LTE after they have been empty for a longer period where they have been eligible for an exemption from council tax for more than six months under Schedule 1 of the Council Tax (Exempt Dwellings) (Scotland) Order 1997.
the home’s status, and allowing local authorities to charge a penalty in cases where the owner either does not provide information in line with the requirements or is found to have provided false information.

Background to the problem
25. Homes are defined as LTE where they have been empty for six months or longer and are liable for council tax (except in cases where the home is eligible for another longer term council tax exemption. Such homes are a wasted resource. They are often an eyesore and can attract vandalism and fly-tipping. If homes are neglected, the value of surrounding properties tends to be reduced as a result of the neighbourhood not being perceived as a good place to live.

26. Bringing empty homes back into use could play an important part in providing homes for people who need them. This could be either affordable homes, such as social rented housing, or market housing, such as homes for private rent or sale. Bringing long-term empty homes back into use should also reduce the number of new homes which need to be built. While more new houses will still be required, in most cases it costs significantly less and is a more efficient use of environmental resources to make an empty home available to live in than to build a new one.

Current position
27. In 2005, local authorities in Scotland were given the discretionary power to reduce council tax discounts on LTE and second homes from 50% to a minimum of 10% through the Council Tax (Discount for Unoccupied Dwellings) (Scotland) Regulations 200510. For unoccupied and unfurnished properties which are liable for council tax, the reduced discount is currently only applied after the property has been empty for twelve months so the owner benefits from a six month exemption from council tax followed by six months charged at a 50% discount.

28. There are a number of other types of unoccupied property whose owners are exempt from paying council tax altogether under Schedule 1 to the Council Tax (Exempt Dwellings) (Scotland) Order 199711. These include for example:

- unoccupied new build properties which are unoccupied are exempt for up to six months after they are entered on the valuation list by the Assessors;
- homes which cannot be lived in because they are being structurally repaired, improved or reconstructed are exempt for up to twelve months;
- homes which are unoccupied and were last lived in by a person who has died and where either no grant of confirmation to that person’s estate has been made or for up to six months after a grant of confirmation was made;
- social rented homes owned by a local authority or a Registered Social Landlord which are unoccupied because they are due to be demolished;
- homes which have been repossessed by a lender and are unoccupied; and

unoccupied homes which were last occupied by a person who is currently in hospital, providing or receiving care or in prison.

29. In addition, the following types of homes are eligible for a 50% council tax discount, regardless of how long they have been empty:

- purpose built holiday homes which either are not allowed to be occupied throughout the whole year due to licence or planning permission constraints or which are not suitable for living in all year due to their construction or the facilities which are available; and
- dwellings which are unoccupied because the owner or tenant needs to live in another home as their main residence to carry out their job properly, or dwellings which a person is entitled to occupy as part of their employment, but which they do not occupy because they own or tenant other property, in both cases subject to certain conditions.\(^{12}\)

30. Therefore there are a range of cases where owners or tenants receive either time-limited or permanent exemptions from council tax or receive a 50% discount. The great majority of local authorities have now reduced the level of discount available for long-term empty homes which do not qualify for any of the existing exemptions or other discounts to 10%. The aim of the reduced discount was to provide an incentive for owners to bring their homes back into use. All additional income raised is retained locally.

Proposals for legislation – the council tax increase

31. Reduced discounts on their own have proven to be insufficient as an incentive for most owners who did not otherwise plan to make their home available; in fact, council tax data suggest that the number of LTE homes in Scotland has increased in recent years.\(^{13}\)

32. The Bill and subsequent regulations will give local authorities the flexibility to increase the amount of council tax charged on LTE homes. It is recognised 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.

33. The Scottish Government does not, however, intend to use the power to give local authorities complete discretion. As with the current regulations, it intends there to be limits on the variation that can be set. The Scottish Government intends to bring forward regulations conferring on local authorities a discretionary power to be able to charge up to a maximum council tax increase of 100% of the standard council tax rate for a home i.e. the home owner would pay up to double the applicable standard rate for the property had it been occupied. The

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\(^{12}\) The circumstances under which a home can be classed as a job-related dwelling are set out in the Schedule to the Council Tax (Discount for Unoccupied Dwellings) (Scotland) Regulations 2005 – see http://www.legislation.gov.uk/ssi/2005/51/contents/made

\(^{13}\) Based on council tax data, the number of homes classed as long-term empty increased by 3% from 24,598 in September 2010 to 25,356 as at September 2011.
current default position, of a 50% reduction in liability, is intended to continue to be the maximum discount which local authorities could offer in relation to LTE homes.

34. It will be for each local authority to determine whether or not they wish to increase their existing charge rates for long-term empty homes owners, and, if so, to what extent. This may be based on the evidence available to them on numbers and locations of empty homes in their areas and levels of need and demand for homes shown by their Housing Need and Demand Assessments and Local Housing Strategies, as well as considerations around the need or benefits to the local authority of raising additional revenue.

35. The Scottish Government proposes that owners should however continue to benefit from an exemption from council tax for the first six months their home is empty, providing it is unfurnished. In addition, all other existing exemptions under the Council Tax (Exempt Dwellings) (Scotland) Order 2007 would continue to apply. Following feedback in response to the consultation, the regulations are also expected to propose that all owners should be eligible for a council tax discount for homes that continue to be unoccupied for the following six months after any of the existing exemptions expires (i.e. for the first six months during which a home is classified as LTE). It would be at each local authority’s discretion to set the level of discount between 10% and 50% during that time. Any increase would only apply after that. The regulations will include revised definitions of an empty (but furnished), long-term empty and second home in order to ensure greater clarity regarding which category each home should fall into.

36. Therefore no owner should be required to pay the council tax increase unless their home has been empty for at least twelve months and, even where a local authority uses the power to vary, in some cases homes would not be liable for the tax increase until they have been empty for longer. As well as ensuring owners are given reasonable time to bring their homes back into use before they have to pay the tax increase, this should help to ensure that owners have an incentive to declare their home as empty, which should help local authorities to identify those owners who should pay the tax increase if their home remains empty.

37. The Scottish Government also proposes to include in the regulations powers for local authorities to decide to impose a longer minimum period a home must be empty before imposing a tax increase if they wish to do so and to increase the level of charge the longer a home has been empty if they feel that is appropriate in their area (up to a maximum 100% increase). It is also proposed that there be powers for local authorities to decide only to apply the tax increase in certain parts of their area if they feel this is appropriate, for example, where a local authority has evidence of strong demand for additional housing in certain parts of its area, it may feel that a tax increase is justified in those places, but not in other lower demand locations.

Exemptions from tax increase

38. There are a range of reasons why homes are empty and, in some cases, it would be unfair to penalise owners who may be attempting to bring their home back into use, but are unable to or where there may be legitimate reasons homes need to be left empty. The Scottish Government therefore proposes to include in regulations provisions to enable some owners to claim a time-limited exemption from the tax increase (so they would continue to pay council tax at a discounted rate of between 10% and 50%) in certain circumstances.
39. It is proposed that these exemptions would apply in addition to any existing time-limited exemptions the owner is eligible for (e.g. where the home has been empty and unfurnished, uninhabitable for a period due to renovations or exempt for six months as a new build property which has never been occupied). They would also apply after the six month period during which all homes classed as LTE would be eligible for a council tax discount of between 10% and 50% so it is intended that any exemption applied would continue this discount period for up to twelve extra months.

40. However, scope for additional exemptions needs to be balanced with avoiding potentially making the system overly complex for local authorities to administer and creating scope for some owners to exploit this by claiming exemptions they may not genuinely be eligible for. Therefore, in some cases, the Scottish Government intends that it should be up to the local authority to decide whether or not they wish to offer an exemption, depending on whether or not they feel owners have strong grounds for being unable to bring their home back into use. Even when an exemption is proposed in the regulations to be available in all local authority areas where the tax increase is applied, it will be at the local authority's discretion to determine whether or not they are satisfied that an owner meets the requirements of the exemption (this is already the case in relation to determining whether or not an owner is eligible for any of the existing exemptions under Schedule 1 to the Council Tax (Exempt Dwellings) (Scotland) Order 1997).

41. Based on significant support from local authorities and other respondents to the consultation, the Scottish Government currently proposes to include a mandatory exemption from the tax increase for up to twelve months for owners who are proactively trying to sell their home at a reasonable price. However, each local authority would be able to decide what sort of evidence it would be willing to accept from owners as sufficient in order to grant an exemption, such as evidence that the property is on the market and that it is not being marketed for more than its Home Report valuation.

42. Two other exemptions are currently proposed, but in both cases they are only likely to be necessary in certain areas so the Scottish Government proposes it should be up to local authorities to decide whether or not they wish to offer the exemption in their area. The first discretionary exemption is proposed in circumstances where the local authority is satisfied the owner is actively trying to let their empty home. The second discretionary exemption is proposed in circumstances where a Registered Social Landlord 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.

43. The length of time a home needs to be empty before the tax increase could be applied would therefore vary depending on each home’s circumstances. If for example it was unfurnished and actively being marketed for sale, the home’s owner could be exempt from council tax altogether for the first six months and then able to pay council tax at a discount rate for up to 18 months as long as the local authority is satisfied that the owner was actively trying to market the property for sale. Once the home had been empty for two years, the owner would become liable for the increase if the relevant local authority decided to impose an increase in its area.
Requirements on owners to provide information

44. The Bill and subsequent regulations will also impose a specific requirement on owners to advise local authorities if their home is unoccupied and, by not telling the local authority, the owner is not paying the full amount which would be due if the local authority was aware the home was unoccupied. The regulations will enable local authorities to require owners or their agents to provide information on request regarding whether their home is unoccupied, how long it has been occupied or unoccupied for and, where a property is declared as a second home, how often it is occupied. This will be accompanied by a power for local authorities to impose a penalty charge for failure to provide the required information or for providing false information of up to £200 (currently local authorities can only charge a penalty of £50 for similar types of failure to provide information requested by the local authority, other than for repeated failure).

45. These proposals aim to help local authorities to identify those homes which should be classed as LTE and to provide a deterrent to owners from withholding information or providing false information. This is due to concerns that many owners may deliberately fail to advise their local authority their home is empty or provide false declarations in order to avoid the council tax increase. The penalty also aims to improve the viability of imposing a penalty for local authorities, as feedback suggests it is not currently worth a local authority’s time to impose a penalty as the administrative costs of securing payment can exceed the existing £50 penalty charge.

Use of any additional revenue from the council tax increase

46. After taking account of feedback from the consultation, the Scottish Government does not propose to ringfence this additional funding. It will be at local authorities’ discretion to determine how they spend any additional revenue raised through the council tax increase or through any reduction in discount to below the current 10% minimum, based on their own local priorities. However, the Scottish Government proposes to keep existing arrangements for revenue raised from existing reduced discounts on long-term empty and second homes, which should continue to be used by local authorities to fund a range of affordable housing and empty homes projects in their area. It is worth noting that, as is current practice, these arrangements will not be set out in legislation and will be agreed with the Convention of Scottish Local Authorities (COSLA).

Alternative approaches

47. The Scottish Government has considered three main options to tackle the problem of LTE homes in Scotland. These are in addition to other broader options which local authorities can already pursue in order to support or encourage empty home owners to bring their homes back into use (Shelter Scotland, in its role as co-ordinator of the Scottish Empty Homes Partnership, has provided a range of good practice guides and seminars for local authorities and other bodies to spread best practice in using a range of tools\(^\text{14}\)).

48. Option 1 – keep council tax discount arrangements unchanged for LTE homes. This would mean continuing to allow local authorities to offer a council tax discount to owners of LTE properties of between 50% and 10% (the great majority have reduced or are currently

\(^14\) http://scotland.shelter.org.uk/housing_issues/more_homes/empty_homes
planning to reduce their discount to 10%). This option would not have any legislative or additional cost implications for local authorities or council tax payers, however local authorities’ work to bring empty homes back into use by providing advice and encouragement to owners would be likely only to have a fairly limited impact (except in cases where the owner had planned to bring their home back into use anyway).

49. Option 2 – make changes to existing council tax regulations to allow local authorities not to offer any discount to LTE property owners. This option would only require a change to regulations so could be achieved without primary legislation. It would allow local authorities to apply a discount to LTE home owners of between 0% and 50%, rather than their current discretion between 10% and 50% only. Feedback from local authorities suggests that it would be fairly straightforward to remove the council tax discount on their IT systems. The extra cost to owners would be limited (as most local authorities currently only offer a 10% discount) and the change would be likely to have a fairly limited impact on owners’ decisions as to whether or not to rent or sell their empty home(s). This option would therefore be unlikely to help bring additional empty homes back into use and would not provide significant additional revenue for local authorities, but would mean owners would be less likely to declare their homes as empty as there would be less incentive to do so (unless the property was unfurnished and eligible for a full exemption for the first six months) so might make it more difficult for local authorities to make contact with owners.

50. Option 3 – take forward primary legislation to allow local authorities to remove the discount and also charge an increase for LTE homes. This option offers the maximum flexibility to local authorities to take measures based on the extent of the problems in their area due to empty homes and the level of housing demand. As proposed to be implemented, this option would allow them both to remove the current council tax discount for LTE homes (between 10% and 50%, depending on each local authority’s policy) and also, if they wish, to charge a tax increase of up to 100% of the standard rate of council tax for the relevant band of property.

51. While it is not possible to indicate what proportion of owners would bring their homes back into use as a result of a tax increase, this option would be likely to have the greatest impact in encouraging owners not to leave their homes empty long-term as, depending on the level of tax increase charged by a local authority, it would be likely to impose significant ongoing costs on owners for doing so. It would also allow local authorities to raise additional revenue. While it may involve additional upfront costs for local authorities to implement this option and there would be additional costs involved in enforcing the tax increase as more owners could be expected to seek to evade payment if charges were increased, it would be at local authorities’ discretion to decide whether the benefits of the tax increase would outweigh any additional costs.

52. On balance, the Scottish Government proposes to adopt option 3. Option 3 avoids a one size fits all approach and recognises that local authorities are best placed to decide what is appropriate for their area, based on local evidence. While this could lead to different levels of charges for owners in different areas and some owners may feel that this is unfair, it would be extremely difficult to set detailed proposals at national level which give some local authorities the enforcement tools they needed whilst also not unfairly penalising owners in other areas who were having difficulties bringing their homes back into use due to varying demand levels and housing market circumstances. Option 3 would also permit those local authorities who either
wish to adopt option 1 (no change) or just wish to adopt option 2 (removing the existing council tax discount) the flexibility to do so.

Consultation

53. The Scottish Government consulted on its proposals for a Council Tax Levy and Housing Support Grant Bill between 19 October 2011 and 10 January 2012. The consultation paper was available on the Scottish Government website\(^{15}\) and two consultation events were run, along with a further discussion session at the Scottish Empty Homes Conference, organised by Shelter, in November 2011. This followed on from three meetings with local authorities before the consultation was launched, which were used to help shape the proposals. During development of the Bill, discussions were undertaken with local authorities, rural land and estate owners and Registered Social Landlords. Phone discussions were also held with representatives of the house building industry. Responses to the consultation and other stakeholder engagements were analysed and the report produced is available on the Scottish Government website\(^{16}\).

54. Fifty seven responses to the consultation were received. Most respondents (about two thirds and the great majority of organisations who responded) were broadly supportive of the proposal to increase council tax on long-term empty homes. In addition, 197 e-mails were received as part of an empty homes campaign following the end of the consultation; these e-mails were also supportive of the proposals for a council tax increase. Housing lobby groups, such as Shelter, were supportive of the legislation, although they want to see local authorities only using the powers where they are also offering advice and support to help empty home owners rent or sell their home.

55. Most local authorities were generally supportive as the levy would be discretionary. Whilst a number of local authorities and COSLA raised concerns about extra costs and staff time requirements to enforce a levy as they are concerned many owners would try to evade paying the levy, they accept there are ways to enforce it if the local authority is willing to invest in extra staff resources.

56. A number of individuals are opposed to the levy, either because they feel they would be unfairly penalised by the levy or they feel that governments should not interfere in people’s rights to leave their home empty if they wish. However, our proposals should allow local authorities sufficient discretion to offer exemptions from the council tax increase in certain specified circumstances. Together with existing provisions for exemptions, this should allay many owners’ concerns.

57. Feedback received as a result of the consultation and discussions with interested parties has been taken on board, resulting in some adjustment in the proposals for regulations from our original proposals, including in relation to the time period a home must be empty before a council tax increase could be imposed.

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\(^{15}\) See consultation paper at [http://www.scotland.gov.uk/Publications/2011/10/17105007/0](http://www.scotland.gov.uk/Publications/2011/10/17105007/0)

\(^{16}\) See consultation analysis at [http://www.scotland.gov.uk/Publications/2012/03/3821](http://www.scotland.gov.uk/Publications/2012/03/3821)
Effects on equal opportunities, human rights, island communities, local government, sustainable development etc.

58. The Scottish Government does not have any data on the characteristics of owners of LTE homes so it is not possible to tell how many of them are likely to be from an equalities group and the Scottish Government does not have access to council tax records. However, based on feedback from local authorities, there is no reason to believe that a council tax increase would disproportionately affect people from any equalities group.

59. The Scottish Government consulted equalities groups as part of the consultation on the increase, but none of them provided any specific comments in relation to the proposals or the information provided in the draft Equalities Impact Assessment. In addition, in responses there were no objections raised to the proposals on the basis of an inequitable burden being placed on equalities groups or island communities. The increase will support sustainable development as it encourages existing properties to be returned to use, which helps communities to become more sustainable places where people want to live and which can generally be done with a much lower carbon footprint cost than new build.

60. Whilst some individuals questioned the right of central or local governments to penalise owners for leaving their homes empty, the Scottish Government does not believe that the council tax increase proposals would have a negative impact on owners’ human rights in relation to their right to property\(^\text{17}\). Owners are still being given the option of leaving their home empty, but where a local authority chooses to impose a tax increase because the authority feels it is in the wider public interest to do so, the owner would be expected to pay more council tax in recognition that they are having a negative impact on the availability of housing in their area (and potentially also on their neighbourhood environment if the home is left to fall into disrepair). The effects of the Bill on local government have already been discussed in the Policy Objectives section.

HOUSING SUPPORT GRANT

Policy objectives

61. Increasing the supply of housing in Scotland is embedded in *Housing: Fresh Thinking, New Ideas* and *Homes Fit for the 21st century*. Housing Support Grant is a largely historic revenue subsidy system dating from the late 1970s based on the notion that local authorities who build up excessive levels of Housing Revenue Account (HRA) debt should receive central government subsidy for as long as that debt remains disproportionate in relation to the level of rental income coming into the HRA. The subsidy is not geared to the provision of new supply housing. The Scottish Government, however, is committed to the supply of 30,000 additional affordable houses over the next 5 years, with 20,000 being in the social rented sector. Therefore the Scottish Government would prefer to use its limited resources to support these additional affordable homes and therefore the Bill proposes the abolition of Housing Support Grant by 1 April 2013.

62. The Scottish Government does not believe it is wise to continue to preserve legislation that offers an open-ended revenue subsidy to Scottish council housing when it already provides capital subsidy to support new build social housing. Furthermore, under a local authority borrowing regime where HRA debt levels are required to be prudent and sustainable, HRAs should not require, by definition, to be serviced by central government subsidy.

63. 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 ongoing Scottish Government subsidy for doing so. The need for a local authority housing revenue subsidy system has been substantially altered by:

- the introduction of the Prudential Borrowing Regime (April 2004), in which local authorities self regulate their borrowing levels;
- the availability of local authority capital subsidy for new build housing from Scottish Government (from 2009); and
- the removal of the Right to Buy for new council housing (2010) making the possibility of new build council housing a more viable prospect (with capital subsidy from Scottish Government) for local authorities.

64. 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 ongoing basis.

65. The grant has been available in its present form since the late 1970s as a result of the Housing (Financial Provisions) (Scotland) Act 1978. It was modified in the Housing (Scotland) Act 1987 and, over time, the grant methodology, the number of recipients and the overall level of grant provision at national and local level have changed markedly leaving the grant with virtually no national (although some local) significance. The local significance is outlined in brief below in paragraph 74 and more widely in the Financial Memorandum.

66. The Bill will abolish, from 1 April 2013, Housing Support Grant by repealing the legislation which provides for it. This will require all 26 local authorities in Scotland with a Housing Revenue Account to operate their HRA without assistance from the Scottish Government in the form of Housing Support Grant.\(^{18}\) There have been many changes to the methodology for calculating Housing Support Grant over the years which COSLA have been consulted on both historically and most recently with Shetland Islands Council following changes in November 2010.

67. Local authorities in England receive no equivalent HRA subsidy from the UK Government that is like Housing Support Grant in Scotland, although some have, for more than 20 years, been recipients of HRA subsidy from councils who generate HRA surpluses. This HRA subsidy system is about to end due to the reform of the HRA subsidy system in England. From 28 March 2012, the subsidy system will be abolished and replaced with a system of self-

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\(^{18}\) Six local authority areas in Scotland no longer perform a social landlord role as their stock has been transferred to Registered Social Landlords.
financing HRAs in England, similar to that which is in place in Scotland. Once the new system is implemented, this effectively means that all councils in England that continue to own Council housing will have to ensure that their housing services can be fully funded without recourse to a revenue subsidy from Central Government. This means that debt interest and all other costs such as management and maintenance of the stock must be met from local government (primarily rental income) rather than central government resources.

**Alternative approaches**

68. The following options have been considered, some of them in the context of other, previous policy initiatives rather than a specific exercise aimed at longer term financial support for local authority housing.

69. Option 1 – devise a new revenue subsidy system for local authority housing: this option is inconsistent with the capital subsidy system currently in place and which forms an important part of the Scottish Government’s affordable housing supply policy. Such a revenue subsidy system would be inconsistent with the principles of a prudential borrowing regime and could provide perverse incentives for local authorities not to borrow prudently. Twenty five out of 26 local authorities with an HRA have operated without such a system in place for several years, suggesting that this type of subsidy system is unnecessary and not an efficient way to help increase the supply of housing.

70. Option 2 – retain Housing Support Grant using the current (November 2010) methodology. This option would result in further reductions in Housing Support Grant over time (assuming no new claimants) and the eventual disappearance of the grant by the end of 2015-16 at a total cost to the Scottish Government of around £0.84 million over 3 years. It was rejected because there is a strong case for earlier, rather than later, abolition where Housing Support Grant would be becoming progressively more obsolete with each year that passed.

71. Option 3 – abolish Housing Support Grant at some future date beyond April 2013. Given Housing Support Grant would, on current methodology, dwindle to zero by the end of 2015-16, abolishing it in April 2014, April 2015 or April 2016 would be an approach which converges towards option 2 in any case – which the Scottish Government regards as an unsatisfactory option in itself.

72. Option 4 – abolish Housing Support Grant commencing April 2013: this is the proposed legislative option principally because options 1, 2 and 3 simply augment or prolong an obsolete approach to council housing finance in Scotland and conflict with capital funding schemes currently in place as well as the general framework for local authority capital borrowing.

**Consultation**

73. In response to our consultation which asked very simply for consultees’ agreement or disagreement on the abolition of Housing Support Grant, 26 of the written responses provided views. All of them (except Shetland Islands Council, the only council that currently receives Housing Support Grant) agreed to the idea of abolition, although eight qualified this by saying
that the Shetland Islands Council should be subject to some kind of transitional arrangement. In addition to these eight responses, Shetland Islands Council went further to say that they would only be agreeable to abolition of Housing Support Grant if appropriate transitional funding arrangements were put in place. There were no views expressed at the three consultation events about Housing Support Grant. Thus, the consensus was for abolition, with a minority (roughly a third of respondents) in favour of some form of transitional arrangement.

**Effects on equal opportunities, human rights, island communities, local government, sustainable development etc.**

74. Housing Support Grant is still paid in a relatively small amount for the benefit of (the approximate) 1,800 tenants in one island community – the Shetland Islands. However, it has, since its introduction in 1978 been available to local authorities across Scotland irrespective of their geography if their circumstances warranted it. In practice, very few authorities have required it at any point in the last decade though the grant has never been targeted at particular areas of Scotland. The Scottish Government is therefore not proposing to abolish the Housing Support Grant in any one geographic area but across the entirety of Scotland – irrespective of whether it is being claimed or not. As Shetland Islands Council is the last remaining authority to claim, there will therefore be no impact on local government apart from that on Shetland Islands Council. The estimated financial effect on the Council is £0.840 million over the three year period 2013-14 to 2015-16 inclusive. Should the Council aim to recover all of this reduced revenue from council tenants this would lead to 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. The effect on tenants’ rents can be reduced should Shetlands Islands Council decide to implement various efficiency measures regarding its Housing Revenue Account; review the Housing Revenue Account loan arrangements; or review the position on the use of wider council reserves. The potential measures that could be taken are outlined in the Financial Memorandum.

75. There has been no objection raised to the proposal on the basis of an inequitable burden on a particular equality group, nor on the grounds that the provisions are contrary to human rights or incompatible with sustainable development. The Scottish Government believes that the proposals for Housing Support Grant do not have any disproportionate effects of this nature.

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19 See consultation analysis at [http://www.scotland.gov.uk/Publications/2012/03/3821](http://www.scotland.gov.uk/Publications/2012/03/3821)
LOCAL GOVERNMENT FINANCE (UNOCCUPIED PROPERTIES ETC.) (SCOTLAND) BILL

DELEGATED POWERS MEMORANDUM

PURPOSE

1. This memorandum has been prepared by the Scottish Government in accordance with Rule 9.4A of the Parliament’s Standing Orders, in relation to the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. It describes the purpose of each of the subordinate legislation provisions in the Bill and outlines the reasons for seeking the proposed powers. This memorandum should be read in conjunction with the Explanatory Notes and Policy Memorandum for the Bill.

OUTLINE OF BILL PROVISIONS

2. The Bill deals with two topics. The first is the treatment of empty property, under non-domestic rating legislation and council tax legislation. For that, powers are taken to enable some different types of provision to be made from the provision that is currently enabled. The second topic relates to housing support grant. No powers are being taken in relation to the second topic.

Empty Property Relief

3. The provision made by the Bill will allow the Scottish Ministers, by regulation, to vary the percentage of non-domestic rate relief available for defined classes of unoccupied, non-domestic premises. The provision is aimed at encouraging owners of such premises to bring them back into use.

Council tax treatment of unoccupied dwellings

4. As enacted, section 33 of the Local Government in Scotland Act 2003 gave the Scottish Ministers powers to provide council tax discount in relation to unoccupied dwellings. It also permitted the relevant regulations to allow local authorities to adjust the level of discount applying in their areas. The Bill will modify the powers conferred by section 33 so that the Scottish Ministers may, in addition to providing discounts in relation to unoccupied dwellings, make regulations increasing the amount of council tax payable in respect of unoccupied dwellings. Further, the Bill will allow the regulations to give local authorities a more flexible power, so that they will be able not only to increase or decrease the amount of council tax discount that is available in respect of an unoccupied dwelling, but will also be able to turn a discount into an increase in the amount payable, or vice versa.
5. The Bill also amends the existing powers in paragraph 4 of Schedule 2 to the Local Government Finance Act 1992, which enable the Scottish Ministers, through regulations, to make provision in relation to:

- the calculation of amounts persons are liable to pay in respect of council tax in respect of empty dwellings; and
- other aspects of administration as regards council tax and empty dwellings.

**Housing Support Grant**

6. The Bill removes the requirements in the Housing (Scotland) Act 1987 on the Scottish Ministers to pay housing support grants to local authorities where their Housing Revenue Account cannot be easily balanced from existing rent levels.

**DELEGATED POWERS**

7. The delegated powers provisions are listed below, together with a short explanation of:

- what each power allows;
- who the power is conferred on;
- the form in which the power is to be exercised;
- why it is considered appropriate to delegate the power; and
- the parliamentary procedure to which the exercise of the power is to be subject and why this procedure is considered appropriate.

8. The approach in the Bill to powers to make subordinate legislation is, generally, to augment existing powers, enabling variations to be made to the content of subordinate legislation to deliver the Government’s policy.

**Empty Property Relief**

9. Section 1 of the Bill will allow the Scottish Ministers, by regulation, to modify the percentage of rate relief available on empty properties. It does this by amending sections 24 and 24A of the Local Government (Scotland) Act 1966 (“the 1966 Act”).

10. Section 24 deals with lands and heritages which are wholly unoccupied. Currently, the default position is that no rates are payable in respect of such property. By regulations, however, the Scottish Ministers may prescribe classes of lands and heritages in respect of which a 50% rate is payable. Regulations have been made to provide that where lands and heritages have been unoccupied for a continuous period of more than three months then, subject to prescribed exceptions, they are liable to pay 50% of the non-domestic rates they would pay were they occupied for the same purpose as that for which they were last used.

11. Section 24A deals with lands and heritages that are partly unoccupied, for a short time. It provides for the temporary apportionment of the rateable value between the occupied and unoccupied parts. The default position is a nil value is attributed to the unoccupied part, the
practical effect of which is that no rates are payable in respect of the unoccupied part. However, section 24A(4) allows regulations to provide, in respect of prescribed classes of property, that the rateable value of the property is to be treated as the sum of 100% of the occupied part and 50% of the unoccupied part. Regulations to that effect have been made.

Subordinate Legislation Powers – Detail

Section 1(2) and (3) - Power to vary the percentage discount for rates relief applicable to unoccupied lands and heritages

Power conferred on: the Scottish Ministers
Power exercisable by: regulations made by statutory instrument
Parliamentary procedure: negative procedure

Provision

12. The amendments to sections 24 and 24A of the 1966 Act will allow regulations to vary the amount of rate relief in relation to unoccupied lands and heritages (or unoccupied parts of lands and heritages where there has been an apportionment under section 24A). As explained above, the default position is for no rates to be payable in respect of such property. By regulations, however, the Scottish Ministers may prescribe classes of lands and heritages for which a 50% rate is payable. The Bill, if passed, will amend the regulation-making powers conferred by sections 24 and 24A so that the Scottish Ministers can provide that the proportion of rates payable can be any other proportion, not exceeding 90% (i.e. a 10% relief), for such lands and heritages as are prescribed.

Reason for taking power

13. The reason for taking the power is that the rate relief structure must operate between pre-set limits. The classes of lands and heritages to which different percentages of relief apply may need to be periodically changed, or the on-going monitoring of the regime may indicate that change would be desirable. Once the Parliament has set the range of possible discount by primary legislation, it would be disproportionate to require further primary legislation to set particular figures in relation to particular classes of property. Subordinate legislation affords the flexibility to deliver the level of rates that is thought appropriate from time to time and to do so swiftly when circumstances so require.

Choice of procedure

14. This is a modification of an existing power that allows prescription of classes of lands and heritages that are to pay 50% of the non-domestic rates payable by occupied lands and heritages of that class. The existing power is subject to the negative procedure, which therefore seems appropriate in relation to any regulations made in exercise of the amended power. The power deals with the straight-forward operational detail of the non-domestic rating system and the extended power is simply an adjustment of an overly-rigid structure of reliefs. It is not a substantial innovation on the existing system, which operates with two reliefs (of 100% and 50%), to allow the relief to be reduced to 10% or set anywhere on the 100% to 10% scale. A higher level of parliamentary scrutiny does not appear to be appropriate.
Council Tax Treatment of Unoccupied Dwellings

15. Section 2 of the Bill will allow the Scottish Ministers, by regulation, to provide for council tax liability in respect of unoccupied dwellings to include the payment of increased amounts of council tax. Such increases may be set by Ministers themselves or, where regulations so provide, may be determined by local authorities in respect of all or parts of their areas. This follows the style of the current system, which contains provision for local authorities to modify the application of a discount system within prescribed limits. The Bill does this by amending section 33 of the Local Government in Scotland Act 2003 (“the 2003 Act”).

16. Section 3 of the Bill makes changes to Schedule 2 to the Local Government Finance Act 1992. These changes are made to reflect the move from a council tax system that only provides discounts in respect of unoccupied properties to one that will allow the amount of council tax payable to be increased in respect of unoccupied properties. The amended Schedule 2 will allow regulations to impose a requirement for taxpayers to notify a local authority that an assumption it has made about a property being occupied is incorrect, and a power allowing local authorities to request information about whether a property is, was or will be occupied. The Bill amends Schedule 3 to the 1992 Act to provide penalties, in both cases, for failure to supply the requisite information.

Subordinate Legislation Powers – Detail

Section 2(2) and (3) - Power to provide for variation of council tax liability for unoccupied dwellings

Power conferred on: the Scottish Ministers
Power exercised by: regulations made by Scottish statutory instrument
Parliamentary procedure: affirmative procedure

Provision

17. Section 2 of the Bill amends section 33 of the 2003 Act to allow council tax liability, in respect of unoccupied properties, to be varied by regulations. At present, section 33 allows regulations to provide only discounts of that liability.

Reason for taking power

18. The reason for taking the power is to enable regulations to set out, in detail, how the scheme of discounts and increases in council tax liability will operate in relation to unoccupied dwellings. Setting the scheme out in regulations will mean that it can be periodically changed if the ongoing monitoring of the scheme indicates that refinement is needed. This will avoid recourse to primary legislation. Through the Bill, if passed, Parliament will have scrutinised and approved the principle of imposing council tax increases on unoccupied properties. It would not be a productive use of scarce parliamentary time to require that every modification of the scheme be made by primary legislation. Using regulations, subject to the affirmative procedure, will allow responsive implementation of any required changes, while still retaining an appropriately strong element of scrutiny by the Parliament.
19. Section 33(1) of the 2003 Act currently allows the Scottish Ministers, by regulations, to provide discounts for classes of chargeable dwelling that have no resident. It also enables the Scottish Ministers to confer powers on local authorities to disapply the discounts or modify them in their areas. However, the power of local authorities to modify can be limited by the Scottish Ministers by setting maximum and minimum amounts of discount in the regulations. All of these powers have been used. In particular, local authorities have been enabled to modify 50% discounts in liability to reduce the discount to a lesser percentage.

20. The Bill will amend the existing scheme so that the Scottish Ministers will be able to prescribe “variations” of liability, thereby enabling the prescription of increases (not just discounts) in council tax liability for unoccupied dwellings. The power to allow local authorities to modify discounts will be amended accordingly, so that, for example, they can be enabled to provide for increases in liability instead of discounts, or vice versa.

Choice of procedure

21. The Bill achieves its purpose in this regard by modifying the power conferred by section 33 of the 2003 Act, which is presently subject to the affirmative procedure. The council tax treatment of unoccupied dwellings is an important feature of the council tax system for a significant number of people and their communities, and it is appropriate that the Parliament should be able to scrutinise and comment on the detail of such provision. That includes the consideration of the classes of property made subject to variations of the tax liability that would otherwise apply and the limits that may be imposed on the powers of local authorities to modify such provision. The affirmative resolution procedure applies to any regulations under section 33 of the 2003 Act at present and it is appropriate to continue that level of scrutiny in relation to any regulations made in exercise of the power as it will be amended by the Bill (if passed). The Parliament is likely to wish to examine proposed regulations, and any amending regulations that might subsequently be made.

Consequential repeal of delegated power

22. As part of the introduction of the current unoccupied dwellings tax system, the Scottish Ministers were given powers to repeal section 79(2)(a) of the Local Government Finance Act 1992 (“the 1992 Act”), and to amend section 79 of that Act. The repeal was effected and the power to amend section 79 has not been required. The opportunity is now being taken to repeal the spent power to repeal section 79(2)(a) and to amend section 79 on the basis that that power is not required.

Section 3(3) - Power to make provision requiring supply of information relating to occupation of a dwelling

Power conferred on: the Scottish Ministers
Power exercised by: regulations made by Scottish statutory instrument
Parliamentary procedure: negative procedure

Provision

23. Section 3 of the Bill amends paragraph 4 of Schedule 2 to the 1992 Act. Paragraph 4 allows the Scottish Ministers to make regulations setting out how local authorities are to go
This document relates to the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill (SP Bill 12) as introduced in the Scottish Parliament on 26 March 2012

about calculating the chargeable amount of council tax in relation to a dwelling and ascertaining whether any discount is available. The Bill will modify the power to refer to “variations” instead of “discounts” as a consequence of the amendments to section 33 of the 2003 Act discussed above. The Bill will also amend the power, by inserting new sub-paragraphs (5A) and (5B) which will, respectively, enable regulations to:

- impose a duty on persons to notify a local authority that an assumption the authority has made, and informed the person that it has made, is based on a misapprehension as to there being no resident of the dwelling, leading to an underestimate of council tax liability; and
- allow a local authority to request information from a resident, owner or agent to ascertain whether a variation of council tax liability applies, based on occupancy.

24. Section 3 of the Bill also amends Schedule 3 to the 1992 Act so that a failure comply with the duty to notify, or failure to accurately respond to a request, will result in a penalty of up to £200 (at the local authority’s discretion), and potential further penalties of £200 for repeated failure to comply.

Reason for taking power

25. These powers are necessary as a consequence of the potential move from a scheme under which unoccupied properties enjoy council tax discounts to a scheme under which they face council tax increases. The powers are not inherently unusual in the general scheme of the 1992 Act.

26. Paragraph 4(5) of Schedule 2 to the 1992 Act currently allows regulations to impose a requirement on a home-owner (or other person responsible for the property) to notify a local authority if the authority has informed the person that it has applied a council tax discount and the person knows that no discount, or a smaller discount, is actually warranted. The power that will be conferred by the new sub-paragraph (5A) will allow regulations to make equivalent provision in relation to council tax increases. That is, it will allow regulations to be made requiring the person to notify the local authority if it has made an inaccurate assumption about the property being occupied or unoccupied with the result that the authority has underestimated the council tax liability in respect of the property.

27. The power that will be conferred by the new paragraph 4(5B) of Schedule 2 to the 1992 Act will allow regulations to give local authorities the power to request information about whether a property is, was or will be occupied from the resident, owner or managing agent of a particular dwelling. At present, the fact that a property is unoccupied results in a reduced council tax liability. There is therefore a financial incentive for people to volunteer information that a property is unoccupied. In the future, where council tax liability is increased for unoccupied properties, such information may not be so readily volunteered. It is therefore necessary to give local authorities a power to request information about whether a property is occupied at a particular point in time, backed by a financial sanction for failing to supply the information (or failing to supply it correctly).

28. Using regulations to address these matters will mean that the requirements can be periodically changed if the ongoing monitoring of the scheme indicates that refinement is
needed. That will avoid unnecessary recourse to primary legislation for what are technical elements of the operation of the council tax system, of a similar nature to the other matters about which regulations may currently be made under paragraph 4 of Schedule 2 to the 1992 Act.

Choice of procedure

29. The regulations regarding provision of information are expected to be technical in nature. The 1992 Act already provides a power at paragraph 4(5) of Schedule 2, to make regulations in connection with discount assumptions, which is very similar to that which the Bill will insert as paragraph 4(5A) of that Schedule. Regulations made under the power conferred by the existing paragraph 4(5) are subject to the negative procedure.

30. Regulations made under the new paragraph 4(5B) of Schedule 2 to the 1992 Act will give local authorities a more pro-active ability to make enquiries about whether a property is, was or will be unoccupied. It is very similar to an existing regulation making power conferred by paragraph 2 of Schedule 2 to the 1992 Act, which is subject to the negative procedure.

31. Given that this Bill merely modifies existing regulation-making powers in the 1992 Act, with no significant innovation, the Government proposes that regulations made under paragraph 4 of Schedule 2 continue to be subject to the negative procedure.
Local Government and Regeneration Committee

9th Report, 2012 (Session 4)

Stage 1 Report on the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill

Published by the Scottish Parliament on 28 June 2012
Remit and membership

Report 1
Provisions of the bill
  Council tax 1
  Housing Support Grant 2
  Non-domestic rates 3
Committee scrutiny 4
Consideration of the evidence heard by the Committee
  Council tax 5
  Non-domestic rates 22
  Housing Support Grant 39
Other matters 49
  Subordinate Legislation Committee report 49
  Finance Committee report 50
  Policy Memorandum 51
  Consultation 51
  Equalities 51
Overall conclusions 51

Annexe A: Extracts From The Minutes 53
Annexe B: Record Of Divisions Taken In Private By The Local Government And Regeneration Committee 55
Annexe C: Oral Evidence And Associated Written Evidence 63
Annexe D: Other Written Evidence 63
Annexe E: Visit by a delegation of the Committee to Shetland 63
Annexe F: Report by the Subordinate Legislation Committee 63
Annexe G: Report by the Finance Committee 63
Local Government and Regeneration Committee

Remit and membership

Remit:

To consider and report on a) the financing and delivery of local government and local services, and b) planning, and c) matters relating to regeneration falling within the responsibility of the Cabinet Secretary for Infrastructure and Capital Investment.

Membership:

James Dornan
Joe Fitzpatrick (Convener)
Anne McTaggart
Margaret Mitchell
John Pentland
Kevin Stewart (Deputy Convener)
David Torrance

Committee Clerking Team:

Clerk to the Committee
Eugene Windsor

Senior Assistant Clerk
Euan Donald

Assistant Clerk
Seán Wixted
Local Government and Regeneration Committee

9th Report, 2012 (Session 4)

Stage 1 Report on the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill

The Committee reports to the Parliament as follows—

1. The Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill\(^1\) (“the Bill”) was introduced in the Parliament, by Derek MacKay, the Minister for Local Government and Planning, on 26 March 2012.

2. The Bill is accompanied by Explanatory Notes\(^2\) (SP Bill 12–EN), which include a Financial Memorandum, and a Policy Memorandum\(^3\) (SP Bill 12–PM), as required by the Parliament’s Standing Orders.

3. On 28 March 2012, the Parliament agreed to refer the Bill to the Local Government and Regeneration Committee (“the Committee”) as lead committee for stage 1 consideration. Under Rule 9.6 of the Parliament’s Standing Orders, it is for the lead committee to report to the Parliament on the general principles of the Bill.

PROVISIONS OF THE BILL

4. The Bill, if passed, would provide powers to the Scottish Government to amend, by regulations, the arrangements for charges in relation to non-domestic

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rates and council tax on unoccupied commercial properties and homes. The Bill would also abolish the Housing Support Grant.

**Council tax**

5. The Bill’s provisions, and proposed regulations, would give local authorities wider discretionary powers to vary council tax charges on unoccupied homes. At present, local authorities have powers to vary discounts in relation to unoccupied properties to give a minimum discount of 10%. Under the Bill, and proposed regulations, where a home was left long-term empty (LTE), the local authority would have powers to decide to charge a tax increase. According to the Policy Memorandum, the amount of increase in council tax that local authorities would be permitted to charge would be set out in regulations, but is expected to be up to 100% of the council tax that would have been liable (that is, up to double the applicable standard rate for the property) had the property been occupied. Where the owner was not eligible for an exemption from council tax or from the tax increase, the owner would be required to pay increased council tax to the local authority. The tax increase would only apply to long-term empty homes and not to those which were not a household’s sole or main residence, or were sometimes occupied as a second home.

6. Provisions in the Bill would also aim to facilitate the administration of any tax increase by local authorities by allowing them (once regulations had so provided) to require owners to provide information in relation to whether or not a home was occupied. Owners would be required to inform their local authority in certain circumstances that their home was empty, or of a change in its status, and local authorities would be permitted to charge a penalty in cases where the owner either did not provide information in line with the requirements or was found to have provided false information.

7. The Policy Memorandum argues that long-term empty homes are a wasted resource and are often an eyesore that can attract vandalism and fly-tipping. It further argues that neglect of homes can lead to the value of surrounding properties being reduced as a result of the neighbourhood not being perceived as a good place in which to live.

8. The proposals in the Bill are intended to encourage the bringing of empty homes back into use. According to the Policy Memorandum, this could play an important part in providing homes – affordable homes, such as social rented housing, or market housing, such as homes for private rent or sale – for people who need them.

**Housing Support Grant**

9. Housing Support Grant (HSG) has been available in its present form since the late 1970s under the Housing (Financial Provisions) (Scotland) Act 1978. 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 ongoing Scottish Government subsidy for doing so\textsuperscript{4}. It goes on to suggest that the local authority housing revenue subsidy system has been rendered obsolete by the introduction, in 2004, of the Prudential Borrowing Regime, the local authority council housing capital grant programme, in 2009, and the removal of the Right to Buy for new council housing, in 2010.

10. 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 ongoing basis.

11. Under the Bill, therefore, from 1 April 2013, Housing Support Grant would be abolished by repeal of the legislation which provides for it. This would require all 26 local authorities in Scotland with a Housing Revenue Account to operate their HRA without assistance from the Scottish Government in the form of Housing Support Grant.

12. The Scottish Government consulted on these proposals as part of the consultation in relation to the proposals for council tax, mentioned above. The Policy Memorandum reports that 26 of the written responses provided views in relation to Housing Support Grant and that all of them (except Shetland Islands Council, the only council that currently receives Housing Support Grant) agreed to the idea that HSG should be abolished. A number of responses qualified this by saying that the Shetland Islands Council should be subject to some kind of transitional arrangement.

**Non-domestic rates**

13. According to the Policy Memorandum, empty properties are “an obstacle to the regeneration of town centres”\textsuperscript{5}. The Policy Memorandum also notes that the Scottish Government’s 2011 Regeneration Strategy\textsuperscript{6} highlights the importance of strong and vibrant town centres and business districts as “vital to the economic and social fabric of Scotland”. It goes on to argue that reform of empty property relief would provide “incentives to bring vacant commercial premises back into use”\textsuperscript{7}.

14. The Policy Memorandum notes that the Scottish Government announced, in its 2011 Spending Review document, and in its 2011 Regeneration Strategy, its intention to introduce incentives to bring vacant premises back into use, reduce the prevalence of empty properties in town centres and support urban regeneration by reforming empty property relief from April 2013. The Policy Memorandum goes on to say that “The broad policy proposals have been consulted on as part of the consultation on the Scottish Budget”\textsuperscript{8}. In addition, the Policy Memorandum notes, “key stakeholders have been consulted throughout the process in the course of regular meetings, business events and meetings with

\textsuperscript{4} Policy Memorandum. Paragraph 9.

\textsuperscript{5} Policy Memorandum. Paragraph 4.


\textsuperscript{7} Policy Memorandum. Paragraph 4.

\textsuperscript{8} Policy Memorandum. Paragraph 17.
business groups”. The specific proposals in relation to non-domestic rates relief contained in the Bill have not, however, been the subject of formal consultation.

15. Under the Bill and associated regulations, the Scottish Government would have powers to vary the percentage of non-domestic rate relief available for defined classes of unoccupied premises. Currently the amount of liability can only be set at 0% (which is applied as the default percentage for the first three months) and 50% (which is applied for prescribed classes of lands and heritages for an indefinite period thereafter). The Bill, if passed, would enable the Scottish Government, by regulation, to set out a different percentage of rate relief applicable on unoccupied properties and when and for how long this relief would apply.

16. The Scottish Government proposes that, for the classes of unoccupied premises currently subject to the 50% relief, the rate payable prescribed in regulations would be 90%, in other words giving a rate of relief of 10%. This rate would apply following the initial three-month zero-rated period, for an indefinite period.

COMMITTEE SCRUTINY

17. The Committee issued a call for evidence on the Bill. A total of 30 responses was received. The Committee thanks the organisations and individuals that submitted written evidence.

18. The Committee took oral evidence over the course of three meetings. At its meeting on 9 May 2012, the Committee received an informal briefing from the Scottish Government bill team.

19. On 16 May 2012, the Committee took evidence, primarily on the council tax and housing support grant aspects of the Bill, from the Association of Local Authority Chief Housing Officers (ALACHO), Empty Homes Network, Shelter Scotland, Shetland Islands Council, Shetland Tenants Forum, Scottish Property Federation and Scottish Land and Estates.

20. The Committee considered the non-domestic rates aspects of the Bill at its meeting on 23 May 2012, taking evidence from Scottish Chambers of Commerce (SCC) and the Scottish Council for Development and Industry (SCDI).

21. In its final oral evidence-taking session at its meeting on 30 May 2012, the Committee took evidence from Derek Mackay, the Minister for Local Government and Planning, and from Keith Brown, the Minister for Housing and Transport.

22. A cross-party delegation of Committee members visited Shetland on 28 and 29 May, to gain an understanding of wider issues surrounding Shetland Islands Council and the Housing Support Grant, which would be withdrawn if the Bill were to be passed.
CONSIDERATION OF THE EVIDENCE HEARD BY THE COMMITTEE

Council tax

General views

23. Most of those who gave oral evidence to the Committee were broadly supportive of the Bill’s proposals in relation to council tax on empty homes.

24. Shelter Scotland told the Committee that it worked with councils across Scotland to help them to develop processes to bring private sector empty homes back into use. In Shelter’s view, homes could be empty for many reasons, but usually this was not because of an issue with the property but because the owner has “got stuck somewhere”. Owners might, for example, not be aware of how to make the best economic use of the property, have a fear of becoming a landlord, not have sufficient money to renovate the property, or need information about how to rent or sell the property in its current condition. Shelter argued that councils faced challenges in working with owners to address those issues, including staff resources and offering owners an incentive to bring properties back into use. Shelter reported that it worked with councils to help address these challenges by developing a process that started with advice and information and moved on to help councils develop incentives, loans and grants to encourage owners to bring property back into use for affordable housing.

25. Shelter Scotland’s evidence to the Committee concentrated mainly on the positive attempts that it made in supporting councils in their efforts to encourage owners to bring empty properties back into use, but its representative noted that, in the worst cases, enforcement was “an option”. Shelter Scotland considered that the powers the Bill would give councils were “not a stand-alone measure”, but “part of a wider approach to bringing empty homes back into use”.

26. The Association of Local Authority Chief Housing Officers (ALACHO) was also broadly supportive of the Bill. Noting that the power that would be given to local authorities by the Bill was a discretionary one, ALACHO added that it was “a helpful tool in the toolbox for local authorities”. This was not primarily because councils would “be able to raise extra income” but because it would give them “a lever to try to engage with owners” who might “be uncertain about what to do”.

27. ALACHO argued that councils were getting better at giving advice and information to point owners in the right direction and to signpost them to possible solutions, which might include, for example, properties being managed by letting agents on behalf of owners who did not want to get into the bureaucracy and the

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minutiae of letting.\textsuperscript{19} ALACHO indicated that it welcomed the Bill for those reasons, but most of all “because of the huge and pressing problems of housing need”\textsuperscript{20}. Noting that public and private resources were “in short supply for new affordable housing”, and that some estimates had put the number of empty properties in Scotland as high as 25,000,\textsuperscript{21} ALACHO concluded that anything that could be done to augment the supply by using the resource of empty properties and to “get people who need homes into decent homes”\textsuperscript{22} should be welcomed.

28. COSLA and Scottish Land and Estates also welcomed the Bill’s provisions in relation to council tax. The COSLA submission largely reflected views similar to those expressed by Shelter Scotland and ALACHO in oral evidence that, while council tax increases could not be the only answer to tackling empty homes, they were to be welcomed as “part of the toolkit”\textsuperscript{23} to address the number of long-term empty properties. Scottish Land and Estates reflected the views of other witnesses that the positive steps that local authorities were taking by offering advice and information and providing access to the loan fund would have “more impact”\textsuperscript{24}. However, its written submission indicated that it remained in favour of a sliding scale, with a gradual increase in council tax to 100% over time.\textsuperscript{25}

29. Individual local authorities which responded to the Committees’ call for evidence were also broadly supportive of the Bill’s provisions in respect of council tax. Glasgow City Council welcomed the “additional tools to incentivise owners to bring their properties back into use”\textsuperscript{26}. Highland Council’s written submission indicated that the Council was “generally supportive”\textsuperscript{27} of the Bill, while West Dunbartonshire Council also welcomed the Bill’s proposals in relation to council tax.

30. Waverley Housing, in its written evidence, was also broadly supportive of the Bill’s council tax provisions. Arguing that it was essential that every possible and practicable step be taken to increase the supply of housing across all tenures and to ensure that use of existing stock was maximised, Waverley Housing concluded that inducements to owners not to leave property empty though the use of a financial penalty was “a sound general principle”\textsuperscript{28}.

31. The Scottish Property Federation (SPF) noted in its oral evidence to the Committee that, even with the withdrawal of discounts, the number of empty properties had risen in the past few years. The SPF went on to argue that in many of those circumstances, the landlord would have a “powerful incentive to get the

\textsuperscript{19} Local Government and Regeneration Committee. \textit{Official Report}, 16 May 2012, Col 963. \\
\textsuperscript{20} Local Government and Regeneration Committee. \textit{Official Report}, 16 May 2012, Col 963. \\
\textsuperscript{22} Local Government and Regeneration Committee. \textit{Official Report}, 16 May 2012, Col 963. \\
\textsuperscript{23} COSLA. Written submission. Paragraph 17. \\
\textsuperscript{24} Local Government and Regeneration Committee. \textit{Official Report}, 23 May 2012, Col 982. \\
\textsuperscript{25} Scottish Land and Estates. Written submission. \\
\textsuperscript{26} Glasgow City Council. Written submission. \\
\textsuperscript{27} Highland Council. Written submission. Paragraph 4. \\
\textsuperscript{28} Waverley Housing. Written submission. Paragraph 3.
property let and to have the rent paid”\textsuperscript{29}. Councils would, the SPF argued, “have to look at individual cases and use the provisions very carefully indeed”\textsuperscript{30}.

32. The Committee also received a submission from Adie Hunter Solicitors, arguing that it was the “wrong time” to introduce the Bill and that the number of unoccupied properties at present was “simply because of the state of the market”\textsuperscript{31}. The submission concluded that it was “unfair and uncommercial at this time to introduce additional penalties on individuals and businesses who are often hard pressed in the current climate”\textsuperscript{32}. The Committee also received a confidential submission from an individual, providing examples of how properties can sometimes remain unoccupied for lengthy periods as a result of personal circumstances beyond the control of the owners.

33. The Committee welcomes the Bill’s provisions in respect of council tax. The committee endorses the consensus within the evidence it received that, while the council tax provisions contained in the Bill, will not, in themselves, solve the problem of long-term empty properties, they could be a useful, discretionary addition to the toolkit available to local authorities in addressing the issue. The Committee also recognisesthat although other measures taken by local authorities and their partners to support people in bringing their empty properties back into use are likely to play a more significant role, the provisions in the Bill are a necessary tool to have available in cases where all other attempts to support people to bring property back into use have failed. To this end, guidance to local authorities on best practice should be published when regulations are issued.

34. The remainder of this section concerns itself with specific issues relating to the council tax provisions in the Bill.

\textit{Discretionary powers}

35. Currently, owners of empty properties which are liable for council tax are entitled to an exemption for the first six months during which the property is empty, and to a discount of 50\% for the following six months. Since 2005, councils have had powers to vary the council tax discount, after the 12-month period, to any level between 10\% and 50\%. The Policy Memorandum explains that, under the Bill, the exemption would, as at present, apply for the first six months of the property being empty. The Scottish Government would introduce regulations that would permit councils to vary the level of discount on council tax for the next six months of the property being empty, to any level from 10\% to 50\% of the total council tax for which the property would normally be liable. The regulations would also provide that, after the end of the 12-month period of discount (six months exemption and six months at a rate of discount of between 10\% and 50\%) councils could charge increase on the council tax of up to 100\%, that is, double the applicable rate for the property had it been occupied.

\textsuperscript{31}Adie Solicitors. Written submission.
\textsuperscript{32}Adie Solicitors. Written submission.
36. Councils will also have flexibility, under the Bill, to vary any rate of council tax increase on empty properties in different parts of their areas.

37. Most of the Committee’s witnesses welcomed the discretionary nature of the provisions contained in the Bill. ALACHO told the Committee—

“One of the things that we welcome about the proposals is their flexibility. They allow councils to make decisions about the problems that they face. Some problems will be more significant in some areas than in others, but the way in which the proposals are framed gives councils the discretion to decide whether the cost of implementing the legislation will merit the benefits that will come from it. That is to be welcomed.”

38. COSLA welcomed the “discretionary nature” of the provision enabling councils to accommodate variations within their council areas. Similarly, Glasgow City Council welcomed the “flexibility in approach in regulations.” Highland Council also welcomed the flexibility, but considered it “reasonable” for the Scottish Government to set out in regulations the framework for varying discount and applying charges, including the limits.

39. West Dunbartonshire Council, however, argued in its written submission that “all areas within the council should be treated on an equal basis” and that the “scheme should apply evenly across Scotland so as to prevent disparity between neighbouring council areas” and that the “scale of charge should also apply evenly across Scotland”.  

40. The Committee welcomes the discretion that will be given to local authorities as regards the council tax proposals contained in the Bill. The Committee considers that it is reasonable to give local authorities powers to vary (within prescribed limits) any increase in council tax charge after the 12-month period and to vary the degree of increase in different parts of their areas as they consider appropriate.

Power to require information

41. The Policy Memorandum explains that the Bill and subsequent regulations would impose a specific requirement on owners to advise local authorities if their home was unoccupied and therefore potentially avoiding the payment that would have been due had the local authority been aware that the home was unoccupied. The regulations would enable local authorities to require owners or their agents to provide information on request regarding whether their home was unoccupied, how long it had been occupied or unoccupied and, where a property had been declared as a second home, how often it was occupied. This would be accompanied by a power for local authorities to impose a penalty charge for failure to provide the required information or for providing false information of up to £200 (currently local authorities can only charge a penalty of £50 for similar types of...

34 COSLA. Written submission. Paragraph 19.
35 Glasgow City Council. Written submission.
37 West Dunbartonshire Council. Written submission.
failure to provide information requested by the local authority, other than for repeated failure).

42. The Policy Memorandum explains that these proposals are intended to help local authorities to identify those homes that should be classed as LTE and to provide a deterrent to owners from withholding information or providing false information. It further notes that this provision is intended to improve the viability of imposing a penalty for local authorities, as feedback suggests it is not currently worth a local authority’s time to impose a penalty as the administrative costs of securing payment can exceed the existing £50 penalty charge.

43. The proposed penalty and its level were generally accepted as appropriate. ALACHO told the Committee that finance staff in local authorities had noted that the penalty of £50 that may currently be levied would frequently not cover the cost of trying to pursue enforcement. ALACHO hoped that the proposed £200 penalty under the Bill would be “a very last resort and rarely used, but at least it would make it more economically viable to pursue cases in which people are minded to try to circumvent the legislation”.

44. Glasgow City Council, in its written submission, noted that, in a city with a high proportion of flats, it can be difficult to identify properties which are empty until a problem with house condition or environmental health arises. The Council therefore welcomed the proposed power for local authorities to require owners or agents to provide information on whether a property was empty and for how long it had been empty. However, the Council argued that the suggested level of fine (£200) seemed “very low in comparison to the potential impact to the owner of providing information”. Glasgow City Council also argued that past experience of civil penalties suggested that these are “difficult to administer, including collection issues, are time consuming, and are often ineffective in changing behaviours”. West Dunbartonshire Council reinforced this point, remarking in written evidence that “fixed penalty fees in practice are seldom used by councils, as they have a very poor collection rate”.

45. COSLA also noted that in practice the power to impose a penalty of £200 for failure to notify “may be ineffective and may not be applied widely, particularly where there is a significant risk of non-payment”.

46. The Committee considers that it is possible that owners may be tempted to fail to disclose an empty property in order to avoid paying potentially double the council tax that would have been liable had the property been occupied. The level of the proposed penalty for failure to disclose seems to the Committee to be fairly low in comparison to the amount that an owner could save by failing to declare a property as empty. The Committee also questions whether, even at the proposed level of £200,

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40 Glasgow City Council. Written submission.
41 Glasgow City Council. Written submission.
42 West Dunbartonshire Council. Written submission.
43 COSLA. Written submission. Paragraph 12.
local authorities would possibly incur greater costs in collection than would be recouped through payment of the penalty. The Committee therefore calls on the Scottish Government to consider again whether the proposed £200 penalty for failure to disclose the relevant information is set at an appropriate level.

Exemptions

47. The Policy Memorandum explains that the Scottish Government proposes to bring forward regulations to provide for time-limited exemptions from any increase in council tax liability in certain circumstances where there may be legitimate reasons why homes need to be left empty. These exemptions would apply in addition to any time-limited exemptions to which the owner was already entitled (for example where the property had been empty and unfurnished, uninhabitable for a period due to renovations or exempt for six months as a new build property which had never been occupied). It is therefore proposed that owners who are “proactively” trying to sell their home at a reasonable price be exempted from the increase for up to 12 months. It is also proposed that discretionary exemptions be available to local authorities in respect of owners actively attempting to let a property and registered social landlords (RSLs) which have homes that 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. Additionally, local authorities would have powers to grant an exemption, in circumstances where they are satisfied that owners have strong grounds for being unable to bring their property back into use.

48. The Bill, and regulations, would not specify the evidence that owners would need to produce in order to demonstrate that they were making serious efforts to market a property for sale or rent. This would be a matter for local authorities to determine.

49. Homes for Scotland, in its written evidence\textsuperscript{44}, supported the proposed exemptions but suggested that the exempt period for new build properties that are currently being marketed for sale be extended from the proposed 12 months to 18 months, as a result of current market conditions which meant that new properties may wait for long periods before being sold, partly as a result of limited availability of mortgages.

50. Scottish Land and Estates also welcomed the proposed exemptions, but argued that “basic confirmation that the property is on the market and a comparison with the Home Report Valuation should be all that is required to avoid unnecessary costs or bureaucracy” adding that any exemption system should be “straightforward and not unnecessarily burdensome.”\textsuperscript{45} The organisation also argued that exemption from any increase should be applied in cases where a planning application involving change of use from, for example, residential to business use, had been made.

\textsuperscript{44} Homes for Scotland. Written submission.
\textsuperscript{45} Scottish Land and Estates. Written submission.
51. COSLA argued that it would be “extremely difficult” for Councils to track the properties that were being actively marketed, COSLA concluded that while this provision was “understandable”, it presented an “additional administrative burden on councils” and that further clarity on the practical application of this provision would need to be established through development of the regulations.46

52. Shelter Scotland argued that exemptions should be limited to those that could be judged by objective facts – for example that a person has died or a property is due for demolition – rather than where subjective judgements might be required. Its representative told the Committee—

“We warn against having too many exemptions that are subjective, because that makes the system more expensive to enforce. We would like the balance to be on the other side, where someone who is in genuine hardship and is doing everything that they can to bring the property back into use is given incentives and financial help from the council, using money that has been recycled from the levy. That would be preferable to providing exemptions for this and that, which would be quite difficult to keep a handle on.”47

53. Shelter Scotland also raised a question of clarity regarding whether the reference in paragraph 40 of the Policy Memorandum refers to the specified list of cases mentioned earlier in the Policy Memorandum or to a more general exemption for local authorities to exercise.48

54. The Committee questioned the Minister for Transport and Housing on the issue of exemptions. The Minister told the Committee—

“The issues will take time to work through. If it was clear that a sincere effort had been made to sell or let a property, for example, we would not want to punish somebody for a genuine attempt to bring an empty home into productive use. Those matters should be considered further. They are not easy to resolve; we will deal with them in conjunction with our local authority partners. The judgment will be about what is prescribed in primary legislation or regulations and what is left to local authorities.

It will be possible for local authorities to work out whether something that has been left empty should be brought back into productive use and whether a property owner is genuinely trying to bring it back into productive use. The

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46 COSLA. Written submission. Paragraph 12.
48 Policy Memorandum. Paragraph 40: “However, scope for additional exemptions needs to be balanced with avoiding potentially making the system overly complex for local authorities to administer and creating scope for some owners to exploit this by claiming exemptions they may not genuinely be eligible for. Therefore, in some cases, the Scottish Government intends that it should be up to the local authority to decide whether or not they wish to offer an exemption, depending on whether or not they feel owners have strong grounds for being unable to bring their home back into use. Even when an exemption is proposed in the regulations to be available in all local authority areas where the tax increase is applied, it will be at the local authority’s discretion to determine whether or not they are satisfied that an owner meets the requirements of the exemption (this is already the case in relation to determining whether or not an owner is eligible for any of the existing exemptions under Schedule 1 to the Council Tax (Exempt Dwellings) (Scotland) Order 1997).”
provisions would not apply if someone was selling their own home, because they would be occupying the property."\(^{49}\)

55. On the question of a possible exemption in respect of properties subject to a planning application for change of use, the Minister told the Committee that he would not be in favour of such an exception—

“It would be quite possible for an owner to lodge a planning application to try to circumvent their liability for additional council tax. When we look at tax issues—of course, we do not currently have many tax powers—we have to be careful to ensure that we do not make it easy for people to avoid the tax. We have seen evidence of that happening over many years in the context of the UK Exchequer, to the substantial loss of taxpayers in this country. It is fair to everyone if the rules are applied consistently and are not easily avoided."\(^{50}\)

56. The Committee notes the views of most of its witnesses that the proposed exemption regime is fair and reasonable. The Committee also recognises that the detailed operation of the exemption regime will not be able to be fully understood until the relevant regulations have been published in due course. The Committee would wish to be kept informed of the broad developing trends of exemption regime. The Committee therefore recommends that the Scottish Government take steps to monitor the situation as regards exemptions across the country and ensure that local authorities collect data that can be reported to the Committee in due course as required.

57. The Committee notes that there may be a lack of clarity in the Policy Memorandum on whether or not local authorities will have powers to grant exemptions on other grounds besides those specified in the Policy Memorandum and calls on the Minister to address this question, in the light of his ongoing discussions with local authorities, before the regulations are published.\(^{51}\)

58. The Committee also accepts that, while it may be appropriate for local authorities to determine what evidence would be required in order to demonstrate, for example, that serious efforts are being made to market a property for sale or rent, such a process should not be excessively bureaucratic or burdensome. The Committee therefore calls on the Minister to address this in his ongoing discussions with local authorities regarding the practicalities of exemptions.

Ring-fencing of income raised for affordable housing purposes

59. The Scottish Government has decided not to ring-fence any sums raised as a result of the Bill’s council tax provisions for affordable housing or any other purpose. The Policy Memorandum explains that this decision was made after taking account of feedback from the consultation. It would, therefore, be at local

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\(^{51}\) Paragraph 57 agreed to, by division (see Annexe B: Record of Divisions in Private).
authorities’ discretion to determine how they spend any additional revenue raised through the council tax increase or through any reduction in discount to below the current 10% minimum, based on their own local priorities. However, the Scottish Government proposes to keep existing arrangements for revenue raised from existing reduced discounts on long-term empty and second homes, which should continue to be used by local authorities to fund a range of affordable housing and empty homes projects in their area. These proposed arrangements will not be set out in legislation and will be agreed with COSLA.

60. COSLA argued, in its written evidence, that councils were best placed to determine if and how any income raised should be used and did not want to see “additional constraints, such as ring-fencing of this income” being imposed.\footnote{COSLA. Written submission. Paragraph 20.} COSLA, therefore, welcomed the Scottish Government’s proposal not to ring-fence any additional revenue raised through the council tax increase.

61. ALACHO told the Committee that its understanding had been, under the original proposals on which the Scottish Government had consulted, additional income available to local authorities as a result of the Bill’s provisions would be ring-fenced for affordable housing purposes. ALACHO “thought that that was a good idea”\footnote{Local Government and Regeneration Committee. \textit{Official Report}, 16 May 2012. Col 967.}. However, ALACHO went on to say that it understood “the corporate nature of local authorities”\footnote{Local Government and Regeneration Committee. \textit{Official Report}, 16 May 2012. Col 967.} and COSLA’s position, which was that councils should be at liberty to spend resources as they see fit.

62. Shelter Scotland’s view was similar. It was “in favour of the money being ring-fenced for affordable housing initially”\footnote{Local Government and Regeneration Committee. \textit{Official Report}, 16 May 2012. Col 968.}, but understood COSLA’s position.

63. Highland Council also welcomed the proposal to give councils “discretion and flexibility to decide how best to spend the revenue generated”\footnote{Highland Council. Written submission. Paragraph 7.}. Glasgow City Council, however, indicated that it would prefer any additional revenue raised from council tax on long-term empty homes be used to support the provision of affordable housing\footnote{Glasgow City Council. Written submission.}. The Council’s submission also noted that “the potential revenue which may be raised might not cover the costs of administering the new procedures and the council “would have to consider this”\footnote{Glasgow City Council. Written submission.}.

64. The Committee questioned the Minister for Housing and Transport on the decision not to ring fence any income raised. The Minister told the Committee—

“We considered whether the money should be ring fenced, but our view is that we should try to encourage councils and give them discretion, which is consistent with the concordat and the way in which we now work with councils. They will, of course, continue to ring fence the moneys that they get for current income from council tax in relation to discounts. They will continue to be obliged to use that towards providing more housing. However, in this
context we thought that a collaborative approach was best, such that councils would have discretion and we would put in place other means that could support them to bring housing back into productive use.  

65. The Committee considers, on balance, that it is appropriate for individual local authorities to decide how to spend any additional revenue generated under the proposed powers to charge an increase in council tax on long-term empty properties. While the Committee acknowledges the argument that any sums raised should be dedicated towards affordable housing it recommends that local authorities monitor how this additional revenue is used. The trend in recent years has been very much against ringfencing of specific funds and towards allowing councils as much flexibility as possible in making their own financial decisions, having regard to their local circumstances and priorities. The Committee therefore supports the proposals not to ring-fence any income generated, but would like to be advised, in high-level terms, on how any additional revenue generated under the Bill has been spent.

Second homes
66. Shelter Scotland raised the question of whether property owners might attempt to designate their empty property as a second home, given that the council tax payable on a long-term empty property could be significantly higher than that on a second home, which would lead to increased enforcement costs. Shelter Scotland believed that enforcement should be part of a wider approach—

“We believe that, ... if staff resources—ideally, an empty homes officer—are allocated to keeping an empty homes database and updating it as owners are contacted and worked with to try to bring property back into use, the enforcement costs should be lower because councils will have a better idea of what is out there and of the status of the empty homes in their communities. That is slightly different from a council officer simply having a spreadsheet and seeing numbers moving. We think that that should help.”

67. The Committee put the points about possible attempts to designate long-term empty properties as second homes to the Minster for Housing and Transport. The Minister told the Committee—

“We have looked at the matter but it will take more work to formulate a working definition of second homes that will allow us to distinguish between the two types of property. That said, we think that second homes often provide economic benefits to and improve the areas in which they are located, although I admit that the reverse can be the case if there are too many of them. However, that is not the case with empty homes, which is why we have focused on them. We intend to put together a proper definition to distinguish between the two types of property and that will come down to

factors such as the length of time for which a property is occupied in the course of a year.”

68. Pressed on whether councils should have powers to decide whether second homes had a negative economic impact in their council areas and to apply a similar increased rate of council tax on them if they did take that view, the Minister indicated that more work was needed on this question—

“Councils have different views on the issue of second homes and if we want to ensure that the measure is as workable as possible we must take a consistent approach across the country. We will look at the responses that we receive as the legislation proceeds and try to be flexible in the way that Derek Mackay suggested. However, our view at the moment is that a consistent approach to second homes, which we do not intend to capture in this legislation, and empty homes, which we do, is the best way to move forward.”

69. The Committee notes the possibility of owners of long-term empty properties seeking to redesignate them as second homes in order to avoid an increased council tax liability. The Committee also recognises that there are differing views amongst local authorities as to the economic benefits or disbenefits of second homes within a council area.

Properties unsuitable for habitation

70. Scottish Land and Estates raised the issue with the Committee of long-term empty properties that were classified as dwelling houses but were not suitable for use as modern homes—

“I would also like local authorities to be far more realistic about removing properties from the council tax register. There are properties that will never be brought back into use. Because they cannot be removed from the council tax register, they are listed as empty homes, with the result that it would appear that they could be brought back into use, whereas, in fact, that is completely unrealistic. I am talking about bothies up hills and properties that are derelict but which are in the midst of a farming business and are used to store bales and other things. They are not lettable properties and should be removed from the council tax register.”

71. The Committee put this point to the Minister and queried whether it would be possible for the Scottish Government to issue guidance to assessors about the removal of such properties from the register. The Minister for Housing and Transport explained that, currently, a derelict property can be removed from the list that is kept by the relevant assessor. If a property were removed, it would no longer be subject to tax. It was, the Minister explained, for the assessor to determine whether a property remained on the list and neither local authorities nor the Scottish Government had control over that. Additionally, under the Council Tax

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72. Questioned by the Committee on whether guidance was issued to local authorities and valuation boards, to encourage a uniform approach across the country to dealing with such properties, the Minister stated that he did not think that local authorities had a role – it was “strictly a matter for the assessors” and that he understood that neither local authorities nor the Scottish Government had direct control over what was a matter for assessors.65

73. The Minister subsequently wrote to the Committee providing further detail on this matter—

“The Committee queried whether the Scottish Government could provide guidance to the assessors given that some concerns had been raised by Scottish Land and Estates that the assessors were often unwilling to remove homes from the council tax valuation list, even where they were not suitable to be occupied. I can confirm that, as I mentioned to the Committee, the assessors operate independently of both the Scottish Government and local authorities. Their role is to provide an impartial interpretation of how local government taxation legislation applies in individual cases on matters such as the inclusion or removal of homes from the council tax valuation list. In order to ensure that they remain independent and impartial, it would not be appropriate for the Scottish Government to provide guidance to the assessors in relation to removing homes from the valuation list as it is entirely for the relevant assessor to decide whether or not a home should be removed.

Their decisions are based on whether or not the home still constitutes a ‘dwelling’ under sections 70 and 72 of the Local Government Finance Act 1992. Assessors are fully accountable for their decisions and if an owner does not feel the decision is in line with the legislation, they can appeal to the Valuation Appeal Committee and ultimately to the courts.”66

74. The Minister’s letter went on to say that the Scottish Government considered the council tax system as a whole to be unfair and that it would prefer to replace it in future with a “fairer local tax, based on ability to pay”. Issues such as those raised by the Committee and Scottish Land and Estates would be considered as part of the Government’s plans to consult on replacing the council tax.

75. The Committee notes the point raised by Scottish Land and Estates about homes that remain on the valuation list that may be unlikely to be able to be used as dwelling houses in the future. The Committee also notes that decisions on whether or not to remove homes from the valuation list are a matter for the relevant assessor, but would welcome a review by assessors of properties designated as ‘unsuitable for habitation’.

66 Minister for Housing and Transport. Written submission.
67 Minister for Housing and Transport. Written submission.
Financial assumptions

76. This section of the report considers the financial assumptions that have been made in the development of the Bill and how they are explained in the Financial Memorandum (FM). In doing so, it draws on the Finance Committee’s report on the Bill’s FM.

77. The Financial Memorandum sets out estimates of the likely costs to local authorities and the Scottish Government brought about by the provisions of the Bill. According to the FM, the costs on the Scottish Government would be minimal. Although there would be staff time required in developing regulations and guidance following the passage of the Bill, this would be taken forward by existing staff so would not be an additional cost. The FM acknowledges that there could be additional costs to the Scottish Administration in relation to empty homes owned by the Scottish Government or its agencies, although the Scottish Government now only owns a very small number of residential properties, six of which are currently known to be empty and therefore potentially liable for a council tax increase from April 2013.

78. In terms of costs to local authorities, the FM states that in order to be able to apply an increased council tax charge, local authorities might incur set-up costs to ensure that their computer systems would be able to calculate the tax due (although in some cases no IT changes would be required). Based on information the Scottish Government received from two local authorities, it estimates the IT setup costs for authorities that decide to set an increase to be in the range of £5,000 to £10,000 per authority. Some additional staffing resource might also be required in the set-up period in councils. The FM estimates this at between £7,125 for one member of staff and £21,375 for three.

79. The main costs to local authorities, however, would be in enforcing the increase. Some councils would also have to pay the increase in respect of their LTE council homes (although homes scheduled for demolition would not be liable for council tax). The FM, based on information received by the Scottish Government from one local authority estimates that, depending on the number of LTE homes in the area, between one and three additional members of staff would be required at approximately £28,500 per member of staff per year (including National Insurance and superannuation). The average additional staffing costs for a local authority are therefore estimated by the FM at approximately £28,500 to £85,500 per year or £912,000 to £2,736,000 per year for the whole of Scotland.

80. In relation to costs, the evidence received by the Committee appeared to broadly accept the assumptions in the FM. Fife Council considered the estimated £5-10,000 IT setup costs as “reasonable” and noted that the staffing cost estimates fitted with the Council’s staff grades for this work. COSLA considered that it had “no reason to disagree with the costings provided in the Financial Memorandum.”

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70 Financial Memorandum. Paragraph 42.
72 Fife Council. Written submission.
Memorandum\textsuperscript{73}, though it noted that councils would need to consider if it was worthwhile applying the council tax variation power and might choose to offset any increased administration costs against the revenue raised.

81. The Financial Memorandum also sets out the possible revenue implications of the Bill for local authorities. The FM notes that the Scottish Government has created a model to estimate the potential revenue that could be generated as a result of the council tax increase. The model uses actual numbers of long-term empty homes liable for council tax, actual council tax rates and takes into account the distribution of properties across council tax bands. In producing its calculations, the model assumes that all local authorities would apply the same level of discount or increase and that 10% of properties would be returned to use each year.

82. According to the FM, if all local authorities were to charge a maximum 100% increase for all LTE homes liable for council tax, a maximum of £33.9 million per year could be collected (assuming a 100% collection rate). The FM provides this figure as an average over four years because, it says, it is difficult to produce robust estimates of how many homes would be brought into use each year as a result of the increase (or other factors); it assumes no increase in council tax rates, no additional LTE homes and 10% of homes being brought back into use each year. This estimate also includes revenue which is already received through reduced council tax discounts (of less than 50%) on LTE homes (about £7 million per year).

83. The FM further notes that based on data on the number of homes empty for one year or more, a sample of four local authorities indicated that about 70% of current LTE homes had been empty for one year or more and around 30% empty for between 6 and 12 months. Assuming this rate to be constant across all local authority areas, and given that it is not proposed that the proposed increases would come into effect until the property had been empty for a year, this would, according to the FM, have the effect of reducing the £33.9 million maximum revenue level per year to £23.8 million per year.

84. In relation to the proposal for a mandatory exemption from the increase for up to one year after the initial six-month period of a home being classed as LTE for homes actively being marketed for sale, the FM reports that no accurate information on the number of LTE homes advertised for sale, and thus able to qualify for the proposed exemption is available. However, the Scottish Government estimates, based on data on the number of homes marketed for sale each year, that in the region of 3-6% of LTE homes could potentially qualify for the time-limited exemption. On this projection, the potential revenue to local authorities would reduce to approximately £22.3-23 million per year. When the revenue that is already received through reduced council tax discounts (around £7m) is removed, the maximum additional revenue that could be achieved from the proposals is estimated to be £16.05m a year.

\textsuperscript{73} COSLA. Written submission. Paragraph 13.
85. The FM also notes that regulations may provide that, effectively, local authorities would be able to set the level of discount or increase themselves although the Scottish Ministers would be able to set a maximum discount or maximum increase that could not be exceeded by local authorities. As the Bill itself does not set those maxima, they could be set to produce a wide range (e.g. 100% discount to 100% increase). As the FM acknowledges, this could introduce “significant margins of uncertainty” in projected revenue. Although, according to the FM, the Scottish Government does not intend to use this flexibility to reduce the current discounts further or to change the level of discount in relation to other classes of unoccupied homes that are not LTE, if it did increase the maximum discount to 100% for LTE homes and this was applied across all local authorities, a total cost to local authorities of approximately £8.7 million per year would result (through reduced council tax revenue). As the Scottish Government estimates a maximum additional revenue of £16.05 million per year, the potential range of impacts varies between a cost of £8.7 million per year for local authorities and an additional revenue income of up to £16.05 million per year.

86. COSLA’s written submission urges caution in interpreting these figures, “as they may be overly optimistic”. The Finance Committee report also notes that the Parliament’s Financial Scrutiny Unit had suggested that assuming that all local authorities would charge the maximum 100% increase in council tax risked “overstating the potential revenue gains to local authorities”.

87. The Finance Committee report on the FM notes a number of potential issues with regard to the modelling of the revenue, including the assumptions that councils would use 100% council tax as the basis for charging on LTE properties, that the whole amount due would be able to be collected and the extent to which revenue might be reduced by councils deciding to offset the administration costs of collection and enforcement. Given the flexibility that councils would have in deciding what level, if any, of council tax increase to apply, the Finance Committee found it “surprising that this figure was used as the basis for its modelling in the FM”.

88. The Finance Committee report also noted evidence it received from local authorities that questioned the assumption of 10% of unoccupied properties being brought back into use each year, highlighted the possibility of evasion and noted the potential for revenue being impacted because of local authorities’ liability for the extra charge on their own unoccupied properties.

89. The Committee questioned the Minister for Housing and Transport on the assumptions and variabilities in the FM, and in particular on the assumption that councils would apply a charge of 100%. The Minister told the Committee—

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74 Financial Memorandum. Paragraph 35.
75 Financial Memorandum. Paragraph 35.
76 COSLA. Written submission. Paragraph 7.
“I am not sure how else a workable estimate would be arrived at. The figure is the potential amount that could be realised.

We have made it clear from the start that the discretion will lie with councils. The bill will allow councils to vary the level if they want to, so the only meaningful figure that we can advance is the potential maximum figure.”

90. Pressed further on this point, the Minister added—

“We have said that the power will be an option for councils to use. Given that, there could be innumerable permutations of some councils using or not using the power and some councils providing different discounts. We could not have arrived at any other meaningful figure. We have specified the maximum that could be achieved. That makes sense to me, at least.”

91. The Committee notes the report of the Finance Committee on this aspect of the Bill. The Committee acknowledges the potential variations and unknown quantities that make it difficult to estimate accurately the likely impact of the Bill on revenue.

92. The Committee notes that the FM acknowledges the significant margin of uncertainty inherent in the assumptions that have been used to calculate revenue. The Committee concludes that it is impossible to estimate accurately, at this stage, what the impact on revenue for local authorities is likely to be. However, the Committee considers that what is most important is the Bill’s impact on reducing the number of long-term empty properties and bringing them back into use. Should there be a positive impact on council tax income in local authorities, this is likely to be helpful in giving councils other options in helping to bring properties back into use through other initiatives, although the Committee acknowledges that it will be for councils to determine how to use any additional income that accrues as a result of the proposed measures.

Council tax – overall conclusions

93. The Committee supports the policy intention of the Bill to bring as many long-term empty homes as possible back into use.

94. The Committee recognises that the measures proposed in the Bill, while they are likely to contribute towards a reduction in the number of long-term empty homes, are not a panacea, although they will add to the “toolkit” of options available to local authorities in addressing the housing need within their areas. In that respect, the Committee welcomes the flexibility and discretion that the Bill allows local authorities in determining the level of council tax increase, if any, that they consider appropriate to levy on the owners of long-term empty homes, having had regard to their local circumstances.
Although the Committee might have preferred that the Bill had provided that any revenue increases gained by local authorities as a result of its provisions would be channelled into the provision of affordable housing, and that the use of additional income should be monitored by local authorities, the Committee acknowledges that local authorities are best placed to make decisions about how such additional income should be used, taking local circumstances and priorities into account.

Given the local discretion that has been built into the Bill’s proposals, it is perhaps not surprising that the revenue projections set out in the Bill’s Financial Memorandum contain significant “margins of uncertainty”. It is also arguable that the Financial Memorandum is perhaps optimistic in the assumptions that it makes about the likely revenue flow to local authorities as a result of the Bill’s provisions.

The Committee acknowledges, however, that the Bill is not intended as a revenue-raising exercise for local authorities. What is most important is that as many as possible of Scotland’s estimated 25,000 long-term empty homes are brought back into use as dwellings. The Committee, therefore, is more interested in ensuring that councils use these powers creatively and proportionately alongside other measures, and with partners like registered social landlords, in order to support and encourage owners to bring empty property back into use, either for sale or rental, in order to help meet the continuing need for social housing. The Committee calls on the Scottish Government to continue to provide support to local authorities and others to ensure that this process continues and, indeed, accelerates.

The Committee therefore endorses the general principles of the Bill as regards the changes to council tax.
Non-domestic rates

99. As mentioned in the introductory section of the report, the Scottish Government announced, in its 2011 Spending Review document, and in its 2011 Regeneration Strategy, its intention to introduce incentives to bring vacant premises back into use, reduce the prevalence of empty properties in town centres and support urban regeneration by reforming empty property relief from April 2013. The Policy Memorandum says that the proposals have been widely consulted on as part of the consultation on the Scottish Budget and as part of wider consultation on the Regeneration Strategy. The specific proposals in relation to non-domestic rates relief contained in the Bill have not, however, been the subject of formal consultation.82

100. Under the Bill and associated regulations, the Scottish Government would have powers to vary the percentage of non-domestic rate relief available for defined classes of unoccupied premises. Currently the amount of liability can only be set at 0% (applied for the first three months) and 50% (applied for an indefinite period thereafter). The Bill would enable the Scottish Government, by regulation, to set out a different percentage of rate relief applicable on unoccupied properties and when and for how long this relief would apply.

101. The Scottish Government proposes that, for the classes of unoccupied premises currently subject to the 50% relief, the rate payable prescribed in regulations would be 90%, in other words giving a rate of relief of 10%. This rate would apply following the initial 3-month zero-rated period.

General comments

102. This aspect of the Bill proved to be considerably more controversial than the proposals in relation to council tax. Some of the written evidence received by the Committee was supportive of the principles of this aspect of the Bill. The Association of Town Centre Managers Scotland, for example, indicated that it supported the legislation “in principle”83, although it did go on to note a number of areas of concern.

103. The submission from the Federation of Small Businesses (FSB) notes that FSB, had, in 2010, welcomed the Scottish Government’s announcement of a forthcoming review of the rates system. It also argues that “small businesses often report that stubbornly high rent levels make town centre units an unsustainable option, particularly in the current economic climate”84, and goes on to say that it is sometimes suggested that “empty property relief may contribute to this”.85 Additionally, the FSB reported that only 2% of its members had benefitted from empty property relief and only 19% believed it had a positive effect on small businesses.86 The FSB also notes that in previous evidence to the Economy, Energy and Tourism Committee (on the Spending Review 2011 and draft budget 2012-13) it had “cautiously” welcomed moves to amend empty property relief.

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82 Paragraph 99 agreed to, by division (see Annexe B: Record of Divisions in Private).
83 Association of Town Centre Managers Scotland. Written submission.
84 Federation of Small Businesses. Written submission.
85 Federation of Small Businesses. Written submission.
86 Federation of Small Businesses. Written submission.
However, the FSB submission goes on to set out a number of concerns, and states that it would have preferred to see a “thorough review of how the current empty property relief system operates in Scotland before any specific proposals were introduced”\(^87\).

104. Highland Council stated that it was “generally supportive” of this aspect of the Bill, although it raised a number of issues on which it considered that “further work” may be required.\(^88\)

105. Other evidence received by the Committee on this aspect of the Bill was critical of its proposals. CBI Scotland noted that it had “repeatedly called on the Scottish Government to reconsider the proposals outlined in this Bill”\(^89\). It added that it remained “unconvinced of the non-domestic rates measures”\(^90\) in the Bill and argued that the Bill’s proposals represented a “tax on distress”\(^91\) under which property owners faced the prospect of having to pay increased charges for buildings that were “not earning them any money in the first instance”\(^92\).

106. Falkirk Council Development Services said it had “concerns” over aspects of the Bill’s provisions on non-domestic rates. Although it acknowledged that the Bill’s provisions “might prove beneficial in certain locations and circumstances”\(^93\), its view was that they would “further constrain redevelopment and regeneration”\(^94\).

107. Scottish Chambers of Commerce (SCC) did not believe that the policy of reducing empty property relief to business would be effective either in providing incentives to bring vacant commercial premises back into use or in raising additional revenue for the Scottish Government.\(^95\) The submission went on to say that SCC’s members were “deeply concerned” that moves to tax property owners in Scotland by an additional estimated £18 million per year were “misguided and counterproductive”\(^96\).

108. The Scottish Council for Development and Industry (SCDI), although it “strongly supports” a strategy to regenerate and revitalise town centres, argued that “this should be evidence-based in data, modelling and comparators, and joined-up”, going on to add that there was a “lack of information from the Scottish Government about the profile of and trends in vacant properties with which to judge the impact of reform”.\(^97\)

\(^87\) Federation of Small Businesses. Written submission.
\(^88\) Highland Council. Written submission. Paragraphs 9 and 10.
\(^89\) CBI Scotland. Written submission.
\(^90\) CBI Scotland. Written submission.
\(^91\) CBI Scotland. Written submission.
\(^92\) CBI Scotland. Written submission.
\(^96\) Scottish Chambers of Commerce. Written submission. Paragraph 5.
\(^97\) SCDI. Written submission. Paragraph 4.
109. The Scottish Retail Consortium was also critical of the Bill, arguing that it would add “further costs to struggling high streets already impacted by significant business rates costs, including the retail specific public health supplement”\(^{98}\).

110. Finally, the Scottish Property Federation, in its written submission, stated that it remained “deeply concerned” at the proposals in the Bill to reduce rate relief for empty properties, arguing that this was a “serious mistake” and would “undermine competitiveness and incentives for investment in Scotland” and have consequences that would go “far beyond the stated intention of seeking to reduce the numbers of empty shops in the High Street”\(^{99}\).

111. The Committee put many of the points that had been raised by the business sector to the Minister for Local Government and Planning. The Minister defended the Bill’s provisions on non-domestic rates—

“I make the point once more that the purpose of the bill is to give ministers the power to vary the reliefs. We will do that in the context of all our other policies. When we set the reliefs and arrive at that policy we will return to this committee. I am sure that we will evidence how we have taken on board the views of the Finance Committee and this committee and the views of stakeholders and we will show that we are indeed a listening Government.

We are not dismissing the arguments that are being put forward, but we have to bear in mind that some people are making a case for not paying more tax. That is understandable but, as a Government, we have to balance the books and show that we are stimulating the local economy and continuing to invest in the public services that these properties and these landowners depend on.”\(^{100}\)

112. The Committee acknowledges the concerns over this aspect of the Bill of many organisations representing business. The Committee also acknowledges the Minister’s statement that there is a need to “balance the books” and continue to invest in public services while seeking to regenerate the economy.\(^{101}\)

113. The remainder of this section of the report examines specific issues that arose in evidence on the Bill’s proposal for non-domestic rates.

Consultation
114. As noted earlier, although the Scottish Government had announced its intention to bring forward legislation to reform empty property relief on business rates during consultation on the spending review 2011 document and on the regeneration strategy, the proposals had not been subject to the same degree of formal consultation as the other main aspect of the Bill (proposed changes to council tax on long-term empty domestic properties), which had been subject to a full 12-week consultation on the specific proposals.

\(^{98}\) Scottish Retail Consortium. Written submission.


\(^{101}\) Paragraph 112 agreed to, by division (see Annexe B: Record of Divisions in Private).
115. The absence of a formal consultation exercise on the empty property relief proposals was raised by several respondents in their submissions to the Finance Committee, including the Scottish Property Federation and Glasgow City Council, although Angus Council indicated to the Finance Committee that it had no significant concerns over the absence of a formal consultation, noting that the proposals had been signposted.

116. The Finance Committee report notes that, in respect of this Bill, the spending review 2011 included only a brief statement regarding the Scottish Government’s intentions and that financial estimates on the empty property relief proposals were not published in the draft budget document.

117. The Finance Committee concluded that a separate formal consultation exercise on the empty property relief proposals should have been undertaken, similar to that conducted on the council tax proposals, as this would have been helpful to its scrutiny and evidence gathering.

118. The Committee questioned the Minister for Local Government and Planning on the absence of a formal consultation. The Minister responded—

"it was felt that it would not be proportionate to carry out a consultation at that stage because of the number of properties involved and the scale of the issue. It affects £18 million of income generation in the context of £2.3 billion income from non-domestic rates. … I point out that there is on-going consultation on how the policy intent of the bill is being progressed. At this stage we seek only the enabling power to vary the reliefs. The regulations that will specify what the reliefs will be will come to the committee at some point in the future."\(^{102}\)

119. The Committee notes the Minister’s view that it would not have been proportionate to carry out a consultation because of the number of properties and the scale of the issue. The Committee also recognises the Minister’s assurance that there is ongoing consultation around the progression of the policy intent of the Bill. However, the Committee questions why it was considered appropriate to hold a formal consultation on the council tax provisions of the Bill, which are estimated to create a lower level of income than are those in respect of non-domestic rates, but not on the other principal aspect of the Bill. The Committee considers that the consultation process is essential in allowing the government to consider a full range of views, and generally results in more carefully considered and thought through legislation.\(^{103}\)


\(^{103}\) Paragraph 119 agreed to, by division (see Annexe B: Record of Divisions in Private).
120. The Committee concluded that the Scottish Government could have carried out further consultation before bringing the measures forward in a Bill.\textsuperscript{104}

Business and regulatory impact assessment

121. The Committee also notes that the proposals in the Bill on non-domestic rates had not been the subject of a business and regulatory impact assessment ("BRIA").

122. The Scottish Government Bill team had explained to the Finance Committee that the view had been taken that it would have been disproportionate to carry out a BRIA because of the level of savings involved, which was about £18 million. The Bill team explained that business rates were paid by about 200,000 properties. There was a tax base of £6.7 billion and business rates generated about £2.3 billion a year, so savings of £18 million were relatively small.\textsuperscript{105}

123. The Finance Committee examined this issue in some detail. It noted that the Scottish Government had published guidance on business and regulatory impact assessments\textsuperscript{106} which stated that the "BRIA process encourages policy makers to identify the problem and then use available evidence to find proposals that best achieve the policy objectives while minimising costs and burdens." It continues that the BRIA allows those with an interest in the policy to understand why the Government is proposing to intervene; options the Government is considering, and which one is preferred; how and to what extent new policies may impact on them, on business and on Scotland’s competitiveness; and the estimated costs and benefits of the proposed measures.

124. The Finance Committee also noted that the guidance states that if a “yes” answer is given to (amongst others) the questions, “does the proposal impose additional cost or reduce existing costs on businesses or the third sector, and have you tested the proposal on relevant businesses?”, a BRIA is required. The Finance Committee also notes that while the BRIA guidance refers to the application of the proportionality principle, this is with reference to the length and detail of the BRIA and not to whether a BRIA is required.\textsuperscript{107}

125. The Finance Committee noted the explanation of the Bill team on the reasons why a BRIA was not undertaken. However, it went on to note that the Scottish Government’s guidance on BRIAs did not apparently distinguish between the level of costs and impact on business in deciding whether a BRIA was required. The Finance Committee further noted that the potential impact of the Bill’s proposals were not limited to those businesses currently in receipt of empty property rates relief but could extend to any business, individual or other body that

\textsuperscript{104} Paragraph 120 agreed to, by division (see Annexe B: Record of Divisions in Private).


owned commercial property that might become empty at some point in the future or which was considering the development of commercial premises.\textsuperscript{108}

126. The Finance Committee concluded that it was “unfortunate” that no BRIA of a proportionate level of length and detail had been prepared and suggested that the Local Government and Regeneration Committee pursue this matter in its evidence session with the Scottish Government.\textsuperscript{109}

127. The Committee put the point about the absence of a BRIA to the Minister for Local Government and Planning during its evidence session. The Minister told the Committee—

“The decision to undertake a business and regulatory impact assessment is at ministers’ discretion. On this occasion, it was decided not to undertake one. In the same way, it was felt that such a process was not required for the decision to implement the public health supplement.”\textsuperscript{110}

128. Later in the same meeting, the Committee pressed the Minister further on this question. He elaborated—

“given that the policy will generate £18 million out of a total tax take of £2.3 billion, it would not be proportionate to carry out such an assessment. We are talking about a unitary national system of reliefs, unlike the council tax benefit system, on which there might be 32 different policies. There is a difference between the two systems. It was not felt that it would be proportionate to carry out a BRIA on a national system at that level.

I am asking the committee to consider the principle of the enabling power rather than the exact levels of rates relief. The committee will consider the extent to which rates relief will be varied at some point in the future. In many ways, an assessment of the impact is on-going, as we explore and refine the policy and listen to the committee and stakeholders. It is not as if the decision has been taken in the budget and that is the end of the matter. As the cabinet secretary has said, there is some flexibility. I have outlined why we think that the policy direction is important, but we will be flexible. The process of assessing the impact, the consultation and the engagement is very much on-going.”\textsuperscript{111}

129. The Committee notes the view of the Finance Committee that it is unfortunate that a business and regulatory impact assessment (“BRIA”) was not conducted before the Bill was introduced. The Committee also recognises it is for ministers to determine if a BRIA is proportionate.\textsuperscript{112}

\textsuperscript{110} Local Government and Regeneration Committee. Official Report, 30 May 2012, Col 1058.
\textsuperscript{111} Local Government and Regeneration Committee. Official Report, 30 May 2012, Col 1072.
\textsuperscript{112} Paragraph 129 agreed to, by division (see Annexe B: Record of Divisions in Private).
130. The Committee welcomes the Minister’s commitment stated above to explore and refine the policy and to listen to the Committee and to stakeholders, together with his remark that although the Scottish Government considers the policy direction to be important, it is prepared to be flexible. The Committee therefore urges the Scottish Government to continue the dialogue with business organisations and other stakeholders as the policy develops.\(^{13}\)

**Reasons for commercial property being empty**

131. According to the Policy Memorandum, the provisions of the Bill are intended to provide incentives to bring vacant commercial property back into use, as well as to raise revenue for the Scottish Government.\(^{114}\) The Federation of Small Businesses, in its written evidence, mentioned that, anecdotally, small businesses often report that “stubbornly high rent levels” make town centre units an unsustainable option. It also took the view that the current empty property relief system had “some role to play as a disincentive to filling vacant units”.\(^{115}\) However, most of the other submissions to the Committee and, indeed, most of its oral evidence on this subject, suggested that the main factor in the amount of commercial property currently being vacant was low demand. The Association of Town Centre Managers Scotland, for example, commented——

> “The key driver behind the acceleration of empty commercial property in our town centres is depressed consumer confidence and a decline in demand. Increasing the liability of property owners, in many cases, will not improve market conditions and re-letting will not be any easier.”\(^{116}\)

132. The Business Centre Association, in its written evidence, argued that buildings were empty “because of a lack of demand” adding that during a downturn, both rents and capital values fall, so there was “no reason for a landlord to keep a building empty notwithstanding what Governments have said about this”\(^{117}\).

133. CBI Scotland, noting that the proposals included in the Bill had come about as a result of a belief that the current empty property rates relief regime acts as a disincentive to bringing empty properties back into use, argued that this was “simply untrue” and that commercial premises were “rarely left empty on purpose as they do not generate an income for their owners”\(^{118}\).

134. Enterprise North East Trust (ENET) argued that although the empty relief scheme was “helpful;” for property owners or landlords, it in no way detracted from a property owner’s ultimate desire to relet.\(^{119}\)

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\(^{13}\) Paragraph 130 agreed to, by division (see Annexe B: Record of Divisions in Private).

\(^{114}\) Policy Memorandum. Paragraph 3.

\(^{115}\) Federation of Small Businesses. Written submission.

\(^{116}\) Association of Town Centre Managers Scotland. Written submission.

\(^{117}\) Business Centre Association. Written submission.

\(^{118}\) CBI Scotland. Written submission.

\(^{119}\) Enterprise North East Trust. Written submission.
135. Similarly, Falkirk Council Development Services argued that there were “few situations where shops are deliberately being held off the market because of the current discount” adding that few landlords choose to leave properties empty in the hope of securing higher rentals or by not wishing to prejudice rent review negotiations elsewhere in a locality.\textsuperscript{120}

136. The Scottish Property Federation (SPF) noted that the reduction of rate relief had been argued by some to be a necessary measure to force landlords to let properties at a lower rent. However, the SPF argued that properties were vacant because of a lack of demand, driven by the recession and changing consumer behaviour in relation to the retail and the growth of online shopping.\textsuperscript{121}

137. The oral evidence received on this issue by the Committee represented views very similar to those in the written evidence. Scottish Chambers of Commerce told the Committee—

“The view of our members has been that the problem of vacant properties is largely down to lack of demand. There are various reasons for that, many of which are well publicised, such as the lack of access to finance for businesses that are looking to move into larger properties, which has been an issue.

Rentals have been an issue during the past few years but currently are probably less of an issue; it is the lack of demand that is leaving vacant property in the marketplace. That is the clear message that our members are putting forward, which I think is reflected in a few of the submissions to the committee.”\textsuperscript{122}

138. Colliers International gave the Committee a similar view—

“From my background as a surveyor, I know that the basic driving force in any market in property is supply and demand. We are experiencing an economic downturn that is probably unprecedented in our lifetimes, and the supply and demand argument has been thrown out of the window. There is plenty of supply, but there is no demand.”\textsuperscript{123}

139. In response to questions from members about the possibility of large landlords deliberately keeping property vacant, Scottish Chambers of Commerce told the Committee—

“It might well be the case that, in certain circumstances, landlords are not letting. However, in a large shopping centre up north a unit has lain empty for six or seven years. Currently, the rating is calculated at £60 per square foot—that goes back to 2008, which was the tone date—but a new unit in the same centre has just been let at £30, that is, at half the value. The landlord is a big landlord, who has been trying to let units in the centre. That example spells

\textsuperscript{120} Falkirk Council Development Services. Written submission.
\textsuperscript{121} Scottish Property Federation. Written submission.
out the situation for you. Landlords are trying to let, although there might be times when they sit back and say no. Those that have taken a loan through one of the big banks expect a return on that loan and need to repay it, so they will not sit back and wait until the market returns. At present, they are taking anything that they can get.\textsuperscript{124}

140. The Scottish Property Federation, in its written evidence, also disagreed with the public perception that landlords were happy to allow empty premises to remain empty in order to ‘hold out’ for higher rents. Its evidence reported that its members were aware of “considerable incentives being offered to tenants in order to secure their custom”\textsuperscript{125}.

141. The Committee also heard views that changing shopping patterns were a significant factor in some property being empty. Questioned about major properties lying empty for many years in some town centres, Colliers International told the Committee—

“There are towns throughout Scotland … that could be referred to as terminal towns. Around 10 or 15 years ago, they were vibrant and had their own levels of value. In some cases, properties had 25-year leases in place, with the usual five-year rent reviews. However, the market has changed in such a way that those towns now have large established shopping centres that have sucked out the tenants from the traditional high street, leaving it very much secondary.

Landlords are trying to let those high street properties, but the problem is finding someone who wishes to go in there: nobody is willing to take on a lease. There may be other occupiers in the high street who continue to pay the same rent, but they are probably tied into institutional leases with upward-only rent reviews in which there is no provision to set a lower rent. That may be why rental levels are staying the same. The fact that there has been no take-up of other empty units tells me that there is no demand but plenty of supply.”\textsuperscript{126}

142. The Committee notes the comments of witnesses about the current lack of demand – whether created by the current downturn or by changes in shopping patterns – being a significant factor in the number of empty commercial properties across Scotland.

Impact of the Bill’s proposals on business

143. Some of the evidence received by the Committee argued that the Bill’s proposals would not have the intended outcome of bringing significant numbers of empty properties back into use. CBI Scotland, for example, noted that policies of a similar nature that had been introduced in other parts of the UK have had little effect on reducing numbers of unused non-domestic properties. Citing a survey undertaken by Lambert Smith Hampton in 2008, in which 600 respondees claimed

\textsuperscript{125} Scottish Property Federation. Written submission. Paragraph 13.
that the loss of empty property relief in England had not increased occupancy levels, it claimed that if Ministers were “determined to reduce the number of empty properties, this was not the way to go about it”\(^\text{127}\).

144. SCDI’s written submission also argued that evidence from England since 2008 did not suggest that the abolition of long-term property relief had increased occupancy rates, and in fact, retail vacancies in England had “increased sharply” as a result of the economic downturn.\(^\text{128}\)

145. Scottish Chambers of Commerce (SCC) argued that the main effects of adding costs to property owners would be to “restrict their ability to invest in upgrading their portfolio”, adding that and it might even encourage owners to “seek demolition” of their property\(^\text{129}\). SCC also argued that added non-domestic rates liability in the absence of new rental income could “affect the viability of existing finance agreements and even result in foreclosure in some cases”\(^\text{130}\).

146. The Scottish Property Federation took the view that the Bill’s proposals would have a wide impact on business—

“In summary we feel that the proposal to reduce empty property rates relief is based on a misconception of the market and will be a significant cost to businesses, the public sector and investors including in particular pension funds. The measure will be a significant and perverse incentive for lenders to place businesses into administration and will also undermine the attractiveness of Scotland as a place to invest in and build speculative commercial developments.”\(^\text{131}\)

147. Other stakeholders also commented on speculative development in the context of the Empty Property Relief reform proposals. For example, the Scottish Retail Consortium, in its written evidence, stated that the “lack of finance and tenants will discourage speculative developments with the potential burden of empty rates further reducing investment”.\(^\text{132}\)

148. The Scottish Chambers of Commerce echoed these concerns—

“In the absence of safeguards, the reduction of Empty Property Relief could also stifle speculative development, where owners are unwilling to take the risk of being left with untenanted property and a sizeable rates bill. This could adversely affect the available supply of quality and suitable business premises in Scotland.”\(^\text{133}\)

149. Similar concerns were expressed by the Business Centre Association and the Scottish Council for Development and Industry.

\(^\text{127}\) CBI Scotland. Written submission. Page 2.
\(^\text{128}\) SCDI. Written submission. Paragraph 6.
\(^\text{129}\) Scottish Chambers of Commerce. Written submission. Paragraph 8.
\(^\text{130}\) Scottish Chambers of Commerce. Written submission. Paragraph 11.
\(^\text{131}\) Scottish Property Federation. Written submission. Paragraph 18.
\(^\text{132}\) Scottish Retail Consortium. Written submission.
\(^\text{133}\) Scottish Chamber of Commerce. Written submission. Paragraph 10.
150. In evidence to the Committee the Minister for Local Government and Planning reflected on these concerns raised with regards to speculative development—

“...the Scottish Government sympathises with the point about the liability costs of any new development. However, the advice that we have received is that the exemption of new properties would not comply with European Union state aid principles and therefore we cannot exempt them, although we sympathise with the point about the viability of developments. To suggest that there has to be complete rates relief for new properties would be wrong. The current policy is 50 per cent rates relief, so it is not the case that some unoccupied properties and landlords should pay nothing—that case has not been argued, even by stakeholders. The level at which relief is set is what we have to consider closely in the mix of all the other policy tools that we have at our disposal.”134

151. The Committee notes the concerns raised by many of those who gave evidence of the perceived possible negative effects the proposals to remove, or radically reduce, empty property relief may have on speculative development, and asks the Minister to consider whether other measures can be taken to mitigate any potential negative impact on speculative development.

152. There were particular concerns expressed in evidence about the potential impact of the Bill’s provisions on the retail sector in general and on town centres in particular. The Scottish Retail Consortium, for stated in its written evidence, that retail was the largest private sector employer in Scotland, employing around 240,000 people, many of them under 25. It highlighted the specific case of Glasgow city centre, which it said supported 11% of retail employment and was the second most important retail destination in the UK, acting as “showcase for the Scottish economy as a whole” and generating over £2.5 billion annually in sales. Despite this, it said, Glasgow had the highest shop vacancy rate amongst Scotland’s cities, at 21.2%.135

153. The SRC concluded that adding further property costs would “damage Scotland as a retail investment location resulting in more vacant units and less employment”136.

154. As regards town centres, the Scottish Chambers of Commerce written submission set out what it saw as the current situation—

“Scotland’s town centres are facing challenges from many different sources such as out of town competition, online retailing, falling consumer demand, high parking charges, access issues and the lack of a co-ordinated offering. At the moment, there are significant numbers of vacant properties in Scotland’s town centres – with around 14% of retail units lying vacant. This

135 Scottish Retail Consortium. Written submission.
136 Scottish Retail Consortium. Written submission.
number is likely to grow further over the next two years as a host of leases come up for renewal. With major High Street stalwarts such as the Arcadia Group hinting at downscaling their operations, estimates have suggested that vacancy rates could rise to as high as 40% in Scotland.”

155. COSLA’s written submission argued that further consideration needed to be given to the implications of non-domestic rates empty property relief on the wider policy context, particularly in light of the Scottish Government’s Regeneration Strategy. This Strategy commits to a national review of town centres in 2012 in order to scope potential solutions to issues faced by Scotland’s town centres. COSLA was “keen to explore with the Scottish Government how the non-domestic rates empty property relief will relate to other forthcoming policies and legislation including the Community Empowerment Bill, Better Regulation Bill and current consultations on the planning system”.

156. Responding to some of the points that had been raised by witnesses on the likely impact of the Bill’s provisions, the Minister for Local Government and Planning defended the policy and the Scottish Government’s record of support for business, and indicated that the Scottish Government continued to have dialogue with the business sector on the details of the proposals—

“The Scottish Government has protected the poundage, and the small business bonus scheme, taken in context, has been incredibly helpful. Under our current proposals, we would still give relief of 10 per cent where none is given in England. Industrial properties, which were affected in England, are protected in Scotland, and we have ensured that we are applying some of the lessons that have been learned.”

157. The Minister also set out the Scottish Government’s views on the policy position in Scotland compared to the rest of the UK—

“There are specific differences between what is proposed for Scotland and what has happened in England. The important point about the power is that it is very helpful to Scotland and to our economy to always have a competitive edge over other parts of the United Kingdom, specifically on business rates relief. That will come through in the consultation later this year. As with the small business bonus scheme, it is better to have the power—subject of course to parliamentary scrutiny—to vary those rates so that we will always have a competitive edge over what other parts of the United Kingdom are doing.”

158. Finally, the Minister remarked that the Scottish Government was “listening to stakeholders to ensure that we get it right when we bring the regulations forward”.

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138 COSLA. Written submission. Paragraphs 15 and 16.
159. The Committee notes the concerns business organisations have expressed over the possible impact on Scottish business of an additional non-domestic rates liability. The Committee accepts that there may be a negative impact in certain situations, but also recognises that the Scottish Government needs to balance the need to bring empty properties back into use with the need to support business and to deliver value to the public for the significant sums that are and will continue to be provided by way of non-domestic rates relief. The Committee also recognises the significant support provided to business by the Scottish Government, which includes a commitment to maintaining the most generous rates relief package of anywhere in the UK and continuation of the small business bonus.¹⁴²

Impact on the public sector

160. The Committee noted that the Bill would impact on the public sector in a number of ways. The main impact would be in respect of increased liability for non-domestic rates that public sector organisations themselves would face, although local government would also feel an impact in relation to its role in collecting non-domestic rates and as a commercial landlord.

161. COSLA’s written evidence noted that there would be a cost implication for local authorities where they were in ownership of properties that were unoccupied. The submission added that there were often “good reasons” for these properties remaining empty and that councils were active in letting out such properties as part of their asset management plans.¹⁴³

162. COSLA also noted that some councils had raised concerns that the provision to vary the non-domestic rates empty property relief may have significant implications for local economies, adding that a council may have “strategic reasons” for “holding onto” an empty property for a certain length of time to ensure that the most appropriate and sustainable lets are made. A similar point was made in the submission by Glasgow City Council.¹⁴⁴

163. COSLA indicated that it anticipated working with the Scottish Government during the development of the regulations to better understand the impact and to mitigate against any negative outcomes.

164. Highland Council’s submission argued that, in addition to the costs that local authorities would face arising from the reductions in empty property relief in respect of properties that they owned, administrative costs would be likely to increase in terms of identifying, verifying and monitoring empty properties in their areas. There would also be likely to be increased IT costs.

165. The Scottish Property Federation reported on wider analysis of the proposals that it had carried out—

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¹⁴² Paragraph 159 agreed to, by division (see Annexe B: Record of Divisions in Private).
¹⁴³ COSLA. Written submission. Paragraph 11.
¹⁴⁴ Glasgow City Council. Written submission.
We have found some considerable costs from even this small sample for the public sector and a considerable impact for investors, including many pension funds (including public sector pension funds). It should be remembered also that liabilities may well follow businesses, including smaller businesses, seeking to downsize or upsize if they cannot dispose of their former lease. From this perspective the policy is something of an own goal as liabilities will also increase significantly for a number of public authorities including Scottish Enterprise, Dundee and Glasgow City Councils. It must be a concern for these authorities that this cost will need to be balanced by cuts elsewhere in their budgets.\textsuperscript{145}

166. The Finance Committee devoted a lot of its attention in its scrutiny of the Bill to the question of costs on the public sector. In respect of local authorities, it noted that there might be an increase in recovery costs arising from the requirement to collect increased rates from businesses. If more debt were to passed to the sheriff officer, this would increase councils’ agency fee for rates recovered.\textsuperscript{146}

167. The Finance Committee also looked in detail at the question of commercial property owned by local authorities. The Finance Committee noted that the Financial Memorandum did not provide any figures for the number of local authority-owned properties that might be affected by the empty property relief proposals or information on the estimated costs to local authorities.

168. However, Glasgow City Council estimated in evidence to the Finance Committee that the changes would result in additional costs in the region of £0.5 million to £1 million per annum, which largely related to units in historically very hard-to-let areas.\textsuperscript{147} Angus Council also told the Finance Committee about the financial implications in respect of council property which remained empty longer than three months. It estimated that, based on the current position, additional rates charges of £20,000 would be incurred.\textsuperscript{148}

169. Shetland Islands Council advised the Finance Committee that it had nine empty commercial premises, eight of which were in receipt of empty property relief and therefore would be affected by the Bill’s proposals\textsuperscript{149} while North Lanarkshire Council indicated that it owned 216 empty properties, 123 of which were granted 100% empty property relief.\textsuperscript{150}

170. Following further investigation by the Finance Committee, the Bill team confirmed that it estimated that approximately 2,000 council properties were vacant and in receipt of empty property relief at any given point in time. Of this total, it estimated that between 630 and 870 properties would be affected by the proposed reforms, with a reduction in relief awarded between £1.4 million and £1.7 million. The remaining properties were likely to be industrial or listed or in the initial

\textsuperscript{145} Scottish Property Federation. Written submission. Paragraph 17.
\textsuperscript{146} Finance Committee. Report on the Financial Memorandum of the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Paragraph 43.
\textsuperscript{147} Glasgow City Council. Written submission to Finance Committee.
\textsuperscript{148} Angus Council. Written submission to Finance Committee.
\textsuperscript{149} Shetland Islands Council. Additional written submission to Finance Committee.
\textsuperscript{150} North Lanarkshire Council. Written submission to the Finance Committee.
3 month 100% period and would see no change to the amount of relief awarded.\footnote{151}

171. The Finance Committee concluded that greater effort should have been made to establish the number of local authority-owned empty properties that might be affected by the Bill’s proposals and the associated costs. The Committee also found it “surprising” that having established that it was unable to determine with clarity whether empty commercial properties were local authority-owned that the Bill team did not then seek this information directly from local authorities.

172. In respect of the overall impact of liability for increased rates in local authorities, NHS Scotland and Scottish Enterprise, the Finance Committee estimated that the projected net savings to the Scottish budget of £18 million could be reduced by up to £2.4 million.

173. The Committee questioned the Minister for Local Government and Planning on public sector liability for increased non-domestic rates as a result of the Bill’s provisions. The Minister said—

“the impact on the NHS is £0.3 million; the figure for Scottish Enterprise is £0.4 million; and the figure for councils is £1.7 million. Members should bear in mind that non-domestic rates income is £2.3 billion per year. Those figures are calculated on the basis that none of the properties concerned is brought back into use. They represent the cost of the policy to those organisations.”\footnote{152}

174. The Committee considers that the Financial Memorandum could have been more helpful in fully explaining the implications of the Bill’s proposals for the public sector. The Committee commends the Finance Committee for its efforts in getting more accurate and detailed information from Scottish Government officials.\footnote{153}

175. The Committee considers that the costs to the public sector, while not massive, are certainly potentially significant and notes that they could impact on the projected savings to the Scottish budget. The Committee therefore recommends that the Scottish Government monitors carefully the impact on the public sector in general and on local authorities in particular, once the Bill has been enacted, in order to ensure that the projections remain on track. The Committee also notes that the package of rates relief provided by the Scottish Government will help to mitigate costs.\footnote{154}

Financial assumptions

176. The Finance Committee looked in detail at the financial assumptions underpinning the Bill during its scrutiny of the Financial Memorandum. Full details of the Finance Committee’s investigations are contained in its report on the Bill, but the Committee noted that the figure of £18 million savings to the Scottish

\footnote{151}{Scottish Government. Supplementary written evidence to the Finance Committee.}
\footnote{152}{Local Government and Regeneration Committee. \textit{Official Report}, 30 May 2012, Col 1065.}
\footnote{153}{Paragraph 174 agreed to, by division (see Annexe B: Record of Divisions in Private).}
\footnote{154}{Paragraph 175 agreed to, by division (see Annexe B: Record of Divisions in Private).}
Government and cost to businesses appeared to have been based on a range of assumptions and therefore subject to a margin of uncertainty. It noted that whereas the FM had provided useful detail regarding the modelling and margins of uncertainty in connection with the council tax proposals, the same detail had not been provided in respect of the empty property relief proposals.

177. The Finance Committee concluded that the FM should have set out the margins of uncertainty on the figure of £18 million, how assumptions had impacted on its calculations and provided a range of financial estimates based on those assumptions, particularly given the volatility of the costs of empty property rates relief to date.

178. The Committee notes the Finance Committee’s findings on the projected £18 million savings, and draws their attention to the Scottish Government. The Committee considers it unfortunate that the margins of uncertainty as regards the non-domestic rates aspects of the Bill were not set out as clearly and helpfully in the Financial Memorandum as they were in respect of the council tax provisions, and notes that there might have been more time in which to research this information and make it available had this aspect of the Bill been subject to a full consultation.  

Exemptions for industrial property

179. Under the Bill, industrial property would be exempt from the reduction in rates relief.

180. The Scottish Retail Consortium’s submission to the Committee noted that the retail sector pays 28% of all business rates in Scotland, and was the largest private sector employer. The SRC was “unsure” why industrial units would continue to qualify for the more generous empty property relief “at the continued expense of other non-domestic ratepayers.”

181. The Committee questioned the Minister on this point. The Minister told the Committee—

“There was evidence from the English experience that, because industrial premises are so specific by nature, it is hard to adapt them to new use. Therefore, it would be disproportionate and unfair if the empty property rates relief policy was applied in such a bland way to industrial premises. Learning the lessons from England, we felt that it made sense to exempt industrial properties. Some of the more glitzy stories in the press suggested that some industrial properties in England were demolished. There is not a huge amount of evidence on that, but if the policy was not implemented in a sophisticated way, it could have that impact on industrial properties. For that reason, industrial properties are not covered.”

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155 Paragraph 178 agreed to, by division (see Annexe B: Record of Divisions in Private).
156 Scottish Retail Consortium. Written submission.
182. The Committee notes the Minister’s explanation for the exclusion of industrial properties from the changes to empty property relief.

Overall conclusions
183. The Committee notes the proposals contained in the Bill for reform of the system for relief on non-domestic rates on commercial and retail property.

184. The Committee recognises that the Scottish Government has attempted to develop a policy framework that is intended to save the public purse a significant sum of money and bring some of the currently empty commercial property back into use. In taking forward the proposals, the Scottish Government must ensure it maintains the correct balance between regeneration, revenue raising and the impact on business and economic recovery. It remains to be seen whether the Scottish Government has been successful in striking the correct balance, although the Committee accepts that the proposals are being taken forward in good faith.\(^{158}\)

185. While the Committee acknowledges that the proposals have, in the main, been criticised in the business sector, it is also the case that the amount of public money that will continue to be devoted to rates relief on empty property – an estimated £137m in 2013-14 – is a significant sum, and will continue to support a non-domestic rates relief system that is more generous than those available in other parts of the UK. The Committee understands the current pressures on the business sector and accepts that businesses are unlikely to welcome proposals that will increase their costs during a time of recession. Nevertheless, the overall liability of £18 million that would be transferred from the taxpayer to a combination of the business and public sectors, does not seem to the Committee to be disproportionate given the overall contribution of the taxpayer to non-domestic rates relief.\(^{159}\)

186. The Committee also recognises that the policy embodied in the Bill is only one tool in the box, and needs to be considered alongside measures emerging from other current policy developments such as the regeneration strategy and the forthcoming community empowerment bill.\(^{160}\)

187. The Committee notes that the financial information supporting this aspect of the bill could have been presented in a more helpful and transparent way, rather than having to be probed by the Finance Committee as part of its scrutiny of the Financial Memorandum.\(^{161}\)

\(^{158}\) Paragraph 184 agreed to, by division (see Annexe B: Record of Divisions in Private).
\(^{159}\) Paragraph 185 agreed to, by division (see Annexe B: Record of Divisions in Private).
\(^{160}\) Paragraph 186 agreed to, by division (see Annexe B: Record of Divisions in Private).
\(^{161}\) Paragraph 187 agreed to, by division (see Annexe B: Record of Divisions in Private).
**Housing Support Grant**

188. Section 4 of the Bill provides for the repeal of certain sections of the Housing (Scotland) Act 1987, the Housing (Scotland) Act 1988 and the Housing (Scotland) Act 2001. The effect of these repeals is to remove the Housing Support Grant. The Policy Memorandum explains that Housing Support Grant is a largely historic revenue subsidy system dating from the late 1970s, based on the notion that local authorities who build up excessive levels of Housing Revenue Account (HRA) debt should receive central government subsidy for as long as that debt remains disproportionate in relation to the level of rental income coming into the HRA.

189. The Bill, if passed, would abolish, from 1 April 2013, Housing Support Grant. This would require all 26 local authorities in Scotland with a Housing Revenue Account to operate their HRA without assistance from the Scottish Government in the form of Housing Support Grant.

190. The Policy Memorandum further explains that the Scottish Government would prefer to use its limited resources to support the construction of additional affordable homes and therefore the Bill proposes the abolition of Housing Support Grant by 1 April 2013. According to the Policy Memorandum, the Scottish Government “does not believe it is wise to continue to preserve legislation that offers an open-ended revenue subsidy to Scottish council housing when it already provides capital subsidy to support new build social housing”. The Scottish Government also believes that “under a local authority borrowing regime where HRA debt levels are required to be prudent and sustainable, HRAs should not require, by definition, to be serviced by central government subsidy”. However, the Scottish Government considers 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 ongoing Scottish Government subsidy for doing so”.

191. It is further argued by the Policy Memorandum that the need for a local authority housing revenue subsidy system has been substantially altered by the introduction of the Prudential Borrowing Regime (April 2004), in which local authorities self-regulate their borrowing levels; the availability of local authority capital subsidy for new build housing from Scottish Government (from 2009); and the removal of the Right to Buy for new council housing (2010) making the possibility of new build council housing a more viable prospect (with capital subsidy from Scottish Government) for local authorities.

192. The Scottish Government would, therefore, 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 ongoing basis.

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163 Policy Memorandum. Paragraph 63.
164 Policy Memorandum. Paragraph 63.
193. The Policy Memorandum reports that, over time, the number of recipients and the overall level of grant provision at national and local level have changed markedly leaving the grant with virtually no national (although some local) significance.

194. The Financial Memorandum explains that Housing Support Grant is currently payable to one local authority in Scotland (Shetland Islands Council), largely for historical reasons (which the report will explore later). According to the Financial Memorandum, the need for HSG has fallen away in the rest of Scotland over time for various reasons including central government debt reduction measures imposed between 1996-97 and 2003-04, stock transfers between 2002-03 and 2006-07 and prudential borrowing by local government since 2004-05.

195. The HSG payment to Shetland Islands Council (SIC) is currently £0.761 million for 2012-13. The FM states that “the level and importance of HSG paid to the Council has been decreasing over the long term however and specifically in each of the last seven years”. This means that the Council “has been required to adjust its Housing Revenue Account (HRA) financial position over time to bring it more closely into line with the other 25 authorities with council stock who do not receive HSG”.

196. Discussions have been, according to the FM, “ongoing with the Council for approximately two years as to how their HRA can adjust further to the removal of the subsidy, whilst minimising the impact on rent levels”. Latterly, these discussions “have included the possibility of the transitional assistance the Council requested in its consultation response”.

**Impact of the Bill on Shetland**

197. Clearly, the main impact of the withdrawal of HSG would be on Shetland Islands Council and its council house tenants. The Committee agreed to take evidence from the Council and from its tenants’ organisations.

198. The Committee learned that the main reason for Shetland Islands Council’s housing debt was to support the provision of a large number of council houses at the time of the construction of the Sullom Voe oil terminal in the nineteen seventies. Anita Jamieson, Shetland Islands Council’s Executive Director for Housing, told the Committee—

“The difference between the Shetland Islands Council’s position and that of other local authorities is that the debt in Shetland is historical, and is a result of the oil industry’s arrival in the 1970s. … there was a national drive to get the oil revenues, and to get the Sullom Voe terminal built and up and running in Shetland. The population increased by about 40 per cent in a very short space of time, and, over two decades, the council had to build 200 to 300 houses, incurring a debt of around £50 million.

Over the years there have been various promises that the debt would be commuted, but that has not happened. We went through an initial stock transfer process, which was based on writing off the debt, but we did not get past the valuation stage. At that time, some of the other local authorities that
had very high per-unit debt were successful in going through the stock transfer process. That left us where we are today.”\textsuperscript{165}

199. During the evidence session with Shetland Islands Council, the Committee also learned that there had been an unsuccessful attempt at a whole-stock transfer a number of years ago. The attraction of such a transfer, had it been successful, was that the debt on the Council’s Housing Revenue Account would have been expunged. However, the stock transfer had to be abandoned. The Council explained—

“The difficulty was that our investment profile was inverse in comparison with a fundable investment profile. The condition of the stock meant that the front-end investment was much lower. The rents were already high, and the debt was there. It just did not work—it was unfundable.”\textsuperscript{166}

Committee delegation visit to Shetland

200. The Committee felt that it needed to understand better the historical situation with regard to Shetland Islands Council, how the current situation had come about, what the Council was doing to address the historical debt, what role oil and other reserves might be able to play, if any, and how the withdrawal of Housing Support Grant, were it to happen, would impact on rents and on other aspects of housing in Shetland, in order to be fully informed in advance of the Committee’s Stage 1 report on the Bill being drafted. The Committee therefore agreed to send a cross-party delegation from the Committee\textsuperscript{167} to undertake a fact-finding visit to Shetland on 27–29 May.

201. During the visit, the delegation met and held discussions with the leader, members and senior officials of Shetland Islands Council and representatives of tenants groups and organisations. The delegation also met representatives of Hjaltland Housing Association and the Lerwick district heating scheme and met a number of the Council’s community planning partners, in connection with strand one of its Public Services Reform inquiry. The Committee expresses its sincere thanks to Shetland Islands Council for organising the content of the programme at short notice and for the excellent hospitality extended by its members and officials during the delegation’s visit.

202. The delegation was advised during its visit that there had been an urgent need to construct a large number of homes during the mid to late seventies, in order to accommodate workers and their families who were moving to Shetland for employment in connection with the development of the Sullom Voe oil terminal. Shetland Islands Council members present at the meeting took the view that although the debt from the construction of these houses accrued to the council, it was held on behalf of the government. They suggested that there had been an understanding with previous UK governments that the debt would be settled by the

\textsuperscript{167} The delegation was: Joe FitzPatrick, (Convener); Kevin Stewart, (Deputy Convener); Anne McTaggart and Margaret Mitchell. The Committee Clerk and Senior Researcher also took part.
UK government, although it appeared that there had been no such indications by any UK or Scottish government since the UK general election of 1997.

203. Council officials also explained to the delegation the structure and management arrangements of its various reserves, including the Reserve Fund, the Harbour Account and the Housing Repairs and Renewal Fund, and the contingent liabilities on the Council, which constrain the ways in which some of these funds are capable of being used.

204. The attempt at whole-stock transfer (which would have wiped out the debt) that had taken place about ten years ago had not progressed as far as the ballot stage, because the stock transfer failed as the Council could not reach agreement with the government of the time to the valuation. At that time, the guidance was such that an agreed valuation was a pre-condition of proceeding to ballot.

205. The delegation also gained an understanding of some of the housing challenges faced by Shetland. Some of the stock is unlikely to be able to meet the Scottish Quality Housing Standard, as a result of a combination of the construction method, the Shetland climate and the absence of mains gas, which, taken together, make it impossible to achieve the required energy efficiency standards.

206. Housing need and demand continued to be high, but the Council’s ability to provide new social housing remained constrained by the requirement to service high levels of debt. Currently, the only new social housing on Shetland is being provided by the Hjaltland Housing Association, which works in partnership with the Council.

207. Rent levels in Shetland were reported by the SIC officials to have historically been in the upper quartile of comparable Scottish local authorities, although increases had been able to be held to inflation plus half a per cent.

208. Council officials also explained to the delegation that the discussions of options for the HRA were taking place in a context of a need to reduce the Council’s revenue spending, which had, for some years, been running ahead of income, meaning that it had been necessary to draw on reserves. A new council had been elected at the local government election on 3 May, and it was expected that reducing spending would be likely to be a priority for the new council.

Impact of the possible withdrawal of HSG on rents.

209. The Committee noted that there were different views on what the impact of a withdrawal of HSG would have on rent levels for council housing in Shetland. The Policy Memorandum suggests—

“Should the Council aim to recover all of this reduced revenue from council tenants this would lead to 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.”

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210. Shetland Islands Council estimated the rent rise in the same scenario to be £8.13 per week\[^{169}\]. while the Shetland Tenants Forum estimated the likely rise to be "in the region of £10 per week"\[^{170}\].

211. The Committee understands that the discrepancy in the different figures is due to different financial years being used for comparison. The Shetland Tenants Forum figure was based on the HSG levels in the 2011-12 financial year. The SIC figure was based on 2012-13, while the figure used in the Policy Memorandum is based on the 2013-14 financial year, which would be the first financial year in which, should the Bill be passed, HSG would be withdrawn.

212. The Committee was also aware of different views about rent levels in Shetland. SIC told the Committee that "in the 2011-12 figures for local authorities, Shetland had the second highest figure in Scotland, topped only by Edinburgh, and it was well above £4 a week greater than the Scottish average"\[^{171}\].

213. The Committee commissioned the Scottish Parliament Information Centre (SPICe) to carry out research into rent levels across Scotland in local authorities and registered social landlords in order to determine accurately where Shetland lay in the overall picture. The research found that Shetland had the fourth highest rent levels in Scotland, after City of Edinburgh Council, Renfrewshire Council and Highland Council, all local authorities with relatively high debt levels and in which proposed stock transfers had failed.\[^{172}\]

214. Since 2004-05, rent increases in Shetland had been below the Scottish average, with the exception of 2010-11 to 2011-12, when rents had increased by 3% compared with 2.8% nationally.

215. Figures supplied to SPICe by the Scottish Government, showing weekly rent levels in 2011-12 across 22 comparator social landlords (17 RSLs and 5 councils) showed that Shetland Islands Council was ranked 19\[^{th}\] out of 22 landlords in rent levels. The figures also showed that SIC tenants paid £3.84 or 6% less than the median figure for rural social landlords of £64.88 per week. Hjalttland Housing Association tenants in Shetland paid £6.03, or approximately 10%, more than SIC tenants,\[^{173}\] although SIC had remarked in evidence to the Committee—

   "I think that our housing association rents are roughly equivalent for smaller properties and slightly more for others, but they have additional charges for factoring built in. When we strip those out, the figures are broadly similar."\[^{174}\]

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\[^{169}\] Shetland Islands Council. Written submission.
\[^{170}\] Shetland Tenants Forum. Written submission.
\[^{172}\] The source of the data is the Scottish Government Local Authority Housing and Income and Expenditure Dataset: [http://www.scotland.gov.uk/Publications/2011/09/27083556/](http://www.scotland.gov.uk/Publications/2011/09/27083556/). [Accessed 26 June 2012]. This table shows Average Rent received per dwelling (£ per house per week). Average rents do not reflect the amount charged to tenants, but rather the amount earned by the council in respect of each property owned. This is the dataset used for figures provided in the Financial Memorandum.
Options open to Shetland Islands Council

216. According to the Bill’s Financial Memorandum, the Scottish Government has “for some considerable time”\textsuperscript{175} been discussing with Shetland Islands Council how the impact of losing HSG over time could be managed by a combination of a number of measures relating to the costs of running the HRA. The measures mentioned in the Financial Memorandum are “alternatives to rent increases aimed at minimising the impact of the declining grant on tenants”. The measures might include

- bringing down the rate of income lost through void properties to (or below) Scottish median levels
- reductions in the costs of the repair and maintenance service per unit to (or below) Scottish median levels
- close examination of the housing capital expenditure programme to ensure it is tightly focused on specific elements of the Scottish Housing Quality Standard as laid out in Scottish Government Guidance dated March 2011

217. The Financial Memorandum goes on to note “that the Council has already been using some management cost reduction measures as the grant has declined over the last seven years so Scottish Government would simply expect that process to continue and to broaden as necessary as indeed it should under the prudential regime”\textsuperscript{176}. 

218. Finally, the Financial Memorandum suggests that the financial impact of the loss of HSG could “be further moderated by Shetland Islands Council reviewing the terms of its loan arrangements or the use of its wider portfolio of reserves”. The FM notes that, however, it is “not the role of the Scottish Government to impose any of these potential measures on the Council, but for the Council to manage the transition with declining grant as it has been doing successfully in recent years”\textsuperscript{177}.

219. The report will return to some of these options in the concluding section.

Scottish Government views on Shetland

220. The Committee put many of the points that had been raised during the delegation’s visit to Shetland to the Minister for Housing and Transport, starting with the SIC’s understanding of commitments that had been made by previous UK governments to write off the debt. The Minister told the Committee—

“You are exactly right about Shetland’s point of view. We have found no evidence of a commitment apparently given by a previous Government, many years before the Scottish Parliament came into existence. We have seen no evidence that a commitment was given by a UK Government..."
wanting to write off housing debt. There was a link in that the UK Government had an interest in ensuring adequate housing supply for people coming to work in the oil industry, but we have seen no evidence that the UK Government—not the Scottish Government—made a commitment to write off the debt. Shetland Islands Council has written to the UK Government on the issue, so it will be interesting to see the response.  

221. The Committee also questioned the Minister on the reasons for SIC’s failed stock transfer and whether the fact that some of the debt had been internal—effectively owed to the Council’s reserve fund—had been a factor. A Scottish Government official said—

“I cannot speak for the Treasury, but my understanding is that the Treasury’s position has always been that it would write off only debt that was owed, in essence, to itself. Therefore, it would not have written off Shetland’s debt, which as you say was an internal loan from one part of the council to another. The Treasury would have written off the debt only if the stock had been transferred. My understanding is that Shetland Islands Council argued to receive grant to write off its debt, but not to transfer the stock. The Treasury would not have considered that.”

222. In regard to the stock transfer, the Minister also remarked—

“…the main reason that stock transfer did not go ahead was a valuation disagreement.

It is also true to say that, when the UK Government has written off debt in the past, it has been Public Works Loan Board money. The UK Government took on loans that were taken out by councils to finance previous council house stock. According to recent information, what is different in this case is that the council owes the money to itself in one guise or another. That may well have been a sticking point but, as I understand it, the main sticking point was a difference in the valuation. We will find out more information on that and provide it to the committee if that is helpful.”

223. The Minister subsequently wrote to the Committee providing further details on the stock transfer and the reasons for its failure. The Minister’s letter indicated that this was—

“due to a significant difference in the valuation placed on the stock by an independent valuer and that determined by the purchasing landlord, Shetland Homes. The independent valuer had valued the stock, using the widely accepted 30-year cash flow model approach for valuing social housing in existing use, at a considerably higher figure than Shetland Homes’ valuation. The then Scottish Executive policy was that the purchaser must meet the independent valuation placed on the stock before any progress could be
made on the stock transfer proposal. This did not happen and so the proposal did not progress.”\(^{181}\)

224. The Annexe to the Minister’s letter also clarified questions about whether there had been a realistic possibility of the Council’s debt being written off as a result of a stock transfer—

“Given the differences between the source of the Shetland Islands Council debt (i.e. internally funded) and the position of most other councils (mainly PWLB debt), the then Scottish Executive offered to fund the Shetland stock transfer proposal from its existing resources – just as it funded other, subsequent stock transfers with Scottish Government resources (in addition to the PWLB debt write-off granted by HM Treasury). This could only be done by means of a grant to Shetland Islands Council to extinguish the debt as the Scottish Executive was not the lender of any of the Council’s housing debt – thus making it impossible for it to write any debt off. Only the Council, as the lender, was (and is) in a position to write off the debt.”\(^{182}\)

225. The Committee delegation to Shetland had heard that a budget line had existed within the former Scottish Executive during the 1999-2007 parliamentary sessions to fund debt write-offs resulting from stock transfers. The Committee asked the Minister for more information on this. The Annexe to his letter provided this clarification—

“The then Scottish Executive did make internal provision for the stock transfer from within its existing budgets and Ministers made public commitments to that effect even before the HM Treasury announcement … However, as the stock transfer in Shetland did not progress due to the differences in opinion on the valuation, the budget provision that was made was never called upon and was therefore reprogrammed within the Scottish Budget. It was not reprogrammed within the social housing budget as it had originated from elsewhere in the Scottish Budget. The principal reason for making the provision available was strictly related to the then Scottish Executive’s policy objective of maximising the number of houses to be transferred out of council ownership.”\(^{183}\)

218A - The Minister’s letter also noted that although government funding to support debt write-off or grant to cover debt costs is no longer available, Shetland Islands Council had received considerable central government support—

“I would highlight that Shetland Islands Council has received £22 million in Housing Support Grant in the intervening period (2001-02 to 2012-13) and in excess of £75 million since 1979-80 and so has already had significant government grant support for its Housing Revenue Account.”\(^{184}\)

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\(^{181}\) Minister for Housing and Transport. Supplementary submission.

\(^{182}\) Minister for Housing and Transport. Supplementary submission.

\(^{183}\) Minister for Housing and Transport. Supplementary submission.

\(^{184}\) Minister for Housing and Transport. Supplementary submission.
226. The Minister also claimed, during the Committee’s evidence session, that there had “been virtually no rent rise in real terms in Shetland for a number of years” while “other councils have had that rent rise in many cases”. He added that “we have to try to treat people on a level playing field”.  

227. A question was also raised by the Minister about the repairs and maintenance service offered by the council, which he said was “very expensive compared to other councils”. He said that this might be because it was a gold standard service and that was what people “wanted and should have in Shetland”, or there could be “other reasons”. He concluded that it was “only right that we try to get to the bottom of that”.  

228. The Minister advised the Committee that he had written to Shetland Islands Council seeking a meeting with its leader, in order to discuss these matters further. This news was welcomed by the Committee. However, the Committee noted the Minister’s general comments in relation to Shetland’s situation—

“There are a number of points of difference between us. If the debt write-off was to happen, it would be the only one of this nature. It is not easy for me to see a basis for doing that, because the rents that are currently paid are comparable with rents in councils that are similar to Shetland. There are other issues. The council has substantial reserves, which, it argues, are committed elsewhere. It is true that some of those reserves could not be used for this purpose, but many of them could be. That is a choice that Shetland has made.

I would be keen to ensure that we did not treat one council differently from other councils. If we were to commit £40 million to writing off the debt of one council, that would equate to about £1 billion of debt write-off if we treated all councils the same way. We have to be very careful about that.

If Shetland has, as it says it has, a unique justification for asking for debt write-off, it is right that we should examine that. In the process of doing so, I am happy to pass the information back to the committee.”

229. The Minister added—

“Shetland Islands Council also received its grant for 34 years, which is longer than any other council, so it has had the longest period of any council in Scotland to adjust its HRA’s financial position. If there are particular reasons why that adjustment has not happened, beyond those that we already know about from our discussions, we should discuss those reasons, and we are happy to do that.”

230. The Committee notes the Minister’s comments on Shetland Islands Council, its HRA and the consequences of the possible withdrawal of the HSG. The

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Committee welcomes the prospect of further discussions taking place between the Minister and the leader of Shetland Islands Council in an attempt to resolve issues of disagreement.

Housing Support Grant – Committee conclusions

231. In principle, the Committee supports the proposal to end the Housing Support Grant. The Committee fully accepts the Scottish Government view, set out in the Policy Memorandum, that there are more appropriate ways in which central government can and should support the provision of new and affordable social housing in Scotland, other than by continuing to use scarce resources to service historic debt in perpetuity. The Committee also acknowledges that, since 2004, a prudential borrowing regime has existed, and all councils should have been moving to a situation in which their debt was manageable and sustainable under that regime.

232. However, the Committee also recognises the unique situation that has given rise to the housing debt levels in Shetland that have required the support of HSG. It fell to the local authority in Shetland to provide a large number of homes within a very short period of time in order to ensure the speedy construction of the Sullom Voe oil terminal, a facility that was essential to the development and continuing prosperity of the UK oil industry. Regardless of the benefits that Shetland has derived from the terminal, they have also undoubtedly been enjoyed much more widely beyond Shetland, and there seems to be an argument that at least some of that cost should be met from outwith local resources.

233. On the other hand, it is true that the resources available to the Shetland Islands Council and, more widely, to the inhabitants of Shetland, are significantly greater than those available to any other local authority in Scotland, and by some considerable way. While it is the case that the islands are on the extreme periphery of the UK and are disadvantaged by that position, poor transport links, a relatively extreme climate, a high cost of living and, ironically, high fuel prices, many of these factors are, arguably, outweighed by the significant wealth that the oil industry has brought to the islands. While the cost of living is high, so are wages and salaries. Unemployment is virtually non-existent, and public and council services are generously funded and of a noticeably high standard, virtually unheard of elsewhere in Scotland. Even during the Committee delegation’s brief visit, it was impossible for members not to be aware of the high standards of roads and the quality of their maintenance and the excellent education, sports, leisure and community facilities that appeared to exist even in very small communities. Not only does the Council have reserve funds that would be the envy of every other local authority in the UK, its members are trustees of the Shetland Charitable Fund, which is understood to sit at around £250million and to disburse, in most years, around £11m to charitable causes in the island.

234. The Committee understands Shetland Islands Council’s argument that the debt is “historical” and not of its making, but, in the apparent absence of any documentation to the effect that the debt that originated at the time of the construction of Sullom Voe would be commuted or met in some other way by central government, the Committee considers that Shetland Islands Council has some responsibility for developing a plan to ensure that its debt is put on a sustainable footing. This is particularly the case given the levels of resource
235. It is not for the Committee to tell Shetland how this could or should be done, but, as the Bill’s Financial Memorandum has pointed out, there are a number of options that the Council could explore, including raising rent levels, improving efficiency in the management of voids and reducing the cost of repairs and improvements. The Council could also explore corporately the extent to which its portfolio of reserves could be used creatively as part of a suite of measures to help put the debt on a sustainable footing, while ensuring that rents do not rise excessively or too rapidly.

236. It seems clear to the Committee, however, that there is an urgent need for such measures to be considered as soon as possible. The Committee delegation was surprised to learn during its visit that the modelling that had been done on the HRA so far by SIC required a further £15m of central government funding to go to Shetland over the next five years. This does not seem realistic to the Committee, given the direction of travel set out in the Bill and the tone of the Minister’s remarks when he gave evidence to the Committee on 30 May.

237. The Committee does take the view that it is likely that some kind of transitional funding will be needed in order to assist the Council restructure its debt to sustainable levels while avoiding unaffordable and sudden rent increases. It is not for the Committee to second-guess the content of negotiations between the Council and the Scottish Government on this matter, but the Committee would certainly be disappointed if it did not prove possible to reach agreement of a transitional scheme that saw central government support to the HRA to taper off to zero by the end of the current session of the Parliament.

238. The Committee notes that a new council was recently elected in Shetland, and the council has elected a new leader, who has committed himself to bringing the Council’s finances under control as a top priority. This is a welcome development. The Committee also welcomes the Minister’s statement that he has asked for a meeting with the new leader of the Council in order to discuss matters related to the withdrawal of HSG. The Committee urges both sides to strive to negotiate a solution that is fair and acceptable to the people of Shetland, but also to the rest of Scotland.

OTHER MATTERS

239. Standing Orders Rule 9.6 require the lead committee at stage 1 of bills to consider reports received from any other committee and, in the case of a Scottish Government bill, to report on the Policy Memorandum.

Subordinate Legislation Committee report

240. The Committee received a report from the Subordinate Legislation Committee.
241. The Subordinate Legislation Committee noted that the maximum increase in council tax payable on empty properties was not specified on the face of the Bill, but would be determined by regulations. It considered that there was a “fundamental question of principle as to whether the Parliament should confer an unlimited power to increase liability to council tax for certain properties”. The Committee observed—

“the ability to permit discounts within the council tax regime operates within certain limits at present. Discounts are also by their nature inherently limited in their effect on the individual, so far as they reduce tax amounts from those otherwise prescribed. The same is not true of an unlimited power to increase the liability to tax.”

242. The Subordinate Legislation Committee considered that the Parliament should itself legislate for the maximum amount of liability that can be imposed rather than delegate this matter to Ministers. The Committee’s report went on to say that “in so far as the proposed enabling power to increase tax amounts in relation to unoccupied properties, is unlimited in amount, (or the possible percentage increase), the Committee considers this is not acceptable in principle, nor is it transparent”.

243. The Subordinate Legislation Committee concluded that the Bill “should state a suitable maximum level of permitted council tax increase in relation to unoccupied dwellings, beyond which any levels specified in the regulations could not go”.

244. The Local Government and Regeneration Committee notes the point raised by the Subordinate Legislation Committee, and draws it to the attention of the Parliament and the Scottish Government.

245. The Committee thanks the Subordinate Legislation Committee for its report.

Finance Committee report

246. The Committee received a comprehensive report from the Finance Committee, following its scrutiny of the Financial Memorandum associated with the Bill. The Committee found the Finance Committee’s report very helpful in clarifying many of the financial assumptions that had informed the policy development that has been embodied in the Bill.

247. Many of the points raised by the Finance Committee in its report have been incorporated into the main text of this report, where appropriate.

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248. The Committee thanks the Finance Committee for its report and draws it to the attention of the Parliament and the Scottish Government.

Policy Memorandum

249. The Committee considers that the Policy Memorandum that accompanied the Bill satisfactorily set out the policy objectives of the Bill, whether alternative ways of meeting those objectives were considered and, if so, why the approach taken in the Bill was adopted, as required by Standing Orders.

Consultation

250. Elsewhere in the report, the Committee has drawn attention to the absence of a formal consultation on the provisions of the Bill on non-domestic rates. Aside from these comments, the Committee considers that the consultation carried out by the Scottish Government on the Bill’s proposals was appropriate.

Equalities

251. The Scottish Government carried out an Equalities Impact Assessment on the council tax aspects of the Bill. The Policy Memorandum reports that the Scottish Government consulted equalities groups as part of the consultation on the increase, but none of them provided any specific comments in relation to the proposals or the information provided in the draft Equalities Impact Assessment.

252. The Policy Memorandum raises no specific matters in respect of the impact of the non-domestic rates and Housing Support Grant provisions on particular equalities groups.

253. The Committee is content with the Scottish Government’s analysis of equalities issues as set out in the Policy Memorandum.

OVERALL CONCLUSIONS

254. The Committee has considered the Bill’s provisions in detail, and has been assisted in this task by the reports received from the Finance Committee and the Subordinate Legislation Committee. The Committee’s conclusions on each of the three main areas that the Bill covers are provided in the relevant section of the body of the report, so need not be repeated here.

255. The Committee acknowledges that some aspects of the Bill are more controversial than others. The provisions in relation to council tax were generally welcomed and the Committee found little opposition to this aspect. The non-domestic rates provisions were more contested, and did attract

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significant opposition from the business sector, which has been covered in detail in the relevant section of the report.

256. Margaret Mitchell MSP took the view that this was the wrong piece of legislation at the wrong time, which fundamentally failed to acknowledge that the overriding reason for empty properties was due to a fundamental lack of demand and the current economic climate. For these reasons, the member could not support the provisions of the Bill relating to council tax and non-domestic rates. The member was not convinced that rates relief reform would be an incentive to bring empty properties back into use, or to tackle the underlying causes of empty properties.

257. The Committee unanimously supports the provisions in relation to the proposed withdrawal of the Housing Support Grant. This provision of the Bill attracted little comment, other than in Shetland, where the local Islands Council is the only remaining local authority in receipt of the grant. The Committee devoted a considerable portion of its scrutiny to this aspect of the Bill, sending a cross-party delegation to Shetland to fully inform itself of the issues surrounding the Bill's proposals. Again, the Committee's analysis of these issues and its conclusions are contained in the relevant section of the report.

258. The Committee acknowledges that there are likely to be improvements to be made to the Bill as it continues its progress through its parliamentary stages, and the Committee looks forward to debate on possible amendments in due course.\(^{193}\)

259. In the meantime, the Committee recommends to the Parliament that the general principles of the Bill be approved.

\(^{193}\) Paragraph 258 agreed to, by division (see Annexe B: Record of Divisions in Private).
ANNEXE A: EXTRACTS FROM THE MINUTES

12th Meeting, 2012 (Session 4)

Wednesday 16 May 2012

Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill: The Committee took evidence on the Bill at Stage 1 from—

Jim Hayton, Policy Officer, Association of Local Authority Chief Housing Officers;

Kristen Hubert, Coordinator of the Empty Homes Network, Shelter Scotland;

Anita Jamieson, Executive Manager - Housing, Shetland Islands Council;

Joann Johnson, Chair, Shetland Tenants' Forum;

David Melhuish, Director, Scottish Property Federation;

Sarah Jane Laing, Head of Policy, Scottish Land and Estates.

Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill (in private): The Committee considered the evidence received.

13th Meeting, 2012 (Session 4)

Wednesday 23 May 2012

Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill: The Committee took evidence on the Bill at Stage 1 from—

Garry Clark, Head of Policy and Public Affairs, Scottish Chambers of Commerce;

Peter Muir, Director of Rating, Colliers International;

Gareth Williams, Policy Manager, Scottish Council for Development and Industry;

Mark Rodgers, Director of Housing and Property Services, Waverley Housing.

Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill (in private): The Committee agreed to undertake a fact-finding visit to Shetland as part of its evidence gathering on the Bill at Stage 1.

Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill (in private): The Committee considered the evidence received.
14th Meeting, 2012 (Session 4)

Wednesday 30 May 2012

Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill: The Committee took evidence on the Bill at Stage 1 from—

Derek Mackay, Minister for Local Government and Planning, Keith Brown, Minister for Housing and Transport, and Sam Baker, Head of the Tax and Markets Unit, Housing Supply Division, and Marianne Cook, Policy Manager, Local Government Finance Unit, Scottish Government.

Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill (in private): The Committee considered the evidence received.

17th Meeting, 2012 (Session 4)

Wednesday 20 June 2012

Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill (in private): The Committee considered a draft Stage 1 report. Various changes were agreed to, and the Committee agreed to consider a revised draft report, in private, at its next meeting.

18th Meeting, 2012 (Session 4)

Tuesday 26 June 2012

Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill (in private): The Committee considered a draft Stage 1 report. Various changes were agreed to, by division, and the Committee agreed the report for publication.
ANNEXE B: RECORD OF DIVISIONS TAKEN IN PRIVATE BY THE LOCAL GOVERNMENT AND REGENERATION COMMITTEE

1. On Tuesday 26 June 2012, the Local Government and Regeneration Committee considered its draft Stage 1 report to the Parliament on the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. This consideration took place in private session.

2. During consideration of the draft report, 34 amendments to the report were proposed by members of the Committee. Nine of these amendments were unanimously agreed to by the Committee, and form part of the text of the report.

3. The remaining 25 amendments were moved, and following a debate by the Committee were either agreed to, or disagreed to, by way of a division (vote). In each case the Convener put a question to the Committee that the respective amendments be agreed to.

4. This annexe sets out the name of the member(s) proposing those amendments, the proposed text of each amendment, and the results of the division on each amendment.

5. John Pentland and Margaret Mitchell proposed the following alternative wording for paragraph 57—

   The Committee notes that there is a lack of clarity in the Policy Memorandum on whether or not local authorities will have powers to grant exemptions on other grounds besides those specified in the Policy Memorandum and calls on the Minister to clarify this before the regulations are published.

6. The proposal was disagreed to, by division: For 3: (Anne McTaggart; Margaret Mitchell; John Pentland); Against 4: (James Dornan; Joe FitzPatrick; Kevin Stewart; David Torrance); Abstentions 0.

7. John Pentland proposed the following alternative wording for paragraph 91—

   The Committee notes the report of the Finance Committee on this aspect of the Bill. The Committee acknowledges the potential variations, speculative assumptions and unknown quantities that make it difficult to estimate accurately the likely impact of the Bill on revenue. The Committee notes that the FM acknowledges the significant margin of uncertainty inherent in the assumptions that have been used to calculate revenue. The Committee concludes that it is impossible to estimate accurately, at this stage, what the impact on revenue for local authorities is likely to be. However, the Committee considers that what is most important is the Bill’s impact on reducing the number of long-term empty properties and bringing them back into use. Should there be a positive impact on council tax income in local authorities, as seems likely on the balance of probability, this is likely to be helpful in giving councils other options in helping to bring properties back into use through other initiatives, although the Committee acknowledges that it will be for councils to determine how to use any additional income that accrues as a result of the proposed measures.
8. The proposal was disagreed to, by division: For 3: (Anne McTaggart; Margaret Mitchell; John Pentland); Against 4: (James Dornan; Joe FitzPatrick; Kevin Stewart; David Torrance); Abstentions 0.

9. John Pentland proposed the following alternative wording for paragraph 99—

As mentioned in the introductory section of the report, The Scottish Government announced, in its 2011 Spending Review document, and in its 2011 Regeneration Strategy, its intention to introduce incentives to bring vacant premises back into use, reduce the prevalence of empty properties in town centres and support urban regeneration by reforming empty property relief from April 2013. The Policy Memorandum says that the proposals have been widely consulted on as part of the consultation on the Scottish Budget and as part of wider consultation on the Regeneration Strategy. The specific proposals in relation to non-domestic rates relief contained in the Bill, whose growth the Scottish Government wishes to restrict, have not, however, been the subject of formal consultation.

10. The proposal was disagreed to, by division: For 3: (Anne McTaggart; Margaret Mitchell; John Pentland); Against 4: (James Dornan; Joe FitzPatrick; Kevin Stewart; David Torrance); Abstentions 0.

11. John Pentland proposed the following alternative wording for paragraph 112—

The Committee acknowledges the concerns over the Bill of many organisations representing business. The Committee also acknowledges the Minister’s statement that there is a need to “balance the books” and continue to invest in public services while seeking to regenerate the economy, but that several witnesses commented that there is a major question over whether the Bill will generate the resources claimed by ministers.

12. The proposal was disagreed to, by division: For 3: (Anne McTaggart; Margaret Mitchell; John Pentland); Against 4: (James Dornan; Joe FitzPatrick; Kevin Stewart; David Torrance); Abstentions 0.

13. John Pentland proposed the following alternative wording for paragraph 119—

The Committee notes the Minister’s view that it would not have been proportionate to carry out a consultation because of the number of properties and the scale of the issue. However, the Committee questions why it was considered appropriate to hold a formal consultation on the council tax provisions of the Bill, which are estimated to create a lower level of income than are those in respect of non-domestic rates, but not on the other principal aspect of the Bill. The Committee also notes that it has been normal practice for many years for all legislative proposals to be the subject of full consultation before they are finalised and introduced in the Parliament in the form of a bill. The Committee considers that the consultation process is essential in allowing the government to consider a full range of views, and would result in more carefully considered and thought through legislation.
14. The proposal was disagreed to, by division: For 3: (Anne McTaggart; Margaret Mitchell; John Pentland); Against 4: (James Dornan; Joe FitzPatrick; Kevin Stewart; David Torrance); Abstentions 0.

15. Kevin Stewart proposed the following alternative wording for paragraph 119—

The Committee notes the Minister’s view that it would not have been proportionate to carry out a consultation because of the number of properties and the scale of the issue. The Committee also recognises the Minister’s assurance that there is on-going consultation around the progression of the policy intent of the Bill. However, the Committee questions why it was considered appropriate to hold a formal consultation on the council tax provisions of the Bill, which are estimated to create a lower level of income than are those in respect of non-domestic rates, but not on the other principal aspect of the Bill. The Committee considers that the consultation process is an important aspect in allowing the government to consider a full range of views, and generally results in more carefully considered and thought-through legislation.

16. The proposal was agreed to, by division: For 4: (James Dornan; Joe FitzPatrick; Kevin Stewart; David Torrance); Against 3: (Anne McTaggart; Margaret Mitchell; John Pentland); Abstentions 0.

17. John Pentland proposed the following alternative wording for paragraph 120—

The Committee also notes that consultees have major concerns over the proposals in relation to business rates and the potential negative impact of the removal of rates relief, and is therefore disappointed that the Scottish Government decided to bring these measures forward in a bill without the normally expected degree of consultation having taken place.

18. The proposal was disagreed to, by division: For 3: (Anne McTaggart; Margaret Mitchell; John Pentland); Against 4: (James Dornan; Joe FitzPatrick; Kevin Stewart; David Torrance); Abstentions 0.

19. Kevin Stewart proposed the following alternative wording for paragraph 120—

The Committee concluded that the Scottish Government could have carried out further consultation before bringing the measures forward in a Bill.

20. The proposal was agreed to, by division: For 4: (James Dornan; Joe FitzPatrick; Kevin Stewart; David Torrance); Against 3: (Anne McTaggart; Margaret Mitchell; John Pentland); Abstentions 0.

21. Margaret Mitchell proposed the following new wording be added [as a new paragraph] after paragraph 128—

The Committee notes, however, that under the Scottish Government’s own published BRIA Guidance, the principle of proportionality is only mentioned in relation to the content of any BRIA, and is not listed as a relevant factor with regards to the decision to actually undertake a BRIA. [Insert as a footnote: The Guidance states: The content of a BRIA should be proportionate to the problem involved and the size of the proposal. If it is likely to affect only a few firms or
organisations, or many firms or organisations but only to a negligible degree, and/or the costs and benefits are likely to be negligible, then the BRIA can be quite short. Where the impact will be substantial, more data and analysis will be required.) Therefore, from the Government’s own guidance it appears that whilst the proportionality principle can be applied with regards to the content and detail of the BRIA, it is not cited by the Government as a pertinent factor in the actual need to conduct one in the first place.

22. The proposal was disagreed to, by division: For 3: (Anne McTaggart; Margaret Mitchell; John Pentland); Against 4: (James Dornan; Joe FitzPatrick; Kevin Stewart; David Torrance); Abstentions 0.

23. Margaret Mitchell proposed the following alternative wording for paragraph 129—

The Committee, therefore, notes that the decision not to undertake a BRIA is at odds with the Government’s own published guidance, and the Committee agrees with the Finance Committee in its conclusion that it was unfortunate that a BRIA was not conducted before the Bill was introduced.

24. The proposal was disagreed to, by division: For 3: (Anne McTaggart; Margaret Mitchell; John Pentland); Against 4: (James Dornan; Joe FitzPatrick; Kevin Stewart; David Torrance); Abstentions 0.

25. Kevin Stewart proposed the following alternative wording for paragraph 129—

The Committee notes the view of the Finance Committee that it is unfortunate that a BRIA was not conducted before the Bill was introduced. The Committee also recognises it is for ministers to determine if a BRIA is proportionate.

26. The proposal was agreed to, by division: For 4: (James Dornan; Joe FitzPatrick; Kevin Stewart; David Torrance); Against 3: (Anne McTaggart; Margaret Mitchell; John Pentland); Abstentions 0.

27. John Pentland proposed the following alternative wording for paragraph 130—

The Committee notes the Minister’s commitment stated above to explore and refine the policy and to listen to the Committee and to stakeholders, together with his remark that although the Scottish Government considers the policy direction to be important, it is prepared to be flexible. The Committee therefore urges the Scottish Government to continue the dialogue with business organisations and other stakeholders as the policy develops, and to reconsider conducting a BRIA.

28. The proposal was disagreed to, by division: For 3: (Anne McTaggart; Margaret Mitchell; John Pentland); Against 4: (James Dornan; Joe FitzPatrick; Kevin Stewart; David Torrance); Abstentions 0.

29. John Pentland proposed the following alternative wording for paragraph 159—

The Committee notes the concerns of the business organisations have expressed over the possible impact on Scottish business of an additional non-domestic rates liability. The Committee accepts that there may be a negative impact in certain situations, but would prefer greater clarity through the
undertaking of a BRIA. It also recognises that the Scottish Government wants to balance the need to bring empty properties back into use with the need to support business and to deliver value to the public for the significant sums that are and will continue to be provided by way of non-domestic rates relief.

30. The proposal was disagreed to, by division: For 3: (Anne McTaggart; Margaret Mitchell; John Pentland); Against 4: (James Dornan; Joe FitzPatrick; Kevin Stewart; David Torrance); Abstentions 0.

31. Kevin Stewart proposed the following alternative wording for paragraph 159—

The Committee notes the concerns of the business organisations have expressed over the possible impact on Scottish business of an additional non-domestic rates liability. The Committee accepts that there may be a negative impact in certain situations, but also recognises that the Scottish Government needs to balance the need to bring empty properties back into use with the need to support business and to deliver value to the public for the significant sums that are and will continue to be provided by way of non-domestic rates relief. The Committee also recognises the significant support provided to business by the Scottish Government, which includes a commitment to maintaining the most generous rates relief package of anywhere in the UK and continuation of the small business bonus.

32. The proposal was agreed to, by division, For 4: (James Dornan; Joe FitzPatrick; Kevin Stewart; David Torrance); Against 3: (Anne McTaggart; Margaret Mitchell; John Pentland); Abstentions 0.

33. John Pentland proposed the following alternative wording for paragraph 174—

The Committee considers that the Financial Memorandum should have been more helpful in fully explaining the implications of the Bill’s proposals for the public sector. The Committee commends the Finance Committee for its attempts to get more accurate and detailed information from Scottish Government officials, and is disappointed that it was not more promptly given to the Local Government and Regeneration Committee.

34. The proposal was disagreed to, by division: For 3: (Anne McTaggart; Margaret Mitchell; John Pentland); Against 4: (James Dornan; Joe FitzPatrick; Kevin Stewart; David Torrance); Abstentions 0.

35. John Pentland and Margaret Mitchell proposed the following alternative wording for paragraph 175—

The Committee considers that the costs to the public sector are certainly potentially significant and notes that they could impact on the projected savings to the Scottish budget. The Committee therefore recommends that the Scottish Government monitors carefully the impact on the public sector in general and on local authorities in particular, once the Bill has been enacted, in order to ensure that the projections remain on track.
36. The proposal was disagreed to, by division: For 3: (Anne McTaggart; Margaret Mitchell; John Pentland); Against 4: (James Dornan; Joe FitzPatrick; Kevin Stewart; David Torrance); Abstentions 0.

37. Kevin Stewart proposed the following alternative wording for paragraph 175—

The Committee considers that the costs to the public sector, while not massive, are certainly potentially significant and notes that they could impact on the projected savings to the Scottish budget. The Committee therefore recommends that the Scottish Government monitors carefully the impact on the public sector in general and on local authorities in particular, once the Bill has been enacted, in order to ensure that the projections remain on track. The Committee also notes that the package of rates relief provided by the Scottish Government will help to mitigate the costs.

38. The proposal was agreed to, by division, For 4: (James Dornan; Joe FitzPatrick; Kevin Stewart; David Torrance); Against 3: (Anne McTaggart; Margaret Mitchell; John Pentland); Abstentions 0.

39. John Pentland and Margaret Mitchell proposed the following alternative wording for paragraph 178—

The Committee accepts the Finance Committee's findings on the projected £18 million savings, and draws their attention to the Scottish Government. The Committee considers it unsatisfactory that the margins of uncertainty as regards the non-domestic rates aspects of the Bill were not set out as clearly and helpfully in the Financial Memorandum as they were in respect of the council tax provisions, and believes that there should have been more time in which to research this information and make it available had this aspect of the Bill been subject to a full consultation.

40. The proposal was disagreed to, by division: For 3: (Anne McTaggart; Margaret Mitchell; John Pentland); Against 4: (James Dornan; Joe FitzPatrick; Kevin Stewart; David Torrance); Abstentions 0.

41. John Pentland and Margaret Mitchell proposed the following alternative wording for paragraph 184—

The Committee notes that the Scottish Government has attempted to develop a policy framework that is intended to save it a significant sum of money and bring some of the currently empty commercial property back into use, without having too severe an impact on business or on economic recovery. It remains to be seen whether the Scottish Government has been successful in striking the correct balance.

42. The proposal was disagreed to, by division: For 3: (Anne McTaggart; Margaret Mitchell; John Pentland); Against 4: (James Dornan; Joe FitzPatrick; Kevin Stewart; David Torrance); Abstentions 0.
43. Kevin Stewart proposed the following alternative wording for paragraph 184—

The Committee recognises that the Scottish Government has attempted to develop a policy framework that is intended to save the public purse a significant sum of money and bring some of the currently empty commercial property back into use. In taking forward the proposals, the Scottish Government must ensure it maintains the correct balance between regeneration, revenue raising and the impact on business and economic recovery. It remains to be seen whether the Scottish Government has been successful in striking the correct balance, although the Committee accepts that the proposals are being taken forward in good faith.

44. The proposal was agreed to, by division, For 4: (James Dornan; Joe FitzPatrick; Kevin Stewart; David Torrance); Against 3: (Anne McTaggart; Margaret Mitchell; John Pentland); Abstentions 0.

45. John Pentland proposed the following alternative wording for paragraph 185—

The Committee acknowledges that the proposals have, in the main, been widely criticised in the business sector. The Committee understands the current pressures on the business sector and accepts that businesses are unlikely to welcome proposals that will increase their costs during a time of recession. Nevertheless, the overall maximum figure of £18 million (if it turns out to be accurate) that will be transferred from the taxpayer to a combination of the business and public sectors, does not seem to the Committee to be a disproportionate measure given the overall contribution of the taxpayer to non-domestic rates relief.

46. The proposal was disagreed to, by division: For 3: (Anne McTaggart; Margaret Mitchell; John Pentland); Against 4: (James Dornan; Joe FitzPatrick; Kevin Stewart; David Torrance); Abstentions 0.

47. Margaret Mitchell proposed the following alternative wording for paragraph 185—

While the Committee acknowledges that the proposals have, in the main, been widely criticised in the business sector, it is also the case that the amount of public money that will continue to be devoted to rates relief on empty property – £721 million annually – is a very significant sum, and will continue to support the most generous non-domestic rates relief system within the UK. The Committee understands the current pressures on the business sector and accepts that businesses are unlikely to welcome proposals that will increase their costs during a time of recession.

48. The proposal was disagreed to, by division: For 3: (Anne McTaggart; Margaret Mitchell; John Pentland); Against 4: (James Dornan; Joe FitzPatrick; Kevin Stewart; David Torrance); Abstentions 0.

49. Margaret Mitchell proposed the following alternative wording for paragraph 186—

The Committee also recognises that the policy embodied in the Bill is only one tool in the box, and needs to be considered alongside measures emerging from
other current policy developments such as the regeneration strategy and the forthcoming community empowerment bill. However, given the Government's upcoming national review of town centres as part of its Regeneration Strategy – which was noted by some of those who gave evidence – the Committee questions the timing of these proposals given the impact they will have on town centre regeneration and finds it odd that they are being considered in isolation from the "national review of town centres" that the Government is to undertake.

50. The proposal was disagreed to, by division: For 1: (Margaret Mitchell); Against 6: (James Dornan; Joe FitzPatrick; Anne McTaggart; John Pentland; Kevin Stewart; David Torrance); Abstentions 0.

51. John Pentland proposed the following alternative wording for paragraph 187—

The Committee notes that the financial information supporting this aspect of the bill could have been presented in a more helpful and transparent way, rather than having to be probed by the Finance Committee as part of its scrutiny of the Financial Memorandum. The Committee considers that this is probably a product of this aspect of the Bill's provisions not having been as fully consulted upon as other aspects and calls on the Scottish Government to reconsider conducting a BRIA.

52. The proposal was disagreed to, by division: For 3: (Anne McTaggart; Margaret Mitchell; John Pentland); Against 4: (James Dornan; Joe FitzPatrick; Kevin Stewart; David Torrance); Abstentions 0.

53. Margaret Mitchell proposed the following alternative wording for paragraph 258—

The Committee acknowledges that there are no doubt improvements to be made to the Bill as it continues its progress through its parliamentary stages, and the Committee looks forward to debate on possible amendments in due course.

The proposal was disagreed to, by division: For 3: (Anne McTaggart; Margaret Mitchell; John Pentland); Against 4: (James Dornan; Joe FitzPatrick; Kevin Stewart; David Torrance); Abstentions 0.
ANNEXE C: ORAL EVIDENCE AND ASSOCIATED WRITTEN EVIDENCE

12th Meeting 2012 (Session 4), 16 May 2012

Written Evidence

Association of Local Authority Chief Housing Officers
Scottish Empty Homes Network/Shelter Scotland
Shetland Islands Council (Annexe)
Shetland Tenants’ Forum
Scottish Property Federation
Scottish Land and Estates

Oral Evidence

Association of Local Authority Chief Housing Officers
Scottish Empty Homes Network/Shelter Scotland
Shetland Islands Council
Shetland Tenants’ Forum
Scottish Property Federation
Scottish Land and Estates

Supplementary Written Evidence

Shetland Island Council

13th Meeting 2012 (Session 4), 23 May 2012

Written Evidence

Scottish Chambers of Commerce
Waverley Housing
Scottish Council for Development and Industry

Oral Evidence

Scottish Chambers of Commerce
Colliers International
Waverley Housing
Scottish Council for Development and Industry

14th Meeting 2012 (Session 4), 30 May 2012

Oral Evidence

Minister for Housing and Transport
Minister for Local Government and Planning
Supplementary Written Evidence

Scottish Government
Minister for Housing and Transport

ANNEXE D: OTHER WRITTEN EVIDENCE

Aide Hunter Solicitors
Association of Town Centre Managers
Business Centre Association (BCA)
CBI Scotland
COSLA
Enterprise North East Trust
Falkirk Council
Federation of Small Businesses Scotland
Fife Council
Glasgow City Council
Highland Council
Homes for Scotland
NHS Ayrshire & Arran
NHS National Services Scotland
Reform Scotland
RTPI Scotland
West Dunbartonshire Council

ANNEXE E: VISIT BY A DELEGATION OF THE COMMITTEE TO SHETLAND

ANNEXE F: REPORT BY THE FINANCE COMMITTEE

ANNEXE G: REPORT BY THE SUBORDINATE LEGISLATION COMMITTEE
Introduction

1. As the representative body of Scotland’s Chief Housing Officers, ALACHO welcomes the opportunity to respond to the Local Government and Regeneration Committee’s call for written evidence on the general principles of the Local Government Finance (Unoccupied Properties Etc.) (Scotland) Bill. ALACHO also intends to take the opportunity of providing oral evidence to the meeting of the Committee on 16th May 2012. Given ALACHO’s remit, we have limited our comments to the sections of the Bill dealing with long term empty (LTE) homes and the abolition of housing support grant.

2. It should also be noted that in general local authority chief housing officers are not directly responsible for the collection of council tax, nor the design and maintenance of the IT and revenue collection systems which support this function. It is very likely that the proposals set out in the Bill and supporting regulations will have implications for these functions, which generally come within the remit of local authority Directors of Finance and IT. We would expect such implications to be covered in the written evidence submitted by COSLA and the relevant representative bodies for this group, and indeed by individual local authorities themselves.

Policy Objectives: Overview of the Bill

3. In principle, ALACHO supports the policy objective of the Bill to encourage owners of LTE homes to bring these back into use by giving local authorities the power to increase council tax charges in certain circumstances. We note the intention of the Scottish Government to bring forward regulations to facilitate this objective, and have agreed to work with Scottish Government officials to this end. ALACHO particularly welcomes the permissive nature of the legislative proposals, which should allow local authorities the flexibility to decide the extent to which LTE homes are a problem in their area (or particular parts of their locale) and decide on the balance between the additional income likely to be raised by levying increased council tax charges for LTE homes and the costs of setting up and implementing systems to monitor and enforce compliance and collect revenues due.

4. We also wholly concur with the view that bringing empty homes back into use could play an important part in providing homes for people who need them. The Scottish Empty Homes Partnership, in which Scottish local authorities play a prominent role, estimate that currently there are just over 23,000 LTE private sector
empty homes in Scotland. Given recent cuts to Scotland’s affordable housing budget, the likelihood of continued public expenditure constraints for the foreseeable future, and the Scottish Government’s own estimate that over 156,000 households are currently on council housing waiting lists, for social and economic reasons it is clearly of vital importance that as many empty homes as possible are brought back into productive use.

Policy Proposals

5. ALACHO welcomes in broad terms the proposal to give local authorities the discretionary power to charge a maximum council tax increase of 100% of the standard council tax rate for certain LTE homes (i.e. twice the standard rate), after they have been empty for at least one year (i.e. long term empty for at least six months). We are content that the current situation, whereby owners receive council tax exemption for unfurnished empty homes for the first six months they are empty, followed by a 10-50% discount for the next six months at least, is to remain.

6. We note the government’s intention that owners in certain specified situations shall be entitled to claim continued exemption following the lapse of the six month long term empty period, and that it shall be for local authorities to satisfy themselves that an owner is entitled to such exemption on the grounds claimed. We also note the discretion it is proposed be afforded to local authorities to consider other valid reasons for exemption, such as acceptable evidence that the owner of an LTE property is pro-actively trying to sell or let their empty property. In such circumstances a local authority may also be in a position to offer advice and information to the owner on different options available for bringing their property back into use.

7. ALACHO welcomes the power to levy a maximum £200 penalty on owners who fail to provide the required information on the status of their property or who provided false information. For those authorities who utilise the power, this amount should act as a disincentive to owners minded to avoid the regulations, and provide recompense to authorities for the cost of collection.

8. As a body representing housing professionals concerned with alleviating housing need, ALACHO welcomed the proposal in the consultation document that any additional income raised from increased Council tax charges for LTE homes should be ring fenced for housing purposes. We are disappointed to see this proposal removed from the Bill, but given the on-going pressure on affordable housing budgets, remain hopeful that this issue might be re-visited at some stage. We would hope that many authorities will indeed set aside any additional resources for housing related purposes, and are in any event pleased to see that the current arrangements, whereby revenue raised from existing reduced discounts on long term empty and second homes are used to fund affordable housing and empty homes projects, are to be retained.
Policy Options

9. Of the three policy options considered by the Scottish Government to tackle the problem of LTE homes i.e. (i) no change (ii) allow local authorities not to offer any discount to LTE property owners and (iii) allow local authorities to remove the discount and charge an increased council tax for LTE homes, ALACHO, in common with the Scottish Government, favours the third option. We agree with the Scottish Government that this option maximises local authority flexibility to design policies and systems appropriate to their area, taking cognisance of the scale of the LTE problem.

Summary

10. Evidence shows that the incidence of empty homes is growing in Scotland and that further powers to tackle the problem are timely. ALACHO recognises the arguments against the proposal, in particular that the cost of implementing the proposals may outweigh the intended benefits, such as the number of homes brought back into use, or the additional income realised as a result of levying the increased council tax charge. We believe that the discretionary nature of the proposed legislation, in particular Option 3 as outlined in the Policy Memorandum to the Bill, will permit local authorities to make up their own minds on this, following due diligence into the magnitude of the problem of LTE homes, and an estimation of the likely monetary and non-monetary benefits to be gained from adopting a policy of increased council tax for LTE homes.

11. ALACHO would wish to emphasise strongly our view that a discretionary power to allow local authorities to increase council tax for LTE homes is not a panacea for dealing with this growing problem. Authorities need to develop co-ordinated strategies to deal with the challenges of LTE homes, as indeed many are doing. Such strategies should bring together the full range of powers available to local authorities and their partners in this area, including the provision of effective advice and information for owners unsure about how to bring property back into effective use, signposting towards other sources of advice, information and possibly even finance where available. Only in this context can the role of an additional council tax power be used most effectively. ALACHO firmly supports the efforts of the Scottish Empty Homes Partnership to raise awareness of the challenges presented by LTE homes and in developing appropriate responses to this problem.

12. We also understand the libertarian argument that property owners should have the right to leave their property empty if they choose. However, aside from the social opportunity cost of leaving LTE homes unoccupied when families are homeless, empty homes can also impose a financial burden on society at large if public funds are required to remedy problems of disrepair or environmental blight.
The Proposed Abolition of Housing Support Grant by April 2013

13. In common with most local authorities, ALACHO has no fundamental objection to the abolition of housing support grant (HSG), for similar reasons to those outlined in the Policy Memorandum to the Bill. We would however expect to see appropriate transitional arrangements put in place for Shetlands Islands Council, the single authority still in receipt of HSG, to avoid undue hardship resulting to the tenants of this local authority from its removal.

Jim Hayton

ALACHO Policy Manger

Jim.hayton@alacho.org

May 2012
The Scottish Empty Homes Partnership (SEHP) is a Scottish Government-funded partnership hosted by Shelter Scotland, with the aim of supporting local authorities to take action on Scotland’s 23,000 long term private sector empty properties. Its members include Shelter Scotland, COSLA, Historic Scotland, Scottish Land and Estates, Rural Housing Scotland, and the Scottish Housing Best Value Network. We have canvassed our Advisory Group for views, however this group represents a number of membership organisations and as such this response cannot be taken as the equivalent of a response from any of our individual members who may be submitting more detailed responses themselves.

The SEHP is supportive of the aims of the Unoccupied Properties Bill, specifically the provisions to enable councils to reduce the council tax discount on long-term empty homes and to charge a further levy on long term empty homes should they chose to. We have welcomed the opportunity to work with the Scottish Government in developing the proposals to date.

To reflect the remit of the SEHP we are commenting only on the empty homes elements of the Bill. That is, we will leave it to others to provide evidence on those provisions relating to non-domestic property and the abolition of Housing Support Grant.

Summary

- We support this bill because it will allow councils to put in place a financial incentive to bring empty homes back into use, it provides a revenue stream to councils, and it reflects the true costs of empty homes in a community.
- The bill itself is largely about setting a legislative vehicle for subsequent regulations which will articulate the main policy goals. The regulations are not yet available so much of our commentary is based on what the Bill’s policy memorandum sets out as the intention of regulations.
- It is important that the levy is seen as part of a package of measures councils can use to bring empty homes back into use that includes positive help and
assistance to owners. At least some of the money raised through any levy charged should ideally be used to fund wider empty homes work.

- Allowing councils to remove the discount and charge a levy on long term empty homes and not second homes may result in the unwanted consequence of owners misrepresenting the true status of their properties.
- It is important that the period before the discount can be removed and a levy charged is set at 1 year as this allows a long enough period of incentive (in terms of council tax discounts and exemption periods) for owners to declare their properties as empty to their council.
- Rather than create subjective exemptions to the levy we believe it would be better to offer additional assistance to owners in exceptional circumstances.

Making the powers effective

- In order to be effective we believe any council tax levy charged by a council needs to be accompanied by a wider suite of measures to address private sector empty homes, such as:
  - Provision of advice and information to empty home owners on selling, renting and renovating their homes;
  - Negotiation and problem solving with empty home owners
  - Provision of incentives like empty homes loans and grants to encourage owners to bring properties back into use for affordable housing
  - Use of enforcement powers in extreme cases to bring the worst case empty homes back into use.
- Without this wider approach to empty homes work any levy charged could be seen as disproportionate and unfair, especially in current economic circumstances.
- We would like to see reference to the merits of the above approach in Scottish Government guidance accompanying this bill.
- We will encourage councils to recycle some of the money from any levy charged back into this wider package of empty homes measures.
- Although there are various scenarios, the minimum period for which a property has been empty before a levy (i.e. council tax in excess of 100%) can be applied is one year. We agree with this approach for two reasons:
  - It gives owners an incentive, during this first year, to declare a property empty – in order to secure council tax discount.
  - It gives adequate time for owners to make arrangements to bring property back into use, with the help of the council, and with various
circumstances in which a period of longer than one year can attract council tax discount.

Specific points relating to the Policy Memorandum

- Paragraph 23 of the Policy Memorandum states an intention to amend in regulation the existing definitions of Long Term Empty and Second Homes. It is important to note that this will be the first time that councils will have different taxation powers for these two categories of property (i.e. councils will be able to increase council tax on Long Term Empty Homes but not Second Homes). There is a risk that this could provide an incentive for owners to classify long term empty homes as second homes to avoid paying increased council tax. MSPs may wish to ask the Minister how this issue can be addressed.

- Paragraph 28 of the Policy Memorandum highlights types of unoccupied properties currently exempt from council tax that will continue to be exempt following the passage of this bill. Two are worth mentioning briefly:
  - The first is unoccupied new build properties which are exempt for six months after they are entered on the valuation list by the Assessors. We have no issue with this exemption in general but an issue has been raised with us about potentially inconsistent approaches from assessors towards these types of properties and when they are entered on the valuation list. Arguably, in certain areas large pockets of unoccupied new build properties are a problem which needs attention.
  - The second is worth highlighting simply because it speaks to the concerns some may have about this bill. That is the exemption for unoccupied properties that were last lived in by a person who has died where either no grant of confirmation to that person’s estate has been made or for up to six months after a grant of confirmation was made. MSPs should take comfort that this exemption will continue and therefore this bill will not enable the introduction of a tax on grieving families.

- Paragraph 31 of the Policy Memorandum notes that reduced discounts to date on long term empty homes have not been a sufficient incentive for owners to bring their properties back into us, and that in fact the number of long term empty homes have increased. It is important to note that even with the reduced discounts in many councils from 50% to 10%, it is still cheaper – in terms of council tax - to keep a home empty than to occupy it, so it should
not be surprising that reducing the discount alone had limited effect. We believe that removing the discount and charging a council tax levy along with an integrated approach to empty homes that includes advice, information and incentives, will prove a far more effective mix in encouraging owners to bring their properties back into use.

- We agree with the statements in Paragraph 36 of the memorandum which make it clear that it is not intended for an empty home to be subject to any tax increases until it had been empty for at least a year. This allows time for any available help and advice to be taken up by owners as well as providing a long enough period at discounted council tax rates to incentivise owners to alert the council when their property becomes vacant. This is key because if this period were shorter home owners may decide not to inform the council to avoid being charged more.

- We agree with the statement in Paragraph 40 of the Policy Memorandum that we need to avoid making the exemptions system overly complex both for administrative purposes and to avoid exploitation by owners. We would however ask for clarity on the statement in the same paragraph “Therefore, in some cases, the Scottish Government intends that it should be up to the local authority to decide whether or not they wish to offer an exemption, depending on whether or not they feel owners have strong grounds for being unable to bring their homes back into use.” MSPs may wish to query whether this statement refers to a specified list of cases or is a more general exemption for local authorities to exercise.

- Paragraphs 41 and 42 of the memorandum refer to specific types of exemption. MSPs may wish to consider the merits of limiting exemptions to those that can be judged by objective facts, i.e. the owner has died (this will be recorded); the property is due for demolition (this will be recorded), etc. Where subjective judgements are necessary this makes any increase harder to administer and to defend locally. Subjective exemptions could therefore result in greater enforcement costs for local authorities. To the extent that some circumstances may cause hardship or merit special treatment, we believe that it is far more effective to offer targeted assistance than to create new types of exemption which simply make the system more complex and cumbersome. Being in a position to offer support, including financial support, to owners who require it in order to make use of their property is much better than trying to create a series of exemptions. In general, we think the creation of classes of exemptions from the levy should be avoided and discretion over the levy exercised sparingly.
• In Paragraph 46 of the Policy Memorandum it is made clear that there is no intention to ring fence the additional money raised by councils above a 100% council tax. The Scottish Empty Homes Partnership believes that councils, at their own discretion, will find it easier to both implement and justify an increase in council tax if at the same time as applying such changes they also make a commitment to use some of the money raised for wider empty homes work, including the provision of advice, information and incentives to owners.

• Lastly, in the interests of transparency, MSPs may consider asking the Minister to set out in a diagram when a levy would be applicable for properties in different situations.

Please contact Debbie King, Public Affairs officer if you require any further information on 0344 515 2447 or email debbie_king@shelter.org.uk.

26 April 2012
SCOTTISH PARLIAMENT
LOCAL GOVERNMENT and REGENERATION COMMITTEE

Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill

Submission from Shetland Islands Council

Submission relates to the consultation in Part 4 of the Bill – Abolition of Housing Support Grants

Housing Support Grant

Shetland Islands Council has been in receipt of Housing Support Grant due to the historic situation brought about in the 1970’s when oil was discovered around the islands leading to the building and commissioning of the Sullom Voe oil terminal. At that time Shetland’s population grew by 40%. Over the two decades of the 1970’s and 1980’s the Shetland Islands Council borrowed approx. £50M on its Housing Revenue Account (HRA). Between 1978 and 2009 the oil terminal has shipped in excess of 1 billion tonnes of crude oil which has contributed massively to the UK and Scottish economies. The debt is oil-related and successive Governments since the 1990’s have promised to provide debt commutation, even when the debt was at its peak of £60M in the mid-1990’s, but to date no commitment has been honoured.

The Shetland Islands Council’s HRA is financially unsustainable without some reduction in the debt it is carrying. The level of historic debt and the Housing Support Grant are inextricably linked.

Today the debt stands at approx. £41M (provisional unaudited outturn for 2011/12). This equates to per unit debt of approx. £22-23k, the highest per unit debt in Scotland. This is confirmed by the Scottish Government report on Local Authority Housing Income and Expenditure 1997/98 – 2011/12, published in September 2011 [1], Section 11, which reports that ‘Shetland continues to have the highest amount of debt - £28,234 per house at 31 March 2012.’

The report goes on to state that ‘Part of the increase in debt per property relates to increased borrowing by councils to meet capital costs of new build housing and improvements to existing houses and reductions in receipts from the sale of council houses.’
The important difference is that other local authorities have been encouraged and have been able to borrow to meet their current investment needs as they have not been in the same position of having the level of historic debt which is constraining Shetland Islands Council’s ability to invest and leaving the council with an HRA which is effectively bankrupt.

Currently Shetland Islands Council’s debt servicing and repayments account for 49% of the expenditure on the account:
Whilst the table on page 2 shows that income from rents accounts for 81% of the HRA income and Housing Support Grant 14%, this has shifted in balance substantially over recent years.

<table>
<thead>
<tr>
<th></th>
<th>2005/06</th>
<th>2010/11</th>
<th>2011/12</th>
</tr>
</thead>
<tbody>
<tr>
<td>% income from rents</td>
<td>56</td>
<td>76</td>
<td>81</td>
</tr>
<tr>
<td>% income from HSG</td>
<td>30</td>
<td>17</td>
<td>14</td>
</tr>
</tbody>
</table>

The amount of Housing Support Grant has substantially reduced over time mainly as the overall amount of outstanding debt has reduced.

<table>
<thead>
<tr>
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<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>£1.99M</td>
<td>£1.8M</td>
<td>£1.6M</td>
<td>£1.4M</td>
<td>£1.2M</td>
<td>£0.99M</td>
<td>£0.76M</td>
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</table>

The Council’s response to the earlier consultation stage of the Bill was that it would only accept the abolition of Housing Support Grant if suitable transitional arrangements could be provided. To date no details have been provided of what transitional arrangements are to be offered.

The housing debt and the Housing Support Grant are inextricably linked and one cannot be solved in isolation of the other. In the papers to the Parliamentary Finance Committee it was suggested that the council should look to resolve the debt issue from its own reserves. The council’s Executive Manager – Finance has provided additional detail on the level of reserves, showing in detail the breakdown of existing reserves across funds. This shows that existing reserves are either committed for other purposes or are held by funds which cannot be applied to the HRA by statute.

That would then leave the council’s 1800 tenants to shoulder the full debt burden of circa £41M. The removal of the 2012/13 Housing Support Grant would equate to either a weekly rent increase of £8.13 (13%) or a reduction in the investment of the housing stock of £760k. With commitments in relation to achieving the Scottish Housing Quality Standard and rents already second highest in Scotland the sustainability of the HRA is questionable.

In addition it should be noted that, through efficient management of the HRA and the benefit of recent low interest rates, the council has reduced the debt from £60M to £40M over a fifteen year period. This has been assisted by the application of Housing Support Grant over time. Without some assistance, either transitional or ongoing, it is not possible for the HRA to continue to manage the debt downwards. It should also be
noted that at current debt level an increase of 1% in interest rates would cost the HRA £450k, the equivalent of £4.80 per week on rents.

Shetland Islands Council is committed to providing a good service to its tenants and to respond positively to housing need in the area. The council is also committed to positively pursuing government incentives and initiatives on investment in stock quality (SHQS), national target for removal of priority need for Homelessness and to address the future supply of housing. With a waiting list regularly fluctuating between 800-1000 applicants and approx. 260 homeless presentations there is considerable pressure on the housing service. There are also additional pressures, costs and constraints in operating a housing service in a remote, island community.

In order to plan effectively for the future, the council has in place a robust and credible Housing Need and Demand Assessment, an assessed and accepted Local Housing Strategy (2011-2016) [2] and has adopted a formal business plan approach to the future financial sustainability of the HRA.

The withdrawal of Housing Support Grant (and the absence of any detail of transitional arrangements) combined with the history of our debt puts the council in a position where it has an historic debt burden falling directly on 1800 current tenants, with:

- No scope to meet further investment in existing stock;
- No scope to provide further new build to meet current overwhelming demand;
- No option but to place excessive rent increases or investment reductions on tenants

Whilst it may appear an inequality that the Shetland Islands Council is the only local authority to still receive Housing Support Grant, its abolition without addressing the historic debt would lead to a situation that would potentially create much greater inequalities for existing and potential future tenants of the council.

[2 www.shetland.gov.uk/lhs/default.asp ]
SHETLAND ISLANDS COUNCIL – FINANCIAL REVIEW OF THE HRA

January 2012

Robert McDowall
McDowall Consulting Limited
Requirements

- Model the long term sustainability of the HRA over 30 years – updated to Yr. 1 – 2012/13
- Highlight financial strengths & weaknesses
- Identify financial risks
- Scenario planning around;
  - Housing Support Grant
  - Capital Programme
  - Housing Debt
  - Rents
  - New Build
Methodology

- Inception & Data gathering
- Data analysis and consultation
  - Housing Support Grant
  - SHQS
  - New Build / Innovation & Investment agenda
  - Risks
- Review of existing model
- Establish Base Case model from 2012/13
- Scenarios and Sensitivity Analysis
- Risk Strategy
- Monitoring & Evaluation
Current Key Indicators & Drivers

Key Indicators

- Mgmt. & Maint. - 16/26 @ £1,779 p. u.
- Super. & Mgmt. – 26/26 @ £415 p. u.
- Debt - £24k p. u.
- Loan Charges – 1/26 @ £1,681 p. u.
- SHQS – currently c. 1% elemental failure but c. 500 properties could be exemptions due to non-gas/SAP ratings

Drivers

- RTBs
- Interest Rates
- Interaction – Gen. Fund & HRA
- Pay Settlements
- Restructuring
- SHQS & Other Standards
- Procurement
- Inflation
- Legislation & Policy Development
Housing Support Grant – revised to £760k for modelling purposes
Rents – current and increasing @ RPI + 0.5% p. a.
RPI – 2.5% for 30 years
Rent Loss – General Needs @ 1.8% - Sheltered @ 5%
Housing Stock Loss – 11/12 @ 20 & 15 p. a. thereafter
Gross RTB Proceeds - £50k p. u. increasing @ RPI
Expenditure/Recharges – as at present increasing @ RPI + 0.5%
R & R Fund (£7.9m) - investment income of £0.35m p. a.
Capital Programme – per current 5 year programme to 2014/15 then £2.5m p. a. thereafter – revised to take account of stock condition survey information and capital plan + 10% add-ons for prelims etc.- subject to reduction in stock numbers
Maintenance – as at present increasing @ RPI + 0.5%
Housing Debt – £39.6m repayable over 39 years
New Build – 30 units
## Debt Servicing Costs: Net Income

<table>
<thead>
<tr>
<th>Year</th>
<th>HSG @ £760k p.a &amp; R</th>
<th>Total Net Debt (incl. New Build)</th>
<th>Debt p.u</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yr 1</td>
<td>46%</td>
<td>£42m</td>
<td>£24k</td>
<td>20%</td>
</tr>
<tr>
<td>Yr 5</td>
<td>53%</td>
<td>£52m</td>
<td>£31k</td>
<td>43%</td>
</tr>
<tr>
<td>Yr 10</td>
<td>59%</td>
<td>£55m</td>
<td>£34k</td>
<td>53%</td>
</tr>
<tr>
<td>Yr 20</td>
<td>46%</td>
<td>£42m</td>
<td>£24k</td>
<td></td>
</tr>
<tr>
<td>Yr 30</td>
<td>20%</td>
<td>£16m</td>
<td>£12k</td>
<td></td>
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<tr>
<td></td>
<td>9%</td>
<td>£8m</td>
<td>£6k</td>
<td></td>
</tr>
</tbody>
</table>

Peak is high but potentially workable - cash balances of £15m build from Yr. 25 on.

Peak is less and therefore potentially more manageable - cash balances of £18m build from Yr. 25 on.
Agenda Item 2
16 May 2012

Base Case – HSG @ £760k p a & R & R @ £7.9m & Income @£350k p a

Debt Profile
Scenario – HSG @ £3m for 5 yrs. & R & R @ £7.9m & Income @£350k p a

Debt Profile
The Shetland HRA is peculiar to that of other landlord Local Authorities

A continuation of HSG at current levels is fundamental to maintain the current viability profile of the HRA

An advancement of future HSG monies to improve both short-term and long-term viability would likely be beneficial to both Scottish Government (via Treasury) and the Council

The Repair & Renewal Fund – the basis of this fund moving forward will continue to be subject to review along with other such funds held by the Council. The current strategic approach will continue with regard to the use of this fund in the future

New Build Council housing is at very best marginal given current rents/build costs/grant availability and a mix of additional grant/capital and increased rents is likely to be necessary to continue the current programme beyond 30 units
The Council should continue to develop its emerging relationships with Hjatland H A and the Private Sector to seek to maximise the opportunities available on Shetland for more mixed tenure new build housing.

Housing Debt – internal arrangements between the Council and its HRA are being placed on a formal long-term footing based on the modelling assumptions.

More positive - The Council is moving towards a more formal HRA business planning process and engage appropriately with Members, Officers and Tenants.

Financial modelling skills and the model itself are being upgraded to take account of the improvement that has been identified in this consultancy work as needing to be achieved at least in the short-term.
Rents – a formal review of rents (in consultation with tenants) would be welcomed to bring transparency and simplicity to future rent charging. The Council should then adopt a longer term view to charging rents by consulting and then adopting a longer-term rent policy.

The current stock condition survey information is fit for purpose at this time. It will be updated on a rolling basis over the next 5 years and will complement the new computer system which is in course of being installed to assist the Council with its future housing asset management requirements.
Housing Support Grant:

Firstly we would like to say thank you for the invitation to attend and submit evidence on behalf of the Shetland Tenants Forum. Shetland Tenants Forum was formed over 22 years ago and has been based here at our Water Lane, Lerwick office for the last 12 years. We are the umbrella group for the 7 Associations we have scattered around the different areas of Shetland.

The Housing Debt we have here in Shetland is not of the Shetland Tenants making, it is of the UK Government in the 1970’s putting pressure on the Shetland Islands Council to get the Oil Flowing through Sullom Voe Terminal, at whatever cost. This consisted of building houses to house incoming workers, new roads, schools etc. We feel that to abolish the Housing Support Grant would be detrimental to the Shetland Tenants, as rents would have to rise and many tenants will not be able to pay a rent increase, this impacts on everything, house repairs, older tenants, working tax credit, lack of affordable housing. Yes we do realise we are the only Council in Scotland receiving HSG, but we are the only Council with a massive Housing Debt of approx. £40M due to the 1970’s Oil era. While we realise the HSG is going to be withdrawn, something else has to be done about the Debt we have hanging over our heads through no fault of our own. Several Governments have promised debt commutation, but no commitment has ever been made. Also you must remember living in a remote Island Community the cost of living is greater than on the mainland of Scotland.

Our Council is not able to build houses at the moment as they have to service the debt first and foremost. Here in Shetland we are in great need of one and two bedroomed properties for the younger people in our communities.

We have been closely consulted and involved here at the STF to keep rents to a minimum increase over the last few years, but now feel our tenants are going to suffer severely if our HSG is abolished and the Debt is not reduced.

We have consulted on this matter with the various Tenants Associations that we have in the surrounding areas of Shetland and you will find their comments on the next page. We felt this was the fairest way to get the broader information from tenants across the Isles, not just here in the Lerwick area.
This is the Views of different Shetland Tenants Associations:

The balance of Shetland life is under threat owing to the lack of houses, a waiting list of around 1000, someone has to bite the bullet and help pay towards servicing the housing debt that is the only way out of our dilemma. If the HSG is stopped, rents will rise to an unaffordable level, this will lead to a spiral of rent arrears, eviction etc.

While we appreciate cuts are on the cards, so is the paying off, of our debt, this needs to be addressed. We feel that if the HSG is abolished then the tenants of Shetland have a bleak outlook, as the rents are going to rise sky high, then the chicken and egg situation comes into place yet again, why should today's tenants be paying for the debt.
No new houses are being built by the local Council owing to them having to service the debt. Our young people have no chance to get themselves on the housing ladder. More tenants will use their right to buy, this reducing tenants paying rent.

They are around 1000 people on the waiting list.

To remove the Housing Support Grant completely is very disturbing. Shetland has a long historical housing debt not of current tenants making, already tenants pay one of the highest rents in Scotland to pay this debt and it is a constant burden which must be considered when setting budgets, not all the implication made in this proposed bill of Local Authorities behaving irresponsibly.
The removal of the Housing Support Grant in Shetland would immediately increase the rents by £10.00 per week or more, something most folk in social housing could not afford to bear particularly in rural areas where the services and facilities are more sparse than in the main town. There is the danger that as more and more people would be unable to pay their rent, eviction would be inevitable and create a spiral of homelessness, etc. putting even more burden on the local authority housing department as there is not enough surplus housing or the funds to build more in the local budget.

As chair I have consulted with other tenants in my group concerning this matter and all are agreed with the bill in general but not to withdraw the Housing Support Grant unless the ministers of this current government assist with the reduction of the considerable debt hanging over the tenants of Shetland Islands Council of which I am one.

We feel that a reduction of the Housing Debt would be the way to go, and would strengthen the case for a more gradual phasing out of the HSG, e.g. over a period of three years at least, however our worst fear is that the tenants of Shetland will suffer. The prospect of an increase of £10 a week on the average rents will not be greeted favourably by tenants, especially those on low income; this will also impact on the right to buy.

If they are going to stop the HSG then it should be done on a phased basis, and not affect the Tenants of Shetland by the rents having to be increased.
While we appreciate the HSG is on the cards to be withdrawn, this should be done over a five year period. We do object to the Shetland Tenants being the people having their rents increased to cover the servicing of the debt. This debt was not caused by us. This was done to support the Oil Industry in the 1970’s, to benefit the Governments income. Living in a remote island does increase the cost of living. The Central Belt of Scotland has a completely different way of life to anyone living on a Scottish Island. Our young people have no incentive in applying for a house, just to be told, they will have a wait of probably up to five years.

If the HSG is abolished this would, inevitably, result in a considerable increase in rents, probably in the region of £10 per week. This will also cause Housing Benefit in Shetland to rise abruptly. Shetland Tenants should not be penalised for this as it is not our fault we have a huge debt.
LOCAL GOVERNMENT AND REGENERATION COMMITTEE

LOCAL GOVERNMENT FINANCE (UNOCCUPIED PROPERTIES ETC.)
(SCOTLAND) BILL

SUBMISSION FROM THE SCOTTISH PROPERTY FEDERATION

1. Thank you for inviting the Scottish Property Federation (SPF) to give written evidence on the Local Government Finance (Unoccupied Premises Etc) (Scotland) Bill. We are happy for our comments to be made public.

2. The Scottish Property Federation is a voice for the property industry in Scotland. We include among our members; property investors and developers, landlords of commercial and residential property, and professional property consultants and advisers. We have some 120 corporate members.

3. We remain deeply concerned at the proposals in the Bill to reduce rate relief for empty properties in Scotland. We are convinced this is a serious mistake and will undermine competitiveness and incentives for investment in Scotland. In our view the measure will have consequences that go far beyond the stated intention of seeking to reduce the numbers of empty shops in the high street.

4. Our key concerns are:
   - We find no evidence that reducing rate relief will improve occupancy rates;
   - Reducing empty property rate relief will have unforeseen consequences for the market, including an increase in businesses being placed into administration;
   - We continue to fear that the additional cost impact on ratepayers will be higher than the published forecast figure of £18mn per annum;
   - That the impact on public sector ratepayers, pension funds and other investors is significant and undermines the attractiveness and competitiveness of Scotland as a place to invest in commercial property.

5. Before proceeding with our detailed comments we would acknowledge that the reformed system will retain an important difference with England in terms of Scottish industrial premises being allowed to retain 100% empty property rates relief.

Consequences of reduction of rate relief

Reducing rate relief will create a perverse incentive to put businesses into administration

6. The decision to all but remove empty property rate relief from offices and retail units in particular introduces, what is in our view, a perverse incentive to cause businesses to be put into administration. We have been informed that the prospect of paying significant amounts of empty property rates will change lender behaviour as they will not wish to incur additional costs running into hundreds of
thousands or even millions of pounds in extreme circumstances. We understand indeed that in certain large scale administrations south of the border that the impending increase in empty property rates was a significant factor. In such circumstances where a lender places a business into administration the Scottish Government may actually ‘lose’ revenue from empty properties that may previously have been paying 50% of their nominal liability. This is because properties in administration may well, with the appointment of the administrator, still be liable for business rates but in practice the collecting authority will only be one among a range of unsecured creditors and there will be no certainty of ever collecting the rates.

*Reducing empty property rate relief is a deterrent to development & major capital investment*

7. The prospect of paying increased amounts of vacant rates for new speculative commercial development is a significant deterrent to developers and investors in an already risk averse economy. The increase of rates liabilities by a potential 80% will have a major impact on project viability appraisals. Securing pre-lets whereby a developer has already let a property before it is finished is of course the ideal outcome but this is extremely difficult to ensure. Corporate occupiers wish to move into space quickly and do not like to await the development with all the risks of delay associated with the planning system and construction activities.

8. As an example, for a typical 50,000 sq ft City Centre office building (in say Edinburgh or Glasgow) you would expect to account for an empty rates liability for a duration of 18-24 months in a typical viability appraisal, for which we estimate an annual liability (at 90% empty rates liability) of circa £600,000 (totalling £0.9mn - £1.2mn). To put this into context the completed development would have a value of circa £22mn based on a rental value of £28 per sq ft and an investment yield of 6% for which a developer would expect a profit margin of circa 15% of development value or £3.3mn. On this basis the total empty rates liability equates to some 30% of the profit which as explained has a fundamental impact on viability.

9. As economic growth returns it vital that the development sector is encouraged to supply the appropriate quality and quantity of property to support businesses. Charging almost full rates is a major deterrent to would be developers in a funding environment more risk averse and consequently reluctant to support real estate initiatives.

*Reducing empty rate relief does not improve occupancy rates*

10. The reduction of rate relief has been argued by some to be a necessary measure to force landlords to let properties at a lower rent. This ignores the substantial and widespread incentives for tenants that have become a hallmark of the property markets for several years now. Evidence shows that properties are vacant because of a lack of demand, driven by the recession and changing consumer behaviour (in relation to retail and the growth of online shopping). In England retail vacancies stood at 3% in the year of the removal of empty property
rate relief. Today that figure stands at 15% demonstrating that the policy has had no effective influence on occupation in the four years it has been in force and has consequently exacerbated the situation through increasing tax on struggling businesses and deterring investors through punitive empty property rates charges.

11. There is also a concern that the loss of relief may cause certain properties to be rendered incapable of occupation or even demolished as evidenced when the policy was introduced in England. This of course will not support the supply of commercial property and will actually reduce choice for businesses.

12. There is a risk that the reduction of relief will also cause properties to be turned to other uses than they were originally intended for. While we would accept that there will be a requirement in the future for many vacant shops for example to be turned to different uses, or indeed older secondary offices perhaps, the government will wish to ensure this process is controlled and does not result in an excess of non-business premises that changes the nature of a local area.

13. There have been public comments that suggest a view that landlords are happy to allow empty premises to remain empty in order to ‘hold out’ for higher rents. We disagree with this perception. Our members have reported considerable incentives being offered to tenants in order to secure their custom. One recent anecdotal example reported by a member was for a five year lease with a three year rent free deal that was combined with a three year break clause! This is not unusual in what has been established as a weak market for landlords. In addition property owners are already paying a 50% rate for non industrial subjects – this is hardly an insignificant level of tax on premises that are producing no benefit for their owner.

14. In addition little account has been taken of the problems landlords may have in terms of significantly reducing rents to incentivise take up of empty property. The landlord may not have as much control as the Scottish Government may believe. Reductions in rental income and hence value may impact the capital value of their asset and in any case are very likely to require the approval of their lender before the property can be let. Indeed if capital values do begin to be negatively influenced by falling rents then it is possible the landlord may breach his or her bank covenants and consequently become vulnerable to receivership.

Concerns with the Scottish Government’s estimation of the cost of reducing relief to ratepayers

15. The SPF has already indicated in both written and oral evidence to the Finance Committee that there will be considerable additional costs to its members with unforeseen consequences for the market, including an increase in businesses being placed into administration. From the outset we have harboured concerns with the figure of £18mn in additional business rates being liable for ratepayers as a result of the proposed change in policy. We identified a sample of some 1,500 vacant properties that did not include industrial premises or premises thought to be eligible for the Small Business Bonus Scheme. This sample
represents around 10% of the estimated total of vacant properties facing an increase in liability next April 2013 (should they remain vacant). From this small sample of 10% of potentially affected properties we calculated a total of some £70mn of rateable value which would suggest an increased empty rates liability of just over £14mn. Given the small size of the sample used we are concerned therefore that the cost of reducing the relief to ratepayers will be more than Ministers anticipate.

16. Based on our own property data research we believe that certain assumptions may have been made in the government’s analysis about the interplay of empty property rate relief with other forms of rate relief and the movement of properties from 100% relief to 50% relief. We believe that some of these assumptions may be challenged, for example in the sample we considered most properties had been vacant for some considerable time and we excluded very few from our calculations on the basis that they might be eligible for the small business bonus scheme.

Significant costs for the public sector and investors

17. Our analysis also began to examine who would be liable for the additional rates that would be incurred. We have found some considerable costs from even this small sample for the public sector and a considerable impact for investors, including many pension funds (including public sector pension funds). It should be remembered also that liabilities may well follow businesses, including smaller businesses, seeking to downsize or upsize if they cannot dispose of their former lease. From this perspective the policy is something of an own goal as liabilities will also increase significantly for a number of public authorities including Scottish Enterprise, Dundee and Glasgow City Councils. It must be a concern for these authorities that this cost will need to be balanced by cuts elsewhere in their budgets.

Conclusion

18. In summary we feel that the proposal to reduce empty property rates relief is based on a misconception of the market and will be a significant cost to businesses, the public sector and investors including in particular pension funds. The measure will be a significant and perverse incentive for lenders to place businesses into administration and will also undermine the attractiveness of Scotland as a place to invest in and build speculative commercial developments.

19. The breadth of those within and beyond our membership who have criticised the proposal to reduce rate relief for empty properties is striking. Lenders, investors, businesses, local authorities, corporate occupiers as well as developers and landlords have expressed their great concern at the consequences and costs of the policy of reducing rate relief for empty premises. In addition our feedback from colleagues at the British Property Federation on the evidence of the policy in England is that there is growing political concern in some quarters at the consequences of the removal of empty property relief. Vacancies remain high, development is low and in fact the estimated savings to the UK Government are
not as expected. Even at this stage therefore we urge Scottish Ministers to think again about the practical consequences of reducing empty property rate relief which we believe amounts to an increase in tax on an extremely vulnerable market.

20. The SPF would be pleased to explain its views further at the Committee's convenience.

David Melhuish
Director
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GENERAL
- Scottish Land & Estates is supportive of charging a Council Tax levy on long-term empty homes only where it is part of a package of measures to bring such properties back into use.
- It is important to ensure that the motivation for such a levy is not additional income generation for local authorities.
- To penalise owners of properties that required renovation or were in the process of renovation would be nonsensical and potentially counterproductive.
- There must be flexibility of approach by local authorities, as well as advice and information for owners and incentives.
- There must be proportionate levels of enforcement.
- The general condition of the economy requires to be considered as part of the review of non-domestic rates.
- We do not have comment to pass on the abolition of the Housing Support Grant.

RESPONSE TO SPECIFIC ISSUES
- Council’s should be able to apply additional time-limited exemptions in certain circumstances.
- There should be a duty on homeowners to inform their local authority where a home has been empty and unoccupied for 6 months.
- There should remain a distinction between an empty home and a second home.
- Long-term furnished and unfurnished properties ought to be treated the same.
- Revenue raised should be used to provide or enable affordable housing supply through a variety of ways, including funding infrastructure costs for such provision, especially in rural areas.

Scottish Land & Estates (formerly The Scottish Rural Property and Business Association) is a membership organisation, uniquely representing the interests of landowners and land managers in Scotland. Our membership includes those who own farms, landed estates and rural businesses throughout Scotland, as well as professional firms who advise rural landowners. Accordingly, Scottish Land & Estates and its membership are key stakeholders and therefore are pleased to take this opportunity to submit written evidence on the content of the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill.

GENERAL COMMENTS:
As a member of the Scottish Empty Homes Partnership, Scottish Land & Estates agrees in principle with the removal of the current Council Tax discount on long-term empty properties as part of a package of measures and that there should be the ability...
to charge an additional levy equivalent of up to 100% of the Council Tax on long-term empty homes, where such purposes meet clearly defined criteria. However, it is important that local authorities are able identify local solutions to local problems and are not mandated to follow a blanket approach. Scottish Land & Estates does remain in favour of a sliding scale with a gradual increase to 100% over time.

We are concerned about the possibility of some properties simply being raised to remove liability for this additional levy or for others to be made into self-catering properties. Clearly neither result would make further housing stock available and in fact may make the letting of properties a less viable attraction for some owners thereby providing less affordable rented properties. These concerns need to be addressed.

On a practical level it requires to be borne in mind that abandoned houses in remote places will be caught by this additional levy when due to their remoteness they are either not of interest to a prospective tenant or would be uneconomic to refurbish. There are significant costs involved in refurbishing certain properties and the taxation position can change dramatically dependent upon circumstances, for example a period of non-occupation for 3 years prior to re-letting reduces the applicable VAT from 20% to 5%.

It is paramount that in the desire to bring empty properties back into use, owners are not penalised where steps are already being taken in good faith to refurbish empty properties. In fact, a wider package to incorporate incentives such as grants or loans to bring properties back into use and the provision of specific advice and information for owners of empty homes requires, to be part of the overall approach to empty properties in Scotland.

Response to specific issues:

It is recognised that local authorities may charge penalties of up to £200 where the owner either does not provide required information or provides false information. This is an increase from the current £50 penalty which it is appreciated, may not be cost effective for a local authority to pursue. Scottish Land and Estates agree with the need for a proportionate penalty. It is important the sanction is appropriate.

There is provision to enable some owners to claim a time limited exemption from the tax increase i.e. they would continue to pay council tax at a discounted rate of between 10% and 50%. This would be in addition to any existing time-limited exemptions the owner is eligible for and this would apply for instance after the six months period during which all homes classed as long term empty properties would be eligible for a council tax discount between 10% and 50%. This is welcome, for instance the mandatory exemption from the tax increase for up to twelve months for owners who are proactively attempting to sell their home at a reasonable price.

It is noted that the evidence justifying the exemption would be a matter for each local authority, and basic confirmation that property is on the market and a comparison of price with Home Report Valuation should be all that is required to avoid unnecessary costs or bureaucracy. Any exemption system should be straightforward and not unnecessarily burdensome.

Where a home is unfurnished and the local authority is satisfied that it is actively being marketed for sale, the owner may be exempt from Council Tax altogether for the first six months and then able to pay Council Tax at a discount rate for up to 18 months.
Once empty for two years, the owner would become liable for any increase the local authority decided to impose.

In terms of commercial properties and non-domestic rates it is thought that the period of exemption should be extended (or the 50% relief left in place) where properties are being refurbished and those refurbishments include improved energy efficiency measures.

A member of Scottish Land & Estates has illustrated the damage that was done to their small business, a rural business centre, particularly during these recessionary economic times, by levying non-domestic rates on empty commercial property.

In rural areas there are much fewer opportunities to attract new tenants during a recession than there are in urban areas of high business activity. This is a simple numbers game. Our member leased out office units which has been 90 - 100% full most of the time, ever since the early 1990s.

They are responsible for paying the non-domestic rates on the boardroom which is rented out on an hourly basis to tenants. However, they normally qualify for small business rates discount up to 100% as they have less than £20,000 of rateable value space in Scotland (tenants pay their own rates).

In summer 2011, one tenant went into administration and was then liquidated: 1 office vacant (and considerable expense required redecorating and re-carpeting – normally outgoing tenant’s responsibility). In September 2011, a large tenant who rented 4 offices at the Centre left to establish their own purpose built premises: 4 offices vacant. So our member ended up with 5 vacant offices (one since re-let in February 2012).

After the 3 month “non-domestic rate” when a property first becomes vacant, the local authority began charging our member 50% of the normal rates payable on these 5 offices. In addition, all the vacant offices become our member’s responsibility for non-domestic rates and so they lost their Small Business Rates Relief.

To put things in perspective, the average quarterly rent for each of the above-mentioned 5 offices is £2,500 (£500 per month x 5 offices) = Total Rental Income lost £2,500 per month.

The additional non-domestic rates they are currently paying per month (50% of full rates payable) add a cost to our member’s business of £1,000 per month. The business receives a net negative impact from loss of rent, loss of small business rates relief and non-domestic rates obligations of £3,500 per month.

In addition, as is standard with many rural and urban businesses, there are still considerable costs (Service Charges) to cover such as maintenance, alarm systems, external and emergency lighting, etc. The Business has to pick up the vacant units’ share of these (all costs are calculated on a square meterage of floor space basis). Clearly, they cannot increase the other tenants’ costs to cover vacant units’ share of service charges. When those costs are added in, that cannot be passed on when units are vacant, there is another cost per month of circa £500 to add into the equation.
Total cost to our member’s business is therefore £4,000 per month (including lost rent). Excluding lost rent, the specific cost of vacant property non-domestic rates and lost Small Business Rates Relief equals £1,500 pcm.

Apart from the fact that there is less income coming in to cover the costs illustrated above, our real concern is that private, rural, estate-run businesses pay considerable charges for rubbish collection and cardboard & paper recycling collections. They often also have their own waste treatment system (septic tanks for each building) and so do not receive many services from their local authority. It is simply a local tax. They often pay Scottish Water for their water and all other utilities.

In rural areas in particular there are therefore real concerns at present time in terms of the “costs of not doing business” culminated with the loss of rent already hitting business due to vacant offices.

In fairness our member has indicated that the local valuations office acknowledges that these charges are “unfair” but they simply point out that they are following Scottish Government guidelines.

**Other Issues Not Covered by the Bill:**

Scottish Land & Estates wishes to make the following comments on other issues relating to unoccupied properties and Council Tax:

Where there is a planning application to convert old housing into business premises there is very often an issue of deterioration in condition of the property which, because it is designated for complete change of use, makes it unrealistic to upgrade as an existing house or houses (e.g a Stable Block that may have several houses in it).

Where the local authority is aware that planning application procedures have been instigated and an application made for the change of use involving considerable expense, it seems unrealistic and unreasonable to treat said empty housing which is empty due to deterioration of condition (in other words not fit for habitation) as a normal lettable empty property.

We suggest that in such cases that local authorities be advised to establish the condition of the housing and also confirm the planning application process in order to “zero rate” the relevant house(s) for council tax. 50% empty property relief can still be very expensive when the property is clearly not going to be inhabited due to the change of use proposed.

For further information or clarification on this written evidence, please contact

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The Convener: We move on to agenda item 2. Margaret Mitchell has a declaration of interests.

Margaret Mitchell (Central Scotland) (Con): I declare ownership of 1 per cent of the issued share capital in Fairfield Properties Ltd.

The Convener: Agenda item 2 is oral evidence as part of our stage 1 consideration of the Local Government Finance (Unoccupied Properties etc) (Scotland) Bill. We have three panels of witnesses. I welcome our first panel. They are Jim Hayton, who is policy officer with the Association of Local Authority Chief Housing Officers, and Kristen Hubert from Shelter Scotland, who is coordinator of the empty homes partnership. Thank you for coming.

Will you give an outline of the reasons why properties are empty in Scotland, and of the difficulties that local authorities face in trying to help owners to bring properties back on to the market and back into use?

Kristen Hubert (Shelter Scotland): We work with councils to help them to develop processes to bring private sector empty homes back into use. Homes can be empty for many reasons, but it is not usually because of an issue with the property—generally, it is because the owner has got stuck somewhere. They might have an issue with making the best economic use of the property, have a fear of becoming a landlord, not have sufficient money to renovate it, or need information about how to rent or sell the property in its current condition.

The challenges that councils face are to do with working with owners to get through those issues. One challenge is often to do with staff resources. Another is about giving owners the incentive to bring properties back into use. We work with councils to develop a process that starts with advice and information. We then work with councils to develop incentives, loans and grants to encourage owners to bring property back into use for affordable housing. In the worst cases, enforcement is an option. We see the powers that the bill will give councils as being part of that process. The bill is not a stand-alone measure, but is part of a wider approach to bringing empty homes back into use.

Jim Hayton (Association of Local Authority Chief Housing Officers): Local authority chief housing officers rely quite a lot on the empty homes partnership and its research and
information. I agree with most of what Kristen Hubert said. One obvious reason why homes are empty is to do with the current economic circumstances; developers might have new-build property that they are unable to sell, or people might have inherited property and be unsure what to do with it. As the market has flattened, people have found it difficult to sell property. There are also individuals who own property but who just have difficulty understanding the options and how they might bring the property back into productive use. There are a myriad of reasons why property might be empty.

The Convener: Kristen Hubert said that the proposed legislation might be helpful. Do you agree?

Jim Hayton: Yes. As we said in our written evidence, the bill gives a discretionary power, but it is a helpful tool in the toolbox for local authorities and not primarily because they will be able to raise extra income from empty properties. The bill will give us a lever to try to engage with owners who might, as Kristen Hubert said, be stuck and be uncertain about what to do. Authorities are getting better at giving advice and information to point owners in the right direction and to signpost them to possible solutions. That might mean properties being managed by letting agents on behalf of owners who do not want to get into the bureaucracy and the minutiae of letting.

We welcome the bill for those reasons, but most of all we welcome it because of the huge and pressing problems of housing need. Public and private resources are in short supply for new affordable housing. We should welcome anything that can be done to augment the supply by using the resource of empty properties—some people estimate that there are as many as 25,000 of them—to get people who need homes into decent homes.

Anne McTaggart (Glasgow) (Lab): You have both spoken about ways in which the bill will assist. Will you share with us some of the ways in which the Scottish Government and local authorities could support owners of empty properties to bring them back into use?

Kristen Hubert: We work with councils to develop a number of ways to do that. As Jim Hayton said, the bill will provide a revenue stream, but we hope that councils will plough some of that revenue back into empty homes work, by recycling it back into advice and information for home owners who need signposting and information on how to rent or sell.

Councils should also consider recycling some money through incentives. For example, South Ayrshire Council has a recyclable loan fund for empty homes. The council gives home owners a certain amount of money to bring their home back into use, but they need to give nomination rights to the council for X years; the council gives an incentive, but it gets something back through housing supply. There are different models of incentives, so it does not have to be exactly that approach. There can be grants or different models of loans.

We are also developing match-making schemes such as the homes again project in the south and east of Scotland, which is about trying to match people who want to sell with people who want to buy. There are various creative solutions. For the worst cases enforcement is available, which councils would consider as a very last step. The levy is a punitive measure, but it gives a flavour of the true cost of empty homes to the community at the same time as it provides a financial incentive for the owners to do something with their properties sooner than they otherwise would. It also provides a revenue stream to the council that it can recycle into the wider approach to helping owners before they get to the point of being charged a levy.

Jim Hayton: Local authorities are getting better at understanding the empty homes problem and the reasons why homes are empty. That understanding is critical to their taking effective action. They are also getting better at developing empty homes strategies. The local authority that Kristen Hubert mentioned, South Ayrshire Council, has an excellent empty homes strategy, which I read the other day. Some local authorities have specifically designated empty homes officers whose role is to identify empty homes and the people who own them so that we can engage with those people and explain the options and resources that may be available to help to bring the homes back into use.

Resources are critical—not specifically large resources to enable authorities to provide grants or whatever, but resources to facilitate things such as the revolving loan funds that Kristen Hubert mentioned. It may be possible to give owners interest-free loans to enable them to carry out essential repairs in order to get homes back into use. As you would expect, we speak regularly to Scottish Government officials. I was pleased to hear recently that there are proposals for a budget to be established that authorities can avail themselves of and use for the purposes that I have just described.

Margaret Mitchell: Good morning. Can you expand a little on the issues surrounding the use of enforcement powers—the new powers, in particular—and the barriers that might exist to local authorities using those powers? You have both highlighted potential barriers.
Kristen Hubert: Are you referring to the powers in the bill?

Margaret Mitchell: Yes—I mean the new powers.

Kristen Hubert: There is a potential cost in identifying where people have started to declare their property as a second home instead of a long-term vacant home. This will be the first time that councils have had the power to tax different classes of home differently, so there is a risk that people will record their properties erroneously, which will lead to increased enforcement costs. We believe that, if enforcement is part of a wider approach and if staff resources—ideally, an empty homes officer—are allocated to keeping an empty homes database and updating it as owners are contacted and worked with to try to bring property back into use, the enforcement costs should be lower because councils will have a better idea of what is out there and of the status of the empty homes in their communities. That is slightly different from a council officer simply having a spreadsheet and seeing numbers moving. We think that that should help.

Jim Hayton: As we say in ALACHO’s written submission, one of the barriers to enforcement that colleagues have identified is that most directors of housing are not directly responsible for collecting council tax. The expertise in the information technology and the systems tends to reside within the benefits and revenues and IT staff.

Another barrier that finance staff have identified is the fact that the penalty of £50 that could be levied would frequently not cover the cost of trying to pursue enforcement. The penalty for withholding information or providing erroneous information can be up to £200. Like Kristen Hubert, I hope that that would be a very last resort and rarely used, but at least it would make it more economically viable to pursue cases in which people are minded to try to circumvent the legislation.

Margaret Mitchell: Glasgow City Council has expressed concerns that the costs of enforcement might outweigh any additional revenue. In addition to the increase to £200 of the fine for non-notification, which you welcome, do you think that the new powers will be useful to local authorities?

09:45

Jim Hayton: Yes. The feedback that I have heard suggests that they will be helpful.

One of the things that we welcome about the proposals is their flexibility. They allow councils to make decisions about the problems that they face. Some problems will be more significant in some areas than in others, but the way in which the proposals are framed gives councils the discretion to decide whether the cost of implementing the legislation will merit the benefits that will come from it. That is to be welcomed.

Margaret Mitchell: That flexibility has been welcomed in all the submissions.

Kristen Hubert: I agree that it is to be welcomed; there is flexibility for the council to decide whether something makes sense financially.

In addition, some councils have come to us about the problems that empty homes are causing in communities, with neighbours feeling unsafe and communities being run down. If councils had that wider approach in place, with not only the levy but empty homes officers working with and trying to help the owners, it would add something to the mix because it brings a recognition of the costs and a revenue stream that can fund other helpful work.

The Convener: The cost of the levy might be in the region of £1,000. Is £200 a high enough fine for failure to provide information? Glasgow City Council has suggested that it is too low. Should it be higher in order to provide a real incentive to people to come forward with the information?

Jim Hayton: I do not have enough evidence from across Scotland to make a definitive judgment on that. I imagine that a council such as Glasgow would know the costs in some detail, and if it is saying that the fine is a bit low, I would reserve judgment on that. It is a fourfold increase in the current fine, so in that sense it is potentially significant.

Kristen Hubert: We have not taken a view on the level of fine.

Kevin Stewart (Aberdeen Central) (SNP): I have a question for Mr Hayton on ALACHO’s position on the cost of implementation. Would it be possible for folk who are already in the housing service to become the guardians of the proposals, rather than appoint an empty homes officer?

Jim Hayton: Yes. As you will be well aware, there are people in councils that are going through efficiencies at the moment and sometimes people are being displaced. It is possible that the expertise to do that kind of work will be available in many councils—certainly in larger councils—and that it can be deployed within the council. There will be other councils that do not have that expertise. However, people in council departments other than housing, for example finance departments, could carry out that kind of work.

Kevin Stewart: I have a question for both witnesses about the current level of homelessness officer provision. In implementing the provisions, in
some local authorities there may be a case for reducing the number of homelessness staff and putting them on to this kind of work in order to reduce homelessness.

Kristen Hubert: I am not sure whether that would be a displacement because homelessness officers do other work. The councils that we work with have three full-time empty homes officers. In all the other councils, the job is wrapped up as part of other jobs—for example, the role of private sector housing officer or local housing strategy officer. That works well in some areas, but in others it would be a stretch for such officers to take hold of that. That is why if councils choose to charge the levy, we would like to see them recycle some of that money back into wider work, some of which could be to fund the staff to maintain the database and engage with owners. We would like councils who decide to go forward with the levy to take that wider approach.

Kevin Stewart: Which three councils are you working with?

Kristen Hubert: We are working not with three councils but with three full-time empty homes officers in Scotland. South Ayrshire has an empty homes officer and two are shared between Fife, West Lothian, East Lothian, Scottish Borders and Dumfries and Galloway, which has a renewal area—the homes again project.

Kevin Stewart: Thank you.

Jim Hayton: My view is that councils would be delighted if, as a consequence of empty homes work or any other work that they did, homelessness applications and the number of homeless people came down to the extent that it would free up officers to do other things. It would be an unqualified success if we arrived at that position.

John Pentland (Motherwell and Wishaw) (Lab): ALACHO’s written submission says that you are disappointed that additional revenue raised will not be ring fenced. What are your views of the Scottish Government’s proposal to allow local authorities discretion in how they spend the additional income that is raised from increased council tax charges for long-term empty properties?

Jim Hayton: As I recall it, the proposal in the original consultation suggested that any additional income raised from the new levy might be ring fenced for affordable housing purposes. As a housing professional representing housing professionals, I thought that that was a good idea. I fully understand, however, having worked for a local authority, the corporate nature of local authorities and I fully understand the position of the Convention of Scottish Local Authorities, which is that councils should be at liberty to spend resources as they see fit. I would probably defer to that view, while continuing to use any influence that ALACHO might have to emphasise the benefits that can come from spending on affordable housing and the empty homes initiative and hoping that individual councils might make that choice.

However, at the end of the day, I am fully aware that the responsibility for disbursing resources should properly lie with local councils, so I do not have a huge issue with that. As I said, we will use what influence we have to persuade people of the merits and benefits of housing expenditure.

Kristen Hubert: My view is similar to Jim Hayton’s. Obviously, we were in favour of the money being ring fenced for affordable housing initially, but we understand COSLA’s position. As I said, however, we would like to see councils choosing to recycle some of the money for the wider empty homes approach.

John Pentland: The income that will be generated from the new power will be in the region of £15.5 million, according to the financial memorandum. Do you think that that is an overestimate or an underestimate? What impact would that level of resource have on helping to bring empty properties back into use?

Kristen Hubert: It is hard to say what the figure would be because it will depend on how many councils choose to use the power. I presume that the estimate is based on full enforcement, which will be difficult to achieve. However, if any money that is brought in from the levy is recycled back into wider empty homes work, it will have an impact. There are not many resources for empty homes work in Scotland. There is the recently announced £2 million national loan fund, which we are quite happy about. Besides that, it is up to councils to allocate their money to empty homes work. If they had the new stream, any money that was brought in could make a significant impact.

Jim Hayton: I broadly agree with Kristen Hubert. It is hard to estimate the sum at the moment, because of the nature of the proposed legislation and its discretionary element. As with any new policy, it will be important for us to monitor it early on. It would be great to identify the kind of areas where extra income is being raised and is being used to do good things, because those examples of good practice can be used to encourage others to do the same.

The Convener: Some people have suggested that the policy will unfairly penalise property owners. Has the Government got the balance correct? Should the Government be considering what mechanisms can be used to ensure that the system recognises when someone is genuinely trying to bring a property into use but is unable to
do so, in order to ensure that we do not penalise the wrong people?

Kristen Hubert: Part of getting the balance right involves the wider approach to empty homes. First, the power to charge the levy recognises that empty homes represent a cost to the community in relation to issues such as fly-tipping, overgrown gardens, police and fire call-outs and so on, as well as factors that are difficult to calculate, such as the loss of the money that would be spent locally if a family were living in the property and the drop in the value of neighbouring properties—the Empty Homes Agency has estimated that the value of a property that is near an obviously empty home can go down by 18 per cent. The current discount perhaps does not reflect those costs to the community.

If the levy is being charged as part of a wider approach to empty homes work, the owner should be given every chance to bring the property back into use. The proposal is that the levy will not be charged until the home has been empty for a year, so that gives an empty homes officer time to provide advice, information, signposting and incentives, if they are available, and to work through any problems that the owner has gotten stuck with.

We warn against having too many exemptions that are subjective, because that makes the system more expensive to enforce. We would like the balance to be on the other side, where someone who is in genuine hardship and is doing everything that they can to bring the property back into use is given incentives and financial help from the council, using money that has been recycled from the levy. That would be preferable to providing exemptions for this and that, which would be quite difficult to keep a handle on.

Jim Hayton: ALACHO believes that the Government has got the balance broadly right. There remain a number of what could be termed reasonable and humane exemptions—situations in which someone has died and there has not been a grant of confirmation yet, for example. Obviously, the legislation will be backed by regulations. ALACHO and others are working closely with Scottish Government officials to establish what those regulations might look like. My understanding is that they will be scrutinised by this committee, too.

It would be wrong if the measure were seen as a draconian instrument that serves only to take money from people. However, we are content that the balance is pretty much on advice and information. Looking in from the outside, it is hard to understand why someone might be simply sitting on a property from which they could generate a considerable income but, as Kristen Hubert said, sometimes people get stuck with a property that they are unable to sell and are intimidated by the prospect of letting it, even though that could be a productive resource for them. If we and our partners can ensure that people have the information that will help them to get through that, that will help to demonstrate to the public that a balance has been struck in the interests of everyone, and that the measure is not just an attempt to raise extra revenue for local government.

James Dornan (Glasgow Cathcart) (SNP): What are your views on the Scottish Government’s proposal for the mandatory exemption from any council tax increase for up to 12 months when the owners are proactively trying to sell a property at a reasonable price, if the council has evidence that that is the case?

10:00

Kristen Hubert: It is not clear to us from the policy memorandum what the council would use for that evidence. I think that the policy memorandum says something about the home report valuation and the property being on the market, but we need further clarity about what councils could use for that evidence. Obviously, it makes sense that something like that could result in an exemption, but one would have to be quite careful about what was used, as one could see all sorts of challenges coming up to that.

Jim Hayton: I broadly agree with Kristen Hubert. It could be difficult to establish precisely what the evidence might be to demonstrate that someone was proactively trying to sell a property. It is clear that the existence of a home report would be a prerequisite, and there could be adverts or perhaps even formal offers that had been received and refused. However, that will be for councils to work up. I am not sure whether that matter would be included in the regulations, but we would want to have a further look at it.

In principle, the suggestion that it would be unfair to penalise people who are genuinely trying to sell their home is reasonable. All of us know people who are trying to do that in the current market with little or no success. We should make the effort to establish criteria that would demonstrate that there was sufficient evidence that people were trying to sell their home before a 100 per cent levy was imposed, in the event that a council proposed to do that.

James Dornan: Can you think of any other mandatory exemptions that you would consider?

Jim Hayton: No. We considered that question just the other day, and the list that we have is reasonable enough to be going on with.
Kristen Hubert: I think that the existing list covers things. As we have said, we would not want to see additional subjective exemptions, as that can cause all sorts of enforcement issues.

James Dornan: The Government proposes to allow local authorities to offer a discretionary time-limited exemption from any additional council tax charge in two circumstances: where the council is satisfied that the owner is actively trying to let the property—that circumstance is pretty much the same as the one that we have just discussed—and where a registered social landlord has homes that are needed for use as temporary accommodation, but which are sometimes left empty for long periods because their use is linked to a demolition and new-build or reprovisioning programme.

Jim Hayton: Again, those are both reasonable provisions. The first involves someone having difficulty letting. It would probably be easy to assume that, in the current climate, it should not be too difficult to let in most parts of Scotland, but there will be areas and circumstances that make letting difficult. Again, the council, by effectively providing advice and information through an empty homes officer or whoever, might help. Perhaps it could signpost owners to reputable letting agents who might be able to do the job for them. As long as there is evidence that someone is actively trying to get their home back into productive use, we should accept that.

On the second circumstance, councils may be involved in regeneration schemes that are spread over a number of years from start to finish. It might not be unusual to take four or five years to regenerate an unpopular council housing estate, and a council might need to keep a stock of houses available for people as they move in and out of regeneration—perhaps while they wait for a new house to be built. Again, I do not think that the provision is an unreasonable one that ALACHO would not support.

Kristen Hubert: The Scottish empty homes partnership works purely on private sector empty homes, so I cannot comment on the second circumstance. The first potential exemption would have to be based on local circumstances. If there is a particular area in which it is felt that letting is more difficult, that could be looked at, but we caution that that could be quite subjective. It is quite difficult to see how one would evidence that there was advertising at the right price, for example. That approach could cost more for enforcement than it brings in. However, we are happy for that to be a decision for the local council.

James Dornan: Do you agree that the regulations should set a maximum charge that local authorities could make and that that should be 100 per cent of the standard council tax rate for an occupied property?

Kristen Hubert: We are happy with the proposal as it stands.

Jim Hayton: Likewise.

James Dornan: Do you have any other comments on the detail of the regulations?

Jim Hayton: No. As I have said, work in that regard is still on-going. We are delighted to have been asked to work with Scottish Government officials to ensure that the regulations adequately support the primary legislation and give effect to the proposal.

Kristen Hubert: We have raised a couple of points in our written evidence. First, paragraph 40 of the policy memorandum talks about giving local authorities the power “to offer an exemption, depending on whether or not they feel owners have strong grounds for being unable to bring their home back into use”.

It is not clear whether those are specific or broader exemptions, and I wonder whether that question might be raised with the minister. The other point that the committee might wish to consider relates to the definition of second homes and the potential for people to declare their properties as second homes rather than as vacant properties to avoid the charges.

Kevin Stewart: Mr Hayton, what are your views on the Scottish Government’s proposals to end the system of paying housing support grant to local authorities?

Jim Hayton: We mention the issue briefly in our submission. Although the policy memorandum gives reasonably convincing reasons for the move and although we broadly support it, we are concerned about the potential disadvantage that might be visited on the tenants of the only authority to receive the housing support grant—the committee will hear from representatives of Shetland Islands Council in a moment—and we think that the Government should think carefully about putting in place transitional arrangements to ensure that those tenants do not suffer unduly from its removal.

The Convener: Returning to Kristen Hubert’s point about second homes, I wonder whether including a reference in the bill to second homes would make things clearer and more straightforward and ensure that, where appropriate, councils could charge the extra amount.

Kristen Hubert: It would make things more straightforward. The use of the power should be at the council’s discretion, but we know of areas in
which such an approach would be favoured. It would certainly make the issue go away.

**The Convener:** Do you have any thoughts on the matter, Jim?

**Jim Hayton:** ALACHO has not specifically discussed the issue so, at this stage, all I can say is that we are content with the current proposal.

**Margaret Mitchell:** At the very beginning of the meeting, Kristen Hubert said that there are various reasons why houses or commercial properties might be left vacant. The bill will certainly help in situations where the owner is simply being wilful, but can you think of any examples in which it might be unhelpful and where you hope that the regulations will not make things worse?

**Kristen Hubert:** The policy memorandum details exemptions for vacancies arising from, for example, a death or someone going into care. I like to think that councils will use the power as part of a wider approach, including an officer who—

**Margaret Mitchell:** But are we talking about a total exemption or an exemption for only a period of time?

**Kristen Hubert:** As the policy memorandum makes clear, it will be for a period of time. We are content with those exemptions. It is hard to pinpoint specific examples but, in cases of genuine hardship, it will be better to have an officer who has a handle on the empty homes database, who is working with owners and who has a budget to help in such circumstances rather than a whole lot of small exemptions that might be quite difficult to manage.

**Jim Hayton:** I broadly agree with that. If councils were to adopt a fairly aggressive, draconian attitude to the legislation and impose it willy-nilly, they could catch people who are in genuine difficulties. I hope that that will not happen but, if it does, I suspect that elected representatives such as yourselves and local councillors will hear all about it and councils will be reminded to pay heed to the situation. However, I think that, the way it has been framed, the legislation provides enough discretion to ensure that, instead of being subject to burdens and financial costs, people who are not being wilful, who are in genuine hardship or who lack a genuine understanding of their options can be helped.

**Margaret Mitchell:** What effect will the economic downturn have on the ability for commercial properties to be let out? How long should such exemptions be?

**Jim Hayton:** I am reluctant to comment on the commercial side of things. However, as far as domestic properties are concerned, rarely a day passes when we look at a newspaper and do not read that house prices are falling. People are finding it more difficult to sell or, indeed, even to get a mortgage to kick-start the market. Until we get an economic upturn, whenever that might be—and of course the sooner, the better—the situations and problems that people face in bringing their homes back into productive use will remain with us. It will be important for councils and others to be around to help and provide advice, not least because, as we have said elsewhere, tens of thousands of people need decent housing.

**Kristen Hubert:** We, too, cannot comment on the commercial aspect but we think it appropriate that, in the current climate, if people are finding that the way in which they are dealing with their properties is not working for them, the councils should provide advice and information. Indeed, we are working with them on establishing such a role and think that the bill can play a part.

**Margaret Mitchell:** I have a final, very quick question. Should councils publish a list of their own vacant properties—say, above libraries or whatever—to make it transparent who owns the property and why it is not being rented out?

**Jim Hayton:** I do not see why not. It is as incumbent on councils as on everyone else to try to bring any vacant properties back into productive use.

**James Dornan:** I apologise if this question has already been answered, but will social landlords be affected by council tax increases on any long-term empty properties that they own?

**Jim Hayton:** Not to a huge extent. The legislation contains certain exemptions and I hope that, in the current climate and with—the Government’s own estimates—156,000 people on waiting lists in Scotland, most social landlords will be minded to do everything in their power to ensure that they do not have properties lying empty for a year or more.

**Kristen Hubert:** As we deal with empty homes in the private sector, I cannot comment on that question.

**The Convener:** I thank the witnesses for their evidence and suspend the meeting briefly for a changeover of witnesses.

10:13

*Meeting suspended.*

10:15

*On resuming—*

**The Convener:** We move on to our second witness panel. The witnesses have come a fair distance, and I thank them for the efforts that they
have made. It is great to come to Edinburgh on such a sunny day, and I hope that they will, after the committee session, enjoy the rest of the day.

The witnesses are both from the Shetland Islands. Anita Jamieson is an executive manager for housing with Shetland Islands Council, and Joann Johnson is the chair of the Shetland Tenants Forum. You are very welcome, and I thank you for coming along to help with the committee’s inquiry.

I will kick off the questions. Will you provide some background and thoughts on why Shetland Islands Council is reliant on the housing support grant, given that other councils have moved away from that support and on to different forms of funding?

Anita Jamieson (Shetland Islands Council): Thank you for inviting us to be here. The difference between the Shetland Islands Council’s position and that of other local authorities is that the debt in Shetland is historical, and is a result of the oil industry’s arrival in the 1970s. I was still in primary school at the time when there was a national drive to get the oil revenues, and to get the Sullom Voe terminal built and up and running in Shetland. The population increased by about 40 per cent in a very short space of time, and, over two decades, the council had to build 200 to 300 houses, incurring a debt of around £50 million.

Over the years there have been various promises that the debt would be commuted, but that has not happened. We went through an initial stock transfer process, which was based on writing off the debt, but we did not get past the valuation stage. At that time, some of the other local authorities that had very high per-unit debt were successful in going through the stock transfer process. That left us where we are today.

Joann Johnson (Shetland Tenants Forum): I do not have a lot to add to that, other than to say that, unlike Anita Jamieson, I was not at primary school at that time. I remember the houses being built—I live in one of the houses that was built in the oil era; it is only 4 miles from the Sullom Voe terminal, where I worked for seven and a half years when it was all going on. I remember the days of the oil invasion, and I really know how and why the houses came to be built.

Kevin Stewart: Did Anita Jamieson say that 200 to 300 houses were built in the 1970s?

Anita Jamieson: Yes.

Kevin Stewart: I will play devil’s advocate. I come from Aberdeen, an area where there was also a lot of building because of the oil industry. Much of that was registered social landlord housing, but some council housing was also built. The financial memorandum estimates that if the grant was removed, rent would increase by £3.04 a week on average over a three-year period. However, Shetland Tenant Forum’s submission states that the increase would be £10 a week, and Shetland Islands Council says that it would be £8.13 a week. Why is there such a disparity in the numbers?

Anita Jamieson: The Shetland Islands Council figure is based on the 2012-13 housing support grant announcement of £765,000. I think that Shetland Tenant Forum’s figure is probably based on the 2011-12 figure of more than £900,000. That explains the difference between those two figures.

Kevin Stewart: What about the £3.04 figure?

Anita Jamieson: I cannot tell you about that.

Kevin Stewart: Let us move on, because I do not want to bog you down in questions that you—

The Convener: Just before we move away from the difference between Shetland Tenants Forum’s figure and the council’s, can you tell us how you worked out your figures? We will ask the Government the same question.

Anita Jamieson: We took the amount—

The Convener: You do not need to do it now. Perhaps you could supply the information in writing. That would be helpful.

Anita Jamieson: Okay.

Kevin Stewart: Thank you, convener. I was going to ask for that, too.

Where are you with regard to achieving the Scottish housing quality standard?

Anita Jamieson: We estimate that about 85 per cent of the stock achieves the housing quality standard. We have an issue with energy efficiency. We are looking to address that, but we might have to seek exemptions on it.

Kevin Stewart: Do you not have advantages in energy, particularly with the district heating scheme in Lerwick?

Anita Jamieson: Our stock does not have a particular advantage. The district heating scheme is only in Lerwick, and only about half of the council’s stock is in Lerwick. In total, about 5 per cent of our houses are linked to the district heating scheme.

Kevin Stewart: If exemptions were denied, what would be the cost of bringing the properties up to the energy standard in the Scottish housing quality standard? Do you have any idea?

Anita Jamieson: We have done quite a bit of work, as was highlighted in the Scottish Housing Regulator’s follow-up report last summer. In a number of properties, we have replaced heating...
systems and done additional insulation work, but we will be unable to meet the standard despite having made that level of investment, partly because we are not on mains gas and partly because of the climate. For those reasons, we will struggle to meet the quality standard for energy efficiency in many properties.

Kevin Stewart: Okay.

The information that we have on average rental prices shows that the average rent paid in Shetland is £61.04 per week. Is that correct?

Anita Jamieson: Yes.

Kevin Stewart: For your peer group of social landlords, the figure is £64.88 per week, which is about 6 per cent more than in Shetland. Would either of you like to comment on that?

Anita Jamieson: You mentioned the figure for social landlords, which includes housing association grant. We do not have direct access to a lot of information on RSL rent levels. In the 2011-12 figures for local authorities, Shetland had the second highest figure in Scotland, topped only by Edinburgh, and it was well above £4 a week greater than the Scottish average.

I think that our housing association rents are roughly equivalent for smaller properties and slightly more for others, but they have additional charges for factoring built in. When we strip those out, the figures are broadly similar.

Kevin Stewart: Okay. I think that we need to look at that in more depth, convener.

When does your housing business plan run to?

Anita Jamieson: It is still under development. It was started only in about September or October last year. That was the basis of the negotiations that we had with the Scottish Government up to February, as we tried to arrive at a transitional arrangement.

We are now developing the business plan into a full 30-year business plan that will include investment, with a view to having a three to five-year window in which we can consult tenants on rent and investment positions, and clarifying that we can have a financially sustainable housing revenue account. The biggest issue with that is the debt. It is seriously constraining our ability to look at an investment programme, and we are certainly unable to address unmet need.

Kevin Stewart: I will really play devil’s advocate now. You have been asking for commutation of the debt for a long time. Colleagues of yours recently gave evidence to the Parliament’s Finance Committee and described Shetland’s large reserves. Under normal circumstances, it would be impossible for general funds to be used to deal with debt from the housing revenue account, but what about the islands’ oil fund? Is that treated in the same way as the general account or could it be used for that purpose?

Anita Jamieson: Following the Finance Committee meeting, James Gray, the executive manager for finance, submitted a detailed breakdown of the council’s reserves, which set out where the reserves are committed and how they can be used. That information should be available to you.

Kevin Stewart: On the technical issue, the council would not be able to use the general account for that purpose, but do you know whether you could use the oil fund?

Anita Jamieson: I think that the answer to that is included in the information that James Gray submitted. There are restrictions on the use of various funds and there are existing commitments for a number of the funds, which are detailed in his paper.

Kevin Stewart: I reiterate that I am playing devil’s advocate. We probably need to see that paper, convener.

The Convener: We will get a copy of any papers that go to the Finance Committee.

Margaret Mitchell: Given the complexity of some of the figures, I want to ensure that we are comparing apples with apples, rather than apples with oranges. For argument’s sake, let us take the 6 per cent less that tenants in Shetland are deemed to be paying compared with the median rent across the rural social landlord peer group. Are you saying that there is no scope for an increase in rents in Shetland?

Anita Jamieson: There is little scope for a major increase. One of the difficulties is linked to the debt. A 1 per cent increase in interest rates costs the housing revenue account £450,000, which has to go directly on to rents. Shetland has a relatively low take-up of housing benefit—about 30 per cent of our tenants are in receipt of housing benefit. Therefore, rent increases directly affect most tenants; they are not all picked up through housing benefit. Those are the main issues with a major increase in rents.

Margaret Mitchell: Will you quantify what you mean by “major”? Can you give any indication, given the figures that we have been looking at?

Anita Jamieson: Anything beyond 5 per cent, which is the average inflation figure plus 2 per cent—the normal benchmark for rent increases—is likely to cause difficulties for tenants.

Margaret Mitchell: Your written submission states that you would welcome transitional arrangements to mitigate the costs of the removal of housing support grant. Can you give examples
of such arrangements and tell us what stage you are at in your discussions about that with the Scottish Government?

Anita Jamieson: The last meeting that we had was in early February. When we left that meeting, we were advised that we had supplied sufficient information on our housing revenue account to enable the officials to take a paper to the minister. Since then, we have heard nothing back. In some of our scenario planning, which is available—it was circulated with the papers—we considered an amount, phased over three to five years, that would make a difference to the overall debt to the extent that housing support grant would no longer be required. That would allow us to build back to having a self-sustaining housing revenue account, which is ideally where we want to be.

Kevin Stewart: You were talking about rent increases. It would be good for the committee to get an idea of rent increases in Shetland over the past few years.

10:30

Anita Jamieson: For a number of years, we were able to sustain an inflation-only increase. The most recent increase was inflation plus 0.5 per cent.

Kevin Stewart: Can you send us the figures for the past five or six years?

Anita Jamieson: Certainly.

The Convener: I ask Joann Johnson to come in on rent increases. Throughout the country, most councils will be implementing inflation plus 0.5 per cent or more. What were the thoughts of tenants about increases of more than inflation plus 2 per cent, as was suggested by Anita Jamieson?

Joann Johnson: The Shetland Tenants Forum is always involved with the council in discussions on rent increases. The issue is put out to all the associations, of which there are seven, and we usually have a meeting at which everybody comes together and discusses rent increases. We always say that we would like to try to keep rents to a minimum because we feel that if they go too high, everyone will be affected. If the rents have to go up—if the housing support grant is done away with—it will have a big impact on the tenants of Shetland.

The Convener: Tenants throughout Scotland say, “Please don’t put the rents up.” However, in every other council, budgets have to be set that allow the council to invest in housing stock only if it increases rents. An increase of inflation plus 0.5 per cent is low in comparison with the rest of Scotland, certainly from my experience of Dundee, Glasgow and Aberdeen.

Kevin Stewart: It is unusually low.

The Convener: It is unusually low. If you never put the rents up, you have not made an effort to get to the point at which you do not need housing support grant.

Joann Johnson: We have never really discussed that at a big level. The Tenants Forum side always says that we should try to keep rents to a minimum.

Anita Jamieson: In general, tenants recognise that they are paying a higher rent but feel that they are getting a quality service. We have discussed levels of investment going back to stock transfer days and beyond. It is quite difficult to gauge what tenants feel is an acceptable increase because they want the increase to be as minimal as possible and to continue to receive that service.

We have discussed whether investment should be reduced or frozen in order to minimise increases, and tenants were not in favour of that.

Joann Johnson: If you want, I could ask the seven associations.

The Convener: It is always useful to hear the views of tenants and user groups.

Anita Jamieson talked about a three to five-year transition. It would be useful to us to see how rent increases would look over that time.

Anita Jamieson: I think that that is in the business plan.

The Convener: I will need to have a proper look at that, then.

Obviously, nobody wants rents to go up but it might be acceptable if that were to happen as a transitional arrangement, rather than housing support grant being cut off completely all at once. I guess that although there has been a bit of a transition, because the level has been coming down year on year, from your point of view it feels like a big chop all of a sudden, and perhaps one that is too deep.

Kevin Stewart: The stock transfer proposals basically fell down at the first hurdle. What were the proposals for rent—or for rent increases—in the stock transfer proposals?

Anita Jamieson: The proposal was retail prices index plus 1 per cent.

Kevin Stewart: Proposals that I have seen from other councils have been RPI plus 2, 3 or 4 per cent. If RPI plus 2 or 3 per cent had been proposed, would the finances have stacked up?

Anita Jamieson: No. The difficulty was that our investment profile was inverse in comparison with a fundable investment profile. The condition of the stock meant that the front-end investment was
much lower. The rents were already high, and the debt was there. It just did not work—it was unfundable.

The Convener: Thank you. We have a lot to think about and will take a proper look at your business plan.

10:36

Meeting suspended.

10:41

On resuming—

The Convener: Our final panel comprises David Melhuish, director of the Scottish Property Federation, and Sarah-Jane Laing, head of policy at Scottish Land & Estates. I welcome you both to the committee.

I will kick off. Will you give some of the reasons why properties are empty long term and say what difficulties owners face in bringing them back into use?

Sarah-Jane Laing (Scottish Land & Estates): I will split my answer between the residential and commercial sides. Our members have been clear that commercial properties are empty entirely because of a lack of demand in rural areas. Our members are not willingly and deliberately leaving commercial properties empty.

The issue is much more complex for residential properties and has been for a number of years as we have tried to investigate why properties in rural areas are empty. Members will be aware that some houses in rural areas are right in the midst of farms and other working businesses and are not lettable. Other houses that are almost derelict and are at the end of tracks cannot be brought back into use—that would not be financially viable.

Some owners are awaiting planning permission to convert empty properties that form parts of stable blocks and other larger developments into tourism, education or business facilities. When buildings are listed, such planning applications take a considerable time, so those properties sit empty.

When we have discussed the issue with other landlord groups and stakeholders, we have heard that a number of single-property owners are reluctant to become landlords because they are slightly wary of the regulations. That does not impact on our members, who are already landlords, but that problem exists.

As I said, the locality of a lot of the properties in rural situations does not allow them to be brought back to a lettable standard.

David Melhuish (Scottish Property Federation): I agree. I will focus on the commercial side. Properties are empty because of the weakness in demand and the wider weakness in the economy. Some financial circumstances also make letting a property difficult. For example, some properties might require a lot of work to bring them back to a lettable standard.

Some of our members are residential landlords, and it would be odd for them not to rent out a property. The answer for many of the 23,000-odd empty homes that were referred to will lie in many people becoming unwilling landlords.

10:45

John Pentland: Do you therefore think that the bill’s provisions and the proposed regulations will not encourage owners to bring their properties back into use?

David Melhuish: I will start with commercial properties, if I may. Rental business is the bread and butter of many of our members’ businesses and existence, so they have a powerful incentive to let out their properties. In our view, it is because of the wider economy that many properties are empty. Owners of many empty commercial properties already pay 50 per cent of the rates as well as losing the rent. That is a powerful incentive for getting a property let and for returning it to productive use.

On the residential side, as the background papers point out, even with the withdrawal of discounts, the number of empty properties has gone up in the past few years. In many of those circumstances, the landlord will have a powerful incentive to get the property let and to have the rent paid. A small landlord will need that income to pay back their funder. They might already be paying a certain level of council tax, on top of the opportunity cost of not receiving rent. I echo many of the sentiments that have been expressed to the committee. Councils will have to look at individual cases and use the provisions very carefully indeed. However, we are pleased that, as a result of the consultation on the council tax side of things, the Government moved back from the original six-month benchmark to one of a year.

Sarah-Jane Laing: I agree with David Melhuish’s comments about commercial properties. I think that what is proposed will be an undue penalty; it will not act as an incentive.

As has been said, the proposed council tax levy will be a powerful tool in the toolbox that will result in some properties being brought back into use, but I think that the positive steps that most local authorities are taking by offering advice and information and providing access to the loan fund will have more impact. That is why, with Shelter
and others, we are a member of the empty homes partnership. We think that the carrot approach is fine. A stick will always be a necessary aspect of any measure, but we will certainly achieve much more through positive working with home owners than we will through the introduction of the proposed levy.

**John Pentland:** Do you agree with the principle of giving Scottish ministers powers to make regulations that would give local authorities discretion to increase council tax charges for properties that have been empty for more than 12 months?

**Sarah-Jane Laing:** Yes. We agree with that in principle. We said in our submission that we are pleased that local authorities will have some flexibility and discretion with regard to how they exercise that ability.

**David Melhuish:** I agree. The bill is very much a framework. It is a question of how the subsequent regulations are used and implemented by local authorities.

**Anne McTaggart:** I would like you to think outside the box when you answer this question. In what other ways could the Scottish Government and local authorities support owners of empty properties to bring them back into use? In an ideal world, how could they do that? You might want to give your wish list.

**Sarah-Jane Laing:** Up until a few years ago, a powerful tool that was available was the rural empty properties grant, which our members made great use of throughout Scotland. More use was made of it by people in the north-east of Scotland than by people in the rest of Scotland put together because, at the time, there was a highly proactive Communities Scotland office up there, which looked at what stock was there and how best use could be made of the investment. In an ideal world, we would still have such a fund, but that is not a realistic proposition at this time.

I would like the loan fund to be rolled out across Scotland, rather than being available only in selected local authority areas. I would also like local authorities to be far more realistic about removing properties from the council tax register. There are properties that will never be brought back into use. Because they cannot be removed from the council tax register, they are listed as empty homes, with the result that it would appear that they could be brought back into use, whereas, in fact, that is completely unrealistic. I am talking about bothies up hills and properties that are derelict but which are in the midst of a farming business and are used to store bales and other things. They are not lettable properties and should be removed from the council tax register.

Advice and information—hand holding for a lot of single-property owners—is essential and is starting to happen. The misalignment between council tax and housing officers has been mentioned. Throughout Scotland, a lot of positive work on local housing strategy is being done with the housing guys, but similar work is possibly not being done with those who are responsible for the council tax register, whose focus—rightly—is on collecting the revenue from council tax. I would like to see a much more joined-up approach between the finance and housing departments to address that problem.

**David Melhuish:** I agree with Sarah-Jane Laing's comments, particularly on the homes side of things. Commercially, one of the drivers for the legislation has been concern about the state of our high streets and the number of vacancies that are appearing there. There will be a powerful role for the Government, local authorities and the private sector working together to consider how those properties could be used. A lot of them will not come back into retail uses because consumer habits and markets are changing. A view will have to be taken on alternative uses and on pulling together properties in the high streets for regenerative purposes.

**Anne McTaggart:** To what extent do you agree with the view that, if implemented, an increased council tax charge would unfairly penalise owners of empty properties and interfere with individuals' property rights?

**Sarah-Jane Laing:** Having spoken to our members, I know that the 12-month period for renovations is quite short in certain circumstances. However, there is flexibility for exemptions in cases in which the landlord is really trying to bring a property back into use. I would like to extend it slightly to address the planning issue that I mentioned earlier. If the measure is used for its intended purpose, I do not have a problem with that.

**David Melhuish:** On the council tax side of things, there is a great deal of subjectivity around whether someone is finding it hard to sell or let their properties, and it will be important for local authorities to look at individual cases. I endorse the comments about the range of work that is being carried out to inform owners of houses who never intended to be a landlord or a second home owner, which is what they will become in effect. The situation will have to be looked at very carefully, and there will inevitably be some instances of unfairness.

**Anne McTaggart:** My last question is on building again—it is outside the box. What is your opinion of the impact on the house-building sector of the increased council tax charges for long-term empty properties?
Sarah-Jane Laing: I have not really thought about the overall impact. Do you mean the impact on the construction industry, or are you talking about housing supply?

Anne McTaggart: I do not know whether I have said it properly. Hold on a wee second—I will read the question correctly this time. What impact do you think the increase in council tax charges for long-term empty properties—if implemented by a local authority—would have on the house-building sector? Is that any easier?

Sarah-Jane Laing: Yes. I do not think that the levy will have a huge impact on the house-building sector. It will still bring only a small number of properties back into use. We all know that the number of houses that Scotland currently requires to meet the housing need is massive, so the potential impact is negligible in terms of taking investment away from new build. If there is a drive to bring properties back into use, that will be beneficial to smaller building firms—the one-man bands—especially in some of our rural areas. It could help the smaller operators in the house-building sector.

David Melhuish: I think that the measure will exacerbate the pressures on house builders to respond quickly to the market. You have seen the response of the past four or five years—they will not build where there is a lack of consumer demand, which is what we have at the moment. House builders are acting innovatively by trying shared equity schemes and so on. Possibly the big concern in that circumstance is if they get hooked with a property when they have managed to sell one of their own developments but have done a part exchange. There are some concerns, but developers will be working very hard to get the properties off their books. There is no question but that they have been doing that. The increased council tax charges could exacerbate the problem if they get stuck with properties that they cannot sell or let.

Margaret Mitchell: Given your comments about the lack of a holistic approach, and sometimes the lack of a commonsense approach, from the various departments that deal with empty properties, what is your view of the provision in the bill whereby any additional income from increased council tax charges for long-term empty property can be used as the council sees fit?

Sarah-Jane Laing: Having previously worked in a local authority, I know that it is always hard to ring fence money. We are strongly of the opinion that any money that is raised through the additional levy has to be used for housing provision—preferably affordable housing provision—through a range of routes. I am not saying that it should have to be used for new council building or new RSL developments; it could be used to support private landlords. We urge the Scottish Government to look at ways in which the money could be used solely for affordable housing purposes.

David Melhuish: From the evidence that we have seen in the sector, it appears that the additional revenue could be pretty marginal.

James Dornan: Given your previous responses, I take it that you support the Government’s proposal for a mandatory exemption from a council tax increase for up to 12 months to apply to owners who are proactively trying to sell their house? Are any other mandatory exemptions required?

Sarah-Jane Laing: I mentioned planning. If the property is subject to a live planning application, that should certainly be ground for exemption. I am happy with the exemptions that are listed in the policy memorandum.

David Melhuish: The planning one that Sarah-Jane Laing mentioned is very important. We hope that local authorities will take a pragmatic view in circumstances involving things such as listed building consents and building warrants, where a regime is in place whereby people have to abide by the regulations.

James Dornan: If the situation is outwith people’s control, the exemption should apply.

David Melhuish: Yes.

Sarah-Jane Laing: Yes.

James Dornan: The Government also proposes to allow local authorities to offer a discretionary time-limited exemption from any additional council tax charge in two circumstances: when the council is satisfied that the owner is actively trying to let their property and when an RSL has homes that are needed for use as temporary accommodation but are sometimes left empty while a reprovision programme is going on. Can I take it that you support those measures?

Sarah-Jane Laing: Yes.

David Melhuish: Yes.

James Dornan: Can you think of any other discretionary exemptions that would be required?

Sarah-Jane Laing: I have talked about properties that some of our members view as unlettable. That is an area of contention with some council tax staff. When we bring staff out and show them the property, they can see where it is, but it is very hard to understand the location of the property from a council tax register. It is also hard to frame an exemption that covers such circumstances. It comes back to the subjectivity of the local authority’s decision. If a property is in the middle of a steading and it is incapable of being let...
out, rather than there being an exemption, I would like it to be removed from the council tax register. That is one way of getting round the issue.

James Dornan: Are you saying that a dialogue currently takes place on individual properties but you would like a mechanism to be put in place?

Sarah-Jane Laing: Yes. A dialogue takes place, but in many cases it is not successful. We are looking to take that issue forward with the councils.

James Dornan: I have one last question. Do you agree that regulations should set a maximum charge that local authorities could make and that it should be 100 per cent of the standard council tax rate for an occupied property?

Sarah-Jane Laing: We are happy with the maximum being 100 per cent. We said in our submission that we would like to see a sliding scale, but we are happy with the levy.

David Melhuish: If there are going to be levies, there definitely needs to be a cap. I again urge that councils adopt a case-by-case approach and use their discretion, based on the individual circumstances of the properties.

James Dornan: But you are happy with the cap being at 100 per cent.

11:00

David Melhuish: Yes. I certainly would not want it to be any higher.

James Dornan: I thought that that was what you meant.

David Torrance (Kirkcaldy) (SNP): David Melhuish talked about lack of demand, the change of shopping habits and the empty commercial units on our high streets. We have seen that for a long time, especially in the area that I represent. Will the proposed measures help owners to invest in changes of use? The centre of our town has big retail units that have been derelict for years, even from before the recession. However, the east and the west ends of the town are successful because they have small business units that are all occupied by individuals. The problem for the centre seems to be a lack of investment. Will the proposed measures push or help owners to invest in such areas to change the use of properties and the whole outlook of the areas?

David Melhuish: In effect, what is proposed will increase rates liability by about 80 per cent. The question is whether it will help or whether it will tip the businesses into administration. That is the big question that you need to ask. In any case, whether they will be able to act will depend on their arrangements with the banks. They will need to discuss matters such as changes in use or rental levels with their lenders, and the answer may not always be straightforward.

We understand the feeling that there needs to be a powerful stick to force owners and investors to get properties back into use. At the same time, though, you should not underestimate the incentive that they already have in that they are paying 50 per cent rates and losing rental income, and having to keep the bank manager happy at the same time. What is proposed may be an additional driver in some circumstances but, in many cases, it will not be a simple process, particularly where applications for changes for larger-scale units are needed. Owners may find their ability to act to be circumscribed in any case. I would not underestimate the possibility that businesses will be pushed into administration if the rates liability goes up.

Kevin Stewart: We have evidence from many places that some property owners would rather sit on empty properties. You said, as have others, that much of the empty property situation is down to lack of demand. Can you evidence that?

David Melhuish: Yes. For example, we can look at the sales of properties, for which transactions are now at the lowest point in the past six years. The figures are from Registers of Scotland, which tracks commercial as well as residential property transactions. The last quarter had the lowest volume of transactions for six years.

Kevin Stewart: Is that because people are sitting tight during these times?

David Melhuish: I think that it is a lack of demand in the wider economy.

Kevin Stewart: Are some folk sitting tight and waiting to see whether their investment will rise in value again?

David Melhuish: Values have fallen for offices and retail units by 35 per cent across the piece. There will be instances of people being trapped by that, as some are on the residential front because of negative equity. I would not say that people are deliberately sitting on empty properties as you suggest. There is a long way to go before people see values get back to where they were. I think that that dose of reality is part of the current market.

There is a lack of demand, but there are some areas of Scotland where that is not the case. One of those is an area that you are familiar with: Aberdeen. The circumstances are very different there.

Kevin Stewart: And a huge amount of space is available there that owners will not take decent prices for because they would rather sit tight. That is my point: there is demand for property in a huge
number of places, but some owners of the properties will not change the rental value one little bit and will sit tight.

David Melhuish: I disagree with the view that there is a huge demand for property all over the place. There is a demand for property in Aberdeen, and that has been reflected in the fact that rental levels have been changing in recent years. One of the reasons for that is the lack of appropriate supply. There may be vacant units, but they might not be of the kinds that are required by people looking for property.

Kevin Stewart: We could have this conversation for hours, but I do not intend to do that.

Sarah-Jane Laing: On the lack of demand, the example that I gave in our evidence was from rural Aberdeenshire. Many of our members will never realise the capital value of their investment. Having had discussions with members recently, I know that they have been letting to charities and others at way below the market rent just to ensure that the property is being used.

Kevin Stewart: The Federation of Small Businesses estimates that empty property relief from 2010 to 2015 will come to £769 million, which it compares to the £591 million that will be spent on the small business bonus scheme. It says that whether empty property rates relief is a block to or a driver of economic activity and whether it represents value for money should be investigated. It seems to think that it would be better for the economy if money were invested in the small business bonus scheme rather than the empty property rates relief scheme. Could you comment on that?

David Melhuish: I would not agree with that analysis. First, the policy has been in place in England for a number of years and has not had that beneficial effect. The Business Centre Association told the Finance Committee that the policy could be a negative influence on the development of business centres, which are very much at the forefront of encouraging small and medium-sized enterprises. Further, as I said before, the decision about whether to change rents might not always be up to the landlord—because that has a consequential impact on their financiers or lenders, any change might have to be agreed with them.

Sarah-Jane Laing: We support any measure that supports small businesses, so we are in favour of the Government investigating which of the options would have the most impact. We have not carried out a comparison between the impact on businesses of the two options, but we are more than happy to be involved in any exploration of that.

Kevin Stewart: Mr Melhuish mentioned the English experience. Is there any evidence from England to suggest how realistic the concerns might be? What can be done here to mitigate those concerns?

David Melhuish: Could you clarify what concerns you are talking about?

Kevin Stewart: You mentioned that, in England, there have been concerns about the changes. Can you tell us how realistic the concerns might be? What can be done here to mitigate the difficulties that have been faced in England, if we decide to move down this route?

David Melhuish: One of the concerns is about the disincentive that the proposal might be to new developments and the impact that that might have on the supply of new property into the industry. There is evidence to suggest that little is now being done, because of a fear of incurring void rates, which can add a significant cost and eat into the returns that investors might expect. In effect, that can mean that a project will not happen unless the developer has gone through the difficult process of securing an up-front tenant.

We can only infer anecdotally what the level of property companies entering administration is, but I think that it is a high proportion of the recent figures. The representative body R3 certainly reported a very high proportion of administrations in that sector.

We would like to have seen support for commercial new-build such as some kind of exemption at least until the first point of occupation to encourage new suppliers into the market. The Government was interested in the proposal but, unfortunately, there were state aid issues.

Kevin Stewart: Do you wish to comment on that, Ms Laing?

Sarah-Jane Laing: No.

Margaret Mitchell: As Kevin Stewart has covered the question of how certain adverse consequences might play out in England, I want to pin the SPF down with regard to comments in its Finance Committee submission on the extent to which the English experience reflects the impact of recession rather than the reform of the property rates.

David Melhuish: The introduction of the policy as we entered this recession—to which, I have to say, there seems little end—exacerbated the hardship for landlords and, as I have just explained, added to disincentives to develop new build. It is very difficult to distinguish between the two factors. As ministers up here have suggested, the policy was introduced because of the view that it would bring back into use properties that were being deliberately withheld from the market.
However, the number of vacancies catapulted from 3 to 14 per cent. The fact is that demand was weak and the policy simply did nothing to bring properties back on to the market. Instead, it has increased taxation and, therefore, increased hardship on businesses that are not getting any return whatever on the properties in question.

Margaret Mitchell: It certainly seems to have had the opposite effect. The increase from 3 per cent in 2007 to 14 per cent is a quite startling figure.

David Melhuish: I also believe that those were retail vacancies.

John Pentland: Following on from Kevin Stewart’s question, I believe that you mentioned encouraging speculative development in our town centres and other areas. Is the bill having an impact on people taking such chances or opportunities, or do you have any evidence to suggest that people are holding back in that respect?

David Melhuish: Of course the policy will not come into effect until next year. However, it will considerably heighten risk with regard to liabilities that might be incurred. Even when the market was strong, those who developed speculatively were looking at quite high void rates. The process of getting in tenants is a major risk for developers and, although this might sound bizarre, we are concerned at the lack of top-quality grade A space available for businesses to move into quickly. Businesses do not want to hang around for planning permission to be granted and developments to happen months or years down the line. If, for whatever reason, they decide that they need to relocate, they want to move as quickly as they can, so there is a good reason for having a certain level of a certain type of vacant property on the market at any one time. Glasgow and Edinburgh are starting to suffer from a lack of grade A space of, say, 80,000ft² and, for such cities, which are very open to investment, that is going to be a problem.

John Pentland: Would the proposed reforms be considered more appropriate if they were being introduced at a time of stronger economic growth?

David Melhuish: We think that the arguments for introducing the policy would be stronger if it were happening when the economy was performing strongly.

James Dornan: Does the financial memorandum provide a reasonable estimate of the reforms’ financial impact?

David Melhuish: We do not think so; it might have underestimated the costs to businesses in general. By the way, we also think that it has underestimated the costs to the public sector, which means that the provisions could be something of an own goal. In short, we think that the £18 million figure to be retrieved from the empty rates relief budget could be an underestimate.

James Dornan: And I take it that you have made your concerns clear.

11:15

David Melhuish: Indeed—and we have given the evidence that we submitted to the Finance Committee to Scottish Government officials.

James Dornan: What different assumptions could affect the costings?

David Melhuish: The assumptions that I am worried about relate to the interplay with other forms of relief and the amount by which the Government thinks the overall impact will be reduced. The small business bonus scheme, for example, has been very effective in supporting this section of the market; in fact, I should probably declare an interest as a property-owning ratepayer who benefits from the scheme.

James Dornan: You and so many others.

David Melhuish: However, although the scheme has had a clear incentive, it is limited and those with a number of properties have to be under a certain threshold in order to benefit.

Aside from our concern about the interplay with other reliefs, we have expressed to the Finance Committee our concern at not being able to get information easily or to get a handle on the cost of listed properties retaining exemptions. We also fear that there might have been an overestimate of the reductions to the overall bill based on certain assumptions about the number of properties receiving 100 per cent relief that switch quickly to 50 per cent relief—a situation that, of course, will change under these provisions.

James Dornan: Have the expected costs to the public sector been adequately reflected? You have already said that you do not think so, but I wonder whether you can expand on your comments.

David Melhuish: We felt that the Scottish Government’s suggested costs seemed very low. Indeed, subsequent to our expressing that view, Glasgow City Council has now suggested that it alone might face costs of anywhere between £0.5 million and £1 million, and we do not know whether that figure also covers the council’s arm’s-length companies and so on. We were also surprised by the Government’s claim that only 12 of its properties might see an increase in liability, particularly given that, when we examined the valuation roll, we found that organisations such as Scottish Enterprise had a large number of empty
properties, and we felt that the bill’s estimate of what the Government would pay was undercooked.

James Dornan: When we discussed this matter at yesterday’s Subordinate Legislation Committee meeting, it was suggested that the likes of the national health service would be putting in their own figures. The properties in question are those owned strictly by the Scottish Government.

David Melhuish: Indeed, and we think that that is a very limited view of what the additional bill for the taxpayer will be.

Anne McTaggart: In light of John Pentland’s question about the proposed reforms, do you think that vacant non-domestic properties are an inevitable feature of an economic downturn?

Sarah-Jane Laing: Yes.

David Melhuish: There will always be a certain number of vacancies, even when the economy is performing strongly.

The Convener: Thank you for that evidence. As agreed, we now move into private session.

11:18

Meeting continued in private until 11:38.
Local Government and Regeneration Committee

Submission from Shetland Islands Council to the Finance Committee on the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill

Shetland Islands Council’s submission to the consultation relates to Part 4 of the Bill – Abolition of Housing Support Grants.

Consultation

1. Yes. Shetland Islands Council took part in the consultation exercise. The Council commented on the financial assumptions in relation to the Abolition of Housing Support Grant to the extent that it did not support the Bill unless satisfactory transitional arrangements were put in place.

2. No. To date no details of any transitional arrangements have been issued.

3. Yes there was sufficient time to contribute to the consultation exercise.

Costs

4. No we do not believe that the financial implications for Shetland Islands Council have been accurately reflected. There needs to be a better recognition of the history of the housing debt and its link to the production of North Sea oil which has generated billions of pounds of revenues to the UK government and a series of broken promises in respect of debt resolution. However, without knowledge of the details of any proposed transitional arrangements, it is difficult to answer fully on this point. The absence of any transitional arrangements will result in a direct impact on 1800 tenants, for example to fund the value of the current years Housing Support Grant allocation would either mean a loss of service/investment of £760,950 or an increase in rent of £8.13 per week on average rents. Shetland’s rents are already in the upper quartile of Scottish local authority rents and there is an increased cost of living factor in remote, rural and island locations.

5. No – for the reasons stated at 1 above.

6. No – we believe it is unfair to place the full debt burden of approximately £40 million on to 1,800 tenants. The Housing Revenue Account has already made considerable efficiencies and would be unable to make any further cuts without detriment to the service and consequences for the maintenance standards of our
stock. The Council is currently facing an unprecedented and overwhelming demand for housing – there are almost 1000 people on our waiting list, 260 homeless presentations very low turnover rates and with an average debt per tenant of over £20,000 there is marginal capacity to undertake new build to address the acute housing shortage.

7. ?

Wider Issues

8. The Financial Memorandum fails to capture the fact that Shetland Islands Council’s Housing Revenue Account is burdened with such a level of debt that approximately 40% of housing rents income is used to finance debt repayment charges. The Housing Support Grant has alleviated this somewhat, but even that did not fully address the underlying issue of the sustainability of the Housing Revenue Account.

The bill invites the Council to consider using its own reserves to address the issue. The first point to make is that writing off a part or all of the £40 million internal debt would result in a charge to the general fund, which would be recorded in the financial statements. This in essence represents the Council Tax payer being charged to sustain the Housing Revenue Account. This is not permitted under statute.

The second point to make is that the debt on the HRA today relates to a large expansion in house building in the 1970s to support a growing population who had come into the Islands to operate the Sullom Voe oil terminal and related oil based activities. The Council provided homes which supported jobs in the Oil Terminal which has resulted in billions of pounds of tax receipts going to the government. The Council has subsequently been required to sell these houses for a significant loss in order to comply with the Right to Buy policy which was set at a national level. It is therefore politically difficult to ask a small Islands community to bear the cost of the debt today.

9. None noted.
Dear Sir

Shetland Islands Council Reserves

Following the Scottish Parliament Finance Committee meeting of 2 May 2012 I am writing to provide additional information regarding Shetland Islands Council’s Usable Reserves as agreed at the meeting.

In the 2010/11 audited financial statements, Shetland Islands Council disclosed a Usable Reserves balance of £269.082m. Of this balance, £55.363m had been issued as loans, and specifically £41.468m had been issued as loans to the Housing Revenue Account (HRA), meaning that the actual cash available in reserves to the Council totaled approximately £213.721m.

A table has been attached at Appendix 1 which sets out this opening position, and details which reserves can be used to fund the HRA and the extent to which these balances have been committed by the Council. The information has been presented in such a way that there is documented evidence to support each of the columns, and these are described in the accompanying notes to the table.

The conclusion to be drawn from this analysis is that by March 2013, the Reserve Fund will have an uncommitted balance of £14m based on information available in May 2012. However, it should be noted that it is anticipated that there will be a further draw on the Reserve Fund in 2013-14 in order to balance the revenue budget, and there is a risk that the 2012-13 savings targets will not be met, which would require further draws on the Reserve Fund in the current financial year. As a result of this uncertainty, and expected future commitments on this fund, the Council is not in the position to prudently use the Reserve Fund to address the debt issue on the HRA.

If you require any further information or clarification, please feel free to get in touch.

Yours sincerely

James Gray

Executive Manager – Finance

Shetland Islands Council
### Appendix 1 – Draft Breakdown of “Available” Reserves

<table>
<thead>
<tr>
<th>All Usable Reserves at 31 March 2011 (Audited figures)</th>
<th>Usable Reserves as per 10/11 accounts</th>
<th>Exclude: Specific Committed Reserves</th>
<th>&quot;Available&quot; Reserves</th>
<th>2011/12 drawn down reserves money</th>
<th>12/13 approved budgeted draw on Reserve Fund</th>
<th>Commitment to Sullom Voe closure (Reserve Fund)</th>
<th>Remaining “Available Reserves” 31 March 2013</th>
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<tr>
<td>Capital Fund - general</td>
<td>£-108,403,692</td>
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Note 1 – These balances make up the total Usable Reserves of £269.083m as disclosed in the Audited Statement of Accounts 2010-11.

Note 2 – Of the total Usable Reserves disclosed in the Statement of Accounts 2010-11 these are the balances that are ring-fenced for specific purposes such as repairs and renewals. Please also note, that with the exception of the Repairs & Renewals – Housing account, these reserves have been built up from general fund sources, and therefore are not available to use to fund HRA expenditure.

Note 3 – This column represents the reserves that could be classified as “available” and could be used for HRA expenditure. As can be seen, this essentially represents the Reserve Fund.

Note 4 – This column represents the level of Reserves utilised in 2011-12 in order to meet balance the revenue and capital budgets for the year. During 2011-12 the Council utilised £34m of its reserves to fund current revenue and the capital programme, this total can agreed to Fund Manager statements.

Note 5 – The 2012-13 revenue budget approved by Members on 9 February 2012, and available on the Council’s website, will see £18.4m of revenue reserves being called upon to fund budgeted expenditure. Of this total, £12.9m will be funded from the Reserve Fund.

Note 6 – The Zetland County Council Act 1974 allows Shetland Islands Council to operate a Reserve Fund. It clearly states that the first call on the Reserve Fund is to provide for all necessary Harbour expenditure. There is a legal requirement for Shetland Islands Council to return the Harbour site at Sullom Voe back into its original condition, ie free from any industrial installations. Given that activity at the Harbour is declining, it is prudent for the Council to earmark the costs associated with returning the Harbour back into its original condition. This is estimated to be in the region of £25m.

Note 7 – This represents the “uncommitted” Reserve Fund. However, it should be noted that the 2013-14 revenue budget anticipates a draw of c£7 from reserves, and this is assuming that all savings budgeted for are achieved in 2012-13. Any slippage in the savings programme will increase the draw on the Reserve Fund in 2012-13 and therefore reduce the available balance further.
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**Note:** The total rates bill calculation is not fully presented in the image. It seems there might be an error in the data as the final total rates bill is not accurately calculated. The correct total rates bill should be £29,517.50.
LOCAL GOVERNMENT AND REGENERATION COMMITTEE

LOCAL GOVERNMENT FINANCE (UNOCCUPIED PROPERTIES ETC.) (SCOTLAND) BILL

SUBMISSION FROM SCOTTISH CHAMBERS OF COMMERCE

1. Scottish Chambers of Commerce (SCC) is Scotland’s largest business representative organisation, representing over 10,000 businesses employing over half of the private sector workforce, with one hundred and seventy staff in the offices of its twenty two constituent member Chambers.

2. Scottish Chambers of Commerce welcomes the opportunity to input into the Local Government and Regeneration Committee’s Stage 1 consideration of the Local Government Finance (Unoccupied Properties Etc.) (Scotland) Bill. In this response, our focus is on the provisions contained in Clause 1 of the Bill relating to the rating of unoccupied lands and heritages.

3. Whilst the Bill is clearly an enabling piece of legislation and therefore does not of itself alter the burden of non-domestic rates on businesses, it has been introduced to the Scottish Parliament following the publication of the Scottish Government’s Scottish Spending Review 2011 and Draft Budget 2012-13, in which the Government set out its clear intention to increase the burden of non-domestic rates on the owners of unoccupied properties in the years 2013-14 and 2014-15 through the review of Empty Property Relief\(^1\). Shortly afterwards the Scottish Government confirmed its intentions to reduce Empty Property Relief from 2013-14 in its publication A Scottish Budget for Growth\(^2\). The intention of the Scottish Government to increase the non-domestic rates burden on businesses through the devaluation of this relief is again restated in the policy memorandum to this Bill\(^3\). It is against this background that we must consider this legislation.

4. The Scottish Government has two stated objectives in bringing forward this Bill and utilising the powers it would provide, namely to “provide incentives to bring vacant commercial premises back into use and raise additional revenue for the Scottish Government”\(^4\). We do not believe that the policy of reducing the value of Empty Property Relief to business would be effective in achieving either.

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\(^1\) Scottish Spending Review and Draft Budget 2012-13, Scottish Government, September 2011
\(^2\) A Scottish Budget for Growth, Scottish Government, September 2011
\(^3\) Local Government Finance (Unoccupied Premises)(Scotland) Bill Policy Memorandum, March 2012
5. Scottish Chambers of Commerce shares the Scottish Government’s goal of reinvigorating our town centres and our own Town Centres Group is currently working alongside the Scottish Government to support and deliver lasting change and the creation of new opportunities to ensure their success. However our members are deeply concerned that moves to tax property owners in Scotland by an additional estimated £18 million per year are misguided and counterproductive.

6. Scottish businesses are currently struggling to return to a path of growth following the deep recession of 2008-09. The scale and impact of that recession should not be underestimated. The Scottish economy suffered five consecutive quarters of contraction and has had two subsequent quarters of contraction since. Our economy shrunk by 4.8% in 2009, whilst overall growth for 2010 and 2011 was only 0.8% and 0.5% respectively. The UK economy as a whole has fallen back into recession over Q4 2011 and Q1 2012, and the pressures facing our retail sector are particularly acute.

7. Scotland’s town centres are facing challenges from many different sources such as out of town competition, online retailing, falling consumer demand, high parking charges, access issues and the lack of a co-ordinated offering. At the moment, there are significant numbers of vacant properties in Scotland’s town centres – with around 14% of retail units lying vacant. This number is likely to grow further over the next two years as a host of leases come up for renewal. With major High Street stalwarts such as the Arcadia Group hinting at downscaling their operations, estimates have suggested that vacancy rates could rise to as high as 40% in Scotland.

8. The principal reason why more and more properties have become vacant is not the cost of rents, it is lack of demand. Therefore if the Scottish Government is serious about tackling the problem of vacancy, it must look towards stimulating demand or influencing supply. To improve town centres, investment from landlords is crucial. However, the main effects of adding costs to property owners will be to restrict their ability to invest in upgrading their portfolio and it may even encourage owners to seek demolition of a property, where that is an option. Imposing further costs on property owners in the absence of a rental stream does not make economic sense. Rents in Scotland are already falling in non-city centre locations throughout the country. In addition to town centres, the reduction of Empty Property Relief could also hit second and third tier retail centres. Any move to increase the costs of property owners could also have the opposite effect to that intended; that is, it may place upward pressure on rents as landlords look to tackle costs.
9. This is not a policy that is new to the United Kingdom. In 2008, the UK Government reduced the value of Empty Property Relief in England with similar intentions. The result has been an increase in rates revenues that has been far less than anticipated, the emergence of numerous deals with charities to populate vacant stores, demolition of premises and an estimated increase in the rates bills of public sector landowners by over £70m in 2012-13.

10. In the absence of safeguards, the reduction of Empty Property Relief could also stifle speculative development, where owners are unwilling to take the risk of being left with untenanted property and a sizeable rates bill. This could adversely affect the available supply of quality and suitable business premises in Scotland.

11. There is also the issue of bank finance to consider. The burdening of property owners with additional non-domestic rates liability in the absence of new rental income could affect the viability of existing finance agreements and even result in foreclosure in some cases. On the other side of the coin, if the banks are not making finance available to prospective new retailers, then there will be few new tenants to move into vacant premises.

12. If the Scottish Government intends to go through with this policy then it must produce evidence to demonstrate how its plan will work and what effect it will have. So far such evidence has not been forthcoming.

13. The Explanatory Notes to the Bill make it clear that that regulations introduced by the Scottish Government to vary Empty Property Relief will be subject to negative procedure\(^5\). This means that changes to the rate of relief could be implemented without a vote being held. We would argue that any move to increase the tax burden on Scottish businesses should be subject to affirmative procedure and Parliament should have to expressly approve them.

14. Scottish Chambers of Commerce will be happy to expand on this evidence during oral evidence to the committee.

Scottish Chambers of Commerce
May 2012

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1. Thank you for inviting us to make a written submission in relation to this Bill, and for inviting us to attend the oral evidence session on Wednesday 23rd May 2012.

2. We support the principle aims of the bill as summarised at section 4 of the explanatory notes. In particular, the proposal to allow local authorities to require owners to provide information on occupancy of properties, and also to have the power to vary and increase the amount of council tax charged against empty properties, may assist in encouraging owners to return them to use.

3. It is essential in our view that every possible and reasonably practicable step is taken to not only increase the supply of housing stock across all tenures, but to ensure that use of existing housing stock across all tenures is maximised. To that extent, inducements to owners to not leave property stood empty through the ability to financially penalise them is a sound general principle.

4. We note that it is sometimes perfectly in order for a property to be empty for what may appear to be a long time (several months, for example) whilst it is established what repair or improvement works are required, and also in securing funds and tendering for the carrying out of works, and any associated defects or snagging periods afterwards.

5. Similarly, there are genuine circumstances (such as relocating for work purposes) where properties can be stood empty whilst being genuinely marketed for sale. Current market conditions can see properties being actively marketed for many months if not longer. We would not support the ability of local authorities to charge in this instance on the grounds that the former occupant would essentially be required to pay two sets of council tax and that might impact on labour market mobility.

6. It is also the case that in certain cases, such as large scale redevelopment works involving transfer of stock ownership, can easily extend over several months if not longer. Delays in obtaining section 66 consent, in organising transfers and decants, in carrying out works and defects can easily see properties stood empty over a year.

7. We would expect that the issues set out in points 4 - 6 above should be capable of being resolved by appropriate guidance being issued to local authorities by the Scottish Government that allows flexibility to the local authorities as to at what point to commence charging and at what rate.
8. It might be the case however that the proposals might be arguably not enough to dissuade certain owners from continuing to leave properties stood empty. Aside from the genuine issues raised above in points 4 - 6, there may be an additional category of owner for whom a modest additional rise in council tax payable is still offset by the medium to longer term gain in capital value of the property.

9. We would therefore suggest that fresh consideration be given to the potential introduction of Empty Dwelling Management Orders to provide an additional tool available to local authorities and partner organisations to assist in such cases as was felt appropriate. Whilst this was considered in Housing Regeneration and Planning RF31/2009 it was not further pursued and we think it is of merit.

10. The issue of grant assistance and risk attached for owners in returning empty homes to use was also recognised in in Housing Regeneration and Planning RF31/2009. It noted that there was relatively little take up, partly due to these issues of complexity of risk.

11. One potential issue to help address the issues noted at point 10 above might be to enable RSL's (or indeed stock retaining local authorities) to look to purchase such units and to be assisted in doing so by being able to apply for grant funding to do so, whether from HAG or from other suitable funding vehicles or mechanisms felt appropriate by the Scottish Government.

12. The suggestion at 11 above should form a part of a wider scheme of enabling the purchase of open market properties and their refurbishment to be eligible for grant funding contributions. This would not only assist in being able to help return empty stock to a social rented/mid market/shared ownership market place, but would be of real benefit in growing the supply of affordable housing more generally in areas where the price of purchase and refurbishment to SHQS standard and beyond is often achievable at much less than the financial cost of acquiring land and building new units.

13. Irrespective of the points made above, we would not wish any gains in income to local authorities through the proposals in this bill to simply see a proportionate reduction in their block grant. We also suggest that the funds be ringfenced for the provision of additional supported housing in the relevant local authority area, the logic being that if the purpose of this proposal is to bring empty properties back in to use then any additional revenue gained from owners not doing this should be invested elsewhere in helping to provide or sustain additional units and housing projects.

14. We will not be significantly affected by the proposed changes to non domestic rates and are not affected by the proposal to abolish housing support grants. For these reasons we make no comment on them.
LOCAL GOVERNMENT AND REGENERATION COMMITTEE

LOCAL GOVERNMENT FINANCE (UNOCCUPIED PROPERTIES ETC.) (SCOTLAND) BILL

SUBMISSION FROM SCOTTISH COUNCIL FOR DEVELOPMENT AND INDUSTRY

1. SCDI is an independent membership network that strengthens Scotland’s competitiveness by influencing Government policies to encourage sustainable economic prosperity. SCDI’s membership includes businesses, trades unions, local authorities, educational institutions, the voluntary sector and faith groups.

2. Following the publication of the Scottish Government’s proposal to reform empty property relief for non-domestic rates in the Scottish Spending Review 2011, SCDI has discussed the concerns of a range of our members with the Cabinet Secretary for Finance, Employment and Sustainable Growth John Swinney MSP.

Incentives to Bring Vacant Commercial Premises Back into Use?

3. The Scottish Government’s economic case is based on the incentives its states that reducing empty property relief will provide to bring vacant commercial premises back into use. It believes that town centres will particularly benefit.

4. SCDI strongly supports a strategy to regenerate and revitalise town centres. This should be evidence-based in data, modelling and comparators, and joined-up. There is a lack of information from the Scottish Government about the profile of and trends in vacant properties with which to judge the impact of this reform.

5. Owners of vacant properties do not, generally, keep property intentionally vacant. The fundamental problem is usually a lack of demand from tenants. Large incentives are on offer to potential tenants for many premises around Scotland. The reduction in empty property relief can do very little to influence their re-use.

6. Evidence from England since 2008 does not suggest that the abolition of long-term empty property relief has increased occupancy rates. As a result of the economic downturn, retail vacancies in England have, in fact, increased sharply.

7. As the economy emerges from recession and businesses expand once again, there will be a need for a range of property. Speculative property development is highly unlikely to rebound to what is generally agreed to be the unsustainable pre-credit crunch level due a fundamental reappraisal of ‘value’. However, it will continue to have a role in ensuring that there is sufficient available provision. However, the reform to empty property relief is likely to reduce or undermine the viability of developments in the appraisals of investors, which would delay and constrain growth in the broader business base. Reduced development would reduce work and employment in the already hard-pressed construction sector.
8. As projects in regeneration areas are already more marginal than prime locations, there is likely to be an even greater disincentive to private sector development. This would increase the need for public sector investment in these areas if regeneration strategies are to progress. The reform must also be joined-up with UK tax allowances to encourage bringing vacant property back into use.

9. The Committee should examine all the potential effects of this reform - intended or unintended - how they might interplay and the overall economic impact. SCDI would suggest that it considers, for example, the following potential effects:

- Increasing non-domestic rates liabilities may lead lenders to place businesses in administration, increasing unemployment and reducing economic demand
- Some landlords may not be able to reduce rents without breaching loan-to-value
- Some landlords holding leases may be legally bound by rental commitments
- As a result of pressures from lenders and to reduce their increased costs, some property owners may raise rents on their business tenants in some premises
- Reduction in the ability of property owners to maintain or upgrade premises
- Increasing demolitions, harming regeneration and the availability of properties

Raising Additional Revenue for the Scottish Government?

10. In view of the absence of modelling on the effectiveness of this proposal as an incentive and of the introduction of this reform in advance of and separate to the planned national review of Scotland’s town centres, it must be concluded that the primary policy objective is to raise additional revenue for the Scottish Government. It states that “maintaining the status quo for empty property relief was unaffordable within budget constraints” and that the proposed reform will reduce the cost to the Scottish Budget by an estimated £18 million per annum.

11. However, these estimates must be treated with caution. The substantial revenue savings which had been expected in England have not, in fact, been realised.

12. SCDI would suggest that the Committee considers the following factors:

- Surveys by the property sector suggest that the Scottish Government has significantly underestimated the likely costs to ratepayers of this reform
- Lenders may place businesses with empty premises which face significantly increased rates into administration. This would, as a result, reduce revenues to the Scottish Government from businesses currently paying 50% of rates. In its flat projection of savings in 2013-14 and 2014-15, the Scottish Government does not appear to recognise that its reform will influence lender and owner behaviour
- Scotland’s public sector is a significant property owner and there are often reasons why its properties are empty. Public bodies have announced floorspace reduction targets in their Asset Management Plans. If they cannot sell or lease these properties, public bodies may bear a substantial proportion of the costs
Local authorities also suggest that the administration costs may be higher.
To ensure no impact on services may require spending from the Scottish Budget.

Conclusion

13. SCDI recommends that further, detailed analysis of this proposal should be undertaken before the Bill is passed and, certainly, before it is implemented.

14. SCDI looks forward to the Scottish Government’s forthcoming review of the rates system. This will be an opportunity for a fundamental consideration of the role of system in sustainable economic growth, and potential changes and alternatives.

Gareth Williams
Head of Policy
Scottish Council for Development and Industry
Local Government Finance (Unoccupied Properties etc) (Scotland) Bill: Stage 1

10:03

The Convener: The next item is an oral evidence-taking session as part of our stage 1 consideration of the Local Government Finance (Unoccupied Properties etc) (Scotland) Bill. I welcome the panel, who are Garry Clark, head of policy and public affairs at the Scottish Chambers of Commerce; Peter Muir, director of rating at Colliers International; Gareth Williams, policy manager at the Scottish Council for Development and Industry; and Mark Rodgers, director of housing and property services at Waverley Housing. Thank you for coming along and helping us with our inquiry.

I will kick off. There are suggestions that empty properties reflect a lack of demand, rather than an active decision on the part of property owners not to let. I would be keen to hear panel members' views on whether that is the case and any evidence that they have to support that.

Garry Clark (Scottish Chambers of Commerce): Good morning. Thank you for the opportunity to address the committee.

The view of our members has been that the problem of vacant properties is largely down to lack of demand. There are various reasons for that, many of which are well publicised, such as the lack of access to finance for businesses that are looking to move into larger properties, which has been an issue.

Rentals have been an issue during the past few years but currently are probably less of an issue; it is the lack of demand that is leaving vacant property in the marketplace. That is the clear message that our members are putting forward, which I think is reflected in a few of the submissions to the committee.

Peter Muir (Colliers International): Thank you for inviting me along. I agree entirely with Garry Clark. From my background as a surveyor, I know that the basic driving force in any market in property is supply and demand. We are experiencing an economic downturn that is probably unprecedented in our lifetimes, and the supply and demand argument has been thrown out of the window. There is plenty of supply, but there is no demand.

There are various reasons for that, such as finance, as Garry Clark said, and the fact that people do not want to dip their toes in the market and open up businesses until the market improves. Landlords are trying to let. I have agency colleagues who go to marketing meetings for all classes of property, in which people consider how to let properties. It is unfortunate that, even when massive incentives are offered, there is just no demand out there.

Gareth Williams (Scottish Council for Development and Industry): Garry Clark and Peter Muir have covered the key points. We do not expect significant demand to return for some time, given the projections for the economy. It is important to bear that in mind and to reinforce the point that Peter Muir made. We represent private and public sector organisations, some of which have provided submissions directly to the committee. I noticed that the Scottish Property Federation highlighted some of the deals that are on offer, which demonstrate that lack of demand is the fundamental issue. The incentives are there, but no one is prepared to take them up at this time.

The Convener: Do the witnesses acknowledge that, in some cases, large property owners, in particular, are deliberately not putting properties on the market, for commercial reasons? I think that most members have come across examples in our constituencies and have the impression that large supermarkets, for example, are blocking the use of property.

Garry Clark: It is not beyond the realms of possibility that that is happening, in isolated cases. However, we must consider the situation on the basis that we have had a massive economic shock to the system. The economy contracted by 4.6 or 4.8 per cent in 2009. It has not recovered appreciably since then and it is not likely to get back to 2007-08 levels until 2014, at the earliest—and that is an optimistic projection. The problem is that, under those circumstances, there is simply not the demand that there was back in 2006-07.

Peter Muir: I back Garry Clark up on that. It might well be the case that, in certain circumstances, landlords are not letting. However, in a large shopping centre up north a unit has lain empty for six or seven years. Currently, the rating is calculated at £60 per square foot—that goes back to 2008, which was the tone date—but a new unit in the same centre has just been let at £30, that is, at half the value. The landlord is a big landlord, who has been trying to let units in the centre. That example spells out the situation for you. Landlords are trying to let, although there might be times when they sit back and say no. Those that have taken a loan through one of the big banks expect a return on that loan and need to repay it, so they will not sit back and wait until the market returns. At present, they are taking anything that they can get.

The Convener: Kevin Stewart has a quick supplementary question.
Kevin Stewart (Aberdeen Central) (SNP): I represent the great city of Aberdeen, which has not suffered to the same degree as other places during the economic downturn, yet there is still a huge amount of property that folk are unwilling to let. Will you comment on that?

Peter Muir: I acknowledge that Aberdeen has not suffered as badly as other areas have from the downturn, although the shopping centre that I mentioned is in Inverness, which is not too far away from Aberdeen. Ultimately, if landlords in Aberdeen are choosing not to let particular units in centres, that is their choice. However, personally I think that that is incorrect—they should be trying to let those properties.

Kevin Stewart: I do not disagree with you that they should be doing that, but they are not. Surely it would be best if we had something like the proposal in the bill to try to incentivise, or penalise, folk so that they let properties where possible.

Peter Muir: With the greatest of respect, that is in Aberdeen, but I am talking about Scotland as a whole. Shopping centres are on their knees looking for occupiers, and landlords are actively trying to let the shopping centres. As I said, agency colleagues are having deals and opportunities thrown at them with huge rent-free incentives. That might not be the case in Aberdeen, but other centres that I deal with are actively trying to get tenants.

The Convener: I will bring in Mark Rodgers to discuss the same question, although he comes at it from the angle of domestic properties, rather than non-domestic ones.

Mark Rodgers (Waverley Housing): Thank you for the invitation to give evidence.

In some respects, we have the opposite problem from the one that Peter Muir outlined about there being plenty of supply and no demand. For us, there is a lack of supply and a high level of demand, particularly for stock in the social rented sector. This is not true for everyone, but one thing that prevents us from simply deciding not to let hard-to-let properties is that we are a regulated body and therefore subject to scrutiny. Even if we decided that it did not make sense to let certain categories of property, the Scottish Housing Regulator would have a lot to say about that. In Edinburgh, people with homelessness priority are waiting for more than a year to be rehoused. Therefore, the picture for us is almost entirely different.

To pick up on a point that Kevin Stewart mentioned, one helpful thing about the bill is that it leads us to consider whether it is worth providing some form of financial incentive or penalty for those who stand properties empty for a long period. That might be private owners who are not subject to the same regulatory burdens as we are. I must admit that I am in two minds about the bill. There is potential to induce people to make use of their property by saying that, if they do not, they will pay a penalty. However, if an average band E council tax bill is, for the sake of argument, about £1,500 a year, then, even with a 100 per cent penalty, the owner might pay £3,000 a year. We must ask to what extent that is a particularly heavy burden on them when the capital value of the property might appreciate significantly.

There would be a better balance if we tried to induce or assist owners who are on the margin. My experience is that private owners who stand properties empty often tend to do so because of problems, such as people going into long-term care or dying. It would be helpful if, for example, local authorities or registered social landlords could work with owners perhaps to take a lease of the property to refurbish it or to purchase the property if that is what the person wishes. Often the issue is the cost that is involved in selling a property or what needs to be done to refurbish it. It would perhaps be better if more emphasis was put on that approach, rather than on punitive aspects.

David Torrance (Kirkcaldy) (SNP): My question is about rental levels. We heard about shopping centres giving away properties. I represent an area where the High Street has been in decline for 10 years and there are no major shopping centres. Many of the properties are large and unsuitable. At the ends of the High Street, which are successful, the properties are smaller, but there are not enough of them. A recent survey by Kirkcaldy4All—the business improvement district project—showed that the rents on those properties had not reduced at all. Does that indicate why they have not been let for such a long time? Some of the large properties in my area have been empty for up to 10 years.

10:15

Peter Muir: Again, that comes down to the issue of supply and demand in relation to a particular property. There are towns throughout Scotland—not just Kirkcaldy—that could be referred to as terminal towns. Around 10 or 15 years ago, they were vibrant and had their own levels of value. In some cases, properties had 25-year leases in place, with the usual five-year rent reviews. However, the market has changed in such a way that those towns now have large established shopping centres that have sucked out the tenants from the traditional high street, leaving it very much secondary.

Landlords are trying to let those high street properties, but the problem is finding someone who wishes to go in there; nobody is willing to take on a lease. There may be other occupiers in the
high street who continue to pay the same rent, but they are probably tied into institutional leases with upward-only rent reviews in which there is no provision to set a lower rent. That may be why rental levels are staying the same. The fact that there has been no take-up of other empty units tells me that there is no demand but plenty of supply.

David Torrance: There is a real short supply of small units in the town for small businesses to take up. Are we now trying to let the wrong type of property on the high street? There has been no investment in changing those units at all. Would the reforms perhaps encourage landlords to turn their properties into smaller units?

Peter Muir: As I said earlier, landlords are actively trying to let properties—there are just no tenants out there. That is due to a combination of the economic downturn and a problem with finance, as people cannot start up businesses even if a small unit or shop is on the market in a town. There is no doubt that landlords would take something: if someone was to come along and offer a rent, that would be better than nothing, as it would at least be an income for the landlord. The landlord wants his income; the question is who will give him that income. At present, there is no one out there who wants to take the plunge and sign up to a lease.

Garry Clark: David Torrance raises an important point with regard to the appropriateness of some properties in town centres up and down the country, and whether they are the right size, or too large or too small. We recognise that there is a need to work with landlords to ensure that the properties that are offered in town centres are appropriate for the demand. We would certainly want to do that, and we have spoken to the Scottish Government about it. We are keen to work with the Government in relation to the moves that Alex Neil and his department are making to ensure that we maximise the value from our town centres, and I recently met with someone from Kirkcaldy4All to discuss that. We need to work with landlords, but saddling them with an extra £18 million-a-year bill is possibly not the best way to encourage them to invest in ensuring that those properties are appropriately scaled for our town centre demand.

The Convener: What should we be doing to encourage landlords to ensure that those properties are used? We are all really concerned about those empty properties, particularly in high streets and town centres that should be buzzing and vibrant. If the bill is not the right solution, what should we be doing?

Garry Clark: It is perhaps true that landlords are sometimes not as engaged in our town centres as we would hope that they would be. Many of them are based very far away from the properties that they own, and many are perhaps not aware of some of the initiatives that are taking place at a local level or even at a Scottish level to try to improve our town centre offering. We need to bring landlords on board and engage them in that process. There is much that the chamber of commerce movement, the Scottish Government, local authorities and BID projects can do to bring those landlords on board and work with them, both to help the landlords and to help town centres more generally.

Gareth Williams: There is a wider issue. There is anecdotal evidence of some properties not being competively placed, but it is a complex issue and the bill seems to be a blunt instrument to deal with it. Garry Clark has touched on a number of issues, but we would also look at transport issues, the planning of town centres and the layout of streets to make them as attractive as they can be. If those issues are addressed, that would make the experience of shopping or living and working in those areas competitive with other parts of Scotland, whether they are cities or out-of-town locations. We welcome the Scottish Government’s plans for a town centre strategy, but it seems as if the bill has been introduced without evidence and in advance of that strategy. We are keen to see more evidence gathered to back up the approach that the bill takes, if the committee could pursue that.

Peter Muir: I agree with Garry Clark and Gareth Williams that there has to be a way of looking at how to improve the towns that are affected, which have substantial retail and office space available. The issue is how we go about that. The BID system is up and running, but perhaps we have to go a little bit further and approach landlords to say, “How can we help?” It is not through want of trying that the landlords are not letting the properties. They cannot suddenly say, “Here’s a slab of cash to improve the town.” They have to be encouraged. They will have to spend money themselves, but is there any other way in which they can be helped and encouraged to do that?

Margaret Mitchell (Central Scotland) (Con): I return to the point that Gareth Williams made, which seems fundamental: there is a lack of evidence and data. The evidence that we are hearing about properties being wilfully left empty is anecdotal. A couple of the submissions suggest that the evidence base, data modelling and comparators should be available. Do you agree that that is a fundamental prerequisite and that a joined-up approach should be taken to looking at the trends in vacant properties and the impact of the reforms introduced by the bill before we go any further on implementation?
Kevin Stewart: A few minutes ago, you said that absentee landlords were often unaware of initiatives. Do you think that absentee landlords would sit up and pay attention if the proposed law were brought into being?

Garry Clark: As I said, the result in England is that the proportion of vacant properties has increased from 3 to 14 per cent.

Kevin Stewart: During a recession.

Garry Clark: Exactly. That recession has resulted in reduced demand, which is why reduced demand is the issue.

Kevin Stewart: But in areas in which demand is still high—we have already agreed that there are such areas—do you think that absentee landlords would sit up and pay attention if the proposed law were brought into being?

Gareth Williams: Absolutely. Given that reforms took place in England a number of years ago, Scotland has the opportunity to look at a good comparator for the proposed reforms. I understand that changes are also being proposed for Wales, so it might be building up an evidence base that would be applicable in the Scottish context. We call on the Scottish Government to do a lot more modelling. As we set out in our submission, the policy might have a range of impacts. We do not know how it will all pan out, but I think that it is fair to say that the projections of a saving of £18 million in year 1 and £18 million in year 2 are unlikely to be the final figures, and that there will be changes in the figures between those years. We hope that, before the Scottish Government takes the policy forward, it looks at the figures and works with the industry to generate them.

Garry Clark: We are 100 per cent behind the Government’s ambition to reduce the number of vacant properties, particularly in town centres and high streets throughout the country, but more work needs to be done on this proposal. We are not introducing the changes in a vacuum.

An even bigger stick has been wielded against property owners in England. Since the measure was introduced down south, the proportion of vacant properties has increased from 3 to 14 per cent. We need to look at why that is, what impact, if any, the reduction in empty property rates relief has had and how the measure would apply to Scotland. In recent weeks, it has been suggested that the Chancellor of the Exchequer might be looking at reviewing the way in which the system operates in England. As Gareth Williams mentioned, changes could be made in Wales, as well. We need to bear in mind such issues when we are looking at making the changes that are proposed for Scotland.

Kevin Stewart: The supply issue is one of those that we must look at. Dealing with it will require investment from landlords because, in essence, we have far too much retail property in our town centres. In many cases, that retail property is not appropriately sized, as has been mentioned. If we are to turn such property into better and more appropriately sized retail property, or into office or residential property—and thereby address some of the social housing issues—that will require investment from landlords. Taking £18 million from landlords is not the way to get that buy-in from them.

John Pentland (Motherwell and Wishaw) (Lab): You have said that one way of resolving the situation would be to work in partnership with the Scottish Government, but so far I have heard only about the Scottish Government removing £18 million, which you see as a penalty. What would businesses bring to the table in that respect?

Garry Clark: There is quite a lot that we can do. The situation in town centres, where there are many vacant properties, is a complex issue. There are many reasons why that has happened, such as competition from out-of-town developments and online shopping, as well as transport issues and the appropriateness of property for development.

Some measures have been taken. For example, through the business improvement district initiative, businesses have invested to improve their local area and amenity for communities as a whole. That is certainly part of it. Of course the Government and the private sector need to work together more closely. We all need to do more if we are to have a viable future for our town centres, in particular. That involves business, local government and national Government working together; it also involves looking at investment through, for example, business improvement districts, bringing housing back to our town centres and ensuring that they have a lifespan that extends beyond the traditional 9 to 5 hours of retail. People need to live and work in our town centres as well as shop there.

The Convener: Do you want to comment, Garry? The SCDI is quite a wide partnership, which includes a number of Government bodies.

Gareth Williams: I agree with what Garry Clark said about the commitments that businesses are making to cities and town centres. We are working with the Scottish Government and the seven cities in Scotland on the cities strategy, which will look at how we can get investment into those seven cities. I know that that does not touch many of our towns around Scotland but, as Mr Stewart has already highlighted, we have issues with city centres as well. That particular initiative offers great opportunities.
Garry Clark: The issues are almost entirely down to the recession. The problem is lack of demand.

James Dornan: Would the reforms have proven to be effective if they had come at a time of economic growth?

Peter Muir: The English system was established on the back of the 2007 Lyons report, which provided an overview of the English ratings system. Gordon Brown, who was the chancellor at the time, introduced the current empty property rates system in April 2008. Obviously, the market took a serious downturn after April, which was not foreseen when the Lyons report was published.

Garry Clark: The other factor that needs to be taken into account is the projection for this year, which is that central Government and local government departments face an empty property rates bill of something like £70 million. Obviously, that is a pretty substantial burden on the public sector, even before national health service properties and others are added in. It is difficult to measure the impact of the elimination of empty property relief in England. The problem in relation to vacant properties is the lack of demand. Only increasing demand or affecting supply will change the situation. The proposal did not create the problem but it will not create a solution.

James Dornan: Surely that view is hard to evidence, given that the system has been in operation during a recession.

Garry Clark: Potentially, it is hard to evidence, but if the Government is proposing to bill our members another £18 million, it needs to produce some evidence that its proposal will achieve the results that it hopes to achieve.

Gareth Williams: I agree with some of what Garry Clark has said. We have certainly been made aware that the changes down south might have been a factor in some businesses going into administration. It would be interesting to see whether there is evidence of the economic impact of more businesses not surviving as a result of the proposal. Further, there is anecdotal concern about the demolition of properties in England as a result of the reforms. It would be possible to gather evidence from companies on that aspect. If that were to be the result of the reforms in Scotland, the effect on town centres would not be beneficial.

Garry Clark: Colleagues in chambers of commerce down south have told me that the biggest effect is that speculative development has been killed almost stone dead, which has been damaging to the construction sector in parts of England.

James Dornan: It is hard to imagine that there would be much of that going on anyway.

Garry Clark: We are thinking about how the reforms might work in more healthy economic times. We would not want to see a negative effect on speculative development.

James Dornan: Would the introduction of a higher threshold for exemption from empty property rates be an appropriate measure for Scotland?

Garry Clark: We would need evidence about how that would impact the sector. We have not had enough evidence so far. A lot of the same problems might still apply, in that it would be using a blunt, possibly inappropriate instrument to tackle a problem.

Peter Muir: We would need to see what figure a cap would be set at. However, as a chartered surveyor, my view is that the rateable values in the valuation rolls throughout Scotland, which were all set in April 2008, are already quite high. We would probably be looking at having the threshold at a substantial level in order to eradicate a lot of the problems in the smaller towns.

Kevin Stewart: Would you agree that the main reason for there being no speculative investment at the moment is that the banks are not lending?

Garry Clark: That is a factor.

Peter Muir: I would agree.

Gareth Williams: As Garry Clark said, we need to look ahead to a point when businesses are looking to expand again. We will need speculative development at that point, though not at the levels that we saw before, so that premises are available; otherwise, we will perpetuate the problems that we currently face.

Anne McTaggart (Glasgow) (Lab): To go back to the timing of the bill, would the proposed reforms be considered more appropriate if they were being introduced at a time of stronger economic growth?

Garry Clark: It is difficult to say. A lot of the negatives would still attach to the reforms. The bill as it stands and the proposed timetable for the changes are being introduced to the empty property relief system are particularly ill timed, given that about 50 per cent of leases are due to come up by around 2015. There are projections that vacancy rates on the high streets in particular could rise to something approaching 40 per cent, given the rationalisation by some of the major chain retailers that is being talked about at the moment. Introducing reforms in 2013-14 would be
a singularly bad time to do so, due to the effect that they could have on high streets and on property owners in the high streets.

To look forward to better times, there is the example of Union Square and so on in Aberdeen, so there is still a pretty healthy demand. I can understand why the reforms could be viewed as a tool in the box if everything else had been tried and there were still empty properties.

That said, if we are looking for landlords to invest, which they must do if we are to turn our town centres back into vibrant hearts of communities, the negatives that attach to the reforms still apply. The way to encourage property owners to invest is not to penalise them and take money away from them.

**Peter Muir:** I whole-heartedly agree with Garry Clark. In England, the reforms were introduced when the market was perceived as being at a high. Traditionally, landlords will build in what they call a void period, between the tenants coming out and the property being relet. In good times, in a good centre, a tenant can move out and three months later someone else has moved in. In a high street, it could be six to nine months. Nowadays, as we have just discussed, it takes a considerable amount of time to let a property—if it can be let at all—in a high street in a failing town. If the market was good, there would be only a short void period when the landlord would be liable for rates before a new tenant was introduced.

**Gareth Williams:** The FSB makes a number of interesting points in its submission about the percentage of affected businesses that will be retail businesses in the town centre, the percentage that will be offices and the percentage of those offices that might be incubator facilities for businesses.

Without knowing that information, I would hesitate to comment on whether there is a right time to introduce the reforms. We may want to understand more about the possible effects throughout the economy.

Garry Clark and Peter Muir have covered the business angle, but we need to consider the public sector angle too. We need to look beyond 2013, as public sector budgets will be under pressure for a lot longer than the period of the economic downturn. From what we hear, the reforms will have some impact on public sector-owned properties, and there is a question around the administration costs for local authorities.

Is there a good time to introduce the reforms for the public sector? Will that be significantly further in the future than it would be for business? We might want to think about that.

**Anne McTaggart:** I have one more question. You mentioned the retail sector. Is the situation particularly acute in the retail sector, or are other sectors experiencing similar issues in respect of vacancy rates?

**Peter Muir:** All sectors have been affected. Retail springs to mind because everyone walks down a high street, but they generally do not look up to see that there are a lot of vacant offices too.

However, retail has suffered badly. Many people now go shopping to view products and then go home and promptly buy them online. A lot of the major chains are shrinking—Arcadia Group has been talking about that recently. The issue affects everybody, but retail is the sector that most people see.

**Garry Clark:** I have to agree with that, especially when one considers the shrinkage in disposable income that has happened in the past couple of years. At present, every household in Scotland has more than £1,000 per year less to spend than it did even in 2009. That is several billion pounds a year less that is being spent in the Scottish economy, and retail is taking a massive hit from that.

One potential issue that has come to the committee’s attention, particularly in the Highlands and Islands, relates to empty property relief being retained for industrial premises while it is being eliminated for other premises. There are concerns in the north that Highlands and Islands Enterprise has zoned its business units as industrial premises. If that situation continues, in order for those premises to avoid exposure to rates, other businesses that are seeking premises as the economy picks up may find that there are empty premises that they cannot access because public bodies have been zoning them for industrial use.

**The Convener:** A lot of our questions so far have been specific to the non-domestic part of the bill, but we will move on to questions in which Mark Rodgers might feel more involved.

**John Pentland:** As Mark Rodgers is probably aware, the Scottish Government’s proposals aim to encourage owners to bring empty properties back on to the market. Do you agree with the proposals? If local authorities decided to use the proposed powers and increase council tax for long-term empty properties in their areas, what impact would that have on registered social landlords?

**Mark Rodgers:** My first observation is that the 32 local authorities in Scotland can each decide individually how to implement the measure. As my organisation works across one relatively large local authority area, that would be less of an issue for us. However, I am involved as a board member with another organisation that works across 13
local authorities. There is therefore an issue about how clear the policy will be at a strategic level for us.

10:45

I said that, from a domestic property point of view, there was a balance to be struck between punitive measures to prevent people from leaving properties standing empty and measures to encourage them in the way you describe. I want to pick up on a point that Garry Clark made. It is about looking at the existing use of property—whatever type of property it is—and whether that makes sense in the longer term, as opposed to just looking at relatively blunt measures. For example, the conversion of retail accommodation to residential accommodation in certain circumstances is an excellent idea.

The issue that we RSLs face, just to put a development spin on it, is that most of the grant funding that is available these days is very much targeted at new-build properties. As an RSL that is based in the Borders, we do not do new build at the present time because it does not make economic sense. The acquisition of land and the build price for a three-bedroom house comes in at £140,000, but I could buy one off the shelf and refurbish it for £90,000.

I hope that the use of housing association grant generally will be considered and that, rather than just being targeted at new build, it will be made much more widely available for existing market purchasing, so that we can change the use of and refurbish properties. That is not just because of the economics involved, but because it makes sense on environmental grounds.

We should look at a range of things in addition to what the bill proposes. The ability to penalise people is useful as far as it goes, but it is a small tool in the wider toolkit that we should be looking at.

John Pentland: Are there any other ways in which the Scottish Government and local authorities could support the bringing of empty houses back into use?

Mark Rodgers: I have given one example of that. The ability to obtain grant funding and put it towards the overall cost of purchasing existing properties on the open market and refurbishing them would be useful for not just our organisation but, I am sure, a lot of others. Indeed, it would also be useful to work with partners in other sectors to look at change of use for retail and office accommodation. There is an awful lot of such accommodation about, and using it in that way would return many more units to availability for let much more quickly and at a much lower cost than simply being increasingly focused on new build as the only way to address the shortage of supply in the residential property market generally and the social rented sector in particular.

Margaret Mitchell: Can the panel comment on how lenders might behave in the light of the additional costs that may be imposed on some empty properties?

Peter Muir: I do not think that the finance would be made available for speculative or new build without there being a solid business model—possibly pre-lets—for any particular development. The lender would have to know that income would be coming in to pay back the loan. A lot of landlords have loans from banks at the moment. Given the current squeeze in the banking sector, if I was a bank manager I would be saying to landlords that if they did not let their property, we would take it and do it ourselves. I think that the banking sector will be wary about the bill and will be looking over its shoulder at what might happen.

Margaret Mitchell: So the proposals in the bill could lead to more foreclosures.

Peter Muir: Yes. I think that the banks would start calling in loans. I do not think that that would apply to the large funds that have a substantial income, but there are landlords out there who own 10 or 12 properties and if they are not producing an income and have a loan that is coming up for refinancing, I could see it being foreclosed.

Garry Clark: I do not have anything to add. I agree with what has been said.

Gareth Williams: I also agree. There has been a suggestion that changes down south have had an influence on the number of businesses that have gone into administration. There might be some evidence that lenders’ decisions would be influenced by the change. We should be wary of that.

Mark Rodgers: In my experience and, I am sure, in that of colleagues on the panel, it is true to say that long-term money, as it might be described, is simply not out there. It is certainly true that, if someone in our sector is looking for additional borrowings, money for a term of five to seven years is available at a considerable premium, but longer-term money is not. I do not see that position changing any time soon.

Margaret Mitchell: I want to explore the rents issue a bit further. The witnesses have said that there are a lot of incentives and a lot of people are dropping rents. If owners are faced with an increase in costs for properties that are lying empty, might they raise rents to recover those additional costs? The retail sector might look at rents generally and raise them. In other words, that might be a knock-on effect on second and third-tier centres.
Garry Clark: That might happen. If property owners are faced with increased costs, they might look at ways of recovering them through other means. That could include raising rents in properties that they feel more confident of letting. It could have a knock-on effect; I could not rule that out, but it would be speculation on my part.

Peter Muir: I agree with Garry Clark. Landlords might try to get additional rent through occupied properties on which a rent review is due. Certainly in the past five to 10 years, most institutional leases have been reduced in term. Leases used to be for 25 years but they have been reduced to 15 years with five-yearly rent reviews and include the all-important upward-only rent review clause, which is in place purely to protect the landlord's investment. The fact that the market has declined means that the landlord still gets the £10,000 per annum that he got five years ago. A landlord might instigate a rent review, which might go for negotiation between surveyors—which I get involved in—and end up at third-party arbitration, but in nine out of 10 cases, the rent would stay at, say, £10,000. It would probably be stated at £8,000 but because of the upward-only clause, it would stay at £10,000, unless the market was particularly buoyant. Buchanan Street in Glasgow, for example, is still very active but other areas are not.

Gareth Williams: The issue has been highlighted to us as one possible effect in relation to some property owners and some premises. We have tried to highlight a whole range of potential effects in our submission. At this stage, I could not comment on where the balance would be.

Margaret Mitchell: What about domestic property letting?

Mark Rodgers: I am not sure that the same pattern would apply. The social rented sector is so tightly regulated that the ability to review rents and increase them upwards at any given point in time is not something that we would be allowed to do.

It is different for the properly private rented sector. Local markets vary enormously but in the Edinburgh area, for example, private rents are very strong and increasing. However, the issue does not apply to the regulated sector.

Margaret Mitchell: This part of the session is about the potential adverse consequences. I want to explore adverse consequences for the public sector in particular, if it is not able to let its estate. What are the consequences of that for the policy objectives, at least one of which is to make an £18 million saving? How realistic is that saving if the public sector is affected and there is, in turn, an impact on services?

Garry Clark: The figures that I have seen for England show that, last year, the public sector was exposed to about £50 million in respect of empty property rates. The projection for this year is about £70 million. From memory, I think that that figure applies to central and local government, so exposure could be even higher once we take other public bodies, such as the NHS, into account.

The submissions that have been made to the committee by local authorities and the NHS, for example, highlight their potential exposure to empty property rates and their difficulties in trying to avoid that exposure. That is a real issue that we hope the Government will be able to quantify during the bill process.

Margaret Mitchell: To recap, instead of a net saving, we could be looking at the Government having to fork out further expenditure in order to cover the costs.

Garry Clark: At the moment, the cost to the public sector in Scotland is unclear.

Margaret Mitchell: It would be helpful to have data to see which properties we are talking about. An evidence base to see exactly what the extent of the problem is would be helpful.

Garry Clark: Yes.

Margaret Mitchell: Does anybody else want to comment on that issue?

Gareth Williams: As the local authorities have said, they obviously have a role in setting the vision for the towns in their areas. As part of that vision, they may deliberately choose to keep vacant a particular property that they own if the alternative is that it would be put to a use that would be contrary to the vision for the town. There may be those effects as well. I do not wish to denigrate local authorities, but they may think it inappropriate for a charity to use premises in a town centre, for example, if the vision for the area is to raise value and, if possible, get in higher-end shops.

Margaret Mitchell: I will sum up, so that we are clear about what you are saying. Two of the policy objectives are "to bring vacant commercial premises back into use", and to benefit town centres. The Scottish Government believes that town centres in particular will benefit. Do you consider that those objectives will be achieved in this economic climate?

Peter Muir: On your first point, I do not see tenants being found in the current economic climate, particularly in small towns and cities. More thought needs to be given to helping landlords to try to encourage redevelopment and get people to come into areas. I think that the removal of empty property relief will do more damage than good.
Margaret Mitchell: Speculative development is essential for growth in town centres.

Peter Muir: Yes.

Margaret Mitchell: But you think that what has been proposed will have an adverse effect.

Peter Muir: Yes. It will have an adverse effect.

Garry Clark: The solutions to the problems that our town centres face are complex. There will have to be many ways to address them, and many of those will be particular to specific locations throughout the country. The average vacancy rate across Scotland is around 14 or 15 per cent, but the rate is considerably higher in some areas. Paisley is always highlighted—I think that its vacancy rate is currently around 26 per cent. There are acute problems, and it has been well documented recently that the solutions to them lie in diversifying our town centres—I am talking about not only retail, but residential, office and leisure uses—and making them work 24 hours a day. Those solutions will require investment, but from what we can see, the policy would take resources away from town centres rather than encourage investment in them.

Margaret Mitchell: From what Kevin Stewart said, Aberdeen is quite buoyant. Again, is not there a case for getting data to ensure that we are not using a hammer to crack a nut? Some places are buoyant, but the question is what the scale of the problem is.

11:00

Garry Clark: Absolutely. As I said, the challenges are different in different parts of the country. Aberdeen is in a different situation from Paisley, for example. I always feel that the economy in Aberdeen is more related to the price of a barrel of oil than to the issues that other parts of Scotland sometimes experience. That is probably a sweeping generalisation, but Aberdeen is a successful part of the economy and the solutions there are different from the solutions in Paisley, Cumbernauld, Livingston or wherever.

Margaret Mitchell: Does Gareth Williams have any comments on how realistic the two policy objectives are?

Gareth Williams: As I said, particularly at this time, we need an evidence-based and joined-up approach. The Scottish Government has not produced the evidence that we need on the proposals’ economic impact although, to me, the indication is that the bill will not achieve the objective for town centres and will have an overall negative economic impact.

The revenue-raising aspect is difficult. The Scottish Government estimates that the bill will raise money because many more premises will be liable. On the other hand, there are all the issues that we have talked about such as potential demolitions, businesses going into administration and the impacts on the public sector. As I said, there is a big question mark over the projected figure of £18 million. The figure will probably be lower, but we could do with more information on that issue.

Margaret Mitchell: That is helpful.

Kevin Stewart: The written evidence from the Federation of Small Businesses states that rents in many areas are still “stubbornly high” and that the current scheme acts as a disincentive to filling units. It argues that, between 2010 and 2015, that scheme will cost £769 million, compared with the £591 million for the small business bonus scheme. Would those moneys be better invested in trying to boost the economy through things such as the small business bonus scheme, rather than in incentivising people to keep properties empty?

Garry Clark: The small business bonus scheme has a hugely important role in revitalising businesses across the country and, we hope, in encouraging more businesses in our town centres that can take advantage of it. That said, the question should not be about incentivising businesses to keep property empty; it must be about incentivising businesses, where necessary, to redevelop properties to bring them into the kind of use that we need in our town centres, whether that be residential, office or retail use, and to achieve a balance in that. The proposed additional charge will simply be a cost to businesses. It will make it less likely that they will be able to find money to invest and it will expose them even more to lenders, for example.

We need a more complex and conjoined approach towards incentivising development in town centres. We are perhaps on the way to achieving that through the work that the Cabinet Secretary for Infrastructure and Capital Investment is pursuing. We are not clear where the bill fits into that approach. The Scottish Government has not produced any evidence on how it will achieve the intention. We know that the intention is to reduce vacancy levels in town centres and to raise money, but we have not seen evidence to suggest that the bill will do either of those.

Kevin Stewart: I am aware that we are missing you out, Mr Rodgers. Earlier, you said that demand outstrips supply in your area. In the Borders, is there any great scale of long-term empty properties, either in your stock or in private hands?

Mark Rodgers: There is no significant amount within our stock. There are small pockets of what we might call hard-to-let properties. Such a small
unpredictability.

Previously, we have not had enough three, four or five-bedroom properties to meet demand, because such properties are expensive to build—I commented earlier on how we can address that issue. In some regards, once welfare benefit reform kicks in, the demand will almost stand on its head: there will be much more demand for properties with fewer bedrooms because people cannot afford to use 14 per cent to more than 30 per cent of their income support to pay their rent.

Kevin Stewart: I will go into the welfare reform aspects in meetings of the other committee of which I am a member.

Are you aware of any RSLs that have an issue with having a number of long-term empty properties?

Mark Rodgers: I was familiar with that situation in my previous life as an employee of the City of Edinburgh Council. Large areas of the town, such as Craigmillar and Greendykes, had many long-term empty units of stock with a virtually negligible value on paper, and it made no sense to refurbish them, because of the costs. Ironically, at a time of increasing pressure on the social rented sector, the economically sensible thing to do was to demolish such properties. The council started to demolish hundreds of units at a time, and that work is still on-going.

Kevin Stewart: Scottish Land & Estates suggested to the committee that local authorities should recognise that some rural empty properties are likely never to be brought back into use and that they should be delisted from the council tax register. Do you have any comments on that? Do you have any such difficulties with regard to your stock in the Borders?

Mark Rodgers: I am not sure that I agree with that perspective. Ensuring that people with a housing need can be housed in or fairly close to their communities is one of the most difficult things to do in small rural communities. That is not unique to the Borders; it is probably an issue everywhere in Scotland outside the major population centres.

My earlier comment started from the basic premise that often it makes economic sense to subsidise the purchase and refurbishment of existing properties rather than taking on the economic and environmental costs of new build. It strikes me that what you describe is a prime example of a situation in which we could work constructively with those who own that stock to determine whether we could either assist them to bring that stock into use for rent or, perhaps, give them a capital receipt by purchasing it. That might be a more sensible way to proceed, rather than saying that, at a time of housing crisis across all tenures, it makes sense to leave stock standing empty and not collect any tax on it.

The Convener: The Government proposes to allow local authorities to offer a discretionary time-limited exemption from any additional council tax charge in two circumstances. One is where the owner is actively attempting to either sell or let the property, and the other is where RSLs have a stock of properties that are needed for use as temporary accommodation but which are sometimes left empty for long periods because their use is linked to a demolition and new-build programme. Are there any other situations in which the Government should be considering allowing local authorities to offer an exemption?

Mark Rodgers: Those are the two principal ones.

In my submission, I made the observation that an element of flexibility should be possible in relation to a standard private owner who is selling to relocate, so that they are not penalised as a result of their property being stood empty while they are genuinely trying to market it and move elsewhere. It could be argued that the absence of such flexibility might impact on labour mobility. In the local housing market in Hawick, even properties that have had 10, 20 or 30 per cent knocked off relatively modest market prices are still stood empty 12 or 18 months later. Any regulations that would support the bill, if it is passed, would have to deal with that situation so that people who were genuinely trying to move would not be penalised.

That said, the two sets of circumstances that you mentioned are the major ones in which it would be logical to offer an exemption.

The Convener: Do other members of the panel have any thoughts on the idea of there being local flexibility?

Garry Clark: A more general flexibility would probably be more welcome than having 32 different systems applied, which would result in unpredictability.
As far as potential exemptions from the changes to empty property relief are concerned, perhaps some measure could be built in to protect new developments for a period of time, to allow speculative development to take place when the market picks up again. That would seem an obvious measure to take. I think that it would be more welcome for any changes to be made at a Scottish level than it would be for a piecemeal approach to be adopted across the country.

Peter Muir: I echo what Garry Clark said. We have a single rate poundage, which is lower or higher, depending on the rateable value. That is a more general approach. If an exemption were granted for new-build properties, that would have to be done on a national basis.

The Convener: Gareth, do you have anything to add?

Gareth Williams: Not much. When I spoke to our members in advance of today’s meeting, some of them raised concerns about the increasing complexity of a system that involves BIDs, tax increment financing and so on. If we add to that the incentives that the Scottish Government is looking at with regard to the retention of non-domestic rates at a local level, complexity is an issue that we might want to consider.

John Pentland: I have a question for Mark Rodgers. If the bill is passed, additional moneys will be raised. Do you agree with the Scottish Government’s proposal that local authorities should be given discretion with regard to how they spend that money?

Mark Rodgers: Not in terms of the discretion—perhaps that is a slightly controversial view. If the purpose behind giving councils the ability to apply a punitive sanction to someone for not using a property is to generate income, because that sanction is applied to recognise that stock is not being used when there is pressure for stock to be available, surely it makes sense for those funds to be spent on improving the supply of housing. Such income should not be seen as a substitute for the provision of adequate funds to local authorities.

The Convener: Are there any other questions?

Margaret Mitchell: I have a final question about town centres. The planned national review of town centres is coming up. What does the panel think about the proposed reforms being implemented separately from that review and without it being taken into consideration?

Garry Clark: We welcome the review and the Scottish Government’s renewed approach to town centres. We have met ministers and officials as part of that process, and we are keen to continue to work with the Scottish Government on that. It is unclear to us how the bill’s proposals would play a part in that. We fear that the bill may have a negative rather than a positive impact on town centres in the short to medium term. However, we are keen to continue to work with the Scottish Government, to add what we can do to efforts to ensure that town centres have a vibrant and positive future.

11:15

Margaret Mitchell: Would it be better to delay consideration of the proposals until the town centres review has been undertaken or to consider them in conjunction with that work?

Garry Clark: Given that the policy intention of the bill is to address vacancy levels, particularly in town centres, it would probably make sense for the proposals and the wider town centres initiative to be dealt with more holistically.

Peter Muir: I agree whole-heartedly with Garry Clark on that. I do not see that town centres will be redeveloped or improved in any way without there having been some form of review. When the review has been undertaken, we can move forward. Currently, there is no market for tenants.

Margaret Mitchell: We will have more data and evidence and a clearer picture when all that has been undertaken.

Gareth Williams: I agree with my fellow panellists. There is also the forthcoming, more fundamental review of non-domestic rates, and it would make sense to consider reform alongside that, in addition to the national review of town centres, so that we have a far more joined-up policy.

Margaret Mitchell: Rather than look at the issue in isolation.

Gareth Williams: Yes.

The Convener: I thank the panel. We have heard a lot of good evidence.

11:16

Meeting continued in private until 11:44.
On resuming—

Local Government Finance (Unoccupied Properties etc) (Scotland) Bill: Stage 1

The Convener: The next item of business is our final oral evidence-taking session in our stage 1 consideration of the Local Government Finance (Unoccupied Properties etc) (Scotland) Bill.

I welcome Derek Mackay, Minister for Local Government and Planning, and Keith Brown, Minister for Housing and Transport. They are accompanied by Scottish Government officials Sam Baker, head of the tax and markets unit, housing supply division; and Marianne Cook, policy manager, local government finance unit. Thanks for coming, and I apologise for keeping you waiting after calling you in early.

We propose to deal with the bill in three parts, looking first at empty property rates relief. One of the criticisms that we have received is that there was no formal consultation before the introduction of the bill. Can we have some comments on that? The Finance Committee was particularly concerned about that.

Derek Mackay (Minister for Local Government and Planning): I am happy to pick that up. I do not know whether you want any opening remarks, convener. However, specifically on your reference to consultation, it was felt that it would not be proportionate to carry out a consultation at that stage because of the number of properties involved and the scale of the issue. It affects £18 million of income generation in the context of £2.3 billion income from non-domestic rates.

The decision to undertake a business and regulatory impact assessment is at ministers’ discretion. On this occasion, it was decided not to undertake one. In the same way, it was felt that such a process was not required for the decision to implement the public health supplement. Having said that, I point out that there is on-going consultation on how the policy intent of the bill is being progressed. At this stage we seek only the enabling power to vary the reliefs. The regulations that will specify what the reliefs will be will come to the committee at some point in the future.

The Convener: If the consultation is on-going now that the bill has been drafted, is the Government still minded to be flexible about how the regulations will be applied? It was a concern of businesspeople that they had not had the
opportunity to feed in. Are you saying that, in spite of that, you are still listening?

**Derek Mackay:** Yes. The Government continues to listen to the issue. The consultation has been on-going. The bill gives ministers the power to introduce regulations that can vary the reliefs in the same way that we can vary the small business bonus. The on-going engagement with stakeholders will ensure that they and Parliament are listened to.

**Margaret Mitchell:** I will press you a little on that. As recently as in advance of today’s meeting, you have issued a press release that still talks about £18 million being raised from these properties. You say that you are listening, but you do not appear to be hearing what businesses are saying. There is a very clear message coming from them that these properties are unoccupied because there is a lack of demand and because of the economic circumstances, yet you seem to have taken no cognisance of that. Would you like to comment on that?

**Derek Mackay:** The committee should be aware that what we are being asked to approve at this stage is the enabling power for regulations to be introduced to vary the rates relief. We believe that the figure of £18 million that was announced in the budget will incentivise landlords to open up premises and to bring premises back to life. That is the policy that was announced at the time of the budget.

In response to the convener’s question, I have said that we are still listening on the specifics of what we might introduce through the regulations. When those are introduced, the committee will take a view on the regulations and the absolute levels that are set at that time. The policy statement as outlined at the time of the budget contains the figures that we are working on at the moment. I say again that the Government continues to listen to all the stakeholders, some of whom the committee has had as witnesses—this is not the end of the process. However, we believe that the empty property rates relief review is necessary to bring some commercial properties back into useful operation.

**Margaret Mitchell:** Perhaps you can provide some evidence for that. Throughout the evidence that we have taken, there has been no indication that there are empirical statistics to prove that what you say is the case. In fact, it is increasingly looking as though the whole proposal is based on the Walter Mitty school of economics.

**Derek Mackay:** There is no empirical evidence either way. Similar reforms in England were enacted by the UK Government in 2008 and then took place in Wales but, because of the various factors that affect local economies—including the euro zone crisis, the general recession and the VAT hike, which cost Scotland £1 billion—it is very hard to establish empirical evidence to show what impact the empty property rates relief policies in England and Wales have had either way. For that reason, we have learned lessons from, for example, policy on rates relief for industrial properties. We are not simply following what happened in England but are adopting a slightly different approach and continuing the 100 per cent relief for industrial properties because of the experience in England.

It is fair to say that there is a lack of evidence either way to show what specific difference the policy could make. However, many people believe that subsidising closed premises does not feel like a fair sharing of the burden.

**The Convener:** What is the cost of empty property rates relief just now?

**Derek Mackay:** Over the five-year period, the cost is £757 million. That is the amount that the Scottish Government gives in empty property rates relief. If the proposals were enacted as announced at the time of the budget, it would still cost the Government £721 million in rates relief.

The policy is two pronged. It is about income generation as well as incentivising landlords to open up premises, and we are honest about that. It is expected that, as an income generation measure, it will generate £18 million a year.

**Margaret Mitchell:** There seems to be an assumption that the 5,500 vacant properties will come back into use. Where is the evidence for that? You are asking us to consider legislation and a proposal that are backed up by no statistics. We have heard witness after witness say that empty property relief will not achieve either of its objectives of regenerating the economy and bringing those properties back into use, and that it could in fact end up costing the Government money, given the public liability.

There has also been some confusion about what organisations such as the Federation of Small Businesses are saying about it. Perhaps the minister or his advisers could clarify that on the record.

**Derek Mackay:** We are satisfied that the figure of £18 million, which is calculated according to a formula, is robust. That does not assume that 5,500 properties would necessarily be brought back into use, but simply outlines how those properties will receive a lesser relief under the proposal. That is how we arrived at the figure of £18 million, but we do not assume that those properties will all open. Although we aspire to bring as many properties as possible back into use, the figure is predicated not on how many come back into use but on the fact that the relief
that the Scottish Government provides is lower. It is down from £757 million to £721 million, which does not seem completely disproportionate in terms of sharing the burden.

I am not surprised to hear from Margaret Mitchell that many of the witnesses who have appeared before the committee do not want to pay more tax. I am not familiar with many groups who come to committee and volunteer that their organisation or members should pay more tax. I had the same experience with the public health supplement, which many members supported.

I have specific quotes from some of those who have taken a position. The Federation of Small Businesses welcomed the review, which must be set in the context of the business rates incentivisation scheme, the small business bonus scheme and the rates review in which we have announced will take place shortly. That context, along with the regeneration strategy that the Cabinet Secretary for Infrastructure and Capital Investment, Alex Neil, will be promoting over the summer, creates a wider picture that many stakeholders support and appreciate. The Federation of Small Businesses welcomed the Government’s direction and the rates review in so far as it encourages landlords to bring properties back into use. Whether the FSB supports the policy as it stands is for the organisation itself to answer. I think that, at present, the FSB does not necessarily support the statistics. However, in a press release and in further stakeholder meetings with me and others, it has been broadly supportive of the Government’s direction. If the FSB is not supportive, it is for the organisation to say so.

Kevin Stewart: The FSB said in its written evidence that it was unfair that we were paying out more for rates relief than we were for the small business bonus scheme.

Post-reform, in what ways will the empty property relief scheme here be more generous than the schemes in the rest of the UK?

Derek Mackay: The Scottish Government has protected the poundage, and the small business bonus scheme, taken in context, has been incredibly helpful. Under our current proposals, we would still give relief of 10 per cent where none is given in England. Industrial properties, which were affected in England, are protected in Scotland, and we have ensured that we are applying some of the lessons that have been learned.

There are specific differences between what is proposed for Scotland and what has happened in England. The important point about the power is that it is very helpful to Scotland and to our economy to always have a competitive edge over other parts of the United Kingdom, specifically on business rates relief. That will come through in the consultation later this year. As with the small business bonus scheme, it is better to have the power—subject of course to parliamentary scrutiny—to vary those rates so that we will always have a competitive edge over what other parts of the United Kingdom are doing.

We have provided for a range of other reliefs for charities and other organisations; I have a list that I can circulate to members. On empty property rates relief specifically, the period in which it kicks in, the level of relief that is given, the nature of industrial properties and the scale of rateable properties are all set at an appropriate level. As I said earlier, we are listening to stakeholders to ensure that we get it right when we bring the regulations forward.

Kevin Stewart: The evidence that we have heard in response to lines of questioning about empty properties in certain parts of the country suggests that there might be geographical differences. In my patch, for example, some folk seem to be willing to hold on to properties until they get the right price even though such a price cannot be sustained in the current market. Others have wondered whether changing the use of certain empty properties might allow them to be let. Are you willing to be flexible and examine some of those issues in the formulation at the end of the bill?

Derek Mackay: Absolutely. We have asked stakeholders to give us their suggestions, highlight best practice and tell us what might help to incentivise owners to bring their properties back into use, and we will remain a listening Government in that respect. Of course, we will also learn from Administrations in other parts of the UK and, through our officials, find out what policies they are adopting or, indeed, reviewing to ensure that our part of the UK is the most competitive.

As for rents, a key issue is that, as evidence to your committee has suggested, rents in certain places remain stubbornly high and it is clear that doing nothing will cause stagnation in some communities in Scotland. If the reduction in business rates focuses the minds of some landlords—in particular, those described as “remote” landlords—on bringing properties back into use, it might be a very effective incentivisation tool in areas where there has been stagnation and no impetus to find tenants. We know that there is a range of factors, but stubbornly high rents are often cited as a reason for unoccupied properties.

John Pentland: I might be about to sound unreasonable, but I should make it clear that I generally support the bill.

You said that you are seeking an enabling power, but some have expressed concern that the
power is for ministers’ use only. As a result, we would like an assurance that you will take any further consultation on board and come back to Parliament to discuss the matter before any decision is made.

Secondly, I want to explore an issue that Margaret Mitchell has already touched on. You have said that the £18 million figure has been reached as a result of robust analysis but, if that is the case, why has the Finance Committee said that there is no detail behind the figure and that not enough work has been done to produce that evidence?

Derek Mackay: I would be the first to say that you are a very reasonable man, Mr Pentland, and I am sure that you will find the Scottish Government to be very reasonable in turn. When we consider the regulations on varying the reliefs, we will bring them back to Parliament before any change is made; indeed, I understand that this very committee will examine the matter. Ministers will not act in isolation and the regulations, which, I hope, will reflect some of the comments that have been made by committees and stakeholders, will still be subject to a level of parliamentary scrutiny.

On the £18 million figure, you are right to suggest that the Finance Committee was somewhat frustrated at the lack of detail, but my understanding is that the detail that we had on how we arrived at that figure has since been circulated to the committee.

I should add that the Cabinet Secretary for Finance, Employment and Sustainable Growth, John Swinney, has made it clear that there is flexibility in the policy to ensure that we get it right. If the amount generated by this measure were to be substantially more than £18 million, it would act as a further incentive for the Government to review the levels at which the reliefs are set. We think that, to remain competitive, what is important is the power to vary rates, rather than the full three-stage process, which you just do not have for many other schemes, including the most comparable—the small business bonus scheme.

James Dornan: Given the difficulties that you have already highlighted in separating out the effects of empty property relief reform from wider economic factors, how do ministers propose to monitor the impact of the reforms?

11:45

Derek Mackay: We will remain in dialogue with assessors, councils and all stakeholders to ascertain the impact of the policy. For the reasons that you fairly acknowledged, it will be hard to produce evidence on how many properties are brought back into use, because we will not be able to isolate the policy from other policies that might have had an impact, such as the small business bonus or support through the regeneration strategy, and other factors that might determine the economic climate in which the business world operates.

We will monitor the situation. If we thought for a minute that the policy was counterproductive, we would have to review it. However, we think that the policy will make a difference and that many landlords will decide to use properties that have been left neglected in some way.

James Dornan: Do you have a period in mind for reviewing the impact of the bill?

Derek Mackay: There is the budget process, from which the policy emerged, which is on-going. We must regularly consider the income from non-domestic rates, so of course there will be on-going monitoring of the perceived impact of the policy and the actual numbers. It is worth remembering that all non-domestic rates are returned to local government, and that that part of the local government settlement is assured by the Scottish Government.

Anne McTaggart: The Finance Committee’s report gave me extreme concern. You said that you have provided evidence to the committee about the £18 million. Do we have that evidence, or are we able to get it?

Eugene Windsor (Clerk): We are able to get it.

Anne McTaggart: There remain concerns about enforcement. How will the Government recoup the £18 million? Even if you do recoup it—which is not likely, from what you are saying—what will you do with it?

Derek Mackay: The income that we would generate from the reduced relief as proposed would be generated in exactly the same way as the £2.3 billion raised through non-domestic rates is generated. Assessors identify the properties that are liable and the council collects the rates.

The small business bonus and charitable reliefs can be varied. The infrastructure to do that exists and councils and assessors understand their responsibility, so new infrastructure is not needed to deliver the policy. Varying the rate relief simply requires a change in the calculation of what people are entitled to. We are confident that the money will be realised.

When the Finance Committee considered the financial memorandum, it did not have all the detail that it wanted to enable it to understand the policy. On request, the detail was given to the committee, which passed its report to this committee, so that it could probe the policy. I understand that all the information has been given to the committee.
Anne McTaggart: My major concern is that a business and regulatory impact assessment has not been carried out. Do we have the evidence in relation to the national health service and Scottish Enterprise, which was mentioned?

Derek Mackay: We do, and I can share it with the committee: the impact on the NHS is £0.3 million; the figure for Scottish Enterprise is £0.4 million; and the figure for councils is £1.7 million. Members should bear in mind that non-domestic rates income is £2.3 billion per year. Those figures are calculated on the basis that none of the properties concerned is brought back into use. They represent the cost of the policy to those organisations. I hope that that answers your question.

The Convener: There are a number of schemes in councils to try to give council properties to community groups and so on, at a peppercorn rent. Would such properties be exempt from the charge?

Derek Mackay: An organisation or property that is entitled to charity or associated rate relief would continue to enjoy that after the proposed reform. Over the five-year period, the cost to Government of relief to charities is £734 million. The policy will not affect non-profit-making organisations that are covered by charity relief.

The Convener: So the costs to local government could be less if those groups use the property.

Derek Mackay: The answer to that question will depend on how the groups construct their assets. We are about to launch the community empowerment and renewal bill, which has the purpose of releasing more assets from the public sector for community use. If organisations have the appropriate constitution and ownership, they could be relieved of non-domestic rates, which I am sure will delight the cabinet secretary, John Swinney.

Anne McTaggart: I fully appreciate the sentiment behind the proposals, but we have taken evidence from Glasgow City Council that the bill might well lead to its having to demolish properties. I thought that the bill aims to encourage regeneration and the use of empty buildings.

Derek Mackay: I would have thought that the new burden on local government of £1.7 million seems like a drop in the ocean compared with the £11.5 billion that is given to local government by way of the settlement. The non-domestic rate income is given back to local government in full, so it funds the services and is part of the budget process and balancing the books. That would have been made much easier if the UK Government had not savaged the Scottish Government's budget.

Margaret Mitchell: Will you explain a little more fully why industrial premises are not included if the policy is such a great idea and will generate more income and result in more properties being brought back into use?

Derek Mackay: There was evidence from the English experience that, because industrial premises are so specific by nature, it is hard to adapt them to new use. Therefore, it would be disproportionate and unfair if the empty property rates relief policy was applied in such a bland way to industrial premises. Learning the lessons from England, we felt that it made sense to exempt industrial properties. Some of the more glitzy stories in the press suggested that some industrial properties in England were demolished. There is not a huge amount of evidence on that, but if the policy was not implemented in a sophisticated way, it could have that impact on industrial properties. For that reason, industrial properties are not covered.

Margaret Mitchell: Is it not a bit of a contradiction that you are prepared to look at the experience in England in relation to industrial premises but you discount the experience there in relation to retail premises? We know that, as a result of the policy and the pressures of bank lending, the retail vacancies figure rose from 3 to 14 per cent. That is the nearest that we have to concrete evidence, yet you seem to discount it while using the English experience in relation to industrial premises.

Derek Mackay: There are specific circumstances with industrial properties. It would be wrong to say that the empty property relief policy in isolation caused the increase in vacancies in England. As we have discussed, the international recession, the euro zone crisis and the UK Government's increase in VAT were in the mix in that context. We have to consider all the factors. The policy was introduced by the previous UK Government in 2008 and has been sustained by the current one. We will learn the lessons from across the United Kingdom on how policies have been applied and on innovative packages to incentivise the use of our town centres.

Yesterday, I was at Glenburn seniors forum and was asked what I was doing in Parliament today. When I told the members of that forum, they agreed unanimously that the burden should be shared across council tax payers and property owners. We are talking about a property tax to generate income to balance the books and revitalise our town centres. A great many taxpayers support the policy and feel that it is not fair to let some landlords off the hook when they
should be trying to stimulate and encourage growth in town centres.

Margaret Mitchell: Do you honestly believe that, in the current economic climate, anything but the teeniest proportion of people would wilfully not try to let their property? A host of people, including the CBI, Scottish Chambers of Commerce and the FSB—the list goes on—as well as the Finance Committee in its damning report have told us that the major cause of empty properties is the lack of demand in the current economic climate.

The consequences of this policy could be a negative impact on speculative development—it is hard to see how that would regenerate the economy; a risk of demolition, which has already been covered; and more businesses ending up in administration, which is a real concern. Surely it is time to say that this is a counterproductive policy that should be shelved. The fact of the matter is that, after witness has said that this policy is not going to deliver on its principle or its objectives.

Derek Mackay: Perhaps Margaret Mitchell should reflect on the fact that the UK Government does not share her views—the policy of the previous UK Government has been sustained by the current one.

I am not dismissing the concerns of the business community. That is why I said that we will continue to work with all stakeholders to ensure that we get the policy and the regulations right. The policy has to tie into the bigger picture of regeneration strategies, the business rates incentivisation scheme and other support that we can provide to ensure that town centres are healthy and vibrant.

However, many owners of occupied properties and local businesses might feel that it is unfair that they are paying the burden of keeping the shop next door empty. I get the point that there is a lack of demand in the economy at the moment. That is why there perhaps should be further support for Scottish Government policies to stimulate the Scottish economy—and why other UK decisions, such as the VAT hike, were unhelpful.

On local circumstances, stubbornly high rents have been referred to in evidence to this committee and the Finance Committee to explain why some properties have not been brought back into use. The Government, the Parliament and the local authorities have to do something to make landlords and developers think about the rents that they charge. One way to do that is through the non-domestic rates relief that is given. It is a huge subsidy by the taxpayer in tax that is not being received. We have to capitalise on that in a way that does not cause an imbalance across Scotland.

On Margaret Mitchell’s point around speculative development, the Scottish Government sympathises with the point about the liability costs of any new development. However, the advice that we have received is that the exemption of new properties would not comply with European Union state aid principles and therefore we cannot exempt them, although we sympathise with the point about the viability of developments. To suggest that there has to be complete rates relief for new properties would be wrong. The current policy is 50 per cent rates relief, so it is not the case that some unoccupied properties and landlords should pay nothing—that case has not been argued, even by stakeholders. The level at which relief is set is what we have to consider closely in the mix of all the other policy tools that we have at our disposal.

Margaret Mitchell: You say that you are listening, but you are not hearing the clear and unambiguous message that is emerging—that this is a counterproductive policy and that you really should think again.

Derek Mackay: I make the point once more that the purpose of the bill is to give ministers the power to vary the reliefs. We will do that in the context of all our other policies. When we set the reliefs and arrive at that policy we will return to this committee. I am sure that we will evidence how we have taken on board the views of the Finance Committee and this committee and the views of stakeholders and we will show that we are indeed a listening Government.

We are not dismissing the arguments that are being put forward, but we have to bear in mind that some people are making a case for not paying more tax. That is understandable but, as a Government, we have to balance the books and continuing to invest in the public services that these properties and these landowners depend on.

The Convener: Like most committee members, I am sure, I welcome the minister’s commitment to continue to listen and to be flexible as to how the policy is finally implemented—particularly the point around speculative development. If someone invests in a property, sometimes—precisely because it is speculative—it might not work out. If that issue is going to be looked at, that is to be welcomed.

12:00

Kevin Stewart: I certainly do not think that the move will be counterproductive in certain areas of the country; in fact, I think that it will be welcomed by folk who are looking for premises in areas where rents are still stubbornly high.
Turning to the planning part of your portfolio, minister, I wonder whether you are willing to examine the time that it takes to change the use of certain empty properties to bring them back into use and the bureaucracy that surrounds such moves. What do you envisage might be the change to rates if real attempts were being made to bring such properties back into use?

Derek Mackay: You ask a very good question about planning considerations. You will be aware, for example, of the planning consultations that were launched in March, some of which are about simplifying and streamlining the system and being more flexible and responsive. The solution for many town centres lies not in simply expecting retail to come back as it was 10 or 20 years ago but in diversifying their use, and that issue will be picked up in the regeneration strategy that Alex Neil is leading. I will certainly do all that I can within the planning remit to make that approach quick, effective and real.

Of course, I am relying on a culture change in the planning system, which includes the 32 planning authorities and the two regional park authorities, to ensure that that happens at a local level. After all, such moves do not necessarily require legislation; they might just need appropriate decision making on material considerations on the ground. If ever there was a time that we had to be flexible in the use of our town centres, given the financial climate in which we are operating, it is surely now. I will do everything that I can under the planning part of my brief to make that happen.

John Pentland: It has been suggested in evidence that this might not be the right time to introduce such a bill and that bringing back so many empty properties into the kind of use that we hope for might be counterproductive. What guarantees can you give that that will not be the case? What safety measures have you put in place, and what other help and assistance are you prepared to offer to deal, in particular, with the properties in some town centres that, as Kevin Stewart suggested, might not be appropriate for the use that they might once have had?

Derek Mackay: Let me, once again, set this in context: this measure will effectively generate £18 million-worth of income, whereas year on year the Scottish Government provides £0.5 billion in rates relief to a range of different people. We have to put this in perspective. This £18 million burden will be shared among a potential 5,500 properties across the country, but I point out that a host of Government support packages is available from Scottish Enterprise or business gateway, or through local government’s regeneration function, to stimulate local companies and support them in developing new businesses. However, we will no longer subsidise closure and the commercial inactivity of properties that remain closed at everyone else’s expense. A range of measures is available to support individual businesses that want to open up or, as the convener suggested, properties could be released for other functions that would not incur non-domestic rates but would still serve a good community function and complement whatever else is going on in town centres.

John Pentland: You mentioned Scottish Enterprise and business gateway. How much have those partners bought into your bill?

Derek Mackay: All Government agencies are expected to deliver the Government’s outcomes and all community planning partners, including the private sector, will work together on the regeneration strategy. We will ask everyone for their views on the business rates review, the consultation for which will be launched fairly shortly and carried out over the summer.

James Dornan: Would the minister consider the reforms appropriate if they had no impact on the number of empty properties but succeeded only in raising revenue?

Derek Mackay: If this was simply an income-generation measure that had an adverse effect on the business community, we would not be progressing with it. However, the Scottish Government believes that it will not only increase income through lower rates relief but incentivise landlords and owners to open up premises that up to this point have been closed. We genuinely believe that the policy is about incentivisation as well as income generation. If it were just about income generation at the expense of the business community, we would not be progressing it.

James Dornan: On the back of that, what other measures were considered in relation to this?

Derek Mackay: In relation to what?

James Dornan: The policy objective of reducing the number of empty properties.

Derek Mackay: As I said, the regeneration strategy—which the Cabinet Secretary for Infrastructure and Capital Investment, Alex Neil, will take forward shortly—will outline more of that work. The policy should be set in the context of preserving the small business bonus scheme, which is a highly targeted measure to support small businesses. If we view the policy in the context of the planning reform that we have spoken about and the regeneration strategy, the fact that it will generate £18 million out of a tax take of £2.3 billion means that it is fairly proportionate to the challenge that we face.

James Dornan: I will not ask you to give away any of the cabinet secretary’s secrets.
Derek Mackay: I was not a member of the Government when the budget was composed, but I am sure that the cabinet secretary had to consider a range of financial options for balancing the budget, which, as I have pointed out, was drastically reduced by the UK Government, whose business rates relief policy is less generous than the Scottish Government’s.

It is worth pointing out again that, even if the proposals were accepted in their present form, our system would still be more generous than the one that is enjoyed in England. Business rates in Scotland would still be more competitive. The power to vary the level of relief will give us the opportunity to continue to be more competitive than other parts of the UK.

John Pentland: Do you think that the legislative process should be paused while a proper consultation takes place?

Derek Mackay: As a former councillor, I am not sure that local government would appreciate the Scottish Government saying that it intended to pause the prospect of its receiving new income. We will have time to consider the matter. The bill will not be enacted this week or next week; it will not come in until the next financial year. We have time to consider the regulations, to bring them to Parliament and to implement them in time for the next financial year. We are not rushing to a decision. If you are looking for time to consider our proposals, that is already built into the process.

John Pentland: As a former councillor, I am well aware of the Scottish Government’s previous big ideas. It was at the implementation stage that the difficulties arose. I am glad that you will take on board the result of the proper consultation that is taking place.

Derek Mackay: It could be argued that the policy in question is a policy of the 2008 Labour Government. I can only commend your party’s Government for coming up with it.

Anne McTaggart: Given the concerns that have been raised—both with us and with the Finance Committee—about the fact that a business and regulatory impact assessment has not been undertaken, why will you not consider undertaking such an assessment?

Derek Mackay: At the risk of repeating myself, given that the policy will generate £18 million out of a total tax take of £2.3 billion, it would not be proportionate to carry out such an assessment. We are talking about a unitary national system of reliefs, unlike the council tax benefit system, on which there might be 32 different policies. There is a difference between the two systems. It was not felt that it would be proportionate to carry out a BRIA on a national system at that level.

I am asking the committee to consider the principle of the enabling power rather than the exact levels of rates relief. The committee will consider the extent to which rates relief will be varied at some point in the future. In many ways, an assessment of the impact is on-going, as we explore and refine the policy and listen to the committee and stakeholders. It is not as if the decision has been taken in the budget and that is the end of the matter. As the cabinet secretary has said, there is some flexibility. I have outlined why we think that the policy direction is important, but we will be flexible. The process of assessing the impact, the consultation and the engagement is very much on-going.

The Convener: Thanks very much.

We move on to section 2 of the bill and the issue of the council tax. In the evidence that we have taken, there has been a bit of debate around what should happen to the extra income. Most people agreed with the general principle that it should not be ring fenced, but some people said that, as the money would be generated from empty properties and that the aim was to bring those homes back into use to tackle a housing problem that a local authority had identified, it should be ring fenced. What are the minister’s thoughts on that?

The Minister for Housing and Transport (Keith Brown): First, I thank the committee for asking Derek Mackay and me to give evidence today.

I will preface my answer to the convener’s question with a few remarks on the general content of the bill, which is about making the best use of our housing and commercial property resources by discouraging their being left empty. It is also about ensuring that Scottish Government funding for housing can be targeted at delivering key priorities, such as more affordable housing, rather than it being used to pay councils’ interest costs on their debts.

As the committee knows, the bill has two topics, the first of which is about changes to local taxation charges for empty properties through business rates and the council tax. The second topic is the proposed abolition from April 2013 of the requirement on the Scottish Government to pay the housing support grant.

On the council tax increase on long-term empty homes, it is clear that housing is critical to Scotland’s economic prosperity, the strength of our communities and the health of our people. Despite the tightest budget settlement since devolution, as Derek Mackay outlined, the Scottish Government has a clear commitment to deliver 30,000 affordable homes over the lifetime of this parliamentary session. In fact, earlier today I
announced that the first figures for the first year showed that there have been around 6,800 completions, which is substantially above the average target that we would have to achieve. The target is very challenging, but I am confident that by focusing on more innovative approaches we will deliver the 30,000 target, with the support of councils, registered social landlords and our other partners.

Our approach to increasing supply is not just about ensuring that more new homes are built, although that is vital. The bill will provide us with an additional tool to assist councils to deal with the scandal of long-term empty homes. Such properties do not raise any income for their owners, they can be an eyesore in their community and they reduce the supply of housing that is available to those who most need it. Around 70,000 homes are sitting empty in Scotland at any one time, about 25,000 of which have been empty for six months or longer and are liable for council tax.

The bill will enable us to introduce regulations to allow for increases in council tax charges on certain long-term empty homes. The regulations are expected to give local authorities the flexibility to charge the owners of empty homes up to double the standard council tax rate after a home has been empty for at least one year. That provision is first and foremost about providing an additional tool to help councils in encouraging more owners to bring their empty homes back into use. That can help councils to meet their housing need and adjust the size of waiting lists in their areas. Again, the provision is not just a revenue-raising power. Councils, assisted by the Scottish empty homes partnership, will be able to provide advice and assistance to owners on the best way to bring their home back into use and so avoid paying any increased charge.

The last part of the bill is on housing support grant. The provisions on abolishing the housing support grant are aimed at avoiding the Scottish Government budget needing to be used in future to fund councils’ interest costs on their housing debts. Obviously, the grant was needed in the past to help some councils meet their housing debt costs, but the introduction of the prudential borrowing regime means that councils should now borrow money to fund housing or other projects only where they can demonstrate that they can afford to repay that borrowing. In that context, the grant should no longer be needed.

At the moment, only Shetland Islands Council claims housing support grant, but its reliance on the grant has been reducing over a number of years. I have just written to the new leader of the council, who was appointed yesterday, I think, proposing a meeting to talk about the council’s request for write-off of that debt or, as the council puts it, transitional funding.

To return to the point that the convener raised, we considered whether the money should be ring fenced, but our view is that we should try to encourage councils and give them discretion, which is consistent with the concordat and the way in which we now work with councils. They will, of course, continue to ring fence the moneys that they get for current income from council tax in relation to discounts. They will continue to be obliged to use that towards providing more housing. However, in this context we thought that a collaborative approach was best, such that councils would have discretion and we would put in place other means that could support them to bring housing back into productive use.

The Convener: It has also been suggested that there is a danger that property owners who were keeping properties empty for a particular reason might reclassify them as second homes. Has the Government considered that matter and whether the bill should also cover second homes?

12:15

Keith Brown: We have looked at the matter but it will take more work to formulate a working definition of second homes that will allow us to distinguish between the two types of property. That said, we think that second homes often provide economic benefits to and improve the areas in which they are located, although I admit that the reverse can be the case if there are too many of them. However, that is not the case with empty homes, which is why we have focused on them. We intend to put together a proper definition to distinguish between the two types of property and that will come down to factors such as the length of time for which a property is occupied in the course of a year.

The Convener: One could argue that it would be more appropriate for local authorities to decide whether second homes have a negative economic impact in their area and so should have the rate applied. Will you consider that issue?

Keith Brown: Councils have different views on the issue of second homes and if we want to ensure that the measure is as workable as possible we must take a consistent approach across the country. We will look at the responses that we receive as the legislation proceeds and try to be flexible in the way that Derek Mackay suggested. However, our view at the moment is that a consistent approach to second homes, which we do not intend to capture in this legislation, and empty homes, which we do, is the best way to move forward.
James Dornan: What is your reaction to Waverley Housing’s suggestion that to tackle the problem of empty properties the Scottish Government use more of its affordable housing supply budget to allow registered social landlords to purchase empty properties on the open market or to convert empty retail units to housing rather than focusing on new build?

Keith Brown: Although such suggestions are worth considering on their own merits, they should not preclude what we are attempting to do in the legislation. The problem of empty homes goes much wider than RSLs and I believe that the basis of the bill, which is to provide some form of disincentive with regard to keeping properties empty, stands on its merits.

As for the proposal that you highlighted, I point out that we have become increasingly flexible with regard to RSLs. That trend will continue and, as I have said, such ideas should be considered on their merits.

John Pentland: Many local authorities have a lot of empty homes because they are in hard-to-let areas. How can the bill help in solving that problem?

Secondly, the Finance Committee noted that the financial memorandum assumes that, as a result of the changes, 10 per cent of long-term empty homes will be brought back into use each year. On what basis was that figure reached?

Keith Brown: On your first question, we have worked with housing lobby groups such as Shelter Scotland on that matter. The proposed council tax increase is only one of a number of measures that we are considering to bring long-term empty properties back into use. For example, the main aim of the Scottish empty homes partnership, which is run by Shelter and has been funded by the Scottish Government up until next year, is to support local authorities, private owners and others in reducing the number of empty homes and it can therefore help councils in working with owners.

In addition, we have provided £400,000 of innovation funding to South Ayrshire Council to run an empty homes loan fund. That fund has drawn a very positive reaction from the rest of the UK, and the Scottish Government is keen to encourage more councils to apply for similar loans. Moreover, there will be an opportunity to apply for funding through the £2 million empty homes loan fund in order to increase the supply of affordable housing.

We have committed to contributing £40,000 in this financial year to the employment of three shared empty homes officers, who will cover seven local authority areas across the west and south-east of Scotland. It is clear that the measure that is set out in the bill is not the only one that we are introducing to help councils to bring empty homes into productive use; we have developed a suite of measures to try to help the situation.

If councils raise revenue from the measure, it will of course be open to them to use it—should they wish to do so—to provide loans or assistance in the form of grants to owners of empty homes who do not have the resources to bring those homes back into public use. It is quite easy to foresee schemes that would allow councils to bring into productive use—to make available for let to people—homes that would otherwise have no chance of reaching that status. A scheme could even be created under which a council or an RSL provided to a home owner a loan that was repaid through rental income that would not otherwise be realised. Councils could take a number of measures.

The 10 per cent reduction in empty homes is an estimate, and the financial memorandum notes a significant margin of uncertainty about that. It is true, and we have said from the start that we recognise, that the prevalence of empty homes and the ability to bring them back into productive use will differ in different council areas. The number of homes that are brought into use will depend on other factors, such as the amount of support that local authorities provide. I have given the committee ideas about ways in which councils could provide support, which will increase the numbers that are brought into use.

Margaret Mitchell: Why are all the estimates based on the assumption that all councils will use the power and charge 100 per cent of council tax or apply the maximum levy?

Keith Brown: I am not sure how else a workable estimate would be arrived at. The figure is the potential amount that could be realised.

We have made it clear from the start that the discretion will lie with councils. The bill will allow councils to vary the level if they want to, so the only meaningful figure that we can advance is the potential maximum figure.

Margaret Mitchell: Why was that approach used? Some sort of variation could have been built in to make a more realistic assumption about the financial impact.

Keith Brown: I do not accept that. We have said that the power will be an option for councils to use. Given that, there could be innumerable permutations of some councils using or not using the power and some councils providing different discounts. We could not have arrived at any other meaningful figure. We have specified the maximum that could be achieved. That makes sense to me, at least.
Margaret Mitchell: I do not think that starting from such a figure is realistic, and that is never good for a policy decision.

Will you give guidance on the evidence that local authorities will require for an exemption from or a grant for the increases in council tax charges?

Keith Brown: I am not sure whether I understood the last part of your question.

Margaret Mitchell: Will you give examples of circumstances that would qualify for exemptions? You will obviously want such matters to be clear and transparent.

Keith Brown: That is right. The issues will take time to work through. If it was clear that a sincere effort had been made to sell or let a property, for example, we would not want to punish somebody for a genuine attempt to bring an empty home into productive use. Those matters should be considered further. They are not easy to resolve; we will deal with them in conjunction with our local authority partners. The judgment will be about what is prescribed in primary legislation or regulations and what is left to local authorities.

It will be possible for local authorities to work out whether something that has been left empty should be brought back into productive use and whether a property owner is genuinely trying to bring it back into productive use. The provisions would not apply if someone was selling their own home, because they would be occupying the property.

Margaret Mitchell: Would someone be required to keep advertising their home and to incur more costs?

Keith Brown: I imagine that someone who was genuinely trying to sell their home would want to advertise it. There must be further discussion about what is a genuine and sincere attempt to market a property. Putting a "For Sale" sign in a back garden would not be a sincere attempt to market a property.

Councils will have the right to make a proper judgment about whether somebody is trying to market their property for sale or let. We can work with local authorities to reach a suitable conclusion that allows them to do that.

Margaret Mitchell: What is your view on the suggestion from Scottish Land & Estates that an additional exemption from any council tax increase should apply when an owner has a long-term empty property that is subject to a live planning application?

Keith Brown: What you suggest is not something that I support. It would be quite possible for an owner to lodge a planning application to try to circumvent their liability for additional council tax. When we look at tax issues—of course, we do not currently have many tax powers—we have to be careful to ensure that we do not make it easy for people to avoid the tax. We have seen evidence of that happening over many years in the context of the UK Exchequer, to the substantial loss of taxpayers in this country. It is fair to everyone if the rules are applied consistently and are not easily avoided.

Margaret Mitchell: Can you at least give the committee an indication of the timescale for the laying of the regulations before the Parliament?

Sam Baker (Scottish Government): We hope to lay the regulations as soon as the bill receives royal assent. When that happens will depend on the committee, to some extent, but it will probably be in early December.

Keith Brown: There will be no substantial delay.

Kevin Stewart: Some of the more sensible suggestions from Scottish Land & Estates were to do with empty properties in rural areas. Some houses will never be brought back into use, because they are in the middle of fields or up on the top of hills or whatever. Would it be more realistic to remove such properties from the council tax register? Will you talk to valuation boards about some of the bizarre situations in which properties that no one in their right mind thinks will ever come back into residential use remain on the register?

Keith Brown: There is some sense in the suggestion, but I understand that currently a derelict property can be removed from the list that is kept by the relevant assessor. If a property is removed, of course, it is no longer subject to tax. It is for the assessor to determine whether a property remains on the list; neither local authorities nor the Scottish Government have control over that.

Additional exemptions are set out in the Council Tax (Exempt Dwellings) (Scotland) Order 1997. For example, certain dwellings on land that is used for agricultural purposes can be exempt. Some of the homes that Scottish Land & Estates described might fall into that category and be eligible for exemption. The two mechanisms that I described should address the issue that the organisation raised.

Kevin Stewart: I realise that that is a matter for local authorities and valuation boards. Is guidance issued to authorities and boards, to encourage a uniform approach across the country to dealing with such properties?

Keith Brown: I do not think that local authorities have a role; it is strictly a matter for the assessors. The Government cannot issue guidance in that
regard, as far as I understand it. Neither local authorities nor the Scottish Government have
direct control over what is a matter for assessors.

There are a number of assessors in the country,
and consistency is important. I will look into
whether the Scottish Government can give
guidance on the area that you asked about and
get back to you.

**Kevin Stewart:** I appreciate the offer.

**John Pentland:** In its evidence to the Finance Committee, the bill team acknowledged that not all
councils will apply the maximum levy. Why then
was the maximum figure used as the basis for the
modelling in the financial memorandum?

**Keith Brown:** I think that I have answered that
question as well as I could do. I do not know what
other figure could sensibly have been used. Local
authorities might want to apply an increased
charge to a varying extent—and bear it in mind
that we will enable them to use the power in
different ways in different parts of the council
area—or they might not want to apply an
increased charge at all, so there is no limit to the
potential for variation.

It is fair to use the maximum figure, as long as
we say clearly that that is what we are doing. Right
from the start, we acknowledged that we were
talking about the maximum amount of money that
could be raised if all councils were to use the
power to the limit. If it has been suggested that
another figure should be used, I would be
interested to hear the basis for arriving at it,
because I genuinely cannot see that it would be
sensible to use any figure other than the
maximum.

**Anne McTaggart:** What is the likely impact of
only some local authorities using the powers?
Given that that is the key variable that would affect
the financial impact of the proposed powers, why
was modelling for that not carried out?

12:30

**Keith Brown:** It is hard to predict or model on
the basis of what individual councils might do. We
believe strongly in local democracy, so if a council
feels that it is important to use the power, perhaps
because it has a preponderance of empty homes
that it wants to deal with, it can do so. Another
council that does not have the same problem
might not do that. It is very hard to model
decisions that will ultimately be taken at individual
local authority level.

**The Convener:** I think that you might have been
asked the same questions, minister, no matter
what assumptions you made. Are there any other
questions on this area?

**Margaret Mitchell:** I have a brief question,
which is similar to that which I asked the Minister
for Local Government and Planning. Is there not a
realisation that vast numbers of properties are
unlet because there is no demand for them?
Again, that aspect undermines the policy intent.

**Keith Brown:** The straightforward answer to
that is to suggest that you look at the housing
waiting lists across the country. There is
undoubtedly demand for more houses. What we
have just now is an underused resource. Mr
Mackay made the point that we provide a benefit
in the form of the Scottish small business bonus,
which is an incentive to businesses. The power in
the bill will be a disincentive to being economically
inactive by leaving houses empty.

We need more houses. As I said in my opening
remarks, we are doing what we can in that regard
and increasing by about 30,000 the number of
affordable homes over this parliamentary session,
which is not an inconsequential thing to do in
terms of the money that it requires. If we can
provide additional houses to address waiting lists
and satisfy existing need, that is the right thing to
do. What the bill proposes is an effective way of
doing that.

**Margaret Mitchell:** The houses may be empty
because they need more money spent on them,
but there is no guarantee that the additional
finance will be used for that purpose.

**Keith Brown:** No, but we will try to encourage
councils to do that. I mentioned the three or four
different ways in which we have given money to
help to achieve that. For example, we have helped
fund some councils to take on an empty homes
officer. Such a post is common in England. An
empty homes officer can go around the local area
and ascertain what houses have been lying empty
for some time. I am not trying to suggest that
someone would be happy to sit on a string of
empty houses. They might not have the resources
to upgrade a house to a lettable standard.

An empty homes officer—this is the purpose of
the current pilot project—can tell an owner that, if
they need a new bathroom or kitchen, for
example, to get a house to a lettable standard,
they can be loaned moneys for that. The owner
could then make the property available for renting.
That method would, of course, be a council
decision and not something that we would
prescribe in legislation. The council could perhaps
then nominate someone from its council house
waiting list to the property and from the rental
income the owner could repay the council loan. It
seems to me that everybody would benefit from
that kind of arrangement, so I cannot see why
councils who are already doing that in the areas
that I mentioned would not want to develop it.
Margaret Mitchell: But there is nothing in the bill that would make that happen. It would very much be the choice of councils.

Keith Brown: Councils are answerable to their electorate. If they were to take in money and not use it for a productive purpose, they would have to answer for that. The nature of the relationship that this Government has with local government is that we have said that local government has its own mandate and responsibilities and that we leave it to local authorities to take decisions in their areas.

Margaret Mitchell: If the policy proved counterproductive and the money did not achieve the policy intent, would it be reconsidered or rescinded?

Keith Brown: There are two things to say on that. If the policy was not productive because councils did not use the resources to improve properties—

Margaret Mitchell: My concern is that the policy would end up being just a revenue-raising exercise.

Keith Brown: To the extent that it reduced the number of empty homes because there was a disincentive for owners to continue to have empty homes, it would have a beneficial impact, even if homes were not brought into productive use through the other route that I mentioned. We are confident that the policy will have a beneficial impact in the way that we have described.

Margaret Mitchell: What is the solid evidence for that?

Keith Brown: My previous answers set out the solid evidence. There is evidence from the empty homes work that we have done in the south and west of the country. We have evidence on the existing demand—huge numbers of people are waiting, not least because of the prolonged period of the right to buy, which has diminished the public housing stock over many years. We know that there is demand, so we are trying to increase the supply. Perhaps we have enough faith in the market to realise that the additional supply will be met by that willing demand.

Anne McTaggart: I have one quick question. When the bill team gave evidence to the Finance Committee, it acknowledged that not all councils would apply the maximum levy that the proposals would allow. Why was the maximum figure used as the basis—

The Convener: I think that we have covered that.

Anne McTaggart: Has it been done?

The Convener: Yes—more than once.

Anne McTaggart: Sorry.

The Convener: We are probably finished on that issue, so we will move on to the housing support grant. Committee members recently visited Shetland to speak to council officers and tenants. We felt that it was important to understand the historical reasons why Shetland Islands Council is in the unique position of being the one council that still receives the grant. One thing that was said loudly was that the council feels that there was a commitment, followed by a promise, to write off the debt, which the council sees as arising from Shetland doing its bit to ensure that accommodation was available when the oil industry came to the area. It is felt that the debt was almost written off in 1997, but there was a change of Government. What is the Scottish Government's view on the history of the debt?

Keith Brown: You are exactly right about Shetland's point of view. We have found no evidence of a commitment apparently given by a previous Government, many years before the Scottish Parliament came into existence. We have seen no evidence that a commitment was given by a UK Government wanting to write off housing debt. There was a link in that the UK Government had an interest in ensuring adequate housing supply for people coming to work in the oil industry, but we have seen no evidence that the UK Government—not the Scottish Government—made a commitment to write off the debt. Shetland Islands Council has written to the UK Government on the issue, so it will be interesting to see the response.

The Convener: Another area that we touched on while we were in Shetland was the potential writing off of the debt as part of the proposed stock transfer, which failed. Our understanding is that the debt in Shetland is different from that in other authorities, in that it is internal. How would that have worked with stock transfer?

Keith Brown: As far as I am aware, the stock transfer arrangements for Shetland would not have been different to those for other authorities.

The Convener: Other authorities' debts would be from public loans, whereas Shetland's debt is probably to its oil fund, so it is an internal debt.

Keith Brown: I ask Sam Baker to comment on that.

Sam Baker: I cannot speak for the Treasury, but my understanding is that the Treasury's position has always been that it would write off only debt that was owed, in essence, to itself. Therefore, it would not have written off Shetland's debt, which as you say was an internal loan from one part of the council to another. The Treasury would have written off the debt only if the stock had been transferred. My understanding is that Shetland Islands Council argued to receive grant
to write off its debt, but not to transfer the stock. The Treasury would not have considered that.

**Kevin Stewart:** The issue of an internal debt, rather than a debt to the Public Works Loan Board, has just become apparent to us, probably only this morning, to be honest. It has been quite difficult for the committee to get to grips with that.

I have a question on the proposed stock transfer that probably cannot be answered at the moment. We have heard from some that the Shetland stock was undervalued and by others that it was overvalued. Beyond that, it now seems that even if stock transfer had gone ahead, the debt would not have been written off by the UK Treasury. Are you able to look back at the stock transfer situation under previous Administrations to see whether that was one of the reasons why the stock transfer did not proceed? Stock transfer would have been beneficial to no one if there had been no write-off of debt. It would be interesting to know what your records say about a situation that has become apparent to us only this morning.

**Keith Brown:** We will partly rely on Shetland Islands Council to provide us with information, but we are happy to find that out and come back to the member or the committee on that. However, as was suggested previously, the main reason that stock transfer did not go ahead was a valuation disagreement.

It is also true to say that, when the UK Government has written off debt in the past, it has been Public Works Loan Board money. The UK Government took on loans that were taken out by councils to finance previous council house stock. According to recent information, what is different in this case is that the council owes the money to itself in one guise or another. That may well have been a sticking point but, as I understand it, the main sticking point was a difference in the valuation. We will find out more information on that and provide it to the committee if that is helpful.

As I said, I have written to Shetland Islands Council asking to meet its convener to discuss the matter further. There are a number of points of difference between us. If the debt write-off was to happen, it would be the only one of this nature. It is not easy for me to see a basis for doing that, because the rents that are currently paid are comparable with rents in councils that are similar to Shetland. There are other issues. The council has substantial reserves, which, it argues, are committed elsewhere. It is true that some of those reserves could not be used for this purpose, but many of them could be. That is a choice that Shetland has made.

I would be keen to ensure that we did not treat one council differently from other councils. If we were to commit £40 million to writing off the debt of one council, that would equate to about £1 billion of debt write-off if we treated all councils the same way. We have to be very careful about that.

If Shetland has, as it says it has, a unique justification for asking for debt write-off, it is right that we should examine that. In the process of doing so, I am happy to pass the information back to the committee.

**The Convener:** I am pleased to hear that you will try to engage with Shetland about how it manages the process. What we were originally faced with was that either it continued to get the grant or there would be a huge rent rise. There did not seem to be any modelling in between, or any effort. We have had a commitment from Shetland Islands Council that it will look at the modelling. I hope that when you go up you will look at whether there are transitional arrangements that could help the council to make some of the models work and that do not put up the rent of every Shetland Islands Council tenant overnight by a huge amount.

**Keith Brown:** There has been virtually no rent rise in real terms in Shetland for a number of years. Other councils have had that rent rise in many cases. We have to try to treat people on a level playing field.

There is also a question about the repairs and maintenance service offered by the council, which is very expensive compared with those of other councils. That may be because it is a gold standard service and that is what people want and should have in Shetland, or there could be other reasons for that. It is only right that we try to get to the bottom of that.

As you say, the right thing to do is to engage with Shetland Islands Council, and that is what we intend to do.

**Kevin Stewart:** Minister, you said that you would look for information about stock transfer. When we visited Shetland there was a comment that, in the course of the Labour-Liberal Scottish Executive—I do not know which years—there was a budget line for writing off housing debt. I assume that, if it was ever there, it would have been entirely attached to stock transfer. It would be good for those who were on the Shetland visit, and the others, to get clarification about that point. The position is very difficult, because a lot of the comments that were made were not evidenced, but we are obliged to follow them up if we possibly can.

12:45

**Keith Brown:** That is a fair point. Obviously we have a view on a number of those issues and Shetland Islands Council might have a different
view. I have not yet worked out exactly how we can do it, but we will try to make an objective assessment of the case. One of the things that we can do is check back to find out whether there was indeed such a budget line.

It would surprise me if there was, because we are essentially talking about how Shetland Islands Council sets out its housing revenue account. It is not and it never has been up to the Scottish Government or previous Scottish Executive to do that; it is up to the council. Since 2007, we have slowly reduced dependence on the grant, as should happen and as has happened elsewhere. We have discussed with Shetland Islands Council ways of balancing the housing revenue account over the past three years. We consulted the council and COSLA on changing the methodology in 2010 because it had not been changed for many years. We have now introduced legislation to end the grant in 2013-14. That is a great deal more than was done in previous years, although that might be understandable because the HRA was an issue for several years. As members will recall, the prudential borrowing regime came into force in 2004-05, which was eight years ago, so at that time, the council had to move towards a more businesslike and prudential environment, as other councils did.

Shetland Islands Council also received its grant for 34 years, which is longer than any other council, so it has had the longest period of any council in Scotland to adjust its HRA’s financial position. If there are particular reasons why that adjustment has not happened, beyond those that we already know about from our discussions, we should discuss those reasons, and we are happy to do that.

Anne McTaggart: Minister, you said earlier that there had not been any rent increases for the past so many years, but it is also important to point out that Shetland Islands Council is sitting second highest in a table of rent amounts.

Kevin Stewart: Convener, that is according to Shetland Islands Council. Other tables are different.

The Convener: The minister can answer the question.

Keith Brown: I will come back on that point, but before I do, I should say that I have just been advised that the previous Scottish Executive did discuss a possible grant for Shetland Islands Council, but only on the proviso that it transferred its stock. That was the previous position. We will come back to the committee with more in writing.

On the question of rents, it is not for the Scottish Government to advocate a change in rents one way or the other. That is up to Shetland Islands Council. However, out of the 22 rural and island social landlords that are in Shetland Islands Council’s peer group—members will be aware that councils are classified in different peer groups—the average weekly rents were the fourth lowest at £61.04 per week. The rents are £3.84 per week below the median rent of those 22 rural social landlords, which was £65 per week in 2011-12, and £6 per week below the Hjaltland Housing Association rents, which is around £67 per week.

Shetland Islands Council’s rents have fallen by an average of the retail price index minus 0.2 per cent over the past 10 years, and RPI minus 0.5 per cent over the past five years, whereas rents have risen in real terms everywhere else, so there is a difference there.

Now, those are the figures that we have. If Shetland Islands Council has a different point of view, that will come out in the discussions that we have with it.

The Convener: As there are no further questions for the minister, we will move into private.

12:48

Meeting continued in private until 13:07.
Please find attached in the accompanying Annexes and spread sheets further information the Bill Team agreed to provide to members of the Finance Committee during the evidence session on the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill at the Committee’s meeting on 2 May.

We have provided the following information which was requested:

**Annex A - Empty Property Relief**

- A breakdown of the costs of Scottish business rates reliefs from 2010-11 to 2014-15
- A short note on comparisons with other business rates systems in other countries
- Clarification of the Welsh Government’s position of reform of empty property relief in Wales
- A copy of the Federation of Small Business (FSB) quote in relation to the Scottish Government’s Spending Review proposals (including empty property relief)
- A description of how the £18million in savings to the Scottish Government from the changes in empty property relief is estimated, including a breakdown of the number of properties affected by the proposed changes to empty property relief and those that move to the Small Business Bonus Scheme
- [Information on the impact on Councils, the NHS and Scottish Enterprise of the reform will follow as soon as possible.]

**Annex B - Housing Support Grant**

- Details of the level of Housing Revenue Account debt burden for each Scottish local authority
- Details of the level of reserves held by each Scottish local authority

I hope this data and papers are useful, but please let me know if the Committee would like us to provide any further background information.

Yours sincerely,

Sam Baker

Housing Supply Division
EMPTY PROPERTY RELIEF

Costs of Scottish Government Business Rates Reliefs

This table shows estimated cost of business rates reliefs over the 5 year 2010 revaluation period (2010-11 to 2014-15)

All estimates are £m and include the effect of reform of Empty Property Relief which is expected to reduce the cost of the relief by £18m in 2013-14 and 2014-15.

<table>
<thead>
<tr>
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<tr>
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<td>24</td>
<td>25</td>
<td>26</td>
<td>120</td>
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<tr>
<td>Sports Clubs</td>
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<td>12</td>
<td>13</td>
<td>13</td>
<td>14</td>
<td>63</td>
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<tr>
<td>Rural rates</td>
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<td>4</td>
<td>5</td>
<td>5</td>
<td>5</td>
<td>22</td>
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<tr>
<td>Renewable Generator</td>
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<td>4</td>
<td>4</td>
<td>4</td>
<td>5</td>
<td>18</td>
</tr>
<tr>
<td>Enterprise Areas</td>
<td>-</td>
<td>-</td>
<td>2</td>
<td>6</td>
<td>12</td>
<td>20</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>481</strong></td>
<td><strong>514</strong></td>
<td><strong>542</strong></td>
<td><strong>549</strong></td>
<td><strong>580</strong></td>
<td><strong>2,665</strong></td>
</tr>
</tbody>
</table>

(Note: table may not add up exactly due to roundings)
Comparisons with other business rates systems in other countries

It has not been possible to find a valid international comparison in order to assess the impacts of lowering the amount of rates relief that empty properties enjoy in Scotland. Tax systems vary greatly between nations, and as such only a minority of nations levy taxes based on the rental value of commercial properties. In the nations that do, it is relatively rare for any provisions for empty property relief schemes to be changed so that empty properties receive less relief. However the biggest difficulty in finding a valid comparison is the availability of robust evidence as to whether or not a change in empty property rates relief was effective or not. Changing the amount of relief that empty commercial properties receive is a relatively minor tax change. Across the OECD property taxes make up 1.8% of GDP, and so the amount of taxes levied on empty commercial properties makes up a very small proportion of the tax base. The effects of such a minor change in tax schemes is very difficult to distinguish from the effect of wider economic factors – this makes a robust analysis of such policies extremely difficult. As such it has not been possible to find robust evidence in order to form the basis of an international comparison.

More broadly, it is widely accepted that changes in a particular tax need to be considered alongside the wider tax system in order to judge their effectiveness. Therefore a tax change that is beneficial in one nation may well have negative effects in another nation, based on there being two different tax systems. In this context it is also worth noting that the Scottish Government is proceeding with other policy changes relating to NDR in order to boost economic growth. Measures such as Tax Incremental Financing, Enterprise Zones and the Business Rates Incentivisation Scheme are all designed to increase economic growth.

Clarification of the Welsh Government's position of reform of empty property relief in Wales

On empty property relief in Wales, the paper referenced by Gavin Brown MSP (paper WG15166) is a summary of responses to a call for evidence by an independent rates policy review group, chaired by Professor Brian Morgan. This paper is therefore not a reflection of current Welsh Government policy.

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2 For example “A Fairer Way: Report by the Local Government Finance Review Committee”, 2006, accessed at:  
   http://www.scotland.gov.uk/Publications/2006/11/06105402/0 on 03 May 2012
FSB Scotland comments on Scottish Government Spending Review

21 September 2011

Commenting on today's publication of the Scottish Government's Strategic Spending Review Andy Willox OBE, the Federation of Small Businesses' Scottish policy convenor, said:

"This was always going to be a difficult statement to deliver. We have known that public spending has to be reduced for some time – the only real question is how this reduction is managed.

"In the years ahead, the employment and opportunities which small businesses continue to create will be more important than ever. Thus, public bodies must not use their local business communities as a pot from which to draw additional income. Further, debate cannot focus exclusively on public sector difficulties, but must also consider how we can drive Scottish business growth and entrepreneurship."

On the Small Business Bonus, Public Health Levy and review of Empty Property Rates Relief:

"The FSB knows that the Small Business Bonus has made a tremendous difference to thousands of Scottish businesses across the country. Its retention has to be warmly welcomed.

"We also welcome the review of empty property rate relief and its effect on local high streets. We need a system which encourages vacant town centre business properties to be filled, while not hammering small landlords who lose a tenant through no fault of their own.

"We have for some time raised wider concerns regarding the opacity of the business rates system and we hope these will be taken into account when the review into its operation, announced today, gets underway. Moves to make large out of town retailers pay a more proportionate level of rates will be welcomed by many of our members on the high street, but we would urge that a good proportion of the money raised should be used to turn around our local communities."

On procurement:

"Efforts to drive the Scottish public sector to purchase more from Scottish small businesses will all be in vain if decisions are made to aggregate contracts out of the scope of local supply.

"Further, plans to attach extra requirements to public sector contracts may alarm some small suppliers. Clear guidance and support will need to be forthcoming if this policy is going to work."

On next generation broadband:

"To ensure no Scottish local economy is left behind by the next digital revolution, we need, as well as the funding announced today, a detailed digital plan worked out in conjunction with Westminster and Scottish local authorities."
Breakdown of how the £18million saving to the Scottish Government from the changes in empty property relief is estimated

1. Introduction

The Local Government Finance (Unoccupied Properties Etc.) (Scotland) Bill includes an enabling power for the Scottish Government to introduce regulations to alter the level of empty property relief for certain empty commercial properties. Under the new proposals, all properties would continue to benefit from 100% rates relief for the first 3 months in which they are empty. The Scottish Government intends to bring forward regulations to reduce the current discount entitlement of 50%, which applies after the 3 month period, for standard commercial properties, to 10% from 1 April 2013. The current exceptions for listed properties, industrial properties, and those with a rateable value of less than or equal to £1,700 would continue to benefit from 100% rates relief for an indefinite period while they are empty.

2. Purpose of Paper

The Scottish Government funds empty property relief and estimates that the proposed reforms would result in a reduction in the cost of relief by around £18m and that up to 5,500 currently empty properties would be affected by the proposals and potentially could come back into economic use as a result of the reform. This paper details the methodology for estimating the reduction in cost of non-domestic rates reliefs resulting from the reforms to empty property rates relief, and the number of properties affected.

The main steps in arriving at these estimates are identified in section 3 below, and summarised in the diagram provided in the attached Appendix.

3. Key steps in the methodology

1. The total number (N) of all vacant properties (i.e. those receiving both the 100% and subsequent 50% relief) and the associated rateable value (RV) is identified from the Valuation Roll (excluding zero rated), and the gross bill for all vacant properties calculated (RV*poundage (including large business supplement (LBS))).

<table>
<thead>
<tr>
<th>N</th>
<th>RV</th>
<th>Bill</th>
</tr>
</thead>
<tbody>
<tr>
<td>21,425</td>
<td>348,293,801</td>
<td>158,495,540</td>
</tr>
</tbody>
</table>

2. The number of, total rateable value and gross bill for, properties receiving 50% empty property relief was then calculated by applying the proportion of total vacant properties that are in receipt of 50% relief as estimated from data supplied by councils, which identifies that 34% of properties and 35% of RV/bill could be affected by the proposed reform.

<table>
<thead>
<tr>
<th>N</th>
<th>RV</th>
<th>Bill</th>
</tr>
</thead>
<tbody>
<tr>
<td>7,285</td>
<td>121,902,830</td>
<td>55,473,439</td>
</tr>
</tbody>
</table>
3. The gross bill for those on 50% relief can then be used to calculate the net bill (before other reliefs) at a 50% discount, and with a 10% discount – the difference being the net reduction in cost of reliefs (before other reliefs).

| N: 7,285 | Net reduction in cost (before other reliefs): £22.2m |

4. Data to estimate the number of vacant properties eligible for each level of Small Business Bonus Scheme (SBBS) and associated bill is then taken into account. From this the movement of properties and cost from empty property relief to the SBBS is estimated (assuming the same proportions on 50% relief as for total vacant).

Total vacant and eligible for SBBS: N: up to 2,500

of which for up to 2,000 properties, Estimated movement to SBBS relief (£): £4.0m

5. Total number of properties affected is total number of vacant properties, less those entitled to full drop in relief from the SBBS.

| N: 5,328 (5,500 to the nearest 500) | Reduction in cost of reliefs: £18.2m |

6. Total net bill (before other reliefs), less movement to the SBBS equals total reduction in relief due to changes in empty property relief.
Diagram A: Vacant Properties

Changing EPR discount for properties empty > 3 months from 50% to 10%

Total vacant properties with RV > 0
N: 21,425

Exempt: Industrial and/or RV ≤1,700
N: 10,600

All other vacant properties
N: 10,825
RV: 235,572,521

Industrial
N: 5,369
RV: 48%

Industrial with RV ≤1,700
N: 1,914
RV: 68%

Other, RV ≤1,700
N: 3,317
RV: 32%

N: 49%

N: 51%

Total other on 100% relief
N: 3,541
RV: 113,669,691

Total other on 50% relief
N: 7,285
RV: 121,902,830

Number of properties not affected by change in EPR as receive SBBS top up to same level (i.e. bill
N: 5,327

Amount of relief (£) that move to SBBS = £3.982m

Estimated saving from changes to EPR = £18.2m
HOUSING SUPPORT GRANT

Introduction

1. The Finance Committee requested further information from Scottish Government during the meeting of 2 May 2012 with specific reference to the abolition of Housing Support Grant (HSG). Two pieces of further information were sought:

   A. the housing revenue account debt burden being faced by Shetland Islands Council in relation to the 25 other local authorities with housing revenue accounts (HRAs) and/or the debt burden of Registered Social Landlords (RSLs)

   B. the level of financial reserves per capita at the Shetland Island Council available for housing revenue account purposes, again relative to the other 25 local authorities in Scotland with an HRA

A. HRA debt burden

All debt servicing charges as a proportion of total income

2. There are various ways of illustrating the current debt burden of Scottish local authority landlords. On 2 May 2012, the Committee heard from Shetland Islands Council that the debt burden in Shetland was approximately 40% of their housing revenue account (HRA) income i.e. approximately 40 pence out of every pound of income coming into the HRA was required to pay creditors. We believe the source of this statistic was the 2010-11 accounts. The 2011-12 accounts suggest a different (higher) figure as it is possible that increased debt servicing for recent, new build housing is included in the later figure. However, we concentrate on the 2010-11 data as this is the year we believe the council is referring to. Comparable figures on measuring the debt burden in this way for the other 25 housing revenue accounts in Scotland (for 2010-11) are shown in table 1, column 1 ranked from highest to lowest. These figures include all debt servicing charges i.e. interest payments plus repayment of capital plus the staff expenses councils incur on managing the debt portfolio.

3. Whilst this indicator is an acceptable measure of the debt burden, the Committee should be aware that it does include all debt servicing charges which means it can be skewed if capital repayments in any one year are particularly large i.e. if an authority made a deliberate choice to repay more capital than usual. Alternatively, it may have taken out shorter-term loans than other authorities which means capital repayments would be higher relative to these authorities in such a case. A further issue to be aware of is that the inclusion of capital repayments means the indicator can exaggerate the future debt burden as the capital repayments are actually reducing the outstanding debt principal and are therefore reducing the future debt burden. For example, at Scotland level, the interest payments for 2010-11 were £113.6 million. Paying these out of rental income has no effect on the outstanding debt. However, the capital repayments in that year of £97.4 million did reduce the debt principal outstanding though this would have subsequently been increased when new borrowing is taken out (which did happen in 2010-11). However, the point is that the capital repayment reduces the future debt burden for tenants.
Interest payments as a proportion of total income

4. An alternative indicator the Committee may wish to consider is interest payments as a proportion of income. This measures the amount of rental income that is genuinely being ‘taken out’ of the HRA as it is paid directly to creditors and therefore cannot be used for investing in the stock. The ‘interest-only’ debt burden as a proportion of total HRA income shown in table 1, column 2 ranked from highest to lowest. Each figure in column 2 is lower than the equivalent figure in column 1 as all councils repaid some level of capital in 2010-11 as one would expect to see. 3

5. Though not presented in the table, Scottish Government can report that there are 39 Registered Social Landlords (RSLs) with a higher debt burden than Shetland Islands Council when this is measured by interest payments as a proportion of total income for 2010-11. A further 121 RSLs have a lower ratio of interest payments as a proportion of total income than Shetlands Islands Council did in 2010-11.

HRA debt per unit

6. Scottish Government also publishes information on HRA debt per unit of stock. http://www.scotland.gov.uk/Topics/Statistics/Browse/Housing-Regeneration/HSfS/HRATables. This is a further indicator of the debt burden but is one that does not account for the level of rental income coming in to each HRA. The payment of HSG is a function of the rent coming into the HRA as well as the debt which the HRA services thus Scottish Government does not feel it is the most appropriate debt burden indicator when trying to analyse the data. Shetland Islands has a debt level of £25,212 per property which was the highest in Scotland in 2010-11 (Scottish average = £8,492 per property). Debt arises from borrowing to finance capital expenditure. From 1 April 2004, each local authority is under a statutory duty to determine and keep under review the maximum it can afford to allocate to capital expenditure. In discharging this duty local authorities are required to have regard to the CIPFA Prudential Code. The Prudential Code requires that borrowing is affordable, prudent and sustainable. Shetland Islands Council has held approximately this same level of debt per property for the last 15 years. In the absence of new capital investment funded from borrowing debt levels per property should fall, so a constant debt level means that either new capital investment has been made over this period which has been funded from borrowing or the number of properties has reduced. Where properties are sold a capital receipt will be received which can be used to redeem debt. This suggests the Council considers the level of debt to be affordable, prudent and sustainable as they have not reduced the debt burden per property over this period.

3 This is true apart from for Orkney Islands Council where the capital repayment was zero in 2010-11.
B. Local authority financial reserves available for HRA purposes

7. The Finance Committee also requested a comparison of Councils’ financial reserves per capita across Scotland. However, as it is the case that the majority of council reserves cannot be used to benefit the HRA we believe it would be misleading to focus on dividing the total level of reserves by the population of each area in the context of discussing the possible level of reserves available to council housing. Therefore, we would propose that the most meaningful comparison indicator of reserves available to the HRA is:

“Total reserves available to HRA divided by the number of council dwellings at the same point in time.”

8. Details of the level of reserves held by each Council for HRA purposes as at 31 March 2011, are set out in Table 2A. This shows that Shetland has the highest housing reserve per dwelling at £6,720. This does not include the additional reserve held by Shetland arising from the operation of their harbour(s). This reserve totalled £61.621 million as at 31 March 2011. This reserve may also be made available for housing purposes if required. Dividing the harbour reserve by the number of HRA dwellings provides a reserve per dwelling of £34,406. Adding in the £6,720 per dwelling reserve data pushes the overall potential reserve for housing purposes to £41,126 (column 7). All reserve values have been taken from the audited statutory accounts of each council. These are the latest values we hold as the data on reserves values at 31 March 2012 will not be known until councils publish their unaudited accounts at the end of June.

9. A further table (table 2B) on the total level of reserves per capita is also being made available for members of the Committee that wish to see it and because this is the information that was actually requested by the Committee on 2 May 2012. However, Scottish Government would once again point out that for the purposes of examining the resources available to council housing, table 2A on the per dwelling basis is the more appropriate table.
<table>
<thead>
<tr>
<th>Rank</th>
<th>Authority</th>
<th>Interest charges plus capital repayment as % of total HRA income</th>
<th>Rank</th>
<th>Authority</th>
<th>Interest charges only as % of total HRA income</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Shetland</td>
<td>42.5%</td>
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<td>21.1%</td>
</tr>
<tr>
<td>2</td>
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<td>41.2%</td>
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<td>Midlothian</td>
<td>18.3%</td>
</tr>
<tr>
<td>3</td>
<td>West Dunbartonshire</td>
<td>41.1%</td>
<td>3</td>
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</tr>
<tr>
<td>4</td>
<td>Dundee City</td>
<td>34.2%</td>
<td>4</td>
<td>West Lothian</td>
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</tr>
<tr>
<td>5</td>
<td>Highland</td>
<td>30.2%</td>
<td>5</td>
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<td>Highland</td>
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<td>Moray</td>
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<td>Renfrewshire</td>
<td>14.8%</td>
</tr>
<tr>
<td>9</td>
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<td>East Lothian</td>
<td>14.4%</td>
</tr>
<tr>
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<td>South Ayrshire</td>
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</tr>
<tr>
<td>11</td>
<td>Clackmannishire</td>
<td>22.9%</td>
<td>11</td>
<td>Aberdeenshire</td>
<td>12.9%</td>
</tr>
<tr>
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<tr>
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<tr>
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<td>Argyll &amp; Bute</td>
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</tr>
<tr>
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<td>28</td>
<td>Dumfries &amp; Galloway</td>
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</tr>
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<td>Eilean Siar</td>
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Table 2A: Council reserves available to the housing revenue account (HRA) as at 31 March 2011

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<tr>
<th>Authority</th>
<th>£000</th>
<th>Number of dwellings</th>
<th>Reserves per dwelling</th>
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<td>Dundee City ²</td>
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<td>Edinburgh, City of ³</td>
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<td>189,013</td>
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<td>61,621</td>
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1. Shetland Islands data is incomplete.
2. Dundee City data is incomplete.
3. Edinburgh, City of data is incomplete.
<table>
<thead>
<tr>
<th></th>
<th>Inverclyde</th>
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<th>Total</th>
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<tr>
<td></td>
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<td>112,856</td>
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<td>250,634</td>
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<td>363,490</td>
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</tr>
</tbody>
</table>

Source of financial values: local authority statutory accounts

Source for number of dwellings:
http://www.scotland.gov.uk/Topics/Statistics/Browse/Housing-Regeneration/HSfS/StockPublicSector

Note 1: HRA balances transferred to a housing repairs and renewals fund each year, which is the value shown

Note 2: Surplus of £102,000 in 2010-11 was transferred to the repairs and renewals fund. No information provided on the HRA share of the repairs and renewals fund which had a balance of £4.9m at 31March 2011

Note 3: Surplus of £31,614m in 2010-11 was transferred to the repairs and renewals fund. No information provided on the HRA share of the repairs and renewals fund which had a balance of £15,404m at 31March 2011

Note 4: Reserves per dwelling in columns D and H excludes Dundee and Edinburgh as no information on HRA share of repairs and renewal reserve is available in the accounts

Note 5: Although reserves are available to the HRA, columns 6 and 7 do not suggest that all available reserves should be used for HRA purposes.
Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill

Information on non-domestic rates empty property relief reform and Council, NHS and Scottish Enterprise properties.

It is complex to identify specific properties including those belonging to Council, NHS or Scottish Enterprise on the valuation roll. This is mainly due to the differences and variety in how property names and occupiers are recorded. Therefore, data from the valuation roll along with billing system records from Councils have been used to estimate the impact of the proposed reform on these specific business groups.

Properties will be very unlikely to qualify for the SBBS, so we have not considered any overlap.

Council

We estimate that approximately 2,000 council properties are vacant and in receipt of empty property relief at any given point in time. Of this total, we estimate that between 630 and 870 properties would be affected by the proposed reforms, with a reduction in relief awarded between £1.4m and £1.7m. The remaining properties are likely to be industrial or listed or in the initial 3 month 100% period and will see no change to the amount of relief awarded.

Scottish Enterprise

We estimate that there are around 200 Scottish Enterprise vacant properties. The proposed reforms to EPR, could reduce the rates relief awarded by up to a maximum of £0.4m. However, some properties may be industrial or listed or in the initial 3 month 100% period and will see no change to the amount of relief awarded, meaning actual change may be significantly lower.

NHS

We estimate that there are less than 40 vacant NHS properties. The proposed reforms to EPR, could reduce the rates relief awarded by up to a maximum of £0.3m. However, some properties may be industrial or listed or in the initial 3 month 100% period and will see no change to the amount of relief awarded, meaning actual change may be significantly lower.
June 2012

Dear Joe,

When the Minister for Local Government and Planning and I appeared before the Local Government and Regeneration Committee on 30 May to discuss the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill, I agreed to write to you to provide further information in relation to two points.

Firstly, the Committee queried whether the Scottish Government could provide guidance to the Assessors given that some concerns had been raised by Scottish Land and Estates that the Assessors were often unwilling to remove homes from the council tax valuation list, even where they were not suitable to be occupied. I can confirm that, as I mentioned to the Committee, the Assessors operate independently of both the Scottish Government and local authorities. Their role is to provide an impartial interpretation of how local government taxation legislation applies in individual cases on matters such as the inclusion or removal of homes from the council tax valuation list. In order to ensure that they remain independent and impartial, it would not be appropriate for the Scottish Government to provide guidance to the Assessors in relation to removing homes from the valuation list as it is entirely for the relevant Assessor to decide whether or not a home should be removed.

Their decisions are based on whether or not the home still constitutes a ‘dwelling’ under sections 70 and 72 of the Local Government Finance Act 1992. Assessors are fully accountable for their decisions and if an owner does not feel the decision is in line with the legislation, they can appeal to the Valuation Appeal Committee and ultimately to the courts.

You will be aware that the Scottish Government considers the council tax system as a whole to be unfair and would prefer to replace it with a fairer local tax, based on ability to pay. Issues such as those raised by the Committee will be considered as part of the Government’s plans to consult with others on replacing the council tax with a fairer system of taxation.
Secondly, the Committee asked for further information on the reasons why Shetland’s proposed stock transfer did not proceed and the debt write-off or funding arrangements relating to it. I can confirm that this was due to a significant difference in the valuation placed on the stock by an independent valuer and that determined by the purchasing landlord, Shetland Homes. As Shetland Homes was not willing to pay the price determined by the independent valuer, the stock transfer proposal ran into difficulty and was eventually abandoned.

Further information on this and the discussions around debt write-off and/or the provision of grant to the Council to cover its debt costs are provided in the attached Annex. I would highlight that this information relates to the policies of a previous administration and does not reflect the views of the current Scottish Government. As noted in the Annex, any commitments given by the then Scottish Executive to provide grant to Shetland Islands Council were contingent on the stock transfer going ahead. Such government funding is no longer available, although I would highlight that Shetland Islands Council has received £22 million in Housing Support Grant in the intervening period (2001-02 to 2012-13) and in excess of £75 million since 1979-80 and so has already had significant government grant support for its Housing Revenue Account.

I hope this is helpful. Please let me or my officials know if the Committee would like further information in relation to any aspects of the Bill.

Kind regards

KEITH BROWN
ANNEX: FURTHER INFORMATION ON THE SHETLAND ISLANDS STOCK TRANSFER PROPOSAL

Stock transfer proposal

1. The council housing stock in 2002 stood at approximately 2,000 units. The reason why the stock transfer did not progress further than 2002 was due to the differences in the valuation placed on the stock by an independent valuer and that proposed by the purchasing landlord, Shetland Homes. An independent valuer had valued the stock, using the widely accepted 30-year cash flow model approach for valuing social housing in existing use, at a considerably higher figure than Shetland Homes’ valuation. The then Scottish Executive policy was that the purchaser must meet the independent valuation placed on the stock before any progress could be made on the stock transfer proposal. This did not happen and so the proposal did not progress, as reported in an answer to a Parliamentary Question from Murray Tosh MSP in October 2003.

HM Treasury position on debt write off/grant funding

2. The HM Treasury position on the subject of debt write-off was outlined in various publicly-available documents e.g. 2006 Audit Scotland Report: Council house transfers which looked at a series of earlier stock transfers. It stated:

1.13 To enable transfers to go ahead, HM Treasury has agreed to repay ‘overhanging’ Public Works Loan Board (PWLB) debt held by councils following a whole stock transfer on the same basis as in England.

3. This followed an announcement in September 2001, where HM Treasury stated that it would write-off PWLB council housing debt if a stock transfer took place. The PWLB is part of the UK Debt Management Office, which is an Executive Agency of HM Treasury. This is explained in a BBC news report from 18 September 2001. The relevant text from this report is:

"Social Justice Minister Jackie Baillie said: "It is the tenant’s vote in a ballot that counts. Only if tenants vote to transfer their homes to community ownership will the Council’s debt be tackled in this way."

4. The report went on to say:

"Only the £56m owed by Shetland Council is not of the PWLB type that can be paid off by the Treasury."

5. Thus, on the above basis, Shetland Islands Council could not qualify for PWLB debt write-off from HM Treasury even if did go ahead with stock transfer because its Housing Revenue Account debt was generated from Shetland Islands Council reserves, rather than from the PWLB.

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1 The stock is currently 1,774 (average stock level for financial year 2011-12).
3 See http://www.audit-scotland.gov.uk/utilities/search_report.php?id=234
4 See http://news.bbc.co.uk/1/hi/scotland/1549541.stm
Cidhe Bhictoria, Dùn Eideann, EH6 6QQ
Victoria Quay, Edinburgh EH6 6QQ
www.scotland.gov.uk
The then Scottish Executive position on debt write off/grant funding

6. Given the differences between the source of the Shetland Islands Council debt (i.e. internally funded) and the position of most other councils (mainly PWLB debt), the then Scottish Executive offered to fund the Shetland stock transfer proposal from its existing resources – just as it funded other, subsequent stock transfers with Scottish Government resources (in addition to the PWLB debt write-off granted by HM Treasury). This could only be done by means of a grant to Shetland Islands Council to extinguish the debt as the Scottish Executive was not the lender of any of the Council's housing debt - thus making it impossible for it to write any debt off. Only the Council, as the lender, was (and is) in a position to write off the debt.

7. The then Scottish Executive did make internal provision for the stock transfer from within its existing budgets and Ministers made public commitments to that effect even before the HM Treasury announcement, e.g. on 16 September 2000. The article talks about the policy of the then Communities Minister, Wendy Alexander:

"The minister claims that transferring homes to new local housing organisations could unlock millions of pounds in private finance deals. She has pledged to lift the burden of debt on councils if transfers go ahead."

8. However, as the stock transfer in Shetland did not progress due to the differences in opinion on the valuation, the budget provision that was made was never called upon and was therefore reprogrammed within the Scottish Budget. It was not reprogrammed within the social housing budget as it had originated from elsewhere in the Scottish Budget. The principal reason for making the provision available was strictly related to the then Scottish Executive's policy objective of maximising the number of houses to be transferred out of council ownership.

9. The Scottish Government would stress again that this is information relating to the position of the then Scottish Executive in 2000-2002 – the period over which the stock transfer was considered. It is not the position of the current administration. These resources are no longer available.
We act for a number of proprietors of commercial and domestic property. This is the wrong time to introduce this Bill. There are a number of unoccupied and empty properties at the moment simply because of the state of the market. People very often cannot sell their properties because the market is so poor.

There are occasions when they would not wish to let then because they imminently hope to sell and letting can often result in deterioration of the condition of the property and can impede on a sale.

There are many commercial properties where landlords would desperately like to let the property or alternatively tenants have left the property unoccupied rather than trade at a loss.

It is unfair and uncommercial at this time to introduce additional penalties by way of additional tax on individuals and businesses who are often hard pressed in the current climate.

We also act for the various relocation companies who often “buy” properties from relocating employees, hold onto them and sell them as soon as possible. It is inequitable that they should be left with further costs because the properties are temporarily unoccupied. They often do not sell because of the state of the market. To impose additional tax charges would impede the operation of relocation companies and hence impede the mobility of the work force in the UK.

Yours faithfully,

David R. Adie
LOCAL GOVERNMENT AND REGENERATION COMMITTEE

LOCAL GOVERNMENT FINANCE (UNOCCUPIED PROPERTIES ETC.)
(SCOTLAND) BILL

SUBMISSION FROM ASSOCIATION OF TOWN CENTRE MANAGERS SCOTLAND

Introduction

ATCM Scotland is a part of the Association of Town Centre Management, a not-for-profit membership organisation dedicated to promoting the vitality and viability of town and city centres. It has more than 540 members including key stakeholders in town and city centres across the UK. More than 400 of its members are town and city centre management initiatives. Nearly all of these work as partnerships, some with several hundred contributing members. They develop and implement shared visions, strategies and action plans for a total of more than 700 district, town and city centres throughout the UK.

ATCM Scotland does not represent a specific sector or interest, taking a holistic approach to town centre regeneration. Furthermore, while we support the management of our high streets, we do not support a specific form of management, taking an objective view to ensure each management scheme meets the needs of local stakeholders within the existing policy framework.

ATCM Scotland has recognised that long-term vacant commercial units are a critical issue for many town and city centres and can discourage investment from other stakeholders. This is an issue which is occurring to differing extents across the UK. It is positive to see action from the Scottish Government and we endeavour to work with the Scottish Government to ensure that the legislation will be as effective as possible.

Our response is concerned solely with the proposed legislation on empty commercial properties.

Support for Principle of Legislation

Long-term vacant units are an issue which detract from town centres visually, having an especially acute affect on smaller centres. ATCM Scotland believes that action to address this issue is necessary and changing the liability of property owners by decreasing the rate relief could be part of the solution. We have to ensure that such action galvanises stakeholders to work together to deliver occupancy by high quality, long-term tenants.

Potential Weaknesses in the Proposed Legislation

While ATCM Scotland supports this legislation in principle, there are areas of concern which we feel need to be brought to the attention of the Scottish Government to ensure it delivers its intended aims.

We note that the legislation can be a blunt instrument which does not recognise the range of differences between the stakeholders who own commercial property. Reducing rate relief from 50% to 10% might be successful in incentivising some property owners to re-let. For example, some institutional investors do not see vacancies as a priority and this needs
to change. However, the proposed legislation is very unlikely to have a positive impact in all circumstances. The key driver behind the acceleration of empty commercial property in our town centres is depressed consumer confidence and a decline in demand. Increasing the liability of property owners, in many cases, will not improve market conditions and re-letting will not be any easier.

The proposed legislation could make many property owners more risk averse. Existing property owners could select ‘safe bets’ that will produce long-term income streams regardless of the impact they have on the wider town centre. In England this first accelerated the growth of mid range national chain stores at the expense of a diverse independent retail sector. However, with the problems currently being experienced by the entire retail industry, we have seen proliferation shift from mid range national chain stores to discount stores, charity shops (who benefit from rate relief) and betting stores. While this is a short-term response to the difficult market conditions that exists it does little to help the long-term prospects of town centres. It is important that the Scottish Government understands the potential impacts of getting this policy wrong.

For potential investors, there is the likelihood that they will delay investment until they have occupiers secured or not invest at all, especially in smaller centres where it is harder to exploit demand. Therefore, lower grade and marginal property are likely to suffer from a lack of investment which would be an adverse impact of the legislation and a contradiction to its intended aims.

It must be remembered that local authorities will also own many commercial properties. Unlike commercial investors, local authorities will reside over many properties in historically hard-to-let areas. Once again, the proposed legislation will not necessarily make conditions any easier for the re-letting of such units and will only deprive local authorities valuable financial resources.

**Improving the Proposed Legislation**

The differences between locations and the differences between property owners mean that the proposed legislation has to be carefully applied so it is introduced only in those cases where it can make a positive difference. ATCM Scotland believes that implementing legislation that is flexible and has the power of discretion will be critical. We also believe that other policy initiatives need to be taken alongside this legislation in order for the changes to yield long-term, benefits.

We recommend the following:

**Local Authority Discretion in the Application Empty Property Relief**
We recommend that local authorities have some role to play in how rate relief is applied for empty commercial properties. Our understanding is that the power will predominantly lie with Ministers. Local authority involvement will provide greater flexibility across Scotland and a more targeted approach which can be implemented only in those circumstances in which it is likely to make a positive difference.

**Landlord Liability for Charity Shops Rate Relief**
We recommend that the Scottish Government considers landlord liability for some of the rate relief enjoyed by charity shops. While there is a place for charity shops on our high
streets, their proliferation and clustering can have damaging impact on the quality and character of many of our town centres. We do not think it is right that charity shops should be exposed to high levels of non-domestic rates, however potential proliferation might be avoided if landlords absorbed some of this liability.

Retention of Additional Funds for Re-Investment in Town Centres
ATCM Scotland believes that the money raised from the decreasing of the rate relief on commercial properties for landlords should be re-invested back into our town centres in locations where investment is needed most. The physical regeneration of our traditional centres is critical to ensure they are able to modernise and compete in the 21st Century. We also strongly believe that management functions for our town centres are essential. Through management, governed by partnerships consisting of local authorities businesses/occupiers and landlords, we can create a culture of cooperation whereby high quality long-term occupancy is easier to deliver which benefits every stakeholder. We believe the Scottish Government should actively explore methods to invest in sustainable local leadership for our town centres using the money raised from the proposed legislation.

Improvement of Scottish Planning Policy
ATCM Scotland believes that planning policy currently does not do enough to promote investment back into town centres. We feel that the revision of planning policy which complements the proposed legislation would be a sensible approach.

Flexibility in Use Class Orders
We recommend that there is greater flexibility in use class orders which will help provide the tools to deliver high quality uses of property in town centres. The sensible implementation of use class orders can prevent the clustering of low quality occupiers that can act as a detriment to the attractiveness of town centres when found in large numbers, whilst allowing property use to diversify. The current economic climate means that the role of retail in the town centre is evolving, and for many locations this may mean converting existing empty retail space into non-retail uses. Town centres are hubs for a range of community and commercial activity so exploring how night time economy, leisure, cultural, and residential uses can add to the town centre needs to be undertaken.

Other Issues of Concern
Incentivising property owners to re-let units is not the only issue. Work needs to be done to ensure that properties (empty or otherwise) are well maintained and meet the needs of (potential) occupiers and consumers. Dealing quickly and efficiently with the unattractive consequences of graffiti, flyposting and other acts of anti-social behaviour are important issues. Not all property owners have succeeded here.

Contact Details
We are happy, both directly and through our membership, to work with the Scottish Government on making this legislation effective and positive. To discuss this legislation further please contact:

Sunil Varu – Chair of ATCM Scotland (sunil_varu@lineone.net)
Ojay McDonald – Research and Policy Manager (Ojay.McDonald@atcm.org)
Local Government and Regeneration Committee

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

Submission from the Business Centre Association (BCA)

The BCA is the only UK trade association representing the managed flexible space sector including business centres, studios, co working space, light industrial and workspace environments. Established in 1989, it specialises in providing support and guidance to owners and operators of centres, while setting industry standards and encouraging a network of excellence.

The BCA also provides an invaluable advice and location finder service for potential users of managed flexible space locations. With more than 900 member locations and 380,000 workstations, incorporating 40m sq ft of flexible office space around the UK, ranging from small independent to large international operators, both in city centre and out of town business park locations.

BCA members generally provide small spaces which are let to small and growing businesses on flexible easy in, easy out terms.

The Business Centre Sector in Scotland

In Scotland there are 162 Business Centres which the BCA are aware of and the BCA represents 41 of these centers. These are mainly private sector centers and therefore this figure does not include the majority of Local Authority Business Centre. Most Local Authorities have their own Business Centres in some form.

UKBI which is the trade body for Incubation and Innovation Centres are aware of a further 30 centres some of which are run by the Public Sector.

By comparison, the UK as a whole has about 2105 Business Centres which we are aware of.

Summary for Scotland:
The Case against Empty Property Rates (EPR)--April 2012

The BCA has extensive knowledge of the negative effects EPR has had on our sector as well as the wider property sector in England & Wales. In presenting the case to the Scottish Government we draw on our first hand experience when presenting the case and expressing our proposal.

Set out below are the BCA’s views on EPR which we hope clearly illustrate the changes we are proposing and the positive outcome for both income generation
and, most significantly, on enterprise and job creation across Scotland.

The Scottish Government is proposing introducing EPR in Scotland from April 2013. Indications are that changes to EPR in Scotland could have the same devastating effect on our sector just as transpired in England.

**Changes proposed in Scotland**

Currently, empty property relief for commercial properties in Scotland is set at 100% relief for 3 months with a further 50% relief indefinitely.

Industrial or listed premises currently receive 100% relief for the duration the property is empty.

The proposed amendments of this policy will focus on standard properties and they will see no change to the 100% relief for the initial three months, but then a 10% rate of relief will apply for the remaining period the property is empty. (ie you pay 90% of the rates liability).

No change is proposed for the empty property relief for industrial or listed properties.

**Background: - England & Wales**

Business rate relief on empty property was removed in England and Wales on 1st April 2008 when the previous Government introduced a tax on Empty properties. Empty retail and office space previously received 100% relief for three months and 50% thereafter, while industrial space received 100% relief permanently.

Following a successful campaign by the BCA, from 1st April 2009, the Government introduced a threshold where EPR would not be paid on properties with a Rateable Value of £15000 or less.

The BCA continued to campaign and from 1st April 2010, the threshold was increased to £18000 RV, to bring the relief into line with the Revaluation.

The effect of the threshold was significant and the BCA estimate that it saved members in the region of £10m.

It also had a fundamental effect on the sector encouraging the growth of new flexible business centres taking advantage of the growth of the SME market. In doing so it facilitated the growth of SMEs and significantly aided the process of creating jobs.

Unfortunately the present coalition Government removed this concession and from 1st April 2011, the threshold was reduced to £2600 RV which will cost the sector a similar sum as in 2008 when there was no concession.
According to statistics from Instant Offices and Office Broker (market leaders in letting flexible business space), there has been virtually no growth in the flexible space sector since the threshold was reduced. This is attributable to the changes to EPR.

Our information is that the number of UK Business Centres grew from 1972 centres from April 2011 to 2105 now. However there were 75 new centres opened in London alone which if excluded shows little growth of Centres outside London. The other major cities such as Birmingham, Manchester, Leeds and Bristol have remained relatively static.

In addition to this, evidence from Gerald Eve, national property agents who represent the Business Centre Sector, have advised that "many clients both in the serviced sector and elsewhere have commented on the effect of the empty rate relief regime since April 2008. At the time there was little they could do about it as they were already committed to buildings or developments were under construction. However, increasingly since that time they have paid far more attention to the empty rate liability and this has impacted on the buildings they are prepared to take on, as they cannot afford to absorb unlimited empty rates during the initial letting period, which obviously over recent years has become longer and longer."

In the serviced sector where they are generally focussing on start up businesses it is very noticeable how the number of buildings in the pipeline has reduced in recent years. It is also true in the general market that clients will now place far more effort on pre-letting a scheme to avoid any empty rate liability or think twice about taking older buildings that require substantial redevelopment – due to the related problem of taking a building out of rating during such works."

This period coincides with the reduction in the EPR threshold from £18000 RV to £2600 RV.

However, in Scotland during the same period, the number of new business centres actually grew by 6 although these were confined to Aberdeen, Edinburgh and Glasgow.

There will be a number of factors which have caused the reduction in the growth of Business Centres including the economic climate and the attitudes of the banks however EPR is likely to have been ‘the nail in the coffin’ which may have had this effect on Business Centres

The fundamental point being that if no new space is being generated
it will create a substantial shortage of space thus seriously undermining the Government’s attempt to grow the economy by stimulating the creation and growth of small businesses.

Main Issues:
Rates are a tax for the provision of local services. Empty buildings make little or no demand on local services simply because they are not used.

Empty rates is a tax on hardship and job creation. It is a tax on individuals and company property assets that generate zero income.

Buildings are empty because of a lack of demand. During a downturn, both rents and capital values fall, so there is no reason for a landlord to keep a building empty notwithstanding what Governments have said about this.

Speculative developments and regeneration projects are being shelved; this is echoed by regeneration experts and is reflected in the government’s own data.

In the current economic climate, and with diminished occupier confidence, it becomes increasingly challenging to find commercial tenants on a traditional lease basis.

The Government has ignored the impact and consequential effect the tax has had on regeneration. New property led regeneration schemes came to a halt when EPR was first introduced. This is because BCA members have no choice but to develop their centres on a speculative basis and were not prepared to be taxed on a speculative development.

When the threshold was increased there was growth and development in new centres with many traditional landlords entering into management agreements in an attempt to let otherwise unlettable space, but also to avoid EPR by creating small units with a Rateable Value below £18000. This brought empty, and in many instances, unlettable space back into productive use and in doing so created new jobs.

Operators of flexible space promote entrepreneurs who benefit local economies as they generate new employment opportunities. In today’s fragile economy the benefits of developing and stimulating the growth of small business has never been more acute - local economies cannot survive without the provision of space on flexible terms in dedicated professional business environments offering business advice and support. Providers are being taxed for delivering this service.

If private sector operators cease developing this essential type of flexible space, then development will be driven entirely into the hands of the public
sector at a substantial cost to the public purse. As stated below, the cost to the exchequer in England and Wales by re-introducing a threshold for the flexible space market is estimated at £30m. If the private sector is not creating this type of space, it would cost considerably more for the public sector to provide even a handful of Business Centres suitable for SMEs.

Older buildings are being demolished sooner than intended. Buildings nearing the end of their life are being demolished which previously may well have been let at modest rents on a short term basis, prior to redevelopment. These are now no longer available as empty rates make it cost effective to knock down and demolish a perfectly good building in preference to securing a tenant. This has, and will continue to reduce the supply of affordable property and reduce the potential rateable income. It also contradicts the Government’s green policy. RICS predict that the magnitude of demolitions will accelerate over the next year. This will result in a significant loss to the Exchequer as potential rateable income decreases.

Previous Government logic that empty rates would lead to lower rents was misguided. In the short term many tenants have benefited from a reduction in rent. However, it is inevitable that eventually empty rates will instigate rent increases due to shortage of supply. This is a direct consequence of premature demolitions and abandoned developments. There is now firm evidence that this is happening in England.

More than half of government’s empty rates intake will come from commercial tenants, rather than landlords, as they choose to reduce their occupancy and attempt to sublet their space. This is a very significant burden on all businesses and will potentially lead to job losses as companies downsize to reduce costs.

Approximately £400m of the empty rates revenue has come from the public sector itself. This figure was obtained by the BCA via a Freedom of Information Act request (2008) to Local Authorities - a waste of time, effort and money - transferring funds from one public sector office to another, with zero benefit to the economy, and misleading the public about the benefits of this tax.

Individuals are finding that their property investments are becoming liabilities, rather than a safe source of income/pension investment. As tenant demand dries up they will be forced to pay full business rates on their non-income producing empty properties.

The business community, as a whole, has come out against empty rates. The CBI, RICS, British Retail Consortium, Institute of Directors, British Chambers of Commerce, Business Centre Association, CoreNet, British Property Federation, Taxpayers Alliance and the Federation of Small Businesses are all calling for
Government, to use its reserved power to partially re-introduce relief. Almost all Local Enterprise Partnerships in England and Wales are opposed to this tax.

The Government has ignored the specific requirements of the flexible managed space sector, particularly given the role it plays in encouraging enterprise and new business together with the flexible approach that BCA members employ.

To put this into perspective, if Government considered re-introducing the threshold specifically on small managed business space locations offering genuine, flexible agreements, we calculate that the cost to Treasury would be circa £30m not £690m as reported.

Of course what cannot be calculated are the number of people who will come off 'benefit' as a direct result of jobs created by SME’s occupying managed flexible space. This will further reduce the impact on the Exchequer.

The sector will always have vacant space with maximum occupancy of between 85% to 90% due to churn. This is not by choice, but due to the very nature of the flexible offering which means that some space will always be available.

It is grossly unfair that this space is taxed when many public sector officials maintain flexible space with easy in easy out terms is vital to facilitate enterprise and growth in SMEs, providing much needed job creation opportunities, thus benefiting the wider economy.

New business centres, particularly in non-prime locations can take up to three years to let. Therefore, it is grossly unfair that the flexible space sector is taxed for providing SMEs with the type of accommodation they need and on the flexible terms they demand.

There has been a growth in dubious EPR avoidance schemes that verge on the unlawful and which is encouraging property owners to find ways to avoid EPR rather than concentrating on letting space. This is reducing the revenue to the exchequer from EPR but is also diverting attention away from letting space and creating employment to seeking ways to avoid tax.

It has been argued that EPR will encourage landlords to let space and attention has been drawn to the number of empty town centre retail units in Scotland. EPR has been in existence in England since 2008 yet there are many English towns which also have a similar problem with empty shops in their town centers. EPR has made no difference and many towns are now looking at genuine incentives to stimulate occupancy of their town centre retail units.

Green Deal UK:
Green Deal UK is part of the Government’s Carbon Reduction Programme, and is scheduled to commence late 2012. This will provide the opportunity for consumers to install money saving energy efficiency measures without the upfront cost, which will instead be repaid through future energy bills.

That might work in reducing carbon emissions if the premises remain let with the tenant paying the energy bill. However, for the landlord there remains the danger that if there is a void period, it will be the landlord who will be left to pick up the cost. This further increases the cost of empty properties which have already been hit by the steep rise in Empty Property Rates.

**BCA Position:**
The Business Centre Association is urging the Chancellor to reintroduce the £18,000 RV threshold for at least another year but preferably on a permanent basis.

However, to stimulate business and offer a level of certainty to developers the BCA is advocating:

**A:** That all speculative new and refurbished developments are exempt from EPR for a period of three years. We believe that this will encourage the procurement of management contracts on properties nearing their end of life and bring them back into use. It will also encourage speculative development and bring in revenue which does not currently exist. A net gain for Treasury.

The property development and construction sectors are stagnant with virtually zero speculative development taking place.

Why would property developers take the risk when on completion and prior to occupation the building is subject to EPR tax?

The BCA proposition will encourage speculative development and generate new rateable income as soon as the properties are let or within three years if unsuccessful.

It will also provide contemporary space for enterprises and create much needed employment opportunities as the UK comes out of recession.

By extending this measure to existing buildings that are being refurbished, it will prevent the demolition of vacant premises, prolong their life, and help protect the environment by retaining existing buildings. Most importantly it will contribute to the supply of space appropriate for enterprising small and growing businesses. This will generate employment and job creation across the UK.

**B:** To reinstate the EPR threshold to £18,000RV and this to apply to properties let and managed on genuine flexible terms. We believe that this will stimulate the supply of property on terms small businesses want.
We believe that this measure is essential as currently no new space is being developed. It will ensure that new space will be developed to guarantee the supply of suitable space for SME’s.

The BCA estimated that the cost to their members of EPR when it was first introduced was circa £10m. Project this across public sector business centres, incubation centres and innovation centres which also operate in the flexible market, we estimate the cost to the Treasury by introducing a threshold would be circa £30m rather than the reported £690m it would cost if introduced across the entire property sector.

This, coupled with the suggestion that there is exemption for new developments for 3 years (which make no contribution to the Exchequer by way of EPR as currently they do not exist) will, we believe, stimulate demand and investment, generate new revenue and create jobs. Ultimately, a net gain to Treasury.

**BCA’s Recommendations for Scotland**

The BCA do not want to witness the same stagnation of its sector in Scotland. It is recognized that market conditions are different and the current empty rates relief is different. However the BCA wish to recommend to the Scottish Government that the same two recommendations be considered.

A: That all speculative new and refurbished developments are exempt from EPR for a period of three years. We believe that this will encourage the procurement of management contracts on properties nearing their end of life and bring them back into use. It will also encourage speculative development and bring in revenue which does not currently exist. A net gain for Treasury.

and

B: To reinstate the EPR threshold to £18,000RV and this to apply to properties let and managed on genuine flexible terms. We believe that this will stimulate the supply of property on terms small businesses want.

The justification for these two measures has already been set out in the narrative above. The BCA are resolute in the belief that this will stimulate the growth of new flexible space Business Centres, specifically for small businesses in Scotland. In doing so this will generate and stimulate new investment. The consequence of both these measures will be the creation of new employment opportunities generated by new start-ups and SMEs who have been able to set up their enterprises in the right type of space environments which permits their business to expand or contract without penalty.
NOTE 1

The BCA regularly consult with UKBI on issues of common interest. UKBI are broadly in agreement with the contents and recommendations. The only additional comment they made was that in their opinion the Government was not really buying into the ‘growth’ agenda.

NOTE 2

The BCA requests that the Scottish Government does not get this confused with the measure currently in place to assist SMEs such as the Small Business Bonus Scheme.

The BCA is focusing on ensuring that the right type of space is available and let on the right easy in easy out terms. Without this flexible space where will all the new businesses go which you hope to create?

The BCA is willing to work with the Scottish Government to ensure that there is growth in the flexible space market which will specifically benefit the Scottish economy.
I am writing in response to the Local Government and Regeneration Committee’s current consideration of the Local Government Finance (Unoccupied Properties, etc.) (Scotland) Bill.

CBI Scotland has repeatedly called on the Scottish Government to reconsider the proposals outlined in this Bill which will lead to increased business rates for firms with empty commercial premises. In our submission last August to the Scottish Government ahead of its Spending Review, for example, we specifically stated that Ministers should avoid eliminating or reducing the rates discount applicable to empty commercial and industrial properties, and this is a point that we have reiterated at every available opportunity since (including in submissions to the Economy, Energy and Tourism Committee on the budget process, and in correspondence sent to the Cabinet Secretary for Finance, Employment & Sustainable Growth).

Ultimately, CBI Scotland remains unconvinced of the non-domestic rates measures included in this particular piece of legislation for a number of reasons.

- As we have continually stated, the proposals in the Bill amount to a decision to levy an extra £18 million from Scottish firms, per annum, at a time when many companies are facing considerable economic hardship. Whilst there may be an impression that this cost will mostly be footed by more ‘resilient’ major commercial property landlords, this is not necessarily the case: larger property companies typically enjoy relatively high occupancy levels (usually in excess of 90%), and thus these proposals may actually end up having a greater impact on other organisations - private and public - with a genuine surplus of property, as well as businesses which may be looking to move and expand. Furthermore, it is also worth noting that the proposals outlined in the Bill effectively represent a ‘tax on distress’: property owners are facing the prospect of having to pay increased charges for buildings that are not earning them any money in the first instance, compounding the financial repercussions of holding a property which isn’t providing a return.

- CBI Scotland understands that the proposals included in the Bill have come about as a result of a belief that the current empty property rates relief regime acts as a disincentive to bringing empty properties into use. This is simply untrue. Commercial premises are rarely left empty on purpose, as they do not generate an income for their owners, and in most cases non-domestic buildings are unoccupied simply due to lack of demand – a fact that changing the rates
relief regime is unlikely to alter. Indeed, there is also evidence to suggest that policies of a similar nature that have been introduced in other areas of the UK have had little effect on reducing the number of unused non-domestic premises. In a survey undertaken by Lambert Smith Hampton in 2008, for example, the vast majority of some 600 respondees claimed that the loss of long term empty property rate relief in England had not increased occupancy levels. Thus, if Ministers are determined to reduce the number of empty properties, then this is not an effective way to go about it.

- CBI Scotland also considers that the measures included in this piece of legislation run contrary to the Scottish Government’s own stated intention of both encouraging new investment in Scotland, and, relatedly, boosting economic growth. Not only will a reduction in rates relief place a greater tax burden upon the owners of existing properties (whilst also potentially impacting on their cash flows), but the proposals may also prompt many investors to reconsider any developments or regeneration activities they may have planned, and perhaps particularly if those projects are in more economically-deprived areas, as such premises can be more difficult to let in the first place. As Committee members will be aware, development is crucial for successful economic growth, and there needs to be a surplus of property in order to allow businesses the freedom to expand as required. If developers are deterred from investing in Scotland because of these proposals, and there is less new property coming onto the market, then economic growth may be curtailed as demand returns to the economy.

- Finally, several of our members have expressed concerns regarding some of the financial assumptions made in the Bill. For example, certain firms have indicated that the estimated costs and savings outlined in the Bill’s accompanying financial memorandum may end up being inaccurate, as affected parties may choose to explore steps aimed at mitigating the impact of the increased charges (such as demolition of empty premises, for example). Furthermore, there is also a possibility that the Bill’s proposals may place a greater-than-expected financial burden on the shoulders of Scotland’s local authorities – not just because councils often have empty or un-let commercial property estates themselves – but as a result of the costs of dealing with an increased number of rates bill queries, relief applications and appeals. It has also been suggested that councils may end up having to undertake more inspections following the implementation of the proposals, in order to ensure that properties are being properly – and legitimately - declared.

Generally speaking, CBI Scotland welcomes the motivations that lie behind these proposals, as it is in the best interests of government, landlords and the economy to see as many non-domestic properties occupied as possible. However, rather than adopt the measures set out in the Bill, we would encourage the Scottish Government
to focus its efforts on boosting demand for empty properties, as opposed to penalising those firms with empty or un-let commercial premises who are already suffering the ill-effects of a sluggish economic climate.

Indeed, fundamentally, we believe that the costs associated with the new regime may be too much for some of our members to bear, that the proposals may not achieve the desired goals of Ministers, and that the government should reconsider its approach to this issue.

Lastly, in their consideration of the Bill’s merits, Committee members may also wish to take into account the Scottish Government’s stated intention of implementing water and sewerage charges for empty non-domestic premises, as outlined in the recent ‘Scotland the Hydro Nation – Prospectus and Proposals for Legislation’ consultation document.

We hope this submission will be of interest to the Committee.

Yours sincerely,

Andrew Dyce
Policy Executive 17 April 2012
LOCAL GOVERNMENT AND REGENERATION COMMITTEE

LOCAL GOVERNMENT FINANCE (UNOCCUPIED PROPERTIES ETC.) (SCOTLAND) BILL

SUBMISSION FROM COSLA

Introduction
1. COSLA welcomes this opportunity to respond to the Local Government and Regeneration Committee’s call for written evidence on the general principles of the Local Government Finance (Unoccupied Properties Etc.) (Scotland) Bill.

2. The written evidence is split into two sections. The first section covers the financial implications of the Bill. The second section covers the wider provisions of the Bill.

3. In response to the Scottish Government’s consultation on Long Term Empty Properties and the Housing Support Grant, COSLA welcomed the Scottish Government’s recognition that Councils should have the flexibility to address local housing pressures and a power to vary Council Tax on long term empty properties. COSLA also raised concerns that any scheme should not place any undue administrative burden on Councils, and that such a scheme would need to be properly resourced.

Section 1
Financial Implications
4. In providing views on the financial implications of the Bill, the Committee should be aware that the Bill only refers to the general provisions, and that greater clarity on cost implications will be determined through subordinate regulations. COSLA will be working with the Scottish Government to develop these regulations.

5. The Bill is broadly in line with the proposals set out in the Scottish Government’s consultation. However, COSLA would like to draw the Committee’s attention to references in the Financial Memorandum that the Scottish Government will, by regulations, either allow or require local authorities to increase the level of charges or the level of discount. COSLA would expect that the Scottish Government will set out in regulation the boundaries for varying discount/applying charges. However, Councils should have local flexibility to apply the powers and to determine the degree of variation to be applied within the set boundaries.

6. Comments on the financial implications, set out below, relate solely to the two provisions relating to non-domestic rates empty property relief and council tax increase on long-term empty homes. Housing Support Grant (HSG) abolition negotiations between the Scottish Government and the relevant Council are currently on-going and COSLA has not offered comments on the cost implications of ending the HSG pending a satisfactory resolution of the negotiations.

Increased revenue to the Scottish Government and Councils
7. The Financial Memorandum contains financial forecasts prepared by the Scottish Government for projected savings on the cost of non-domestic rates empty property relief (Table 1) and projected revenue estimates for varying levels of council tax discount on empty properties (Tables 3 and 4). COSLA urges caution in interpreting these figures as they may be overly optimistic.
8. On the *non-domestic rates empty property relief* there are a number of challenges to overcome to recover the projected increased income, such as:
- Many empty commercial properties are owned by absentee landlords; and
- Some properties are in very poor condition, are difficult to re-let or sell and possibly in negative equity.

9. There is a risk that the proposed changes will increase the administrative burden with very little impact on the non-domestic rates income recovered, and the forecast savings to the Scottish Government may well not materialise.

10. On varying *council tax discounts for long term empty properties* the Scottish Government rightly recognises that there are significant margins of uncertainty in the estimates they have produced for the Financial Memorandum. Critical to these estimates is the extent to which Councils will use the new powers, and as already stated, this must be for Councils to determine locally the appropriateness of applying this proposed policy. A more detailed understanding of the costing will emerge through the forthcoming regulation discussions. Through these discussions there should be a better understanding of how Councils consider they will apply the powers in practice, and the level of revenue this will generate.

**Administrative Costs to Councils**

11. On *non-domestic rates empty property relief* COSLA recognises that there is a cost implication for Councils where they are in ownership of properties which are unoccupied. There are often good reasons why these properties may remain empty. Councils are active in letting out such properties as part of their asset management plans.

12. Regarding *varying council tax discounts for long term empty properties*, a number of Councils are concerned that whilst the duty for owners of unoccupied properties to notify their local authority is welcome, in practice the power to impose a penalty of £200 for failure to notify may be ineffective and may not be applied widely, particularly where there is a significant risk of non-payment. It will also be extremely difficult for Councils to track the properties that are being actively marketed. A reason why owners take properties off the market is because there is no prospect of a sale in the current climate. This provision, whilst understandable, does present an additional administrative burden on Councils. Further clarity on the practical application of this provision will need to be established through development of the regulations.

13. The Financial Memorandum recognises there will be additional administrative costs should Councils choose to apply these policies. This is likely to cover set up costs, IT changes, collection, enforcement, advice and assistance. COSLA has no reason to disagree with the costings provided in the Financial Memorandum. Councils will need to consider if it is worthwhile applying the council tax variation power, and may choose to offset any increased administration costs against the revenue raised.

**Section 2**

**Non-Domestic Rates Empty Property Relief**

14. Some Councils have raised concerns that the provision to vary the non-domestic rates empty property relief may have significant implications on local economies, a key priority for Councils. A council may have strategic reasons for ‘holding onto’ an empty property for a certain length of time to ensure that the most appropriate and
sustainable lets are made. COSLA anticipates working with the Scottish Government during the development of the regulations to better understand their impact and to mitigate against any negative outcomes.

15. Further consideration needs to be given to the implications of non-domestic rates empty property relief on the wider policy context, particularly in light of the Scottish Government’s Regeneration Strategy. This Strategy commits to a national review of town centres in 2012 in order to scope potential solutions to issues faced by Scotland’s town centres.

16. COSLA is keen to explore with the Scottish Government how the non-domestic rates empty property relief will relate to other forthcoming policies and legislation including the Community Empowerment Bill, Better Regulation Bill and current consultations on the planning system.

Council Tax: Variation for Unoccupied Dwellings

17. Councils are working hard to reduce the number of empty properties in their area, and a number of councils are working on empty homes strategies/action plans. The Scottish Government’s recognition in the policy memorandum (paragraph 32) that the council tax increase cannot be the only answer to tackling empty homes, and is just part of the tool kit to address the number of long-term empty properties, is welcomed. The majority of Councils have now reduced the level of discount available for long term empty properties which do not qualify for any of the existing exemptions or other discounts to 10%.

18. There is an increased expectation amongst council officers to return private sector homes back in to use. This is evidenced in the increasing number of councils that are signing up to the Scottish Empty Homes Partnership. These actions result in positive outcomes for our communities by increasing housing supply, supporting community regeneration and town centre renewal and discouraging antisocial behaviour such as vandalism and fly tipping.

19. COSLA is supportive of the Bill’s policy aim to encourage owners to bring their empty homes back into use for rent or sale, as well as enabling councils to raise additional revenue to support their local priorities. COSLA is supportive of the Scottish Government bringing forward regulations to allow Councils to increase council tax charges on certain long-term empty properties from April 2013. It is COSLA’s expectation that Councils will have a wide discretion to vary these charges, and that no duty/requirement will be placed on councils to increase charges given the varying housing needs, geographical differences and housing markets between and within Council areas. Some Councils have flagged up the issue of fairness regarding geographical variations in council tax rates, and that owners in certain areas may feel unjustly penalised if rates on their property(s) are higher than that of another area. COSLA welcomes the discretionary nature of this power for councils to accommodate variations within Council areas.

20. Addressing affordable housing need is a key priority for Councils. However, this power to vary council tax must enable Councils to respond flexibly and sensitively to local situations. Councils are best placed to determine if and how any income raised should be used, and do not want to see additional constraints, such as the ring fencing of this income being imposed. COSLA welcomes the Scottish Government’s
proposal not to ring fence additional revenue raised through the council tax increase.

21. COSLA notes that the Scottish Government proposes to keep existing arrangements for revenue raised from existing reduced discounts on long-term empty and second homes, which are currently used by Councils to fund a range of affordable housing and empty homes projects. It is COSLA’s expectation that any arrangements from the Scottish Government regarding the use of revenue raised will be agreed with COSLA.

22. To note that there is still a concern amongst Councils that the additional levy may act as a disincentive to report empty properties. Councils rely on Council Tax records to inform them of the numbers and locations of empty properties. Which in turn inform Councils’ strategies on how to manage empty properties.

23. COSLA also supports ALACHO’s position that councils should have the flexibility to decide how long a home should be empty before increased Council Tax charges for long term empty homes are applied, and that this flexibility should extend to the level charge levied according to the duration of the period a home has been empty.

Amendment of the Local Government Finance Act 1992

24. The Bill proposes the abolition of the HSG by 1 April 2013. With the exception of one council the HSG is no longer paid out to Councils as this has largely been replaced by the prudential borrowing regime. COSLA agrees in principle to the abolition of the HSG. However, this agreement is subject to a satisfactory transitional arrangement being agreed with the Council affected. The HSG’s abolition should not result in a disproportionate impact on the Council’s tenants or on the Council.

COSLA May 2012
Enterprise North East Trust (ENET) is a not for profit private limited company. Its vision is to generate and recycle wealth, to energise and inspire individuals, as a result improving the economic prospects of its communities. ENET currently delivers the Business Gateway service on behalf of Local Authorities in Grampian and Tayside; manages a Business Centre portfolio of some 80,000 square feet from 17 different locations around the north-east of Scotland; delivers programmes tailored to support and develop entrepreneurs of any age.

The views below are ours as an organisation involved in supporting new and small businesses but also from our experience as a Landlord providing workspace ideally suited to the SME market too.

There is widely accepted to be a particular issue with the amount of empty properties on High Streets throughout the country and we would suggest that retail properties need to be separately considered to other non-domestic properties.

The initiatives currently available for Rates ie. Small Business Support Scheme, are very supportive and encouraging to new and small businesses. The removal of such a scheme would have a detrimental effect for sure on many small businesses where, regardless of operating sector, rent and rates are normally the largest overheads being carried.

For property owners or landlords, the empty relief scheme is helpful but in no way detracts from a property owners ultimate desire to relet – it could be argued therefore, that it is currently well balanced. The removal of empty relief would, we suggest, have a negligible impact on a Landlords ability to let. With particular regard to High Street premises – the larger issue may lie with either a lack of retail based businesses looking to position themselves in the High Street (and thereby looking at alternative markets for selling i.e. home based/market selling/internet etc) or a lack of retail businesses starting up in what is an incredibly difficult and challenging sector, certainly in present times.

If you consider the current model of relief on empty properties, it is arguable whether any Landlord would rather pay an ongoing charge for rates of 50% (of the annual rates bill) as opposed to ‘negotiating’ on rental. This may not be the case for all Landlords of course but we would suggest that the decision to remove empty rates relief is not going to have such a huge effect on filling High Street units in particular.

It may be that other sources of support and relief would be better for Government to consider by way of rental support (rent capped at market rates or below to avoid grip of greedy Landlords) for an initial set period to (1) encourage let of vacant high street units and (2) encourage new and small businesses to move into such units.

In addition, delegated authority to individual Local Authorities to tailor relief or support in others way, on non-domestic rates would surely help address particular problem spots in local areas, whether it be on high street properties, retail properties or other.

KAREN PUGH
Director : Property Services  3/5/2012
LOCAL GOVERNMENT AND REGENERATION COMMITTEE

LOCAL GOVERNMENT FINANCE (UNOCCUPIED PROPERTIES ETC.) (SCOTLAND) BILL

SUBMISSION FROM FALKIRK COUNCIL DEVELOPMENT SERVICES

1. We have concerns arising from aspects of the proposals to alter the level of empty property relief for certain empty commercial properties under the non-domestic rates regime.

2. Whilst it is acknowledged that this might prove beneficial in certain locations and circumstances, our view is that such a proposal particularly in the current adverse economic and property market climate, will further constrain redevelopment and regeneration. It may encourage demolition of vacant properties potentially leaving unattractive ‘gap-sites’ in retail locations and could have a negative impact on rental values as landlords seek to off load their liability by slashing rents.

3. The Council is committed to town centre regeneration and has worked to secure new retail provision in its town centres. However this has coincided with the economic downturn and, as an example, new retail units in Stenhousemuir town centre remain empty as a result of lack of tenant demand despite the best efforts of the landlord to market these

4. In our experience, there are few situations where shops are deliberately being held off the market because of the current discount. Similarly very few landlords are choosing to leave properties empty e.g. in the hope of securing higher rentals or by not wishing to potentially prejudice rent review negotiations elsewhere in a locality.

5. In the current economic climate, the key reason for the proliferation of empty retail premises is more likely to be the fundamental lack of occupier / tenant demand as a result of the continuing weakness of consumer confidence.

6. In the longer term, in the event that the proposal to reduce empty property relief for certain commercial premises acts as a further disincentive to redevelopment or new development, then this would have the impact of forcing rentals higher due to a shortage of supply in some sectors, on market recovery.

7. It is also noted that landlords currently appear perhaps more willing than previously, to consider shorter term lets, to e.g. charities etc in order to encourage some form of occupancy of otherwise empty / un-lettable premises.

8. It is of course noted that the proposal would in theory enable a higher income from rates payable on qualifying empty commercial premises, however this requires to be balanced against the negative impact on local authorities position as a commercial landlord, on the budgets that
are maintained through occupancy of their portfolios and in the wider regeneration and economic development context.

9. It may also be to Scotland’s competitive advantage to maintain rates relief packages as they stand. Scotland offers the UK’s most generous business rates relief package and this may be important in ensuring availability of property to take advantage of any economic upturn or inward investment.

10. In summary, in our view there are a number of potential downside risks associated with the proposal to reduce the level of empty property relief for empty commercial properties under the non-domestic rates regime and as such express concerns in this wider respect.

11. The proposal is not therefore supported.
LOCAL GOVERNMENT AND REGENERATION COMMITTEE
LOCAL GOVERNMENT FINANCE (UNOCCUPIED PROPERTIES ETC.) (SCOTLAND) BILL
SUBMISSION FROM THE FEDERATION OF SMALL BUSINESSES

Introduction

The FSB is Scotland’s largest direct-member business organisation, representing over 20,000 members. The FSB campaigns for an economic and social environment which allows small businesses to grow and prosper. We welcome the opportunity to submit comments to the committee on proposed changes to empty property rates relief.

Background

Town centres are a key trading location for many small businesses across Scotland. Moreover, the condition of local high streets is often perceived as an economic barometer.

In recent years, FSB Scotland has made a number of suggestions to improve town centres – always recognising that sustained long term action, rather than quick-fixes, is required. We welcomed the investment of the Town Centre Regeneration Fund but clearly stated that one-off capital investment would not solve long-term decline of our high streets. In particular, our work on town centres highlighted the need to level the playing field for small business ratepayers.

Significant progress has been made in this respect with the introduction of the Small Business Bonus Scheme. Yet a number of difficulties remain with Scotland’s non-domestic rates system. Following the recent 2010 revaluation, FSB Scotland published a discussion paper considering a number of aspects of the system. We welcomed the Scottish Government’s announcement of a forthcoming review of the rates system.

Over and above non-domestic rates, discussion on town centre policy often focuses on the impact of rent levels. Anecdotally, small businesses often report that stubbornly high rent levels make town centre units an unsustainable option, particularly in the current economic climate. It is sometimes suggested that empty property rates relief may contribute to this. On the other hand, reducing rates relief risks penalising landlords who, through no lack of effort, are unable to find tenants.

When asked, just 2 per cent of our members said they benefit from empty property relief and only 19 per cent believe it has a positive impact on small businesses. In addition, the estimated Scottish Government spend on empty

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1 The Future of the High Street, FSB Scotland, 2006
2 Revaluation 2010 Non-domestic Rates - an FSB Scotland policy discussion paper, September 2010
3 FSB Survey, November 2010
property relief from 2010 to 2015 is £769m, compared to £591m for the Small Business Bonus Scheme.\(^4\)

On balance, and largely based on anecdotal evidence, we think that the current empty property rates relief system has some role to play as a disincentive to filling vacant units. It therefore seems reasonable to examine how the current system operates. In our manifesto for the 2011 Scottish elections we suggested that:

“The effect of empty property rates relief on the commercial property and rental markets, whether it is a block to or driver of economic activity and whether it represents value for money, should be investigated.”\(^5\)

We therefore welcomed the Scottish Government’s announcement that it would review the current system. In written evidence to the Economy, Energy and Tourism Committee in October 2011, we outlined our position:

“We also cautiously welcome moves to amend empty property relief, having called for a review in our recent manifesto as a step towards solving some of the chronic problems in our high streets. However, we are aware that the property relief system is highly complex and believe that further modelling of the impact of the Scottish Government’s proposals is necessary before changes are introduced. Some form of impact assessment for this proposal would be helpful. This is to ensure that the proposal effectively targets areas where rents remain stubbornly high for empty units and considers any unintended consequences.”\(^6\)

**The Bill**

The Scottish Government introduced a Bill to change the current system of empty property rates relief in March 2012. The Bill provides flexibility to Ministers to modify the rates liability of empty property from the current prescribed rate of 50% (after the first three months), up to a rate not exceeding 90%. The Scottish Government estimates this will result in a saving of £18m per annum. The changes will only apply to commercial property (industrial and listed buildings are unaffected by the changes).

The FSB would have preferred to see a thorough review of how the current empty property relief system operates in Scotland before any specific proposals were introduced. This would allow a better understanding of how changes could be effectively targeted and contribute to the stated outcomes.

A number of questions arise from the information provided by the Scottish Government to support the Bill. For example, how much of the annual spend on relief for commercial empty property relief goes to office-type

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\(^5\) p23, The Journey Back, FSB Scotland 2011

\(^6\) FSB Written Evidence to Economy, Energy and Tourism Committee, Scottish Government Spending Review and Draft Budget, October 2011
accommodation, compared to small retail units? While arguably not providing good value for money, reducing relief for empty office developments is unlikely to have a significant impact on our high streets. Equally, there may be a strong case to be made for exempting small business support premises (incubators and start-up units) from changes if it can be demonstrated that the landlords (often enterprise trusts) are making substantial efforts to fill units.

It may have been worth discussing the case for excluding industrial premises from change (if focusing on spending less on relief as an objective) and better understanding the impact of change on the public sector. The potential for negative effects on the construction and property maintenance sectors should also be considered. Lastly, is there a lack of reliable, comprehensive data about vacant units and rent levels, particularly in small towns?

Setting aside questions about the Scottish Government’s proposal, consideration of evidence from changes to the English system may also be useful, particularly in identifying unintended consequences. It may be that insufficient time has elapsed (and that this coincides with the onset of the recession) since the changes were introduced in England, meaning few conclusions can be drawn. Also, the Welsh Government is finalising a review of business rates, which called for evidence on, amongst other topics, empty property rates.

The provision of more robust evidence to support change, or to look at different options for reforming empty property relief, would have allowed for a more thoughtful discussion. It may also have been helpful to consider changes as part of the wider review of rates since the operation of current rates reliefs seems certain to feature in the review.

With limited data available and in the current economic climate, it is hard to ascertain the extent to which the proposals will achieve the stated objectives (beyond saving £18m per annum). Considering some of the issues we have raised, it also seems likely that there will be some unintended consequences. Before any change to the system can be supported by the FSB, a more robust assessment of likely impact and outcomes should be undertaken.

Finally, and as outlined above, improving town centres requires action on a number of issues. Providing greater incentive to fill vacant units is only likely to be successful if combined with other actions. The Scottish Government and local authorities should therefore include changes to empty property relief as part of a wider focus on town centre regeneration.

For further information on any of the points raised in this submission, please contact Susan Love, Policy Manager, FSB Scotland  t: 0141 221 0775.
LOCAL GOVERNMENT AND REGENERATION COMMITTEE
LOCAL GOVERNMENT FINANCE (UNOCCUPIED PROPERTIES ETC.) (SCOTLAND) BILL

SUBMISSION FROM FIFE COUNCIL

Introduction

We welcome the opportunity to comment on the Bill in order that our comments can be considered as part of the process. The proposed action taken to reduce the number of empty properties is a positive step to bring more properties back into occupation. Consideration needs to be given to the administration and ability to collect the charges that will be levied.

Comments on Explanatory Notes in Relation to Council Tax

Para 28

This paragraph appears to read as if this will only apply to properties empty for 12 months or more. Clarity is required in order to ascertain if this is the intention.

Para 30

The application of a charge on owners who fail to report changes of occupancy status could result in an invoice that is difficult to collect with challenges taking up time. Previous experience with a civil penalty for similar reasons in community charge showed the cost outweighed the collection. Although the power exists in council tax the power isn’t used for economic reasons. It will be difficult to collect the levy without a further £200 being added and there is the question of what do you collect first.

Para 32

Need to consider the impact of the Housing Empty Homes Legislation as intention is to bring properties back into use and this will reduce the base on which additional revenue can be raised.

Para 38

The costs would depend on the requirements for reporting and accounting for the income raised and where it is allocated to. It is not totally clear whether the first 40% will be earmarked for affordable housing. The Council would certainly want to communicate with Council Tax payers in advance.

Para 39

This will be an additional cost to Housing and Housing Associations for long term empty properties.
Para 40

This is a fundamental change to the calculation as currently system designed to avoid a charge of more than 100% Council Tax. It will depend on how many routines need to be amended to allow for this. The Council will need to control the circumstances under which this is acceptable. The estimate of £5 to £10K is reasonable.

Para 42

We currently differentiate between long term empty and second homes, however the information held is only as good as the information that the Council Tax payer provides. This would need to be fully reviewed before going live to ensure data is accurate on day 1. Staffing costs fit our grades for this work.

Para 43

We disagree that there will be no need for publicity, any changes to charges and the amount Council Tax payers expect to pay will need to be communicated in advance.

Para 44, 45 and 46

The Council has some experience of visiting as we did this for benefits. We would estimate that at best 10 visits a day and more likely to be in the region of 7-10.

Para 52

60% of our LTE are in Band A and B.

Comments on Explanatory Notes in Relation to Non-Domestic Rates

Table 2 on page 7 of the explanatory notes indicates that exemption will continue for listed properties, industrial properties and properties that have a Rateable Value less than £1,700. There are other current exemptions; for example, occupation prohibited by law, person in possession is executor of a deceased estate, person in possession is entitled so as a result of formal insolvency etc. Clarity is required to establish if these other exemptions will continue or cease.

Does the Scottish Government intend to review the rateable value threshold for qualification for exemption (£1,700)? This threshold has been in force since 1995. All other reliefs that are governed by rateable value thresholds have been up rated when revaluations took place in 2000, 2005 and 2010.

Whilst we appreciate the aim of these changes is to bring vacant premises back into use and that long term empty premises blight town centres and high streets, the current economic climate makes this difficult for businesses to trade from such locations. We have experienced real difficulties where landlords are leasing large retail units to charitable organisations to evade the unoccupied charge. They may not be using the premises for charitable purposes and as such will not necessarily qualify for charitable relief.

Furthermore, we continuously receive enquiries from landlords wishing to use the premises to display various community activities - posters and information displayed in
shop windows or allowing access to various organisations (in some cases for a couple of hours) for community activities. It would be interesting to know how the Scottish Government consider such use, does this constitute a full rates liability. I would expect that these sort of circumstances will escalate as the unoccupied rate increases?

Overall, the reduction in relief from 50% - 10% will have an effect on our recovery, especially so, in our opinion, in relation to the large unoccupied retail properties. In the event that the other current exemptions cease as noted in point 1 above recovery will prove really problematic against ratepayers who are formally insolvent, in our opinion there would be no prospect of recovery for such instances.
LOCAL GOVERNMENT AND REGENERATION COMMITTEE
LOCAL GOVERNMENT FINANCE (UNOCCUPIED PROPERTIES ETC.) (SCOTLAND) BILL

SUBMISSION FROM GLASGOW CITY COUNCIL

Introduction

Glasgow City Council welcomes the opportunity to respond to the Local Government and Regeneration Committee’s call for evidence on the general principles of the Local Government Finance (Unoccupied Properties Etc.) (Scotland) Bill.

The main focus of our response relates to the proposed measures with respect to long term empty homes although we make some comment on empty property relief for non-domestic rates.

General Comments

With respect both to commercial and long term empty homes a strategic approach is necessary locally and that the proposed regulations fit within a range of powers/mechanisms that local authorities can draw on to meet local needs/circumstances. Local authorities should have flexibility in the use of these powers as recognised in the proposals.

One essential consideration in the use of these measures is the additional administrative burden that may be imposed. It may be the case that revenue raised may not cover the cost to local authorities of administration.

Many of the issues the measures are intended to address are exacerbated by the current prevailing economic circumstances as well as being affected by changing patterns of consumer behaviour e.g. town centres and internet shopping.

Empty Property Relief for Non-Domestic Rates

On this measure there is a cost implication for the City Council where they are in ownership of properties which are unoccupied. There are often good reasons why these properties may remain empty. Councils are active in letting out such properties as part of their asset management plans.

There may also be strategic reasons for ‘holding onto’ an empty property for a certain length of time to ensure that the most appropriate and sustainable lets are made or if there are regeneration plans that entail major re-structuring of areas. This latter example is analogous to social housing landlords holding property for demolition as part of regeneration strategies.
Council Tax Increase on Long-Term Empty Homes

The Council welcomes additional tools to incentivise owners to bring their properties back into use. Empty homes can cause blight in areas, negatively affect wider communities, and can adversely impact on condition of adjoining flats.

The Council welcomes the flexibility in approach in regulations which will mean that local authorities can vary the level of discount applied in different parts of the area and in different circumstances, with the additional income retained locally. Glasgow’s Housing Strategy and the Glasgow and Clyde Valley Housing Needs and Demand Assessment will provide the evidence base to inform whether and how the Council uses the new powers.

An additional levy for empty property may act as a disincentive for owners to report that properties are empty and in a city with a high proportion of flats, it can be difficult to identify empty properties which are empty until a problem with house condition or environmental health arises. Therefore, the requirement for the Council to require an owner or agent to provide information on whether a property is empty and how long it has been empty for is welcomed. However the suggested level of fine (£200) seems very low in comparison to the potential impact to the owner of providing information. Also, past experience of civil penalties would suggest these are difficult to administer, including collection issues, are time consuming, and are often ineffective in changing behaviours.

The Council would prefer that any additional revenue raised from Council Tax on long-term empty homes be used to support the provision of affordable housing i.e. could be used flexibility to support bringing properties back into use or for the provision of additional housing in the city. It should be noted that the potential revenue which may be raised may not cover costs of administering the new procedures and the Council would have to consider this. There is a need for a national commitment to resources being available to carry out a more strategic approach to addressing empty homes.

One of the key problems in bringing problematic long term empty housing back into use has been identifying and contacting owners of long term empty properties. Many of these properties already have very high levels of Council Tax debt associated with them, making the reduction of discount or levying of additional fees ineffective. Although outwith the scope of this consultation, the Council would welcome the implementation of an Enforced Sale Procedures which would enable these properties to be brought back into effective use and meet housing need.

Housing Support Grant

This does not affect Glasgow City Council and therefore, the Council has made no comment.
LOCAL GOVERNMENT AND REGENERATION COMMITTEE

LOCAL GOVERNMENT FINANCE (UNOCCUPIED PROPERTIES ETC.) (SCOTLAND) BILL

SUBMISSION FROM HIGHLAND COUNCIL

Introduction

1. The Highland Council welcomes the opportunity to provide written evidence to the Local Government and Regeneration Committee on the Local Government Finance (Unoccupied Properties Etc) (Scotland) Bill.

2. The written evidence is split into two sections. The first section relates to council tax. The second section relates to non domestic rates.

Section 1

3. Council Tax: increase the level of charges or the level of council tax discount

4. The Highland Council is generally supportive of the Bill and notes from the Financial Memorandum that Scottish Ministers will, by regulations, either allow or require local authorities to increase the level of charges or the level of council tax discount for long term empty properties. While the Highland Council welcomes the opportunity to do so, it considers it reasonable for the Scottish Government to set out in regulation the framework for varying discount/applying charges, including limits. It should be for Councils however to determine the level of variation/charges to be applied in the local context in accordance with the Scottish Government’s legislative framework.

5. There are a number of risks inherent in the estimates set out in the Financial Memorandum. As stated in the Memorandum, a minimum discount and maximum charges introduces significant margins of uncertainty in projected revenue. One defining factor on the accuracy or otherwise of the projected revenue, will be the extent to which Councils will use the new powers, and as already stated, the Highland Council considers that it must be for Councils to determine locally whether the discount and charges should be varied and if so, the extent of such variation.

6. Administrative costs to Councils are likely to increase in terms of identifying, verifying and monitoring long term empty properties in their area. There are likely to be additional IT costs arising from these changes.

7. The Highland Council welcomes the Scottish Government’s proposal to provide Council’s with discretion and flexibility to decide how best to spend the revenue generated from varying the discount/applying charges to long term empty properties. The Highland Council supports the proposal not to ring-fence the additional revenue generated by these changes.
Section 2

8. Non Domestic Rates: change the levels of empty property relief

9. The Highland Council is generally supportive of this aspect of the Bill to change the levels of empty property relief from non domestic rates.

10. Further work may be required to assess whether the undernoted issues requires the financial forecasts set out in the Financial Memorandum to be further assessed:

   - absentee landlords;
   - the volatility of the commercial property market;
   - the poor condition of many empty commercial properties and the associated repair/upgrade/development costs.

11. There will be cost implications for Councils and other public bodies arising from reductions in empty property relief for the properties which they own.

12. Administrative costs to Councils are likely to increase in terms of identifying, verifying and monitoring empty properties in their area. There are likely to be additional IT costs arising from these proposals.

13. There is a risk that changes to empty property relief will have an economic impact locally. It shall be helpful to better understand the likely impact of change and to identifying mitigating action.

14. Changing the levels of available relief may place greater administrative burden on local authorities with potentially modest increases in revenue collections and lower savings than forecast to the Scottish Government.

15. It might be helpful to make provision to safeguard against landlords retrospectively, after many months/years, claiming that a property held by the local authority as being empty, was in fact tenanted. Often, in these circumstances, at the point of receiving such notifications, the landlord and the local authority are unable to locate the current whereabouts of the alleged tenant and the debt is ultimately written off as uncollectable.

The Highland Council
9 May 2012
Homes for Scotland is the authoritative voice for the home building industry. With a membership of 160 organisations together providing 95% of all new homes built for sale in Scotland each year, we are committed to improving living in Scotland by providing this and future generations with smart and sustainable homes where people want to live.

Recognising the acute shortage of homes in Scotland, Homes for Scotland is supportive of the Scottish Government’s aspiration to bring long-term empty homes back into use.

We welcome the opportunity to submit evidence to the Local Government and Regeneration Committee on the Local Government Finance (Unoccupied Premises Etc.) (Scotland) Bill.


It is crucial that any new policies or regulation is targeted correctly to avoid any wider unintended and unfavourable outcomes. For this reason our submission is focused on the introduction of appropriate, Scotland wide exemptions.

We appreciate that it will be up to the Council whether or not to implement a Council Tax levy and/or reduced discount as soon as a property has been empty for six months, but this submission has been drafted on the basis that the Local Authority is likely to exercise this power and that it is crucial that appropriate exemptions are agreed on a national basis.

We should first point out that we are pleased that the status quo is being retained in that all empty homes which are unfurnished should continue to be exempt from council tax for the first six months. The six month exemption should protect our members in most cases from exposure of council tax bills when new homes are being sold.

We support the introduction of an exemption to extend the period that the home is exempt for properties that are currently being marketed for sale. We note that the proposal is for an additional 12 months but would suggest that this proposed time is lengthened for an exemption for new build homes for up to an additional 18 months (therefore 24 months in total). This extension is crucial for new builds as in large developments, particularly when apartments are built, homes can be ‘stock’ for a considerable period of time before they are sold. There is also evidence of a number of sales that have fallen through due to mortgage declines at the last minute - this unavoidably extends the period of time a new build home may lay empty through no
fault of the developer. It is hoped that an exemption offering an additional 18 months would offer adequate protection covering all eventualities.

Home builders are in the business of building homes for sale. The downturn in the market and the introduction of new funding arrangements/incentives has demonstrated starkly how hard the home building industry works to achieve house sales. The downturn has also shown that in extreme circumstances external forces have meant that completed housing units can be left ‘on the shelf’ for long durations of time. During these times the home builder will already be struggling to manage costs with a limited cash flow. The introduction of a council tax charge for these properties could have a significant detrimental effect and make a specific exemption important.

More recently, as a further consequence of market circumstances, home builders have been building homes for occupancy rather than assuming sale whether that be through the National Housing Trust, Rent-to-buy or other rental models. Again financial appraisals will have been modelled on an assumed income from the properties and any sustained period of un-occupancy will have significant impact on the home builders financial position. For that reason the home builder will inevitably be doing what they can to remarket the property, whether for a new tenancy or for sale. It is crucial that the home builder is not exposed to further loses through the introduction of a council tax levy on these units.

In proposing the specific exemption for new build homes, we would also urge the Scottish Government to impose the exemption Scotland wide and to remove Local Authorities power to assert flexibility in this case. If this is not possible, at the very least we would strongly encourage the Scottish Government to issue clear guidance to Local Authorities on the use of a new build home exemption.

In closing, it is important to remember that the home building industry is a significant employer in the Scottish economy - keeping a work force gainfully employed. It is important that the Scottish Government continue to support the financial health of the industry and not impose any additional costs at this time. Any policy decision should take a longer term, wider view and not merely focus on revenue from short term council tax gains on unoccupied new homes.

If further information is required in support of this submission I would be happy to assist.
We note the changes proposed within the Bill with respect to Non-Domestic Rates and wish our concerns to be noted concerning the reduction of relief for premises that are empty. In many cases this is unavoidable e.g. where premises are surplus to requirements and are subsequently placed on the market for sale. There is no distinction or allowance made under the proposals where premises are actively being marketed. Therefore properties which have become long-term empty are effectively penalised to the same extent as those which are marketed for sale. As a result of this, the incentive for regeneration is somewhat lessened through the sale process.

This is directly at odds with the proposals for Council Tax in which domestic properties are differentiated, whereby the liabilities are less for those which are actively being marketed for sale. In addition to this, the discretion with which Local Authorities have to apply the changes within the Bill make forecasting the true effect of these changes on an organisation which covers three Local Authority areas, as in the case of NHS Ayrshire & Arran, incredibly hard to predict.

Mr John Wright
Director of Information & Clinical Support Services

May 2012
The issue for NUHS National Services Scotland (NSS) would be future loss of non domestic rates relief (currently 100% for first 3 months and 50% thereafter) on vacant NSS properties. This currently only applies to Clifton House, Glasgow, where we will benefit by circa £53K per annum until the lease expires in November 2014 or earlier, if we can agree a lease surrender.

Future loss of benefit for NSS is likely to be at Earlston House, Livingston (circa £20K per annum) if we decide to vacate before the lease expires in October 2012 and Anderson House, Edinburgh (circa £52K per annum) if we decide to vacate before we have secured a sub tenant.
Reform Scotland is aware that the proposed legislation aims to allow the Scottish Government to bring forward regulations to alter the level of empty property relief from April 2013 for certain empty commercial properties under the non-domestic rates regime to disincentivise owners from leaving properties empty. Whilst Reform Scotland would agree with the principle of disincentivising leaving commercial properties empty, the central point of our evidence is these powers should be passed down to local authorities to do on an individual basis, deciding their own policies to fit their own local environment, rather than be held by the Scottish government.

However, we believe that this legislation offers an opportunity to expand the financial powers of Scotland’s councils by giving them greater control over the entirety of non-domestic rates. In our report, Local Taxes, we highlighted that at present, due to the centrally-imposed council tax freeze, councils only had control over the income they raised from sales, fees, rents and charges and, despite being responsible for 25 per cent of all expenditure in Scotland, arguably have responsibility for zero per cent of all tax revenue income in Scotland. This is bad for democracy, local accountability and transparency.

Passing complete control of non-domestic rates back to local authorities would be a great first step in giving greater financial control back to our councils. This would allow councils not just to keep the money raised in non-domestic rates but allow them to vary the rates and how they are applied to take account of their local circumstances. This would incentivise all councils, even those with a relatively low level of business, to help attract business and encourage growth. Councils could look at individual schemes such as rates holidays or incentives to locate in high streets or disincentives to out of town shopping – whatever was felt appropriate for their area, rather than a one-size-fits-all approach dictated from the centre.

Devolving business rates would obviously lead to a reduction in the grant given to councils and would result in a situation of net winners and losers since some councils account for a larger proportion of business rates revenue collected relative to their resident populations than others. Some of this is due to differences in economic performance across the country and some due to council boundaries not reflecting real economic flows. To ensure that the policy is cost neutral, Reform Scotland recommends that, in the first year of the operation, the Scottish Government grants to each council should be based on the grant they received the previous year, less the business rates collected from the council area. Councils would then receive the revenue raised from business rates in their area, with the remaining part of their revenue grant adjusted to ensure no council was better or worse off. Each council would then have to decide whether to retain the business rates inherited or to seek to increase or reduce business rates.
The change to the grant level would remain the same in future years and would not be affected by whether the individual council collected more or less in business rates. This is essential as it provides an incentive for all councils, regardless of how much they currently receive in business rates, to improve economic growth in their area. It is also cost neutral to the Scottish Government. It is often argued that the Scottish Parliament has little incentive to improve economic growth as the benefits would accrue to the Treasury at Westminster, and the same principle applies here.

The following table demonstrates how Reform Scotland’s proposals to allow each local authority to keep the non-domestic rates they raise would not leave any councils better or worse off in the short term and would be cost neutral to the Scottish government. The figures are taken from the Scottish Local Government Financial Statistics 2010-11, published by the Scottish Government in February 2012 and the Local Government Finance Circular No.1/2010 which detailed the General Revenue Funding settlement for 2010-11. Annex D of the Scottish Local Government Financial Statistics 2010-11 details the calculation which explains the difference between the amount of NDR actually raised and the amount redistributed.

<table>
<thead>
<tr>
<th>Authority (E000s)</th>
<th>Non-Domestic Rate income</th>
<th>Redistribution of NDR income</th>
<th>Difference between amount raised and amount received</th>
<th>General revenue funding in 10-11</th>
<th>Total of GFR and distributive NDR in 2010-11</th>
<th>Reform Scotland model proposed NDR income in year 1 of operation</th>
<th>Reform Scotland model proposed General Revenue funding income</th>
<th>Reform Scotland model proposed total of GFR and distributive NDR in 2010-11</th>
<th>Difference between total of GFR &amp; NDR in 2010-11 and under Reform Scotland’s proposals</th>
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It will be interesting to see the turnout at the local government elections at the start of May. The continued blurring of responsibility between local and central government in Scotland has obscured the lines of accountability between the voters and town halls. It is, therefore, all too easy for the buck to be passed between councillors and MSPs when things go wrong, with the electorate unsure as to who is responsible for bad, or good, policy decisions. This makes it harder for them to decide how to cast their vote.

Healthy democracy needs clear lines of accountability, with decisions taken as close to the people they affect as possible. The best way to deliver this is for each layer of government to be responsible for raising as much as possible of the money that it spends. This would also help increase understanding and interest in local government.

Yours sincerely,

Geoff Mawdsley
Director
Reform Scotland

19 April 2012
Council Tax on Long-term Empty Properties and the Housing Support Grant: Consultation on Proposals for Legislation

I attach below the response of the RTPI in Scotland to the above Consultation. Unfortunately the form for response has already been removed from the consultation’s website.

Housing provision is a key aspect of town and country planning and the Institute concurs with the approach being taken to encourage best use to be made of existing housing in an area. We would particularly encourage, though, that the implications of empty homes be related to housing need within Local Development Plans, and strategies be devised there to address any chronic problems of empty houses and unmet housing need. In particular we would like to mention the ‘long stop’ possibility of Compulsory Purchase Orders where no other action to tackle such issues has been successful. Possible Orders can come forward as proposals in Local Development Plans.

In answer to the questions posed by the Consultation Paper the Institute responds as follows:

1. Should Councils be able to remove the current Council Tax discount (of between 10% and 50%) on long-term empty homes?

    Yes. The RTPIS agrees with the principle of encouraging the re-use of long-term empty homes.

2. Should Councils be able to charge an additional levy on the Council Tax on long-term empty homes and should they have flexibility in deciding the level of the levy? If so, what should be the maximum level of levy Councils could impose?

    Yes. For it to be effective the RTPIS suggests that a minimum additional levy of 100% of Council Tax be applied. The Institute considers that in specific circumstances it should be possible to increase that additional levy further, but in the interest of transparency and fairness it is suggested that such further additional levies be made subject to appropriate, specific, policies being contained within the relevant Local Development Plan, where housing need can be properly related to the means of addressing it,
and other aspects including Compulsory Purchase Orders can also be considered. On that basis it would seem reasonable to have no maximum limit to an additional levy.

3. Do you agree that Councils should continue to be able to apply different levels of Council Tax charge in different geographic parts of their area if they feel this is appropriate?

Yes. The minimum additional levy should be 100% and, as above, the Local Development Plan should be the place where consideration is given to tailoring further scales of additional charges and their geographical coverage as key parts of its policies and proposals.

4. Do you agree that Councils should have flexibility in deciding how long a home should be empty before they apply increased Council Tax charges for long-term empty homes and should Councils also be able to increase the level of charge the longer a home has been empty?

No. There should be a six month maximum (with exemptions possible) and after that additional levies should take effect, initially at a level of 100% over, and thereafter at levels agreed set out in the Local Development Plan.

5. Should Councils be able to apply additional, time-limited exemptions to the levy for certain types of property or owner? If so, please provide details of the circumstances under which you feel that an exemption would be appropriate and how long these additional exemptions should be available for.

There should be no exemption for second home owners who do not occupy the second home say for a minimum of 2 months out of 6. Exemptions should be reviewed as part of the Local Development Plan policy preparation and approval system.

6. Do you agree that homeowners should have a duty to inform their Council if their home has been empty and unoccupied for six months? If so, should Councils be able to charge a fixed penalty fee where an owner has not informed them that a property is unoccupied and what level of penalty fee would be appropriate?

Yes. Yes. An initial additional levy of 100% Council Tax would seem appropriate.

7. To help minimise avoidance, do you agree that a home should no longer need to be unfurnished to be classed as long-term empty?

Yes.
8. Should the minimum period an empty home must be occupied before it can be declared as empty again and benefit from an exemption be extended beyond the current six week minimum? If so, what should the minimum period be?

Yes. The Institute agrees with the 3 month period proposed.

9. Should the additional revenue raised from Council Tax on long-term empty homes be used for affordable housing? Please let us know if you have particular views on the types of project or expenditure this revenue should be used for.

There might be merit in having a measure of flexibility as to use of these funds. For example, they could be put towards Affordable Housing, (new or converted/repai red), Building Preservation Trust projects in the area, or used for the compulsory purchase of long-term empty properties.

Question on the Housing Support Grant
10. Do you agree that Housing Support Grant should be abolished from April 2013 onwards?

RTPI in Scotland has no view on the proposed abolition of Housing Support Grant.

I hope that these points are helpful, and if further clarification or development is required please do not hesitate to contact me.

Best wishes

Charles Strang

Charles Strang
Scottish Planning Policy Officer
Local authorities in Scotland were given discretionary powers in 2005 to reduce the council tax discount on long-term empty (LTE) and second homes from 50% to a minimum of 10%. West Dunbartonshire Council has exercised this discretion since 1 April 2010 whereby properties classed as LTE or second homes are entitled to 100% exemption for the first 6 months followed by a 50% for the next 6 months. At the expiry of this 12 month period, the exemption rate drops to 10%.

The aim of the reduced discount is to provide an incentive for owners to bring their homes back in to use. There are approximately 44,000 properties in West Dunbartonshire, of which 17,000 are in the social rented housing sector. As at 1 April 2010 when the Council reduced the exemption rate on LTE properties and second homes, there were 574 properties falling in to these categories. At present there are 657 properties falling in to these categories. This trend has been reflected across Scotland whereby the number of LTE properties has increased slightly in recent years. It should be noted that the majority of LTE properties in West Dunbartonshire are in the social rented sector.

Any additional revenues from a reduced discount and/or levies on council tax for LTE properties would be ‘ring fenced’ for Councils to spend on affordable housing. An example of this could be to use the additional revenues to service prudential borrowing for housing projects. Based upon the current level of LTE properties and assuming a 100% collection rate, utilising the maximum discretion and applying a 100% levy could generate £363,000 per annum. However, if the policy was successful, the number of LTE properties should diminish each year and, as such, the yield would reduce over time. If second homes were included within the proposed discretionary powers, a further £313,000 could be generated.

The Council would welcome the proposal to remove the discount on LTE properties. However, the proposal should be extended to include second homes.

Councils should be able to charge an additional levy of up to 100% of the council tax charge.

All areas within the Council should be treated on an equal basis.

The scheme should apply evenly across Scotland so as to prevent disparity between neighbouring Council areas. The scale of charge should also apply evenly across Scotland.

Any additional exemptions would increase the complexity of the scheme and as such would affect the ease of implementation, costs of collection and the ease with which the taxpayer could understand the charge, all of which would reduce the level of collection. However, West Dunbartonshire Council would like to have the discretionary powers to exempt Registered Social Landlords from any additional levy.
Homeowners should have the duty to inform the Council of the status of their property. However, fixed penalty fees in practice are seldom used by Councils as they have a very poor collection rate. A more powerful enforcement action would be to introduce land attachments.

Homes should no longer need to be unfurnished to be classed as long-term empty.

In order to discourage owners from ‘flipping’ their property between empty and occupied status, the period should be extended to a minimum period of 3 months.

Although the additional revenue raised from Council Tax on long-term empty homes be used for affordable housing, the scope should be widened so as to allow Councils to offset their additional costs of levying and collecting the additional revenues and also to fund the development of an empty homes strategy.

West Dunbartonshire Council has never been in receipt of Housing Support Grant and as such will not be affected should the grant be abolished from April 2013 onwards, however does agree that it should be abolished.
LOCAL GOVERNMENT AND REGENERATION COMMITTEE
LOCAL GOVERNMENT FINANCE (UNOCCUPIED PROPERTIES ETC.) (SCOTLAND) BILL
SUBMISSION FROM SCOTTISH RETAIL CONSORTIUM

About the SRC

The Scottish Retail Consortium (SRC) is the lead trade association representing the whole range of retailers in Scotland, from independents through to the large multiples and department stores, selling a wide selection of products through centre of town, out of town, rural and virtual stores.

The SRC welcomes this opportunity to respond to the call for written evidence in the consideration of the Local Government Finance (Unoccupied Properties ETC) (Scotland) Bill. The SRC will be responding exclusively to the proposed reductions in Empty Property Rate Relief.

SRC Policy options

- Empty Property Rate Relief (EPRR) must be reintroduced in full for six months to support investment and growth.

- Business Improvement Districts have business support and generate funds from firms looking to grow. Taxing vacant units will result in less investment and more vacant units.

- It is inequitable and economically inefficient for industrial units to maintain the EPRR at the more generous level at the expense of all Business Rates payers in Scotland.

Overview

- The erosion of Empty Property Rate Relief (EPRR) will add further costs to struggling high streets already impacted by significant Business Rates costs, including the retail specific Public Health Supplement.

- The retail sector pays more Business Rates in Scotland than any other sector (28%) and is the largest private sector employer. The SRC is therefore unsure why industrial units still qualify for the more generous EPRR at the continued expense of the other Non-Domestic Rate payers.

- Companies holding leases on empty and surplus buildings are legally tied into a rental commitment. The erosion of EPRR will act as a further cash drain on the business leading to insolvencies and an increase in empty properties.

- Extra tax burdens will deter entrepreneurial investment in property at a time when good quality buildings in Scotland are in short supply. Commercial property
remains empty because there is an excess of supply over demand, irrespective of price.

- In the light of continued economic uncertainty, and the growing burden of property costs the SRC’s position is that EPRR should be maintained in full for a six month period for all commercial properties in order to reduce business costs and protect jobs at remaining locations. In the current commercial property market three months is too short a time to re-let retail units with supply far outstripping demand in many locations in Scotland.

- The SRC support moves to bring vacant units back in to use and revitalise town centres. Business Improvement Districts (BIDs) are a recognised business led funding mechanism using targeted pro-growth investment. BIDs have business support and generate funds from firms looking to grow. Taxing vacant units will result in less investment and more vacant units.

**Reduced Empty Property Rate Relief is a drag on investment and will not disincentivise owners from leaving properties empty**

- A tenant paying both Business Rates and rent on an unoccupied building faces a considerable cash drain on their business. Commercial property remains empty because there is an excess of supply over demand not because of lack of incentives to occupy. This is exacerbated in locations with considerable excess of the wrong types of property and where consumer demand is weakest. Increasing the financial burden of holding empty buildings will not encourage greater price competitiveness or encourage occupation. Lack of finance and tenants will discourage speculative developments with the potential burden of empty rates further reducing investment.

**Commercial leases are already a cost for empty property holders**

- Companies holding leases on empty buildings are already legally tied into a rental commitment by their lease. This extra tax burden will simply add to theses fixed costs further discouraging entrepreneurial investment in property at a time when investment in high streets is falling and new retail development is low. According to new research commissioned by the British Council of Shopping Centres new pipeline development is at a 30 year low. The total UK current estimated shopping Centre development pipeline is 29.4m sq ft, which has dropped from a peak of 75m sq ft at the height of the development cycle in 2007.

**The retail sector is critical to the Scottish economy**

**It is inequitable and economically inefficient for industrial units to maintain the EPRR at the more generous level at the expense of all Business Rates payers in Scotland**

- Retail is the largest private sector employer in Scotland, employing around 240,000 people. This is more than both Manufacturing and tourism.
• Glasgow City supports 11 per cent of employment in retail and is the second most important retail destination in the UK. As such it acts as a showcase for the Scottish economy as a whole, generating over £2.5 billion in annual sales. Despite this Glasgow has the highest shop vacancy rate amongst Scotland’s cities, at 21.2%.

• According to figure from the ONS 43,685 people aged between 18 and 24 are claiming job seekers allowance in Scotland, 127 per cent higher than the total of 19,245 in December 2007.

• A third of retail employees are aged under 25, according to the Labour Force Survey. More broadly, over 40 per cent of 16-19 year olds currently in work are employed in retail, with a quarter of 20-24 year olds in work also working in retail. The sector is crucial in supporting young people into the world of work during the economic downturn, helping them gain experience and build their CVs.

• The Retail sector is also vital in providing employment opportunities for those with no or limited formal qualifications. In Scotland 1 in 8 sales staff have no formal qualifications. Retailers invest £1,275 per person, per annum in training their employees, more than manufacturing or intermediated financial services. This ensures that skills levels of all employees are constantly upgraded, alongside on-the job training.

• Adding further property costs will damage Scotland as a retail investment location resulting in more vacant units and less employment.

Reductions in Empty Property Rate Relief will add further cost to the retail sector

• The reduction of EPRR comes in addition to an already growing business rate burden for the retail sector. Total Business Rates in Scotland are around £2.2bn per annum and retailers already pay around one-quarter of that, the highest proportion of any sector.

• The impact of the 2010 Revaluation, the abolition of Transitional Relief and the 5.6% rise in the Poundage Rate in April 2012, which cost £35m, in addition to the new Public Health Supplement – which will cost the retail sector an additional £95 million over three years.

• These measures have significantly increased the financial burden for the retail property sector in Scotland and will act as a barrier to growth and investment.

Sales, footfall and vacancy rates

• The removal of EPRR comes at a time not just when costs are spiralling through business rates, the Public Health Supplement and increasing regulation but also further drops in demand. Footfall fell 12.6% in Scotland – (Feb-April 2012 v. 28%)

1LDC
2011). Vacancy rates are at 9.0%\(^2\), but this hides some extreme cases such the west of Scotland. Paisley has the highest vacancy rate in Scotland, with 26.7% of shops lying vacant, with East Kilbride just behind at 26.6%\(^3\).

- On both like-for-like and total measures, sales were also still weaker than for the whole UK. Consumer confidence also remained weaker in Scotland than in the UK as a whole, having fallen in both. In the short to medium-term things are unlikely to improve significantly due to the current economic climate, with consumer spending forecast as broadly flat over the next year or so. At the same time, customers are changing their shopping habits, visiting large destination retail locations where choice is greater, as well as opting for alternative sales channels including internet shopping.

Financial Memorandum Costs

- In the Bills accompanying Financial Memorandum it is stated the cost to business will be in the region of £18million. What this fails to take into account is any dynamic analysis of the consequences of the erosion of EPRR. Static costing taken without any consideration of the impact upon investor behaviour is of limited value.

- The SRC also believe that the policy rational if fundamentally flawed and reducing EPRR will actually cost money and waste more resources as cash is drained from business and speculative development is discouraged.

- The Financial Memorandum is far too optimistic regarding the costs incurred for the public sectors own empty property. An estimate of less than a dozen properties impacted fails to recognise other public sector bodies such as the NHS and Enterprise Scotland, which will also have a number of properties receiving EPRR.

Reducing EPRR will not raise revenue

- Although in England substantial revenue savings were anticipated recent evidence suggests this has not in fact been achieved. EPRR was worth £1.3bn per year in England before reduction and due to the consequent lack of demand and weak economic condition it is still worth some £1.1bn per year.

- The moves will also not address any shortfall in the Scottish Government's Block Grant but will act as a barrier to investment and cash drain on already struggling businesses. Reduction of the EPRR in the current market could reduce overall tax take of the Scottish government as property and business investment decline.

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\(^2\) BRC Springboard, ATCM  
\(^3\) LDC
The removal of relief for empty properties adds significant risk to investors in new and redeveloped commercial buildings and in the current fiscal climate this will further reduce any appetite for economic development.

For further information please contact:

**Ian Shearer.**
Director – SRC
ian.shearer@brc.org.uk

**Dan Morgan.**
Local Government and Taxation
dan.morgan@brc.org.uk
Local Government and Regeneration Committee

Cross-party delegation visit to Shetland

A delegation from the Committee visited Shetland on 28th and 29th May 2012, as part of its consideration of the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. The purpose of the visit was to examine the proposals in the Bill to abolish the Housing Support Grant. As of 2012, Shetland Island Council is the only local authority in Scotland still in receipt of this grant.

The members of the delegation were: Joe FitzPatrick MSP (Convener), Kevin Stewart MSP (Deputy Convener), Anne McTaggart MSP and Margaret Mitchell MSP, Eugene Windsor (Committee Clerk) and Allan Campbell (Senior Researcher, SPICe).

The delegation took part in the following meetings and activities:

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**Shetland Islands Council**

**Date:** Monday 28 May  **Time:** 1000  **Venue:** Lerwick Town Hall

**Purpose:** to gain an understanding of the background to historic debt of Shetland Islands Council Housing Revenue Account.

**Attendees:**

Cllr Gary Robinson – Political Leader, Shetland Islands Council
Cllr Cecil Smith Chair of Social Services Committee, Shetland Islands Council
Cllr Allison Duncan – Vice Chair of Social Services Committee, Shetland Islands Council
Cllr Alastair Cooper – Councillor for Shetland North and Chair of Development Committee, Shetland Islands Council
Alistair Buchan – Chief Executive, Shetland Islands Council
James Gray – Executive Manager – Finance, Shetland Islands Council
Anita Jamieson – Executive Manager – Housing Shetland Islands Council
Tavish Scott MSP, Member of the Scottish Parliament for Shetland

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**Sullom Voe oil terminal**

**Date:** Monday 28 May  **Time:** 1300  **Venue:**

**Purpose:** to gain an understanding of the housing and wider issues in relation to the development and ongoing operation of Sullom Voe.

**Attendees:** Cllr Alastair Cooper – Councillor for Shetland North and Chair of Development Committee, Shetland Islands Council.
Firth Community House, Mossbank

Date: Monday 28 May  Time 1500  Venue: Firth Community House

Purpose: To gain an understanding of how community learning and other community activities and support are facilitated through the provision of a community house.

Attendees:

Susanne Wilshaw – Chair of the Community Learning and Resource Centre (Firth)
Liz Whitrow – Tenant
Cllr Alastair Cooper – Councillor for Shetland North and Chair of Development Committee, Shetland Islands Council
Anita Jamieson – Executive Manager – Housing, Shetland Islands Council

Hjaltland Housing Association

Date: Monday 28 May  Time 1700  Venue: Hjaltland Housing Association offices

Purpose: To gain an understanding of the role of Hjaltland Housing Association in meeting housing need in Shetland.

Attendees:

Dr Jeff Goddard, Chair, Hjaltland Housing Association
Susan Gray, Finance Manager, Hjaltland Housing Association
Paul Leask, Property Services Manager, Hjaltland Housing Association
Fiona Robertson, Housing Manager, Hjaltland Housing Association

Shetland Tenants Forum

Date: Monday 28 May  Time 1800  Venue: Shetland Tenants Forum office

Purpose: To gain an understanding of tenant participation in Shetland.

Attendees:

Chris Robertson, Chairperson, Shetland Tenants Forum
Joann Johnson, Secretary/Treasurer, Shetland Tenants Forum
Marjorie March, tenant from Kalliness, Weisdale, Shetland Tenants Forum Committee member
Shetland Heat and Power Ltd (SHEAP)

Date: Tuesday 29 May  Time 0930  Venue: SHEAP office

Purpose: To gain an understanding of the management and operation of the Shetland district heating scheme.

Attendees:
Neville Martin, District Heating Manager, SHEAP

Shetland Community Planning Partnership

Date: Tuesday 29 May  Time 1030  Venue: Lerwick Town Hall

Purpose: To gain an understanding of the progress made in Shetland in relation to community planning and the single outcome agreement.

Attendees:
Neil Grant, Director of Development Services, Shetland Islands Council
Chief Inspector Angus MacInnes, Northern Constabulary
Vaila Simpson, Community Planning Manager, Shetland Islands Council
Catherine Hughson, Voluntary Action Shetland
Ian Kinniburgh, Chair, NHS Shetland board
Stewart Robertson, Area Manager Shetland, Highlands and Islands Enterprise
The Committee reports to the Local Government and Regeneration Committee as follows—

INTRODUCTION

1. The Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill was introduced in the Parliament on 26 March 2012.\(^1\) The Bill has 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 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; and
- Abolish the requirement on the Scottish Government to pay housing support grant, currently only paid to Shetland Islands Council.

2. Under Standing Orders Rule 9.6, the lead committee at Stage 1 is required, among other things, to consider and report on the Bill’s Financial Memorandum (FM). In doing so, it is required to consider any views submitted to it by the Finance Committee (“the Committee”).

3. Rule 9.3.2 of the Standing Orders sets out the requirements for the FM accompanying a Bill. The FM should set out—

“the best estimates of the administrative, compliance and other costs to which the provisions of the Bill would give rise, best estimates of the timescales over which such costs would be expected to arise, and an indication of the margins of uncertainty in such estimates.”

4. The FM must distinguish separately such costs as would fall upon—

\(^1\)http://www.scottish.parliament.uk/S4_Bills/Local%20Government%20Finance%20Unoccupied%20Properties/b12s4-introd.pdf
(a) the Scottish Administration;
(b) local authorities; and
(c) other bodies, individuals, and businesses.

5. At its meeting on 28 March 2012, the Committee agreed to seek written evidence from a series of organisations potentially affected by the Bill. Submissions were received from—

- Aberdeen City Council
- Angus Council
- Business Centre Association
- Clackmannanshire Council
- East Lothian Council
- CBI Scotland
- City of Edinburgh Council
- COSLA
- Glasgow City Council
- Highland Council
- Inverclyde Council
- North Ayrshire Council
- North Lanarkshire Council
- Scottish Property Federation
- Shetland Islands Council
- Western Isles Council

6. All submissions can be accessed from the Committee’s website at the link below—

Link to written submissions

7. At its meetings on the 25 April and 2 May the Committee took evidence from the Business Centre Association, the Scottish Property Federation (SPF), Angus Council, North Lanarkshire Council and Shetland Islands Council. The Committee also took evidence from the Bill team. The Official Report of the evidence sessions can be found on the Parliament’s website at—

Link to Official Report of meeting 25 April 2012
Link to Official Report of meeting 2 May 2012

8. Following the evidence sessions further submissions were provided by the SPF, the Scottish Government and Shetland Islands Council and these can also be accessed from the Committee’s website.

9. A briefing by the Financial Scrutiny Unit (FSU) on the FM was also prepared and this is available on the Committee’s website.\(^2\)

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10. Given that the Bill will introduce three distinct policy proposals, the relevant costs as set out in the FM and the Committee’s consideration of each aspect is considered separately below.

**EMPTY PROPERTY RELIEF ON NON-DOMESTIC RATES**

**FINANCIAL MEMORANDUM**

11. The Bill will allow Scottish Ministers, by regulation, to vary the percentage and time span of non-domestic rate relief available for defined classes of empty or unoccupied premises. Currently the amount of liability can only be varied from 0% (which is the default rate, and currently is applied to certain classes only for the first three months) to 50% (which is applied to those classes for an indefinite period thereafter). The Scottish Government is proposing to use the powers in the Bill to make regulations that would introduce from 2013-14 a rate of relief for the classes currently subject to a 50% liability to increase it to 90% liability following the initial 3 month zero-rated period, and that this 90% rate would apply for an indefinite period. Listed properties, industrial properties, and those with a rateable value of less than £1,700 would not be affected by the proposed reforms.

12. The Scottish Government estimates that there are currently around 20,000 properties benefitting from empty property rates relief. The FM states that the current empty property rates relief regime will cost the Scottish Government an estimated £152 million in 2012-13 and is the costliest of all the non-domestic rates relief schemes currently in operation. Other relief schemes include the small business bonus scheme and rates relief for charities.

13. The FM indicates that the proposed reform from 2013-14 onwards would reduce the cost to the Scottish Government of providing the relief by an estimated £18 million per year, which represents 12% of the current cost of relief. The FM states that the reduction in the discount level would therefore lead to a saving in the Scottish Government budget of approximately £18 million per year. This figure would fall as a cost to organisations in receipt of non-domestic empty property relief.

14. Before considering the estimated costs to the Scottish Administration, local authorities and businesses, the Committee comments briefly on the nature of the consultation exercise conducted on the empty property relief proposals.

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3 Financial Scrutiny Unit (2012) Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill: Financial Memorandum
4 Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 18
5 Scottish Government, written evidence
6 Scottish Local Government Financial Statistics 2010-11
7 Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 19
8 Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 21
Consultation on the Bill’s proposals

Consultation exercise

15. While the proposals on council tax relief were the subject of a separate formal consultation exercise, the proposals on empty property relief were announced in the Scottish Government’s Scottish Spending Review 2011 and Draft Budget 2012-13. In particular, the Policy Memorandum (PM) accompanying the Bill states that the Scottish Government announced in its 2011 spending review document its intention to introduce incentives to bring vacant premises back into use, reduce the prevalence of empty properties in town centres and support urban regeneration by reforming empty property relief from April 2013 and that the broad policy proposals were consulted on as part of the consultation on the Scottish budget.

16. The PM states that a small number of responses were received to the draft budget which mentioned reform of empty property relief, both in support e.g. to welcome measures to encourage vacant town centre business properties to be filled and in opposition e.g. about the potential impact on future developments. In addition, it reports that engagement with key stakeholders has taken place throughout the process in the course of regular and ad hoc meetings with business groups and business events.

17. The absence of a formal consultation exercise on the empty property relief proposals was raised by several respondents in their submissions to the Committee. For example, the SPF noted that the Committee—

“may wish to distinguish between the formal consultation exercise run by the Scottish Government on the council tax aspects of the Bill and the business rates aspects, which were part of the Spending Review announcement on 21st September, rather than any specific form of consultation.”

18. While Glasgow City Council stated that—

“We are not aware of a consultation on the other elements in the Bill, in particular the significant changes relating to NDR empty property relief.”

19. On the other hand, the Committee notes the comment from Angus Council that it did not “think that in Angus we have significant concerns about the process. The changes were signposted.”

20. In its evidence session with the Bill team the Committee sought clarification on the nature of the consultation exercise on the empty property relief proposals

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10 Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Policy Memorandum, paragraph 4
11 Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 17
12 Scottish Property Federation. Written submission.
13 Glasgow City Council. Written submission.
that had been conducted via the draft budget document. The Bill team confirmed that information on the Scottish Government’s intentions was confined to the statement on page 226 of the spending review 2011 which states that—

“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.”

21. The Bill team indicated, however, that in subsequent correspondence more detail was provided on the level of reform being considered.

22. Given the Committee’s lead role in the scrutiny of the draft budget and spending review, the Committee would welcome clarification from the Scottish Government on the nature of the consultation exercise that it undertakes on the annual draft budget and, as appropriate, spending review and the extent to which this exercise follows the Scottish Government’s Consultation Good Practice Guidance. While it would expect stakeholders to submit their views to the Scottish Government as a normal part of the draft budget process, the Committee is not aware of a formal invitation for views or, for that matter, the publication of a summary and analysis of responses.

23. Given that this issue goes beyond consideration of this particular Bill, the Committee will write separately to the Cabinet Secretary for Finance, Employment and Sustainable Growth to seek clarification on this point. However, it highlights it here as a matter that the lead committee may also wish to pursue in its evidence session with the Scottish Government.

24. The Committee notes that, in respect of this Bill, the spending review 2011 included only a brief statement regarding the Scottish Government’s intentions and contrasts this with the formal consultation exercise conducted on the council tax proposals.

25. The Committee further notes that given that financial estimates on the empty property relief proposals were not published in the draft budget document, any submissions following the draft budget relate to the broad principles of reform, rather than to the costings.

26. The Committee considers that a separate formal consultation exercise on the empty property relief proposals should have been undertaken, similar to that conducted on the council tax proposals, as this would have been helpful to the Committee’s scrutiny and evidence gathering.

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Business and Regulatory Impact Assessment

27. The Committee further understands that no business and regulatory impact assessment (BRIA) was prepared on the empty property relief proposals. The FSU briefing notes that in his evidence to the Economy, Energy and Tourism Committee on the draft budget 2012-13 the Cabinet Secretary for Finance, Employment and Sustainable Growth stated that—

“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.”

28. The Committee sought further clarification on the decision not to prepare a BRIA in its evidence session with the Bill team. The Bill team indicated that it would have been—

“disproportionate to do one because of the level of savings that we were looking at, which was about £18 million. Overall business rates are paid by about 200,000 properties. There is a tax base of £6.7 billion; business rates generate about £2.3 billion a year, so savings of £18 million are relatively small.”

29. The Bill team went on to explain that—

“It is to do with the proportional impact of £18 million in the wider context. We are forecasting the overall relief to cost £757 million across the five-yearly revaluation cycle. It is about the proportion.”

30. The Scottish Government has published guidance on business and regulatory impact assessments which states that the “BRIA process encourages policy makers to identify the problem and then use available evidence to find proposals that best achieve the policy objectives while minimising costs and burdens.” It continues that “the BRIA allows those with an interest in the policy to understand—

- Why the Government is proposing to intervene;
- Options the Government is considering, and which one is preferred;
- How and to what extent new policies may impact on them, on business and on Scotland’s competitiveness;
- The estimated costs and benefits of the proposed measures.”

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31. The guidance states that if a “Yes” answer is given to any of the following questions then a BRIA is required. The first question is—

“What does the proposal impose additional cost or reduce existing costs on businesses or the third sector? Have you tested the proposal on relevant businesses?”

32. While the BRIA guidance refers to the application of the proportionality principle this is with reference to the length and detail of the BRIA and not whether a BRIA is required. It states—

“The content of the BRIA should be proportionate to the problem involved and the size of the proposal. If it is likely to affect only a few firms or organisations, or many firms and organisations but only to a negligible degree, and/or the costs and benefits are likely to be negligible, then the BRIA should be quite short.”

33. The Committee notes the explanation of the Bill team on the reasons why a BRIA was not undertaken. However, it notes that the Scottish Government’s guidance on BRIAs does not apparently distinguish between the level of costs and impact on business in deciding whether a BRIA is required.

34. The Committee notes that, in any event, the potential impact of the Bill’s proposals is not limited to those businesses currently in receipt of empty property rates relief but could extend to any business, individual or other body which owns commercial property that might become empty at some point in the future or which is considering the development of commercial premises.

35. The Committee considers it unfortunate that no separate formal consultation exercise was conducted on the empty property relief proposals and that, given the potential impact on businesses, no BRIA of a proportionate level of length and detail was prepared. The Committee suggests that the lead committee pursues this matter in its evidence session with the Scottish Government.

Costs on the Scottish Administration

36. Paragraph 21 of the FM indicates that no additional costs to the Scottish Administration are expected in relation to the non-domestic rates provisions. Paragraph 22 of the FM states, however, that “any properties in the Scottish Government estate that are empty could also see their rates bill increase as a result. The Scottish Government expects that this will only affect a very small number of properties each year (less than a dozen properties are estimated to be affected).”

37. In its submission to the Committee the SPF expressed surprise that only 12 properties in the Scottish Administration’s estate would be liable under the empty

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23 Local Government Finance (Unoccupied Properties etc.)(Scotland) Bill. Financial Memorandum, paragraph 21.
property relief proposals. It suggested that this did not appear to take account of sponsored government bodies such as Scottish Enterprise which, it understood, had substantial numbers of vacancies in property investments.\textsuperscript{24}

38. In its oral evidence to the Committee, SPF explained that, when it had looked at the valuation roll, there were far more than 12 empty properties just for Scottish Enterprise. It pointed out that, other bodies, such as the National Health Service, would also have empty properties.\textsuperscript{25}

39. In its evidence to the Committee the Bill team advised that the dozen properties referred to in the FM were confined to those directly owned by the Scottish Government estate. It stated that—

\begin{quote}
“Scottish ministers have direct liability for the dozen or so properties within the core Scottish Government estate. We did not include agencies, non-departmental public bodies and so on, but they may have empty properties as well.”\textsuperscript{26}
\end{quote}

40. The Bill team confirmed that where these latter bodies owned empty commercial properties covered by the Bill’s proposals that they would also have to meet the costs of any extra charges or bring the properties back into use.\textsuperscript{27}

41. The extent to which the estimated costs to public bodies that own empty commercial properties, excepting those directly owned by the Scottish Government, had not been reflected in the FM and, in particular, the figure of £18 million was unclear to the Committee. It therefore sought further information on these figures from the Scottish Government and these costs and the impact that they may have on the estimated revenue to the Scottish budget is examined further below.

\textbf{Cost on local authorities}

42. The FM anticipates that changes to empty property relief will result in a small administrative cost to local authorities in amending the level of discount applied to existing bills for non-domestic rates, and explaining the changes to ratepayers. Several local authorities suggested that the costs might be underestimated.

\textit{Enforcement and recovery costs}

43. For example, Angus Council noted that there might be an increase in recovery costs arising from the requirement to collect increased rates from businesses.\textsuperscript{28} North Ayrshire Council raised a similar concern. It pointed out that currently the Council has 126 empty properties that have been charged 50% rates after the initial three month period. It stated that the imposition of a 50\% charge did not appear to have any bearing on a property then becoming occupied. It stated that—

\begin{notes}
\item[24] Scottish Property Federation. Written Submission.
\item[28] Angus Council. Written submission.
\end{notes}
“If the rates charge is increased to 90% on an empty property then there is the possibility that the same trend will continue and the Council will have to recover more debt. Currently around 10% of ratepayers with a 50% liability reach the Summary Warrant stage and are passed to sheriff officers for collection. If more debt is passed to the sheriff officer then this will increase the Council’s agency fee for rates recovered. Based on the current number of empty properties the Council would have to find around £1,000 from existing budgets to pay for the extra commission charge.”

Council-owned commercial properties

44. Several local authorities highlighted the impact that the empty property relief proposals would have on council-owned commercial premises. While the FM notes that any properties owned by local authorities that are empty will also be affected by any change to the level of empty property relief offered, it does not provide any figures for the number of local authority-owned properties that might be affected by the empty property relief proposals or information on the estimated costs to local authorities.

45. For example, Glasgow City Council estimated that the changes would result in additional costs in the region of £0.5 million to £1 million per annum, which largely related to units in historically very hard-to-let areas. Angus Council also noted the financial implications in respect of council property which remained empty longer than three months. It estimated that, based on the current position, additional rates charges of £20,000 would be incurred.

46. Shetland Islands Council advised in subsequent correspondence to the Committee that it had nine empty commercial premises, eight of which were in receipt of empty property relief and therefore would be affected by the Bill’s proposals. North Lanarkshire Council indicated that at the end of March 2011, the Council owned 216 empty properties, 123 of which were granted 100% empty property relief.

47. Further, the FSU briefing on the FM refers to a written Parliamentary Question answer which suggests that the impact on local authorities could be in the order of £1.8 million—

“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.” (S4W-06087)

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29 North Ayrshire Council. Written submission.
30 Local Government Finance (Unoccupied Properties etc.)(Scotland) Bill. Financial Memorandum, paragraph 23.
31 Glasgow City Council. Written submission
32 Angus Council. Written submission
33 Shetland Islands Council. Additional written submission.
34 North Lanarkshire Council. Correspondence with the Finance Committee
48. In its evidence session with the Bill team the Committee sought further information regarding the number of council-owned properties that might be affected by the Bill’s proposals. The Bill team stated that—

“We think that local authorities own about 2,000 properties that are currently empty. Some of those will not be affected by the reform—for example because they are listed or industrial buildings, or because they have no rateable value or are in the three-month period of 100 per cent standard relief.”

49. The Bill team advised, however, that it did not have an estimate that was broken down by council area. It explained that the council property figures used to inform its response to the PQ had not been sought from the individual councils but had been collated from information already in its possession. The Bill team indicated that it was not always clear from that information whether a property was, in fact, council-owned as it depended “on whether the council included properties in its direct estate and on whether it has a lot of trusts and housing associations that have non-domestic properties.” The Bill team explained that the “Council might list themselves as being the ratepayer, but councils such as Glasgow City Council have lots of trusts and subsidiaries, such as housing associations.” As a result, the Bill team confirmed that it “might have missed some.”

50. The Bill team confirmed in supplementary evidence that it estimated that approximately 2,000 council properties were vacant and in receipt of empty property relief at any given point in time. Of this total, it estimated that between 630 and 870 properties would be affected by the proposed reforms, with a reduction in relief awarded between £1.4 million and £1.7 million. The remaining properties were likely to be industrial or listed or in the initial 3 month 100% period and would see no change to the amount of relief awarded.

51. **While the FM acknowledges that there will be costs to local authorities that have empty commercial properties, it does not estimate the numbers or the associated costs.** The Committee considers that greater effort should have made to establish the number of local authority-owned empty properties that might be affected by the Bill’s proposals and the associated costs. The Committee finds it surprising that having established that it was unable to determine with clarity whether empty commercial properties were local authority-owned that the Bill team did not then seek this information directly from local authorities. The Committee highlights this issue to the lead committee.

52. **The Committee notes at this stage that the costs to local authorities could impact on the estimated revenue to the Scottish budget and again this is considered below.**

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41 Scottish Government. Supplementary written evidence.
Costs on other bodies, individuals and businesses and revenue to the Scottish budget

Information provided in the FM

53. The FM states that some owners/occupiers of long-term empty premises eligible for non-domestic rates discount will be affected by the regulations that would follow the introduction of legislation. The FM indicates that the total costs to business of the reduced discount would be in the region of £18 million in 2013-14 and 2014-15. The FM states that the impact will fall “solely on businesses who currently take up the discount or who may in the future.” 42 As stated above, the FM states that the estimated approximately £18 million per year saving from reducing the empty property relief discount level would accrue to the Scottish Government for reallocation within the Scottish Budget. 43

54. The FM indicates that the figure of £18 million is a best estimate based on data held on vacant property identified on the valuation rolls and data on properties in actual receipt of empty property relief provided by councils. The FM indicates that the £18 million was estimated first by identifying the total rateable value of properties receiving empty property relief and the proportion of those in receipt of 50% relief. A reduction in the cost of relief as a result of proposed relief changing from 50% to 10% was calculated. A final adjustment was applied to take into account that some properties might switch over to another type of relief, such as the Small Business Bonus Scheme. The FM notes that this will increase the costs of those other reliefs, in turn reducing the net savings from the reform of empty property relief. 44

55. In its evidence to the Committee, the Bill team confirmed its methodology stating that—

“We took the amount that we would normally collect. The businesses in question are paying business rates already, at a lower rate. We just calculated the savings to the Scottish budget of increasing their rates bill.” 45

56. The FM provides no further detail on how the figure of £18 million was calculated. In its evidence to the Committee, the Bill team explained that—

“We get regular data returns and we knew that we were due an updated set of data from the councils in the weeks immediately following the publication of the financial memorandum, so we decided to wait for that data just to make sure. We came back to exactly the same figure, but we wanted to reflect on the most up-to-date data.” 46

42 Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 26
43 Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 21
44 Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 20
57. The Bill team indicated, however, that it would be happy to provide a breakdown of how it had arrived at this figure.\textsuperscript{47} A summary of this information is set out below.\textsuperscript{48}

\textit{Additional information from the Scottish Government}

58. According to the Scottish Government, there are 21,425 vacant properties. It calculated that 7,285 of these (around 34-35\%) were in receipt of 50\% empty property relief and therefore affected by the Bill's proposals. It calculated that the remaining two-thirds were currently getting 100\% rates relief. This includes properties that pay no rates because they are listed properties, industrial properties, or have a rateable value of less than £1,700, as well as properties that are paying no rates because they have been empty for less than three months.

59. For the 7,285 properties, the proposed changes would mean a reduction in rates relief from 50\% to 10\%. 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 three months, would reduce the cost of empty property rates relief by £22 million per year.

60. However, it then estimated the number of vacant properties eligible for each level of the Small Business Bonus Scheme (SBBS) and reduced the figure of affected properties to around 5,500 properties and the estimated savings by £4 million to a total of £18 million.

61. The Scottish Government also provided a table which sets out a breakdown of the costs of Scottish business rates relief from 2010-2011 to 2014-15.\textsuperscript{49}

62. The Committee welcomes this additional information from the Scottish Government. However, it considers that this information should have been included in FM, even if it had been caveated that further analysis was underway and that, as a result, the figures might change.

\textbf{Margins of uncertainty and assumptions}

63. In its opening remarks to the Committee, the Bill team stated that—

\begin{quote}
“\textit{We recognise that there are margins of uncertainty in each of the proposals.}”\textsuperscript{50}
\end{quote}

64. However, while the margins of uncertainty relating to the costs associated with council tax proposals are set out in the FM, little information is provided regarding the margins of uncertainty for the costs arising from the empty property relief proposals, even though the cost of the relief can vary considerably from year to year. The FSU briefing provides figures for the cost of empty property rates relief in earlier years, as well as forecast costs for the period to 2014-15. The figures show that the costs of empty property rates relief fluctuate from year to year.

\begin{footnotes}
\item[49] Scottish Government. \textit{Supplementary written submission}.
\end{footnotes}
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 the recession.\textsuperscript{51}

65. The FM acknowledges that the figure of £18 million may vary as property is built/demolished, existing property moves in and out of use or changes occupier.\textsuperscript{52} However, the FM does not give details of the assumptions made, or what the impact of varying these assumptions would be on the overall estimate of savings to the Scottish Government or the cost to businesses.

66. The FSU briefing notes that a range of assumptions underpin the estimate presented in the FM and notes that any revisions to the underlying assumptions would affect the overall estimate of savings to the Scottish Government (and the costs to businesses).\textsuperscript{53} A number of these assumptions were also challenged in evidence to the Committee and are therefore considered below.

\textit{The number of properties affected by the proposals}

67. The FSU briefing notes that if the total number of current recipients of empty property rates relief 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. Likewise, if 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 cost to businesses (and the revenue accruing to the Scottish Government) would be higher than the £18 million given in the FM.\textsuperscript{54}

68. In its evidence to the Committee the SPF suggested that the overall figure of £18 million appeared to be an underestimate. It referred to a sample of 1,500 properties, which it suggested represented around 10% of the estimated total of vacant properties that would face an increase in liability from April 2013 should they remain vacant. From this sample, it calculated a total rateable value of around £70 million, which, it calculated, would lead to an increased empty rates liability of just over £14 million.\textsuperscript{55}

69. The SPF also indicated that it had divided the £18 million between the 6,500 properties that the Scottish Government suggested would be affected by the proposals and indicated that this would lead to a rateable value of £6,000. It indicated that most premises in its sample had a rateable value significantly above that figure.\textsuperscript{56}

\textsuperscript{51} Financial Scrutiny Unit (2012) Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill: Financial Memorandum
\textsuperscript{52} Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill: Financial Memorandum, paragraph 26
\textsuperscript{53} Financial Scrutiny Unit (2012) Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill: Financial Memorandum
\textsuperscript{54} Financial Scrutiny Unit (2012) Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill: Financial Memorandum
\textsuperscript{55} Scottish Property Federation. Written submission.
100% collection rate
70. The FM also appears to assume a 100% collection rate and that property owners currently paying 50% property rates will be financially able to pay 90% rates.

The number of properties empty for three months
71. It is not clear from the FM what assumption has been made regarding 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. The FSU briefing points out that any variation in this would affect the overall savings and costs to businesses. In its evidence to the Committee the SPF stated that—

“We are suspicious about the figures on the movement of properties into and out of 100 per cent relief. Somehow, those properties appear to have been excluded from the wider figure that has been provided to the committee. When we looked through our sample, we found that most of the properties appeared to have been empty for considerably longer than three months, as far as we could tell from the valuation roll.”

Eligibility for other forms of relief
72. According to information provided by the Scottish Government to the FSU during preparation of its briefing, 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. In its subsequent evidence to the Committee the Scottish Government identified up to 2,500 properties that might be eligible for the SBBS, although it also notes that the net bill would remain the same for up to 2,000 of these properties.

73. If fewer properties are able to claim other types of relief, the savings to the Scottish Government would be higher than £18 million, and the cost to businesses correspondingly higher. In its evidence to the Committee the SPF pointed out that—

“The Government alluded to the fact that small businesses with empty properties will be able to benefit through the small business bonus scheme, but small businesses will not often have more than one premise or property—if they still exist at all—so I wonder how many businesses will benefit in that way.”

Increased demolition of properties
74. The FM notes that the figure of £18 million may vary as buildings are demolished/built but provides no further detail on how this might impact on its calculations. A number of respondents indicated that the proposals might lead to

57 Financial Scrutiny Unit (2012) Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill: Financial Memorandum
60 Scottish Government. Supplementary written submission.
an increase in demolition of properties that could not be regenerated. For example, CBI Scotland stated that—

“certain firms have indicated that the estimated costs and savings outlined in the Bill’s accompanying financial memorandum may end up being inaccurate, as affected parties may choose to explore steps aimed at mitigating the impact of the increased charges (such as demolition of empty premises, for example).”

75. Glasgow City Council also suggested that any decrease in empty property relief could lead to an increase in the number of rundown properties being demolished rather than regenerated. A similar point was made by the Business Centre Association (BCA) which commented on the position in England and Wales, stating that—

“Older buildings are being demolished sooner than intended. Buildings nearing the end of their life are being demolished which previously may well have been let at modest rents on a short term basis, prior to redevelopment.”

76. Research undertaken by the Royal Institute of Chartered Surveyors and Lambert Smith Hampton in England found that over 80% of respondents 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.

77. However, in their oral evidence to the Committee both Angus and North Lanarkshire councils suggested that only a small percentage of properties would be demolished. In particular, Angus Council pointed out that—

“It is difficult to demolish a shop that is in a row of shops and leave a gap site on the high street. I do not think that many businesses will do that.”

78. In its evidence to the Committee the Bill team indicated that it had exempted industrial properties from its empty property relief proposals because evidence of the experience in England suggested that the majority of demolitions had been of industrial properties. It went on to state that—

“We will monitor the level of vacancy rates across Scotland and will report on those as appropriate, looking to see where the properties are being demolished.”

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62 CBI Scotland. Written submission.
63 Glasgow City Council. Written submission.
64 Business Centre Association. Written submission.
79. In addition to the assumptions discussed above, the BCA suggested that there could a growth in “dubious EPR [empty property relief] avoidance schemes” and in its oral evidence the BCA expanded on this suggestion, indicating that—

“One method is not genuinely occupying buildings. People will occupy a building for 28 days, move their stuff out so that they get benefit of three months rates free, then move their stuff back in again.”

80. The Committee notes that the figure of £18 million savings to the Scottish Government and cost to businesses appears to be based on a range of assumptions and therefore subject to a margin of uncertainty. It notes that whereas the FM provides useful detail regarding the modelling and margins of uncertainty in connection with the council tax proposals provides, the same detail has not been provided in respect of the empty property relief proposals.

81. The Committee considers that the FM should have set out the margins of uncertainty on the figure of £18 million, how assumptions had impacted on its calculations and provided a range of financial estimates based on those assumptions, particularly given the volatility of the costs of empty property rates relief to date.

Policy objectives

82. In its evidence to the Committee, the Bill team confirmed that—

“The policy has two purposes, which are to introduce a new incentive that encourages properties back into commercial use in empty high streets with a lot of empty shops and to raise revenue.”

83. The Committee considers both of these objectives below.

Encouraging properties back into use

84. Despite the fact that encouraging owners to bring vacant properties back into use is one of the primary aims of the reforms, the FM costs do not appear to assume that any such behaviour will result. That is, there does not appear to be any assumed reduction in the overall number of empty properties as a result of the reforms. This is in contrast to the council tax aspect of the FM, where a reduction of 10% per annum in the number of empty properties is assumed.

85. A number of submissions suggested that a financial incentive already existed to bring back commercial properties back into use in the form of rental income. For example, CBI Scotland indicated that commercial premises were rarely left empty

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70 Business Centre Association. Written submission.
73 Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, Table 1
on purpose, as they did not generate an income for their owners and, in most cases, non-domestic buildings were unoccupied simply due to lack of demand.  

86. The SPF reaffirmed this in its oral evidence to the Committee, stating that—

“The prospect of landlords not taking up potential rental income, which is the meat and drink of their businesses—it is what keeps them in business—is extremely surprising. We cannot deny that there may be odd examples around the country of properties being held on to in the way that you describe, but in the vast majority of cases we would find it astonishing that landlords would give up potential rental income at this stage.”  

87. Likewise, the BCA pointed out that—

“Business centres do not deliberately keep their units empty; in fact, they do the exact opposite. I would say that 90 per cent of their time is spent looking at how they can let and continue to keep their space let.”  

88. Glasgow City Council indicated that experience of similar reform to non-domestic rates in England and Wales suggested that the intention to bring empty properties back into use had been largely undermined by the economic climate, and the resulting substantial reduction in demand for commercial buildings. CBI Scotland also pointed to the experience in other areas of the UK which suggested that similar policies had little effect on reducing the number of unused non-domestic premises.  

89. Empty property rates relief was reformed in England in April 2008. In 2008-09, properties could only claim 100% relief for the first three months (or six 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.  

90. Figures provided in the FSU briefing set out the cost of empty property rates relief in England for the period 2006-07 to 2010-11. These figures show that 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 £1.1 billion – almost as high as the pre-reform cost. Commenting on these figures in its evidence, the SPF indicated that prior to introducing the policy

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74 CBI Scotland. Written submission.  
77 Glasgow City Council. Written submission.  
78 CBI Scotland. Written submission.  
79 Financial Scrutiny Unit (2012) Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill: Financial Memorandum  
80 Financial Scrutiny Unit (2012) Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill: Financial Memorandum
in England, the relief was worth around £1.3 billion per annum. It noted that it is still worth some £1.1 billion, explaining that—

“This buoyancy in relief costs points to the economic recession and consequent lack of demand for commercial property as the causes of relief costs, not as implied in the financial memorandum the existence of a fiscal incentive to keep properties empty.”

91. The SPF went on to state that “the introduction of a similar policy in England has coincided with an increase in retail vacancy rates from 3% in 2007 to over 14% in 2011.”

92. While in its evidence to the Committee the BCA stated that—

“It has been argued that EPR will encourage landlords to let space and attention has been drawn to the number of empty town centre retail units in Scotland. EPR has been in existence in England since 2008 yet there are many English towns which also have a similar problem.”

93. The Committee also notes research undertaken by the Royal Institution of Chartered Surveyors 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 and that over a quarter said that the reforms had led to an increase in the number of vacant properties. This latter point may reflect a comment on the more general impact of recession and the difficulties of disentangling the effects of recession from the effects of the empty property rates reforms.

94. The Committee further notes that 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.

95. Given the evidence presented to the Committee apparently indicating that a similar policy change in England had been unsuccessful in encouraging commercial properties back into use, the Committee sought to identify the evidence on which the Bill’s policy proposals had been based.

96. In its evidence to the Committee, the Bill team suggested that it was not possible to rely on the evidence from England as there was no “control situation” and “the global recession means that it is hard for smaller firms to get access to funding through banks.” In other words, it was impossible to determine from the experience in the England whether vacancy rates had been affected by the new regime or were as a result of the global recession.

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81 Scottish Property Federation. Written submission.
82 Scottish Property Federation. Written submission.
83 Business Centre Association. Written submission.
97. The Bill team went on to state, that it had “not seen any evidence that isolates the impact of empty rates relief compared with the impact of all the other factors that will impact on the number of empty commercial properties.”

98. In subsequent correspondence with the Committee, the Bill team stated that—

“It has not been possible to find a valid international comparison in order to assess the impacts of lowering the amount of rates relief that empty properties enjoy in Scotland. Tax systems vary greatly between nations, and as such only a minority of nations levy taxes based on rental value of commercial properties. In the nations that do, it is relatively rare for any provisions for empty property relief schemes to be changed so that empty properties receive less relief. However the biggest difficult in finding a valid comparison is the availability of robust evidence as to whether or not a change in empty property rates relief was effective or not.”

99. The Bill team was also unable to provide the Committee with information as to how many properties it anticipated would come back into use as a result of the Bill’s proposals. It stated that—

“We will have to monitor the number that come back into use. That will take time. After we reform the relief in 2013, there will be a period in which the incentive—we hope—might start to work and encourage properties back into use.”

100. While the Committee notes that the relief scheme in England differs from that proposed in Scotland no evidence was presented to the Committee that showed that re-occupation rates among standard empty commercial properties had increased as a result of increases to non-domestic rates.

101. As noted above, the Committee considers it unfortunate that the Bill’s proposals were not subject to a formal consultation exercise and a BRIA. Such exercises would have provided an opportunity for the Scottish Government to set out the evidence in support of the Bill’s proposals and which demonstrated that the proposed changes would act as an incentive to owners to re-occupy commercial premises.

102. Such exercises would also have provided an opportunity for the Scottish Government to set out the alternatives to the Bill’s proposals which it had considered and/or was planning to encourage the re-occupation of empty commercial premises.

103. The Committee further notes that without baseline information, it will not be possible to ascertain whether any improvement in occupation rates of commercial properties in the future has occurred because of a growth in the economy or as a result of the Bill’s proposals.

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89 Scottish Government. Supplementary written submission.
104. While recognising that it is difficult to disentangle the effects of rates reform from wider economic factors, the Committee finds it surprising that the FM makes no attempt to estimate the number of commercial properties that will be brought back into use as a result of the Bill’s empty property relief proposals.

Revenue raising
105. As noted above, the second objective of the Bill’s proposals is revenue raising. The FM states that the approximately £18 million per year saving from reducing the empty property relief discount would accrue to the Scottish Government for reallocation within the Scottish budget.91

106. The Committee has noted above that the realisation of the £18 million is based on a number of assumptions and, as such, is subject to a margin of uncertainty. However, a further factor impacting on the amount accruing to the Scottish budget will be the costs to public sector bodies that own empty commercial properties, which will either act to partially off-set the estimated savings, or might imply a different distribution of the public sector costs between local authorities and the Scottish administration. These figures were not provided in the FM and the Committee therefore sought this information from the Scottish Government.

107. As the SPF stated in its evidence to the Committee, while the FM infers that the full £18 million cost is attributed to business, a significant portion of this cost, it estimated between at least 10-20%, would actually come from the public sector. The SPF referred to analysis that it was undertaking to assess who would be liable for the additional rates incurred. It stated that—

“We have found some considerable costs from even this small sample of the public sector and a considerable impact for investors, including many pension funds (including public sector pension funds). From this perspective the policy is something of an own goal as liabilities will increase significantly for a number of public bodies including Scottish Enterprise, Dundee and Glasgow City Councils.”92

108. In supplementary evidence, the Bill team confirmed the estimated cost to local authorities (as noted in paragraph 50 above) and provided information on the estimated costs to Scottish Enterprise and the NHS. It estimated that there were around 200 Scottish Enterprise vacant properties and the proposed reforms to EPR could reduce the rates relief awarded by up to a maximum of £0.4 million. However, the Bill team indicated that some properties might be industrial or listed or in the initial three month 100% period and would see no change to the amount of relief awarded, meaning actual change might be significantly lower.93

109. In respect of the NHS, the Bill team estimated that there were less than 40 vacant NHS properties. It indicated that the proposed reforms to EPR could reduce the rates relief awarded by up to a maximum of £0.3 million. However, it

91 Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 21.
92 Scottish Property Federation. Written submission.
93 Scottish Government. Supplementary written submission.
indicated that some properties might be industrial or listed or in the initial three month 100% period and would see no change to the amount of relief awarded, meaning actual change might be significantly lower.\footnote{Scottish Government. Supplementary written submission.}

110. In subsequent correspondence, the Bill team confirmed that the £18 million costs to businesses, as set out in the FM, included the estimated costs to public sector bodies that own empty commercial properties.\footnote{Correspondence with the Scottish Government.} As noted above, the costs to public sector bodies of these proposals will therefore reduce the projected savings of £18 million accruing to the Scottish budget and the costs to businesses will also be reduced by the same amount.

111. The Committee notes that, on the basis of the Bill team’s estimates, the projected net savings to the Scottish budget of £18 million could be reduced by up to £2.4 million. Furthermore, this figure only covers local authorities, NHS Scotland and Scottish Enterprise. While these are likely to account for the majority of empty properties, there may be other bodies and agencies that would also need to be taken into account in a full assessment of the public sector impact.

112. The Committee recommends that the financial impact of the increased non-domestic rate charges on public sector bodies is accurately determined in order that this can be properly reflected within the projected savings. The Committee considers that information on the numbers of vacant public sector-owned commercial properties should be sought directly by the Scottish Government from local authorities, Scottish Enterprise, NHS bodies and any other public sector bodies that own such properties and the costs provided to Parliament. The Committee notes that for this exercise to be effective, local authorities will need to adopt a standardised, robust system of recording all properties.

113. The Committee suggests that these matters are pursued by the lead committee in its evidence session with the Scottish Government.

114. The Committee also considers that the estimated savings to the Scottish budget from the Bill’s proposals need to be considered in the broader context of the Scottish Government’s overarching purpose and that of its budget. In its spending review 2011 the Scottish Government states that—

“Our fundamental priorities of this Budget are:

to accelerate economic recovery, to create the jobs our people need and to secure new opportunities through the low carbon economy;”\footnote{http://www.scotland.gov.uk/Resource/Doc/358356/0121130.pdf (Accessed 21 May 2012)}

115. In its evidence to the Committee, CBI Scotland suggested that the Bill’s proposals run “contrary to the Scottish Government’s own stated intention of both encouraging new investment in Scotland and, relatedly, boosting economic growth.”\footnote{CBI Scotland. Written submission.} It suggested that the proposals might prompt many investors to
reconsider any developments or regeneration activities they may have planned.98

A similar point was made by the SPF which indicated that—

“If a sufficient supply of speculative commercial property new build is to be encouraged, then high empty rates charges after as little as three months, is hardly likely to be incentive.”99

116. In its oral evidence the BCA stated that—

“Development stopped because of the recession, but there is evidence that when the threshold was reduced in England to £2,600, the development of new business centres also dried up. It is difficult to persuade a property owner to invest in property that might take two or three years to be let at an optimum amount when they have that additional tax to pay during the letting process.”100

117. Similar points were echoed by Glasgow City Council which suggested that the Bill might lead to a negative impact on speculative development of commercial property and could act as a significant disincentive to property investors to invest in anything but the safest income streams.101

118. The Committee further notes the Call for Evidence – Summary of Responses regarding the Business Rates Policy Review being undertaken in Wales, which stated that—

“Empty Property Rates...in its current form is unpopular and is perceived as a barrier to growth.”102

119. In its evidence to the Committee, the Bill team referred to the position in England and responded that—

“We do not have any solid evidence for what the main factor was in any reduction in development—whether it was the recession, the global downturn or whatever.”103

120. Several respondents considered that the tax could negatively impact on businesses already in difficulty. For example, CBI Scotland described the proposals on empty property relief as a “tax on distress”.104 It stated that—

“property owners are facing the prospect of having to pay increased charges for buildings that are not earning them any money in the first instance, compounding the financial repercussions of holding a property which isn’t providing a return.”105

98 CBI Scotland. Written submission.
99 Scottish Property Federation. Written submission.
101 Glasgow City Council. Written submission.
104 CBI Scotland. Written submission.
105 CBI Scotland. Written submission.
121. While the Committee supports the general principle of the Bill’s objectives of bringing back into use empty commercial properties, it is concerned that the Bill’s proposals may impact detrimentally both on individual businesses and the broader economy.

122. Given the above, the Committee considers it essential that the financial impact of the Bill on business and the broader economy is regularly monitored and intends to conduct this through its annual scrutiny of the draft budget.

123. The Committee understands from comments by the Bill team that there may still be some flexibility in the proposals for empty property relief. In its evidence to the Committee the Bill team indicated that—

“Ministers have said that there is flexibility in the policy and have made an open offer to various sectors to suggest how the policy can be refined, provided that it achieves its objectives, which are to save £18 million and to encourage empty properties back into use.”¹⁰⁶

124. The Bill team confirmed that the exact percentage of relief would be set out in the future regulations, but continued—

“We have said that the relief will be 10 per cent, but ministers have indicated that, given the questions that have been raised by external parties about the £18 million figure, they will be flexible over the reform if we raise significantly more than that.”¹⁰⁷

125. However, given the volatility of empty property rate relief and the difficulties highlighted in respect of disentangling the impact of reforms from wider economic factors, it is unclear how the Scottish Government would intend to assess the level of savings attributable to the reforms.

126. A number of proposals were put forward by stakeholders which might go some way to ameliorating the potential impact of the Bill’s proposals on businesses, on property development and on the public sector (in cases where commercial properties are owned). The Committee highlights these to the lead committee for its consideration. These include—

- A higher threshold before owners would become liable for 90% rates;
- A longer exemption period for properties that are new to the market; and
- An exemption for all long term properties in public ownership.

COUNCIL TAX INCREASE ON LONG-TERM EMPTY HOMES

THE FINANCIAL MEMORANDUM

General

127. As noted above, the second part of the Bill’s proposals relates to council tax payments on long-term empty (LTE) homes. The Bill will enable the Scottish Government, by regulations, to vary the level of council tax charges for unoccupied dwellings, by either allowing, or requiring, local authorities to increase the level of charges or to increase the level of discount. However, the FM indicates that the Scottish Government does not presently intend to make regulations providing for increased discounts.108

128. The FM states that the Scottish Government’s present intention is that the new regulations will have the following practical effect: as currently, there will be no charge for the first six months a home is empty provided it is unfurnished, followed by a council tax discount of between 10% and 50% for the next six months, whether the home is furnished or unfurnished. After that, owners could be subject to a council tax increase if the local authority chooses to apply such an increase. If the maximum increase intended to be permitted through regulations of 100% was applied, the owner would pay double the standard rate of council tax for the applicable council tax band.109

129. The Bill and subsequent regulations will also impose a duty on property owners to report changes of occupancy status to the local authority and enable local authorities to impose a charge of up to £200 on owners who fail to meet the requirements to provide information set out in the regulations or supply false information in relation to those requirements.110

Costs on the Scottish administration

130. The FM states that minimal additional costs are expected on the Scottish Administration and the Committee notes that the principle comments received from stakeholders relate to the estimated costs and savings to local authorities and costs to home owners.111

Costs on and savings to local authorities

Estimated costs

131. The FM indicates that the main costs to local authorities will be in enforcing the increase in council tax for owners of LTE homes. The FM indicates that, based on the information provided by two local authorities, it estimates that the average cost of IT system updates where an authority decides to apply a council tax

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108 Local Government Finance Memorandum, paragraph 28.
109 Local Government Finance Memorandum, paragraph 28
110 Local Government Finance Memorandum, paragraph 30.
111 Local Government Finance Memorandum, paragraph 37.
increase in its area is estimated to be a one-off cost of approximately £5,000 to £10,000.\textsuperscript{112} It calculates that additional set-up staffing costs would be in the range of £7,125 for one member of staff to £21,373 for three.\textsuperscript{113}

132. In terms of ongoing costs, the FM estimates that the average additional staffing costs for a local authority are estimated at approximately £28,500 to £85,500 per year.\textsuperscript{114}

Revenue estimate

133. The FM indicates that the Scottish Government has created a model to estimate the potential revenue that could be generated as a result of the council tax increase. The FM estimates that if all local authorities charge a maximum of 100% revenue for all long-term empty properties liable for council tax, a maximum of £33.9 million per year could be collected.\textsuperscript{115} It explains that this estimate also includes revenue which is already received through reduced council tax discounts of less than 50% on LTE homes, which is about £7 million per year.\textsuperscript{116}

134. The FM explains, however, that the Scottish Government proposes that the increase should only be charged after a property has been empty for at least one year.\textsuperscript{117} The Scottish Government also proposes a mandatory exemption from the increase for up to one year after the initial six month period of a home being classed as long-term empty for homes actively being marketed for sale. The FM states that the maximum projected revenue would therefore reduce to approximately £22.3 to £23 million per year.\textsuperscript{118}

135. The FM estimates that the proposed changes to council tax on LTE homes would result in net additional revenues of £12.6 million to £15.1 million per year (excluding one-off set up costs).\textsuperscript{119} The FM states at paragraph 48 that, as with all council tax revenue, any revenue raised from a council tax increase would be retained for spending by the local authority.

136. The savings accruing to local authorities would fall as costs to property owners.

\textsuperscript{112} Local Government Finance Memorandum, paragraph 41.
\textsuperscript{113} Local Government Finance Memorandum, paragraph 42.
\textsuperscript{114} Local Government Finance Memorandum, paragraph 47.
\textsuperscript{115} Local Government Finance Memorandum, paragraph 32.
\textsuperscript{116} Local Government Finance Memorandum, paragraph 33.
\textsuperscript{117} Local Government Finance Memorandum, paragraph 54.
\textsuperscript{118} Local Government Finance Memorandum, paragraph 48.
Costs on other bodies, individuals and businesses

137. The FM states that all owners of long-term empty homes could be liable for the council tax increase unless they qualify for an existing exemption from council tax or for one of the new exemptions from the increase which will be proposed through regulations.\(^{120}\) The FM explains that the actual additional cost that an owner would be expected to pay will depend on several factors—

- whether or not the local authority has decided to implement the increase and, if so, at what level up to the proposed maximum of 100% increase;
- if the increase is not applied, the level of discount they choose to apply, if any (between 0% and 50%);
- the council tax band of the property; and
- whether or not the owner is eligible for any exemptions at that time.\(^{121}\)

138. The FM states that the total maximum increase in costs to individuals, businesses and public sector bodies who own long-term empty homes would be up to £15.33 million to £16.05 million per year based on the Scottish Government’s intentions for regulations.\(^{122}\)

COMMITTEE CONSIDERATION

Costs on local authorities

139. While the majority of local authorities did not have significant comments on the costs associated with the council tax relief proposals as set out in the FM, several respondents suggested that certain aspects had been underestimated. For example, Angus Council indicated that the FM did not recognise that rural councils would have additional costs involved in the monitoring of long-term empty properties given the dispersed nature and locations of long term empty properties.\(^{123}\) In its oral evidence to the Committee, Angus Council stated that—

“[I]n Angus we have about 1,000 long term properties. A significant proportion of those will not be in town centres-they could be on farm estates or in rural locations. Because of the number of miles that a visiting officer might have to travel, a rough estimate is that it would take us twice as long to cover our inspections as an urban authority.”\(^{124}\)

140. Angus Council also commented on the costs to local authorities of publicising the proposals. It did not accept that such changes could simply be notified in the next council tax bill as suggested in the FM, stating in oral evidence that—

\(^{120}\) Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 49.
\(^{121}\) Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 51.
\(^{122}\) Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 54
\(^{123}\) Angus Council. Written submission.
“If a levy is added on to a bill of £1,000, the first instalment for people who pay by direct debit will be double.

It would not be acceptable to the general resident of Angus to get a significantly increased council tax bill out of the blue without any prior warning.”\textsuperscript{125}

141. The Committee understands that, should councils decide use the powers under the Bill, they will wish to undertake suitable publicity beyond notifying owners in the next council tax bill. It notes that this will incur additional costs and highlights this to the lead committee.

142. A number of councils emphasised, however, that the costs of implementing the Bill could be met providing that the costs could be deducted from the additional revenue raised.\textsuperscript{126} Likewise, COSLA indicated that councils might choose to offset any increased administration costs off the revenue raised.\textsuperscript{127} Angus Council suggested that a “percentage of any additional revenue raised as a result of adopting increased council tax charges on long term properties should be ring fenced to meet the additional costs of setting up and administering the arrangements.”\textsuperscript{128}

143. A key issue therefore for local authorities is the extent to which the estimated revenue as set out in the FM can be achieved. The Committee notes at this stage that if, as suggested above by certain local authorities, costs to local authorities have been underestimated then net revenue gains will be correspondingly lower.

**Costs to owners of LTE homes and revenue to local authorities**

144. As noted above, the revenue accruing to local authorities is linked directly to the costs to owners of LTE homes. The FM recognises that “there are significant margins of uncertainty in relation to these estimates”.\textsuperscript{129} In its evidence to the Committee, Glasgow City Council commented the margin of uncertainty regarding the costs stating that “the potential costs on local authorities depend on the actual regulations that are brought forward, the behaviours and reactions of local tax payers and discussions with ICT suppliers.”\textsuperscript{130}

145. The main assumptions that affect the costings (and therefore estimated revenue) are considered below.

**Whether councils will use the new powers**

146. The main estimates presented in the FM make the assumption that local authorities will apply the 100% increase, while noting that there is “uncertainty

\textsuperscript{126} See, for example, the written submissions from Clackmannanshire, City of Edinburgh and Aberdeen City councils
\textsuperscript{127} COSLA. Written submission.
\textsuperscript{128} Angus Council. Written submission.
\textsuperscript{129} Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 36.
\textsuperscript{130} Glasgow City Council. Written submission.
about whether and to what extent local authorities will use the new powers, which could lead to very significant variations in the revenue raised.\textsuperscript{131}

147. For example, the FM presents an alternative scenario where all councils shift to a ‘no discount’ position after 12 months (compared to the current 10% discount offered by the majority of councils). This would reduce estimated revenues, before allowing for enforcement costs, from £15.3 million to £16.0 million to only £0.4 million to £0.7 million. The FSU briefing therefore suggests that assuming that all local authorities would charge the maximum 100% increase in council tax risks overstating the potential revenue gains to local authorities.\textsuperscript{132}

148. Most local authorities have not yet given any indication of their likely response to any new regulations, but Angus Council suggested that there needed to more work into examining why such properties were empty.\textsuperscript{133} Neither Angus nor North Lanarkshire Council, for example, considered that there was a significant problem of property owners holding on to empty properties for speculative reasons. As NLC stated—

“It appears from our property database that a large number of the empty properties reside with the local authority in its role as landlord and with a number of registered social landlords. Neither the local authority nor the RSLs are in it for speculative purposes.”\textsuperscript{134}

149. Likewise Angus Council stated that—

“The issue that we have is that a significant number of properties are probably not up to a marketable standard and the individuals concerned do not have the funding to bring them up to standard. As I understand it, I do not think that there is evidence in Angus that people are holding on to properties to see whether there will be a rise in the market.”\textsuperscript{135}

150. North Lanarkshire Council suggested that the focus should be on supporting owners of such properties to bring such homes into use rather than penalising them. It commented that—

“There appears to be no recognition that the focus of the proposal is tax-raising rather than determining the need for funding to bring empty property into use and then assessing how to release/raise the necessary level of funding. In essence the tax is possibly a penalty rather than a solution to the problem.”\textsuperscript{136}

151. And in its oral evidence to the Committee, the Council emphasised that—

\textsuperscript{131} Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 36.
\textsuperscript{132} Financial Scrutiny Unit (2012) Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill: Financial Memorandum
\textsuperscript{136} North Lanarkshire Council. Written submission.
“We have a team that looks at how we can assist owners of properties in bringing those properties back into use. I would view the bill’s proposals more as a penalty on those owners whose properties are not in use.”

152. For its part, Shetland Islands Council indicated that it would “certainly support moves to incentivise people to return those that are empty rather than look to penalise them financially.”

153. In its evidence to the Committee the Bill team indicated that there were a range of reasons why domestic properties were empty. It stated that—

“In some cases, it is deliberate, but on other cases some people would like to bring them back into use but are struggling to let or sell the property, or might not have the means to bring it up to standard.”

154. The Bill team indicated that it encouraged councils to survey empty home owners to find out why the home are empty and whether owners are willing to engage with the councils to try to bring their property back into use. It stated that—

“we would encourage local authorities that are thinking of imposing council tax increases to examine why properties are empty……in order to help them to determine whether a council tax increase would be appropriate or fair in the area, and whether it would achieve the desired outcome of bringing more empty homes back into use.”

155. It confirmed, however, that it did not have any figures for the proportion of people who are deliberately leaving their properties empty.

156. The Bill team went on to state that the Scottish Government had encouraged local authorities to offer, where appropriate, loan schemes to enable owners to bring their properties back up to standard. It suggested that local authorities could “use some of the revenue that they would raise from any council tax increase to fund such loan schemes, which could be helpful.”

157. The Committee notes the comments of the Bill team and recognises that there are a range of reasons why homes are left empty. It would have welcomed further research to have been undertaken and presented in the Bill’s accompanying documents on the reasons why such homes have been left empty before introducing proposals that might be perceived by LTE owners as being punitive.

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158. While it acknowledges that funding to local authorities as a result of the Bill's proposals could be used to assist home owners to renovate homes, the Committee can foresee cases where the Bill and its powers will make it more difficult for home owners to regenerate their homes. As Angus Council pointed out—

“If a significant number of empty properties need to be refurbished or repaired to bring them up to standard and the owners do not have the funds, imposing an extra costs will not necessarily produce the desired outcome. In the absence of financial support for such people, the bill may make it more difficult for them to spend money on bringing their property up to standard—in other words, it may have a perverse effect.”

159. Whether councils will apply the maximum levy

Even if local authorities ultimately decide to make use of the powers to be provided in the regulations, there appeared to be little appetite at this stage for imposing the maximum levy. Angus Council wanted an opportunity to assess how the current council tax regime was working. It explained that in April it had reduced the discount for empty properties to 10% and wished to monitor the impact of this before introducing additional charges. It indicated that “If we charge owners an extra 100 per cent, we might drive many of them into debt.” While North Lanarkshire Council stated that it was “unconvinced that a penalty of an additional £1,000 would necessarily drive such owners to put their properties back on the market. The issue is probably more about the economic balance.”

160. Angus Council commented that—

“The difficulty with a 100 per cent levy is that it will be perceived by some taxpayers as punitive and unfair—there is no doubt that it represents a big increase in the amount of debt that they will incur. That may incentivise people to try to evade the charge but, for those who do not, there are significant issues relating to the financial situation out in the real world—people just do not have an unlimited amount of disposable income to meet increased debt.”

161. North Lanarkshire Council did not consider that “we will raise as much money as we anticipate. I think that fewer properties will be identified than the current quantification suggests. I have no doubt that currently, for arguments sake, there are 400 empty properties, but I do not think that all 400 will be classified as requiring the additional levy of, for argument’s sake, £1,000 per annum.”

162. In its evidence to the Committee the Bill team acknowledged that the potential costs to homeowners and in the turn the revenue for councils will

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“depend heavily on whether councils choose to use the new powers and, if so, the extent to which they do so.”\textsuperscript{151} It indicated that most councils did not yet have a firm position on that. Therefore it had based its modelling on the potential revenue if all councils choose to apply the maximum increase. It stated, however, that it realised that “that will not happen in practice.”\textsuperscript{152}

163. \textit{Given the acknowledgement by the Bill team that councils will not all apply the maximum levy for which the proposals would allow, the Committee finds it surprising that this figure was used as the basis for its modelling in the FM.}

\textit{Whether councils will achieve a 100\% collection rate}

164. Angus Council suggested that using a 100\% collection rate to estimate savings was not a “realistic approach particularly as these charges may be harder than average to collect. For example many owners may not reside in the area or even in the UK.”\textsuperscript{153} North Ayrshire Council shared this view. It indicated that collection of the levy would be difficult, as many of the owners were not in a financial position to pay the current council tax on a long term property and a 100\% levy would only exacerbate the problem. It stated that—

“The Council expects that recovery action will increase and more debt may be passed to the sheriff officer increasing the amount of commission payable by the Council. For example, if long term empty properties reached the summary warrant stage and were collected by the sheriff officer then the Council would need to pay around £68K in commission.”\textsuperscript{154}

165. \textit{The Committee highlights this issue to the lead committee.}

\textit{The extent of tax evasion}

166. Several local authorities suggested that the potential revenue estimated would be affected by evasion. For example, North Lanarkshire Council indicated that the “bill would also introduce an incentive to owners to avoid the tax.”\textsuperscript{155} North Lanarkshire Council expanded on this view suggesting that a “property will not end up being billed for an additional £1,000, because it will become more attractive for individuals to say that somebody is living in it, or that it is a second home or something else.”\textsuperscript{156} This view was shared by North Ayrshire Council which considered that evasion would be a “major factor”.\textsuperscript{157}

167. COSLA noted that while the Bill provided for a duty on owners of unoccupied properties to notify their local authority in practice the power to impose a penalty of £200 for failure to notify might be ineffective and not widely applied, particularly where there was a significant risk of non-payment.\textsuperscript{158}

\begin{footnotes}
\item[153] Angus Council. Written submission.
\item[154] North Ayrshire Council. Written submission.
\item[157] North Ayrshire Council. Written submission.
\item[158] COSLA. Written submission.
\end{footnotes}
168. The Committee highlights this issue to the lead committee.

**Number of LTE homes being actively marketed**

169. The FM assumes that 3-6% of LTE homes would fall into the category of being actively marketed sale and thereby be exempt from increased council tax.\(^{159}\) The FSU briefing notes that if the actual number is higher than this, then the revenue gains would be correspondingly lower.\(^{160}\)

170. The Committee also sought clarification from the Bill team on how the exemption for properties that were being actively marketed would work in practice and, in particular, how councils would determine what constituted “a reasonable price”.

171. The Bill team explained that—

“we were trying to ensure that, if a purchaser came along and wanted to buy a property, the owner would sell it. We included the bit about ensuring that a reasonable price has been set for the property to ensure that properties are not being marketed at an unrealistic level—at say, double their value—meaning that no one will buy them.”\(^{161}\)

172. The Committee notes that this will place a responsibility on local authorities to determine what is a reasonable price.

**Number of homes being “reoccupied”**

173. The FM assumes that 10% of LTE homes would be brought back into use as a result of the changes and appears to assume that this rate of return to use would continue year-on-year.\(^{162}\) It is unclear how this has been reached. However, it could be that, as the stock of LTE homes reduces, the rate of return to use would also fall, which would have an impact on the estimated revenues.\(^{163}\) Additionally, the FM assumes no new LTE homes being added to the current stock.\(^{164}\)

174. For example, Angus Council suggested that—

“The estimates have been compiled on the data that is currently available, but there is a lot of uncertainty about some of the figures. I suspect that we will not collect the additional revenue that is outlined in the best-case scenario. In particular, in the case of council tax, it is assumed that over time the revenue will be maintained. Perversely, if the additional levy has the

\(^{159}\) Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 34.

\(^{160}\) Financial Scrutiny Unit (2012) Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill: Financial Memorandum


\(^{162}\) Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 32.

\(^{163}\) Financial Scrutiny Unit (2012) Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill: Financial Memorandum

\(^{164}\) Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 32.
desired effect, the revenue will drop over time because, for example, properties will no longer be empty.”

175. The Committee suggests that the lead committee seek clarification on how the figure of a 10% increase in occupancy rates was reached in its evidence session with the Scottish Government.

Flexibility at local level
176. COSLA noted in its submission that the Bill only refers to general provisions and that greater clarity on cost implications would be determined through subordinate regulations once the Bill is passed. In terms of the margins of uncertainty it stated that—

“Critical to these estimates is the extent to which Councils will use the new powers and…… this must be for Councils to determine locally the appropriateness of applying the policy and to what extent. A more detailed understanding of the costings will emerge through the discussion on the regulations.”

177. Glasgow City Council reported that a key aspect of its response to the Scottish Government’s consultation on council tax empty property relief was that local authorities should have the freedom and flexibility over whether and how to implement any change. However, it noted that paragraph 9 of the Explanatory Notes implied that this power would reside with Scottish Ministers or local authorities. The Council suggested that the absence of local flexibility was also suggested at paragraphs 28 and 34 of the FM.

178. In its submission COSLA indicated its expectation that the Scottish Government would set out in regulation the boundaries for varying discount/applying charges. However, it indicated that local authorities would have local flexibility to apply the powers and to determine the degree of variation to be applied within the set boundaries.

179. The Committee notes the concerns of Glasgow City Council regarding local flexibility and suggests that the lead committee seek clarification on this point from the Scottish Government.

Council-owned LTE homes
180. Finally, the FM notes that there may be costs to public sector bodies that own LTE homes. North Lanarkshire Council stated that—

“As a provider of the social rented sector (Council Houses) it is an unfortunate consequence of the legislation that the Housing Rent Account (HRA) and by default tenants, should bear the added cost of any properties which are unoccupied and would then be liable for the additional charge. The Government should exempt such properties and address any...
difficulties it feels exist in the social rented sector as part of its oversight of
the Housing Strategy."\textsuperscript{170}

181. In oral evidence it emphasised that—

“Across most of the local authority sector, we have been addressing the
issue of voids for a number of years by trying to reduce them, but we will
always have void properties.

The issue is that, whatever the number is—X hundred empty properties—the
landlord, which is the council, will bear the additional charge.”\textsuperscript{171}

182. No information is provided in the FM regarding the number of council-owned
LTE homes that would be affected by the proposals or the estimated associated
costs.

183. The Committee notes that this cost will need to be off-set against the
savings accruing to local authority budgets and is therefore likely to be a
factor for councils in determining whether to use the powers under the Bill.

184. The Committee highlights this issue to the lead committee.

HOUSING SUPPORT GRANT

POLICY PROPOSALS

185. The Housing Support Grant (HSG) is currently payable to one local authority
in Scotland, Shetland Islands Council, largely for historical reasons.\textsuperscript{172} The
Scottish Government is planning to abolish the grant in 2013-14. Section 4 of the
Bill would remove the requirements in the Housing (Scotland) Act 1987 on the
Scottish Ministers to pay HSG to local authorities.\textsuperscript{173}

186. HSG is payable when a local authority has difficult balancing its council
housing account (known as the housing revenue account (HRA)) without resorting
to substantially increasing rents or cutting management and maintenance
expenditure.\textsuperscript{174}

187. 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

\textsuperscript{170} North Lanarkshire Council. Written submission.
\textsuperscript{172} Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial
Memorandum, paragraph 55.
\textsuperscript{173} Financial Scrutiny Unit (2012) Local Government Finance (Unoccupied Properties etc.)
(Scotland) Bill: Financial Memorandum
\textsuperscript{174} Financial Scrutiny Unit (2012) Local Government Finance (Unoccupied Properties etc.)
(Scotland) Bill: Financial Memorandum
the prudential borrowing framework where councils self-regulate their borrowing levels. 175

188. The Policy Memorandum (PM) 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”. 176

189. According to the PM, 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”. 177

FINANCIAL MEMORANDUM

190. In 2012-13, Shetland Islands Council will receive £0.76 million in HSG. 178 Although the level of HSG to the Council has decreased over the years, it still makes up about 15% of Shetland’s total council house rental income. Projected payments for the period to 2016-17 are shown in Table 6 in the FM.

Costs on the Scottish Administration
191. The FM states that no additional costs are expected on the Scottish Administration. 179

Costs on local authorities
192. The FM indicates that the abolition of the grant from 2013-14 onwards would involve a reduction in income to Scottish local authorities’ Housing Revenue Accounts of approximately £0.840 million. However, the FM explains that this would be concentrated on the sole recipient of the grant, Shetlands Islands Council, unless other councils were to begin claims for the Grant. 180

Costs on other bodies, individuals and businesses
193. The FM states that an alternative view of HSG is that it is not in fact a subsidy to local government, but a subsidy to individual tenants who, without receipt of the grant, might face higher weekly rental payments. The FM states that, if the grant is considered in this way, the individual impact of removal per of the

175 Financial Scrutiny Unit (2012) Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill: Financial Memorandum
176 Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Policy Memorandum, paragraph 63.
177 Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Policy Memorandum, paragraph 64.
178 Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 57
179 Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 58
180 Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 60
grant per tenant would, at most costs tenants an average of £3.04 per week over 3 years.\textsuperscript{181} Further information is provided in paragraphs 64 to 68 of the FM.

COMMITTEE CONSIDERATION

Costs on local authorities

194. As noted above, the costs associated with this proposal will fall either on Shetland Islands Council or on its tenants. The primary issues raised in evidence focused on this issue.

Transitional arrangements

195. COSLA indicates in its submission that negotiations are ongoing with the Scottish Government with regard to a transitional arrangement with Shetland Island Council.\textsuperscript{182} However, in its submission to the Committee, the Council indicated that it does “not believe that the financial implications for Shetland Islands Council have been accurately reflected.”\textsuperscript{183} In particular, it states that “no details of any transitional arrangements have been issued”.\textsuperscript{184} It emphasised that—

“The absence of any transitional arrangements will result in a direct impact of 1800 tenants, for example to fund the value of the current years Housing Support Grant allocation would either mean a loss of service/investment of £760,950 or an increase in rent of £8.13 per week on average rents.”\textsuperscript{185}

196. In oral evidence to the Committee, the Council indicated that it was not necessarily opposing the abolition of the housing support grant but emphasised that it “hinged on there being satisfactory transitional arrangements.”\textsuperscript{186}

197. It further stated that—

“We are looking for some recognition that the debt came as a result of the pressure to get oil into Sullom Voe back in the 1970s. At that time, the islands population increased by 40 per cent and we ended up borrowing £50 million on the housing revenue account across two decades. Some years later, we face the prospect of 1,800 tenants shouldering that debt burden.”\textsuperscript{187}

198. In response to questions from the Committee the Bill team stated that—

“Shetland Islands Council has presented quite a range of options to us, which we are still considering with ministers. Some of the options are more expensive than others. We have not reached a conclusion, but it should not

\textsuperscript{181} Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 66.
\textsuperscript{182} COSLA. Written submission.
\textsuperscript{183} Shetland Islands Council. Written submission.
\textsuperscript{184} Shetland Islands Council. Written submission.
\textsuperscript{185} Shetland Islands Council. Written submission.
be long before we do, after which we will return to the council to discuss the situation.”

199. The Committee highlights this issue to the lead committee and the need for early satisfactory resolution of the transitional arrangements for Shetland Islands Council.

Use of council reserves

200. The FM states that the financial impact of the abolition of the HSG “could be further moderated by Shetland Islands Council reviewing the terms of its own loan arrangements or the use of its wider portfolio of reserves.”

201. The Council commented on the proposal to use its reserves in its evidence stating that—

“The Financial memorandum fails to capture the fact that Shetland Islands Council’s Housing Revenue Account is burdened with such a level of rent that approximately 40% of housing rents income is used to finance debt repayment charges. The Housing Support Grant has alleviated this somewhat, but even that did not fully address the underlying issue of the sustainability of the Housing Revenue Account.”

202. In its oral evidence to the Committee Shetland Islands Council provided a breakdown of its current reserves. It explained that it had about £196 million, £130 million of which was council tax money that could not be used to prop up the housing revenue account. It indicated that of the remaining £65 million, £25 million was required for the decommissioning of the Sullom Voe harbour. It explained that this left £36 million.

203. In subsequent correspondence to the Committee, Shetland Islands Council provided further information on its Usable Reserves. It explained that in its 2010/11 audited financial statements the Council disclosed a Usable Reserves balance of £269 million. Of this balance, £55 million had been issued as loans, and specifically £41.5 million had been issued as loans to the HRA, meaning that the actual cash available in reserves to the Council totalled approximately £213.7 million.

204. It provided further detail in an accompanying table and stated that—

“The conclusion to be drawn from this analysis is that by March 2013, the Reserve Fund will have an uncommitted balance of £14m based on information available in May 2012. However, it should be noted that it is anticipated that there will be further draw down on the Reserve Fund in 2013-14 in order to balance the revenue budget, and there is a risk that the 2012-13 savings targets will not be met, which would require further draws on the

189 Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 63.
190 Shetland Islands Council. Written submission.
192 Shetland Islands Council. Additional written submission.
Reserve Fund in the current financial year. As a result of this uncertainty, and expected future commitments on this fund, the Council is not in the position to prudently use the Reserve Fund to address the debt issue on the HRA.\textsuperscript{193}

205. In its evidence session with the Bill team, the Committee sought further information from the Scottish Government on the following—

- The housing revenue account debt burden being faced by Shetland Islands Council in relation to the 25 other local authorities with housing revenue accounts and/or the debt burden of Registered Social Landlords
- The level of financial reserves per capita at the Shetland Islands Council available for housing revenue account purpose relative to the other 25 local authorities in Scotland with an HRA

206. Data from the Scottish Government shows that at 42.5% Shetland Islands Council has the highest housing revenue account debt burden as measured by total debt servicing payments.\textsuperscript{194}

207. In terms of the second request the Scottish Government indicated that it had also provided the total reserves available to HRA divided by the number of council dwellings at the same point in time, on the basis that the majority of council reserves cannot be used to benefit the HRA. This data shows that Shetland Islands Council has the highest housing reserve per dwelling at £6,720.\textsuperscript{195}

208. The Committee highlights this information to the lead committee.

209. The Committee agrees with the Scottish Government's proposal to abolish the HSG and the Committee understands that transitional arrangements are currently being discussed between the Council and the Scottish Government.

SUMMARY OF CONCLUSIONS

Proposals on empty property relief

Consultation exercise

210. The Committee notes that, while the proposals on council tax relief were the subject of a separate formal consultation exercise, the proposals on empty property relief were announced in the Scottish Government’s spending review 2011. Given the Committee’s lead role in the scrutiny of the draft budget and spending review, the Committee would welcome clarification from the Scottish Government on the nature of the consultation exercise that it undertakes on the annual draft budget and, as appropriate, spending review and the extent to which this exercise follows the Scottish Government’s Consultation Good Practice Guidance. While it would expect stakeholders to submit their views to the Scottish Government as a normal part of the draft budget process, the Committee is not aware of a formal

\textsuperscript{193} Shetland Islands Council. Additional written submission.
\textsuperscript{194} Scottish Government. Supplementary written submission.
\textsuperscript{195} Scottish Government. Supplementary written submission.
invitation for views or, for that matter, the publication of a summary and analysis of responses.

211. Given that this issue goes beyond consideration of this particular Bill, the Committee will write separately to the Cabinet Secretary for Finance, Employment and Sustainable Growth to seek clarification on this point. However, it highlights it here as a matter that the lead committee may also wish to pursue in its evidence session with the Scottish Government.

212. The Committee notes that, in respect of this Bill, the spending review 2011 included only a brief statement regarding the Scottish Government's intentions and contrasts this with the formal consultation exercise conducted on the council tax proposals. The Committee further notes that given that financial estimates on the empty property relief proposals were not published in the draft budget document, any submissions following the draft budget relate to the broad principles of reform, rather than to the costings.

213. The Committee considers that a separate formal consultation exercise on the empty property relief proposals should have been undertaken, similar to that conducted on the council tax proposals, as this would have been helpful to the Committee's scrutiny and evidence gathering.

BRIA

214. The Committee notes that the empty property relief proposals were not subject to a Business and Regulatory Impact Assessment (BRIA).

215. The Committee notes the explanation of the Bill team that the preparation of a BRIA would have been disproportionate due to the level of impact of the Bill's proposals on businesses. The Committee notes, however, that the Scottish Government's guidance on BRIAs indicates that if a proposal imposes additional costs or reduces existing costs on businesses then a BRIA should be prepared and does not apparently distinguish between the level of costs and impact on business in deciding whether a BRIA is required.

216. The Committee notes that, in any event, the potential impact of the Bill's proposals is not limited to those businesses currently in receipt of empty property rates relief but could extend to any business, individual or other body which owns commercial property that might become empty at some point in the future or which is considering the development of commercial premises.

217. Committee considers it unfortunate that no separate formal consultation exercise was conducted on the empty property relief proposals and that, given the potential impact on businesses, no BRIA of a proportionate level of length and detail was prepared.

218. The Committee suggests that the lead committee pursues this matter in its evidence session with the Scottish Government.
Costs to local authorities

219. While the FM acknowledges that there will be costs to local authorities that have empty commercial properties, it does not estimate the numbers or the associated costs. In its evidence session with the Bill team the Committee sought to establish the level of costs that might fall on local authorities which own empty commercial properties. The Bill team explained the difficulties in identifying correctly from the information it held whether a property was local-authority owned.

220. The Committee considers that greater effort should have made to establish the number of local authority-owned empty properties that might be affected by the Bill’s proposals and the associated costs. The Committee finds it surprising that having established that it was unable to determine with clarity whether empty commercial properties were local authority-owned that the Bill team did not then seek this information directly from local authorities. The Committee highlights this issue to the lead committee.

Costs to businesses/savings to the Scottish budget

221. The Committee notes that the FM contains only limited information on how the figure of the £18 million costs to businesses and revenue to the Scottish budget was calculated. At the request of the Committee, the Bill team subsequently provided further information. While the Committee welcomes this additional information it considers that it should have been included in FM, even if it had been caveated that further analysis was underway and that, as a result, the figures might change.

222. The Committee notes that, in any event, the figure of £18 million savings to the Scottish Government and cost to businesses appears to be based on a range of assumptions and therefore subject to a margin of uncertainty. It notes that whereas the FM provides useful detail regarding the modelling and margins of uncertainty in connection with the council tax proposals, the same detail has not been provided in respect of the empty property relief proposals.

223. The Committee considers that the FM should have set out the margins of uncertainty on the figure of £18 million, how assumptions had impacted on its calculations and provided a range of financial estimates based on those assumptions, particularly given the volatility of the costs of empty property rates relief to date.

224. The Committee notes that a further factor impacting on the savings accruing to the Scottish budget will be the costs to public sector bodies that own empty commercial properties, which will act to partially off-set the estimated savings. These figures were not provided in the FM. Estimates were subsequently provided to the Committee by the Bill team in connection with properties owned by local authorities, Scottish Enterprise and the NHS.

225. The Committee notes that, on the basis of the Bill team’s estimates, the projected net savings to the Scottish budget of £18 million could be reduced by up to £2.4 million. However, this figure only covers local authorities, NHS Scotland and Scottish Enterprise. While these are likely to account for the
majority of empty properties, there may be other bodies and agencies that would also need to be taken into account in a full assessment of the public sector impact.

226. The Committee recommends that the financial impact of the increased non-domestic rate charges on public sector bodies is accurately determined in order that this can be properly reflected within the projected savings. The Committee considers that information on the numbers of vacant public sector-owned commercial properties should be sought directly by the Scottish Government from local authorities, Scottish Enterprise, NHS bodies and any other public sector bodies that own such properties and the costs provided to Parliament. The Committee notes that for this exercise to be effective, local authorities will need to adopt a standardised, robust system of recording all properties.

227. The Committee suggests that these matters are pursued by the lead committee in its evidence session with the Scottish Government.

_Evidence that properties will be re-occupied_

228. While the Committee notes that the relief scheme in England differs from that proposed in Scotland no evidence was presented to the Committee that showed that re-occupation rates among standard empty commercial properties had increased as a result of increases to non-domestic rates.

229. As noted above, the Committee considers it unfortunate that the Bill's proposals were not subject to a formal consultation exercise and a BRIA. Such exercises would have provided an opportunity for the Scottish Government to set out the evidence in support of the Bill’s proposals and which demonstrated that the proposed changes would act as an incentive to owners to re-occupy commercial premises. Such exercises would also have provided an opportunity for the Scottish Government to set out the alternatives to the Bill’s proposals which it had considered and/or was planning to encourage the re-occupation of empty commercial premises.

230. The Committee further notes that without baseline information, it will not be possible to ascertain whether any improvement in occupation rates of commercial properties in the future has occurred because of a growth in the economy or as a result of the Bill’s proposals.

231. While recognising that it is difficult to disentangle the effects of rates reform from wider economic factors, the Committee finds it surprising that the FM makes no attempt to estimate the number of commercial properties that will be brought back into use as a result of the Bill's empty property relief proposals.

_Impact on the broader economy_

232. While the Committee supports the general principle of the Bill’s objectives of bringing back into use empty commercial properties, it is concerned that the Bill’s proposals may impact detrimentally both on individual businesses and the broader economy.
233. Given the above, the Committee considers it essential that the financial impact of the Bill on business and the broader economy is regularly monitored and intends to conduct this through its annual scrutiny of the draft budget.

234. The Committee understands from comments from the Bill team that there may still be some flexibility in the proposals for empty property relief. A number of proposals were put forward by stakeholders which might go some way to ameliorating the potential impact of the Bill’s proposals on businesses, on property development and on the public sector (in cases where commercial properties are owned). The Committee highlights these to the lead committee for its consideration. These include:

- A higher threshold before owners would become liable for 90% rates;
- A longer exemption period for properties that are new to the market;
- An exemption for all long term properties in public ownership.

Council tax increase on long-term empty homes

235. The Committee recognises that there are a range of reasons why homes are left empty. It would have welcomed further research to have been undertaken and presented in the Bill’s accompanying documents on the reasons why such homes have been left empty before introducing proposals that might be perceived by LTE owners as being punitive.

236. While it acknowledges that funding to local authorities as a result of the Bill’s proposals could be used to assist home owners to renovate homes, the Committee can foresee cases where the Bill and its powers will make it more difficult for home owners to regenerate their homes. As Angus Council pointed out:

“If a significant number of empty properties need to be refurbished or repaired to bring them up to standard and the owners do not have the funds, imposing an extra costs will not necessarily produce the desired outcome. In the absence of financial support for such people, the bill may make it more difficult for them to spend money on bringing their property up to standard-in other words, it may have a perverse effect.”

Whether councils will apply the maximum levy

237. In its evidence to the Committee the Bill team acknowledged that the potential costs to homeowners and, in the turn, the revenue for councils will “depend on whether councils choose to use the new powers and, if so, the extent to which they do so.” It indicated that most councils did not yet have a firm position on that. Therefore it had based its modelling on the potential revenue if all councils choose to apply the maximum increase. It stated, however, that it realised that “that will not happen in practice.”
238. Given the acknowledgement by the Bill team that councils will not all apply the maximum levy for which the proposals would allow, the Committee finds it surprising that this figure was used as the basis for its modelling in the FM.

100% collection rate
239. Several local authorities suggested that the assumption of 100% collection rate was unrealistic. The Committee highlights this issue to the lead committee.

Risk of tax evasion
240. Several local authorities suggested that the potential revenue estimated would be affected by evasion. The Committee highlights this issue to the lead committee.

Determination of a reasonable rent
241. The Committee notes that the FM assumes that 3-6% of LTE homes would fall into the category of being actively marketed sale and thereby be exempt from increased council tax. The Committee notes that this aspect of the Bill’s proposals will place a responsibility on local authorities to determine what is a “reasonable price”.

Reoccupation rates
242. The Committee notes that the FM assumes that 10% of LTE homes would be brought back into use as a result of the changes and appears to assume that this rate of return to use would continue year-on-year. The Committee noted that it was unclear how this figure has been reached and suggests that the lead committee seek clarification on this figure in its evidence session with the Scottish Government.

Local flexibility.
243. In its evidence to the Committee, Glasgow City Council raised concerns regarding the level of freedom and flexibility that would rest with local authorities in determining in whether and how to implement any changes resulting from the Bill’s powers. The Committee suggests that the lead committee seek clarification on this point from the Scottish Government.

Council-owned empty properties
244. The Committee notes that no information is provided in the FM regarding the number of council-owned LTE homes that would be affected by the proposals or the estimated associated costs. The Committee notes that this cost will need to be off-set against the savings accruing to local authority budgets and is therefore likely to be a factor for councils in determining whether to use the powers under the Bill. The Committee highlights this issue to the lead committee.

Housing Support Grant
245. The Committee highlights the need for early satisfactory resolution of the transitional arrangements for Shetland Islands Council resulting from the abolition of the Housing Support Grant.
246. The Committee agrees with the Scottish Government's proposal to abolish the HSG and the Committee understands that transitional arrangements are currently being discussed between the Council and the Scottish Government.
ANNEXE A: ORAL AND WRITTEN EVIDENCE

12th Meeting, 2012 (Session 4), Wednesday 25 April 2012

**ORAL EVIDENCE**
David Melhuish, Director, Scottish Property Federation
Tom Stokes, past chairman, Business Centre Association

13th Meeting, 2012 (session 4), Wednesday 2 May 2012

**ORAL EVIDENCE**
Ann Bain, Senior Service Manager (Revenues and Benefits), Angus Council
Sam Baker, Policy Manager (Housing Supply Division), Scottish Government
Brian Cook, Head of Revenue Services, North Lanarkshire Council
Marianne Cook, Policy Manager (Local Government Finance), Scottish Government
James Gray, Executive Manager (Finance), Shetland Islands Council
Jamie Hamilton, Policy Manager (Housing Supply Division), Scottish Government
Anita Jamieson, Executive Manager (Housing), Shetland Islands Council
Stuart Law, Senior Policy Advisor (Housing Supply Division), Scottish Government.

**WRITTEN EVIDENCE**
FINANCE COMMITTEE
EXTRACT FROM THE MINUTES
12th Meeting, 2012 (Session 4)
Wednesday 25 April 2012

Present:
Gavin Brown
John Mason (Deputy Convener)
Michael McMahon
Paul Wheelhouse
Kenneth Gibson (Convener)
Mark McDonald
Elaine Murray

Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill: The Committee took evidence on the Financial Memorandum of the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill from—
David Melhuish, Director, Scottish Property Federation;
Tom Stokes, past chairman, Business Centre Association.
Scottish Parliament
Finance Committee
Wednesday 25 April 2012

[The Convener opened the meeting at 10:00]

Local Government Finance
(Unoccupied Properties etc)
(Scotland) Bill: Financial Memorandum

The Convener (Kenneth Gibson): Good morning and welcome to the 12th meeting in 2012 of the Finance Committee. I remind all present to switch off mobile phones, pagers, BlackBerrys and so on.

The first and, surprisingly, only item on our agenda is the first of our evidence sessions on the financial memorandum to the Local Government Finance (Unoccupied Properties etc) (Scotland) Bill. I welcome to the committee David Melhuish, from the Scottish Property Federation, and Tom Stokes, from the Business Centre Association.

As there are no openings statements, we will go straight to questions.

David Melhuish (Scottish Property Federation): I am very happy to do that. Thank you very much for taking my evidence this morning.

One of the issues, of course, is that if a business is in administration, the rates on its property might not be paid. I think that that situation is an unforeseen consequence in relation to some of the figures that the Government presented to the committee.

We have been informed by some of our members that rates were a factor—I put it no stronger than that—in their property business ending up in administration. Those cases were a cost to the Exchequer. Previously, those businesses would have been the nominee liable to pay, for many of their properties, around 50 per cent of the rates, as the relief then was. When the policy changed in England, that liability increased significantly. In fact, it increased by 100 per cent, which is slightly more than is planned in Scotland. The policy therefore had a trigger effect, and our view is that that affords a perverse incentive for businesses to be flipped into administration, as opposed to people holding on to empty premises that cause an increase in rates liability.

Tom Stokes (Business Centre Association): A report came out last week that said that the number of property company administrations had increased by 64 per cent compared with the previous year. There is no explanation of why that was the case, but I am sure that the banks played a big part in it. However, the addition of empty property rates for properties that companies found difficult to let must have been an influence.

The Convener: Glasgow City Council said in its written submission:

"Experience of similar reform ... in England and Wales suggests that the intention to bring empty properties back into use has been largely undermined by the economic climate, and the resulting substantial reduction in demand for commercial buildings."

I declare an interest because I have a property in Glasgow.

Does the situation in England and Wales that has been referred to have more to do with the recession than legislation?

David Melhuish: The recession is the reason why properties are empty, so it is a big driver in the increasing cost of EPR. Ultimately, commercial property is a factor in the wider economy and when demand is weak and reducing, that will cause an increase in liability.

Tom Stokes: A number of developments in England were put on hold as a result of the introduction of EPR. At the time, I was managing director of Evans Easyspace. When EPR came in, we postponed three developments: one in Speke in Liverpool; one in Warrington; and one in Cannock. Subsequently, because of the recession, they were cancelled altogether. Similarly, companies such as Bizspace also cancelled developments, specifically because it became very difficult to get a development appraisal to stack up. EPR was the first factor that caused us to stop developing.

The Convener: Yes—I see that Glasgow City Council’s submission states that there is a disincentive for people to make speculative investments.
In some small towns in the west of Scotland, there are a number of empty properties on high streets. Clearly, those properties are held by owners who do not rent them out because the rent is not high enough to encourage them to do so. As a result, it is very difficult for some small businesses to establish themselves. Some towns are almost hollowed out, because people who want to set up businesses cannot get property, even though there might be a dozen empty properties in a street. Given the concerns of both your organisations and in light of the issue that I have outlined, which the Scottish Government clearly wants to tackle, how should we take the issue forward?

**David Melhuish:** Having seen what has happened in England, I do not think that the change in policy there has helped to create an increase in occupation rates. As has been said, the recession is the biggest driver in the large number of vacancies that we have among our membership.

The prospect of landlords not taking up potential rental income, which is the meat and drink of their businesses—it is what keeps them in business—is extremely surprising. We cannot deny that there may be odd examples around the country of properties being held on to in the way that you describe, but in the vast majority of cases we would find it astonishing that landlords would give up potential rental income at this stage. We do not envisage that the policy change will help in relation to occupation.

**The Convener:** When there was growth in the property market and an increase in property values, it was thought that some landlords were buying property to hold on to in anticipation that its value would increase and that they would sell it on, as opposed to having perhaps troublesome tenants move in. As a result of the recession, they cannot move the property on and commercial property values have fallen, so the issue is perhaps not the same as it was four or five years ago. From my experience, I believe that that was an issue in some towns in the west of Scotland. One of the motors behind the bill is to prevent that from happening again, even if it has been dampened down at present.

**David Melhuish:** I again point to the English experience. I will use the retail sector as an example. Before the change of policy there were relatively low vacancy rates. The recession came along and vacancy rates are now upwards of 14 per cent or so—they are probably slightly higher in Scotland across the piece, although not everywhere.

The issue that you touch on is that if an investor has taken on an investment on the basis of a certain cost and capital value, there is an issue about how easily they can rent out the property for much lower rates, because ultimately that might feed through to the capital value, which might cause them issues with their lenders.

**Tom Stokes:** I come back to the 64 per cent increase in the number of property company administrations. I suggest that a lot of that increase is because of the banks. Property companies are under pressure in meeting bank covenants in terms of both the capital value, which has probably fallen, and covering their interest payments. As a result, they have been forced into administration.

The pressure to let property at lower rentals has increased, mainly because of the attitudes of the banks: the companies need to get rental income in to satisfy their banking covenants. That is a far bigger incentive than empty rates. There will be continued downward pressure on rents, and pressure on companies simply to let space and satisfy the banks.

**The Convener:** I open out the evidence session to colleagues.

**Elaine Murray (Dumfriesshire) (Lab):** I return to the issue that the convener raised. I am sympathetic to the policy intention of the bill. If it does not work, we need to understand why. If a similar approach has not worked in England, we need to establish what might be the alternative.

I completely concur with what the convener says. My constituency has a history of speculators buying up town-centre properties and hanging on to them, not necessarily to let them out, but perhaps with the consideration that developers will want to demolish them and build new shops. There is definitely a history of that in many small towns and villages, which has had a deleterious effect on their appearance.

There are two issues. One is the effect of the recession on businesses that have properties that are intended for rental and development. The other is to do with properties that are being held speculatively and for a long time. The Convention of Scottish Local Authorities states in its written submission:

> “many empty commercial properties are owned by absentee landlords”

and

> “some are in very poor condition and therefore difficult to re-let or sell and are also possibly in negative equity.”

I suspect, however, that many are not in negative equity because they have been owned for so long. This is perhaps taking us away from the financial memorandum but, given that you say that the bill is not the way to tackle that issue, can you suggest an alternative tool to address it?
David Melhuish: There certainly is evidence of speculation. However, a large number of properties that are held to let are held by large and small institutions or investors for pension funds, for example, and sometimes even by individual pension funds. Some of those businesses are relatively small, so it is difficult for them, in the absence of rental or property demand, to refurbish and regenerate properties, bring them up to scratch and get them back on the market.

There is evidence of such problems. However, it would be interesting to know whether COSLA has figures on the extent of speculation as it sees it. Based on the experience of our members, we find it difficult to accept the idea of landlords holding on to something that is a cost to them month on month as a result of rates payments and other costs that are associated with properties. Some of our members are offering terms and conditions under which there is a lease with a break clause, perhaps at year 3, and a three-year rent-free period so, in effect, the tenant could walk away without any demand. That is the extent of the weakness of demand in the wider market. That must be appreciated in considering the financial memorandum.

Elaine Murray: The financial memorandum makes a number of assumptions about the total number of recipients; the split between different types of properties; the number of standard commercial properties moving from 100 per cent to 50 per cent rates relief during the year because they have been empty for more than three months; and eligibility for other types of relief. The financial memorandum has been criticised for not giving the details of those assumptions. Do you have comments on the assumptions that have been made?

David Melhuish: Yes, we have criticisms. We are suspicious about the figures on the movement of properties into and out of 100 per cent relief. Somehow, those properties appear to have been excluded from the wider figure that has been provided to the committee. When we looked through our sample, we found that most of the properties appeared to have been empty for considerably longer than three months, as far as we could tell from the valuation roll. I am dubious about the figures on how many properties might have moved out of the liability that is referred to in the financial memorandum. The Government has reduced the figure to about 6,500 properties out of 20,000.

We are also dubious about the interplay of other types of relief. Listed properties relief is significant. For the record, we absolutely accept that the fact that industrial property will retain 100 per cent relief is a significant difference from the policy that was effected in England. The Government alluded to the fact that small businesses with empty properties will be able to benefit through the small business bonus scheme, but small businesses will not often have more than one premise or property—if they still exist at all—so I wonder how many businesses will benefit in that way. Therefore, we have suspicions, and further enlightenment from the Government would be helpful.

10:15

Tom Stokes: I have nothing to add to that.

Returning to your first question, business centres operate quite differently from the traditional property market. They let space on a flexible, easy-in, easy-out basis, which we believe is what small businesses want.

Business centres do not deliberately keep their units empty; in fact, they do the exact opposite. I would say that 90 per cent of their time is spent looking at how they can let and continue to keep their space let. In an easy-in, easy-out environment, businesses that are not successful disappear; some expand and move on; and others move about in the centre. There is always churn and there is always a need to look for new occupiers. We do that in a much more aggressive and focused way than the traditional property market. We do not tend to use traditional property agents. There are different ways in which we let space.

When EPR was introduced in England, the creation of new premises almost came to a standstill. We persuaded the Government to introduce a rateable value threshold of £15,000, which was subsequently increased to £18,000 as a result of the re-evaluation. That was followed by a change in the market. There was a growth in new centres—mainly in those that were run on a different basis and which were managed by operators. There would be a property owner who had an empty building that they could not let on the traditional basis because of the recession but who was willing to invest a little money to create a business centre. That not only brought in some income but mitigated rates because the individual units had rateable values of less than the threshold. We went from no growth when EPR was first introduced to growth in business centres run on a slightly different basis.

When the coalition reduced the threshold to £2,600, again we saw a virtual standstill in new centres in the United Kingdom, with the exception of London—the London market operates completely differently from anywhere else.

The Business Centre Association suggests the introduction of a threshold in cases in which we have a genuinely flexible product—business
centres, co-working hubs, incubation and innovation centres and so on—that caters for small businesses and does not operate in the same way as the traditional market. As far as the Scottish Government is concerned, the cost would not be significant but it would guarantee continual growth in small business centres.

Over the past year, business centres have seen growth in the number of inquiries and lettings. A survey carried out in the past quarter by the Business Centre Association showed that the majority of business centres are experiencing an increase in inquiries, lettings and rental levels. There is therefore a need for the creation of small business spaces. My concern is that if EPR were introduced in Scotland, it would cause the industry to stagnate as it did in England. As far as the Business Centre Association is concerned, a threshold would be a good solution.

Elaine Murray: Do you have any suggestions for a threshold? Obviously, you would not want it to be set at such a level that small businesses would be discouraged from growing a bit bigger. EPR has been in place for only about three years in England anyway, so you have not had a lot of time to see whether it has discouraged small businesses from growing.

Tom Stokes: The recent survey shows that the biggest increase in take-up was on the part of small businesses. The print on the document that I have before me is quite small, but the pie chart suggests that roughly 45 per cent of businesses moving into business centres have been new small businesses. That is a significant amount.

Mark McDonald (North East Scotland) (SNP): You have mentioned the recession a number of times. Is not one of the problems the fact that many developers and property holders are still levying rates and rent on their property as if we were not in a recession?

David Melhuish: No. As was alluded to earlier, the recession has exacerbated an existing move towards greater flexibility and shorter leases. As the market switched to become more tenant-driven—as there is a lack of demand, landlords have to work harder to get tenants—tenants were given lots of incentives, such as rent-free periods.

I do not think that you can look at the issue from only one side. Landlords and property developers have financial arrangements with banks and lenders that they are tied into, so you should not assume that they can easily reduce their charges by a great extent. As Tom Stokes suggested, they have to meet the commitments that they have given the banks.

The picture is more complex than you suggest, so I would not accept that general description.

Mark McDonald: I appreciate that what I suggested will not be the case across the board. However, many businesses that contact me because of difficulties accessing properties say that the main problem is that the rental value that is attached to properties continues to be set at a level that is comparable to that which existed prior to the recession. That is where I take that view from. Elaine Murray pointed out that the problem existed in many places prior to the recession, and I can think of a number of examples in North East Scotland, the area that I represent. With regard to the long-term aspect, the examples tend to be in deprived areas. It does not seem to matter whether the economic climate is good or bad; the properties or blocks of properties continue to remain empty.

Where is the incentive for the people who own the shops or properties to rent them out? Why should we give them some form of benefit to keep the properties empty, given that having ugly, empty shopfronts blighting streets acts as a counterbalance to efforts to regenerate deprived communities?

David Melhuish: You talk about the benefit of empty property rates relief, but you should remember that those properties are bringing no economic benefit to the landlord or the ratepayer—which can be public or private. Therefore, as they are paying 50 per cent of the rates but are taking in no money, I would say that landlords already have a powerful incentive to let those properties. I see the increase in liability as a tax on failure.

Mark McDonald: Failure by whom?

David Melhuish: Economic failure.

Mark McDonald: Are there any changes that would result in an increased cost base for the individuals and organisations that you represent about which you would come to the committee and say you were happy?

David Melhuish: That is a very wide question.

I will give you an example. We have publicly supported landlord levies for business improvement districts over a number of years. Those levies represent an extra charge on business rates. That is a short, off-the-cuff reply to a very wide question.

Mark McDonald: I appreciate that.

I am aware that a number of business centres rely on a constant turnover of clientele. What difficulties have you identified in that regard? You say that there has been an increase in the number of small businesses in England. It is often said that one of the results of a recession is a boom in small businesses, as people who have been laid off look
to start up their own business. Is it the case that there is no demand for such properties?

Tom Stokes: No. Over the past year, the demand has been increasing throughout the UK, including in Scotland. There was a definite surge in lettings to very small businesses when the recession started, which was caused mainly by private companies shedding workforce. Given that the public sector is under pressure to reduce staffing levels, I anticipate that we will see a similar increase in the number of those people setting up businesses.

When people set up a business, they often start off working at home, but we tend to see a movement to working in business centres, because not everyone can work from home. We will see a change in the way in which some of the business centres operate. Much more emphasis is being placed on the provision of space that is geared specifically towards people who have been home workers and who want to work in—for want of a better phrase—a more corporate environment. That is being done through co-working hubs, for example, which have been introduced in business centres. Business centres are changing to reflect the change in demand and the change in the style of working of those who have microbusinesses.

Demand is definitely increasing. Our concern is that if EPR were introduced and it stifled the development of new centres, there would be an increase in rents, which would not be desirable, and there would be a shortage of space that was suitable for small businesses.

Mark McDonald: I am struggling to understand the point. If the demand is there, surely there is much less to worry about. I know that some business centres are speculative developments, but it would be foolish to develop a business centre without having done the appropriate market research to prove that the spaces could be filled.

Where does the concern come from? If, as you say, the demand exists, surely the concern that you raise—which I am not saying is invalid—is less likely to manifest itself.

Tom Stokes: Virtually no brand-new business centres are being built other than ones that are entirely sponsored by the public sector. That has been the case for about three years, simply because the cost of building is greater than the end value. The fact that capital values have fallen below the cost of building is a direct result of the recession. It is only possible to build business centres on a speculative basis so, in the current situation, you will not see brand-new buildings being built for business centres. It is more likely that older buildings that are no longer economic in their current use, or which are just unlettable because there is no demand for larger spaces, will be used. The growth has been in the conversion of older buildings and that is where we will continue to see growth over the next few years.

Mark McDonald: Would the provision of larger spaces not follow on from what Elaine Murray said about small businesses that look to expand? A number of companies that I have had dealings with have outgrown their current premises and are actively looking for larger spaces to move into.

Obviously, the natural flow of things is that a small business starts up, grows and moves to larger premises, and a new start-up business replaces it in the original premises. If, as you say, there is demand from small businesses, that flow should continue if larger premises are being provided. I understand your concern about charges being levied on empty premises. However, the evidence that has been coming to me in the north-east is that the flow is being blocked by inability to access larger spaces.

10:30

Tom Stokes: My experience is that there is a bit of a gap in the market between the small spaces that business centres provide and larger spaces. We should bear it in mind that the small office spaces range from one-person offices to spaces that hold 10 or 20 people. For industrial businesses, the managed business space is usually built up to 1,000ft² or 1,500ft². However, there has tended to be a gap in the market between that sort of size and the 10,000ft² units. There has therefore been a problem in provision of property of a certain size that has made it difficult for small businesses to find the right sort of space unless they make the big jump from a space of, say, 1,000ft² to one of 10,000ft², which is not always practical.

David Melhuish: The problem is not just at the smallest end, because there is a disincentive to speculative development for larger spaces. In Wales, a three-year exemption has recently been introduced for purely speculative commercial build for new spaces. We think that the Scottish Government should look closely at that. I believe that there has been some concern about state aid, but Wales has found a way to do it such that speculative properties will not be on the valuation roll. That might be something to look into. The economy needs a certain percentage of vacant properties for it to breathe and grow into, for the reasons that Mr McDonald just explained.

Mark McDonald: I understand everything that you say about speculative build. However, surely you consult the Federation of Small Businesses and other organisations that will tell you where demand exists and where there are gaps, which
you can then feed back to your members. There might be speculative build, but there will be evidence out there of demand, and demand-led build is just as relevant as speculative build.

David Melhuish: At the moment, our members are not building unless they have a pre-let, so you can describe that as demand-led build. In addition, our members work in the market, so they are attuned to the demand that they get from it and, as I said, demand is weak in general. However, demand is not just a one-piece trick. As Tom Stokes explained, for small-scale properties with very short leases, small businesses and start-up businesses are in and out, so he has welcome demand in his sector. However, there is weak demand for slightly larger properties.

Tom Stokes: I am a great believer that where you have people, you will find demand for very small spaces in which to work. I proved that over the years with the number of developments that I carried out with my previous company, Evans Easyspace. We had about 68 centres scattered across the United Kingdom, quite a significant number of which were in Scotland. We always had high occupancy levels in the centres. However, achieving that takes time.

A typically sized business centre has 50 to 70 small units, although some of our centres in Scotland had 100 units. However, there are never 50 people who are ready at the same time to step into small units—filling them takes time. With the exceptions of London and other very big cities, it can take up to three years to reach optimum occupancy. If EPR was applied during that time, we would be getting taxed on providing potential space for businesses. It is not that we do not want to let spaces, but that there will be only so many people at one time who want that type of small space. EPR would be a real disincentive to creating those small spaces. The only way we can do that is on a speculative basis.

Michael McMahon (Uddingston and Bellshill) (Lab): Mr Stokes said—I hope that I am not misquoting him—that businesses do not deliberately keep properties empty. I invite you to come to Uddingston Main Street to see the property that is dilapidating there because a developer deliberately will not put it back on the market. He also has two properties in Hamilton with which he is doing the same. Developers do deliberately keep properties empty. Unlike colleagues, I am not yet convinced about the bill. I do not think that what is proposed would make such individuals put their property back on the market or keep it in a good condition.

I am also a bit concerned about the law of unintended consequences. The SPF has done a bit of work on the potential cost of the proposals to public bodies including local authorities, but you say that, in the financial memorandum, the Scottish Government may have ignored Scottish Enterprise. If that is the case, it may have ignored others. Will you expand on the implications of that?

David Melhuish: There would be an unforeseen cost to the public budgets. It would also be a disincentive to Scottish Enterprise making space available. We know for a fact that Scottish Enterprise is worried not just about the smaller end, but about the larger end and some of the drivers of our economy such as the centre of Glasgow, where there is less than a year's worth of top, grade-A office space for use by major corporate occupiers, which bring a lot of jobs and economic prosperity to the city.

The cost would be an inhibitor to economic development for public sector agencies that are responsible for that and for councils, which seek to do what they can, as well as being a direct cost on the bottom-line budgets. The Government's figures suggest that only 12 of its properties would be liable, but when we looked at the valuation roll there were far more than that just for Scottish Enterprise. Other bodies—the national health service, for example—will also have empty properties.

Michael McMahon: That is the point that I was going to make. Given the current cuts to the public sector, a lot of local authorities, health boards and others are consolidating and leaving properties empty but are retaining them in the hope that, at some time, the public sector will expand and those properties will become useful to them again. How significant is that situation for the bill?

David Melhuish: A key concern is that local authorities' ability to help smaller businesses in order to get the economy going again would be inhibited. High streets were mentioned: the truth of the matter is that there may not be the big-ticket investment in those areas at the moment because funding is almost entirely directed at the prime centres. It tends to be something of a one-glove-fits-all approach as well. As has also been mentioned, the major funders are now looking at London but not at many other places, to be honest. Lack of access to finance often means that the local authority may be the last player in town.

Tom Stokes: My area is business centres, which operate differently in the property market. Members will know the experience of my centres—we try very hard to keep them as full as possible. With tongue in cheek, I suggest that the private sector could help local authorities in particular by offering its small properties on much more flexible terms than it does at present. If local authorities worked in partnership with the private sector, local authority occupancy levels may
increase. I am sure that Business Centre Association members would be delighted to help.

**Michael McMahon:** I am sure that they would.

Another aspect of the financial memorandum is the cost of the proposals to local authorities. It appears that not much information has been given by the local authorities about their calculation of the increase in the costs of staffing and information technology to administer the proposals. The Scottish Government has given a figure of between £28,500 and £85,000. Is that realistic? It seems to be quite a wide range. Have you done any work on that, and do you think that that figure is realistic?

**David Melhuish:** We have not looked at the local authority staffing and administrative costs. The increase in costs would not be just for local authorities. I suspect that there would also be an increased demand on the assessors to reassess certain properties. Because there is already a substantial business rates system in place, the Government is expecting it to take the burden, but there is a question about the accuracy of the figures for increased demand for appeals and so forth.

**John Mason (Glasgow Shettleston) (SNP):** I was just looking at the Business Centre Association’s submission. From what I am picking up from your answers so far, the big issue at the moment is the recession, whereas reducing relief seems to be a minor issue. Do you stand by the statement, on the first page of your submission, that "Indications are that changes to EPR in Scotland could have the same devastating effect on our sector just as transpired in England."

Are you really saying that reduction in relief would have a devastating effect?

**Tom Stokes:** The Business Centre Association wants to promote the growth of business centres across the UK, but when the EPR was introduced in England, developments came to a standstill. Obviously, we went into recession very soon after EPR was introduced, but developments were cancelled as a result of EPR. It was only when the threshold was reintroduced that we saw growth again, but in a different way; redundant buildings and buildings that were virtually impossible to let were converted into business centres.

Development stopped because of the recession, but there is evidence that when the threshold was reduced in England to £2,600, the development of new business centres also dried up. It is difficult to persuade a property owner to invest in property that might take two or three years to be let at an optimum amount when they have that additional tax to pay during the letting process.

**John Mason:** Has anyone done a study on how much of the reduction in provision in England was because of the reduction in relief and how much was because of the recession?

**Tom Stokes:** No, we have not studied the matter to that extent, but it is clearly no coincidence that the new developments dried up as soon as the EPR threshold was reduced. It is a major incentive for someone to invest a little bit more in their property if they do not have to pay rates during the lettings process because each unit was below the threshold. What would be the rateable value of an office block of 40,000 ft\(^2\) in a town centre?

**David Melhuish:** It would be about £50,000 to £60,000, or maybe more.

**Tom Stokes:** The owner would save that by paying empty property rates, and if the building is then converted into a business centre in which all the units are below the threshold, there will be no rates burden during the lettings process. Income would be generated because the small business market is more buoyant.

**John Mason:** I am happy to come back on that particular point. I wonder whether it is a coincidence that developments dried up at the same time as the threshold was reduced as the recession happened. It is very difficult to separate the two. It might not be true, but it could be that EPR had virtually no effect. We are not seeing many flourishing business centres in Scotland, either.

**Tom Stokes:** Six new business centres opened last year in Scotland. Admittedly they were confined to Aberdeen, Edinburgh and Glasgow, but at least we saw some growth. If we accept that the recession has had an effect—no one can argue with that—why introduce another tax that will make it more difficult for people to convert their empty properties into business centres, which is in effect what you will be doing?

**John Mason:** Would you be more relaxed if the measure was introduced when businesses and property prices were going up?

10:45

**Tom Stokes:** Yes, but I cannot see that happening for a while. The Business Centre Association has advocated for a moratorium on empty property rates for properties that are new to the market. Units of 100ft\(^2\) or 200ft\(^2\) cannot be created to order; they have to be developed on a speculative basis, and if they are taxed during the letting process, that is a real disincentive. It does not matter whether the economy is or is not strong; such taxation is a disincentive to speculative building. The threshold was significant...
for the BCA. It stimulated the growth of new business centres, which is what we want to do.

**John Mason:** I take your point that, at the moment, a lot of people who buy properties would not tend to sit on them hoping for their price to go up, because they will have to wait for a very long time, but I think that there is evidence in smaller places that that has happened when prices have gone up. There is the example of the old post office in George Square in Glasgow city centre, which somebody sat on for a very long time and basically used as an advertising board. The building simply sat empty and deteriorated. I accept that that happened at a time when prices were going up and there was an incentive to sit on the property. Therefore, in a sense, I can see that there might be a stronger argument for doing that when prices are going up, although I accept that that is not the point of the bill. Do you accept that?

**Tom Stokes:** Yes. I have no argument with that.

**John Mason:** On the second page of your submission, under the heading “Main Issues”, you say:

“Rates are a tax for the provision of local services. Empty buildings make little or no demand on local services.”

Do you stand by that? I would have thought that the council has to maintain roads, street lighting and public transport, and that it must get the place swept, which all carries on whether or not the property is empty, so there is no saving to the council if a property is empty.

**Tom Stokes:** Things such as refuse collections, for example—

**John Mason:** Businesses pay separately for refuse collections.

**Tom Stokes:** They pay separately in some areas, but not in all.

**John Mason:** Your submission talks about larger centres being broken down into small units in order to get around the threshold level, but that has brought them into use. You have mentioned that already. It seems to me that that is a good thing and that it might not have happened if the policy had not been accepted in England.

**Tom Stokes:** I am not quite sure what you mean. They were broken down only in order to get them under the threshold.

**John Mason:** Yes, but if there had been no rates and no threshold, there would have been no incentive.

**Tom Stokes:** It is not at all correct that the threshold brought properties back to life. If you split up a property, spend money on it and the sum for all the individual units is higher than the rateable value for one entry, that will cost you more. The point that I am making is that you will not let it straight away. Outside the prime locations, it will take two to three years to get up there. There will be taxation, and there is no advantage in splitting up a property if there is taxation straight away.

**John Mason:** I am not questioning your argument that it takes time to fill up a business centre. That is fair enough.

I want to move on to the Scottish Property Federation’s submission. On the second page of that submission, under the heading “Costs”, the SPF says that the “policy in England has coincided with an increase in retail vacancy rates from 3% in 2007 to over 14% in 2011.”

Again, there is an interchange between the recession and the EPR. Have you done any studies on that? Perhaps the figure would have been worse than 14 per cent if it had not been for the EPR.

**David Melhuish:** I can point to a study that was done by agents around that time. The point is that the policy has done nothing for occupation, but has vastly increased the tax burden on property businesses and businesses that have sought to move out, downsize or—in certain instances—to upsize, although there are probably fewer of them in the recession. Such businesses are stuck with properties that they cannot dispose of, and they pay rates on them. Their rates would increase by 100 per cent. As I said, the policy has done nothing for occupation, according to the 600 respondents to that survey, which was done in England. It just increased the already significant tax burden.

The fact that investors are now much more risk averse because of the recession—risk is the key factor, as both I and Tom Stokes have pointed out today—means that people will not seek to redevelop dilapidated properties because there will be a significant up-front cost and they will be unable to let the property because of weak demand. There will also be an effect on the speculative new build that is essential for driving an economy.

**John Mason:** Okay.

We have concentrated on the business side, but you also comment on council tax in your submission, so I assume that you are involved in the residential sector as well. You say that “there appears to have been little assessment of why homes lay empty for significant periods of time”.

I live in a close in which a flat on the bottom floor sat empty for ages. I wondered why it was left sitting empty. Would not less discount be an incentive to get things moving more quickly,
including among the building societies that might repossess such properties?

David Melhuish: My understanding is that only two local authorities stick to the 50 per cent discount. One is Glasgow City Council. I am afraid that I cannot remember the other.

John Mason: It is Renfrewshire Council.

David Melhuish: Most have moved to the reduced discount. The main thrust of our concern is the definition of long-term empty properties at just six months. As you pointed out, we mention in our submission the lack, in the Government's consultation on the policy, of analysis of why properties are left empty.

I do not know whether a landlord was involved in the case that John Mason mentioned, but it seems that people often stumble into having empty properties. It can happen unexpectedly because people are in transition between properties or because they inherit them.

We have discussed the matter with the Scottish Association of Landlords. Our interest probably focuses on large-scale residential landlords, who try hard to let their properties for the same reasons as commercial landlords do. If a property is sitting empty, it is not producing rent, and rent is the basis of their business.

John Mason: The rented sector is one sector, but there is also the owner-occupier sector. In many cases, owner-occupiers leave properties empty for whatever reason and nothing happens for a long time. The main aim of the bill is to get empty homes used by people because there are a lot of homeless people. Do you have an alternative suggestion for how we could better achieve the aim?

David Melhuish: As I said, in the consultation there was no analysis of why properties are empty, but one thing that is emerging is that there is a significant fear of renting properties out on the part of unwilling landlords who are stuck with a liability. Also, people are uncertain about the whys and wherefores of entering the business full time. In the vast majority of local authority areas in Scotland, such people are paying 90 per cent of the council tax. I would characterise that as being a pretty strong incentive for them to get their properties off their hands.

John Mason: Thank you.

Paul Wheelhouse (South Scotland) (SNP): First, I declare in interest as per my entry in the register of members’ interests. I used to work for the DTZ group and I am still a member of that company’s occupational pension scheme.

On the point about the economic context in which this debate is happening, do you accept that another key factor in the drop-off in the development of business centres and other commercial property has been the rebalancing of the banks’ investment portfolios? In many cases, through acts of regulation, they have been incentivised to divest themselves of commercial property and move into other forms of investment that require a lower level of capital in reserve than is required to balance against commercial property investment.

David Melhuish: That is a fast-moving piece. The regulations on capital adequacy ratios for those in the banking sector are increasing immensely. However, there is a commercial property debt overhang of approaching £300 billion across the UK, and the last figure that I saw was that about 6 per cent of that applies to Scotland. Therefore, the banks are in an awkward position with a number of commercial properties, which are potentially underwater because of the drop in capital values, which have returned somewhat in certain areas of the country, such as London, but not really in many other parts.

The weakness of demand means that the banks are stuck. If they unload a lot of stock, they could cause more economic harm by deflating the market to such an extent that many more businesses—including businesses that are not property businesses but have securities that are based on properties that they may own outright—find themselves in trouble, at a time when demand for renting properties and making use of them in the first place is weak.

There is an incentive to move away from real estate because of the circumstances of the past few years. Banks are hugely risk averse towards lending for the redevelopment of older properties or for new properties. In our view, empty property rates are simply another factor that adds to that disincentive and the problems of development viability, which Tom Stokes mentioned earlier.

Paul Wheelhouse: Thank you for that. I do not disagree with what you said. I was just adding to the point that John Mason and the convener made about the wider economic context in which the discussion is taking place. A significant shift is taking place in the investment portfolios in many lending institutions, which exacerbates the problem. That may explain why there has been such a drop-off—or, at least, lack of recovery—in investment in business centres outside London.

I think that Tom Stokes—correct me if I am wrong—said earlier that it would take up to three years to achieve optimal occupancy of a speculative development. I ask him to clarify the typical period in which a speculative development would be expected to reach something like 50 per cent occupancy rather than optimal occupancy.
and what he means by optimal occupancy, just so that we can understand the point.

Tom Stokes: It would be disappointing if a business centre did not get up to 50 per cent occupancy in the first year and around 75 per cent occupancy in the second year. Because of churn, 90 per cent occupancy is generally what is meant by “full” as far as a business centre is concerned. Businesses are always moving in and out as they expand or downsize so, if a developer was doing an appraisal, they would put 90 per cent as full. However, if a centre does not achieve 50 per cent occupancy in the first year, there is something wrong.

You are right in what you said about the banks. They will have an impact on the development of business centres because there is a risk involved. It boils down to the fact that, if EPR is charged on business centres, it increases the risk. If, as a consequence, it will take longer for the development to come into profitability, that makes the decision to invest more money in it more difficult for the bank or other investor.

Paul Wheelhouse: I was going to come on to that point, so I will deal with it now. How would that manifest itself in an investment appraisal that your clients or members undertake? Would it manifest itself as a higher risk factor or would it be factored into a lower yield for the investment?

Tom Stokes: It is one and the same.

David Melhuish: Yes, I would argue that it is one and the same. At the end of the day, it would be regarded as a liability in the appraisal model and an assessment would be made of the expected yield from the investment in the development project. It would manifest itself as part of that.

Paul Wheelhouse: How significant a difference would it make to the yield on a typical development? You talked about a 400,000ft² building that was being converted into smaller units. What would the scale of the impact be on the yield from that project or is it not possible to say at this stage?

David Melhuish: We could probably make an estimate and submit that information to the committee, but it would be difficult to make an estimate off the cuff.

Some of our members’ development appraisals that I have seen were put together some years ago. The development or redevelopment of a business space does not happen overnight—we are talking about a five or 10-year specification in many cases—so many continuing projects will not have factored in an 80 per cent increase in empty property rates liability, which is what will happen next year, in effect. I do not want to refer directly to the project that I have in mind—after all, most members provide evidence anonymously to our organisation—but, in that specific case, you are talking about an increase of upwards of hundreds of thousands of pounds in costs. It is a very serious factor.

11:00

Tom Stokes: When I am not wearing my BCA hat, I act as a consultant for business centres and know that, in any appraisal, the largest individual cost is rates. If that can be removed from the development appraisal, it will make a significant difference and therefore make it more likely that the development will go ahead.

Paul Wheelhouse: We discussed the fact that, in Wales, there is a three-year window in which to convert and let a building. Given that, as Mr Stokes suggested, one would expect 50 per cent occupancy at the end of the first year, 75 per cent at the end of the second year and—hopefully—up to 90 per cent or better by the end of the third year, I wonder whether, instead of having three years of rate relief for a building that might actually have quite a few tenants by the end of the first or second years, there might be scope to phase in rates in line with expected occupancy.

Tom Stokes: Perhaps I can explain. What we were talking about was a moratorium on empty rates; once the unit was occupied, the owner would pay normal business rates, so there would be a sliding scale. The fact, though, is that it is an awful lot easier to get appraisals to work if the empty rates element is not there. If that happened, a building that for some reason was not producing any rateable income would at least be contributing something to the local economy.

Paul Wheelhouse: That clarification was very helpful.

Finally, you said that most of the business centres that have recently been developed in Scotland have been either entirely funded or entirely led by the public sector and that, in such cases, Scottish Enterprise and local authorities have usually intervened if there has been clear evidence of market failure. Otherwise, they could not justify the funding through their own appraisals. I believe that the SPF submission refers to the potential risk to the public sector—indeed, Michael McMahon picked up on the same point—and I wonder whether there might be scope in continuing to make a distinction between public sector-led investment, which is typically made where there is strong evidence of market failure and where there is no pre-existing demand for the property, requiring a longer time for it to be let, and fully market-oriented and demand-led
developments that one might expect to be occupied relatively quickly.

**David Melhuish:** You would need quite complex rules to disentangle all that, because you are talking about specifying areas in which, almost by definition, the private sector cannot intervene. I am also aware that, as in England, other policy initiatives with regard to enterprise areas have been introduced in Scotland.

Such a proposal has potential, but it might lead to distortions in the wider market and would certainly need careful consideration before policy was moved in that direction. Concerns have been expressed about some of the existing enterprise zone incentives. For example, new premises in a traditional enterprise zone that have not filled up because of the recession might be located close to a privately led investment that is also struggling but which, because it is not in the zone, cannot offer the same kind of rental incentives. The Government needs to think about such distortions. I would proceed with caution but, as I have said, I am aware of wider policy incentives in this area.

**Paul Wheelhouse:** I was thinking in particular of situations in which there might be no private sector interest in developing the kind of hubs that Mr Stokes mentioned earlier. In normal circumstances, even with rates relief, filling up such projects in much more peripheral locations—perhaps in rural areas such as Dumfries or the Borders, where I live—rather than in urban centres such as Edinburgh or Glasgow might well be a struggle. Might a distinction be made when it is self-evident that there has been market failure for years and that there is no commercial interest whatever in developing properties? In such circumstances, a long lead-in time might be needed to get occupants into premises.

**David Melhuish:** That could be the case—that would come down to the distinctions and how the line was drawn. Such an arrangement could help to get things going when they would not otherwise happen, but I am sure that the public sector would want to assess demand carefully location by location.

**Tom Stokes:** Part of the reason for market failure is low rents, which mean that an appraisal of the existing condition to avoid empty property rates do not seem to have brought empty properties situation is still similar. Empty property rates do not seem to have brought empty properties back into use.

The same situation applies to retail. I live in England now. In some English town centres, 17, 18 or 19 per cent of retail premises are empty. A fund has just been established in England under which towns are getting £1 million to attract businesses back into town centres. Money is being spent to get businesses into town centres.

Rotherham has been held up as a great example of how to regenerate a town centre. A lot of properties there are owned by the local authority, which gave incentives to get certain trades back into the town centre. That has been successful. It was not EPR but incentives that attracted retailers back into the town centre.

**Gavin Brown:** I accept the argument of many that it is difficult to decouple the impacts of a downturn and a recession from a policy that has been introduced, but there is a small window through which we can look solely at the policy. If I am correct, the policy was announced in the 2007 budget and was implemented in April 2008. The downturn hit—formally, anyway—in the autumn of 2008. Do you have a picture of what happened on the ground in the window between the announcement in the 2007 budget and the downturn?

**Tom Stokes:** All that I can say is that a number of business centres were stopped between April 2008 and the formal start of the recession. Those centres have never started up again. Whether they would have proceeded if the recession had not happened remains to be seen. It was clear that a number of business centre owners who were actively developing centres put their development programmes on hold as a direct result of EPR.

It is only anecdotal evidence, but the property press in particular contained headlines about “Bombsite Britain”, because a number of owners demolished properties that had been unlettable in their existing condition to avoid empty property
rates. That happened quickly after April 2008. I think that David Melhuish would concur with that.

David Melhuish: I would. The credit crunch was starting to be foreseen as early as late 2007, if not slightly before then. Given the long lead-in for many of these projects, the crunch was coming on well before the change in policy, which I think exacerbated that factor, because it added an ongoing liability.

A distinction should be drawn, in that there has been some slightly more positive news, in Scotland at any rate, on smaller industrial premises, which, of course, benefit from 100 per cent relief. That is one of the few areas in which the story has not been so negative—in fact, I would say that, on balance, it has been positive—over the past few years in Scotland.

Gavin Brown: Reference has been made, in submissions and in evidence this morning, to the demolition of properties. In your written submission, you suggested that, in some cases, it was easier to demolish a property than it was to have it empty and to pay EPR. To what extent has there been a disparity between the demolition rates in England and Wales and those in Scotland?

David Melhuish: The evidence that we have had of that has been anecdotal, so I can make a comparison only on an anecdotal basis. In our submission, in the absence of figures we simply alluded to the fact that we knew that demolitions had taken place. As far as a distinction between England and Scotland is concerned, we know that some members in England moved to demolish because of the on-going liability.

Gavin Brown: I think that your sister organisation is the British Property—

David Melhuish: The British Property Federation.

Gavin Brown: Is demolition something that it had noticed happening in England, which you had not noticed happening in Scotland?

David Melhuish: That forms part of the evidence. In addition, we have members in Scotland who have many investments in England.

Gavin Brown: Michael McMahon touched on that some local authorities will hold commercial properties. Can you give us an idea of the numbers that you found?

David Melhuish: On the basis of our sample, we thought that the cost could be quite significant, particularly for certain authorities. Glasgow City Council stood out, but the City of Edinburgh Council would also be affected. I believe that, in its submission, Glasgow City Council suggested that the cost would range between £0.5 million and £1 million.

I am aware that, in a written answer to Ken Macintosh MSP, the Government has given a figure of about 10 per cent. It is odd that that was not pointed out in the financial memorandum, because it is clearly a cost to local authorities. I think that the figure will be between 10 and 15 per cent for local authorities.

In addition, as I think we alluded to in our submission, we do not think that the Government has included some of its sponsored agencies in its figure of 12 properties being liable at the central level. A figure of between 10 and 15 per cent would be a more realistic estimate of the cost to local authorities, based on the Government’s estimate that the change in policy will result in a cost to ratepayers of just £18 million. I caveat that by saying that we have suspicions that that cost will be somewhat higher than the Government suggests.

Gavin Brown: Mr Stokes, you said in your submission that, in England and Wales, the cost to the public sector was around £400 million. Is that an annual figure or is it the total figure since the policy was introduced?

Tom Stokes: It is an annual figure that was gained through a freedom of information request on a survey of local authorities. One of the property papers, the Estates Gazette, has just carried out a similar exercise and it came up with a similar figure. A significant amount of the £1.1 billion of EPR was shown to be coming from local authorities, but that did not take into account the regional development agencies that existed at the time.

11:15

Gavin Brown: Just to be clear, are local authorities in England benefiting by £400 million at present, or is that a hit?

Tom Stokes: That is what they are paying in empty property rates on their empty properties.

Gavin Brown: According to the financial memorandum, the costs on the Scottish Administration are, in effect, nil—the Administration expects to collect £18 million and it
will get back £18 million. It appears that, from the limited work that you have done, you do not accept its figure of a dozen—or fewer—liable properties.

David Melhuish: No, we do not accept that. We do not think that it has included Scottish Enterprise, for example, which has quite a lot of vacant properties.

Gavin Brown: Can you expand on the Scottish Property Federation’s work, to which your submission refers? You say that you have taken a sample of 1,500 properties. You talk about the cost to the public sector, but you seem to suggest that the figure of £18 million may not be right. How did you reach that conclusion?

David Melhuish: Yes—we took a sample, which was based on the publicly available valuation roll that identifies vacant premises in Scotland. It also identifies owners, which gave us some evidence of the wider cost to the public sector.

However, we estimated at the time that we were touching only about 10 per cent of those properties that were potentially liable; given the size of the task, it is hard to identify all the empty properties. We went through the list and built up what appears to be a liability of approximately £70 million in rateable value. We added to that work direct additional rating liabilities costs from a number of members. We estimated from that small sample an increase in liability of circa £14 million, which led us to be highly dubious about the Government’s figure of £18 million.

We did not include premises such as factories, because we knew that industrial premises would retain 100 per cent empty relief. Nor did we include lower-value properties—in fact, we took a more conservative approach than the Government just because of the sheer number of empty properties. The Government’s figure was based on a £1,700 rateable value threshold, whereas we did not look below a rateable value of £3,000.

We ruled out properties where the owner was just one investor and we could not see another property tagged to that investor’s name, because we did not want to accidentally include properties that might benefit from the small business bonus scheme, which is a point that the Government made.

We also could not account for listed properties, so I add that as a caveat too. However, even given the small size of the sample that we took, we found large numbers, and large rateable values that applied to those properties. If we divide £18 million between 6,500 properties, as the Government has suggested, we are talking about a rateable value of about £6,000. Most premises that we saw had a value significantly above that figure. We have some concerns about the figure of £18 million, which to our knowledge has not been mapped out and analysed in any work published by the Government.

Gavin Brown: Can you make your work available to the committee? Has it been made available to the Scottish Government? We are having the bill team in soon.

David Melhuish: We put the top-line figures to the Government in correspondence. Its initial response was that we must be including industrial premises, and we responded that we were not. As an additional caveat, some sanitisation of the data should be undertaken, and it is of course based on the accuracy of the publicly available valuation roll. We are happy to make our work available to the committee.

The Convener: We would appreciate that.

Gavin Brown: Most members have talked about examples of property owners in their areas simply sitting on properties, hoping that they will accumulate in value without having to be let. What percentage of empty properties are held by owners who are actively trying to sell or let them rather than simply sitting on their properties and refusing to budge? Has there been any analysis of that?

David Melhuish: To my knowledge, no out-and-out analysis is to hand. According to our research, a huge number of major institutional investors, for example, have premises that they are seeking to let. Such investors are definitely trying to market those properties and get them rented out. However, I am not aware of research that could point to every empty premise and ascertain whether it is being proactively marketed. As I said, our members are definitely trying to get their properties out and in use.

Elaine Murray: You have suggested that the proposals may not achieve the aim that we would like them to achieve. There are certainly a number of issues around the financial memorandum.

Given the costs associated with demolition, surely it is not properties that are in good condition and capable of being let out that are being demolished. Is it not the case that the properties that are being demolished are those that are in poor condition and that are quite often a blight on communities anyway?

David Melhuish: I can only point to the anecdotal evidence from England, where there was some concern that properties that may have been available in years to come were being demolished. However, substantial further research would probably be required to prove that point.

Tom Stokes: You are probably right that they were older properties. It is unlikely that people
would demolish new premises. However, it could always be argued that properties that could have been renovated are being demolished and that the opportunity to bring them back to life has gone.

Elaine Murray: There are people who hang on to properties; in fact, there are people who hang on to properties in a deliberately poor condition in the hope that someone will come along and buy the site. In fact, if they are in bad enough condition, the owner might as well have the site vacated as have a site with a property in poor condition on it.

The Convener: I thank committee members for their questions. Elaine Murray has just asked the question that I was going to ask.

Mr Stokes, you say in your evidence:

“There has been a growth in dubious EPR avoidance schemes that verge on the unlawful and which is encouraging property owners to find ways to avoid EPR rather than concentrating on letting space. This is reducing the revenue to the exchequer from EPR but is also diverting attention away from letting space and creating employment to seeking ways to avoid tax.”

What are those dubious schemes, other than demolition?

Tom Stokes: There are people out there who are actively putting forward ideas on social networking sites for mitigating and getting rid of empty property rates liability. One method is not genuinely occupying buildings. People will occupy a building for 28 days, move their stuff out so that they get the benefit of three months rates free, then move their stuff back in again. There is a little digital communicator that produces public sector messages as people walk past with their mobile phone on Bluetooth. It gets round the criteria of rateable occupation without actually occupying premises.

A lot of landlords spend time looking at ways in which they can avoid paying empty property rates. Surely that is not right. Surely the real solution is for them to try as hard as they can to let the space, which is what Business Centre Association members do. In my view, finding a temporary use that does not benefit the economy, as a way of avoiding rates, is wrong. It does happen, though.

I think that David Melhuish’s submission had figures showing a decrease in the empty property rates that are being collected in England, which is because people are finding inventive ways to get round EPR. They should not be doing that—they should be trying to let the space.

The Convener: I take it that although you are not exactly happy with the legislation as it stands, both your organisations would be willing to work with the Scottish Government to identify and eliminate those avoidance schemes.

David Melhuish: Some of them have already been quite well reported. To my knowledge, officials are aware of them.

The Convener: Thank you for your evidence today. It has given us a lot of food for thought, particularly given that we are going to have the bill team before us.

Meeting closed at 11:26.
Present:

Gavin Brown
John Mason (Deputy Convener)
Michael McMahon
Paul Wheelhouse
Kenneth Gibson (Convener)
Mark McDonald
Elaine Murray

Decision on taking business in private: The Committee agreed that consideration of a draft report on the Financial Memorandum of the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill should be taken in private at future meetings.

Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill: The Committee took evidence on the Financial Memorandum of the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill from—

Ann Bain, Senior Service Manager (Revenues and Benefits), Angus Council;
Brian Cook, Head of Revenue Services, North Lanarkshire Council;
James Gray, Executive Manager - Finance, and Anita Jamieson, Executive Manager - Housing, Shetland Islands Council;
Sam Baker, Policy Manager (Housing Supply Division), Jamie Hamilton, Policy Manager (Housing Supply Division), Marianne Cook, Policy Manager (Local Government Finance), and Stuart Law, Senior Policy Advisor (Housing Supply Division), Scottish Government.
Local Government Finance (Unoccupied Properties etc) (Scotland) Bill: Financial Memorandum

10:01

The Convener: Item 2 is further evidence on the financial memorandum to the bill. I welcome our first panel of witnesses: Ann Bain from Angus Council, Brian Cook from North Lanarkshire Council and—by videoconference and the wonders of technology—James Gray and Anita Jamieson from Shetland Islands Council.

No opening statements will be made, and we will go straight to questions after members have introduced themselves for the benefit of the people in Shetland, who might not be able to see their nameplates.

John Mason (Glasgow Shettleston) (SNP): Have you introduced yourself, convener?

The Convener: I am sorry—I am the convener, Kenneth Gibson.

John Mason: I am the deputy convener, John Mason.

Elaine Murray (Dumfriesshire) (Lab): I am Elaine Murray, the Labour MSP for Dumfriesshire.

Paul Wheelhouse (South Scotland) (SNP): I am Paul Wheelhouse, a Scottish National Party MSP for South Scotland.

Gavin Brown (Lothian) (Con): I am Gavin Brown, a Conservative MSP for Lothian.

Mark McDonald (North East Scotland) (SNP): I am Mark McDonald, an SNP MSP for North East Scotland.

Michael McMahon (Uddingston and Bellshill) (Lab): I am Michael McMahon, the Labour MSP for Uddingston and Bellshill.

The Convener: Without further ado, I will ask each witness—and the team of witnesses in Shetland—a question, then I will open the meeting up to committee members and we will take it from there.

I note that Angus Council expressed in its submission concern about the cost of “the monitoring of long term empty properties given the dispersed nature and locations of ... long term empty properties” due to the rurality of Angus. You are concerned that such monitoring might impose additional costs on Angus Council relative to other local authorities. Will you expand on that?
Ann Bain (Angus Council): Angus is a mixed area with quite a high incidence of rural properties. Property inspections will probably be required to police the new arrangements for the levy properly. In an urban area, a number of visits could be made in a day but, in Angus, property inspections could involve significant round trips by officers. We have empty properties that are located way up a glen at the end of a farm track, for example. Such dispersal means that inspections cannot be made in a bad winter, when the timescales for doing such work are limited. The cost of mileage and the time affect the number of properties that can be inspected.

We still have to do a bit of analysis to get a proper handle on the number and locations of difficult properties, so that we have a proper assessment of the cost, but policing the arrangements properly will undoubtedly place a burden on rural authorities, because that will require property inspections that would be much easier for an urban authority to do.

The Convener: You have still to look at the fine detail, so you do not have a global sum for the additional cost, but do you have any idea of the relative cost? Will a property inspection in Angus be twice or three times the cost of an urban inspection or will it cost 50 per cent more? Do you have a rough approximation of the additional costs relative to more urbanised communities?

Ann Bain: It is difficult to be accurate because it depends on the size of the council and the number of empty properties that it has. For example, in Angus we have about 1,000 long-term empty properties. A significant proportion of those will not be in town centres—they could be on farm estates or in rural locations. Because of the number of miles that a visiting officer might have to travel, a rough estimate is that it would take us twice as long to cover our inspections as an urban authority.

The Convener: And that would cost Angus several tens of thousands of pounds.

Ann Bain: Yes, over the piece, if we were to do it robustly and carry out a large number of property inspections. We would not inspect a property only once—we would have to return to it periodically—so it is not a one-off cost but a long-term cost, if we continue to monitor those properties over a long period.

The Convener: I asked Ms Bain that question, but Mr Cook and the witnesses in Shetland can feel free to comment on this aspect of the bill. Rurality is a factor in North Lanarkshire, though perhaps less so in relative terms, and it is a factor in Shetland.

Brian Cook (North Lanarkshire Council): I agree with Ann Bain that there will always be an on-going cost of operating and implementing the scheme. In my authority in particular, there are a number of urban conurbations, so the time involved should be less for us. Depending on the number of inspections that we have to undertake, it requires one or two members of staff.

The Convener: North Lanarkshire’s submission says:

“There appears to be no recognition that the focus of the proposal is tax-raising rather than determining the need for funding to bring empty property into use and then assessing how to release/raise the necessary level of funding. In essence the tax is possibly a penalty rather than a solution to the problem.”

Will you talk us through your concerns in that regard?

Brian Cook: We have a team that looks at how we can assist owners of properties in bringing those properties back into use. I would view the bill’s proposals more as a penalty on those owners whose properties are not in use. We have not identified that we need, say, £0.5 million or £5 million to assist with the delivery of those properties back into use. What we will generate is purely a number based on whether we have 40, 400, or 4,000 empty properties in the local authority area.

The other aspect touches on a point that the convener was discussing with Ann Bain. There will be a cost involved in bringing in the scheme for a small number of properties. I am not entirely convinced that the amount of money that will be realised from the additional tax will be worth it in relation to the particular needs across local authorities.

The Convener: Is one of the difficulties with the bill the current economic climate? If the economy were more buoyant, might the situation be different, or would your concerns apply regardless?

Brian Cook: Some of our concerns would apply regardless. The tax—non-domestic rates or council tax—is a general tax levying rate to fund a range of services for service-delivering authorities. This proposal properly tries to improve communities and bring unused properties back into use. Because of that, it is targeting a much smaller number of properties. The difficulties there are exacerbated in the current climate, in which some properties are perhaps not as economically attractive to bring back into use, but I suspect that some of our concerns as an authority about the disparity between what we raise and what is needed would continue to exist even if there were a bit more buoyancy in the economy.

The Convener: One of my concerns about empty properties is that, perhaps pre-recession more than now, people who have owned
properties have owned them for speculative reasons rather than with a view to putting them into productive use. That concern was shared by a number of colleagues around the table. How real is that situation at the moment, for example in North Lanarkshire?

Brian Cook: It appears from our property database that a large number of the empty properties reside with the local authority in its role as landlord and with a number of registered social landlords. Neither the local authority nor the RSLs are in it for speculative purposes.

There will be an element of what you describe on the private sector side. In recent history—over the past five to 10 years—people have bought properties in the expectation that they will grow in capital value and that they will be able to achieve a rental income from them, but now people cannot do that because it is too costly. I do not think that it is a huge problem—I do not think that private sector properties account for a significant percentage of our empty properties, but they will certainly account for a percentage of them.

The Convener: Do any of the other witnesses wish to comment?

Ann Bain: In Angus, our greatest areas of housing need are Monifieth and Carnoustie, partly because of their proximity to the Dundee commuter belt and partly because of the cost of land and the costs of building and buying a house in those areas. Those are the areas in which we have the smallest number of empty properties. The speculative holding of empty properties does not manifest itself where there is a need. In other words, we have no evidence to say that that is happening in Angus. Where there is a need and a high demand for property, there is very little empty property. In such areas, speculators are not holding on to property—they are getting it on to the market and letting it or selling it.

The issue that we have is that a significant number of properties are probably not up to a marketable standard and the individuals concerned do not have the funding to bring them up to that standard. As I understand it, I do not think that there is evidence in Angus that people are holding on to properties to see whether there will be a rise in the market.

The Convener: As no one from Shetland Islands Council wishes to comment on that issue, I would like to move on to a question that is specific to Shetland, which is about section 4, on the abolition of housing support grants. I note that you say in your submission that Shetland Islands Council would not support the bill.

"unless satisfactory transitional arrangements were put in place."

You go on to say:

"without knowledge of the details of any proposed transitional arrangements, it is difficult to answer fully on this point. The absence of any transitional arrangements will result in a direct impact on 1,800 tenants."

Will you say a bit more about that? What do you want the Scottish Government to do?

Anita Jamieson (Shetland Islands Council): We are looking for some recognition that the debt came about as a result of the pressure to get oil into Sullom Voe back in the 1970s. At that time, the islands’ population increased by 40 per cent and we ended up borrowing £50 million on the housing revenue account across two decades. Some years later, we face the prospect of 1,800 tenants shouldering that debt burden. If we do not have some form of transitional arrangements based on the current level of housing support grant, that will have a direct impact on the service that we provide to those tenants or on the level of rents, which are already the second highest in the league table in Scotland.

The Convener: What level of transitional relief are you looking for? At the moment, about £871,000 of support is provided, which will decline year on year. What help are you looking for to mitigate the difficulties that the abolition of housing support grant may cause you?

James Gray (Shetland Islands Council): The housing support grant was never going to be enough to get the housing revenue account out of the situation that it is in. Technically, we are almost on the brink of saying that it is insolvent. It is in an extremely difficult situation—40 to 45 per cent of the income that is generated from the rents of the 1,800 tenants goes on repayment of the debt and the interest on that. The housing support grant is, in essence, a crutch to allow us to continue to operate the account. The grant has been diminishing, which has caused difficulty, but if it is removed and nothing is put in its place, we will be in a very difficult situation.

10:15

We have to bring our homes up to a certain standard and meet national targets. We have severe waiting list problems, and homeless presentations are high for such a small place. Demand for housing is high because the oil industry is still here. Therefore, we need to try to build houses. We do not have a big private sector, because of the costs that are involved in building here, and there is only one housing association. We do not have neighbouring local authorities, as is the case on the mainland of Scotland. People cannot move to Orkney and then commute to work in Shetland. There is a problem, but we are hamstrung in that we cannot even consider
building housing. We are struggling just to maintain the current level of housing.

Our point is that, although the removal of the housing support grant is a problem, the grant was never going to be the solution for us in the first place. We are looking to work with the Scottish Parliament to find a solution to the debt problem that has arisen since the big boom in the 1970s, which has never been fully addressed.

**The Convener:** The issue is that there are 32 local authorities in Scotland, but Shetland is the only one that benefits from the housing support grant. The policy memorandum suggests that the council should consider using its reserves to mitigate the effect. What is the current level of your reserves?

**James Gray:** In total, at 31 March, the reserves were sitting at about £196 million. However, we need to break that down. A reserve fund has been built up from oil money that the council has generated, which can be used for any area of council spend. The balance on that reserve account is about £685 million. The remaining £130 million is general funds money, which in essence is council tax payer money that we cannot use to prop up the housing revenue account, as that is not allowed under statute. The first call on the £65 million that is available to us must be from the decommissioning of the Sullom Voe harbour that generated the money. We estimate that the cost of decommissioning could be up to £25 million. We are left with about £36 million. That is committed expenditure, because we are in the process of trying to reduce our expenditure levels to bring them more in line with the income that we generate. Therefore, there is very little flexibility in our reserves to address the situation.

**The Convener:** I am sure that colleagues will wish to ask further questions on that.

I will open up the session to colleagues. Questions can of course be put to any of the witnesses. The witnesses should feel free to let the questioner know if they want to answer a question that is not specifically directed at them.

**Paul Wheelhouse:** All three local authorities that are represented here have an element of rurality, so you will have absentee landlords, second properties and holiday homes in your areas. That presents a particular challenge for rural authorities. We have touched on the cost of monitoring the number of empty properties in Angus and North Lanarkshire. Angus Council has also made points about the assumption of a 100 per cent collection rate and the difficulties of tracing property owners. Sometimes, the council might know that there is a vacant property but not who owns it. I ask the witnesses to expand on the difficulties with achieving a 100 per cent collection rate. What do you recommend as the means to address those difficulties?

**Ann Bain:** Angus Council is one of the top-performing councils on collection in Scotland, but we do not collect 100 per cent of council tax. Last year, we collected 96.7 per cent in year, which is a very good collection rate. The difficulty with a 100 per cent levy is that it will be perceived by some taxpayers as punitive and unfair—there is no doubt that it represents a big increase in the amount of debt that they will incur. That may incentivise people to try to evade the charge but, for those who do not, there are significant issues relating to the financial situation out in the real world—people just do not have an unlimited amount of disposable income to meet increased debt. I think that the charges will be more difficult to collect and could impact on our wider collection performance.

If someone has a long-term empty property, they may well not be resident in the area or even in Scotland. That makes collection more complex because the system of recovering council tax in England, for instance, is different. We would have to instruct diligence in the English courts against the person and get a decree against them, which would make life more complicated. Some people who have properties here do not live even in the UK—they have moved away and perhaps cannot sell their property or the property is in disrepair. They already object to paying council tax on the property because they do not perceive that they are receiving services for the charges in that situation.

An additional levy will be more difficult to collect because many taxpayers do not see themselves having a choice about the situation. Second homes are a different matter, as people make the choice to have a second home that they enjoy as a leisure resource. People who have properties that are empty and who are not in a position to sell them in the current market or who need to repair them to bring them up to standard will not see that as a choice—they feel burdened with those properties. That will make the collection of the additional levy more difficult. A number of taxpayers may not live in the area, which means that the normal arrangements that a council has with its sheriff officers to enforce recovery will not apply. That will incur extra cost and time, especially if we have difficulty in tracing individuals. All of that will add to the general difficulty.

In Angus, we have only just—from April—reduced the council tax discount for long-term empty properties to 10 per cent and we feel that we need to monitor the impact of that before we can think about introducing additional charges. We want to see whether that discount reduction...
impacts on our recovery rate. Since the introduction of the legislation several years ago, we have offered only a 10 per cent discount in council tax on second homes and our collection performance for those properties is as good as, if not better than, the average collection rate. What happens over the next year with the recovery of council tax on long-term empty properties, for which we have increased the charge by 40 per cent, will inform my view about whether we are likely to experience difficulties in collecting the additional levy.

**Paul Wheelhouse:** You may be aware that the Land Registration etc (Scotland) Bill is looking to tighten up the registration of all landholdings, which should reduce the number of properties whose owners we do not know.

**Ann Bain:** Absolutely. That will help us to trace people. However, if they are not resident in this country, there will still be an issue even if we know where they are, and there will be costs attached to accessing the land register. It is all extra cost.

**Paul Wheelhouse:** Do you agree, in principle, that we have a problem with empty properties? I appreciate what you say about the housing market in Monifieth and Carnoustie being fairly buoyant, leading to a low number of empty properties in those areas but, in other parts of Angus and other local authority areas, empty properties are a blight on communities. They bring a depressed atmosphere to those areas when they are not being used, and there may be a shortage of properties to meet the housing need. There is a need to step in and do something to bring those properties back into use.

**Ann Bain:** There are issues in some areas, and no one could disagree with the aspiration of bringing properties into wider use. However, in the context of Angus the bill is perhaps a bit of a sledgehammer to crack a nut. A significant number of our properties are not in a state in which they could be released on to the market. We need to address that if we are to achieve anything meaningful.

Seventy per cent of empty domestic properties in Angus are in bands A and B. We need to do a lot more research on where they are, why they are empty and what is preventing people from bringing them to the market to sell. We do not gather that information, so a lot of work needs to be done before we can make statements about those properties. If we charge owners an extra 100 per cent, we might drive many of them into debt. They will not necessarily have the means to bring the property to the market. However, if we could use the additional revenue that is raised to incentivise owners, there could be a positive outcome.

**Paul Wheelhouse:** Do Mr Cook or the witnesses in Shetland want to comment?

**Brian Cook:** As Ann Bain said, we would not collect 100 per cent of the tax. The bill would also introduce an incentive to owners to avoid the tax, given that people could be paying just under three times what would be paid if a single person was registered against the property. The average band E council tax in Scotland is about £1,000, so a single person might pay £750, but the charge would be £2,000 if the person was registered against a long-term empty property and the 100 per cent levy was applied. Certain individuals will be incentivised to misrepresent the occupancy of properties. That takes us back to considering how often authorities will have to visit properties to evidence that they are long-term empty and should bear the additional burden.

Beyond that, there will be the normal collection difficulties in relation to identifying long-term empties. Most of North Lanarkshire’s towns probably do not have the numbers of second homes or holiday properties that some authorities have, although there will be such properties in some areas.

**Paul Wheelhouse:** Given the nature of the problem that we face, what do you recommend that we do instead of taking the approach that is taken in the bill? We have limited power to drive change and provide a financial incentive for people to bring properties into use. Do the witnesses have constructive alternatives to offer, from their experiences in Angus, North Lanarkshire and Shetland?

**Brian Cook:** Local authorities put in place housing strategies, through which funding and resources can be channelled, to identify how to support owners to bring properties in communities back into use. Such an approach is preferable to one in which we make a minor adjustment in relation to a small number of properties on the council tax database. I would prefer the direction of travel to be through the housing strategy, to support authorities’ aspirations for their areas.

**Ann Bain:** I agree. More support needs to be given to the people who would like to get rid of their long-term empty properties but genuinely do not have the means to do so. We need to try to identify and engage with those people much more proactively. There might be opportunities to use council tax as a trigger for such engagement. If someone makes contact to tell us that they want to claim an exemption or a discount, there could be a mechanism for engaging with them at that point, rather than waiting for a period of time to elapse and then hitting them with a big bill. However, such an approach would require significant funding and resource, which we do not currently have.
If we really want to change things, we should engage with owners as soon as a property becomes empty, if it looks as if it will be empty for some time. That is not an easy thing to do, but it is possible.

10:30

Paul Wheelhouse: Do the witnesses in the Shetland Islands want to comment?

Anita Jamieson: I echo what has been said by others. The number of empty properties is not a huge issue here. However, we would certainly support moves to incentivise people to return those that are empty rather than look to penalise them financially.

John Mason: I will start with the witnesses in Shetland. Can you clarify for me whether you want better transitional arrangements, or are you just opposed to the whole thing and do not really want it at all?

Anita Jamieson: It hinges on there being satisfactory transitional arrangements. To date, although we have had consultation and negotiations on that, we have had no detail about what any transitional arrangement might look like. There is a history of successive promises from Westminster Governments and through the stock transfer process that our debt would be written off. Obviously, to date, that has not happened.

The transitional arrangements could be the key to the acceptance of the removal of housing support grant, but we need to be clear that it is linked to a historical debt and that it is unfair to penalise the 1,800 current tenants in Shetland for a situation that arose because of the oil industry some years ago.

John Mason: I agree that it was unfair of Westminster to link stock transfer to debt write-off. Am I right in saying that you did not have a transfer from the council to a housing association?

Anita Jamieson: No. We were one of the pilot areas. We went through the process and got to the point of valuation, but we could not get the valuation agreed and we never proceeded to ballot. The process stopped at that point.

John Mason: On the transitional arrangement, would you look for a gradual reduction over five years rather than a quick cut-off?

Anita Jamieson: Ideally, we would look for it to be linked to the debt and to be awarded over a three to five-year period with a view to reducing the overall debt that we carry on the housing revenue account. That would be preferable to a phased-out approach.

John Mason: Last week we heard evidence, mainly from property owners, that focused on non-domestic rates rather than on the council tax. I want to follow up one or two points from that evidence, one of which is the claim that a council would save money if a non-domestic property was empty rather than occupied. I asked them why they thought that there would be any saving. From the councils’ point of view, would there be any saving?

Ann Bain: Are you asking about council-owned property?

John Mason: No. I mean private property, such as an empty shop. Would the council save anything if the shop was not occupied?

Brian Cook: I am hard pushed to see how a council could save anything in such a case.

Ann Bain: I cannot think how there could be a saving.

Brian Cook: Clearly, we would lose the rates income. However, the services that are provided to the community—waste uplift and so on—would continue in the general area. If there was a waste contract for us to pick up a shop’s rubbish, we would have no rubbish to pick up if that shop was not operating. However, I would not say that that would be a net betterment to the council.

John Mason: That was my feeling, but I just wanted to clarify the position with you. The property owners were not able to substantiate their claim in that regard.

Some councils have made various suggestions, including that there might be more demolitions. The property owners suggested that, too. They said that they would be more likely to demolish commercial property that was perhaps not in great condition if we made the proposed change and that there would therefore be a shortage of property in the longer run. Is that your feeling?

Brian Cook: I apologise for making general comments again. There might well be more demolitions. If non-domestic properties are not fit for purpose and cannot be let or rented out, demolition might be a better outcome for the community as a whole. If nobody is going to invest in a property and it is going to be left to go to wrack and ruin, demolition might be a better and more appropriate outcome for that property. We have a similar situation in relation to the council tax and housing stock. For many years, we have had to make choices between renovation versus demolition and rebuilding in certain areas.

In the general marketplace, there might be some properties for which demolition is a better option. However, generally, the empty properties on the high streets of our town centres are empty not because of the threat of demolition, but because of the current economic climate in which people are not taking up those properties for
commercial ventures. There might be some demolitions but, off the top of my head and without real statistical evidence, I would have thought that they would be a relatively small percentage.

Ann Bain: I echo those comments. It is difficult to demolish a shop that is in a row of shops and leave a gap site on the high street. I do not think that many businesses will do that.

John Mason: A linked suggestion was that, if there is pressure to let, we might end up with less desirable tenants, whatever they might be. My gut feeling is that almost any tenant is better than no tenant, because an empty shop is a bad thing. That applies in parts of Glasgow and, I guess, Lanarkshire. I do not know whether your councils own property that you are trying to let out, but do you foresee a problem with such tenants?

Ann Bain: That depends on what one describes as an undesirable tenant. If the assumption is that there will be lots of, say, betting shops or pound shops, some people would say that those are undesirable, whereas others would be glad to have the high street occupied. It is a subjective issue. However, I suppose that most people would like a viable high street with occupied shops and premises rather than empty ones. The number of charity shops is often raised as an issue, but at least those shops are maintaining a presence on the high street.

John Mason: Another suggestion was that there might be a reduction in rental values for property owners—I presume because there is an extra cost—who would then appeal, which would lead to a lot of problems. Do you foresee that?

Brian Cook: At present, private sector landlords appeal their rates fairly often anyway. I do not think that the number who do so will double or treble. Naturally, there will be an additional cost to landlords if we increase the rates on their property for the time that it is empty. If the property is brought back into use, it will revert to the appropriate operating rate. As I said in relation to the previous couple of points, I do not think that the percentage will be significant. Landlords rent out property for a profit. The bill will increase the rates, with the intention of incentivising landlords to get property back into use. If property is available to let and is good property, the bill should, I hope, force or push them to do that. If the property is not good, as I said, the option of demolition might be there as the exception.

On the issue of less desirable tenants, I do not envisage that hordes of properties will be let to undesirable tenants. Properties might well be let to businesses that stay in them for a short period and go out of business. That might be undesirable to the landlord, but it is just a feature of the economy right now. Tenants of business premises, ours included, do not normally move in, lay waste to the property while they are there and then leave. With the properties that we let, the issue invariably is that tenants get to a point at which it is no longer economically viable to run the tenancy, so they want to be let out of the lease or they shut down and leave. That is unlike the situation in the residential sector, in which people might well go into a house and do damage. That is not a problem to the same extent in the business sector.

Mark McDonald: Ms Bain, you said earlier that, in the context of housing, the legislation might be a sledgehammer to crack a nut.

Grant funding to maintain or repair private sector housing is at a premium. Has Angus Council pursued any innovative solutions? One solution that springs to mind, which has been floated in the past, is that councils could offer to undertake works for private landlords and owners in return for receiving a share of the equity in the property, so the council would get a receipt when the property was sold on. Has that approach been considered?

Ann Bain: I am not aware that it has been considered, although my housing colleagues will probably have more to say about that. We run a survive-and-thrive initiative to assist property owners with refurbishment; some funding for that is available at present.

My colleagues are currently considering how best to use the revenue that is generated through the affordable housing initiatives. They are examining a number of methods to release more homes on to the market. I am not aware of anything that is particularly new or based on the lines that you describe, but that is not to say that I am fully aware of everything that goes on in my housing service.

Mark McDonald: Sure—I appreciate that.

Ann Bain: I can find out for you and let you know, if you would like me to.

Mark McDonald: It would be interesting to see which other options are being considered to deal with the empty properties issue.

My next question is for Mr Cook, too. Flatted properties of mixed tenure can often be a particular challenge for local authorities in some areas with regard to dilapidation and other issues, particularly where top-floor properties are privately owned and other properties contain council tenants.

Are there examples in your councils of areas that are affected by empty properties? Such properties cause problems for the council, because it cannot go in and carry out works without having the permission of the private owner or landlord.
Brian Cook: Yes. Given the nature of the urban population in a number of our towns, and our closeness to Glasgow and Edinburgh, we have a range of such properties. Where there are empty properties it can be difficult at times to undertake works on the whole building, because it is not easy to get approval from landlords.

The improvements to registration should help with some of that, but it can still be difficult—especially where there are absentee landlords—to take developments forward.

Mark McDonald: North Lanarkshire Council’s submission mentions the consequences for council tax of void properties and the fact that the HRA account would essentially have to prop up any bills that came in. It also mentions the possibility of exemption.

Do you agree that those authorities that have taken action to bring down their void rates might object to the fact that, in effect, other authorities would have their empty properties subsidised or exempted by the Government rather than taking action to reduce their void rates?

Brian Cook: Again, my housing colleagues are better versed in that. Across most of the local authority sector, we have been addressing the issue of voids for a number of years by trying to reduce them, but we will always have void properties.

The issue is that, whatever the number is—X hundred empty properties—the landlord, which is the council, will bear an additional charge. That will be funded ultimately from the housing revenue account, so it will be funded not by the council but by the remaining tenants. Those tenants are not speculative landlords, or landlords of any nature, who have not let properties, but they will bear the ultimate burden of that additional charge on the HRA account.

10:45

Mark McDonald: My next question is for colleagues from Shetland. You raised the percentage of the HRA that goes towards funding the debt. Are you aware of how that compares with the situation in other small authorities and the other island authorities, in terms of the housing to debt ratio?

Anita Jamieson: I am not aware of that as a ratio, as such. Obviously, our comparators are Orkney and the Western Isles. The Western Isles went through the stock transfer process, so it no longer has an HRA. Orkney had no debt until recently, when it started a new-build programme. Its average debt has gone up to somewhere in the region of £14,000 to £15,000 per house, while ours is currently sitting at £25,000-plus.

Mark McDonald: On the issue of reserves, you said earlier that Shetland Islands Council has around £196 million in its global reserves, of which £130 million is the general fund reserves, which you cannot touch for housing. Have I got that right?

James Gray: Yes.

Mark McDonald: From the non-flexible reserves, you say that you need to earmark £25 million for oil and gas sector decommissioning, and that around £36 million is committed to bringing the council’s budgets more into line. Would that be committed against the general fund?

James Gray: Yes.

Mark McDonald: Why, if you have £130 million in your general fund reserves, are you using £36 million from the flexible reserves to bring the general fund budgets into line rather than the reserves that are linked to your general fund and cannot be used in a flexible manner?

James Gray: The general fund reserves are split between a revenue element and a capital element. There is more than £100 million in the capital fund at the moment—I do not have the exact figures to hand. It is not that we are looking to use the most flexible fund to fund general fund expenditure; it is just that the majority of the rest of it is tied up in capital fund money.

Mark McDonald: Okay, so if £100 million is tied up in capital money, that leaves you with about £30 million of general fund revenue reserves. How much of that is committed at the moment?

James Gray: About £10 million is the housing repairs and renewals money, which is used to top up repairs and involves expenditure to the HRA; there is a fund that is used to repair the tugboats that operate at the Sullom Voe site; there is a general repairs and renewal fund; and there is also a small insurance fund. That is essentially it.

Mark McDonald: You are talking about using that money towards the HRA. In your earlier evidence, you indicated that that money could not be used for the HRA.

James Gray: That small element involves HRA repairs and renewals, which is being depleted in order to pay back the interest on the borrowing that we currently have on the HRA.

Mark McDonald: Okay—I hope that we are talking about the same sum of money. I am not sure that what you have just said tallies with what I heard earlier, but I could be wrong.

How much of the £196 million in your reserves is uncommitted expenditure that you have available?
James Gray: We really do not have anything that is sitting there with no purpose. The money is all planned to be used. I do not have the detail of what it is for, but I could provide that to Parliament if you would like it.

Mark McDonald: Given what we have been told with regard to the suggestion that you could use reserves, it would be helpful if we could have some detail of what your current reserve levels are, what they are allocated against and how flexible or otherwise particular elements of your reserves are. That would be helpful to the committee’s deliberations.

The Convener: In its submission, Shetland Islands Council talked about a debt burden of approximately £40 million on 1,800 tenants, which is about £20,000 per tenant—you said £25,000 today, but from my calculations the figure is about £22,500. You have reserves of £196 million. Do you have an income stream that adds to that each year? How much money goes into the reserves each year, if any?

James Gray: The income that led to our having such a high level of reserves principally came from business rates. Before we had the national pool, Shetland was able to retain rates and was getting in the region of £30 million a year. The reserves built up historically in that way. We still operate the harbour up at Sullom Voe, although it has reached its peak and is starting to decline. The income that comes from that is an additional stream. Our core income stream is down to about £3 million this year—I do not have the figure to hand, but I can get it to you.

The Convener: Are the reserves increasing by £3 million net, or is it just the income stream that is £3 million?

James Gray: The income stream is about £3 million per year.

The Convener: Thank you.

Elaine Murray: An issue that has been raised is the lack of formal consultation on or business and regulatory impact assessment of changes to the empty properties rates relief regime, because they were announced as part of the budget. Few people could disagree with the policy intention to bring empty properties back into use, whether they are commercial properties or empty homes, but it has been suggested that there have not been adequate opportunities for local authorities and businesses to feed into the process, to ensure that the estimates in the financial memorandum are accurate. What do the witnesses think?

Ann Bain: I do not think that in Angus we have significant concerns about the process. The changes were signposted.

On the estimates, I think that the number of empty properties in Angus is understated. That is to do with the small business bonus. I think that a lot of ratepayers do not tell us that a property is empty, because they are getting 100 per cent relief anyway, so they just see that there is no change to their bill. That is an issue, because the figure for Angus, which is only 150 empty commercial properties, is probably significantly understated. The amount that the person is charged, which is zero, is probably correct. In other words, they are getting 50 per cent rates relief and 50 per cent small business bonus, because of how the reliefs are structured. The bottom line is that the person has nothing to pay, so if the property is empty they probably do not bother to tell us, because it makes no difference to their bill. That issue perhaps has not come out in consultation.

Elaine Murray: People who do not declare that their property is empty could be fined £200. Could that in any way cover the costs of investigating the position?

Ann Bain: I think that that penalty relates to council tax and not to non-domestic rates.

The small business bonus will absorb the reduction in rates relief if the thresholds stay the same. I wanted to make the point that the extent of empty properties is underestimated, because of the small business bonus. I do not think that that will ultimately alter the balance of what people have to pay; it is just that estimates are based on the systems and records that we have. I certainly think that there are more than 153 empty business premises in Angus. However, I have no serious concerns about the timescales that we were given for input into the consultation.

Elaine Murray: Do the witnesses in Shetland think that they had enough notice of the potential impact on their council to be able to feed that back to the bill team?

Anita Jamieson: Yes.

Elaine Murray: I am interested in what has been said about the interplay because other witnesses have made the point in evidence that the interplay with other forms of tax relief is not really taken into consideration in the financial memorandum, although the small business bonus is clearly one of the forms of tax relief that will have an impact on how much is brought in.

Ann Bain: The small business bonus is the biggest element because it is likely to offset a lot of the reductions in empty property relief for smaller businesses. It is difficult to estimate that properly at the moment without much more detailed analysis of the rateable values of all empty subjects and how the reliefs work with each other. It just muddies the waters and means that
we find it difficult to get clarity about the impact of the changeover and the additional revenue to be raised.

We have only 20 empty council properties, for example, and they are not commercial properties, so the cost is not going to have a terribly hard impact on us. Obviously, any extra charge is unwelcome at the moment but ours will be relatively small. The problem is more to do with the difficulty of getting a true handle on what additional revenue we will be left to collect when the small business bonus kicks in to soak up the taking away of the empty property rate relief. A bit of clarity is needed around those estimates.

Elaine Murray: I was also quite struck by what you said about the potential difficulty in locating owners. A number of commercial properties seem to have been bought up many years ago and, as the convener said, an issue arises when that happens. Certainly, pension funds and others seem to have bought up properties in small towns in my constituency where those property owners are not located and it is difficult to pursue them to make them fulfil their obligations. Indeed, there is a small home in a village in my constituency that has water pouring out of it. People have been trying for years to locate the owners and get them to do something about it and, although we know who they are, we do not know where they are and we have not been able to get them to rectify the issues with that property.

Are there other approaches that we could take? For example, should we be looking at making it easier for councils to take possession of empty properties that have such problems?

Ann Bain: The difficulty is that if a council takes possession of a property, that puts a burden on the council to do something about it. For example, the council needs funds to be able to remedy any problems. Presumably the council could pass on the costs to the owner, but if they cannot be found, in practice the council will not be reimbursed. I think that councils already have powers to take action in difficult circumstances.

A point that touches on this whole area is that the change in empty property relief might encourage owners to let their properties to people who are not as financially robust as they might be. In other words, the checks that an owner puts in place to make sure that a tenant can pay their rent and rates might be lessened because the owner is anxious to get someone into the property. That could have undesirable results. If a business is not viable, it is likely to go out of business relatively quickly, leaving unpaid debt. High tenant turnover, with people moving on quickly because their businesses have not been successful, leaves councils trying to track down and collect debt from tenants who are not there any more and who might not have any assets.

The general financial climate will impact on a business’s success and if a landlord decides that they really need to get a tenant into a property, they might be less robust in checking out their tenants than they would otherwise have been.

Gavin Brown: In effect, Angus Council has answered this question for its area, so I turn to North Lanarkshire. Do you have an idea of what the cost to the council of the business rates on the empty commercial properties that it owns will be if the bill is passed?

11:00

Brian Cook: Off the top of my head, I would have to say no. I would have to guess. I refer to a couple of points that Ann Bain made. If you are interested in that figure, I can go back to the authority and identify the number of empty properties and the likely additional charge. Off the top of my head, I think that we saw that the total would rise on the council tax side. We will have to give an indication of what things would be like on that side, but not on the non-domestic rates side.

Gavin Brown: That would be helpful. I do not think that the financial memorandum includes a specific figure for that. It suggests that the cost to councils will be nil or minimal, so it would help the committee’s deliberations to find out what individual councils will have to pay.

Has Shetland Islands Council done similar work on commercial properties that it owns?

Anita Jamieson: Not that I am aware of. I am not sure of the extent to which the council owns commercial properties.

James Gray: We can look into it and provide the committee with our figures.

Gavin Brown: That would be helpful. Thank you.

Angus Council’s written submission, which is very helpful, says:

"The Memorandum states that the Scottish Government do not expect councils to publicise any increases resulting from the proposals and that notification with the Council Tax annual bill would be acceptable."

The council appears to disagree with that. Will Ann Bain expand on that written answer?

Ann Bain: From a customer service point of view, it would be unacceptable to tell somebody when their bill hit the doormat that they were facing a 100 per cent increase in the council tax. I suspect that there would be a quite powerful reaction to that. We wrote to everybody in advance to warn them about our recent reduction
in the discount for second homes. People have to plan for financial commitments. We explained that the reduction was coming and gave people an opportunity to contact us to discuss the matter.

If a levy is added on to a bill of £1,000, the first instalment for people who pay by direct debit will be double. There are such issues. People would not react well to that approach, which would be totally unacceptable, especially if we are going to introduce penalties and obligations on people. A bill is not the place to explain that.

In the longer term, perhaps a press release would be needed and there would need to be changes in our internet information. We would write to everyone to explain that the council had decided to adopt a change, and we would perhaps have to give them the opportunity to tell us whether we had categorised their property correctly in advance. It is not acceptable not to tell people about such a significant change, which would bring obligations on them to tell us whether there was a change in the property’s status, for example. There could be financial penalties if they did not tell us about that change. All of that would have to be explained properly. It would not be acceptable to the general resident of Angus to get a significantly increased council tax bill out of the blue without any prior warning. We would get a lot of criticism for that. It would be worth investing in an information exercise perhaps two or three months prior to bills hitting the doormats.

Gavin Brown: So your view is that, in order to uphold the standards that your council has to uphold, there would be a cost element, which has not been captured.

Ann Bain: Yes. It would not be huge, given the number of properties that we are talking about, but time and effort would still be needed, and there would have to be changes to the process. Obviously, we would have the postage cost and the staff costs for producing the information and dealing with the inquiries that the mailshot would generate. It would be wrong simply to assume that a taxpayer would be happy to get a new bill with no explanation for their charge increasing by £1,000 or so.

Gavin Brown: Do other councils share Angus Council’s view? Would they have to have an information exercise or would they simply inform people when the bills arrived?

Brian Cook: I echo what Ann Bain has said. Because of the significant increase, there would be a much bigger thud when the bill hit the doorstep. I suspect that we would get similar representations and that there would be a groundswell of opinion if people’s council tax increased, for the sake of argument, from £1,000 to £2,000. The same is true on the non-domestic rates side. Businesses would find such an increase in their charges quite a significant surprise.

Gavin Brown: I put the same question to Shetland Islands Council.

Anita Jamieson: We echo what has been said; the situation would be the same here.

Gavin Brown: Again, my final question is for all three councils. As colleagues have touched on, there is broad agreement that empty properties—whether commercial properties or homes—can be a blight on the landscape and can be detrimental to a local community. From the evidence that you have seen and from your knowledge of your areas, do you think that the bill, as drafted, will have the effect of bringing more empty commercial properties and empty homes back on to the market?

Ann Bain: It is very difficult to be certain. As I have said, how our taxpayers react to the change in the discount will help to inform that. The penalty of an additional levy will definitely incentivise some people because, financially, it makes sense to avoid it.

However, I am not convinced that the bill will have as significant an impact as some would hope. The situation may vary from council to council—it will depend on the composition of the empty property. We need to do more research on the issue in Angus. If a significant number of empty properties need to be refurbished or repaired to bring them up to standard and the owners do not have the funds, imposing an extra cost will not necessarily produce the desired outcome. In the absence of financial support for such people, the bill may make it more difficult for them to spend money on bringing their property up to standard—in other words, it may have a perverse effect.

Up until now, we have not needed to understand the situation terribly well. I certainly want to put some resources into finding out why properties are empty and getting a clearer understanding of how long, on average, they remain empty for. Until we know all that, it will be difficult to estimate accurately the effect of the bill. There is no doubt that it will have some effect but, in some cases, it might be a perverse one, which would be undesirable.

Brian Cook: As has been said, a number of properties might be owned by investment companies, pension funds and so on. I am unconvinced that a penalty of an additional £1,000 would necessarily drive such owners to put their properties back on the market. The issue is probably more about the economic balance. If it would cost someone £30,000 or £50,000 to do up a commercial property, depending on its size, a
penalty of an extra £1,000 would not incentivise them to push that through in the next quarter or six months.

On the council tax side, the £1,000 penalty will be a more significant factor in deliberations for the smaller organisations—as opposed to pension funds and so on—that it is presumed own the vast majority of empty properties. It might push some of the homes back on to the market, when previously that was not so attractive. I am less convinced on the commercial property side.

Gavin Brown: Does Shetland Islands Council have any additional comments to make in response to that question?

Anita Jamieson: On the domestic property side, we are looking at very small numbers locally. I am not convinced that the bill will return more properties to use.

Michael McMahon: Earlier, Mr Cook suggested that there were not many holiday homes in North Lanarkshire. Given that, in North Lanarkshire, every day is a holiday, and every home is a holiday home, I was surprised by that comment, but maybe I am biased because I live in and represent the area.

More seriously, in the evidence that we have been given, questions arise about local authorities’ knowledge of the number of commercial properties in their area and the impact on non-domestic rates. We have previously heard estimates of the number of public buildings that might fall under the bill, but it has been suggested that there might be disparities in that information. There seem to be a lot of holes in the knowledge base on which all of this is being calculated, yet the Scottish Government believes that it will save about £18 million a year.

North Lanarkshire’s submission states:

“The Financial Memorandum appears to include a reasonable estimation of the range of cost and savings which are likely to be incurred.”

However, given the lack of knowledge that has come out in the evidence and the fact that all these questions have been raised about the efficacy of the bill and about how many properties exist, how many will be affected and how many will come back on to the market, you cannot really say that the £18 million estimate is an accurate figure; it looks more like a stab in the dark. Would any of you like to comment on that?

Brian Cook: On the quantification of our current empty properties, both for council tax and for rates, we have been able to give a reasonable figure: in respect of council tax, there are 400 properties.

To touch on a point that was made earlier, I am not convinced that we will raise revenue of, say, £1,000 per property on the back of that. That is because not only will the bill incentivise businesses or individuals to bring the properties back into play, but there will be a greater incentive for avoidance, so the property will not end up being billed for an additional £1,000, because it will become more attractive for individuals to say that somebody is living in it, or that it is a second home or something else. Therefore, the expectation that I will not realise the expected income from the bill is not an unreasonable one.

The £18 million referred to in the financial memorandum is the net benefit to the Scottish Government’s purse if those businesses come back into play and there is reduced need to provide the grant support and so on. Based on the assumptions that have been made in the financial memorandum, that does not look unreasonable, but I am not convinced that, in the case of the 400 empty properties in my area, all 400 will either come back into play for the community’s use or end up being identified as being subject to a levy of 100 per cent.

Michael McMahon: You are saying that the £18 million is a best-case scenario; it is not an unreasonable estimate on a best-case scenario, but you do not believe that that scenario is likely to be achieved.

Brian Cook: I do not think that we will raise as much money as we anticipate. I think that fewer properties will be identified than the current quantification suggests. I have no doubt that currently, for argument’s sake, there are 400 empty properties, but I do not think that all 400 will be classified as requiring the additional levy of, for argument’s sake, £1,000 per annum.

Michael McMahon: Does Ms Bain concur?

Ann Bain: I think that the estimates have been compiled on the best information available at the time, given all the uncertainties that are expressed in the financial memorandum. My biggest concern is probably how the other reliefs interact with the levy and whether that will mean that there is much less additional revenue.

The estimates have been compiled on the data that is currently available, but there is a lot of uncertainty about some of the figures. I suspect that we will not collect the additional revenue that is outlined in the best-case scenario. In particular, in the case of council tax, it is assumed that over time the revenue will be maintained. Perversely, if the additional levy has the desired effect, the revenue will drop over time because, for example, properties will no longer be empty. We do not have any information about the average duration for which properties are empty and how quickly
the levy will bring them back into use. We need to do an awful lot more analysis of all our empty properties—whether rates or council tax would be paid—to get a good understanding of what is likely to happen.

We do not have that information, but the financial memorandum does its best with the information that is available. That is perhaps why not a lot of people criticised it. We probably cannot come up with anything better, but I still have my doubts about the estimates.

**Michael McMahon:** Does Shetland Islands Council have a view?

**Anita Jamieson:** We do not have anything to add to what has been said.

**The Convener:** I thank witnesses for their evidence and colleagues for their questions.

**11:15**

*Meeting suspended.*

**11:24**

*On resuming—*

**The Convener:** We continue the committee’s scrutiny of the Local Government Finance (Unoccupied Properties etc) (Scotland) Bill, and I welcome to the meeting members of the bill team: Stuart Law, Marianne Cook, Jamie Hamilton and Sam Baker, all of whom are from the Scottish Government. I invite one of the team to kick off with a short opening statement.

**Sam Baker (Scottish Government):** Thank you for this opportunity to give evidence. I will provide a brief overview of the bill proposals—I know that some of the points have already been discussed—as well as an overview of the Government’s approach to considering the bill’s associated costs.

As has already been mentioned, the bill covers two topics: first, changes to local taxation charges for empty properties through business rates and the council tax; and, secondly, the proposed abolition from April 2013 of the Scottish Government’s requirement to pay the housing support grant.

In relation to the empty property provisions, the bill will, first of all, enable the Scottish Government to introduce regulations to alter, for empty commercial properties, the level of empty property relief discount through business rates, from April 2013. At the moment, such properties receive a 50 per cent discount through empty property relief after an initial three-month exemption period. The Scottish Government proposes to introduce regulations that would reduce the discount to 10 per cent. No changes are proposed for empty industrial or listed commercial properties. The Scottish Government feels that the change is needed both as an incentive to bring empty commercial properties back into economic use and to raise additional revenue.

Secondly, the bill will enable the Scottish Government to introduce regulations to allow for increases in council tax charges for certain long-term empty homes, in respect of which councils must currently offer a minimum discount of 10 per cent. Those regulations are expected to give local authorities the flexibility to impose, if they wish, a council tax increase of up to 100 per cent on a long-term empty home after it has been empty for at least one year.

The provision is first and foremost an additional tool for councils to encourage more owners to bring their empty homes back into use. The Scottish Government is committed to tackling the issue in order to make more homes available for rent or sale and to meet housing need. As has already been pointed out, empty homes that are not maintained by their owners can become a blight in communities. Although the additional revenue that might be raised by increasing council tax charges will no doubt be an important consideration for councils in deciding whether to impose such an increase, the Scottish Government wants to discourage among councils the view that this is just a revenue-raising measure.

Thirdly, the provisions to abolish the housing support grant are aimed at avoiding the prospect of having to use the Scottish Government’s budget to fund the interest charges on councils’ housing debts. Although the grant was needed in the past to help some councils to meet their housing debt costs, the introduction of the prudential borrowing regime means that councils should now borrow money for housing or other projects only if they can demonstrate that they can afford to repay that borrowing. As a result, the grant should no longer be needed. As we have heard, only Shetland Islands Council claims housing support grant, but as one would expect under the prudential borrowing framework, its reliance on the grant has been decreasing for several years now.

As the financial memorandum makes clear, there are costs associated with each of the bill’s proposals. In preparing the memorandum, the Scottish Government tried to provide as much information as possible on likely costs to businesses, councils and individuals, as well as on the revenue that could be raised. However, we recognise that there are margins of uncertainty in each of the proposals.

For example, with regard to the proposals on council tax increases for long-term empty homes,
the potential costs to homeowners—and, in turn, the potential revenue for councils—will depend heavily on whether councils choose to use the new powers and, if so, the extent to which they do so. As most councils do not yet have a firm position on that, we have based our modelling on potential revenue if all councils choose to apply the maximum increase. However, we realise that that will not happen in practice. The modelling is also based on the Scottish Government’s proposed regulations on council tax charges on long-term empty homes; however, as those regulations are still subject to consultation, elements of them might change, which might well have an impact on revenue and costs.

We are happy to answer any questions. My colleague Marianne Cook will answer questions on empty property relief; Jamie Hamilton will take questions on housing support grant; and Stuart Law and I will take questions on the council tax provisions.

11:30

The Convener: Thank you for that helpful opening statement. We have heard conflicting evidence about why properties are empty. What research has the bill team, or the Scottish Government more widely, done into why properties are empty?

Sam Baker: Do you mean empty homes or commercial property?

The Convener: In relation to commercial properties, we have discussed whether there has been speculation at least historically, if not so much at present. We have also considered why people do not let their houses. The bill will impact severely on some people, so it is important that we have a grasp of why domestic and commercial properties are empty in the first place.

Sam Baker: I can answer in relation to long-term empty homes. As has been mentioned, there are a number of reasons why homes are empty. In some cases, it is deliberate, but in other cases people would like to bring them back into use but are struggling to let or sell the property, or might not have the means to bring it up to standard. The work that we are doing with Shelter Scotland through the Scottish empty homes partnership involves supporting local authorities to work with owners to encourage them to bring their homes back into use. A big part of that work has been in encouraging councils to survey empty home owners to find out why the homes are empty and whether owners are willing to engage with the council to try to bring their property back into use.

For councils that have done or are doing surveys, they have been useful and have helped them to consider the best course of action. They will be useful in helping councils to decide whether a council tax increase or something else is most appropriate for their area.

The Convener: You talked about properties that are deliberately left empty, but what about all those that are not deliberately left empty, but are empty because the market is struggling no matter which geographic area we are talking about? Will the bill penalise people who are desperately trying to get their properties on the market? I have constituents who have had houses on sale for two or three years but have had not even a sniff of interest. There is nothing wrong with their properties; it is just that the market in the area is as dead as a doornail.

There is a suggestion that council tax on such properties could be doubled; an average of an additional £982.07 a year in council tax could be imposed. Surely that would be horrendous for people who might be in a difficult position that they are trying to get out of.

In the evidence that we have taken so far, we have heard about unintended consequences. One unintended consequence might be that, to get rid of the burden, people could be forced to sell their houses at a lower price, thus depressing the market even further.

Stuart Law (Scottish Government): We have a provision in the guidelines that looks to introduce an exemption for owners who are attempting to bring their properties back into use through sale at a realistic price. It will largely be at the discretion of local authorities to apply that exemption. As things stand, people get a six-month exemption from council tax as a property becomes empty and then get six months at a discount. In theory, the levy will kick in after the property has been empty for one year. We are proposing a one-year exemption for owners to try to bring the property back into use.

The Convener: I see that in the policy memorandum, but you have not answered my question about what proportion of properties—commercial or domestic—you believe to be deliberately left empty, as opposed to belonging to people who just cannot get tenants, for example. That is why I asked about research on that. There are clearly differences between rural and urban areas and among local authorities. What do you believe the share to be?

Sam Baker: We do not know. Marianne Cook might say something about commercial property, but we do not have any figures for the proportion of people who are deliberately leaving their properties empty. Unfortunately, for data protection reasons, we do not have access to council tax data on individual owners or the addresses of empty properties, so we rely on
councils to work on engaging directly with owners and writing to them to find out why properties are empty.

It is probably fair to say that there will be a mixture in most areas, but we would encourage local authorities that are thinking of imposing a council tax increase to examine why properties are empty—we encourage them to do that anyway as part of their local housing strategy process—in order to help them to determine whether a council tax increase would be appropriate or fair in the area, and whether it would achieve the desired outcome of bringing more empty homes back into use.

The Convener: The bill was introduced to deal with a problem, but you do not know the extent of the problem.

Sam Baker: We know how many homes are empty. We have always said that the proposed measure is but one tool to deal with that problem; it is not supposed to be the only answer to the problem of empty homes. We do not want to be prescriptive about what local authorities do because empty homes are not a big problem in some areas, whereas they are in others. We would encourage local authorities that want to impose a council tax increase to work with empty home owners to offer them support and guidance.

Shelter Scotland has provided guidance for owners on how to sell their property if it is not in a good state of repair and they cannot afford to bring it up to the repairing standards. If an owner wants to let their property, there might be options through the council’s private sector leasing scheme to make the property available for rent even if they do not want to be a landlord or actively to manage the property.

The Convener: My colleagues will interrogate that issue further, but just before I let them in, I want to ask something different. A number of witnesses have mentioned the assumption in paragraph 32 of the financial memorandum, and you touched on the point in your opening statement. The paragraph states:

“If all local authorities were to charge a maximum 100% increase for all LTE homes liable for council tax, a maximum of £33.9 million per year could be collected (assuming a 100% collection rate).”

You said that that will not happen in practice, and no one thinks that it will, so why has that assumption been based on something that no one believes will happen? Surely the financial memorandum should contain a more realistic assessment.

Stuart Law: We accept that the £33.9 million is highly theoretical; it is essentially a baseline figure that came from our modelling, which allowed us to accurately determine what would be the maximum theoretical value through the number of long-term empty properties and the council tax rates. Obviously that £33.9 million has been widely trialled in the lead-up to consultation on the legislation.

While we developed the financial memorandum, we worked with local authorities and others to build in some of the unknowns, if you like, or the variables that will determine the true collection rate. Our original proposal was to start collecting revenue after a property has been empty for six months, but based on the consultation responses of local authorities and others, we changed that to one year. That removed, at a stroke, our ability to charge for about 30 per cent of the 25,000 empty properties, which would essentially have a six-month discount. Other variables include the number of properties that will be brought back into use over the life of the legislation, and the number of properties that will qualify for mandatory exemption.

The £33.9 million also includes the revenue that councils are already collecting through reduced council tax discount. When it is reduced below 50 per cent, it works out at about £7 million, which is why—as we are working through the financial memorandum—we are getting down to what we think is a more realistic figure of about £16 million. We fully accept that that £33.9 million is highly theoretical.

The Convener: I have one more point before I open up questioning to members. Glasgow City Council and many other local authorities have raised concerns about the cost that local authorities will have to bear because of the proposed changes to non-domestic rates empty property relief. Glasgow City Council thinks that the changes could cost it between £0.5 million and £1 million per annum. Many such properties are local authority properties—there are more than 1,000 in my area, which is North Ayrshire. Local authorities must not only meet the costs of collection but pay the increased rates on their own empty properties. What allowances have been made in relation to the impact of the changes on local authority budgets?

Marianne Cook (Scottish Government): In relation to non-domestic rates relief, in response to a recent parliamentary question, we estimated the overall number of properties in the local authority estate that will be affected. We think that local authorities own about 2,000 properties that are currently empty. Some of those will not be affected by the reform—for example, because they are listed or industrial buildings, or because they have no rateable value or are in the three-month period of 100 per cent standard relief.

The Convener: Was Glasgow City Council wrong to suggest that the changes could cost it
between £0.5 million and £1 million per annum? What estimate do you have for Glasgow?

Marianne Cook: I do not have an estimate that is broken down by council area. The figure depends on whether the council included properties in its direct estate and on whether it has a lot of trusts and housing associations that have non-domestic properties. Without seeing the breakdown by property, I find it hard to comment.

Elaine Murray: The policy intention to bring empty properties into use, whether as commercial premises or as dwellings, is laudable. The questions are whether the bill is the appropriate vehicle to achieve that aim and whether the financial memorandum is too optimistic and simplistic in its assessment of the tax returns and the costs.

Similar provisions came into effect in England and Wales in 2008 and initially appeared to be successful, because the cost of the relief scheme halved in 2008-09. However, in the following year the cost bounced back up by 86 per cent. The approach does not seem to have been particularly successful and the number of empty properties has risen by 2 per cent, which might be to do with the recession. The Welsh Assembly Government has decided to review the policy; the review will report this month.

What evidence is there that the bill is the appropriate way to achieve the aim at this time? Why has the bill been introduced in Scotland, when the approach appears to have been singularly unsuccessful in other parts of the United Kingdom?

Marianne Cook: Are you asking about the provisions on business rates?

Elaine Murray: I was asking about both systems, but most of the evidence seems to be around business rates.

Marianne Cook: In England there is no control situation, so it is hard to ascertain the impact of the downturn and factors such as the lack of lending by banks and changing consumer habits, which will have had an impact on the number of empty properties. Currently in Scotland, there are no incentives to encourage people to get commercial properties back into use, so the bill is an attempt to provide such incentives as well as to raise revenue.

Elaine Murray: That does not appear to have worked elsewhere.

Marianne Cook: There is no control situation elsewhere, so it is difficult to say. Without the changes, the position in England might have been worse, given the recession and issues to do with access to funding for business.

Elaine Murray: Ann Bain, from Angus Council, talked earlier about the problem of locating owners of properties who are not based in Scotland. Some properties are owned by investment funds, for example, which might not be based in the UK. In my constituency, we have been trying to locate the owners of a property for many years. We know who they are but we do not know where they live. How do we overcome that problem? If we cannot chase owners and find the people who are responsible for paying, we will not be able to raise the revenue.

Sam Baker: We appreciate that that can be a problem in certain circumstances. The Scottish empty homes partnership, which Shelter manages, has prepared guidance for councils on locating owners of empty homes, which I presume would also help in relation to empty commercial property. Empty properties are currently liable for council tax, so councils should be trying to trace the owners, which means that in most cases councils will not be trying to find new people. Of course, if they cannot find the owners and secure payment, revenue will be lost.

Marianne Cook: It is slightly less of a problem with business rates. The collection rates are quite high, which indicates that there is not a huge problem. There will, inevitably, be some properties for which there is no ownership but the valuation rolls provide a hierarchy that allows councils to apply the liability through the business rates system.

11:45

Elaine Murray: Ann Bain and witnesses from whom we heard last week also suggested that the interplay with the small business rates relief had not been taken into account in the financial memorandum.

Marianne Cook: We took that into account in deriving the £18 million figure because we appreciate that some properties will switch to another form of relief. Although the small business bonus scheme is the primary relief that would be affected, properties could switch to another of the reliefs that we offer.

Elaine Murray: I think that the witnesses were trying to make the point that a property could be empty but the owner could pretend that there was somebody in it because the rateable value would be small enough that it would qualify.

Marianne Cook: To apply for relief for a property that was not entitled to it would be fraud. We would expect a council to take appropriate action on that.

Elaine Murray: Another issue that was raised with us was that the owners of many empty
properties find that the cost of bringing them up to the standard for letting is a problem. You said that you would work with owners, but it is not necessarily about that, but about a cost that makes it difficult for some of them to bring the properties up to a standard that allows them to rent them out for domestic or commercial purposes. Do you have any proposals for facilitating the financial situation that would allow such properties to be brought into use?

Sam Baker: Yes. We have proposals in relation to empty homes rather than commercial properties. The Scottish empty homes partnership has been working on the issue. The Scottish Government has also encouraged local authorities to work with owners on it and, where appropriate, to offer, for example, loan schemes to enable owners to bring their properties back up to standard.

I appreciate that resources are tight for local authorities, but they could use some of the revenue that they would raise from any council tax increase to fund such loan schemes, which could be helpful. Other resources, such as the private sector housing grant, have been used in the past to provide grants or loans to owners.

In addition to that, the Scottish Government recently announced an additional £2 million fund for empty homes loan schemes, which will be introduced later this year. That money is over and above the innovation fund that we ran last year, which supported a number of empty homes projects.

Opportunities exist. They may not be appropriate in all circumstances, and it would be for the owner to decide what was feasible. In some cases, if significant works are required and the owner does not have the resources, selling the home may be their best option. Shelter Scotland and councils can advise them on how to do that. I appreciate that, in the current market, it is difficult to do that and owners may not achieve the kind of price that they would like, but options exist—through auctions, for example—if an owner needs to sell their home.

The Convener: On the impact of the recession, in research that the Royal Institution of Chartered Surveyors and Lambert Smith Hampton undertook following the reforms in England, “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”—speculative developments being, for example, business centres, about which we took evidence last week. What comments do you have on that evidence? It seems to be pretty conclusive to me.

Marianne Cook: It is hard to separate that from what was going on at the time. The global recession means that it is hard for smaller firms to get access to funding through banks and there is no control situation. However, we looked at what happened in England when we devised our policy, which is why we protected industrial property, which was not done in England. The evidence indicated that a lot of the demolition was in the industrial sector. Such properties often have quite limited uses, perhaps because of planning constraints.

The Convener: Given those comments and the fact that we are still in recession—or in a second recession—it is hard to work up enthusiasm for the bill or to conclude that it is the right time to introduce such measures.

Marianne Cook: The policy has two purposes, which are to introduce a new incentive that encourages properties back into commercial use in empty high streets with a lot of empty shops and to raise revenue.

John Mason: I will follow up that point. It was said that the vacancy rate down south went from 3 per cent to 14 per cent, but I guess that, in the face of a lack of evidence, you would argue that that rate could have been 20 or 25 per cent without the measure, so perhaps the effect has been positive. To be frank, we do not know.

Marianne Cook: Yes—it is hard to say because there is no control situation.

John Mason: Shetland Islands Council argued that about 40 per cent of its income would end up being used for debt payments and I know that the rate in Glasgow used to be 50 per cent. That seems to be quite a challenge for Shetland, given that the rest of the money must pay for repairs and so on. Is the argument that that council’s reserves are so fabulous that it can deal with that itself?

Jamie Hamilton (Scottish Government): The 40 per cent is moveable, because it depends on the level of costs and rents in the housing revenue account. To get the 40 per cent down, rents can go up a bit, costs can come down a bit or a bit of both can be done. The figure is in no way fixed.

The debt burden and the grant are falling from year to year. We have been in discussions with Shetland Islands Council for many years to ease the situation. It is getting better every year,
although whether it is getting better quickly enough is questionable.

As John Mason said, the figure was in the region of 50 per cent in Glasgow, which is certainly not a particularly good situation to be in. Other councils and some registered social landlords are in similar positions. I will stop there.

**John Mason:** That is fair enough. Another point that Shetland Islands Council made was about transitional arrangements. Is there flexibility to smooth out the position over the next few years?

**Jamie Hamilton:** Shetland Islands Council has presented quite a range of options to us, which we are still considering with ministers. Some of the options are more expensive than others. We have not reached a conclusion, but it should not be long before we do, after which we will return to the council to discuss the situation.

**John Mason:** In its submission, the Convention of Scottish Local Authorities re-emphasised the idea that local authorities should have flexibility across the board—in relation to council tax and non-domestic rates—because it feels that the bill and the financial memorandum are a bit unclear. I was certainly a bit uneasy about some of the wording in the financial memorandum. Paragraph 35 says:

“The regulations may provide that, effectively, local authorities set the level of discount ... However, the Scottish Ministers will be able to set a maximum discount or maximum increase”.

Is the position at the moment that we do not know how specific ministers will be and therefore how much flexibility councils will have?

**Sam Baker:** No. We set out in the financial memorandum what the bill allows for in relation to council tax. The bill will amend the Local Government in Scotland Act 2003, which allows ministers to make regulations to set a council tax discount rate or to give local authorities discretion. The regulations that have been in place since 2005 allow local authorities discretion over rates for long-term empty homes and second homes.

We wanted to be clear in the financial memorandum about what the regulations would technically allow the Scottish Government to do, but ministers’ intention is to give local authorities discretion over whether to implement an increase.

**Marianne Cook:** I clarify that councils will have no flexibility on business rates. Empty property business rate relief is a national scheme that is uniform across Scotland and is funded from the Scottish Government budget. Councils will have no flexibility to choose to award relief; the national policy will simply be followed.

**John Mason:** That is helpful. Thank you.

The financial memorandum also mentions that the Scottish Government has fewer than 12 properties that would be empty. However, witnesses have suggested that if the properties of organisations such as Scottish Enterprise were included, the number would be a lot more than that. Is that the case?

**Marianne Cook:** Yes. It depends on who has the liability. Scottish ministers have direct liability for the dozen or so properties within the core Scottish Government estate. We did not include agencies, non-departmental public bodies and so on, but they may have empty properties as well.

**John Mason:** They would have to meet the costs of any extra charges.

**Marianne Cook:** Yes, or bring the properties back into use.

**John Mason:** In its written submission, Glasgow City Council talks about hard-to-let areas where it is desperately trying to let commercial properties, some of which are in my constituency. It has done work to make the shops more attractive by painting them and that kind of thing, but it has still struggled to let them. Is this not going to be just another burden on councils such as Glasgow City Council and North Lanarkshire Council, which are trying to let properties?

**Marianne Cook:** It will increase their overheads and their rates burden, but they can do other things such as lower the rents. The small business bonus scheme also acts as an incentive for tenants. If a council can get a tenant in within the thresholds of the scheme, that is another selling point for that property.

**John Mason:** Another argument that has been put by some of the councils and by the property witnesses from whom we heard last week is that developers will be less likely to speculate because they could be left with empty offices that they have to pay rates on and that, at the other end, grey area properties might be demolished more quickly in order to avoid the extra rates.

**Marianne Cook:** We will monitor the level of vacancy rates across Scotland and will report on those as appropriate, looking to see where the properties are being demolished. The bill gives us the power, which we do not have at the moment, to vary the relief through regulations.

**John Mason:** I am not saying that I agree with the witnesses from whom we heard last week, but they argued that the bill would have quite a big impact immediately. The building of speculative property down south stopped for a while. Perhaps that was linked to the recession, but the witnesses said that introducing the legislation down south had made quite an impact. You are not worried about that.
Marianne Cook: We do not have any solid evidence for what the main factor was in any reduction in development—whether it was the recession, the global downturn or whatever.

John Mason: Okay. Thanks very much.

Michael McMahon: In your earlier comments, you said that local authorities could offer an exemption to owners if they were seen to be trying to sell their property at a reasonable price. Although I understand that it is the responsibility of a local authority to look at supply and demand in different tenures and, as the strategic authority, to try to ensure that the demand for the different tenures is met in the local circumstances, is it really the local authority’s responsibility to try to skew the market? Who determines what is a reasonable price? If someone’s property is empty because they have set the price too high, is it really the local authority’s responsibility to enter into discussions about the prices for which houses should be sold in any given circumstance?

Stuart Law: We were trying to ensure that, if a purchaser came along and wanted to buy a property, the owner would sell it. We included the bit about ensuring that a reasonable price has been set for the property to ensure that properties are not being marketed at an unrealistic level—at, say, double their value—meaning that no one will buy them. At the moment, every property that is sold in Scotland has a home information pack that includes a valuation of the property by a surveyor and it is relatively simple to determine a property’s value. We wanted to ensure that the exemption was not open to misuse.

Michael McMahon: If a property developer is trying to sell a property and sets a price that they think will ensure them a return, what business is it of the Scottish Government or local government to determine whether the developer is selling the property at a price that entitles them to an empty-property exemption from council tax?

Sam Baker: As with many of the exemptions that are already available for council tax, there could be different interpretations among councils. It would be up to each council to decide whether it would require evidence—such as seeing the home report or evidence that the property was being marketed for sale—or how much checking up it would do before it offered a time-limited exemption for a property. It is not the responsibility of the local authority to say whether the price is reasonable, but it would be able to check the home report valuation, for example, which is an independent valuation. If the property is being marketed for more than that valuation, the local authority might question whether a reasonable price was being expected.

12:00

Michael McMahon: Has the cost of local authorities becoming estate agents been taken into account?

Sam Baker: The estimates that councils gave us included considering whether people were entitled to an exemption. We need to do more work with councils on developing the regulations and preparing for how they will work in practice.

Stuart Law: One of the concerns raised by local authority colleagues in the consultation was that they would not want that exemption to be misconstrued. That was one of the theories that was put to us as a potential solution.

Gavin Brown: All my questions relate to non-domestic rates for commercial properties. The Welsh Government published a business rates policy review summary of responses in March. Is the bill team familiar with that document?

Marianne Cook: No, but I am aware of it. Is that the Professor Morgan review group, which is reviewing wider business rates in Wales?

Gavin Brown: It is on official Welsh Government paper. It does not say whether it is Professor Morgan.

Marianne Cook: If it is an independent review group that was recently appointed—

Gavin Brown: It is Welsh Government document number WG15166, dated March 2012. Are you familiar with it?

Marianne Cook: I have met the Welsh review group, if we are talking about the outcome of the group’s deliberations. I have not seen the report to which you are referring, though.

Gavin Brown: I will not pursue the report in that case, other than to say that the first subject tackled is empty property rates, and the key point on page 2 of the report is:

"Empty Property Rates ... in its current form is unpopular and is perceived as a barrier to growth".

That seemed to be the key finding in the summary of responses.

Marianne Cook: I will review the document.

Gavin Brown: I understand that there was a consultation in relation to the council tax and housing support grant changes but there was no consultation in relation to empty property rates relief. Is that correct?

Marianne Cook: There was no separate consultation but it was announced as part of the spending review by Mr Swinney on 21 September, and there was a consultation on that.
Gavin Brown: There was a consultation on that.

Marianne Cook: The draft budget is a consultation, and we received a number of submissions relating to the empty property provisions that were announced in that paper.

Gavin Brown: I had a look at the policy memorandum, which gave a helpful link to the spending review document. Page 226 of the document says:

“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.”

Does the document say any more than that?

Marianne Cook: No, but in subsequent correspondence we gave out more detail of the level of reform that we were considering.

Gavin Brown: There was no formal consultation on that specific part of the bill.

Marianne Cook: There was no separate consultation other than on what was in the draft budget.

Gavin Brown: Why has there not been a business and regulatory impact assessment?

Marianne Cook: Because it would have been disproportionate to do one because of the level of savings that we were looking at, which was about £18 million. Overall, business rates are paid by about 200,000 properties. There is a tax base of £6.7 billion; business rates generate about £2.3 billion a year, so savings of £18 million are relatively small.

Gavin Brown: Would you be surprised if there were regulations that did have business and regulatory impact assessments, where the sums were far smaller than £18 million?

Marianne Cook: It is to do with the proportional impact of the £18 million in the wider context. We are forecasting the overall relief to cost £757 million across the five-yearly revaluation cycle. It is about the proportion.

Gavin Brown: How many empty commercial properties do we have?

Marianne Cook: Around 20,000, but a lot of those will not be affected by the reform that we are proposing.

Gavin Brown: Just for clarity, the projected cost on business is £18 million and there are around 20,000 empty properties, not all of which will be affected, but in the Scottish Government’s view it would be disproportionate to carry out an impact assessment on the measure.

Marianne Cook: Yes, if you consider the £18 million in the overall scheme of things.

Gavin Brown: Let us talk about the £18 million. I have read the financial memorandum. It reminded me of a maths puzzle, the answer to which is given as £18 million, but there is no demonstration of how that figure is reached—the workings are missing. Therefore, I found it difficult to establish how accurate an estimate it is and whether it is a stab in the dark or is completely on the money. Will you talk us through how the £18 million breaks down and how you arrived at it?

Marianne Cook: The committee has had conflicting evidence. The councils have just told you that they thought that we would get a lot less money, whereas last week the Scottish Property Federation told you that it thought that we would get a lot more.

I am happy to provide a breakdown of how we got that figure. As well as the information from councils that we have on every empty property in Scotland and the amount of relief that is provided, we have information from the valuation rolls, which are publicly available. They list every vacant commercial property. I am happy to provide such a breakdown.

Gavin Brown: Why is that not in the financial memorandum?

Marianne Cook: We get regular data returns and we knew that we were due an updated set of data from the councils in the weeks immediately following the publication of the financial memorandum, so we decided to wait for that data just to make sure. We came back to exactly the same figure, but we wanted to reflect on the most up-to-date data.

Gavin Brown: Will that be published and given to the committee in advance of the publication of our report?

Marianne Cook: Yes, we are happy to give that to the committee.

Gavin Brown: I am sorry—convener, when is our report due to be published?

The Convener: It will come to the committee on 16 May.

Gavin Brown: Can we get that information in full before then, so that we can consider it properly?

Marianne Cook: Of course.

Gavin Brown: In arriving at the figure of £18 million, how much was taken away for businesses that will switch to the small business bonus relief?
Marianne Cook: I do not have that figure; we think that up to about 2,000 properties will move to the small business bonus scheme.

Gavin Brown: But you do not have the figure for what your assumption was.

Marianne Cook: I do not have in front of me the figure for the monetary value.

Gavin Brown: What assumptions did the Scottish Government make about premises that may become charity shops?

Marianne Cook: Do you mean premises that become occupied as charity shops?

Gavin Brown: Yes. That would mean that the owners would not have to pay the—

Marianne Cook: We did not do any estimates based on predictions of what properties may or may not be used for in the future. I do not think that we could predict how a property might be occupied and who the occupier might be.

Gavin Brown: What assumptions did you build into your calculations about the collection rate?

Marianne Cook: What do you mean?

Gavin Brown: Did you assume that you will collect 100 per cent of the money that is due? Did you make allowances for businesses that go into administration or for properties being demolished, for example? Is the £18 million figure based on the assumption that you will collect 100 per cent of the money or a lower proportion?

Marianne Cook: We did not make any predictions about how many properties might go into administration. Such predictions would be quite difficult to make. We took the amount that we would normally collect. The businesses in question are paying business rates already, at a lower rate. We just calculated the savings to the Scottish budget of increasing their rates bill.

Gavin Brown: You said that you took information from every local authority.

Marianne Cook: I said that we have information from every local authority.

Gavin Brown: Okay. Surely that means that you can tell us what the cost to councils of the measure will be.

Marianne Cook: That will depend on how the ratepayer is listed. Councils might list themselves as being the ratepayer, but councils such as Glasgow City Council have lots of trusts and subsidiaries, such as housing associations. The figure will depend on how a council is defined.

Gavin Brown: What will the cost on councils be if we take away any arm’s-length organisations and consider just those cases in which the council is listed on the valuation roll? Have you done that work?

Marianne Cook: We could do that where the council is directly listed as the ratepayer, but in many cases it is not—for example, the director of social work might be listed as the ratepayer. It depends on how we define what constitutes the council.

Gavin Brown: I am driving at whether you have done that work.

Marianne Cook: We have done an approximation of that—that is where the figure of 2,000 empty properties, which was given in response to a parliamentary question a few months ago, comes from. We tried to include all council departments and subsidiary bodies, where we could, but that is quite difficult, because councils do not necessarily list themselves as being the ratepayer. It is not as easy as just searching for Glasgow City Council, for example; it is necessary to look for all the other bodies that could be owned or part owned by the council.

Gavin Brown: But did you ask the individual councils that question?

Marianne Cook: We did not ask councils about that. We used the information that we already had.

Gavin Brown: You heard the convener talking about Glasgow City Council, which has predicted that the figure for it could be £1 million. I do not know whether that figure is correct, but if the figures of £18 million and £1 million are right—let us assume that they are—that means that Glasgow City Council is footing 5 per cent of the bill. If that is correct, what is the bill likely to be for the public sector at large, including Scottish Enterprise, the national health service and all the other councils?

Marianne Cook: Again, it depends on how we define the public sector. There are things such as Scottish Water with Business Stream, which is commercial. It is very much a matter of how we define what the public sector is and what the private sector is. There are many grey areas. If we had a definite definition, we could work that out, but as far as I am aware, that does not exist to split a property between uses.

Gavin Brown: Should that have been done in the financial memorandum?

Marianne Cook: Are you talking about the impact on the public sector?

Gavin Brown: Yes.

Marianne Cook: We know that there will be an impact on the public sector, and we acknowledge that in the financial memorandum.
Gavin Brown: But you have said that the cost to the Scottish Administration will be nil, in effect. You have also said that you have included only 12 properties that are centrally owned. Therefore, you have not taken into account anyone else in the public sector.

Marianne Cook: At the bottom of paragraph 23 of the financial memorandum we noted that there will be a cost to councils that have their own properties. We acknowledged that, but we did not cost it.

Gavin Brown: Yes, but I presume that the point of a financial memorandum is to cost things.

Marianne Cook: Because we cannot define what a council-owned property is, where the council has a third party and where it sublets is open to interpretation. Should such things be included? If we had a set definition of the council estate, we could do so, or we could go out to councils and commission information on that, but we would have to be quite clear about what we did and did not expect them to include in that analysis.

Gavin Brown: What will the cost be to the NHS?

Marianne Cook: I do not have the figures for that, but the NHS will have empty properties on its estate.

Gavin Brown: Okay. What will the cost be to Scottish Enterprise?

Marianne Cook: Again, I do not have the figures for that in front of me. However, they would be available from the valuation roll.

Gavin Brown: Have you seen any evidence that suggests that the bill will increase the number of empty commercial properties that are brought back into use?

Marianne Cook: At the moment, there are no incentives in the business rates system to bring empty commercial properties back into use. What has been proposed is the first incentive to do so that we have introduced.

Gavin Brown: Okay, but my question was whether the Scottish Government has seen any evidence that suggests that the bill will bring empty properties back into use.

Marianne Cook: Because no incentive to bring empty commercial properties back into use exists at the moment, we will monitor the impact of the policy. However, we cannot say that we have seen any evidence in Scotland on whether the incentive works, as it does not exist in Scotland.

Gavin Brown: There is no evidence in Scotland, but have you seen evidence from England or Wales that the bill will have a positive impact?

Marianne Cook: No, but we have not seen any evidence that isolates the impact of empty rates relief compared with the impact of all the other factors that will impact on the number of empty commercial properties either.

Gavin Brown: You have said that there is no control. However, you said earlier—if I heard you correctly—that you had examined what had happened in England and, on that basis, you are making an exception for industrial properties up here, as you were able to see the impact of the measure on industrial properties.

Marianne Cook: There was some suggestion that there were mainly demolitions of industrial properties.

Gavin Brown: Was there a control group for that?

Marianne Cook: No. It was just a matter of what we had seen in some of the documents that were referred to, such as the RICS report. We also looked not to have our reform go as far as with the reform. We are not going down to 0 per cent, which is currently in place in England. We are keeping the figure at 10 per cent for an indefinite period.

Gavin Brown: Finally, has anyone contacted the Government to say that they think that the idea is good, will help the economy and will work?

Marianne Cook: The Federation of Small Businesses welcomed this. I do not have exactly what it said in front of me, but it said that it welcomes anything to try to encourage high streets back into use. I am paraphrasing, but I can give the committee the exact quote if it wants it.

Gavin Brown: Just for clarity, did the FSB welcome the specific measure?

Marianne Cook: I am trying to find out whether I have the quote with me. I think that the FSB welcomed the reform of empty property relief. I refer to the press release from Andy Willox on 21 September. I am happy to provide the committee with the quote.

Gavin Brown: It would be helpful to see that quote. Thank you.

Michael McMahon: Ms Cook, you appeared very definite when you said that you knew how many empty properties there are, having spoken to local authorities. However, authorities that provided submissions to the committee could not tell us how many empty properties they have. They provided guesstimates or added heavy caveats to their figures. Shetland Islands Council said that it does not even know how many commercial properties it has, let alone how many are empty. You seem to be very definite about the
number of empty properties that you are talking about, whereas the authorities that provided evidence could not give us a definite answer, even though they own some of the properties.

12:15

Marianne Cook: I was quite surprised by that, because we get information from councils. Of course, properties go in and out of use all the time, so the information always applies to a point in time. We get returns from councils about every property that is in receipt of any kind of relief. That is how we produce our small business bonus statistics, for example. We have to get the information from councils that tells us who is getting the bonus, so that we can publish our annual statistics.

There are also the valuation rolls, which list the occupier of every non-domestic property in Scotland—there are 217,000. Our analysts use a combination of those two sources of information to produce all our statistics and income-estimate modelling on non-domestic rates.

The Convener: Angus Council said:

“No information is currently held on the reason for a dwelling being long term empty and an information gathering exercise would be required to identify potentially exempt properties.”

Even if we know the number of empty properties, we do not necessarily know how many need to be identified in the context of the bill.

When Gavin Brown asked about the impact on local authorities, you said that that will depend on the definition of the public sector. In a written answer to a parliamentary question, the Government said:

“Reform of empty property relief will save an estimated £18 million ... of which, the impact on councils is estimated to be less than 10 per cent of that total.”—[Official Report, Written Answers, 21 March 2012; S4W-06087.]

The Government must have had a clear idea of its definition, for it to be able to give such an answer.

Marianne Cook: We did the analysis on the basis of what we thought are council properties. We might have missed some, because councils can list various subsidiaries or bodies as the ratepayer. Where we knew that a property was a council property, we included it. However, in some cases a named individual who happens to be an employee of the council might have been listed as the ratepayer; we might have missed such cases.

Paul Wheelhouse: Ms Cook, I am sorry that you are not getting a rest at this point; I hope that this will be a less robust line of questioning than you have been dealing with.

I declare an interest. As I said last week, I am a former employee of the DTZ group. I should also declare that I am involved with the Eyemouth and district initiative group, which is a local regeneration initiative.

My questions relate to non-domestic rates in the context of non-market-led property investment and speculation. At last week’s meeting, we heard from the Business Centre Association that there has been growth in demand for co-working hubs, as they are dubbed, which are used by people who work in rural areas, for example, and perhaps do not have access to non-domestic properties in which to base their businesses. The approach enables people to share the group dynamic while being self-employed.

In rural areas, in particular, there might not be demonstrable demand to justify a private sector investor coming in to invest in that context, so we rely on the enterprise agencies, local authorities and perhaps others, such as third-sector organisations, to provide such facilities. Have you considered the implications for investments of that type? There might be a disincentive for organisations to invest in such facilities if they think that they will be hit with an increased rates bill. How might you tackle that?

Marianne Cook: Ministers are engaging with a range of property developers, including the Business Centre Association, which gave evidence to the committee last week. The BCA builds a lot of business incubator-type properties. Ministers have said that there is flexibility in the policy and have made an open offer to various sectors to suggest how the policy can be refined, provided that it achieves its objectives, which are to save £18 million and to encourage empty properties back into use. The work is on-going.

Paul Wheelhouse: I am aware that exemptions are proposed for listed properties, but might there be exemptions for other properties that are not listed for architectural reasons but which have totemic significance in a community? For example, a building that is at the heart of a town or village might need to be regenerated through targeted investment, and an exemption might ensure that it comes into productive use rather than being demolished. Is there scope for similar flexibility in that regard?

Marianne Cook: Ministers have made the offer and said that there is flexibility. The one point that I would make in relation to business rates is that we need to consider the state-aid rules, which come into play if we give someone an advantage that we do not give to someone else. That would need to be factored in to any exemption that we gave in future.

Paul Wheelhouse: That is helpful.
In evidence last week, both the Scottish Property Federation and the Business Centre Association mentioned the experience in Wales, where there is a three-year window for purely speculative development, whether it involves the conversion of a building from a previous use to a new one, or a greenfield or brownfield development from scratch. Within the three-year window, there is an exemption from the impact of empty property rates. Have you had any discussions about that? You mentioned that you met members in Wales to discuss their experience. If anything came from those discussions, it might help the committee to know about it.

Marianne Cook: I am aware that the Scottish Property Federation mentioned that when it gave evidence. I checked with the SPF, and it seems to have picked up something wrongly. I think that it read a press report. I cannot comment on what its source was, but as far as I am aware, there is no special provision in Wales for newly built properties to be exempt from the reform of business rates in Wales in 2008.

Paul Wheelhouse: Are you able to provide a definitive clarification of that?

Marianne Cook: Yes. I can check with officials in the Welsh Government.

Paul Wheelhouse: On the face of it, it seemed an attractive option, but if it does not apply in Wales, we will need to take that into account.

Marianne Cook: I will clarify that. Did the Scottish Property Federation give you a source when it gave evidence?

Paul Wheelhouse: I do not think that it did, but I might be wrong about that.

Marianne Cook: Was it in the SPF’s written evidence?

Paul Wheelhouse: It was in the oral evidence that it gave last week. It mentioned the three-year gap and said that it would expect the property to be 50 per cent occupied at the end of year 1, 75 per cent occupied at the end of year 2 and 90 per cent occupied by the end of year 3. It was in the context of that discussion about what would be a realistic period in which it could assume that there would be a high level of occupancy, after which the owner could bear the additional burden of empty property rates on the remaining 10 per cent.

Another thing that I touched on with the Scottish Property Federation was its assertions about the bill’s impact on investment decisions. I understand that we are going to ask it to come back to us on something that it committed to do, which was to provide an example investment appraisal to show the potential impact on yield, which is the key driver for private sector investors. You might not have analysed or modelled the impact of rates relief, but have you had any representations on the impact that the bill would have on investment yield for property investment?

Marianne Cook: Ministers and officials have met the Scottish Property Federation and we have agreed to continue engaging with it. If it is happy to provide that information to us, we will gladly consider it and the points that it makes.

Paul Wheelhouse: Thank you.

Mark McDonald: Earlier, we took evidence from Shetland Islands Council, which implied that it housing debt burden makes the withdrawal of housing support grant untenable without some form of transitional arrangement, although there was a question about whether it means in total. What evidence do you have about how Shetland’s housing debt burden compares with that of other local authorities in Scotland, particularly the smaller authorities? We were unable to get much from the council on that.

Jamie Hamilton: There are two ways of looking at that: you can examine either the overall debt burden as a percentage of its turnover or the amount of interest that it pays on its debt as a percentage of turnover. I do not have the complete lists with me, but there are certainly landlords with greater interest burdens than Shetland. I cannot remember Shetland’s ranking, but it is certainly not top of the league on that. However, we are happy to provide that information if you want it.

Mark McDonald: In light of the evidence that we heard earlier, that information would be helpful. After all, is it not the only authority to receive housing support grant?

Jamie Hamilton: It is. No other authority has received it since 2006.

Mark McDonald: Angus Council implied—and indeed the implication has been confirmed—that, instead of getting empty property relief, certain empty properties might receive money from the small business bonus scheme. How many properties have flipped in that way?

Marianne Cook: We think that about 2,000 properties might switch to the small business bonus scheme. Obviously, it will all depend on occupation. A property might be owned by an individual business and then get taken over by a chain. It is a moveable feast, but that is our best estimate. I am certainly happy to provide a breakdown.

Mark McDonald: Angus Council also implied that a number of empty properties are currently receiving money from the small business bonus scheme. Do you have any evidence of that?
Marianne Cook: As councils administer and police the rating system on the Scottish Government’s behalf, any business, no matter whether it was applying for empty property relief, rural rates relief, small business bonus or any of the other reliefs on offer, would have to apply to the council and provide evidence that it qualified.

Mark McDonald: But it is not possible to claim both.

Marianne Cook: Reliefs interact, which means that some properties can be eligible for two or three reliefs. For example, if a property is in the right area, it might get the small business bonus and a rural rates relief top-up.

Mark McDonald: You mentioned a global figure of £757 million for empty property relief.

Marianne Cook: That is over a five-year period. There is a business rates revaluation every five years and the £757 million is the figure for 2010-11 to 2014-15 under current estimates and before we introduce the reform.

Mark McDonald: How does that compare with the amount spent on the small business bonus scheme?

Marianne Cook: It is actually the most expensive relief that we offer. In the current financial year, the cost of empty property relief is £152 million, while the cost of the small business bonus scheme is £9 million less, at £143 million.

Mark McDonald: So, if we extrapolate, there will be a gap of £45 million or thereabouts between the two reliefs over the five-year period.

Marianne Cook: I have the figures in my folder, but I cannot lay my hands on them. However, I am happy to provide the five-year figures if you want to see them.

Mark McDonald: That would be fine. It would also give us a bit of perspective if you could provide some comparison with other forms of relief on offer.

You said that discussions with interested parties on alternative delivery mechanisms are under way. However, if the proposals go through as they stand, how will Scotland’s business rates package compare with that in the rest of the UK? At the end of the process, will we still have the competitive advantage that we have at the moment?

Marianne Cook: Yes. The reliefs will still be more generous. In England, for example, a standard empty shop or office receives 100 per cent empty property relief for three months and then nothing whereas in Scotland the same kind of property will receive 100 per cent relief for three months and 10 per cent thereafter for an indefinite period. Moreover, unlike in England, we are protecting industrial properties. Given that and the fact that Scotland’s small business bonus scheme is far more generous, we will still have the UK’s most competitive rates relief package.

12:30

Mark McDonald: My questions about some of the evidence that we have received from other interested parties have mostly been answered. Nevertheless, you said that there are discussions going on in the background with the likes of the Business Centre Association, the Scottish Property Federation and others who have expressed concern about what they perceive is being done differently. We have teased some of that out in our evidence taking, but do you have any idea when those discussions are likely to conclude or when they might lead to developments? I am sure that, if there is any likelihood of the committee’s report on the financial memorandum being overtaken by events, we will benefit from being kept updated on any such developments.

Marianne Cook: We are happy to do that. I point out, though, that the bill only provides enabling powers; the exact percentage of relief will be set out in the future regulations. We have said that the relief will be 10 per cent, but ministers have indicated that, given the questions that have been raised by external parties about the £18 million figure, they will be flexible over the reform if we raise significantly more than that. In other words, although we are pretty certain of the accuracy of the £18 million figure, ministers have said that the 10 per cent figure might change if, as the SPF believes, we raise more than that. We are also reviewing business rates later in the year, and other incentives to promote regeneration and so on could be introduced as part of that process. However, that process has not happened yet and I cannot predict its outcome.

The Convener: The committee appears to have exhausted its questions, but I have one or two more to ask.

A number of members have referred to Shetland Islands Council in light of the previous evidence session. What are its per capita reserves relative to those of other local authorities?

Jamie Hamilton: I have not done the calculation, but I think that they are high. I am sure that we can quite readily provide that information.

The Convener: We would appreciate that.

What assumptions have you made on the number of empty properties that will be brought back into use following the introduction of this legislation?

Marianne Cook: We have not made any predictions in that respect. I am happy to give the
committee a breakdown of how many will be affected, but we will have to monitor the number that come back into use. That will take time. After we reform the relief in 2013, there will be a period in which the incentive—we hope—might start to work and encourage properties back into use.

The Convener: I am surprised that the financial memorandum did not estimate the number of empty properties that will be brought back into use. That is, after all, a fundamental aim of the bill. Given that the memorandum contains assumptions on a whole host of other areas, I find the lack of an estimate of the positive impact of this move—if, indeed, it is positive—in one, two or five years to be something of a weakness in it.

Marianne Cook: We hope that the move will bring properties back into use. As I have said, there is no control situation in England, but other factors such as regeneration strategies and the small business bonus scheme might offer incentives and encourage properties back into use. It is hard to look at the matter in isolation, but we will certainly be monitoring the number of vacancies in Scotland.

The Convener: I have many hopes and fears, but my feeling is that the word “hope” should really not be used in connection with a financial memorandum. Surely it should be based on something a wee bit more robust than that. I see my colleagues nodding, so there appears to be some sympathy with that view. I know that you do not have the evidence, but surely you should have something more than this. As it is drafted, this financial memorandum seems to me to be just a shot in the dark.

Marianne Cook: We have always been clear that this measure is about raising revenue and introducing an incentive. We will monitor whether that incentive works.

The Convener: I will let Michael McMahon have the last word.

Michael McMahon: I have a very brief question. Even if you do not have a baseline to work from, there must be evidence from previous periods of growth showing that a certain number of empty properties came back on to the market purely because of growth in the economy. Will that be factored in? After all, properties might come back on to the market just because of an upturn in the economy, and it might have zero to do with your incentives. Surely you will have to allow for that figure.

Marianne Cook: I can see whether we have any data from previous years, but I am not sure that we do. The information that we have received from councils on properties receiving relief is relatively recent—I think that we got it only two or two and a half years ago—and I do not know whether our analysts have any data at that level of detail going back over a set period.

Michael McMahon: If, say, 10 per cent of properties come back on to the market, you will be able to put it all down to this incentive and zero down to the upturn in the economy.

Marianne Cook: I assume that our economists might be able to allow for that. As I am not an economist, I cannot answer your question about all the other factors that might come into play.

Michael McMahon: So we will never know.

The Convener: I said that I was going to give Michael McMahon the last word, but I am not going to.

The world is a big place. You have said that there is no evidence from England, but is there any evidence from Lithuania, Sweden, Argentina or wherever that suggests whether the policy might be effective?

Marianne Cook: I am not aware of any other international evidence. Obviously, different countries have different types of property tax, but I am not aware of any that have had exactly the same baseline that we have had and have made exactly the same change that we are making.

The Convener: Not exactly, of course, but what about evidence on this kind of general incentive—if indeed it is an incentive—to bring properties back into use? Surely there must be somewhere—one of the states of the USA, perhaps—where such a policy has been enacted and you can say, “Ah—big success,” or, “Hmm—bit dodgy.”

Marianne Cook: We are happy to explore the issue further and see whether there are any international examples, but I am not aware of any at the moment.

The Convener: Could you have a wee look at that?

Marianne Cook: We are happy to do so.

The Convener: I thank our witnesses for their evidence and everyone for their attendance.

Meeting closed at 12:36.
Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill
Financial Memorandum - written submissions

Submissions have been received from—

- Aberdeen City Council
- Angus Council
- Business Centre Association
- CBI Scotland
- City of Edinburgh Council
- Clackmannanshire Council
- COSLA
- East Lothian Council
- Glasgow City Council
- Highland Council
- Inverclyde Council
- North Ayrshire Council
- North Lanarkshire Council
- Scottish Government
- Scottish Property Federation
- Shetland Islands Council
- Western Isles Council
Submission from Aberdeen City Council

Consultation

1. Did you take part in the Scottish Government consultation exercises which preceded the Bill and, if so, did you comment on the financial assumptions made?

Yes, however no comment made on financial assumptions

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

N/A

3. Did you have sufficient time to contribute to the consultation exercise?

Yes

Costs

1. If the Bill has any financial implications for your organisation or your members, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?

Yes

2. Do you consider that the estimated costs and savings set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate?

Yes, however 100% collection rate will not happen.

3. If relevant, are you content that your organisation or members can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?

Any additional costs should be met from any potential increased income.

4. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

Yes

Wider Issues

5. Do you believe that the Financial Memorandum reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom?
While the Financial Memorandum reasonably captures the costs associated with the Bill it is unclear as to other potential costs that may be incurred.

6. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

It is likely that subordinate legislation may lead to additional marginal costs and these cannot be quantified at the present time.
Submission from Angus Council

Consultation

1. Did you take part in the Scottish Government consultation exercises which preceded the Bill and, if so, did you comment on the financial assumptions made?

Response:

Yes, Angus Council did participate in the consultation exercises. No specific comments were made regarding the financial assumptions made.

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

Response:

Not applicable

3. Did you have sufficient time to contribute to the consultation exercise?

Response:

Yes

Costs

1. If the Bill has any financial implications for your organisation or your members, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?

Response:

With regard to the NDR empty property proposals the Financial Memorandum accurately reflects the financial implications of the proposals although there may be an increase in recovery costs arising from the requirement to collect increased rates from businesses. There will be some additional costs in respect of council property which remains empty longer than 3 months and therefore would be subject to increased rates charges. Based on the current position additional rates charges of around £20,000 would be incurred.

With regard to the Council Tax empty property proposals I would comment as follows:

- There will be some cost to the Council for increased council tax payable on long term empty council owned dwellings but the numbers affected in this council will be relatively small.
The Financial Memorandum does cover the range of costs which would be incurred if the changes were adopted

Do you consider that the estimated costs and savings set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate?

Response:

The level of costs and savings will depend on whether the council opts to implement any changes in the discount/charge levels on long term empty properties. Given that we have only moved to a 10% discount position on long term empty dwellings from 1 April 2012 we need time to evaluate the impact of the recent discount reduction and it is therefore unlikely that we would implement an additional levy within the next 1 to 2 years.

Using a 100% collection rate to estimate savings in not a realistic approach particularly as these charges may be harder than average to collect. For example many owners may not reside in the area or even in the UK.

1. If relevant, are you content that your organisation or members can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?

Response:

There is no budget set aside to fund additional set up and ongoing costs. A percentage of any additional revenue raised as a result of adopting increased council tax charges on long term empty properties should be ring fenced to meet the additional costs of setting up and administering the arrangements.

2. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

Response:

The Financial Memorandum does reflect a number of areas of uncertainty with the estimated revenue to be raised etc. It is difficult to accurately quantify a number of factors as follows:

- The number of properties and the speed with which they are likely to be brought back into use as a result of the proposed measures. The higher the reduction in long term empty properties the higher the loss of additional revenue available from + 100% charges.
Until the detail of any new time limited exemptions is made available it is impossible to evaluate the impact exemption would have on the additional revenue which could be raised. No information is currently held on the reason for a dwelling being long term empty and an information gathering exercise would be required to identify potentially exempt properties.

There is some uncertainty around the level of evasion that may be deployed by taxpayers subject to additional charges, e.g. there would be an advantage for some in designating a dwelling as a second home rather than as long term empty.

Wider Issues

3. Do you believe that the Financial Memorandum reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom?

Response:

The Financial Memorandum captures the range of set up and ongoing costs which will vary to some extent from council to council. It does not however recognise that rural councils will have additional costs involved in the monitoring of long term empty properties given the dispersed nature and locations of their long term empty properties.

The Memorandum states that the Scottish Government do not expect councils to publicise any increases resulting from the proposals and that notification with the Council Tax annual bill would be acceptable. From a local authority point of view this approach would not be satisfactory and costs would need to be incurred in explaining the nature of any changes and taxpayers responsibilities etc.

5. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

Response:

To evaluate the benefits and feasibility of implementing the additional levy etc. detailed analysis of the location, length of empty period and reasons for dwellings being empty etc. should be undertaken and there would be a staffing cost associated with this.
The Business Centre Association

The BCA is the only UK trade association representing the managed flexible space sector including business centres, studios, co working space, light industrial and workspace environments. Established in 1989, it specialises in providing support and guidance to owners and operators of centres, while setting industry standards and encouraging a network of excellence.

The BCA also provides an invaluable advice and location finder service for potential users of managed flexible space locations. With more than 900 member locations and 380,000 workstations, incorporating 40m sq ft of flexible office space around the UK, ranging from small independent to large international operators, both in city centre and out of town business park locations.

Summary for Scotland:
The Case against Empty Property Rates (EPR)–April 2012

The BCA has extensive knowledge of the negative effects EPR has had on our sector as well as the wider property sector in England & Wales. In presenting the case to the Scottish Government we draw on our first hand experience when presenting the case and expressing our proposal.

Set out below are the BCA’s views on EPR which we hope clearly illustrate the changes we are proposing and the positive outcome for both income generation and, most significantly, on enterprise and job creation across Scotland.

The Scottish Government is proposing introducing EPR in Scotland from April 2013. Indications are that changes to EPR in Scotland could have the same devastating effect on our sector just as transpired in England.

Changes proposed in Scotland

Currently, empty property relief for commercial properties in Scotland is set at 100% relief for 3 months with a further 50% relief indefinitely.

Industrial or listed premises currently receive 100% relief for the duration the property is empty.

The proposed amendments of this policy will focus on standard properties and they will see no change to the 100% relief for the initial three months, but then a 10% rate of relief will apply for the remaining period the property is empty.

No change is proposed for the empty property relief for industrial or listed properties.
**Background: - England & Wales**

Business rate relief on empty property was removed in England and Wales on 1st April 2008 when the previous Government introduced a tax on Empty properties. Empty retail and office space previously received 100% relief for three months and 50% thereafter, while industrial space received 100% relief permanently.

Following a successful campaign by the BCA, from 1st April 2009, the Government introduced a threshold where EPR would not be paid on properties with a Rateable Value of £15000 or less.

The BCA continued to campaign and from 1st April 2010, the threshold was increased to £18000 RV, to bring the relief into line with the Revaluation.

The effect of the threshold was significant and the BCA estimate that it saved members in the region of £10m.

It also had a fundamental effect on the sector encouraging the growth of new flexible business centres taking advantage of the growth of the SME market. In doing so it facilitated the growth of SMEs and significantly aided the process of creating jobs.

Unfortunately the present coalition Government removed this concession and from 1st April 2011, the threshold was reduced to £2600 RV which will cost the sector a similar sum as in 2008 when there was no concession.

According to statistics from Instant Offices and Office Broker (market leaders in letting flexible business space), there has been virtually no growth in the flexible space sector since the threshold was reduced. This is attributable to the changes to EPR.

The fundamental point being that if no new space is being generated it will create a substantial shortage of space thus seriously undermining the Government’s attempt to grow the economy by stimulating the creation and growth of small businesses.

**Main Issues:**
Rates are a tax for the provision of local services. Empty buildings make little or no demand on local services.

Empty rates is a tax on hardship and job creation. It is a tax on individuals and company property assets that generate zero income.

Buildings are empty because of a lack of demand. During a downturn, both rents and capital values fall, so there is no reason for a landlord to keep a building empty notwithstanding what Governments have said about this.
Speculative developments and regeneration projects are being shelved; this is echoed by regeneration experts and is reflected in the government’s own data.

In the current economic climate, and with diminished occupier confidence, it becomes increasingly challenging to find commercial tenants on a traditional lease basis.

The Government has ignored the impact and consequential effect the tax has had on regeneration. New property led regeneration schemes came to a halt when EPR was first introduced. This is because BCA members have no choice but to develop their centres on a speculative basis and were not prepared to be taxed on a speculative development.

When the threshold was increased there was growth and development in new centres with many traditional landlords entering into management agreements in an attempt to let otherwise unlettable space, but also to avoid EPR by creating small units with a Rateable Value below £18000. This brought empty, and in many instances, unlettable space back into productive use and in doing so created new jobs.

Operators of flexible space promote entrepreneurs who benefit local economies as they generate new employment opportunities. In today’s fragile economy the benefits of developing and stimulating the growth of small business has never been more acute - local economies cannot survive without the provision of space on flexible terms in dedicated professional business environments offering business advice and support. Providers are being taxed for delivering this service.

**If private sector operators cease developing this essential type of flexible space, then development will be driven entirely into the hands of the public sector at a substantial cost to the public purse.** As stated below, the cost to the exchequer in England and Wales by re-introducing a threshold for the flexible space market is estimated at £30m. If the private sector is not creating this type of space, it would cost considerably more for the public sector to provide even a handful of Business Centres suitable for SMEs.

Older buildings are being demolished sooner than intended. Buildings nearing the end of their life are being demolished which previously may well have been let at modest rents on a short term basis, prior to redevelopment. These are now no longer available as empty rates make it cost effective to knock down and demolish a perfectly good building in preference to securing a tenant. This has, and will continue to reduce the supply of affordable property and reduce the potential rateable income. It also contradicts the Government’s green policy. RICS predict that the magnitude of demolitions will accelerate over the next year. This will result in a significant loss to the Exchequer as potential rateable income decreases.
Previous Government logic that empty rates would lead to lower rents was misguided. In the short term many tenants have benefited from a reduction in rent. However, it is inevitable that eventually empty rates will instigate rent increases due to shortage of supply. This is a direct consequence of premature demolitions and abandoned developments. There is now firm evidence that this is happening in England.

More than half of government’s empty rates intake will come from commercial tenants, rather than landlords, as they choose to reduce their occupancy and attempt to sublet their space. This is a very significant burden on all businesses and will potentially lead to job losses as companies downsize to reduce costs.

Approximately £400m of the empty rates revenue has come from the public sector itself. This figure was obtained by the BCA via a Freedom of Information Act request (2008) to Local Authorities - a waste of time, effort and money - transferring funds from one public sector office to another, with zero benefit to the economy, and misleading the public about the benefits of this tax.

Individuals are finding that their property investments are becoming liabilities, rather than a safe source of income/pension investment. As tenant demand dries up they will be forced to pay full business rates on their non-income producing empty properties.

The business community, as a whole, has come out against empty rates. The CBI, RICS, British Retail Consortium, Institute of Directors, British Chambers of Commerce, Business Centre Association, CoreNet, British Property Federation, Taxpayers Alliance and the Federation of Small Businesses are all calling for Government, to use its reserved power to partially re-introduce relief. Almost all Local Enterprise Partnerships in England and Wales are opposed to this tax.

The Government has ignored the specific requirements of the flexible managed space sector, particularly given the role it plays in encouraging enterprise and new business together with the flexible approach that BCA members employ.

To put this into perspective, if Government considered re-introducing the threshold specifically on small managed business space locations offering genuine, flexible agreements, we calculate that the cost to Treasury would be circa £30m not £690m as reported.

Of course what cannot be calculated are the number of people who will come off 'benefit' as a direct result of jobs created by SME's occupying managed flexible space. This will further reduce the impact on the Exchequer.

The sector will always have vacant space with maximum occupancy of between 85% to 90% due to churn. This is not by choice, but due to the very
nature of the flexible offering which means that some space will always be available.

It is grossly unfair that this space is taxed when many public sector officials maintain flexible space with easy in easy out terms is vital to facilitate enterprise and growth in SMEs, providing much needed job creation opportunities, thus benefiting the wider economy.

New business centres, particularly in non-prime locations can take up to three years to let. Therefore, it is grossly unfair that the flexible space sector is taxed for providing SMEs with the type of accommodation they need and on the flexible terms they demand.

There has been a growth in dubious EPR avoidance schemes that verge on the unlawful and which is encouraging property owners to find ways to avoid EPR rather than concentrating on letting space. This is reducing the revenue to the exchequer from EPR but is also diverting attention away from letting space and creating employment to seeking ways to avoid tax.

It has been argued that EPR will encourage landlords to let space and attention has been drawn to the number of empty town centre retail units in Scotland. EPR has been in existence in England since 2008 yet there are many English towns which also have a similar problem with empty shops in their town centers. EPR has made no difference and many towns are now looking at genuine incentives to stimulate occupancy of their town centre retail units.

Green Deal UK:
Green Deal UK is part of the Governments Carbon Reduction Programme, and is scheduled to commence late 2012. This will provide the opportunity for consumers to install money saving energy efficiency measures without the upfront cost, which will instead be repaid through future energy bills.

That might work in reducing carbon emissions if the premises remain let with the tenant paying the energy bill. However, for the landlord there remains the danger that if there is a void period, it will be the landlord who will be left to pick up the cost. This further increases the cost of empty properties which have already been hit by the steep rise in Empty Property Rates.

BCA Position:
The Business Centre Association is urging the Chancellor to reintroduce the £18,000 RV threshold for at least another year but preferably on a permanent basis.

However, to stimulate business and offer a level of certainty to developers the BCA is advocating:

A: That all speculative new and refurbished developments are exempt from EPR for a period of three years. We believe that this will encourage the procurement of management contracts on properties
nearing their end of life and bring them back into use. It will also encourage speculative development and bring in revenue which does not currently exist. A net gain for Treasury.

The property development and construction sectors are stagnant with virtually zero speculative development taking place.

Why would property developers take the risk when on completion and prior to occupation the building is subject to EPR tax?

The BCA proposition will encourage speculative development and generate new rateable income as soon as the properties are let or within three years if unsuccessful.

It will also provide contemporary space for enterprises and create much needed employment opportunities as the UK comes out of recession.

By extending this measure to existing buildings that are being refurbished, it will prevent the demolition of vacant premises, prolong their life, and help protect the environment by retaining existing buildings. Most importantly it will contribute to the supply of space appropriate for enterprising small and growing businesses. This will generate employment and job creation across the UK.

B: To reinstate the EPR threshold to £18,000RV and this to apply to properties let and managed on genuine flexible terms. We believe that this will stimulate the supply of property on terms small businesses want.

We believe that this measure is essential as currently no new space is being developed. It will ensure that new space will be developed to guarantee the supply of suitable space for SME’s.

The BCA estimated that the cost to their members of EPR when it was first introduced was circa £10m. Project this across public sector business centres, incubation centres and innovation centres which also operate in the flexible market, we estimate the cost to the Treasury by introducing a threshold would be circa £30m rather than the reported £690m it would cost if introduced across the entire property sector.

This, coupled with the suggestion that there is exemption for new developments for 3 years (which make no contribution to the Exchequer by way of EPR as currently they do not exist) will, we believe, stimulate demand and investment, generate new revenue and create jobs. Ultimately, a net gain to Treasury.

BCA’s Recommendations for Scotland

The BCA do not want to witness the same stagnation of its sector in Scotland. It is recognized that market conditions are different and the current empty
rates relief is different. However the BCA wish to recommend to the Scottish Government that the same two recommendations be considered.

A: That all speculative new and refurbished developments are exempt from EPR for a period of three years. We believe that this will encourage the procurement of management contracts on properties nearing their end of life and bring them back into use. It will also encourage speculative development and bring in revenue which does not currently exist. A net gain for Treasury.

and

B: To reinstate the EPR threshold to £18,000RV and this to apply to properties let and managed on genuine flexible terms. We believe that this will stimulate the supply of property on terms small businesses want.

The justification for these two measures has already been set out in the narrative above. The BCA are resolute in the belief that this will stimulate the growth of new flexible space Business Centres, specifically for small businesses in Scotland. In doing so this will generate and stimulate new investment. The consequence of both these measures will be the creation of new employment opportunities generated by new start-ups and SMEs who have been able to set up their enterprises in the right type of space environments which permits their business to expand or contract without penalty.

NOTE

The BCA requests that the Scottish Government does not get this confused with the measure currently in place to assist SMEs such as the Small Business Bonus Scheme.

The BCA is focusing on ensuring that the right type of space is available and let on the right easy in easy out terms. Without this flexible space where will all the new businesses go which you hope to create?

The BCA is willing to work with the Scottish Government to ensure that there is growth in the flexible space market which will specifically benefit the Scottish economy.

Further submission from the BCA

In Scotland there are 162 Business Centres which we are aware of. These are mainly private sector centres and this figure does not include the majority of Local Authority Business Centres. Most Local Authorities have their own Business Centres in some form.

UKBI which is the trade body for Incubation and Innovation centres are aware of a further 30 centres, some of which will be operated by the Public Sector.
By comparison, the UK as a whole has about 2105 Business Centres.

Information gathered by Instant offices (which is one of the main letting agencies in the private sector for Business Centres) shows that the number of UK Business Centres grew from 1972 centres from April 2011 to 2105 now. However there were 75 new centres opened in London alone which if excluded shows a reduction in Centres outside London. The other major cities such as Birmingham, Manchester, Leeds and Bristol have remained relatively static.

However, in Scotland during the same period, the number of new business centres actually grew by 6 although these were confined to Aberdeen, Edinburgh and Glasgow.

This period coincides with the reduction in the EPR threshold from £18000 RV to £2600 RV.

There will be a number of factors which have caused the reduction of the number of Business Centres including the economic climate and the attitudes of the banks however EPR is likely to have been ‘the nail in the coffin’ which may have caused the closure of Business Centres.

I can also confirm that the BCA consulted with UKBI following submission of our report. UKBI are broadly in agreement with the contents and recommendations. The only additional comment they made was that in their opinion the Government was not really buying into the ‘growth’ agenda.
Submission from CBI Scotland

CBI Scotland has repeatedly called on the Scottish Government to reconsider the proposals outlined in this Bill which will lead to increased business rates for firms with empty commercial premises. In our submission last August to the Scottish Government ahead of its Spending Review, for example, we specifically stated that Ministers should avoid eliminating or reducing the rates discount applicable to empty commercial and industrial properties, and this is a point that we have reiterated at every available opportunity since (including in submissions to the Economy, Energy and Tourism Committee on the budget process, and in correspondence sent to the Cabinet Secretary for Finance, Employment & Sustainable Growth).

Ultimately, CBI Scotland remains unconvinced of the non-domestic rates measures included in this particular piece of legislation for a number of reasons.

- As we have continually stated, the proposals in the Bill amount to a decision to levy an extra £18 million from Scottish firms, per annum, at a time when many companies are facing considerable economic hardship. Whilst there may be an impression that this cost will mostly be footed by more ‘resilient’ major commercial property landlords, this is not necessarily the case: larger property companies typically enjoy relatively high occupancy levels (usually in excess of 90%), and thus these proposals may actually end up having a greater impact on other organisations - private and public - with a genuine surplus of property, as well as businesses which may be looking to move and expand. Furthermore, it is also worth noting that the proposals outlined in the Bill effectively represent a ‘tax on distress’: property owners are facing the prospect of having to pay increased charges for buildings that are not earning them any money in the first instance, compounding the financial repercussions of holding a property which isn’t providing a return.

- CBI Scotland understands that the proposals included in the Bill have come about as a result of a belief that the current empty property rates relief regime acts as a disincentive to bringing empty properties into use. This is simply untrue. Commercial premises are rarely left empty on purpose, as they do not generate an income for their owners, and in most cases non-domestic buildings are unoccupied simply due to lack of demand – a fact that changing the rates relief regime is unlikely to alter. Indeed, there is also evidence to suggest that policies of a similar nature that have been introduced in other areas of the UK have had little effect on reducing the number of unused non-domestic premises. In a survey undertaken by Lambert Smith Hampton in 2008, for example, the vast majority of some 600 respondees claimed that the loss of long term empty property rate relief in England had not increased occupancy levels. Thus, if Ministers are determined to reduce the number of empty properties, then this is not an effective way to go about it.
CBI Scotland also considers that the measures included in this piece of legislation run contrary to the Scottish Government’s own stated intention of both encouraging new investment in Scotland, and, relatedly, boosting economic growth. Not only will a reduction in rates relief place a greater tax burden upon the owners of existing properties (whilst also potentially impacting on their cash flows), but the proposals may also prompt many investors to reconsider any developments or regeneration activities they may have planned, and perhaps particularly if those projects are in more economically-deprived areas, as such premises can be more difficult to let in the first place. As Committee members will be aware, development is crucial for successful economic growth, and there needs to be a surplus of property in order to allow businesses the freedom to expand as required. If developers are deterred from investing in Scotland because of these proposals, and there is less new property coming onto the market, then economic growth may be curtailed as demand returns to the economy.

Finally, several of our members have expressed concerns regarding some of the financial assumptions made in the Bill. For example, certain firms have indicated that the estimated costs and savings outlined in the Bill’s accompanying financial memorandum may end up being inaccurate, as affected parties may choose to explore steps aimed at mitigating the impact of the increased charges (such as demolition of empty premises, for example). Furthermore, there is also a possibility that the Bill’s proposals may place a greater-than-expected financial burden on the shoulders of Scotland’s local authorities – not just because councils often have empty or un-let commercial property estates themselves – but as a result of the costs of dealing with an increased number of rates bill queries, relief applications and appeals. It has also been suggested that councils may end up having to undertake more inspections following the implementation of the proposals, in order to ensure that properties are being properly – and legitimately – declared.

Generally speaking, CBI Scotland welcomes the motivations that lie behind these proposals, as it is in the best interests of government, landlords and the economy to see as many non-domestic properties occupied as possible. However, rather than adopt the measures set out in the Bill, we would encourage the Scottish Government to focus its efforts on boosting demand for empty properties, as opposed to penalising those firms with empty or un-let commercial premises who are already suffering the ill-effects of a sluggish economic climate.

Indeed, fundamentally, we believe that the costs associated with the new regime may be too much for some of our members to bear, that the proposals may not achieve the desired goals of Ministers, and that the government should reconsider its approach to this issue.

Lastly, in their consideration of the Bill’s merits, Committee members may also wish to take into account the Scottish Government’s stated intention of
implementing water and sewerage charges for empty non-domestic premises, as outlined in the recent ‘Scotland the Hydro Nation – Prospectus and Proposals for Legislation’ consultation document.

We hope this submission will be of interest to the Committee.
Submission from the City of Edinburgh Council

Consultation

1. Did you take part in the Scottish Government consultation exercises which preceded the Bill and, if so, did you comment on the financial assumptions made?

Yes, in respect of the Council tax Increase on Long Term Empty Properties, Responses to the remaining questions will only be in respect of the Council tax increase for LTE.

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

Yes

3. Did you have sufficient time to contribute to the consultation exercise?

Yes

Costs

1. If the Bill has any financial implications for your organisation or your members, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?

In so far as they can given there are a considerable number of assumptions made

2. Do you consider that the estimated costs and savings set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate?

Yes in so far as they can given there are a considerable number of assumptions made

3. If relevant, are you content that your organisation or members can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?

Yes As long as the additional costs can be met from additional revenues raised.

4. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise? Yes, the estimates/ assumptions made in the model used are as good as can be.

Wider Issues
5. Do you believe that the Financial Memorandum reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom?

Yes

6. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

The clarity of the subordinate regulations will go a long way to determining these costs. It is likely there will be an increase initially in complaints and also an increase in appeals as owners challenge the classification of empty homes against second homes. These costs cannot be quantified at present.
Submission from Clackmannanshire Council

Consultation
1. Did you take part in the Scottish Government consultation exercises which preceded the Bill and, if so, did you comment on the financial assumptions made?

Yes

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

Yes

3. Did you have sufficient time to contribute to the consultation exercise?

Yes, there was sufficient time and it was well consulted on.

Costs
1. If the Bill has any financial implications for your organisation or your members, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?

Yes - insofar as they can be considering the number of assumptions made within the actual memorandum.

2. Do you consider that the estimated costs and savings set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate?

Yes - per above the figures seem as accurate as can be expected due to the number of uncertainties.

3. If relevant, are you content that your organisation or members can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?

Yes the costs can be met but only if the legislation allows Local Government to deduct the costs from the additional revenue raised as a result of the new legislation.

4. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

Yes given the large number of assumptions, the memorandum appears to give an accurate picture of costs and benefits associated with the legislation.

Wider Issues
5. Do you believe that the Financial Memorandum reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom

6. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

Answer to both 5 & 6:

The unknown costs which will arise will be dependant on the quality of the subordinate legislation insofar as the Council will see an increase in workload which is unquantifiable in terms of enquiries and appeals against assessment, especially surrounding the issue of determining what are long term empty properties and which are genuine second homes. Also the changes to the definition of long term empty to include furnished properties may cause unforeseen issues with current exemption and discount rules.
Submission from COSLA

Introduction
COSLA welcomes the opportunity to respond to the Scottish Parliament Finance Committee’s call for evidence in relation to the Local Government Finance (Unoccupied Properties Etc.) (Scotland) Bill - Financial Memorandum.

In its response to the Scottish Government’s consultation on Long Term Empty Properties and the Housing Support Grant, COSLA broadly welcomed the proposals but raised concerns that any scheme should not place an undue administrative burden on Councils and needs to be properly resourced. Moreover Councils should have flexibility about where and how to apply powers on unoccupied properties based on local policy decisions.

In presenting views on the financial implications of the Bill the Committee should be aware that the Bill only refers to the general provisions and that greater clarity on cost implications will be determined through subordinate regulations, once the Bill is passed. COSLA will be working closely with the Scottish Government in developing the regulations to ensure that these make the policy effective locally whilst minimising any administrative burdens.

Whilst the Bill, as it has been introduced is broadly in line with the proposals set out in the consultation, COSLA would like to draw the Committee’s attention to references in the Financial Memorandum that the Scottish Government will, by regulations, either allow or require local authorities to increase the level of charges or the level of discount. For clarification COSLA would expect that the Scottish Government will set out in regulation the boundaries for varying discount/applying charges, however Councils will have local flexibility to apply the powers and to determine the degree of variation to be applied within the set boundaries.

On ending the Housing Support Grant (HSG) the Committee should be aware that this applies to one Council, Shetland Islands Council. Whilst COSLA has welcomed in principle the ending of HSG, there remains an issue of ensuring that this does not have a disproportionate impact on the Council or its rent payers. Negotiations are continuing with the Scottish Government with regard to a transitional arrangement for this Council and therefore COSLA has not offered comments on the cost implications of ending the HSG, pending a satisfactory resolution. Therefore the comments set out below relate solely to the two provisions relating to non-domestic rates empty property relief and council tax increase on long-term empty homes.

Costs
Increased revenue to the Scottish Government and Councils
The financial Memorandum contains financial forecasts prepared by the Scottish Government for projected savings on the cost of non-domestic rates empty property relief (Table 1) and projected revenue estimates for varying levels of council tax discount on empty properties (Tables 3 and 4). COSLA
would wish to urge caution in interpreting these figures as these may be overly optimistic for reasons which are set out below.

On the non-domestic rates empty property relief a key point to make is that many empty commercial properties are owned by absentee landlords, some are in very poor condition and therefore difficult to re-let or sell and are also possibly in negative equity. There is a risk therefore that the proposed changes will increase the administrative burden with very little impact on the non-domestic rates income recovered and therefore the forecast savings to the Scottish Government may well not materialise.

On varying council tax discounts for long term empty homes the Government rightly recognises that there are significant margins of uncertainty in the estimates they have produced for the Financial Memorandum. Critical to these estimates is the extent to which Councils will use the new powers and, as already stated, this must be for Councils to determine locally the appropriateness of applying the policy and to what extent. A more detailed understanding of the costings will emerge through the discussions on the regulations, particularly as there should be a better understanding of how Councils consider they will apply the powers in practice and realistically what level of revenue this will generate.

**Administrative costs to Councils**
On non-domestic rates empty property relief COSLA recognises that there is a cost implication for Councils where they are in ownership of properties which are unoccupied. There are very often good reasons why these properties may remain empty and Councils are active in letting out such properties as part of their asset management plans. Clearly the policy applies equally to public bodies as it does to private as indicated in the Memorandum, however this is simply to draw the Committee’s attention to this as there is a financial impact for Councils of this measure.

The Financial Memorandum recognises there will be additional administrative costs should Councils choose to apply the policy and that this is likely to cover set up costs, IT changes, collection and enforcement. COSLA has no reason to disagree with the costings provided in the Memorandum, however the key points to highlight are that Councils will need to consider where it is worthwhile applying the policy and that they may choose to offset any increased administration costs off the revenue raised.

It will also be extremely difficult for Councils to track that properties are being actively marketed. The reason that owners take properties off the market is that there is no prospect for sale in the current climate and this provision, whilst understandable, does present an additional administrative burden on Councils. Further clarity on the practical application of this provision should come through development of the regulations however.

**Wider Issues**
COSLA is aware of concerns from a number of our member Councils that the provision to vary the non-domestic rates empty property relief may have
significant implications to local economies and, whilst not directly impacting on Local Government, supporting local economies is a key priority for Councils. COSLA will raise this issue more fully in its response to the Local Government Committee on the general principles of the Bill.

A number of member Councils have drawn to COSLA’s attention that, whilst the duty, which is provided for in the Bill, for owners of unoccupied properties to notify their local authority is welcome, in practice the power to impose a penalty of £200 for failure to notify may be ineffective and may not be applied widely, particularly where there is a significant risk of non-payment.
Submission from East Lothian Council

Consultation
1. Did you take part in the Scottish Government consultation exercises which preceded the Bill and, if so, did you comment on the financial assumptions made?

Yes East Lothian Council took part in the consultation exercise but did not comment on the financial assumptions.

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

N/A

3. Did you have sufficient time to contribute to the consultation exercise?

Yes there was sufficient time to contribute.

Costs
1. If the Bill has any financial implications for your organisation or your members, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?

Yes the financial implications for East Lothian Council are accurately reflected in the Financial Memorandum.

2. Do you consider that the estimated costs and savings set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate?

Yes the estimated costs and savings are reasonable and accurate.

3. If relevant, are you content that your organisation or members can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?

East Lothian Council is content that the costs associated with the Bill can be met. There is the potential for additional costs to be met in part from the increased revenue.

4. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

Yes the Financial Memorandum reflects the margins of uncertainty.
Wider Issues

5. Do you believe that the Financial Memorandum reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom?

Yes the Financial Memorandum captures the costs associated with the Bill which relate to local authorities.

6. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

It is likely that any further legislation which amends or varies Council Tax on LTE properties will have costs associated with IT system updates and enforcement. It is not possible to quantify these costs without further detail.
Submission from Glasgow City Council

1. Did you take part in the Scottish Government consultation exercises which preceded the Bill and, if so, did you comment on the financial assumptions made?

Glasgow City Council offered comments on the consultation that related to council tax levies on long-term empty properties. We are not aware of a consultation on the other elements found in the Bill, in particular the significant changes relating to NDR empty property relief. We would therefore like to take the opportunity to offer the following comments on the NDR aspects of the Bill:

- The Bill may well lead to a negative impact on speculative development of commercial property. For developers of new property, any longer term occupancy void following completion of a speculative development will have a considerable cost impact. The developer will have to factor in an additional expense to account for the rates payable for any void after expiry of the brief period of relief. The changes may well mean that new development will not be brought forward until an occupier has been secured.

- Rundown property in need of regeneration does not let readily and in many cases when such premises become vacant, they are demolished, reducing the pool of property supply. Any decrease to empty property relief could exacerbate this situation. There does not seem to be much evidence of property owners not making significant efforts to reduce their vacancy rates – the absence of rental income would appear to be a sufficient encouragement to let non-domestic property.

- Property investment is also likely to be affected, with a possible rates bill for unoccupied property acting as a significant disincentive to investors to invest in anything but the safest income streams. Smaller investors, with portfolios of lower grade or marginal properties, are likely to be hit hardest.

- A potential unintended consequence could be landlords choosing not to terminate a lease, even where the tenant is insolvent, especially as an insolvent tenant will be able to claim an exemption for its rates liability.

- There is also a potential impact on already ailing high streets, with landlords of retail premises possibly being forced to let their property to less than ideal tenants, rather than leave premises unoccupied and face a rates liability.

- The potential reduction in rental values will lead to another large tranche of “material change of circumstance” appeals on existing rateable values. If the appellants can prove that the change of
reforming the rates relief then led to the lower rental values they would have a case for reduction in their assessments.

- Experience of similar reform to non-domestic rates in England and Wales suggests that the intention to bring empty properties back into use has been largely undermined by the economic climate, and the resulting substantial reduction in demand for commercial buildings. There have also been criticisms that the reforms have stifled economic activity by restricting property supply (for the reasons outlined above).

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

Yes. However, a key aspect of our response to the consultation on council tax empty property relief was that local authorities should have the freedom and flexibility over whether and how to implement any change. Paragraph 9 of the explanatory notes implies that this power will reside with Scottish Ministers or local authorities. The absence of local flexibility is also suggested at paragraphs 28 and 34 of the Financial Memorandum.

Paragraph 12 notes the new powers for local authorities to impose penalties on owners that do not notify them of empty properties. In our consultation response, we noted that the Council supports owners being required to report empty properties, but past experience of civil penalties would suggest these are difficult and time-consuming to administer and collect, and are ineffective in changing behaviours.

3. Did you have sufficient time to contribute to the consultation exercise?

Yes (for the council tax empty property consultation).

Costs

1. If the Bill has any financial implications for your organisation or your members, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?

Whilst the council recognises the Bill’s intention to encourage owners of empty non-domestic properties to find tenants, the cost of changes to the NDR empty property relief to Glasgow City Council’s property is estimated to be in the region of £0.5m to £1m per annum. This mainly relates to units in historically very hard-to-let areas, a situation exacerbated by the economic situation. The council obviously is active in trying to let out these premises and the additional cost burden to the council resulting from the Bill will not make that task any easier. We would therefore suggest a provision in the Bill that enables exemption for all long term empty properties in public ownership, given that there is sufficient incentive on local authorities already to identify non-domestic tenants for such properties. This is an important issue for local authorities but the Financial Memorandum does not mention it apart from a brief reference in paragraph 24, and it is not reflected at-all in table 9.
It is possible that the pressure on public sector budgets will lead to greater property rationalisation by public sector organisations in order to make property-related savings. This is certainly the case in Glasgow City Council. The current state of the property market limits the extent to which vacated property can be sold. Therefore the Bill as it stands will potentially impact the level of savings generated from such property-rationalisation initiatives due to the additional costs of holding surplus property.

The Financial Memorandum indicates that industrial units would continue to receive 100% exemption. Any change to this would increase the financial impact on empty local authority industrial units (a reduction to 10% relief on industrial units for Glasgow City Council empty properties would equate to around £0.5m).

It is also likely that the proposed changes to reliefs will result in increased administration costs, mainly relating to additional council tax administration, queries from local NDR and council tax payers, and also the potential for non-domestic rate taxpayers seeking to shift to alternative forms of relief. This is correctly referred to in the Financial Memorandum.

Similarly, the Financial Memorandum correctly refers to potential system-development costs on local authorities. These will not be known until full details of the regulations are known.

2. Do you consider that the estimated costs and savings set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate?

Refer to comments above.

We have no comment on the costs quoted where they relate to the Scottish Government budget.

3. If relevant, are you content that your organisation or members can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?

As noted above, it is likely that there will be an increase in administrative costs for local authorities. This may require internal resource redirection to meet this new demand.

The additional NDR burden relating to empty local government properties is significant and will therefore be a drain on resources elsewhere in the council’s budget.

4. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?
Yes, although we would stress that the potential costs on local authorities depend on the actual regulations that are brought forward, the behaviours and reactions of local tax payers, and discussions with ICT suppliers.

**Wider Issues**

5. Do you believe that the Financial Memorandum reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom?

As outlined above, the main cost that is not given sufficient prominence is the additional cost to local authorities for their empty non-domestic properties.

6. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

No specific comment.
Submission from Highland Council

Consultation
1. Did you take part in the Scottish Government consultation exercises which preceded the Bill and, if so, did you comment on the financial assumptions made?

Yes. No specific comments on financial assumptions

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

N/A

3. Did you have sufficient time to contribute to the consultation exercise?

Yes

Costs
1. If the Bill has any financial implications for your organisation or your members, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?

Yes

2. Do you consider that the estimated costs and savings set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate?

Reasonable, but margins of uncertainty mean that estimated costs and savings may vary materially

3. If relevant, are you content that your organisation or members can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?

Yes, but contribution sought from Scottish Government towards IT system updating

4. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

Yes

Wider Issues
5. Do you believe that the Financial Memorandum reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom?
As far as we are aware at present

6. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

There may be but as these are dependent upon the detailed provisions of subsidiary legislation, it is not possible to quantify them at the moment.
Consultation
1. Did you take part in the Scottish Government consultation exercises which preceded the Bill and, if so, did you comment on the financial assumptions made?

Yes. Comments were submitted to Scottish Government via the consultation website, including those relating to financial assumptions.

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

Yes. Concerns over “enforcement” issues and administration of the increased charges / surcharges have been addressed in the Financial Memorandum. Estimates of additional income are also in line with comments previously submitted online.

3. Did you have sufficient time to contribute to the consultation exercise?

Yes. Attendance at the Glasgow consultation event was very useful in helping to shape our response and there was adequate time to prepare and submit our contribution.

Costs
1. If the Bill has any financial implications for your organisation or your members, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?

Yes. The Financial Memorandum is very comprehensive and covers all points raised in earlier discussions (internal and at external consultation event).

2. Do you consider that the estimated costs and savings set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate?

Yes.

3. If relevant, are you content that your organisation or members can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?

N/A

4. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?
Yes. The lead in times and the uncertainty over the responses of owners of empty homes make accurate costings difficult and this is reflected in the Financial Memorandum.

Wider Issues

5. Do you believe that the Financial Memorandum reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom?

Yes.

6. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

The introduction of, for example, new Regulations may have a financial impact on the administration and collection of CT and there is the possibility of additional staffing costs in relation to enforcement of new charges / surcharges. However, these matters have largely been addressed and taken account of in the proposed Bill and the Financial Memorandum.
Submission from North Ayrshire Council

Consultation
1. Did you take part in the Scottish Government consultation exercises which preceded the Bill and, if so, did you comment on the financial assumptions made?

Yes, the Council responded to the Scottish Government’s consultation document of 17 October 2011. The consultation document did not ask responders any direct questions in relation to the financial implications of the change. The document only made reference to the potential for costs relating to software changes and processes and that an additional £30m could be raised from the levy across Scotland.

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

Not applicable.

3. Did you have sufficient time to contribute to the consultation exercise?

Yes.

Costs
1. If the Bill has any financial implications for your organisation or your members, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?

The Bill has financial implications for the Council in the following two areas:

Non-Domestic Rates & Council Tax

Non-Domestic Rate

The Council has 126 empty subjects that have been charged 50% rates after the initial 3 month empty period. The imposition of a 50% charge does not appear to have any bearing on a property becoming occupied. If the rates charge is increased to 90% on an empty property then there is the possibility that the same trend will continue and the Council will have to recover more debt. Currently around 10% of ratepayers with a 50% liability reach the Summary Warrant stage and are passed to sheriff officers for collection. If more debt is passed to the sheriff officer then this will increase the Council’s agency fee for rates recovered. Based on the current number of empty properties the Council would have to find around £1,000 from exiting budgets to pay the extra commission charge. Other administration costs will be small in terms of changing application forms and notifying ratepayers of the change. However, software system changes will be required to calculate the rates liability using 10% relief instead of the current 50% and this may be chargeable by software companies. The cost of amending the Council’s
software system is unknown but is estimated at between £1,000 and £3,000 based on other system changes.

**Council Tax**

The Council’s software system will need to be amended to allow a levy of up to 100% to be charged. System reports will also be required to summarise the total levy charged and how much of the income has been recovered. The exclusion of water and wastewater charges from the levy may complicate the system changes. Set-up costs are likely to be around £5,000 to £10,000 as indicated in the Financial Memorandum but it is unlikely that Local Authorities will be able to jointly procure the same system changes from the same IT provider based on previous experience.

A review of the classification of the Council’s 1,048 long term empty properties will also be required in advance of the 1 April 2013 implementation date. One additional member of staff for 3 months at an estimated cost of £5,100 would be required.

Collection of the levy will be difficult, as many of the owners are not in a financial position to pay the current Council Tax on a long term empty property and a 100% levy may only exacerbate the problem. The end result may be that customers will request that payment of the Council Tax be made on the sale of the property with the debt being off-set against any equity achieved from the sale. This may have a negative impact on collection levels and increase the cost of collection of Council Tax. The council tax model in the Financial Memorandum assumes a 100% collection level which is unrealistic. The Council expects that recovery action will increase and more debt may be passed to the sheriff officer increasing the amount of commission payable by the Council. For example if all long term empty properties reached the summary warrant stage and were collected by the sheriff officer then the Council would need to pay around £68K in commission.

Evasion will also be a major factor and owners may classify their property as a second home rather than a long term empty property to avoid the levy. This will increase the need for spot checks, inspections and gathering evidence and the raising of invoices for £200 fines for failing to provide information. The Council would require one FTE at an estimated cost of £20,327 per year to manage this process.

2. Do you consider that the estimated costs and savings set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate?

The maximum figure of £33.9m to be collected from long term properties in paragraph 32, assumes a 100% collection level and no additional long term empty properties being added each year with 10% brought back into use each year. The Council would consider that 100% collection is unrealistic due to the economic conditions and a more conservative estimate about the recovery of the levy should be made.
3. If relevant, are you content that your organisation or members can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?

The Council is not in a financial position to meet the cost of any administrative and software system changes that may be required or to fund the resource required to correctly classify properties in advance of the 1 April 2013 implementation date or to resource the on-going inspection of empty properties or meet increased commission fees. These costs should be met by the Scottish Government.

4. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

Yes.

**Wider Issues**

5. Do you believe that the Financial Memorandum reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom?

The majority of the costs are included in the Financial Memorandum; however, there may be an increase in debt due to the changes proposed in the Bill for both non-domestic rates and council tax and this will increase the recovery action required and have a negative effect on the cost of collection in both areas. If the Council decided to use its discretion to charge a levy on a long term empty property then this may increase the commission paid to sheriff officers to recover the council tax. This is not reflected in the Financial Memorandum.

6. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

The Council cannot identify any future costs associated with the Bill.
**Submission from North Lanarkshire Council**

**Consultation**
1. Did you take part in the Scottish Government consultation exercises which preceded the Bill and, if so, did you comment on the financial assumptions made?
   
   A. Yes, the Council responded to the earlier consultation exercise in January 2012. None of the questions in the earlier consultation sought a comment/response on the financial assumptions. In the letter accompanying the response and in subsequent emails the Council made contributions regarding the costings of the proposed scheme.

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?
   
   A. The Financial Memorandum includes references to the comment submitted regarding the cost of setting up and operating the scheme. There appears to be no recognition that the focus of the proposal is tax-raising rather than determining the need for funding to bring empty property into use and then assessing how to release/raise the necessary level of funding. In essence the tax is possibly a penalty rather than a solution to the problem.

3. Did you have sufficient time to contribute to the consultation exercise?
   
   A. There was sufficient time to consider the questions posed and contribute to the consultation question in January. In respect to the current consultation there has been a significantly shorter period of time for responses (approximately 2 weeks) and this has meant a more difficult collation of the response.

**Costs**
1. If the Bill has any financial implications for your organisation or your members, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?
   
   A. The proposed bill will have a cost burden for the Council in implementing the legislation, monitoring and enforcement, and in meeting the liability for empty Council property (Operational Buildings, Council Houses etc). The Financial Memorandum includes appropriate reference to the financial implications for the Council.

2. Do you consider that the estimated costs and savings set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate?
   
   A. The Financial Memorandum appears to include a reasonable estimation of the range of cost and savings which are likely to be incurred.
3. If relevant, are you content that your organisation or members can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?

A. As a provider of the social rented sector (Council Houses) it is an unfortunate consequence of the legislation that the Housing Rent Account (HRA), and by default tenants, should bear the added cost of any properties which are unoccupied and would then be liable for the additional charge. The Government should exempt such properties and address any difficulties it feels exists in the social rented sector as part of its oversight of the Housing Strategy.

The Government should provide financial support for the implementation costs which will be required by LA’s to introduce the new legislation.

4. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

A. As indicated above the costs/savings projections appear reasonable and provide a range of values dependant on the assumptions/criteria which are likely to occur.

Wider Issues

5. Do you believe that the Financial Memorandum reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom?

A. As indicated above, satisfied that the range of costs/savings is included within the bill.

6. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

A. Not aware of any.
Supplementary submission from the Scottish Government

Please find attached in the accompanying Annexes and spreadsheets further information the Bill Team agreed to provide to members of the Finance Committee during the evidence session on the Local Government Finance (Unoccupied Properties etc.)(Scotland) Bill at the Committee’s meeting on 2 May.

We have provided the following information which was requested:

Annex A - Empty Property Relief

- A breakdown of the costs of Scottish business rates reliefs from 2010-11 to 2014-15
- A short note on comparisons with other business rates systems in other countries
- Clarification of the Welsh Government’s position of reform of empty property relief in Wales
- A copy of the Federation of Small Business (FSB) quote in relation to the Scottish Government’s Spending Review proposals (including empty property relief)
- A description of how the £18million in savings to the Scottish Government from the changes in empty property relief is estimated, including a breakdown of the number of properties affected by the proposed changes to empty property relief and those that move to the Small Business Bonus Scheme
- Information on the impact on Councils, the NHS and Scottish Enterprise of the reform.

Annex B - Housing Support Grant

- Details of the level of Housing Revenue Account debt burden for each Scottish local authority
- Details of the level of reserves held by each Scottish local authority

I hope this data and papers are useful, but please let me know if the Committee would like us to provide any further background information.
EMPTY PROPERTY RELIEF

Costs of Scottish Government Business Rates Reliefs
This table shows estimated cost of business rates reliefs over the 5 year 2010 revaluation period (2010-11 to 2014-15)

All estimates are £m and include the effect of reform of Empty Property Relief which is expected to reduce the cost of the relief by £18m in 2013-14 and 2014-15.

<table>
<thead>
<tr>
<th>Relief</th>
<th>2010-11 £m</th>
<th>2011-12 £m</th>
<th>2012-13 £m</th>
<th>2013-14 £m</th>
<th>2014-15 £m</th>
<th>Total £m</th>
</tr>
</thead>
<tbody>
<tr>
<td>Empty Property Relief</td>
<td>142</td>
<td>145</td>
<td>152</td>
<td>137</td>
<td>144</td>
<td>721</td>
</tr>
<tr>
<td>Charities</td>
<td>133</td>
<td>144</td>
<td>147</td>
<td>152</td>
<td>159</td>
<td>734</td>
</tr>
<tr>
<td>Small Business Bonus Scheme</td>
<td>117</td>
<td>129</td>
<td>143</td>
<td>151</td>
<td>157</td>
<td>697</td>
</tr>
<tr>
<td>Disabled Persons</td>
<td>49</td>
<td>53</td>
<td>54</td>
<td>56</td>
<td>58</td>
<td>269</td>
</tr>
<tr>
<td>Religious Property</td>
<td>22</td>
<td>23</td>
<td>24</td>
<td>25</td>
<td>26</td>
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<td>Rural rates</td>
<td>4</td>
<td>4</td>
<td>5</td>
<td>5</td>
<td>5</td>
<td>22</td>
</tr>
<tr>
<td>Renewable Generator</td>
<td>1</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>5</td>
<td>18</td>
</tr>
<tr>
<td>Enterprise Areas</td>
<td>-</td>
<td>-</td>
<td>2</td>
<td>6</td>
<td>12</td>
<td>20</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>481</strong></td>
<td><strong>514</strong></td>
<td><strong>542</strong></td>
<td><strong>549</strong></td>
<td><strong>580</strong></td>
<td><strong>2,665</strong></td>
</tr>
</tbody>
</table>

(Note: table may not add up exactly due to roundings)
Comparisons with other business rates systems in other countries

It has not been possible to find a valid international comparison in order to assess the impacts of lowering the amount of rates relief that empty properties enjoy in Scotland. Tax systems vary greatly between nations, and as such only a minority of nations levy taxes based on the rental value of commercial properties. In the nations that do, it is relatively rare for any provisions for empty property relief schemes to be changed so that empty properties receive less relief. However the biggest difficulty in finding a valid comparison is the availability of robust evidence as to whether or not a change in empty property rates relief was effective or not. Changing the amount of relief that empty commercial properties receive is a relatively minor tax change. Across the OECD property taxes make up 1.8% of GDP, and so the amount of taxes levied on empty commercial properties makes up a very small proportion of the tax base. The effects of such a minor change in tax schemes is very difficult to distinguish from the effect of wider economic factors – this makes a robust analysis of such policies extremely difficult. As such it has not been possible to find robust evidence in order to form the basis of an international comparison.

More broadly, it is widely accepted that changes in a particular tax need to be considered alongside the wider tax system in order to judge their effectiveness. Therefore a tax change that is beneficial in one nation may well have negative effects in another nation, based on there being two different tax systems. In this context it is also worth noting that the Scottish Government is proceeding with other policy changes relating to NDR in order to boost economic growth. Measures such as Tax Incremental Financing, Enterprise Zones and the Business Rates Incentivisation Scheme are all designed to increase economic growth.

Clarification of the Welsh Government’s position of reform of empty property relief in Wales

On empty property relief in Wales, the paper referenced by Gavin Brown MSP (paper WG15166) is a summary of responses to a call for evidence by an independent rates policy review group, chaired by Professor Brian Morgan. This paper is therefore not a reflection of current Welsh Government policy.

FSB Scotland comments on Scottish Government Spending Review

21 September 2011

Commenting on today’s publication of the Scottish Government’s Strategic Spending Review Andy Willox OBE, the Federation of Small Businesses' Scottish policy convenor, said:

"This was always going to be a difficult statement to deliver. We have known that public spending has to be reduced for some time – the only real question is how this reduction is managed.

"In the years ahead, the employment and opportunities which small businesses continue to create will be more important than ever. Thus, public bodies must not use their local business communities as a pot from which to draw additional income. Further, debate cannot focus exclusively on public sector difficulties, but must also consider how we can drive Scottish business growth and entrepreneurship."

On the Small Business Bonus, Public Health Levy and review of Empty Property Rates Relief:

"The FSB knows that the Small Business Bonus has made a tremendous difference to thousands of Scottish businesses across the country. Its retention has to be warmly welcomed.

"We also welcome the review of empty property rate relief and its effect on local high streets. We need a system which encourages vacant town centre business properties to be filled, while not hammering small landlords who lose a tenant through no fault of their own.

"We have for some time raised wider concerns regarding the opacity of the business rates system and we hope these will be taken into account when the review into its operation, announced today, gets underway. Moves to make large out of town retailers pay a more proportionate level of rates will be welcomed by many of our members on the high street, but we would urge that a good proportion of the money raised should be used to turn around our local communities."

On procurement:

"Efforts to drive the Scottish public sector to purchase more from Scottish small businesses will all be in vain if decisions are made to aggregate contracts out of the scope of local supply.

"Further, plans to attach extra requirements to public sector contracts may alarm some small suppliers. Clear guidance and support will need to be forthcoming if this policy is going to work."

On next generation broadband:

"To ensure no Scottish local economy is left behind by the next digital revolution, we need, as well as the funding announced today, a detailed digital
plan worked out in conjunction with Westminster and Scottish local authorities."

ENDS

Notes:

- The FSB is Scotland's largest direct-member business organisation, representing over 20,000 Scottish members in every sector of the economy. UK-wide, it has over 200,000 members.

Contacts:

Colin Borland: 0141 221 0775 / 07917 628 939 colin.borland@fsb.org.uk
Stuart Mackinnon: 0141 221 0775 / 07917 628 995 stuart.mackinnon@fsb.org.uk
ISDN line available: 0141 229 0253

Breakdown of how the £18million saving to the Scottish Government from the changes in empty property relief is estimated

1. Introduction

The Local Government Finance (Unoccupied Properties Etc.) (Scotland) Bill includes an enabling power for the Scottish Government to introduce regulations to alter the level of empty property relief for certain empty commercial properties. Under the new proposals, all properties would continue to benefit from 100% rates relief for the first 3 months in which they are empty. The Scottish Government intends to bring forward regulations to reduce the current discount entitlement of 50%, which applies after the 3 month period, for standard commercial properties, to 10% from 1 April 2013. The current exceptions for listed properties, industrial properties, and those with a rateable value of less than or equal to £1,700 would continue to benefit from 100% rates relief for an indefinite period while they are empty.

2. Purpose of Paper

The Scottish Government funds empty property relief and estimates that the proposed reforms would result in a reduction in the cost of relief by around £18m and that up to 5,500 currently empty properties would be affected by the proposals and potentially could come back into economic use as a result of the reform. This paper details the methodology for estimating the reduction in cost of non-domestic rates reliefs resulting from the reforms to empty property rates relief, and the number of properties affected.

The main steps in arriving at these estimates are identified in section 3 below, and summarised in the diagram provided in the attached Appendix.
3. Key steps in the methodology

1. The total number (N) of all vacant properties (i.e. those receiving both the 100% and subsequent 50% relief) and the associated rateable value (RV) is identified from the Valuation Roll (excluding zero rated), and the gross bill for all vacant properties calculated (RV*poundage (including large business supplement (LBS))

| N: 21,425 | RV: 348,293,801 | Bill: 158,495,540 |

2. The number of, total rateable value and gross bill for, properties receiving 50% empty property relief was then calculated by applying the proportion of total vacant properties that are in receipt of 50% relief as estimated from data supplied by councils, which identifies that 34% of properties and 35% of RV/bill could be affected by the proposed reform.


3. The gross bill for those on 50% relief can then be used to calculate the net bill (before other reliefs) at a 50% discount, and with a 10% discount – the difference being the net reduction in cost of reliefs (before other reliefs)

| N: 7,285 | Net reduction in cost (before other reliefs): £22.2m |

4. Data to estimate the number of vacant properties eligible for each level of Small Business Bonus Scheme (SBBS) and associated bill is then taken into account. From this the movement of properties and cost from empty property relief to the SBBS is estimated (assuming the same proportions on 50% relief as for total vacant).

| Total vacant and eligible for SBBS: N: up to 2,500 | Estimated movement to SBBS relief (£): £4.0m |

| of which for up to 2,000 properties, |

5. Total number of properties affected is total number of vacant properties, less those entitled to full drop in relief from the SBBS.

| N: 5,328 (5,500 to the nearest 500) |

6. Total net bill (before other reliefs), less movement to the SBBS equals total reduction in relief due to changes in empty property relief.

| Reduction in cost of reliefs: £18.2m |
Diagram A: Vacant Properties

Changing EPR discount for properties empty > 3 months from 50% to 10%

Total vacant properties with RV > 0
- N: 21,425
- RV: 348,293,801

Exempt: Industrial and/or RV ≤ 1,700
- N: 10,600
- RV: 112,721,280
  - N: 49%
  - RV: 32%

All other vacant properties
- N: 10,825
- RV: 235,572,521
  - N: 51%
  - RV: 68%

Industrial
- N: 5,369

Industrial with RV ≤ 1,700
- N: 1,914
  - N: 33%
  - RV: 48%

Other, RV ≤ 1,700
- N: 3,317
  - N: 67%
  - RV: 52%

Total other on 100% relief
- N: 3,541
- RV: 113,669,691

Total other on 50% relief
- N: 7,285
- RV: 121,902,830

Estimated saving from changes to EPR = £22.2m

Number of properties affected by change in EPR (bill increases): N: 5,327 (5,500 rounded)

Amount of relief (£) that move to SBBS = £3.982m

Estimated saving from changes to EPR = £18.2m
ANNEX B

HOUSING SUPPORT GRANT

Introduction

1. The Finance Committee requested further information from Scottish Government during the meeting of 2 May 2012 with specific reference to the abolition of Housing Support Grant (HSG). Two pieces of further information were sought:

   A. the housing revenue account debt burden being faced by Shetland Islands Council in relation to the 25 other local authorities with housing revenue accounts (HRAs) and/or the debt burden of Registered Social Landlords (RSLs)

   B. the level of financial reserves per capita at the Shetland Island Council available for housing revenue account purposes, again relative to the other 25 local authorities in Scotland with an HRA

A. HRA debt burden

All debt servicing charges as a proportion of total income

2. There are various ways of illustrating the current debt burden of Scottish local authority landlords. On 2 May 2012, the Committee heard from Shetland Islands Council that the debt burden in Shetland was approximately 40% of their housing revenue account (HRA) income i.e. approximately 40 pence out of every pound of income coming into the HRA was required to pay creditors. We believe the source of this statistic was the 2010-11 accounts. The 2011-12 accounts suggest a different (higher) figure as it is possible that increased debt servicing for recent, new build housing is included in the later figure. However, we concentrate on the 2010-11 data as this is the year we believe the council is referring to. Comparable figures on measuring the debt burden in this way for the other 25 housing revenue accounts in Scotland (for 2010-11) are shown in table 1, column 1 ranked from highest to lowest. These figures include all debt servicing charges i.e. interest payments plus repayment of capital plus the staff expenses councils incur on managing the debt portfolio.

3. Whilst this indicator is an acceptable measure of the debt burden, the Committee should be aware that it does include all debt servicing charges which means it can be skewed if capital repayments in any one year are particularly large i.e. if an authority made a deliberate choice to repay more capital than usual. Alternatively, it may have taken out shorter-term loans than other authorities which means capital repayments would be higher relative to these authorities in such a case. A further issue to be aware of is that the inclusion of capital repayments means the indicator can exaggerate the future debt burden as the capital repayments are actually reducing the outstanding debt principal and are therefore reducing the future debt burden. For example, at Scotland level, the interest payments for 2010-11 were £113.6 million.
Paying these out of rental income has no effect on the outstanding debt. However, the capital repayments in that year of £97.4 million did reduce the debt principal outstanding though this would have subsequently been increased when new borrowing is taken out (which did happen in 2010-11). However, the point is that the capital repayment reduces the future debt burden for tenants.

**Interest payments as a proportion of total income**

4. An alternative indicator the Committee may wish to consider is interest payments as a proportion of income. This measures the amount of rental income that is genuinely being ‘taken out’ of the HRA as it is paid directly to creditors and therefore cannot be used for investing in the stock. The ‘interest-only’ debt burden as a proportion of total HRA income shown in table 1, column 2 ranked from highest to lowest. Each figure in column 2 is lower than the equivalent figure in column 1 as all councils repaid some level of capital in 2010-11 as one would expect to see.³

5. Though not presented in the table, Scottish Government can report that there are 39 Registered Social Landlords (RSLs) with a higher debt burden than Shetland Islands Council when this is measured by interest payments as a proportion of total income for 2010-11. A further 121 RSLs have a lower ratio of interest payments as a proportion of total income than Shetlands Islands Council did in 2010-11.

**HRA debt per unit**

6. Scottish Government also publishes information on HRA debt per unit of stock. [http://www.scotland.gov.uk/Topics/Statistics/Browse/Housing-Regeneration/HSfS/HRATables](http://www.scotland.gov.uk/Topics/Statistics/Browse/Housing-Regeneration/HSfS/HRATables). This is a further indicator of the debt burden but is one that does not account for the level of rental income coming in to each HRA. The payment of HSG is a function of the rent coming into the HRA as well as the debt which the HRA services thus Scottish Government does not feel it is the most appropriate debt burden indicator when trying to analyse the data. Shetland Islands has a debt level of £25,212 per property which was the highest in Scotland in 2010-11 (Scottish average = £8,492 per property). Debt arises from borrowing to finance capital expenditure. From 1 April 2004, each local authority is under a statutory duty to determine and keep under review the maximum it can afford to allocate to capital expenditure. In discharging this duty local authorities are required to have regard to the CIPFA Prudential Code. The Prudential Code requires that borrowing is affordable, prudent and sustainable. Shetland Islands Council has held approximately this same level of debt per property for the last 15 years. In the absence of new capital investment funded from borrowing debt levels per property should fall, so a constant debt level means that either new capital investment has been made over this period which has been funded from borrowing or the number of properties has reduced. Where properties are sold a capital receipt will be received which can be used to redeem debt. This suggests the Council considers the level of debt to be affordable, prudent

³ This is true apart from for Orkney Islands Council where the capital repayment was zero in 2010-11.
and sustainable as they have not reduced the debt burden per property over this period.

B. Local authority financial reserves available for HRA purposes

7. The Finance Committee also requested a comparison of Councils’ financial reserves per capita across Scotland. However, as it is the case that the majority of council reserves cannot be used to benefit the HRA we believe it would be misleading to focus on dividing the total level of reserves by the population of each area in the context of discussing the possible level of reserves available to council housing. Therefore, we would propose that the most meaningful comparison indicator of reserves available to the HRA is:

“Total reserves available to HRA divided by the number of council dwellings at the same point in time.”

8. Details of the level of reserves held by each Council for HRA purposes as at 31 March 2011, are set out in Table 2A. This shows that Shetland has the highest housing reserve per dwelling at £6,720. This does not include the additional reserve held by Shetland arising from the operation of their harbour(s). This reserve totalled £61.621 million as at 31 March 2011. This reserve may also be made available for housing purposes if required. Dividing the harbour reserve by the number of HRA dwellings provides a reserve per dwelling of £34,406. Adding in the £6,720 per dwelling reserve data pushes the overall potential reserve for housing purposes to £41,126 (column 7). All reserve values have been taken from the audited statutory accounts of each council. These are the latest values we hold as the data on reserves values at 31 March 2012 will not be known until councils publish their unaudited accounts at the end of June.

9. A further table (table 2B) on the total level of reserves per capita is also being made available for members of the Committee that wish to see it and because this is the information that was actually requested by the Committee on 2 May 2012. However, Scottish Government would once again point out that for the purposes of examining the resources available to council housing, table 2A on the per dwelling basis is the more appropriate table.
Table 1: Housing revenue account debt burden as measured by total debt servicing payments (column 1) and interest charges (column 2)

<table>
<thead>
<tr>
<th>Rank</th>
<th>Authority</th>
<th>1 Interest charges plus capital repayment as % of total HRA income</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>SCOTLAND</td>
<td>21.7%</td>
</tr>
<tr>
<td>2</td>
<td>Shetland</td>
<td>42.5%</td>
</tr>
<tr>
<td>3</td>
<td>Edinburgh, City of</td>
<td>41.2%</td>
</tr>
<tr>
<td>4</td>
<td>West Dunbartonshire</td>
<td>41.1%</td>
</tr>
<tr>
<td>5</td>
<td>Dundee City</td>
<td>34.2%</td>
</tr>
<tr>
<td>6</td>
<td>Highland</td>
<td>30.2%</td>
</tr>
<tr>
<td>7</td>
<td>Renfrewshire</td>
<td>29.8%</td>
</tr>
<tr>
<td>8</td>
<td>East Dunbartonshire</td>
<td>29.6%</td>
</tr>
<tr>
<td>9</td>
<td>East Renfrewshire</td>
<td>27.5%</td>
</tr>
<tr>
<td>10</td>
<td>Midlothian</td>
<td>25.4%</td>
</tr>
<tr>
<td>11</td>
<td>North Lanarkshire</td>
<td>23.4%</td>
</tr>
<tr>
<td>12</td>
<td>Clackmannanshire</td>
<td>22.9%</td>
</tr>
<tr>
<td>13</td>
<td>East Lothian</td>
<td>20.2%</td>
</tr>
<tr>
<td>14</td>
<td>Perth &amp; Kinross</td>
<td>19.7%</td>
</tr>
<tr>
<td>15</td>
<td>Falkirk</td>
<td>17.9%</td>
</tr>
<tr>
<td>16</td>
<td>Aberdeenshire</td>
<td>16.1%</td>
</tr>
<tr>
<td>17</td>
<td>North Ayrshire</td>
<td>16.0%</td>
</tr>
<tr>
<td>18</td>
<td>Aberdeen City</td>
<td>14.9%</td>
</tr>
<tr>
<td>19</td>
<td>West Lothian</td>
<td>14.8%</td>
</tr>
<tr>
<td>20</td>
<td>East Ayrshire</td>
<td>14.5%</td>
</tr>
<tr>
<td>21</td>
<td>South Lanarkshire</td>
<td>13.8%</td>
</tr>
<tr>
<td>22</td>
<td>Stirling</td>
<td>13.3%</td>
</tr>
<tr>
<td>23</td>
<td>South Ayrshire</td>
<td>12.7%</td>
</tr>
<tr>
<td>24</td>
<td>Fife</td>
<td>9.7%</td>
</tr>
<tr>
<td>25</td>
<td>Angus</td>
<td>9.4%</td>
</tr>
<tr>
<td>26</td>
<td>Orkney</td>
<td>2.3%</td>
</tr>
<tr>
<td>27</td>
<td>Argyll &amp; Bute</td>
<td></td>
</tr>
<tr>
<td>28</td>
<td>Dumfries &amp; Galloway</td>
<td></td>
</tr>
<tr>
<td>29</td>
<td>Eilean Siar</td>
<td></td>
</tr>
<tr>
<td>30</td>
<td>Glasgow City</td>
<td></td>
</tr>
<tr>
<td>31</td>
<td>Inverclyde</td>
<td></td>
</tr>
<tr>
<td>32</td>
<td>Scottish Borders, The</td>
<td></td>
</tr>
<tr>
<td>Rank</td>
<td>Authority</td>
<td>Interest charges only as % of total HRA income</td>
</tr>
<tr>
<td>------</td>
<td>------------------------------</td>
<td>-----------------------------------------------</td>
</tr>
<tr>
<td>1</td>
<td>Edinburgh, City of</td>
<td>21.1%</td>
</tr>
<tr>
<td>2</td>
<td>Midlothian</td>
<td>18.3%</td>
</tr>
<tr>
<td>3</td>
<td>West Dunbartonshire</td>
<td>18.0%</td>
</tr>
<tr>
<td>4</td>
<td>West Lothian</td>
<td>16.8%</td>
</tr>
<tr>
<td>5</td>
<td>Dundee City</td>
<td>16.6%</td>
</tr>
<tr>
<td>6</td>
<td>Highland</td>
<td>15.7%</td>
</tr>
<tr>
<td>7</td>
<td>Moray</td>
<td>15.0%</td>
</tr>
<tr>
<td>8</td>
<td>Renfrewshire</td>
<td>14.8%</td>
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<td>9</td>
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<td>14.4%</td>
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<td>12.9%</td>
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<td>12</td>
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<td>South Lanarkshire</td>
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<tr>
<td>18</td>
<td>North Ayrshire</td>
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<tr>
<td>19</td>
<td>Perth &amp; Kinross</td>
<td>7.9%</td>
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<tr>
<td>20</td>
<td>North Lanarkshire</td>
<td>7.5%</td>
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<tr>
<td>21</td>
<td>East Dunbartonshire</td>
<td>7.1%</td>
</tr>
<tr>
<td>22</td>
<td>Fife</td>
<td>6.9%</td>
</tr>
<tr>
<td>23</td>
<td>Stirling</td>
<td>6.7%</td>
</tr>
<tr>
<td>24</td>
<td>Angus</td>
<td>6.2%</td>
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<td>25</td>
<td>Falkirk</td>
<td>3.1%</td>
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<td>26</td>
<td>Orkney</td>
<td>2.3%</td>
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<tr>
<td>27</td>
<td>Argyll &amp; Bute</td>
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<tr>
<td>28</td>
<td>Dumfries &amp; Galloway</td>
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<td>Eilean Siar</td>
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<td>Glasgow City</td>
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<tr>
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<td>Inverclyde</td>
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<tr>
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</table>
Table 2A: Council reserves available to the housing revenue account (HRA) as at 31 March 2011

<table>
<thead>
<tr>
<th>Authority</th>
<th>Reserves</th>
<th>Number of dwellings</th>
<th>Reserves per dwelling</th>
<th>3 = 1 divided by 2</th>
<th>Reserves per dwelling</th>
<th>4</th>
<th>Reserves per dwelling</th>
<th>5 = 4 divided by 2</th>
<th>Total available reserves</th>
<th>Reserves per HRA dwelling</th>
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<tbody>
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<td>Aberdeenshire</td>
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<td>12,851</td>
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<td></td>
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<tr>
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Source of financial values: local authority statutory accounts


Note 1: HRA balances transferred to a housing repairs and renewals fund each year; which is the value shown.

Note 2: Surplus of £102,000 in 2010-11 was transferred to the repairs and renewals fund. No information provided on the HRA share of the repairs and renewals fund which had a balance of £4.9m at 31 March 2011.

Note 3: Surplus of £31.64m in 2010-11 was transferred to the repairs and renewals fund. No information provided on the HRA share of the repairs and renewals fund which had a balance of £15.404m at 31 March 2011.

Note 4: Reserves per dwelling in columns D and H excludes Dundee and Edinburgh as no information on HRA share of repairs and renewal reserve is available in the accounts.

Note 5: Although reserves are available to the HRA, columns 6 and 7 do not suggest that all available reserves should be used for HRA purposes.
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<th>Total reserves per capita</th>
<th>Total earmarked reserves per capita</th>
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<td><strong>88</strong></td>
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Source: Scottish Local Authority Capital Expenditure, 2010-11

Note 1: This is the total reserves held by each council, both capital and revenue, which in themselves have statutory restrictions on their use. See table 1 for the level of reserves that could be used for HFA purposes.

Note 2: This data is from returns made to the Scottish Government by councils which may be different to the the audited accounts.
Supplementary submission from the Scottish Government

Information on non-domestic rates empty property relief reform and Council, NHS and Scottish Enterprise properties.

It is complex to identify specific properties including those belonging to Council, NHS or Scottish Enterprise on the valuation roll. This is mainly due to the differences and variety in how property names and occupiers are recorded. Therefore, data from the valuation roll along with billing system records from Councils have been used to estimate the impact of the proposed reform on these specific business groups.

Properties will be very unlikely to qualify for the SBBS, so we have not considered any overlap.

Council

We estimate that approximately 2,000 council properties are vacant and in receipt of empty property relief at any given point in time. Of this total, we estimate that between 630 and 870 properties would be affected by the proposed reforms, with a reduction in relief awarded between £1.4m and £1.7m. The remaining properties are likely to be industrial or listed or in the initial 3 month 100% period and will see no change to the amount of relief awarded.

Scottish Enterprise

We estimate that there are around 200 Scottish Enterprise vacant properties. The proposed reforms to EPR, could reduce the rates relief awarded by up to a maximum of £0.4m. However, some properties may be industrial or listed or in the initial 3 month 100% period and will see no change to the amount of relief awarded, meaning actual change may be significantly lower.

NHS

We estimate that there are less than 40 vacant NHS properties. The proposed reforms to EPR, could reduce the rates relief awarded by up to a maximum of £0.3m. However, some properties may be industrial or listed or in the initial 3 month 100% period and will see no change to the amount of relief awarded, meaning actual change may be significantly lower.
Submission from the Scottish Property Federation

Consultation

1. Did you take part in the Scottish Government consultation exercises which preceded the Bill and, if so, did you comment on the financial assumptions made?

In response to this question the Committee may wish to distinguish between the formal consultation exercise run by the Scottish Government on the council tax aspects of the Bill and the business rates aspects, which were part of the Spending Review announcement on 21st September, rather than any specific form of consultation.

The Scottish Property Federation (SPF) did respond to the Long Term Empty Homes (LTEHs) consultation paper in the usual manner, criticising in particular the definition of LTEHs as homes empty for six months. There was a financial consequence because at that stage the government was consulting on whether to enable levies to be applied by local authorities on empty home owners after this length of time.

On empty property rate relief, the SPF wrote directly to the Cabinet Secretary for Finance, Employment and Sustainable Growth to raise our concerns, among other things, with the costs arising from the policy proposal to reduce relief for certain classes of property.

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

On council tax the Financial Memorandum is not specific in a number of areas. For example the cost to house builders of reduced empty home council tax discounts on unsold new houses, or the potential costs associated with their purchase of part exchange homes with customers that are then not sold as quickly as anticipated. But we do welcome the move by the Scottish Government to enabling the proposed ‘vacancy’ levy to be applied only after a much longer period of vacancy.

There remain a number of areas in the Financial Memorandum that do not fully cover some of the points we alluded to in our letters to Ministers. For example, the Scottish Administration is identified as having little additional cost associated with reducing rate relief for their vacant properties. We find the suggestion in the Financial Memorandum that only 12 properties in the Scottish Administration’s estate to be liable somewhat surprising. This may be the case for properties that it might be directly responsible for but this does not appear to take account of sponsored government bodies such as Scottish Enterprise, who we understand from the valuation roll have substantial numbers of vacancies in property investments. Similarly we wonder if organisations such as Housing Associations and the NHS have been fully accounted for in the Financial Memorandum.
We note from a recent written answer to Ken Macintosh MSP that the Scottish Government estimates that around 10% of the 'savings' from reducing empty property rate relief will flow from local authorities themselves. From our sample we certainly identified some sizeable potential empty property rates liabilities for Glasgow and Dundee City Councils to name but two.

Finally we are concerned that the additional costs associated with empty properties are not viewed from the perspectives of investors. Increasing costs associated with property investment is not likely to be viewed positively by investors. If a sufficient supply of speculative commercial property new build is to be encouraged, then high empty rates charges after as little as three months, is hardly likely to be an incentive. Similarly for investors in residential property although it is fair to say that landlords will seek to avoid financial loss through empty properties.

3. Did you have sufficient time to contribute to the consultation exercise?

The consultation on council tax was run along the usual lines. As previously explained the decision on empty property rates was first announced rather than previously consulted on, although we accept that the Spending review was regarded as a consultation in itself. With the empty rates measures not scheduled to be introduced until next April, we would agree that there has been time to respond to the Scottish Government with our views.

Costs

1. If the Bill has any financial implications for your organisation or your members, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?

The SPF is of the view that there will be considerable additional costs to its members with unforeseen consequences for the market, including an increase in businesses being placed into administration. The SPF is concerned that the additional cost impact on ratepayers will be potentially higher than the forecast figure of £18mn per annum and we find no evidence that this will improve occupancy rates. Indeed the introduction of a similar policy in England has coincided with an increase in retail vacancy rates from 3% in 2007 to over 14% in 2011.

2. Do you consider that the estimated costs and savings set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate?

We have identified a sample of some 1,500 vacant properties in which we have sought to not include industrial premises or premises thought to be eligible for the Small Business Bonus Scheme (SBBS). This sample represents around 10% of the estimated total of vacant properties that will
face an increase in liability from April 2013, should they remain vacant. From this small sample of 10% we calculated a total of some £70mn of rateable value, which would suggest an increased empty rates liability of just over £14mn. Given the small size of the sample used by the SPF we are concerned that the cost of reducing the relief to ratepayers will be more than Ministers anticipate.

Based on our own property data research we believe that certain assumptions may have been made in the government’s analysis about the interplay of empty property rate relief with other forms of rate relief and the movement of properties from 100% relief to 50% relief. We believe that some of these assumptions may be challenged, for example in the sample we considered most properties had been vacant for some considerable time and we excluded very few from our calculations on the basis that they might be eligible for the SBBS. Oddly the Financial Memorandum highlights the possibility of an empty property worth less than £10,000 being eligible for the SBBS, instead of empty property rate relief. The problem with this is that if the business is trading from another location in Scotland, then it could not be eligible for empty property rate relief because of the SBBS’s one property rule. Also, it is important not to get too attracted to the 100% threshold for empty property rate relief which is a temporary measure established for just three months. And if the business is not trading (as a small business with just one empty property) then it is a dormant business and probably in liquidation or administration and no rates will be raised from its former premise. Therefore we feel this part of the Financial Memorandum should be questioned.

We note also that the Financial Memorandum infers that the full £18mn cost is attributed to businesses. As we explain elsewhere a significant portion of this cost, we estimate between 10-20% at least, will actually come from the public sector itself.

3. If relevant, are you content that your organisation or members can meet the financial costs associated with the Bill, which your organisation will incur? If not, how do you think these costs should be met?

We are not confident that our members will be able to meet the additional costs associated with the increase in empty property rates liability. As noted in greater detail below we see the increase in empty rates liability as a perverse incentive to put business into administration and we see no estimate made of this eventuality in the Financial Memorandum.

Options that should, in our view, be considered include -

- leaving the relief thresholds as they are;
- exemption of new build speculative developments for a period of time; and
- retaining a higher relief threshold than the proposed drop to 10% or a substantially longer period of 100% relief than 3 months.
4. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

The Financial Memorandum does not in our view achieve this and indeed the example of how the policy in England worked in practice offers little encouragement. Before introducing the policy in England the relief was worth some £1.3bn per year. It is still worth some £1.1bn per year after having fallen dramatically to some £600mn in the first year of operation (2008-09). This buoyancy in relief costs points to the economic recession and consequent lack of demand for commercial property as the causes of relief costs, not as implied in the financial memorandum the existence of a fiscal incentive to keep properties empty.

We are also unclear on exactly how certain of the assumptions identified by the Financial Memorandum are estimated to affect the estimates and uncertainties associated with the policy. For example the Financial Memorandum does not make any assessment of the uncertainty surrounding loss through administrations. Neither does it appear to consider the reports from England of properties being removed from the valuation roll by landlords who are unwilling or unable to pay the increase in liability.

In addition it is also highly likely that there will be an increase in the use of empty vacancies for charitable purposes and this will again result in a loss to the Scottish Government revenue – the Financial Memorandum alludes to this possibility but makes no firm estimate.

Turning to council tax we regret that there appears to have been little assessment of why homes lay empty for significant periods of time, with the default assumption that the landlord is not proactively seeking to let (or sell) the property. We think the reasons for empty homes are much more complex in a number of cases and we are not convinced that punitive taxation will indeed raise the revenue expected.

Wider Issues

5. Do you believe that the Financial Memorandum reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom?

The SPF feels that the proposal to reduce empty property rates relief is based on a misconception of the market and is a significant cost to businesses, the public sector and investors including in particular pension funds. The measure will be a significant and perverse incentive for lenders to place businesses into administration and will also undermine the attractiveness of Scotland as place to build speculative commercial developments. Where a lender places a business into administration the Scottish Government may actually ‘lose’ revenue from empty properties that may previously have been paying 50% of their nominal liability.
Our analysis began to examine who would be liable for the additional rates that would be incurred. We have found some considerable costs from even this small sample for the public sector and a considerable impact for investors, including many pension funds (including public sector pension funds). From this perspective the policy is something of an own goal as liabilities will increase significantly for a number of public bodies including Scottish Enterprise, Dundee and Glasgow City Councils. It must be a concern for these authorities that this cost will need to be balanced by cuts elsewhere in their budgets.

6. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

The market will ultimately determine the costs associated with the Bill as much as the subordinate legislation. If there continues to be weak demand for commercial property and in particular retail property, then costs to businesses may increase rapidly. Similarly business or public sector ratepayers who possess surplus properties that they cannot dispose of due to weak demand will continue to face increased costs.

The SPF would be pleased to explain its views further at the Committee’s convenience.

Supplementary submission from the Scottish Property Federation

Please find below some notes further to evidence requested from the Committee after SPF’s appearance last Wednesday. We would add that this is a very brief assessment and reiterate that it represents our initial understanding of the position.

1. Exemption from empty business rates for speculative development

In our evidence to the Committee last week we suggested that the Welsh Assembly Government had been reported as finding a way to provide an incentive for new development. In a meeting later that day with the Scottish Government SPF was informed that the Welsh example appeared to be limited to Enterprise Area type incentives and that State Aid was a concern with going beyond such enterprise area based reliefs in connection with empty property rate relief for new build commercial developments. Needless to say this is a disappointment and it is our belief that the Scottish Government may have been interested in any such incentive for economic development.

2. Potential costs of new build development

The Committee asked for potential empty rates costs of new developments. The costs will vary greatly depending on local market but some indications are provided below. A relatively recent mixed use development of some 350,000ft$^2$ was estimated by the developer to have current rates liabilities of
just over £500,000. The developer in question has largely let the site, although only after a nine year period of planning, construction and marketing but some £45,000 of rates liability remains. While the largest cost related to construction works the rates liabilities represented a significant proportion of total potential liabilities. Currently this liability will increase on an annual basis to £81,000 based on the Scottish Government’s proposals (reducing relief to 10% for vacant offices).

3. SPF Sample Data

Our evidence sampled some 1,900 plus vacant premises although we discounted a number from the final rateable value estimate due to believing they might be eligible for other forms of rate relief. Our method was to identify a number of major and local shopping centres and from the valuation roll identify vacant premises (as recorded). We then tallied this list of rateable value, recording the owner or liable tenant and number of properties. Notwithstanding the number of properties we subsequently discounted from our final assessment of additional rates liabilities from this exercise, we estimate that our sample still covers in excess of 1,500 properties and represents about 10% of the total vacant premises in Scotland, and possibly slightly more than 10%. Based on this relatively small sample size the suggested increase in rates liability comes to some £14mn (see paragraph d below for further explanation).

Our analysis is provided at Annex A on an overall basis. We would add some notes to go alongside this analysis.

a. This analysis is based on a uniform business rate of 47p in the pound of rateable value. The current business rate is 45p in the pound, before the large business supplement of 0.8p.

b. We have sought to exclude small premises, premises that appear able to benefit from the small business bonus scheme and industrial premises. We have not yet ‘sanitised’ the data due to lack of time and resource but we intend to do this and share our findings with the Scottish Government’s officials.

c. We cannot account for listed properties and this is a potentially very significant factor.

d. A number of members submitted direct rates payable evidence of the increase in liability they would be faced with due to the proposals. These properties are part of the wider trawl we conducted ourselves independently of our members and they are therefore identified separately in the paper at annex A (see row 37).

e. The evidence we have provided, except for the caveat at paragraph d above, is all based on the public valuation roll. Scottish Government officials have access to more sensitive data but we would be critical of any assumption that a significant proportion of properties will simply be in 100% relief regularly. There may also be some concern about how up to date the valuation roll is.
f. We have not made allowances for properties that enter into 100% relief for the three months and then return to full occupation before reverting to 100% and then possibly 50% relief. A survey conducted by the RICS and Lambert Smith Hampton in 2009 found that on average commercial properties remained vacant for 7-12 months between lettings, so believe the assumption that properties move in and out of occupation easily is somewhat optimistic. If anything we suspect this figure is perhaps longer in Scotland because the RICS/LSH survey was based in England and included London.

g. Although we excluded some properties from the analysis because of type of premise or possibility of small business bonus scheme eligibility, we are wary of attributing too great a value for this because of the restrictions on cumulative rateable value (for more than one property £25,000RV).

<table>
<thead>
<tr>
<th>Area</th>
<th>Rateable Value</th>
<th>No of Properties</th>
<th>Nominal Rates</th>
<th>50% Rates Relief</th>
<th>90% Rates Relief</th>
<th>Increase in Rates</th>
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<td>Perth</td>
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<td>2562035.8</td>
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</table>
Supplementary submission from the Scottish Property Federation

1. Mr Wheelhouse asked about whether a reduction in rate relief for empty properties would be identified as part of an appraisal as either a higher risk or a reduced yield. The initial question related I think to an example of a 400,000ft² development (broken down into smaller office units). Such a development would be exceptionally large-scale, indeed the Maxim development off the A8 stands out as the main current example of a development this size. However, we provide below an example of how the increase in void rates would be assessed against a sizeable city office development.

2. For a typical 50,000 sq ft City Centre office building (in say Edinburgh or Glasgow) you would expect to account for an empty rates liability for a duration of 18-24 months in a typical viability appraisal, for which we estimate an annual liability (at 90% empty rates liability) of circa £600,000 (totalling £0.9mn - £1.2mn). To put this into context the completed development would have a value of circa £22mn based on a rental value of £28 per sq ft and an investment yield of 6% for which a developer would expect a profit margin of circa 15% of development value or £3.3mn. On this basis the total empty rates liability equates to some 30% of the profit has a fundamental impact on viability.

3. It should be noted that there is a difference with this traditional appraisal and that of a Business Centre Development which Tom Stokes outlined, whereby by recollection the suggestion from BCA was that occupancy rates would be anticipated at say 50% then moving upwards to close to 90% in year 3. However the increase in rates caused by reducing relief from 50% to 10% effectively increases the liability of void rates by 80% and similarly to more traditional appraisals, the risk of this cost will have a significant impact on any development appraisal for new Business Centres, and this was the message that I think Tom was relaying.
Submission from Shetland Islands Council

Shetland Islands Council’s submission to the consultation relates to Part 4 of the Bill – Abolition of Housing Support Grants.

Consultation

1. Yes. Shetland Islands Council took part in the consultation exercise. The Council commented on the financial assumptions in relation to the Abolition of Housing Support Grant to the extent that it did not support the Bill unless satisfactory transitional arrangements were put in place.

2. No. To date no details of any transitional arrangements have been issued.

3. Yes there was sufficient time to contribute to the consultation exercise.

Costs

4. No we do not believe that the financial implications for Shetland Islands Council have been accurately reflected. There needs to be a better recognition of the history of the housing debt and its link to the production of North Sea oil which has generated billions of pounds of revenues to the UK government and a series of broken promises in respect of debt resolution. However, without knowledge of the details of any proposed transitional arrangements, it is difficult to answer fully on this point. The absence of any transitional arrangements will result in a direct impact on 1800 tenants, for example to fund the value of the current years Housing Support Grant allocation would either mean a loss of service/investment of £760,950 or an increase in rent of £8.13 per week on average rents. Shetland’s rents are already in the upper quartile of Scottish local authority rents and there is an increased cost of living factor in remote, rural and island locations.

5. No – for the reasons stated at 1 above.

6. No – we believe it is unfair to place the full debt burden of approximately £40 million on to 1,800 tenants. The Housing Revenue Account has already made considerable efficiencies and would be unable to make any further cuts without detriment to the service and consequences for the maintenance standards of our stock. The Council is currently facing an unprecedented and overwhelming demand for housing – there are almost 1000 people on our waiting list, 260 homeless presentations very low turnover rates and with an average debt per tenant of over £20,000 there is marginal capacity to undertake new build to address the acute housing shortage.

7. ?

Wider Issues
8. The Financial Memorandum fails to capture the fact that Shetland Islands Council’s Housing Revenue Account is burdened with such a level of debt that approximately 40% of housing rents income is used to finance debt repayment charges. The Housing Support Grant has alleviated this somewhat, but even that did not fully address the underlying issue of the sustainability of the Housing Revenue Account.

The bill invites the Council to consider using its own reserves to address the issue. The first point to make is that writing off a part or all of the £40 million internal debt would result in a charge to the general fund, which would be recorded in the financial statements. This in essence represents the Council Tax payer being charged to sustain the Housing Revenue Account. This is not permitted under statute.

The second point to make is that the debt on the HRA today relates to a large expansion in house building in the 1970s to support a growing population who had come into the Islands to operate the Sullom Voe oil terminal and related oil based activities. The Council provided homes which supported jobs in the Oil Terminal which has resulted in billions of pounds of tax receipts going to the government. The Council has subsequently been required to sell these houses for a significant loss in order to comply with the Right to Buy policy which was set at a national level. It is therefore politically difficult to ask a small Islands community to bear the cost of the debt today.

9. None noted.

Additional submission from Shetland Islands Council

Shetland Islands Council Reserves

Following the Scottish Parliament Finance Committee meeting of 2 May 2012 I am writing to provide additional information regarding Shetland Islands Council’s Usable Reserves as agreed at the meeting.

In the 2010/11 audited financial statements, Shetland Islands Council disclosed a Usable Reserves balance of £269.082m. Of this balance, £55.363m had been issued as loans, and specifically £41.468m had been issued as loans to the Housing Revenue Account (HRA), meaning that the actual cash available in reserves to the Council totalled approximately £213.721m.

A table has been attached at Appendix 1 which sets out this opening position, and details which reserves can be used to fund the HRA and the extent to which these balances have been committed by the Council. The information has been presented in such a way that there is documented evidence to support each of the columns, and these are described in the accompanying notes to the table.

The conclusion to be drawn from this analysis is that by March 2013, the Reserve Fund will have an uncommitted balance of £14m based on information available in May 2012. However, it should be noted that it is anticipated that there will be a further draw on the Reserve Fund in 2013-14 in
order to balance the revenue budget, and there is a risk that the 2012-13 savings targets will not be met, which would require further draws on the Reserve Fund in the current financial year. As a result of this uncertainty, and expected future commitments on this fund, the Council is not in the position to prudently use the Reserve Fund to address the debt issue on the HRA.

If you require any further information or clarification, please feel free to get in touch.
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<td>SCHOOL</td>
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Shetlands Islands Council zero charges

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£2,250.00 - £1,125.00 = £1,125.00
£362.50 - £1,631.25 = -£1,268.75
£2,250.00 + £362.50 = £2,612.50
-£1,125.00 - £1,268.75 = -£2,393.75

Total: -£2,393.75

£1,125.00 - £1,631.25 = -£506.25
-£506.25 - (-£2,393.75) = £1,887.50

Total: £1,887.50
### Appendix 1 – Draft Breakdown of “Available” Reserves

<table>
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<tr>
<th>Area</th>
<th>Usable Reserves as per 10/11 accounts</th>
<th>Exclude: Specific Committed Reserves</th>
<th>&quot;Available&quot; Reserves</th>
<th>2011/12 2011/12 drawn down reserves money</th>
<th>12/13 approved budgeted draw on Reserve Fund</th>
<th>Commitment to Sullom Voe closure (Reserve Fund)</th>
<th>Remaining “Available Reserves” 31 March 2013</th>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General Fund</td>
<td>-£3,000,000</td>
<td>-£3,000,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Potential Contingent Liabilities</td>
<td>-£11,400,000</td>
<td>-£11,400,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reserve Fund - Revenue</td>
<td>-£61,621,204</td>
<td>-£61,621,204</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reserve Fund- Marine Operations</td>
<td>-£2,582,107</td>
<td>-£2,582,107</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>£500,000</td>
<td>£500,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>RF - Revenue Efficiencies</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CEEF</td>
<td>-£51,669</td>
<td>-£51,669</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hansel Fund</td>
<td>-£90,215</td>
<td>-£90,215</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Insurance Fund</td>
<td>-£222,606</td>
<td>-£222,606</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unapplied GOV Grants</td>
<td>-£171,316</td>
<td>-£171,316</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Usable Capital Receipts</td>
<td>-£13,468</td>
<td>-£13,468</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**TOTAL**

|                                | £269,083,570 | £207,462,366 | £61,621,204 | £34,000,000 | £14,021,204 |

Note 1 – These balances make up the total Usable Reserves of £269.083m as disclosed in the Audited Statement of Accounts 2010-11.

Note 2 – Of the total Usable Reserves disclosed in the Statement of Accounts 2010-11 these are the balances that are ring-fenced for specific purposes such as repairs and renewals. Please also note, that with the exception of the Repairs & Renewals – Housing account, these reserves have been built up from general fund sources, and therefore are not available to use to fund HRA expenditure.

Note 3 – This column represents the reserves that could be classified as “available” and could be used for HRA expenditure. As can be seen, this essentially represents the Reserve Fund.

Note 4 – This column represents the level of Reserves utilised in 2011-12 in order to meet balance the revenue and capital budgets for the year. During 2011-12 the Council utilised £34m of its reserves to fund current revenue and the capital programme, this total can agreed to Fund Manager statements.

Note 5 – The 2012-13 revenue budget approved by Members on 9 February 2012, and available on the Council’s website, will see £18.4m of revenue reserves being called upon to fund budgeted expenditure. Of this total, £12.9m will be funded from the Reserve Fund.
Note 6 – The Zetland County Council Act 1974 allows Shetland Islands Council to operate a Reserve Fund. It clearly states that the first call on the Reserve Fund is to provide for all necessary Harbour expenditure. There is a legal requirement for Shetland Islands Council to return the Harbour site at Sullom Voe back into its original condition, ie free from any industrial installations. Given that activity at the Harbour is declining, it is prudent for the Council to earmark the costs associated with returning the Harbour back into its original condition. This is estimated to be in the region of £25m.

Note 7 – This represents the “uncommitted” Reserve Fund. However, it should be noted that the 2013-14 revenue budget anticipates a draw of c£7 from reserves, and this is assuming that all savings budgeted for are achieved in 2012-13. Any slippage in the savings programme will increase the draw on the Reserve Fund in 2012-13 and therefore reduce the available balance further.
Submission from Western Isles Council

Consultation
1. Did you take part in the Scottish Government consultation exercises which preceded the Bill and, if so, did you comment on the financial assumptions made?

Yes. The Comhairle submitted a response to the Consultation, but was only able to comment very briefly on the financial assumptions.

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

Yes.

3. Did you have sufficient time to contribute to the consultation exercise?

Yes.

Costs
1. If the Bill has any financial implications for your organisation or your members, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?

The Financial Memorandum provides a useful indication of the likely costs involved in introducing the amendments.

2. Do you consider that the estimated costs and savings set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate?

The estimated costs and savings are a reasonable reflection of the possible costs associated with introducing the Bill, given the small sample size.

3. If relevant, are you content that your organisation or members can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?

Based on the estimates provided in the Financial Memorandum, it is likely that the costs associated with introducing the Bill would be offset by the additional income gained.

4. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

Yes.
**Wider Issues**

5. Do you believe that the Financial Memorandum reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom?

Yes. The Financial Memorandum provides a reasonable estimate of likely costs.

6. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

Not possible to say at this stage.
Finance Committee

Local Government Finance (Unoccupied Properties Etc.)(Scotland) Bill: Financial Memorandum

The Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill was introduced in the Scottish Parliament on 26 March 2012. The Bill has 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 all measures would take effect from April 2013, subject to the passage of the Bill and associated regulations.

Each part of the Bill is covered separately below.

Empty property relief on non-domestic rates

Current empty property rates relief regime
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 continue to receive 100% empty property rates relief indefinitely. These are:

- Listed properties
• Industrial properties

• Properties with a rateable value of less than £1,700

The Scottish Government estimates that there are currently between 19,000 and 20,000 properties benefitting from empty property rates relief\(^{21}\). The current empty property rates relief regime will cost the Scottish Government an estimated £152m in 2012-13 and is the costliest of all the non-domestic rates relief schemes currently in operation\(^{22}\). Other relief schemes include the small business bonus scheme and rates relief for charities.

Figures for the cost of empty property rates relief in earlier years, as well as forecast costs for the period to 2014-15 are shown in Table 1. 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. This will reflect a combination of economic factors, the impact of appeals and changes in the non-domestic poundage rate.

Table 1: Cost of empty property rates relief

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

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

\(^{21}\) Scottish Government, personal communication

\(^{22}\) Scottish Local Government Financial Statistics 2010-11
Changes proposed

The Bill’s provisions 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.”

According to the Bill’s Policy Memorandum, the proposed changes to the empty property rates relief regime will:

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

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 industrial 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. Table 2, taken from the Bill’s Financial Memorandum (FM), summarises the changes proposed. The only category of property affected is highlighted – standard commercial properties that have been empty for more than 3 months.

Table 2: Empty property relief current and proposed rates in Scotland

<table>
<thead>
<tr>
<th></th>
<th>Current position</th>
<th>Intended position post-legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Standard or “commercial” empty property relief first 3 months</td>
<td>100% relief (i.e. no rates payable)</td>
<td>100% relief (i.e. no rates payable) – NO CHANGE</td>
</tr>
<tr>
<td>Standard or “commercial” empty property relief after 3 months</td>
<td>50% relief (until occupancy status changes)</td>
<td>10% relief (until occupancy status changes)</td>
</tr>
</tbody>
</table>

Exceptions:

- Listed property 100% relief 100% relief – NO CHANGE
- Industrial property 100% relief 100% relief – NO CHANGE
- Low rateable value property (rateable value less than £1,700) 100% relief 100% relief – NO CHANGE
Financial implications

The FM summarises the costs relating to the Bill and associated regulations as shown in Table 3.

Table 3: Costs and savings associated with changes to empty property rates relief, £m

<table>
<thead>
<tr>
<th></th>
<th>Scottish administration</th>
<th>Local authorities</th>
<th>Other bodies, individuals and businesses</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estimated costs (+) or savings (-)</td>
<td>-18.0 (per year)</td>
<td>0.0</td>
<td>+18.0 (per year)</td>
<td>0.0</td>
</tr>
</tbody>
</table>

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 current cost of relief (£152m). 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.

According to the Scottish Government, roughly 13,000 properties (around two-thirds of the 19,000-20,000 properties currently benefitting from empty property rates relief) are currently getting 100% rates relief. This includes properties that pay no rates because they are listed properties, industrial properties, or have a rateable value of less than £1,700, as well as properties that are paying no rates because they have been empty for less than 3 months. The first group (listed properties, industrial properties, and those with a rateable value of less than £1,700) would not be affected by the proposed reforms. The second group (those which are receiving 100% rates relief because they have been unoccupied for less than 3 months) would be affected once the three months expires, at which point they would receive a 10% discount rather than the current 50% discount.

The Scottish Government estimates that the remaining third of properties currently benefitting from empty property rates relief are getting 50% rates relief because they have been empty for more than 3 months (this equates to roughly 6,500 properties, according to Scottish Government estimates). For these properties, the proposed changes would mean a reduction in rates relief from 50% to 10%.

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 in the order of £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." (S4W-06087)

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.

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.

These additional costs to the public sector are not reflected in the FM.

**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 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.

The FM does not give details of the assumptions made, or what the impact of varying these assumptions would be on the overall estimate of savings to the Scottish Government (or cost to businesses). In addition, 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 business 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 set in line with English rates).

**Stakeholder views**

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 evidence to the Economy, Energy and Tourism Committee following the Draft Budget, 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.”

Given that the financial estimates were not published at the time of the Draft Budget, any submissions following the Draft Budget related to the broad principles of reform of empty property rates relief, rather than the costings. The main concerns relating to costings, which have been echoed in responses to the Finance Committee’s call for written evidence, are summarised below.

**Impact on businesses**

Concerns have been raised by business organisations about the cost to businesses, especially small businesses, which are already facing challenging economic

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circumstances. The SPF has indicated that it considers that the FM significantly underestimates the impact on businesses. 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 and 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.

The SPF points to the English experience, where empty property rates relief was reformed in April 2008. The SPF states that, despite the reforms in England – which went further than the proposed reforms in Scotland – retail vacancy rates have risen and the cost of empty property rates relief is only slightly lower (£1.1bn per year) than it was before reform (£1.3bn per year). The SPF does point out that, in the first year of operation, the cost of empty property relief in England fell sharply (to £600m). This lends support to the view that the cost of empty property rates relief is highly volatile and likely to fluctuate with wider economic conditions. However, it should also be noted that there have been a number of changes to eligibility for relief in England which will affect comparisons over time.

The CBI refers to research undertaken by Lambert Smith Hampton which found that the changes to empty property rates relief in England had not resulted in increased occupancy levels. 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 2011.24

Adverse incentives

A number of organisations have highlighted that the proposed changes to empty property relief could result 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. This type of activity has led to empty property rates in England being labelled as “bombsite Britain” tax.

The reduced availability of property that could result could 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 administration or insolvency, so that they would be exempt from non-domestic rates, rather than continue in business and potentially

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. These potential additional costs to local authorities have not been factored into the estimates presented in the FM.

**Council Tax on long-term empty properties**

**Current regime**

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). 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.

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 chargeable council tax). 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 of between 50% and 10% depending on local authority policy. These arrangements also apply to second homes.

In September 2011, there were approximately 71,000 empty properties 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 2012). LTE properties represent around 1% of total council tax chargeable dwellings.

With the exception of Glasgow and Renfrewshire, all local authorities have reduced the discount available to LTE property owners after 12 months to 10%. In Glasgow and Renfrewshire, owners of LTE homes continue to receive a 50% discount after 12

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25 An unoccupied property may be fully exempt from council tax for a number of reasons, for example because it is being structurally repaired, because the owner has died, because it is social housing due for demolition, because it has been repossessed, or because the owner has been taken into hospital or care or is in prison.
months. Currently around £7m is raised from reduced council tax discounts on LTE homes i.e. where councils have opted to reduce the discount from 50% to 10%. The additional revenue raised through a reduced discount is retained by the local authority but must be used for activities in relation to affordable housing provision, as set out in guidance agreed with COSLA. The Scottish Government has indicated that any additional revenue raised through changes to discounts and/or new charges would not be ring-fenced for specific purposes.

Changes proposed

The proposed changes are as follows:

- 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). For six months following the period of exemption owners would receive a discount of between 50% and 10% depending on council policy.

- After 12 months of a property being empty, councils could reduce the council tax discount to 0% or increase council tax charges by a maximum of 100%, i.e. the owner of a LTE home could be liable for double the existing council tax rate for an equivalent 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:
  - where the council was satisfied that the owner was actively trying to let their property; or
  - where a Registered Social Landlord 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 LTE. This is in order to prevent owners from avoiding liability 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.

The proposed regulations will be subject to consultation and will need to be approved by Parliament so the proposals may be subject to some change during that period.

Financial implications

The FM summarises the costs relating to the Bill and associated regulations as shown in Table 4.

**Table 4: Costs and savings associated with changes to council tax on LTE homes, £m**

<table>
<thead>
<tr>
<th></th>
<th>Scottish administration</th>
<th>Local authorities</th>
<th>Other bodies, individuals and businesses</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estimated costs (+) or savings (-)</td>
<td>0.0</td>
<td>+0.4 to +1.0 (one off)</td>
<td></td>
<td>+0.4 to +1.0 (one off)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>-12.6 to -15.1 (per year)</td>
<td></td>
<td>+0.9 to +2.7 (per year)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Scottish Government

According to the FM, no additional costs are estimated to result for the Scottish Government as any related work could be undertaken by existing staff and the Scottish Government only owns a very small number of residential properties.

Local authorities

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). These benefits would accrue to local authorities, who would retain the additional income.

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 changes from the current discounts offered 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

Property owners

The owners of LTE homes would face higher council tax bills under the new proposals, assuming that councils opt to introduce such increases. As stated above, the FM assumes that all councils implement a 100% increase in council tax for LTE homes after 12 months. Under this scenario, an owner of a band B LTE home would face, on average, an additional £982.07 per year in council tax, when compared with the current position, where the majority of councils offer a 10% discount for LTE homes. Overall, owners of LTE homes (including private sector individuals, businesses and public sector bodies) would be paying an additional £15.3m-£16.0m in council tax per year.

Main assumptions and sensitivity of 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 FM states that ‘there are significant margins of uncertainty in relation to these estimates’. The main assumptions that affect the costings are:

• The assumption that all councils will introduce the maximum 100% increase in council tax – the main estimates presented in the FM make this assumption, while noting that there is ‘uncertainty about whether and to what extent local authorities will use the new powers, which could lead to very significant variations in the revenue raised’. For example, the FM presents an alternative scenario where all councils shift to a ‘no discount’ position after 12 months (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. Angus Council has indicated that it is unlikely to implement any increased charge within the next 1-2 years.

- The assumption that local authorities would achieve a 100% collection rate – a number of local authorities have highlighted in written responses to the Finance Committee that this is unrealistic and it would be more appropriate to assume a lower collection rate

- The number of LTE homes being actively marketed – the FM assumes that 3-6% of LTE homes would fall into this category and thereby be exempt from increased council tax. If the actual number is higher than this, then the revenue gains would be correspondingly lower

- The number of LTE homes brought back into use as a result of the changes – the FM assumes that 10% of homes would return to occupied use and appears to assume that this rate of return to use would continue year-on-year. It is unclear how this has been reached. However, it could be that, as the stock of LTE homes reduces, the rate of return to use would also fall, which would have an impact on the estimated revenues. Additionally, the FM assumes no new LTE homes being added to the current stock.

- The additional costs to local authorities in implementing and enforcing any change in policy – in written responses to the Finance Committee, a number of local authorities have highlighted that these costs may have been underestimated. If this is the case, then net revenue gains would be correspondingly lower

- Council tax levels – the FM costings assume no change in council tax rates, but this would be a reasonable assumption given the current Government’s policy commitment in this respect.

A number of stakeholders have highlighted, in responses to the Finance Committee, that the new policy could create an incentive for property owners to redesignate LTE homes as second homes in order to avoid the proposed penalties.

**Abolition of Housing Support Grant**

**Changes proposed**

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) without resorting to substantially increasing rents or cutting management and maintenance expenditure. Since 2006, Shetland Islands Council has been the only council that receives HSG.
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”.

According to the Policy Memorandum, 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”.

In 2012-13, Shetland Islands Council will receive £0.76m in HSG. Although the level of HSG to Shetland Islands Council has decreased over the years, it still makes up about 15% of Shetland’s total council house rental income. Projected payments for the period to 2016-17 are shown in Table 5.

**Table 5: Projected HSG payments to Shetland Islands Council, £m**

<table>
<thead>
<tr>
<th></th>
<th>2013-14</th>
<th>2014-15</th>
<th>2015-16</th>
<th>2016-17</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Projected HSG payments</td>
<td>0.524</td>
<td>0.282</td>
<td>0.034</td>
<td>0.0</td>
<td>0.84</td>
</tr>
</tbody>
</table>

**Financial implications**

The FM summarises the costs relating to the abolition of HSG as shown in Table 6.

**Table 6: Costs and savings associated with the abolition of HSG, £m**

<table>
<thead>
<tr>
<th>Estimated costs (+) or savings (-)</th>
<th>Scottish administration</th>
<th>Local authorities</th>
<th>Other bodies, individuals and businesses</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>+0.84 (for period 2013-14 to 2015-16)</td>
<td>+0.84 (for period 2013-14 to 2015-16)</td>
<td>0.0</td>
<td>0.0</td>
<td></td>
</tr>
</tbody>
</table>

*Scottish Government*
The FM states that the Scottish Government would benefit to the full extent of the amount no longer paid out in HSG i.e. £0.84m for the period 2013-14 to 2015-16. No administrative savings are anticipated.

The FM does note that these projected savings do not take account of any transitional arrangements that might be introduced to offset the impact on Shetland Islands Council. In its submission to the Finance Committee, COSLA notes that discussions in relation to transitional arrangements are currently underway with the Scottish Government.

**Local authorities**

The FM estimates that the effect to Shetland Islands Council of the removal of HSG would be £0.84m over the three year period 2013-14 to 2015-16 inclusive. This assumes that no other councils would claim HSG over this period (which seems reasonable given that no other council has received HSG since 2006).

**Council house tenants**

If faced with the removal of HSG, Shetland Islands Council might respond in a number of ways e.g. cost reduction measures or review of loan arrangements. Alternatively, Shetland Islands Council might choose to offset the impact of losing HSG by increasing rents charged to council house tenants. The FM presents estimates of the impact that such an approach would have. It shows that, to recover all of the income lost through abolition of HSG revenue from tenants, an estimated rental increase of £3.04 per week on average over the three year period would be required, which represents an average annual rental increase of 4.7% above inflation (which is assumed to be 2.5% per year). The FM notes that above inflation increases in rents are likely to take place in other council areas, so some of this increase in rental charges to tenants would be likely to occur in the Shetland Isles even in the absence of the abolition of HSG.

**Empty Property Rates Relief: England and Wales**

**English experience**

Empty property rates relief was reformed in England 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 1 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 1: Cost of empty property rates relief, England

<table>
<thead>
<tr>
<th>Year</th>
<th>Cost (£m)</th>
<th>% change on previous year</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006-07</td>
<td>1,377.8</td>
<td>..</td>
</tr>
<tr>
<td>2007-08</td>
<td>1,366.3</td>
<td>-0.8%</td>
</tr>
<tr>
<td>2008-09</td>
<td>606.3</td>
<td>-55.6%</td>
</tr>
<tr>
<td>2009-10</td>
<td>1,125.3</td>
<td>85.6%</td>
</tr>
<tr>
<td>2010-11</td>
<td>1,129.9</td>
<td>0.4%</td>
</tr>
</tbody>
</table>

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 in its written submission that, despite the reforms in England, retail vacancy rates have risen from 3% in 2007 to 14% in 2011.

Research undertaken by the Royal Institution of Chartered Surveyors and Lambert Smith Hampton\(^\text{26}\) 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 2011.27

**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.28

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**Nicola Hudson**

**Financial Scrutiny Unit**

**SPICe Research**

27 April 2012

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Note: Committee briefing papers are provided by SPICe for the use of Scottish Parliament committees and clerking staff. They provide focused information or respond to specific questions or areas of interest to committees and are not intended to offer comprehensive coverage of a subject area.

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Subordinate Legislation Committee

28th Report, 2012 (Session 4)

Local Government Finance
(Unoccupied Properties etc.)
(Scotland) Bill

Published by the Scottish Parliament on 23 May 2012
Subordinate Legislation Committee

Remit and membership

Remit:

The remit of the Subordinate Legislation Committee is to consider and report on—

(a) any—

(i) subordinate legislation laid before the Parliament;

(ii) [deleted]

(iii) pension or grants motion as described in Rule 8.11A.1;

and, in particular, to determine whether the attention of the Parliament should be drawn to any of the matters mentioned in Rule 10.3.1;

(b) proposed powers to make subordinate legislation in particular Bills or other proposed legislation;

(c) general questions relating to powers to make subordinate legislation;

(d) whether any proposed delegated powers in particular Bills or other legislation should be expressed as a power to make subordinate legislation;

(e) any failure to lay an instrument in accordance with section 28(2), 30(2) or 31 of the 2010 Act; and

(f) proposed changes to the procedure to which subordinate legislation laid before the Parliament is subject.

(Standing Orders of the Scottish Parliament, Rule 6.11)

Membership:

Chic Brodie
Nigel Don (Convener)
James Dornan (Deputy Convener)
Mike MacKenzie
Michael McMahon
John Pentland
John Scott

Committee Clerking Team:

Clerk to the Committee
Irene Fleming

Assistant Clerk
Rob Littlejohn

Support Manager
Daren Pratt
Subordinate Legislation Committee

28th Report, 2012 (Session 4)

Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill

The Committee reports to the Parliament as follows—

INTRODUCTION

1. At its meetings on 8, 15 and 22 May, the Subordinate Legislation Committee considered the delegated powers provisions in the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill (“the Bill”) at Stage 1. The Committee submits this report to the Local Government and Regeneration Committee as lead Committee for the Bill under Rule 9.6.2 of Standing Orders.

2. The Scottish Government has provided a delegated powers memorandum (DPM)\(^1\) setting out the need for the delegated powers, how they may be exercised and the choice of procedure applicable to their exercise.

3. Scottish Government officials also provided oral evidence to the Committee at its meeting on 15 May 2012. The Official Report of the meeting is available on the Parliament website.\(^2\)

OVERVIEW OF THE BILL

4. The Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill was introduced in the Parliament on 26 March 2012 by Alex Neil MSP. It is a Government Bill which seeks to amend the law regarding non-domestic rates and council tax in respect of unoccupied properties. For non-domestic rates, it allows the Scottish Ministers greater flexibility to vary the rates payable in relation to such properties, by varying the discount available (section 1). For council tax, the Bill introduces the ability to increase the tax payable in respect of unoccupied dwellings in addition to the current power to offer such properties a discount on the standard rate applicable to occupied dwellings.

\(^1\) Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Delegated Powers Memorandum. Available at: http://www.scottish.parliament.uk/S4_Bills/Local%20Government%20Finance%20Unoccupied%20Properties/Local_Govt_Finance_DPM.pdf

5. The Bill also inserts some enabling powers to make regulations into paragraph 4 of Schedule 2 to the Local Government Finance Act 1992 ("the 1992 Act"). This is done so that local authorities can require the provision of information, in order to establish whether properties are subject to the varied council tax rate (sections 2 and 3).

6. The Bill also repeals the provisions which allow housing support grants to be paid to local authorities to allow them to balance their housing revenue account (section 4).

7. Section 5 (commencement) brings the Act into force on the day of Royal Assent, apart from section 4, which comes into force on 1 April 2013. Section 6 has the short title.

DELEGATED POWERS PROVISIONS

8. The Committee considered each of the delegated powers provisions in the Bill. The Committee was content with the delegated powers contained in section 1(2) and (3), and section 3(3).

Section 2(2) and (3) – power to provide for variation of council tax liability for unoccupied dwellings

Power conferred on: Scottish Ministers
Power exercisable by: Regulations
Parliamentary procedure: affirmative procedure

Background

9. Section 33 of the Local Government in Scotland Act 2003 ("the 2003 Act") gives the Scottish Ministers the power to provide for a council tax discount in respect of unoccupied dwellings. Section 33 also enables the Scottish Ministers to confer power on local authorities to vary the level of council tax discount provided for such dwellings in their own areas. The Council Tax (Discount for Unoccupied Dwellings) (Scotland) Regulations 2005 (SSI 2005/51) allowed local authorities to set the discount applicable to empty dwellings and second homes between a maximum amount of 50% and minimum amount of 10%.

10. Section 2 of the Bill amends section 33 of the 2003 Act by substituting the various references in section 33 to “discount” with “variation”. This enables the Scottish Ministers to vary the amount payable, or permit local authorities to vary the amount payable, in relation to such classes of unoccupied property as may be specified in the regulations. Ministers will therefore be able to allow local authorities to charge more council tax in respect of unoccupied homes than occupied homes.

11. The substitution of “variation” for “discount” in section 33 means that the Scottish Ministers could prescribe the amount of the variation for any day, where there is no resident of the dwelling. Alternatively, they may prescribe that each local authority has powers—
(a) to disapply the regulations from their respective areas or parts of them; and/or
(b) to modify the application of the regulations in their areas so they can differentiate between circumstances in which there is no resident of a dwelling.

12. This can include circumstances deriving from the use to which a dwelling is put, and the personal circumstances of the owner.

13. Any such power may not permit councils to modify the regulations so as to set the amount of variation for their area at an amount outside any maximum discount or maximum increase, as may be specified in the regulations. There is no requirement to put such a maximum in the regulations.

The maximum level of any increase in council tax amount

14. In an oral evidence session with Scottish Government officials, the Committee explored certain issues in relation to the powers in section 2(2) and (3) of the Bill. The Committee queried why the powers are expressed very widely to permit any variation of council tax amount, in respect of unoccupied properties.

15. In particular, the Committee observed that paragraphs 33 and 36 of the Policy Memorandum which accompanied the Bill state that the intended policy on the imposition of increases has two particular limitations within it, but these are not set out in the Bill. Paragraph 36 states that it is intended that “no owner should be required to pay the council tax increase unless their home has been empty for at least 12 months and, even where a local authority uses the power to vary, in some cases homes would not be liable for the increase until they have been empty for longer.” Paragraph 33 also states that it is intended that regulations would confer on councils a power to charge up to a maximum tax increase of 100% (double) the standard tax rate.3

16. In explaining the unlimited scope of the power as framed in the Bill, Colin Brown, from the Scottish Government Legal Directorate, said—

“It is simply to give discretion for the implementation of the policy. The Scottish Government would be interested in views from this committee and, of course, from the subject committee on any maximum.”4

17. He went on to note—

“It is important to remember that there will be two levels of discretion. There will be what the Scottish Government decides is the area within which local authorities should be able to exercise powers, and there will be the ability of local authorities to exercise those powers in their areas in such manner as they see fit, albeit probably with caps and controls. Until there is experience of the operation of the provisions, it will not be easy to know exactly where

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3 Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Policy Memorandum, paragraphs 33 and 36. Available at: http://www.scottish.parliament.uk/S4_Bills/Local%20Government%20Finance%20Unoccupied%20Properties/b12s4-introd-pm.pdf
local authorities might encounter difficulties in the exercise of the powers. Therefore, at this stage it seems desirable to have breadth to allow tailoring or amendment if, for example, particular concepts prove to be difficult in operation."  

18. The Committee accepts that some flexibility beyond the current policy objectives would be required. The regulations could require to specify the levels of permitted council tax increase in respect of unoccupied properties (or classes of them), or the levels within which local authorities would require to operate. The regulations would be subject to the affirmative procedure. Those levels might be altered, in the light of experience, and the affirmative procedure would be applied in the scrutiny of any such changes.

19. However, the Committee considers that there is a fundamental question of principle as to whether the Parliament should confer an unlimited power to increase liability to council tax for certain properties. The Committee observes that the ability to permit discounts within the council tax regime operates within certain limits at present. Discounts are also by their nature inherently limited in their effect on the individual, so far as they reduce tax amounts from those otherwise prescribed. The same is not true of an unlimited power to increase the liability to tax.

20. The Committee considers that the Parliament should itself legislate for the maximum amount of liability that can be imposed rather than delegate this matter to Ministers. In so far as the proposed enabling power to increase tax amounts in relation to unoccupied properties, is unlimited in amount, (or the possible percentage increase), the Committee considers this is not acceptable in principle, nor is it transparent.

21. The Committee therefore considers that the Bill should state a suitable maximum level of permitted council tax increase in relation to unoccupied dwellings, beyond which any levels specified in the regulations could not go. The specific level of that cap, and whether there could be more than one for different classes of dwelling, is a policy matter on which the Committee makes no recommendation.

Section 74 of the 1992 Act

22. The Committee sought clarification of how section 74 of the 1992 Act relates to section 2 of the Bill. Section 74 of the Local Government Finance Act 1992 states that the amounts of council tax payable in respect of dwellings situated in any local authority’s area and listed in different valuation bands shall be in set proportions—

6: 7: 8: 9: 11: 13: 15: 18,

23. where 6 is for dwellings listed in valuation band A, 7 for dwellings in band B, and so on. (These proportions can be varied by order).

24. Section 74 therefore controls the proportionate amounts payable between the different valuation bands. The 1992 Act (and the 2003 Act) contain further provisions in relation to discounts and exemptions which operate, once the “standard” amounts of tax payable have been determined in accordance with the specified proportions. There is no provision in section 74 which relates to the effect of any permitted increase in tax amount, whether any increase relates to unoccupied properties generally, or properties within a particular valuation band.

25. The Committee sought clarification from the Scottish Government officials of the effect of any increases in charge on the operation of section 74. Sam Baker, Policy Manager in the Housing Supply Division, explained—

“if a council was to impose a 50 per cent discount, it would be imposed on the standard council tax rate for each property band—band B, for example. Similarly, if there was a 50 per cent increase, the amount would be 50 per cent above the standard council tax rate for the band that a property is in. For example, if a property was in band B, the amount would be 50 per cent higher than a couple living in a band B property would already be paying.”

26. The officials indicated that the Government considered that no conflict arose as section 74 gives the starting point for the calculation of the “standard” council tax amounts payable across the various valuation bands. After that calculation, various discounts and exemptions from payment may be applied, as set out in other provisions in the 1992 and 2003 Acts. It was considered that the same approach would apply to permitted increases under section 2 of the Bill (amending section 33 of the 2003 Act). Any increases would fall to be applied, after section 74 calculates the “standard” amounts.

27. The Scottish Government officials undertook however to consider further the relationship between section 74 and section 2 of the Bill (in advance of Stage 2). The Committee considers that the understanding of the connection between those sections is complicated by the requirement to consult various different enactments. On enactment of this Bill, these tax calculation provisions would require consideration of the powers in section 2, as well as the relevant provisions in the 1992 Act, the 2003 Act, and the subordinate legislation to be made under section 2 which would specify the permitted level/s of any increased tax amounts. In addition any determination made by the individual local authorities would also be relevant.

28. The Committee also notes, on considering the oral evidence provided by the officials, that section 78 of the 1992 Act sets out the “basic amount” of council tax payable per day. This is the amount imposed by the relevant local authority for the financial year, in relation to the particular valuation band listed for a dwelling, divided by the number of days in the financial year. (This applies once the proportionate amounts have been calculated by section 74). Section 78 is expressly subject to sections 79 and 80, which have the principal enabling provisions on discounts and reduced amounts of tax. It is clear therefore that the basic amount of tax is subject to discounts and reduced amounts. The Bill does

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not however make a similar qualifying provision, in relation to any increases in tax amounts which would be enabled by section 2 of the Bill.

29. **The Committee therefore notes that the Scottish Government has undertaken to consider the terms of section 74 of the Local Government Finance Act 1992 in relation to section 2 of the Bill. The Committee asks for a response to this point as part of the Government’s response to this report.**

**Affirmative procedure**

30. The Committee requested clarification why the affirmative procedure would be the appropriate level of Parliamentary scrutiny of regulations made under the powers in section 2 of the Bill, rather than a form of “super-affirmative procedure”. Such procedure would require a defined period of consultation on an initial draft of the regulations, which would be laid before the Parliament prior to the final regulations being laid. Other procedures could be imposed, such as a requirement to lay an explanatory document with the initial draft regulations.

31. The Scottish Government expressed the view that the affirmative procedure is considered appropriate, taking into account that the existing powers in section 33 of the 2003 Act to provide for discounted amounts of council tax in respect of unoccupied dwellings are subject to the same procedure.

32. There is also a statutory obligation already provided for in the 2003 Act to consult on the draft regulations with the Convention of Scottish Local Authorities, and such other persons as the Scottish Ministers consider appropriate (section 33(7)). Officials also noted that a longer timescale in relation to making any regulations subject to a super-affirmative form of procedure may also raise difficulties for the planned implementation of the changes from April 2013.

33. Colin Brown, Scottish Government Legal Directorate, explained—

“There is no doubt that, if more extended procedures for making regulations became available, our timetable for allowing councils to implement the changes from April 2013 would not be met—the timetable is already quite tight.”

34. In relation to consultation, the Committee has noted that the Scottish Government’s policy intentions for future regulations under section 33 of the 2003 Act as amended by section 2 of this Bill will involve a complex mixture of new rules involving existing exemptions, revised discount arrangements, new provisions for increased amounts, local authority powers in relation to discounts and increased amounts, and possible modification of definitions such as “empty” or “long term empty”. It appears to the Committee therefore that in due course a suitable period of consultation upon the planned set of draft regulations will be particularly useful.

35. **The Committee is content that the affirmative procedure is proposed for Parliamentary scrutiny of the powers in section 2 of the Bill.**
Present:

Chic Brodie     Nigel Don (Convener)
James Dornan (Deputy Convener)     Mike MacKenzie
Michael McMahon     John Pentland

Apologies were received from John Scott.

Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill: The Committee took evidence on the Bill at Stage 1 from—

Sam Baker, Policy Manager, Housing Supply Division, Colin Brown, Senior Principal Legal Officer, and Marianne Cook, Policy Manager, Local Government Division, Scottish Government.

Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill (in private): The Committee considered the evidence it heard earlier in the meeting.
Local Government Finance
(Unoccupied Properties etc)
(Scotland) Bill: Stage 1

14:38

The Convener: Agenda item 2 is the Local Government Finance (Unoccupied Properties etc) (Scotland) Bill at stage 1. This item is an opportunity for members to ask questions of Scottish Government officials on the delegated powers in the bill. I welcome from the Government Sam Baker, who is the policy manager in the housing supply division; Colin Brown, senior principal legal officer; and Marianne Cook, policy manager in the local government division.

I invite Sam Baker to make an opening statement.

Sam Baker (Scottish Government): Thank you very much for giving us the opportunity to give evidence today. Before we take questions, I will give a brief overview of the bill’s proposals that I hope some committee members find useful.

The bill includes two topics, the first of which relates to changes to local taxation charges for empty properties through both business rates and council tax. The second topic is the proposed abolition from April 2013 of the requirement for the Scottish Government to pay housing support grant. However, the housing support grant provisions do not involve any subordinate legislation powers, so I do not propose to discuss them in any detail.

The empty property provisions provide for increased powers in relation to what can be covered in regulations that Scottish ministers introduce. First, the bill will enable the Government to introduce regulations to alter the level of empty property relief through business rates from April 2013. Currently, empty commercial properties receive a 50 per cent discount through empty property relief after they have been empty for an initial three-month period. The Scottish Government proposes to introduce regulations that would reduce that discount to 10 per cent, but no changes are proposed for empty industrial properties or listed commercial properties. The Scottish Government feels that the changes are needed both to seek to introduce incentives for owners to bring commercial properties back into economic use and to raise revenue.

Secondly, the bill will enable the Scottish Government to introduce regulations to allow for increases in council tax charges on certain long-term empty homes. Currently, councils must offer a minimum discount of 10 per cent for long-term empty homes, but the expectation is that
The powers in sections 2(2) and 2(3) are questioning why you are here. James Dornan will lead our introduction. We have a few questions, which is deal with any legal questions. on the council tax provisions, and Colin Brown will business rates provisions, I can answer questions Marianne Cook will answer questions on the very happy to take questions. My colleague empty homes or housing need and demand they have from, for example, surveys of owners of problem in their area, based on the evidence that decide whether empty homes are a particular increase because they are best placed to local authorities discretion over whet her to have Government still feels that it is appropriate to give additional revenue would be raised. However, the hard for the Scottish Government to estimate how many owners would be affected and what levels of increase the Scottish Government is looking to bring more empty homes back into use. While the additional revenue that could be raised by increasing council tax charges will no doubt be an important consideration for councils when they determine whether to use the new powers, the Scottish Government discourages them from seeing the provision only as a revenue-raising measure—it should also be very much about tackling the issue of empty homes. We recognise that most councils are not yet sure whether they would use the new powers and that in some cases they may need to do more work before making any decisions. That makes it hard for the Scottish Government to estimate how many owners would be affected and what levels of additional revenue would be raised. However, the Government still feels that it is appropriate to give local authorities discretion over whether to have an increase because they are best placed to decide whether empty homes are a particular problem in their area, based on the evidence that they have from, for example, surveys of owners of empty homes or housing need and demand assessments. That is all that I want to say initially, but we are very happy to take questions. My colleague Marianne Cook will answer questions on the business rates provisions, I can answer questions on the council tax provisions, and Colin Brown will deal with any legal questions.

The Convener: I am grateful to you for that introduction. We have a few questions, which is why you are here. James Dornan will lead our questioning.

James Dornan (Glasgow Cathcart) (SNP): The powers in sections 2(2) and 2(3) are expressed very widely to permit any variation of council tax amount. The policy intention as set out in the policy memorandum is not to confer powers on councils to have complete discretion over increases. Why are the powers to be conferred on the Scottish ministers and local authorities to increase the amount of council tax in respect of unoccupied properties therefore not limited by the specification of any maximum, or initial maximum, level of increase in section 2?

Colin Brown (Scottish Government): It is simply to give discretion for the implementation of the policy. The Scottish Government would be interested in views from this committee and, of course, from the subject committee on any maximum.

I noticed from the subject committee’s papers last week that at least one respondent so far has suggested that there should be the potential for increases of greater than 100 per cent. That is not current Scottish Government policy, but it indicates that, in future, there might be differing views as to where the maximum should be drawn. Therefore, why set that out in legislation as an absolute limit?

14:45
James Dornan: I suspect that I will hear the same answer to my second question, which follows on neatly from that.

The policy memorandum states that it is intended that “no owner should be required to pay the council tax increase unless their home has been empty for at least twelve months and, even where a local authority uses the power to vary, in some cases homes would not be liable for the ... increase until they have been empty for longer.” Paragraph 33 states that it is intended that the regulations will confer on councils a power to charge up to a maximum tax increase of 100 per cent of the standard tax rate. In the interests of transparency, why does the bill not prescribe or initially prescribe those policy intentions in greater detail by setting out the application of the minimum period of 12 months and the maximum increase of 100 per cent?

Colin Brown: You are right—I will give the same answer: to give flexibility in how the provisions operate. It is important to remember that there will be two levels of discretion. There will be what the Scottish Government decides is the area within which local authorities should be able to exercise powers, and there will be the ability of local authorities to exercise those powers in their areas in such manner as they see fit, albeit probably with caps and controls. Until there is experience of the operation of the provisions, it will not be easy to know exactly where local
authorities might encounter difficulties in the exercise of the powers. Therefore, at this stage it seems desirable to have breadth to allow tailoring or amendment if, for example, particular concepts prove to be difficult in operation.

James Dornan: Given that the Government’s position is that 100 per cent of the standard rate will be the maximum, why cannot we have that as the initial maximum, with flexibility to change that at a future date?

Colin Brown: That can be done through regulations and the detail can be changed if need be. If that limit went in the bill, any change would require primary legislation. The Scottish Government has attempted to set out how it intends to operate the provisions, because we accept that the bill is fairly sparse—it does not need to be more than that. It picks up on existing powers and adapts them. In relation to non-domestic rates, there are three rates of tax that apply to specified bands of property. I know that your question is not about non-domestic rates, but all that we need to do to implement the new scheme for them is to put into the existing regulations a power to vary the percentage and to adapt the classes to which something will apply. Therefore, we do not need much in the bill.

The situation is no different in relation to the amendments to the Local Government Finance Act 1992. What is changing is one significant point of principle. If the Parliament agrees, in future there will be a power to impose increases of council tax rather than discounts. If the Parliament is content with that principle and approves it, the rest of the process is really about implementing the detail around that and what we put in to enable it. In essence, that fits within the scheme of the current regulations.

Sam Baker: It is worth adding that the policy memorandum sets out our intentions based on a consultation that we did on the bill proposals at the end of last year and the start of this year. However, the Scottish Government will still need to consult on the regulations, so it is possible that there will be changes. For example, there might be a change to the minimum period before a council can impose an increase. We do not want to set that out firmly in primary legislation before we have considered the issue more closely.

The Convener: If I interpreted Colin Brown correctly, he said that there is no change to existing powers. Are you suggesting that, one way or another, there is a power to increase council tax at present?

Colin Brown: No. At present, the power is only to provide discounts. The big change that the bill makes is to substitute variation for discount, so that there is the potential to impose increases in council tax.

The Convener: Does that not strike you and your colleagues—as it strikes me—as being one of those things that Parliaments get concerned about? The moment Government at any level tries to increase costs on the citizen is surely precisely the point at which Parliament says, “Maybe—but surely there must be a limit.”

A totally open-ended variation offends the general principle that Parliament must give Government the power to tax. Surely you do not expect us, as the Parliament, to give you a power to impose a variation that could be 1,000 times the current amount. I know that that would never happen, but it is an issue of principle.

Colin Brown: In principle, there is a case for setting a maximum amount. However, the regulations are laid under the affirmative procedure: the Parliament will debate them, and will have to approve whatever ceiling is set.

As I mentioned, to my knowledge there has been one stakeholder response so far—although I have not read all the responses—that says that a case can be made for increases of more than 100 per cent. There is scope to debate where the limit should be; some might say that 100 per cent is too high.

The Convener: I entirely accept that people will argue about the numbers, but it is not the numbers that worry me. If you said that you wanted a factor of 10, at least the Government would be setting a limit that Parliament could scrutinise and consider. Giving us no limit whatsoever seems to me to give us a problem in principle, which I suggest that the Government might want to solve.

Sam Baker: We can certainly take that into account if the Subordinate Legislation Committee is concerned about it. We will want to hear what the Local Government and Regeneration Committee says on that point, but we can consider it further.

The Convener: Thank you. The next question comes from Chic Brodie.

Chic Brodie (South Scotland) (SNP): I have a couple of questions on the proportional distribution of tax rates under section 74 of the Local Government Finance Act 1992 and the consequences of any action that might be taken under section 2 of the bill.

Section 74 of the 1992 act requires “the amounts of council tax payable in respect of dwellings situated in any local authority’s area” to be in defined proportions according to valuation band, as set out in that section.
How is it intended that the powers to increase council tax amounts that section 2 confers will relate to the specific requirement under section 74 of the 1992 act? Is any increase intended to be without reference to that requirement, or are further provisions needed to clarify the situation?

Sam Baker: Colin Brown can confirm this, but the bill as it is currently drafted and the existing legislation, which is the Local Government in Scotland Act 2003, allow for changes in discounts in comparison with the standard council tax rates for the relevant band.

For example, if a council was to impose a 50 per cent discount, it would be imposed on the standard council tax rate for each property band—band B, for example. Similarly, if there was a 50 per cent increase, the amount would be 50 per cent above the standard council tax rate for the band that a property is in. For example, if a property was in band B, the amount would be 50 per cent higher than a couple living in a band B property would already be paying.

Chic Brodie: Are you saying that section 74 stands, and that the bill will have no impact? Are no further provisions required with regard to the discounting arrangements?

Colin Brown: Section 74 gives the start point for the calculation. It establishes liability for a property of a certain size, and various adaptations in the bill will cut in from there, including the discounts under the 1992 act or—if Parliament approves the new variations—under the 2003 act.

Chic Brodie: Do you think that the requirements in section 2 will undermine in any way the proportionate distribution of the bands in the 1992 act?

Sam Baker: No.

Colin Brown: No, they would vary the amount that someone pays, but the starting amount that someone pays will remain the amount for that valuation band. That might be adapted for all sorts of reasons. For example, I believe that a disability-adapted property in which a disabled person lives is classed one band lower than it would otherwise be. As Sam Baker mentioned, if a property is a single-occupancy property, a single-occupant discount would apply within that band, which means that a person in that property might pay less than a person who is living in a lower-banded property.

It remains the starting point of the calculation, however. To that extent, it is a completely relevant point.

Chic Brodie: I hope that it is the finishing point of the calculation as well.

What happens when an increase is proposed under section 2 in relation to unoccupied properties in a particular valuation band or bands, as the prescription of a tax amount for one band requires to be in proportion to other bands in terms of section 74? Do you think that the situation is clear enough? If not, could you provide further clarification that would address such a situation?

Colin Brown: I think that the process works adequately at present, because it simply works as an existing discount would. However, I am happy to take a further look at the drafting and double check that that is indeed the case.

The Convener: Our advice is that the 1992 act accounts for discounts specifically, but perhaps not for increases. There might be a drafting issue.

Colin Brown: The office of the Scottish parliamentary counsel and I checked all references to discount in the 1992 act in drafting the legislation. There were some that we felt did not need to change; there was only one, I think, that needed to change and has been changed. However, I take the point and will have another look at the legislation.

The Convener: We would be grateful for that, thank you.

Mike MacKenzie (Highlands and Islands) (SNP): In your earlier exchange with the convener, you discussed the proposed expansion of the powers to enable the increase in payments in respect of unoccupied properties without any limit in the bill. You mentioned that you feel that the level of scrutiny that is provided by the affirmative procedure is appropriate. However, given the wide power that is anticipated and the fact that such a rise could have huge financial effects on the people affected, do you think that there is a case for the proposal to be dealt with using a super-affirmative procedure?

Colin Brown: I do not think that a greater degree of scrutiny is required. The Scottish Government will consult on regulations before it makes them. Indeed, there will be a statutory obligation to consult the Convention of Scottish Local Authorities and such other bodies as ministers think appropriate.

If, by super-affirmative procedure, you mean a more defined period of consultation, I do not think that the Scottish Government would see that as necessary. In terms of their complexity, the regulations will not be particularly different from regulations that are made under the current procedure, which are not particularly lengthy or complex. They are subject to the affirmative procedure, and we felt that that remained appropriate in relation to the new power, given the requirement to consult.
The other thing that needs to be borne in mind is the issue of speed. There is no doubt that, if more extended procedures for making regulations became available, our timetable for allowing councils to implement the changes from April 2013 would not be met—the timetable is already quite tight. I do not offer that as an argument against adopting a super-affirmative procedure; my point is that the regulations will not have content that requires the use of that procedure.

Mike MacKenzie: Okay, thank you.

15:00

Michael McMahon (Uddingston and Bellshill) (Lab): The witnesses will be aware that, following the Finance Committee’s discussion of the financial memorandum to the bill, there was some criticism of the fact that the Scottish Government appears to have taken account of only 12 properties that may be unoccupied and which are its direct responsibility. It has been brought to your attention that there are a whole host of non-departmental public bodies that have unoccupied properties that have not been taken account of in the financial memorandum or the bill. If bodies such as health boards and Scottish Enterprise are to be taken into account in relation to charges, will the bill have to be redrafted, or will subordinate legislation be required? Do the Government’s provisions to permit assessment mean that such situations are already covered in the bill?

Marianne Cook (Scottish Government): The aim of the bill is twofold. On the business rates side, the aim is to raise revenue, and the measure will raise £18 million. The other aim is to encourage owners of empty properties to bring them back into use, regardless of whether ownership is in the public or private sector.

There is an impact on public sector properties. We have just sent information to the Finance Committee to clarify the impact on the national health service, Scottish Enterprise and councils. In terms of the direct Scottish Government estate, only about a dozen properties for which the Scottish Government is the rate payer are listed.

Sam Baker: That does not include long-term empty homes. I do not have the financial memorandum with me, but I think that we identified a small number of empty homes owned by the Scottish Government and its agencies, as well as empty commercial properties.

Michael McMahon: Given that the financial memorandum only takes account of the properties that are directly owned by the Scottish Government, my question is, in essence, whether everything else is covered by the bill, or whether there is a requirement for more powers or for subordinate legislation to catch the other properties that you are now looking to take account of.

Marianne Cook: We always knew that there would be an impact on the public sector, so there are no plans to redraft the bill to exclude it.

Sam Baker: The financial memorandum covers the whole costs to businesses and individuals in relation to council tax and empty property relief changes. The memorandum might not individually list the sector, such as local authority or NHS board, but it provides the total level of cost.

Michael McMahon: Are you saying that the bill covers everything, but the financial memorandum just forgot to take account of the health service, Scottish Enterprise and others?

Marianne Cook: I think that the memorandum acknowledges that public sector properties will be taken into account. We just did not break the information down to the level of each of the 32 councils and each NHS board. The memorandum acknowledged that there would be a cost to the local government estate, for example.

The Convener: As there are no further questions to the panel, I thank colleagues. I briefly suspend the meeting to allow witnesses to changeover.

Meeting suspended.
Note: (DT) signifies a decision taken at Decision Time.

**Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill - Stage 1:** The Minister for Local Government and Planning (Derek Mackay) moved S4M-03924—that the Parliament agrees to the general principles of the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill.

After debate, the motion was agreed to ((DT) by division: For 96, Against 15, Abstentions 0).

**Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill - Financial Resolution:** The Minister for Local Government and Planning (Derek Mackay) moved S4M-03534—that the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill, agrees to—

(a) any expenditure of a kind referred to in Rule 9.12.3(b) of the Parliament's Standing Orders arising in consequence of the Act; and

(b) any charge or payment in relation to which Rule 9.12.4 of the Standing Orders applies arising in consequence of the Act.

The motion was agreed to (DT).
On resuming—

Local Government Finance (Unoccupied Properties etc) (Scotland) Bill: Stage 1

The Deputy Presiding Officer (Elaine Smith): The first item of business this afternoon is a debate on motion S4M-03924, in the name of Derek Mackay, on the Local Government Finance (Unoccupied Properties etc) (Scotland) Bill.

The Minister for Local Government and Planning (Derek Mackay): I am pleased to open today’s debate on the Local Government Finance (Unoccupied Properties etc) (Scotland) Bill. First, I welcome Margaret Burgess as minister designate for welfare and housing and commend Keith Brown on his contribution to the housing portfolio.

The bill will contribute to measures to reduce the number of empty properties—whether they be homes or shops or other commercial properties—so that we can make best use of existing buildings and minimise the number of properties that fall into disrepair and become a blight on our communities.

I thank the Local Government and Regeneration Committee, the Finance Committee and the Subordinate Legislation Committee for their scrutiny of the bill so far.

I was pleased to see in the stage 1 report of the Local Government and Regeneration Committee that there is much common ground between the Scottish Government and the Parliament on the importance of tackling empty properties. I am grateful to the committee for supporting the general principles of the bill.

Keith Brown—then Minister for Housing and Transport—and I have looked carefully at the recommendations that were made in the stage 1 report. I will outline a number of actions that are proposed to respond to the issues that were raised. Of course, I will write to the committee to respond to all its recommendations. Indeed, this debate will further contribute to the on-going engagement that I have committed to within and outwith this chamber.

I have met various organisations to hear their issues and consider how our proposals can be refined and improved. The Scottish Government has carefully listened to the experience of stakeholders, MSPs and councils.

We welcome the Local Government and Regeneration Committee’s support for our commitment to tackling empty homes. We want there to be a reduction in the 25,000 homes that are sitting empty long-term, while around 140,000
families are on waiting lists for a social rented home. We agree that giving councils the flexibility to increase council tax charges for certain long-term empty homes is a useful additional discretionary measure for the toolbox of functions that councils can deploy to help, encourage or, where needed, push owners not to leave their homes lying empty while there is such need.

We also agree that council tax is not the only answer. We have been funding the empty homes partnership to provide support to councils in tackling empty homes. We are also now part-funding three empty homes officers on a pilot basis, shared across seven councils. We are pleased to say that that is now starting to pay off as the number of councils that are actively working to tackle empty homes is increasing each year.

Although advice and support from a council can be enough in many cases, we also recognise that some owners need financial help to bring their homes up to standard. That is why we have doubled the amount that is available through the empty homes loan fund to £4 million. We will help make at least 160 extra empty homes available as affordable housing in addition to the existing £1.75 million of innovative empty homes projects that we are already supporting.

In relation to the increase, we have also taken on board comments about the need for clarity and the avoidance of complexity in relation to the types of empty home owners who deserve special treatment so that they are excluded from any council tax increase. That is why we propose to focus the exceptions on only those who are actively trying to bring their homes back into use, either for sale or for let.

We are consulting on that, and on other aspects of the draft regulations, which flesh out the details of how any council tax increase would operate.

We plan to amend the bill at stage 2 in response to the stage 1 recommendations as they relate to unoccupied homes. We intend to lodge an amendment that will increase from £200 to £500 the maximum level of penalty charge that a council can charge an owner who fails to provide information on whether their home is unoccupied. As the committee suggested, that should help to deter owners from deliberately avoiding providing information or from providing false information. We will also lodge an amendment that will limit in the bill the maximum amount of council tax increase to 100 per cent of the applicable standard rate, rather than just place that restriction in regulations. That is a response to the concerns that the Subordinate Legislation Committee raised about the potential for future regulations to allow for higher increases.

We welcome the committee’s general support for the proposals on business rates that will allow us to introduce regulations to reduce the level of empty property relief for commercial properties that have been empty for more than three months. I continue to talk to stakeholders about the provisions and again state that we will return to the Parliament with the details of the regulations should the bill be passed.

An important point is that the bill makes no change to empty property relief as it stands; rather, the bill creates an enabling power to decrease or, indeed, increase the rates discounts through regulations. That is no different from the ability that the Government already has to change through regulations many rates reliefs, such as the small business bonus scheme or the United Kingdom’s first and only renewable energy relief. I emphasise again that we remain flexible in our considerations. Yes, we must make savings, as a consequence of deep United Kingdom’s Government cuts, but we aim to ensure that the measure acts as an incentive to bring empty properties back into use. The policy will therefore be supported by our efforts on regeneration and our imminent town centre review.

Opposition for its own sake is no substitute for constructive suggestions to make the bill more effective. That is why the stakeholder engagement has been so important. I welcome the encouragement from Mark McDonald MSP to look at the incentivisation scheme in Northern Ireland, which provides relief to ratepayers after they fill empty properties. That could potentially be a further incentivisation as part of the package. I can confirm that we are considering how such a scheme could operate in Scotland and, if it is supported, how it could form a stage 2 amendment.

Our stated intention is to vary, from April 2013, the discount that empty properties receive after the first three months from 50 to 10 per cent. I reiterate that, as a result of our learning from experiences elsewhere, industrial and listed properties will continue to receive 100 per cent discount for the duration for which they are empty. In comparison to the council tax provisions, which could affect about 25,000 home owners and under which, for good reason, rates across the country will be potentially variable, the changes to empty property relief will affect a much smaller number of property owners and will be consistent across Scotland. Therefore, in view of that and of the scale of the savings that are involved, it was decided that it would be disproportionate to conduct a business and regulatory impact assessment. Modest but necessary savings will come from the policy—it will be £18 million a year from 2013-14 compared to a forecast business rates income of nearly £2.5 billion.
The package of rates relief will remain the most generous in the United Kingdom. Indeed, the current cost of empty property rates relief is £757 million over the five-year revaluation period. That is more than the sum involved in the popular and effective small business bonus scheme, which has made such a difference in these difficult times. Overall rates relief per year now exceeds £0.5 billion. To ensure that the relief is properly focused on supporting sustainable economic growth, we will shortly launch a consultation on the rates relief system.

The Finance Committee queried the impact on the public sector. By providing estimates, we have shown that the cost to the public sector is relatively minor. The benefit to local government services is that all non-domestic rates are of course passed back to local government for the funding of local public services.

We welcome the support in the Local Government and Regeneration Committee’s stage 1 report for our plans to abolish the housing support grant. The grant has become an anomaly since the introduction of the prudential borrowing regime, which requires councils to ensure that they borrow funds only if they are confident that they can pay them back. Therefore it must be councils’ responsibility to ensure that they can balance their housing revenue accounts each year. That will allow us to make better use of our housing funding by focusing on only key priorities in an equitable way, rather than simply servicing councils’ interest on historical debts.

Despite that, we recognise that Shetland Islands Council has continuing high levels of housing debt due to having borrowed significant amounts over many years from the council’s harbour fund. Keith Brown, as Minister for Housing and Transport, met the new leader of the council back in July and explained that the £15 million in funding being requested by the council was not a realistic scenario. We expect the council, as recommended, to take a hard look at its housing service to ensure sustainability, just as all other local authorities are required to do.

I too have met Shetland Islands Council, and officials are in discussion about easing the affordable housing situation on the islands. I believe that there is a desire to tackle the challenges that were inherited by the new council administration.

I commit to further engagement. I hope that the Parliament considers our amendments at stage 2 and in essence supports these key measures to bring back into use the empty properties that blight our communities—domestic and non-domestic.

I move,

That the Parliament agrees to the general principles of the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill.

The Deputy Presiding Officer: I call Kevin Stewart, who is speaking on behalf of the Local Government and Regeneration Committee. Mr Stewart, you have around 10 minutes.

14:41

Kevin Stewart (Aberdeen Central) (SNP): I thank all those who gave evidence—either written or oral—to the Local Government and Regeneration Committee, which helped us in our deliberations. I also thank the committee’s clerking team, which, as usual, was excellent in the tasks that it had to deal with.

It is fair to say that on a number of issues the committee was unanimous and that on other issues there was some controversy. I am sure that other members will bring some of that controversy into play during the debate.

I should perhaps begin with the non-controversial part of the bill—the housing support grant element. A cross-party group from the committee had the pleasure of visiting Shetland. As usual, the population of Shetland provided us with a warm welcome. Shetlanders are extremely canny people and they lobbied hard for the retention of the grant. However, it has to be recognised that Shetland Islands Council is the last council to be in receipt of that grant and the circumstances of the borrowing that it has made are somewhat strange.

As the minister pointed out, unlike most other authorities it has not borrowed money from the public works loan board—instead, it has borrowed money from its own harbour fund. Canny as the Shetlanders are, the harbour fund has been charging them interest and, in some regard, the housing support grant has been helping to pay that interest to increase the harbour fund. The committee unanimously agreed that that could not go on and recognised that the £15 million transitional fund that was asked for was not really a goer either. However, hats off to the Shetlanders for their lobbying efforts.

In moving from the area of complete agreement to the areas with some controversial aspects, I will deal with the housing element first. In terms of what the minister has just said, the committee would welcome the £200 fine for not registering an empty property going up to £500—the committee would see that as going in the right direction. The committee will look at that again at stage 2 but, quite frankly, the committee felt that a £200 fine for not registering was not that much.

The committee welcomes the fact that there is local input to setting rates. Coming from a local government background, I always welcome the
flexibility of allowing our local councils to do such things.

There was a huge debate about whether those moneys should be ring-fenced to be put back into housing. Again, coming from a local government background, I am not really in favour of ring fencing, but the committee fully endorsed the proposal to get the accounts after implementation to show where the money has been spent.

The longest part of my speech will probably be on the non-domestic rates proposals, because that is the area in which there was some disagreement in the committee. We certainly welcome the fact that industrial and listed buildings will be exempt from the plan. I welcome the minister’s comment that there might be a look at a relief element if a property is filled, because that was a topic of discussion in the committee. A number of organisations that appeared before the committee argued that the proposal was a bad thing, but no one likes new taxes—let us be honest about that. If it is possible to try to stop a tax, people will do everything that they can to do so.

There were also elements of discussion in the debates that were held at committee about different things happening in different areas of the country. It would be beneficial if the minister could have a look at that.

The minister rightly pointed out that the power is an enabling power only, that there are no plans at the moment to introduce it, and that if there were such plans, the matter would come back to the committee for a further look-see during consideration of the instrument that would need to be passed. That is one reason that the minister has given for there being no business and regulatory impact assessment, or BRIA. There was some debate about whether a BRIA should have taken place beforehand, and I am sure that other members will pick up on that point as the debate progresses.

There was a robust debate on that part of the bill dealing with the cost to the public sector if this measure is implemented. The minister has stated that the costs to the public sector will be £1.8 million. According to the Scottish Property Federation it may be up to £3.6 million. However, costs of £1.8 million or £3.6 million should be compared to the complete rates bill of £2.3 billion or so—we need to take account of that.

I have not referred to many of the other elements of the bill, but the Local Government and Regeneration Committee will discuss a number of those elements during its stage 2 scrutiny. I am pleased that the minister continues to consult stakeholders because some members of the committee were critical of a lack of consultation. I am pleased that he has said he will look at the fine for non-registration of an empty property as that was a major element in discussion. I hope that, when amendments are lodged, he will look at some form of relief for filling properties.

I look forward to the debate in committee at stage 2, which I am sure will be as robust as that which we had during stage 1. I look at colleagues as I say that. I enjoy Local Government and Regeneration Committee meetings because people are frank, but we all come out still speaking to one another—99 per cent of the time, at least. I hope that we can do exactly the same thing at stage 2.

14:50

Sarah Boyack (Lothian) (Lab): I welcome Margaret Burgess to her new post and wish her all the best for the future. We look forward to debating with her a number of major issues in relation to providing new housing for Scotland. I thank the three committees that have scrutinised the bill, I thank the clerks for their work and I thank consultees for their evidence. In a draft of my speech, I thanked the Minister for Local Government and Planning for his work—he might not be aware that rumours flew round Holyrood yesterday that he would be promoted, so we are interested to see him back at his desk.

I come to the heart of the issue. We agree with the objective of reducing the number of empty business properties and empty houses, but we still have serious concerns about the lack of rigour that underpins the SNP Government’s proposals.

I will come back to the announcement of the non-domestic rates proposals without a formal consultation exercise. We can tell from reading the representations how critical that was to people’s view of the bill. The bill is so short and its three and a half pages contain so little detail that it is understandable that people are concerned.

The minister mentioned the criticism of the lack of a BRIA. The Local Government and Regeneration Committee was not given credible answers to its questions. In the context of a huge budget, the amount of money involved might not look huge to the minister and John Swinney—who I see has left the chamber—but it is a life-or-death issue for the individual businesses that are deeply concerned that they will be affected. The matter is important and we remain convinced that a consultation and a BRIA should have been conducted on the proposals. Our view remains that not undertaking them was unacceptable, because many unanswered questions remain.

Derek Mackay: I thank the member for taking an intervention; I understand that we have some time in hand.
Rather than do a few weeks’ short-term work on a consultation about what the bill and regulations could look like, was it not better to take time over the past months to consult stakeholders, as we have? Is that not exactly the consultation and engagement that she expects?

**Sarah Boyack:** My problem is that the minister has not formally reported those conversations to us. He has given us a selection of the changes that he intends to make at stage 2, but I still have not seen a written response to the committee’s recommendations, which is a fundamental part of the process in the Parliament. If what he has said this afternoon had been in a statement, we would have had an hour’s notice in which we could look over and reflect on his comments and decide to welcome some of them in detail and have a go at kicking him around the park on others. In a stage 1 debate on the bill’s principles, when the details of the short bill are fundamental, it is difficult for us to deal with the issues without a formal written response to the committee’s recommendations.

That issue is fundamental because, once the bill’s principles are agreed to tonight—as I imagine that they will be—we will open the amendment stage. From tonight, we will be able to lodge amendments, but we still do not have a record of the Scottish Government’s views on the committee’s detailed recommendations. I ask the minister, in summing up or immediately after the debate, to give us a date for producing written recommendations and a response to the committee’s recommendations. That is fundamental.

I welcome the discussions with stakeholders, but we are getting a partial representation of them. We cannot see which stakeholders were and were not included. Business organisations are deeply concerned about the bill’s negative impact on businesses, given the economic downturn.

**Kevin Stewart:** Will Ms Boyack give way?

**Sarah Boyack:** No—I want to get on.

The Welsh Assembly Government looked at the evidence on the impact of the non-domestic rates provisions that came into play in England and it did not go there—it took a different approach with the business community. I regret that the bill will enable the minister to go full steam ahead after today’s debate.

We will attempt to ensure that the detailed concerns that were raised in relation to both the financial memorandum and the implementation of the bill are properly addressed at stage 2. Today, we have had a partial explanation of some of the changes that the minister wants to make, but that does not cover all the amendments that the minister will lodge. He will be assisting the democratic process greatly—not just for us in making representations and drafting our amendments but, crucially, for the business community, which is external to the Parliament—if he ensures that we have the maximum discussion at stage 2. As Kevin Stewart said, that is crucial. We all look forward to that debate, but we need to be properly equipped to take part in it.

Businesses argue that properties are empty because of a lack of demand and that commercial properties are rarely left empty on purpose. Since the introduction of similar proposals in England, we have seen older buildings being demolished rather than regenerated and businesses have gone under. There is concern that the proposals could further destabilise economic recovery. Bank finance is still an issue, with potential pressure on property owners if they have to pay higher non-domestic rates without new rental income. At the same time, new tenants are still struggling to get finance. How will ministers avoid increased levels of demolition? In the current economic climate, 14 per cent of retail units are already lying empty and many shops are teetering on the brink. Scottish Chambers of Commerce has suggested that the proposals could lead to up to 40 per cent of units lying empty over the next two years.

**John Mason (Glasgow Shettleston) (SNP):** Will the member give way?

**Sarah Boyack:** I need to make progress.

The committee found it surprising that there had been no attempt to estimate the number of commercial properties that will be brought back into use as a result of the bill’s empty property relief proposals. Furthermore, no evidence was presented that reoccupation rates had increased in England as a result of increases in non-domestic rates. There are issues about the detail and about the financial impact of the bill on not just the public sector, but, crucially, the business communities.

I will make clear some of the problems that have been raised by local government, because the proposals will affect not just the business communities. Falkirk Council expressed the concern that, in the current adverse economic climate, the NDR proposals could further constrain redevelopment and regeneration. It is worried about potentially unattractive gap sites emerging in retail locations and having a negative impact on rental values as landlords seek to offload their liability by slashing rents.

**Kevin Stewart:** Will Ms Boyack give way?

**Sarah Boyack:** No, I need to make progress.

Highland Council expressed concerns about absentee landlords, the volatility of the commercial property market and the poor condition of many empty commercial properties. It is important that
local authorities’ concerns are brought to the chamber today, because nobody has yet raised those concerns.

There are also issues relating to the empty homes provisions, on which we think that more detail is needed. We support the ambition of the proposals but, as Shelter has commented, we need wider support for owners of empty properties to bring properties back into use—that is critical. Some of the measures to which the minister has referred this afternoon will be helpful and we will look at them in detail.

A key issue is the cost of implementing the bill and, if the bill is to be effective in relation to empty houses, ministerial guidance will be crucial. It is not just a question of the statutory instrument. Will the minister bring draft guidance before the Parliament? Will we see it before we debate the bill in detail at stage 2? Will we see the detail of the statutory instruments before stage 2? Without that, the debate at stage 2 will be difficult to conduct because we will not have the detail that the minister will bring forward thereafter.

Waverley Housing suggested some key measures that would help to deliver the objectives of the bill. The minister has not mentioned housing association grant funding today, which we know has been slashed in the past year. Registered social landlords will need additional support if they are to buy empty houses so that they can refurbish them and rent them out. Glasgow City Council expressed concerns about the administrative costs of implementing the empty homes proposals and argued for enforced sale procedures to enable it to buy empty properties and bring them back into use. Fife Council argued that real consideration is needed of the administration and the ability to collect the charges that will be levied. It is concerned that the charges will be difficult to collect from some owners of empty properties. Those issues will need to be addressed at stage 2.

Some questions remain outstanding even after the new comments that the minister has put on the record this afternoon.

If the Parliament is to be effective, we need more information from the minister before we launch into stage 2. There are a couple of weeks left and I hope that we will get a detailed written response to the recommendations that were made.

I reread the evidence last night and it is clear that there is support for the ambition of bringing empty properties back into use, but also that there is no agreement. In fact, there are deep worries that some of the elements of the bill will make matters worse. The lack of a BRIA has added to that concern.

At stage 2, we will attempt to amend the bill and to be constructive, as the minister has encouraged us to be. However, without detailed knowledge of the Government’s position in advance of stage 2, it is difficult for Opposition parties to come up with detailed proposals on such a short enabling bill.

Many respondents expressed their support for the principles of the bill, but the detail will be crucial. The fact that, two months after the committee reported, we do not have a response from the Government is a problem. We want to see the details. I hope that the minister will publish his response before stage 2. That would mean that we would have a meaningful debate.

This debate is an opportunity for the minister to answer more of the questions that were raised during the Conservative Party debate in June and by the three committees that have reported on the bill. I hope that he will take that opportunity in his closing speech.

The Deputy Presiding Officer: I clarify that we have time for interventions if members wish to take them, but whether they do is entirely up to them.

15:01 Margaret Mitchell (Central Scotland) (Con): I welcome the opportunity to debate the Local Government Finance (Unoccupied Properties etc) (Scotland) Bill at stage 1. The bill’s provisions fall into three distinct categories: the reduction of rates relief on empty commercial properties; the change in local authorities’ discretionary powers to vary the council tax on unoccupied homes from the current minimum of 10 per cent discount; and the abolition of the housing support grant.

I thank all the witnesses who gave evidence to the Local Government and Regeneration Committee and pay tribute to the committee’s clerks for their work in producing the report. As the deputy convener indicated, it was not an easy report to complete by virtue of the fact that the committee was divided on the proposals for empty properties and non-domestic rates relief, with Scottish National Party members on one side and the rest of the committee on the other. That was the major, most contentious part of the bill, and it is the one on which I will focus the majority of my comments. My colleague Alex Johnstone will cover the other parts of the bill.

In its evidence taking, the committee heard the Confederation of British Industry, the Federation of Small Businesses, the Scottish Chambers of Commerce and a host of others express legitimate concerns on the proposals for empty properties and non-domestic rates relief. They were exactly the same concerns that the Finance Committee heard as the secondary committee that scrutinised
the financial implications of the bill. However, although the Finance Committee as a whole, including the SNP members, took that evidence on board and documented its concerns about those aspects of the bill’s provisions—such as the failure to take into account the cost of the policy on the public sector and its agencies—the SNP members on the Local Government and Regeneration Committee voiced no corresponding dissent. That may explain why the convener of the Local Government and Regeneration Committee, Joe FitzPatrick, is now to be a minister and the convener of the Finance Committee, Kenny Gibson, is sadly not.

Derek Mackay: It is a fair comment to say that some information on the projections of the costs to the public sector was not provided to the Finance Committee, but that was then provided to the Local Government and Regeneration Committee, where those facts and figures were accepted and the debate was able to move on. Margaret Mitchell also needs to move on.

Margaret Mitchell: That is simply indicative of what a sloppy piece of work it was. In the financial memorandum, there was mention of only 12 Government buildings and the fact that everything was fine. You seemed to forget—or did not realise—that the bill would impact on the rest of the public sector.

The Deputy Presiding Officer: Speak through the chair, please.

Margaret Mitchell: The minister did not seem to realise that it would impact on the rest of the public sector, Presiding Officer.

The Government has a majority on all committees and the SNP Local Government and Regeneration Committee members used their majority to win the vote on each of the decisions on which the committee was split. In forcing through these proposals, the SNP members won the day, but the question is at what cost to the veracity and credibility of the committee system that once aspired to be the jewel in the crown of devolution.

Kevin Stewart: Will Ms Mitchell give way?

Margaret Mitchell: If the member does not mind, I will make some progress, because I am already almost halfway through my time.

There was no formal consultation on the non-domestic rates relief reform proposals, which will cost Scottish businesses millions of pounds each year and affect thousands of properties and every public sector organisation. The minister asserted that that was due to

“the scale of the issue.”—[Official Report, Local Government and Regeneration Committee, 30 May 2012; c 1058.]

Bizarrely, however, other parts of the bill were subject to formal consultation, including one aspect that will cost only £750,000 and affect only one council. That is not only inconsistent; it defies logic.

The Scottish Government also did not undertake a business and regulatory impact assessment. By not doing so, it defied its own guidelines, which state categorically that a BRIA is required if a proposal imposes “additional cost ... on businesses” and that proportionality applies only to the size of the BRIA and has no bearing on the decision to undertake one in the first place.

Chic Brodie (South Scotland) (SNP): Will the member take an intervention?

Margaret Mitchell: I am almost five minutes in, so it depends on how long the Presiding Officer is willing to give me. There will be ample opportunity for the minister to come back on that point—I am short of time and still have a bit to go.

The Deputy Presiding Officer: I can give you the time back if you wish to take interventions, but it is entirely up to you.

Margaret Mitchell: I will wait until there is an intervention on a more substantial point.

Furthermore, the financial memorandum projected an £18 million saving, which is totally unrealistic as it anticipates a 100 per cent collection rate and no attempt was made to assess how key assumptions may vary.

This is a fundamentally flawed bill based on a false premise, namely that commercial property is empty through choice.

Chic Brodie: Will the member give way?

Margaret Mitchell: Not just now, thank you.

The underlying reason for empty commercial properties is the lack of demand and the current economic climate, as those witnesses who gave evidence clearly and unambiguously stated. By increasing the potential liabilities for those considering taking on unoccupied properties, the SNP is, in effect, smothering any prospect of attracting speculative development and tenancies.

Mark McDonald (North East Scotland) (SNP): Will the member give way?

Margaret Mitchell: That approach adversely impacts on regeneration, inward investment and economic growth.

Mark McDonald: Will the member give way?

Margaret Mitchell: The bill will place additional burdens on already hard-pressed businesses, and the CBI’s description of it as a “tax on distress” is accurate. It does precisely the opposite to its
stated objective and will not get empty properties back into use.

Mark McDonald: Will the member take an intervention?

Margaret Mitchell: If you must.

Mark McDonald: Third time lucky.

If the member considers that the scheme will be so damaging, why are her colleagues south of the border continuing with a less generous scheme in England?

Margaret Mitchell: It always amazes me how the SNP looks at England and immediately wants to copy what is done there. In fact, George Osborne is currently looking at empty property rates relief, and we opposed it in the UK Parliament for good reason—purely and simply, it is not an incentive.

As the measure will not bring empty properties back into use, I lodged my formal dissent to the committee report, which was supportive of the council tax and non-domestic rates provisions. That is also why the Scottish Conservatives will be voting against the bill at stage 1 this evening. Sadly, it is a foregone conclusion that the bill will pass stage 1 at decision time, due to the SNP majority.

Quite simply, this is the wrong proposal at the wrong time, and it should be abandoned before any lasting damage is done.

The Deputy Presiding Officer: We now move to open debate. Members have a generous six minutes for speeches.

15:09

Angus MacDonald (Falkirk East) (SNP): I am not a member of the Local Government and Regeneration Committee so I am pleased to be able to contribute to the debate.

I am sure that every member hears alarm bells ringing when they see the number of empty commercial premises in their local town centres and district centres. I believe that, contrary to what we have heard from Labour and the Tories, the bill will help to address falling occupancy rates in all constituencies in Scotland, revitalise town centres and bring up to 5,500 commercial properties and up to 25,000 long-term empty homes back into use. Effectively, the bill will tick the box that we all want to see ticked, which is to have revitalised town centres with increasing footfall.

Margaret Mitchell: Will the member take an intervention?

Angus MacDonald: I will get on for the time being, but I may take one later.

The main town in my constituency is Falkirk, which has faced a number of commercial challenges over the past three or four years, not least that of falling footfall, as have other towns in my constituency, including Grangemouth and Bo'ness. The bill will go some way towards addressing the falling footfall in all our town centres, which is a concern to every retailer to whom I have spoken in my constituency over the past three to four years. I am sure that through the bill we will see a reversal of fortune for our local retailers.

It is therefore disappointing that my local council made a submission, to which Sarah Boyack referred earlier, to the Local Government and Regeneration Committee objecting to the Scottish Government’s proposal, despite the fact that the council acknowledges that in “the current economic climate, the key reason for the proliferation of empty retail premises is more likely to be the fundamental lack of occupier/tenant demand as a result of the continuing weakness of consumer confidence.” While that is accurate to a degree, it is not what I hear locally. I regularly hear of young entrepreneurs with sound business ideas who cannot move forward because they cannot afford to pay the rents on town centre or district centre shops. While they acknowledge the benefit of the small business bonus, the excessive rents put them off moving their project forward at an early stage. We should surely encourage budding entrepreneurs with a flair for business, not discourage them. The bill goes some way, albeit indirectly, towards doing that.

It is clear that rents remain stubbornly high under the current system. The bill will incentivise property owners to bring properties back into use, which will in turn assist budding entrepreneurs, many of whom will—I hope—expand their enterprises over the years.

In the town of Grangemouth in my constituency there are currently 13 vacant retail premises. That represents a 15 per cent vacancy rate, and in Bo’ness there is an 8.5 per cent vacancy rate, although footfall in both those towns has fallen over the past three to four years. In my view, that is not solely down to the economic downturn: the introduction of supermarkets locally has not exactly helped.

I am sure that my colleague Michael Matheson will forgive me for straying into his territory of Falkirk, which is the main town in the district but in the neighbouring constituency to mine. There are currently some 60 ground-floor retail properties vacant in Falkirk town centre, which as a percentage of the overall number of properties in the town equates to a 13 per cent vacancy rate. We cannot allow further increases in the vacancy
figures and must do all that we can to reverse the current trend.

It is heartening to note that, in its submission to the Local Government and Regeneration Committee, the Association of Town Centre Management in Scotland stated its support for the principle of the legislation by agreeing that long-term vacant units detract from town centres visually and have an especially acute effect on smaller centres, as can be seen in my constituency towns of Bo’ness and Grangemouth.

The Association of Town Centre Management also said that it believes that action to address the issue is necessary and that changing the liability of property owners by decreasing the rates relief could be part of the solution. We must ensure that such action galvanises stakeholders to work together to deliver occupancy by high-quality, long-term tenants.

Of course, some concerns have also been raised. The Association of Town Centre Management has highlighted that some institutional investors do not see vacancies as a priority. That attitude needs to change. For example, it was particularly frustrating for me in my previous position as a Grangemouth councillor to see the regeneration of Grangemouth town centre stalled while two major property owners disputed the value of retail premises, resulting in delay after delay.

Kevin Stewart: Mr MacDonald has highlighted the fact that some large business owners have stymied growth in some regards. Does he agree with the FSB’s view on rates relief? It has said that only 2 per cent of its members have benefited from small business rates relief and that only 19 per cent believe that it had a positive effect on small businesses. I wonder how many of the owners of large businesses would think that it had a positive effect for them. It would probably be the ones who are keeping property empty in Mr MacDonald’s constituency.

Angus MacDonald: Indeed. In Grangemouth, the regeneration project has had to go back out to tender. Meanwhile, the property owners seem content to see their shops lying vacant.

The Government must avoid a situation in which existing property owners choose safe bets that will produce long-term income streams, regardless of the impact on the wider town centre. There must also be protection to ensure that there is no more of the erosion of independent retail stores in our high streets and town centres that we have witnessed in recent years. The bill could encourage more independent retailers on to our high streets and into our district centres.

Given the concerns that have been raised, it was encouraging to hear that the Scottish Government is still consulting and listening to stakeholders. I am sure that many concerns will be addressed in the coming months, as the bill proceeds to stages 2 and 3. It was also encouraging to hear that councils will have discretionary powers over empty property relief and that the bill will ensure that every penny raised goes back to local government.

The bill will allow local authorities to increase council tax charges on certain long-term empty homes, which will help to concentrate the minds of landlords and property owners who have paid little or no heed to the crying need to make additional housing available throughout Scotland, not least in my area, where Labour-controlled Falkirk Council has 9,500 households waiting for a council home.

I look forward to the bill’s progression through Parliament, with the goal of bringing more properties back into use in future.

15:16

John Pentland (Motherwell and Wishaw)(Lab): Communication with the Parliament is not the Scottish Government’s strong point. The minister mentioned the Local Government and Regeneration Committee report, but it would have been useful to have had the Government’s response to the committee’s report before the stage 1 debate, especially because the detail in the bill is so skimpy. The bill opens doors to the expansion of ministerial power, without making it clear how the new powers will be used.

More powers are proposed for ministers, but criticism of the Government’s approach is easily curtailed in committees that are packed with loyal Government supporters. Now the Government has failed to respond to the committee before the debate on the principles of the bill. We could be forgiven for thinking that the Scottish Government is intent on circumventing the Scottish Parliament, but we must be mindful that in such a situation conspiracy is not the only possibility.

We were promised a response before stage 2, but stage 2 amendments can be lodged when the debate is finished. Is the Government hoping to delay Opposition amendments?

Derek Mackay: When I said that we would listen to stakeholders and the Parliament, I meant it. We are also listening to this debate, which will inform consideration and amendments at stage 2. If the member is asking for clarity on when responses will be provided to committees, I can tell him that we will ensure that committees have our response and recommendations by early next week, to inform stage 2.

John Pentland: As Sarah Boyack said, we should have had the information in time for the
stage 1 debate, so that we could make a judgment on it. We needed the information today—not tomorrow or next week.

The Scottish Government should give assurances and commitments, as well as information that sheds light on the darker recesses of the bill, thereby facilitating the lodging of amendments. Issues that the committee raised deserve a response, including the issues that were knocked back by the firewall of loyal back benchers, whose reluctance to be critical meant that we could not be critical about the lack of clarity in the policy memorandum and could say only that clarity might be lacking.

Kevin Stewart: Will the member take an intervention?

John Pentland: I will not take an intervention from Mr Stewart, because I am here to represent my constituents and not to help people who have aspirations or ambitions to become a minister.

Despite the acknowledgement that assumptions were based on unknown quantities or potential variations, we could not describe assumptions as "speculative"—that was not acceptable. Likewise, noting that several witnesses had dared to question whether the bill would generate the resources that ministers claimed it would was regarded as going too far.

On the plus side, ministerial assurances that local authorities will have discretion about using the new powers is welcome, tacitly acknowledging that they will not be to everybody's benefit, albeit that it is not acknowledged in the revenue calculations.

The shoddiness of the financial assertions is matched by the scantiness of the business consultation. Both could have been addressed through a BRIA.

Chic Brodie: Will Mr Pentland take an intervention?

John Pentland: No, because you have ministerial aspirations, too.

The Deputy Presiding Officer: I would be grateful if Mr Pentland could speak through the chair, please.

John Pentland: I am sorry, Presiding Officer—[Interruption.]

The Deputy Presiding Officer: Mr Pentland, please continue.

Richard Lyle (Central Scotland) (SNP): Will the member take an intervention? I have no ministerial aspirations.

John Pentland: No. I need to make progress.

The cost and extent of carrying out a BRIA would be proportionate—and small compared to the anticipated revenues from the scheme.

If the Scottish Government is confident that its calculations and guesstimates are sound, it should have no fear of undertaking a BRIA. Conversely, its refusal to do so can be taken as an indication of a lack of confidence in its own case for the bill.

The criticisms in the Finance Committee report were grudgingly noted by the Local Government and Regeneration Committee rather than accepted, and the lack of clarity and margins of uncertainty in the financial memorandum were judged unfortunate rather than unsatisfactory. Unfortunately, I do not find such failings satisfactory.

The financial assertions behind the bill show great imagination. They have been defended as potential maximum amounts, but they are based on factors that are unlikely to deliver anything approaching those amounts. Does that matter? It matters if the money has been spent before it is raised and therefore must be raised elsewhere, if the costs of raising money outweigh the good that is done with it, or if people go out of business or properties are demolished. Those are not the intended consequences of the bill, and I accept that the Government introduced the bill in "good faith"—as the Local Government and Regeneration Committee report unnecessarily asserts.

Is the bill fit for purpose? Although it is flawed, it can be amended to address the blight of unoccupied properties without inflicting greater harm elsewhere. If the bill brings people and businesses into unoccupied properties, making money should surely be secondary and not the driver for change—it may even be counterproductive, which is a point that was made in much of the evidence to the committee.

I would be much happier about allowing the bill to go forward if the lack of consultation, highlighted by the committee, was addressed through a BRIA. That should happen as soon as possible, and I invite the minister to reconsider.

Initially, I had a level of enthusiasm for and optimism about the bill, and it is difficult to argue against its intentions to address unoccupied properties. As the bill stands, it could do more harm than good, but I am prepared to consider improvements and, on that basis, I am supporting it.
unused, while at the same time we have individuals and families going homeless and businesses unable to get hold of affordable properties. Something is inherently wrong. The market is not working and the challenge is how to get more empty properties into use.

No one is saying that there is an easy answer to the problem. The Government is taking on board the suggestions that have been made, but if some members oppose the proposals I hope that they will tell us their alternatives.

I will touch on council tax relief. On the housing front we have a clear shortage of several types of housing in the east end of Glasgow. Over the years I have twice seen flats in the close where I live sitting empty for more than a year. There can be a variety of reasons for that and it has been suggested that we need to do more studies on the subject. However, the fact remains that some owners may let matters drift and the lack of an incentive of escaping council tax might encourage them to sell.

I like the fact that the proposed measure empowers local government. Under the previous Administration at Holyrood, there was a repeated tendency to centralise, whereas under our Administration ring fencing has been largely ended and moves such as the proposal on council tax strengthen the power of local government. I particularly like the idea that different areas can be treated differently by one council. Despite what some members may think, Glasgow is a very varied city. The east and the west of the city are quite different, face different challenges and require different solutions.

Non-domestic rates on commercial and retail properties are likely to be more of an issue of debate. The nature of that issue when property prices are rising is different from its nature when property prices are falling. An example of the issue that exists when prices were rising was the old Post Office building in George Square, which members may be familiar with. While I was a councillor, it sat empty for several years and was used, basically, as an advertising hoarding. Members may remember the huge advert that appeared facing George Square. When Glasgow City Council got totally fed up with the owner, the only real power that it had was the ability to stop the advertising. A power such as the one that is proposed in the bill is exactly what is needed to bring properties such as that one, which blighted the city centre for so long, back into use. Any move to encourage property owners to bring properties into use is to be welcomed, especially before property prices start rising again, as we hope they will.

The Finance Committee spent a fair bit of time on the financial memorandum to the bill, and its report runs to some 45 pages. It is worth saying that the work was carried out in May, and some of the points that were raised then have already been dealt with by the lead committee or by the Government. I note that in paragraph 187 of its report the Local Government and Regeneration Committee noted that the Finance Committee had to do a fair bit of digging to get the detail, but I think that the points that were made have now largely been resolved.

The Finance Committee’s report was robust, as Margaret Mitchell agreed. It represents a good example of a parliamentary committee being prepared to question and challenge Government in the areas in which it is not satisfied. We took evidence from a number of bodies, including the Business Centre Association and the Scottish Property Federation. Comparisons were made with the experience in England in recent years, but the evidence tended to be rather weak. For example, it was noted that retail vacancy rates in England rose from 3 per cent in 2007 to 14 per cent in 2011, but it was not possible to say to what extent that was a result of the recession and to what extent it was linked to the empty property relief changes. No evidence was produced on that. It is possible that vacancy rates would have been even higher than 14 per cent but for the changes that were introduced. In that regard, our proposed system is much more generous to businesses than the one in England. Despite what Margaret Mitchell said, I believe that the Conservative Government has no plans to change the system there.

Michael McMahon (Uddingston and Bellshill) (Lab): Does the member still agree with the Finance Committee’s finding that some of the evidence that he and I sought could have been produced had we had a business and regulatory impact assessment?

John Mason: I am about to move on to that; I stand by the Finance Committee’s report, which has been widely accepted to be robust.

On consultation, the committee struggled to understand why there was more detailed consultation on the council tax proposals than on the non-domestic rates provisions. We accepted that some consultation on the issue was included as part of the budget process consultation, but it was somewhat swamped by other budget issues and might have benefited from being highlighted more in its own right. I am glad to see that that point was taken on board by the lead committee in paragraphs 114 to 120 of its report. I certainly accept that the non-domestic rates proposals have since been debated robustly by the lead committee and the Finance Committee, so we are probably now in the same position that we would
have been in had there been consultation at an earlier stage.

Mr McMahon raised the issue of the failure to carry out a BRIA. We spent a fair bit of time considering whether a BRIA was required. The committee accepted that £18 million was not a huge amount in the bigger scheme of things, but our understanding was that, according to Government guidance, a BRIA is required even for a measure that has a small impact, in which case the scale of the BRIA is reduced accordingly.

I am grateful to the lead committee for taking that point seriously. I reread its report this morning, and it is clear from paragraphs 121 to 130 that it pressed the minister on it. The committee reaches a fair conclusion in paragraph 130:

“The Committee welcomes the Minister’s commitment stated above to explore and refine the policy and to listen to the Committee and to stakeholders. ... The Committee therefore urges the Scottish Government to continue the dialogue with business organisations and other stakeholders as the policy develops.”
That seems fair to me.

Hanzala Malik (Glasgow) (Lab): Angus MacDonald made an excellent point about the need to protect small businesses throughout Scotland. That particularly applies to Glasgow, given the type of city that it is.

Has anyone consulted the small independent businesses as opposed to the larger ones?

John Mason: I think that the Finance Committee had comments from organisations representing both small and large businesses. The point that we are making here is that, although a lot of us would have liked more consultation at an earlier stage, consultation has now effectively happened because there has been so much coverage of the issue. I am convinced that the minister is still listening as we move forward.

Kevin Stewart: I remarked earlier about small businesses and the FSB. Only 2 per cent of FSB members said that they benefited from empty property relief and only 19 per cent of its members believed that the relief had a positive effect on small businesses. Small business—certainly in my area, and probably in Glasgow, too—does not see a huge benefit from the relief. What it sees is a huge benefit going to the bigger boys.

John Mason: I take on board absolutely what Kevin Stewart says.

We are still at an early stage with the bill. The Government has made it very clear that it has listened and is listening to business and other stakeholders. I am therefore happy to support the bill.

15:31

Anne McTaggart (Glasgow) (Lab): I welcome Margaret Burgess to the front bench and to her new role, in which I know that she will be a huge asset. I declare that I am a member of the Local Government and Regeneration Committee, which reported on the Local Government Finance (Unoccupied Properties etc) (Scotland) Bill.

There are more than 100,000 empty buildings and homes in Scotland, contributing to our housing crisis and marred our town centres. We all want empty properties to be brought back into use, but there are flaws in the bill, which the Scottish Government must address before the legislation is passed. The principles displayed by the Government in its introduction of the bill are of merit. Good work is being undertaken by the Scottish Government, in partnership with Shelter Scotland, through the introduction of the Scottish empty homes partnership, which we have heard about from other members.

However, it is the legislation regarding non-domestic rates that is problematic and which the Scottish Government must reconsider urgently. I wish to focus on that part of the legislation.

As the bill stands, the Government has failed in its duty to look at the financial and economic implications of the legislation. Although no one wants to see unoccupied properties scarring our high streets and town centres, the bill is being introduced at the wrong time. In evidence to the Local Government and Regeneration Committee, Glasgow City Council stated that under the legislation, it would be forced to demolish buildings that it would otherwise have held on to as part of its long-term regeneration strategy.

The Scottish Government asserts that the introduction of the legislation will lead to savings of £18 million. I would dispute that figure, though, as the Scottish Government has not taken into account the cost of collecting rates on its own empty properties, a figure that could total as much as £1.8 million. The Scottish Property Federation estimates that at least 20 per cent of the forecasted savings will be met from the public purse, with hospitals and Government offices footing the bill.

Chic Brodie: It is not for me, after all the years of Labour financial mismanagement, to afford the party an oasis in that desert of incompetence. However, in 2007 Labour undertook fairly intensive analysis and consultation on the issue through the Barker review, the Lyons inquiry et cetera. Indeed, that master of economics, Gordon Brown, said:

“commercial property lying empty should not continue to be given such generous business rate relief, particularly because that leads to higher rents in the areas with highest
Does Anne McTaggart agree with his statement?

**Anne McTaggart:** That was before the recession—Mr Brodie forgot to add that part in. Unlike the Scottish ministers, Labour ministers exercised financial due diligence.

The Government has not thought about the impact of such legislation on local government. It is estimated that the legislation will cost Glasgow City Council alone as much as £1 million—an extra levy at a time when local government is struggling to meet the financial demands that are placed on it.

As an Opposition, we have been vocal about the changes that need to be made to the legislation. Only three months ago, I, along with CBI Scotland, called on the minister to complete a BRIA to strengthen the bill’s financial competency. However, the Government still refuses to take those steps.

As we know, the Scottish Government has been aware of financial question marks hanging over the bill for some time. Before the bill was brought to the attention of the Local Government and Regeneration Committee, it was slated by the Finance Committee for its poor attention to detail, and the committee could not support the bill’s financial memorandum.

The bill is salvageable but, before stage 2 is complete, I urge the Government to look again at the issue of non-domestic rates to ensure that it is not penalising small businesses or hindering the economic recovery.

15:37

**Mark McDonald (North East Scotland) (SNP):**

The American satirist Stephen Colbert once said of President George W Bush that he was a man who believed the same thing on Wednesday as he did on Monday, irrespective of what had happened on the Tuesday. When we listen to the speeches from the Opposition parties on this legislation, that maxim seems to apply. The legislation is a very different beast from that which appeared, along with its financial memorandum, before the Finance Committee. The minister has—as he has made quite clear today—been in listening mode throughout that period.

In the past two days, Opposition members have stood up in the chamber during the announcement of the legislative programme and told us that the Government does not listen but simply uses its majority to steamroller things through. However, the minister has come to the chamber today and told Parliament that he has been listening to stakeholders and that he is open to listening to constructive suggestions.

I was interested to hear Sarah Boyack’s contribution. From what I could gather, she was simultaneously arguing against the measures to achieve savings via the non-domestic rates proposals that the legislation contains while suggesting that Government should increase funding for things such as the HAG. She simply cannot argue for the Government to spend more money without indicating where that money would come from. We had the same discussion yesterday afternoon with her colleague, Ken Macintosh. It was suggested that perhaps Mr Macintosh had found a magical money tree in East Renfrewshire and that he could take us there.

**Sarah Boyack:** Will the member give way?

**Mark McDonald:** Perhaps Mr Macintosh has revealed the tree to Sarah Boyack and told her where it is. Perhaps she will take the opportunity now to tell us the location of the tree that the Government could harvest to spend on the priorities on which Labour wants to spend more money.

**Sarah Boyack:** I have two points for Mr McDonald. First, our problem is with the lack of rigour and the lack of confidence that we have in the figures that underpin the bill, and that is exactly the same as it was on the day it was introduced. It is the minister’s intentions that are changing; the page that we have before us has not changed.

Secondly, I was quoting Waverley Housing Association and asking the minister to address the points that it has made. The minister needs to respond to the points that have been made throughout the process.

**Mark McDonald:** It is interesting that whenever Labour members are challenged on their wish to spend more money, they say, “It is not us; it is other people who are asking to spend more money. We are simply bringing those points to the chamber.” They are de facto arguing for more money to be spent in certain areas while giving no indication of where they would make reductions in order to meet the consequential increase in funding. That is not constructive opposition.

I say to Margaret Mitchell that Conservative members are the last people from whom I will take any lectures on housing issues. If the Tories had their way, they would have carried on selling off council homes and squeezing low-income families out of the housing market and out of the possibility of accessing social housing.

If we look at the lists, we see that 9,500 households in Falkirk and 8,000 households in Aberdeen are waiting for a council home. Some...
6,297 households are classed as homeless in Glasgow, and 16,714 households in Fife are waiting for a council home. That is the legacy of Thatcherism and shows what the Conservatives would do with council and social housing in Scotland. It is fantastic that we are able to protect Scottish social housing from the Conservatives. If only we could protect other areas of Scotland from them.

Margaret Mitchell: Will the member take an intervention?

Mark McDonald: Margaret Mitchell made me wait, so I will make her wait slightly longer before she gets to intervene in my speech.

There are claims that we are looking to England—at what the Labour Party implemented and the Tories are continuing—and simply copying it. That is simply not true. The measures that have been put forward are an improvement on the measures that are being implemented down south. The Scottish Government has looked at the lessons that were learned from down south and excluded industrial units, for example, because of the impact that the measures there had on them. We will continue to offer the most generous relief package in the United Kingdom because we have looked at examples from elsewhere and considered refinements and improvements.

Margaret Mitchell: Is the member aware of the Lambert Smith Hampton report published by the Royal Institution of Chartered Surveyors? That report made it quite clear that it was not just industrial properties that were demolished—all types were. Where is the reason for merely exempting industrial properties?

Mark McDonald: I freely admit that I have not read that report, but organisations that came before the committee with their concerns gave evidence that industrial properties were the big question.

We are told that the Tory UK Government does not think that the idea is good and that it does not want to continue with it. Margaret Mitchell’s perspective is interesting. Robert Neill, Parliamentary Under-Secretary of State for Communities and Local Government—at least he was when I found the quotation; I do not know what happened to him in the reshuffle—has stated that the coalition

“have no immediate plans to reverse the reforms”. — [Official Report, House of Commons, 13 December 2010; Vol 520, c 62WS.]

Therefore, the Tory Government is continuing with the policy south of the border.

I am pleased that the minister responded constructively to my suggestion that he look to the Northern Ireland incentive package. There, relief is given at the point of a property being filled. It is important that there is some form of incentivisation in the package, and I am pleased that the minister has taken that on board and is proactively looking to see whether that can be incorporated at stage 2. I will be interested to see that coming forward. I hope that it will form part of the Government’s amendment package at stage 2.

It is interesting what happens when one tries to be constructive and to offer alternative proposals. Perhaps Opposition members might wish to reflect on that, as we have heard scant little from them about how they would see the bill being reformed or made to work better. We heard Anne McTaggart telling us that she believes that the bill is “salvageable”, but she has not told us what she sees as the key changes that need to be made. She told us what her concerns are—I understand that—but she has not told us what changes need to be made in order to satisfy her concerns, and she needs to do that in order that the minister can take them on board. I look forward to the amendments that Labour members lodge at stage 2.

Some Opposition members have moaned that life was better in the previous session because, apparently, the Government listened more. We have a minister who has stated clearly that he is listening. It is up to the Opposition parties to start to say things that are occasionally constructive and worth listening to.

15:44

Joan McAlpine (South Scotland) (SNP): I am not a member of a committee that has scrutinised the bill and have not had the privilege of listening to witnesses. I intend to confine my comments to evidence that I have gathered myself from the area that I represent from stakeholders who have an interest in urban regeneration.

I represent South Scotland. As we know, the problem of empty properties is worse in rural areas. It is nothing short of tragic to see otherwise handsome market towns spoiled by the fronts of abandoned shops that ooze a sense of neglect. I hope that all members agree on that.

In Dumfries and Galloway, the number of long-term empty properties has risen from 695 in 2008 to 823 last year. The percentage of long-term empty properties in the region is above the Scottish average.

I have gathered the views of officials who work in economic development, regeneration, housing and planning and I have to say that they all welcomed the proposal. Of course, nobody is pretending that the bill will eradicate the blight on its own. Rather, it is viewed by the stakeholders I spoke to as a welcome addition to the
regeneration toolbox, which includes other Scottish Government initiatives such as the Shelter-run Scottish empty homes partnership, the small business bonus scheme, which benefits many small shop owners and the town centre regeneration fund.

In Dumfries and Galloway, the local authority has already used existing powers to reduce the council tax discount on empty properties and second homes. As a result, it has generated £900,000 a year to invest in affordable housing. The bill increases such powers and is therefore an extension of something that has been proven to work. In terms of town centre regeneration, I am told that improvements such as streetscaping and community involvement are hampered in the area that is being improved if it is marred by empty properties.

Without the levers that the bill will provide, the main power that is available to authorities, according to the people I have spoken to, is enforcement. For example, if a number of properties are lying empty and neglected, legal intervention is an option. However, I have been told that that is a costly and time-consuming option, which is why the measures in the bill are being welcomed.

The proposal is, of course, designed to incentivise owners to return those properties to positive use. As one senior economic development professional pointed out to me, that might encourage some lateral thinking on the part of landowners, who might have to consider a change of use for their property. For example, a retail unit that is no longer viable may be suitable for community use.

The same official also hoped that the change in legislation might encourage rental charges to be lowered, thus incentivising new business start-ups, as Mark McDonald has said.

The bill seeks to take into consideration the concerns of local property owners and small business owners who are simply struggling to cope with the recession. The minister has already indicated some of the measures that he plans to implement in that regard, and my colleague, Mr Stewart, has pointed out that only 2 per cent of the members of the FSB have benefited from the empty property relief. However, the stakeholders I spoke to were keen to point out that the biggest issue for them was absentee ownership, where properties are part of a wider investment portfolio.

That is a particular issue with larger properties that may once have been rented by retail chains—the former Woolworth’s chain springs to mind. I am told that, often, local authorities find it difficult to have any meaningful dialogue with such faceless owners, other than through property agents. The harsh truth is that those agents are primarily interested in financial return and spend little or no time considering their wider responsibilities to communities in which they have very little stake. Affecting their bottom line is the only way to make them sit up and listen. That is why I welcome the bill.

**The Deputy Presiding Officer (John Scott):** I draw members’ attention to the fact that we have a considerable amount of time in hand, so anyone who wishes to speak a little longer than usual is welcome to do so.

I call Mr Hume. You have a generous six minutes.

15:48

**Jim Hume (South Scotland) (LD):** I welcome Margaret Burgess to her new ministerial position. I look forward to working with her to help the housing position in Scotland.

There is little doubt that we need to address the problem of homelessness, with 335,000 households on housing association and co-operative waiting lists and a further substantial number of households—we have heard numbers from 20,000 to 100,000, but the figure that I have is 120,000—that have been on council waiting lists for some time. There is also little doubt that we need to help businesses grow in Scotland and get more commercial properties back into full use.

However, is hitting them with higher business rates the right thing to do when landlords are unable to let out their commercial properties? I do not think so, and neither does the Scottish Chambers of Commerce, which stated that the measure could lead to businesses that let commercial properties pulling down the properties that they might be having difficulty letting. Let us face it: it is in their interests to let out vacant properties and not at all in their interests to let them lie vacant, as they are then liable for the running costs. We need commercial property to be developed in Scotland to help with regeneration; we do not need barriers to that. I believe that hammering empty commercial properties is a barrier.

**Derek Mackay:** We have heard from the Conservatives that they are willing to continue the policy in England. Is the same true of the Liberal Democrats?

**Jim Hume:** I will come to that point in just a second—it is in the next paragraph in my speech.

The Parliament’s Finance Committee had concerns, too. It reckons that up to 870 council properties could be affected, which as we have heard could have a negative impact of £1.8 million to £3.6 million a year on the public purse. The
Government needs to balance its decision making and consider the effect on revenue raising and regeneration. I would have thought that, in the current times, the focus would be on maximising regeneration, not hindering it.

It is not only the Scottish Chambers of Commerce and our Parliament’s committees that have concerns. In England, Labour introduced a similar measure during its last years in power. That was obviously a last desperate act to grab money from businesses to plug the hole in Labour’s wall of debt, but the measure has been counterproductive. Vince Cable has called it economically damaging and not productive. The number of empty commercial properties south of the border has risen by nearly 15 per cent since the change, which Labour introduced.

Mark McDonald: Will the member give way?

Jim Hume: I will do so only if the member has no aspirations and it is a substantive intervention.

Mark McDonald: I aspire only to extract the truth from Mr Hume.

If the UK Government views the measure simply as revenue raising by the Labour Government, will he explain why it has reduced the threshold of rateable value at which exemptions kick in?

Jim Hume: That is a fair point, but I will carry on if the member does not mind.

Evidence north of the border is less than scarce, and we have heard no evidence from the minister. To date, the Government has shown no proof that hitting businesses with higher taxes on empty properties will bring any commercial properties back into use. As the convener of the Finance Committee pointed out, the financial memorandum even uses the word “hope”. How can a Government propose legislation that is based on the hope that it will help? That is not only unfair on businesses, but a waste of time if it is unsuccessful.

The Government says that its changes to empty commercial property relief will discourage property owners from leaving their businesses empty. Why on earth would owners leave properties empty when it is in their financial interests to let them out so that another business can pay the rates and necessary costs of maintenance, heating, lighting and often security, and so that those owners can make money from the rental income? The proposal is purely an attempt to raise money from the business sector, which can ill afford it at this time. Along with the FSB and the CBI, I implore the Government to carry out a serious review of the empty properties rates relief scheme before we even consider passing the bill.

I turn to the proposal to abolish the housing support grant, which we have not heard too much about from members. The proposal affects only Shetland, but there is an historical reason for that. Shetland’s housing debt arose from the need to build houses following the construction of the Sullom Voe oil terminal in the 1970s. At that time, the population of the islands increased by 40 per cent, which meant that, over about 20 years, that small council had to build 200 to 300 houses. That resulted in debts of about £50 million.

There is no way that such a small council could balance its housing revenue account without the serious and real, albeit perhaps unintended, knock-on effects of increased rents and cuts in maintenance. Shetland Islands Council is adamant that if the housing support grant has to go, transitional arrangements need to be in place, and the Parliament’s Local Government and Regeneration Committee has agreed. To date, there has been no sign of any such arrangement from the Government and we have had no words from the minister today on that.

Jean Urquhart (Highlands and Islands) (SNP): Does the member acknowledge that, at the time of the development at Sullom Voe and the need for houses in Shetland, an arrangement was made with the Westminster Government, which only recently stopped paying the support grant to the Scottish Government?

Jim Hume: Shetland is an anomaly as regards housing support. We are not talking about a massive amount—some £0.75 million in the next year—although all public money must be totally scrutinised for effective use. However, it is a huge amount for a small council. We should not forget the reason for that support. It is due to the success of the oil industry in Shetland and the north, an industry that this Government often looks at with green eyes.

The Liberal Democrats have too many concerns to support the bill at this stage and shall be voting against it. In these times, we need to support businesses and communities—not hinder and hammer them.

15:55

David Torrance (Kirkcaldy) (SNP): The bill addresses some critical issues. Reviving town centres is crucial, as they lie at the heart of many communities and reflect economic growth. Bringing up to 5,500 properties back into use in Scotland’s town centres will generate a greater feeling of optimism. It will make town centres more attractive again and more readily accessible to those people who do not have the means to get to out-of-town shopping hubs. It will also create new jobs. That resurgence will benefit towns and communities.
Margaret Mitchell: Does the member realise that the 5,500 properties figure that he cited is the total number of empty properties, not the number that will come back into use? That 5,500 figure assumes that 100 per cent of the empty properties will come back into use. Could the member give us the estimated figure—as the minister has not been able to do so—of the number of empty properties that will be brought back into use as a result of the incentive?

David Torrance: We can all hope that all the empty properties will be brought back into use.

Developers and property owners are there to use those properties if we can bring incentives to make all the empty properties go. In Kirkcaldy, we have a number of properties that have been vacant for 10 to 15 years and there has been no incentive for the developers or the property owners to bring properties back into use on our high street.

Scotland is in urgent need of more housing. At the same time 25,000 houses in Scotland are empty long term. There are undoubtedly many different reasons for those vacancies. Nevertheless, we need to bring those homes back to the market to help alleviate the shortage in housing.

At a time when the UK Government is cutting Scotland’s budget year by year, subsidising vacant commercial properties by more than £150 million a year does not seem like a responsible use of taxpayers’ money. Owners do not need to be scared though, as—despite the limited resources—empty property relief here will still be more advantageous than in England and Wales.

The Government needs to be able to make regulations to alter the non-domestic rates regime by varying the rates of relief available for certain empty commercial properties; to alter the level of council tax relief available; and, similarly, to alter the level of council tax payable on long-term empty homes.

At the moment, all empty non-domestic properties are entitled to 100 per cent rates relief for the first three months followed by a 50 per cent discount on the rates until the property is occupied for up to six weeks. The bill proposes reducing the rates relief for all other non-domestic properties to 10 per cent after three months. Exemptions for listed and industrial properties or properties with lower value will remain.

Subsidising around 19,000 properties with more than £150 million a year in empty property rates does not seem like a fair sharing of the burden and it is the biggest type of business relief in Scotland—more than the small business bonus scheme that assists businesses to actively contribute to our society and to our economy.

Reducing the relief for around 6,500 properties currently receiving a 50 per cent relief to 10 per cent will reduce the cost to the public by an estimated £18 million per year. To tackle the huge number of long-term empty homes in Scotland, the Scottish Government needs to be able to make regulations to alter council tax discounts if a property remains empty. Such regulations still give an exemption for the first six months and then only continue for another year if the owners are actively trying to sell their home, followed by the ability for local authorities to reduce discounts to 0 per cent. Local authorities would set those rates, decide what constitutes “actively trying to sell” and decide whether additional exemption periods would be appropriate.

With the Scottish empty homes partnership—run by Shelter Scotland—which supports local authorities, private owners and others, and with a consultation on council tax changes to long-term unoccupied properties that runs until 5 October, the Scottish Government is already working actively to reduce the number of empty homes. Those councils that choose to increase council tax for empty homes will also offer advice and support.

Proposed measures in the consultation on new council tax regulations will allow councils to impose an increase of up to 100 per cent of the relevant council tax for homes that have been empty for at least a year; to offer 10 to 50 per cent discounts for unfurnished properties that have been empty for between half a year and a year, rather than a 50 per cent discount; to apply different rates of discount or increase council tax in different parts of their area; and to increase rates depending on the time for which a home has been empty. Those measures will be beneficial in generating much-needed additional revenue for councils while simultaneously reducing the number of empty homes in Scotland.

The benefits of the bill are self-evident. The empty property rates reform will bring up to 5,500 properties back into use and, with that, kick-start the revitalisation of town centres. That is essential to the “Achieving a Sustainable Future” strategy, because strong and vibrant town centres and business districts are crucial to the economic and social fabric of Scotland. The change to council tax relief for long-term empty homes has potential to drastically reduce their number and provide much-needed homes.

The Government is aware of the necessity to take other factors into consideration, and integral parts of the bill allow for different circumstances. The bill will encourage owners of both domestic and commercial property because, in the long term, it will be more advantageous—financially and for the good of the community—to maximise
potential by ensuring that all properties are used appropriately. The Government will continue to listen to the concerns of stakeholders from the private sector. It will give them the opportunity to engage in the process before regulations are introduced, and it invites all stakeholders and members of the Parliament to contribute.

16:01

Malcolm Chisholm (Edinburgh Northern and Leith) (Lab): I start by welcoming Margaret Burgess, minister designate for housing and welfare, to her new position. I wish her all the best in her important role.

I welcome half of the bill that is before us today, as it is basically a bill of two halves, the housing support grant having long since withered on the vine everywhere in Scotland except Shetland. The good half relates to council tax and empty homes. It extends the action that the previous Government took in 2003 to help to deal with the serious problem of 25,000 long-term empty homes. On that half of the bill, the minister has been in listening mode, and I welcome his announcement about increasing the penalty to £500 as an incentive to make it worth while for councils to take action in the area.

There are certainly issues about exemptions from the new regime. I have raised issues about exemptions from the 2003 regime with the council—that is the regime that reduced the discount for empty homes to 10 per cent.

On exemptions, however, I agree with what Shelter said in evidence to the Local Government and Regeneration Committee. It is quite important in my view.

“We warn against having too many exemptions that are subjective, because that makes the system more expensive to enforce. We would like the balance to be on the other side, where someone who is in genuine hardship and is doing everything that they can to bring the property back into use is given incentives and financial help from the council, using money that has been recycled from the levy.”—[Official Report, Local Government and Regeneration Committee, 16 May 2012; c 969.]

The minister mentioned some of the actions being taken by the Government on empty homes, but more is needed. Some of that is highlighted in that quotation from Shelter and there are many more suggestions in its written submission. I urge the minister to look at that submission and perhaps focus on the issue of empty homes as her first action as housing minister. If she wants a precedent for that, I point out that my first announcement as housing minister in May 1997 was an empty homes initiative with some money attached. I can reveal for the first time that it was inspired by Shelter.

Kevin Stewart: The Minister for Transport and Housing clearly stated to the committee:

“The issues will take time to work through. If it was clear that a sincere effort had been made to sell or let a property, for example, we would not want to punish somebody for a genuine attempt to bring an empty home into productive use.”—[Official Report, Local Government and Regeneration Committee, 30 May 2012; c 1077.]

Malcolm Chisholm: I certainly welcome that. Members will realise that, like Joan McAlpine, I am not a member of either committee that has dealt with the bill so, if I am not fully conversant with all the details, I am sure that members will forgive me.

That is perhaps not the best way to introduce the bad half of the bill, which is certainly how the non-domestic rates provisions can be described. I did not hear the minister announce any improvements today, although I note that Mark McDonald was referring to the minister being in listening mode for all parts of the bill. If I have missed something, I am sure that someone will correct me.

Even the minister seemed to be a bit defensive about the non-domestic rates section, because the first thing that he said about it was that it created only an enabling power. Kevin Stewart can correct me, but I thought that he said that he thought that there were no plans to bring the power into action. That needs to be clarified.

Kevin Stewart: Nothing in the bill at the moment would bring the power into action. An enabling power is an enabling power. If the Government chooses to use the power later, that will have to come back to a committee, as I said in my speech.

Malcolm Chisholm: That is the case, but we need the position to be clarified. To be fair to the minister, I think that I recall him saying that he intended to introduce regulations in 2013. Perhaps that can be clarified in the summing-up.

Derek Mackay: The bill creates an enabling power. If that was passed, I would have to return to Parliament with the regulations to vary rates relief. The regulations would change the rates relief that people enjoy. The bill gives us the enabling power to achieve that.

Our stated position was that what we proposed in the budget would be outlined. Since then, I have consulted members and stakeholders on that—hence the suggestion in relation to Northern Ireland. I would have to return to the subject in regulations.

Malcolm Chisholm: I thank the minister for that clarification, if such it be.

I note that the committees—especially the Finance Committee, but even the Local
Government and Regeneration Committee—were quite critical of the Government for a lack of consultation on the non-domestic rates section and for the financial memorandum’s inadequacies. In his speech, the minister said that no business and regulatory impact assessment was necessary, because the number of affected properties was small, but the Finance Committee pointed out that the provisions could affect all businesses that use commercial properties.

The Finance Committee concluded that “the Bill’s proposals may impact detrimentally both on individual businesses and the broader economy” and it pointed out that there was no evidence that reoccupation rates in England had increased. This important part of the bill contains no evidence-based policy but policy without evidence. The evidence from England, to which Sarah Boyack referred, is about older buildings being demolished. As Jim Hume pointed out, it seems that even more buildings are becoming empty. Such evidence as we have from Scotland suggests that a lack of demand is the key issue and that commercial buildings are rarely left empty on purpose.

There was little evidence about how the figure of £18 million in savings was arrived at and there was a lack of reliable evidence about the number of public sector properties that will be affected, which will obviously reduce the overall public expenditure savings.

**Derek Mackay:** Will the member take an intervention?

**Malcolm Chisholm:** I do not know whether I am pushing it for time—I see that I am all right.

**Derek Mackay:** I speak in the spirit that we have the time and the member seeks the information. He is correct that the information was not available to the Finance Committee, but it was available when the Local Government and Regeneration Committee considered the bill and it is covered in that committee’s report. I can tell him exactly what the figures are. The maximum impact on the NHS is £300,000; the maximum impact on Scottish Enterprise is £400,000; and the maximum impact on councils is £1.7 million, but councils would benefit particularly from the £18 million saving that the proposed change would generate.

**Malcolm Chisholm:** I thank the minister for that helpful intervention. An interesting point about the financial memorandum is that, as far as I can see, it does not assume that owners will bring vacant properties back into use. I might have missed that, but it seems that nothing is netted from the savings on the basis of the bill’s stated purpose. If the Government does not believe that its policy will be effective, why should we believe it?

**Derek Mackay:** Would the member like to take a further intervention?

**Malcolm Chisholm:** Okay.

**The Deputy Presiding Officer:** There is time.

**Derek Mackay:** I am trying to be helpful. It is true that the Government has set no targets. Any figure between zero and 5,500 properties could be brought back into use. However, setting an arbitrary target for the number that might be brought back into use would be complete guesswork that would not inform the debate.

**Malcolm Chisholm:** I thank the minister, but what he says is quite revealing. It seems that a lot of the policy is based on guesswork. It ought to be guesswork informed by such evidence as we have, but it looks as though the evidence that we have from Scotland and England has not really been properly taken into account. I believe that it is the wrong policy at the wrong time and that that part of the bill should certainly be reconsidered.

16:10

**Nigel Don (Angus North and Mearns) (SNP):** It is an interesting experience to rise this late in a debate, when there is not very much left to say and there is probably more time to say it in than one would have expected. However, I will work my way through the issues that have come up.

I am grateful to Kevin Stewart for telling me about Shetland’s housing support grant in his speech. I confess that I did not understand it beforehand, but to me, as a fellow former councillor, the idea of borrowing from one’s own harbour fund seems a wonderful wheeze. I think I now understand a little more about what might have been going on.

I turn to the things that will be with us for very much longer, starting with business properties. Every one of those properties is an individual space, so we need to look at what effect the bill will have on the microeconomics of the individual business space—or possibly even a sub-space, as some of the big units might be subdivided or let in parts if that made economic sense. I admit that I have never had to run a business space, but most of the costs seem to disappear if one just shuts the door and drains the cold water taps. As long as the property is wind and watertight, the maintenance cost might be practically zero for a considerable period. It is not especially difficult to see why landlords—particularly absentee landlords who have no interest in the local community around the building—would think that it was cheaper to do that than to try to market it.

**Jim Hume:** Will the member take an intervention?
Nigel Don: Just a moment.

It is perfectly reasonable to think that, if there is an incentive—which happens to be business rates—to get a property back into use, a landlord may say, "I've now got a cost that I did not have before. Maybe I should see whether a lower rent would work." That might get some economic cycle around it.

Jim Hume: Does the member not agree that the commercial property owner would always be better off if he let his property out?

Nigel Don: No, I do not. There is a cost in terms of time and effort in running one's own business, as there is in doing anything. If the owner has a portfolio of properties that includes one or two over there, a long way from their backyard, which the owner does not know very much about and does not see what they are going to be used for, and there is no incentive for the owner to make an effort, they will probably put their effort somewhere else. They might be quite happy to live with those properties simply as elements of a balance sheet that will pick up eventually. It is perfectly reasonably to say that there will be occasions—I do not know how many—when an incentive, such as an additional cost called business rates, will wake people up and make a difference.

Kevin Stewart: Will the member give way?

Nigel Don: Forgive me for going on just for a moment.

There is also a general principle to observe. I cannot remember who it was at the London Business School who pointed out that in economics one should stick to principles and not allow oneself to be confused by the numbers. It cannot possibly be wrong that if we create a cost incentive for the landlord to occupy property, rents will come down as he tries to find a market rent at which he will get some income.

Kevin Stewart: Mr Don has summed up very well the situation in which it is beneficial for a landlord to wait. I represent the centre of Aberdeen, where there are a large number of empty properties although there is a lot of demand. Those properties are not being offered at rents that people can afford, and there is an advantage for many landlords in keeping their properties empty until high rents are attainable again. That is why I, in searching for an office, and many others in my constituency find it very difficult to get affordable property although there are lots of empty properties about.

Nigel Don: Indeed. In some places—Aberdeen is a classic case—we see that. However, the bill will have different effects in different places. I need refer only to my constituency to demonstrate that the effect will depend on how far the property is from a centre of business. Forfar is not doing too badly. However, in Brechin, which is only 10 miles down the road but is one more stop away from Dundee, there are far more empty properties.

I can see exactly the same effect as I come into my constituency from the north, from Aberdeen. In Stonehaven, there is no particular shortage of people who want to use business properties and there are not too many vacant ones. However, if we come an extra 15 miles down to Laurencekirk, we see a different situation.

The effects are place specific, which is perhaps what we would expect with properties.

John Mason: I agree with Nigel Don that the effects are place specific. Does he agree that one possibility is that people who own shop units below tenement buildings, which certainly happens in my constituency, might, because their minds are being focused as he describes, consider switching the use of that property from a shop to a flat?

Nigel Don: I have only to look to my previous home city of Dundee to recognise that that has happened. I can think of places where it has.

In the current economic landscape, it is mighty difficult to calculate any effect on anything. A financial memorandum that says that the estimates are approximate and that the Government hopes that it might get a result in that direction seems rather more honest than others that quote numbers to two or three significant figures, which I am not sure that I am likely to believe in the current economic environment.

On domestic dwellings, I welcome the idea that the penalty for non-disclosure should go up. As a former councillor, I am not with the idea that £200 would force people to do the right thing; I think that £500 is getting towards the right figure. I wonder whether a maximum figure that is rather more than that might be appropriate, but I am not sure how we would massage that, so perhaps £500 is okay.

I will also pick up a point that the minister referred to but nobody else picked up on. The Subordinate Legislation Committee—which, of course, I convene—made the point that there is no limit in the bill on the amount by which domestic rates could be put up. That point was so fundamental that the committee felt that it had to point it out. The Parliament has to put a limit on any tax-raising power.

If the limit is 100 per cent, that is fine by me and seems perfectly reasonable. If the Government had felt that it could be 200 per cent but would probably only be 100 per cent for the moment, that would not affect the fundamental principle. The important point is that there be a number in the bill so that the Parliament knows what power it is
giving away. I am happy that it should be 100 per cent and, if that makes sense to the Government, so be it.

I also like the idea, which Mark McDonald introduced to the debate, that once a property has been put back into use there should be some kind of rates relief.

That brings me back to the estimated income and the costs. I confess that I am not sure that I need to worry too much about those. We want houses to be occupied and in use. There are about 150,000 people looking for a home. It does not matter if the figure is out by a factor, because it is still enormous. If we can do something to eat into it, that is good.

If, at the end of the day, the income and expenditure just balance, that is fine if we get folk back into homes. Therefore, whether the income is really £18 million or £10 million does not bother me as long as it is more than the £1.8 million, £3.6 million or possibly £5 million that it might cost. Why worry? As long as one is significantly higher than the other, we are doing the right thing.

John Finnie (Highlands and Islands) (SNP): Does Nigel Don share my view about the implications of welfare reform and the bedroom tax—which will mean that foster children, children with a disability without an overnight carer and, indeed, children who are the subject of regular access arrangements will not be permitted an additional bedroom—given that a considerable number of the properties that we are talking about will be one-bedroom properties?

Nigel Don: I take the point that there are a lot of one-bedroom properties around. That is a fair comment, but it is only a complication to the general principle. I understand that we will not necessarily have all the right things in the right places.

The last point that I ought to pick up on is the issue of flexibility and the idea that rates relief on a home on one side of the city might be different from that on a home on the other side of the city, within the same council area. I can see why some flexibility is a really good thing, because there are places where we do want to incentivise for homes to come into use and there are places where we are not so worried. However, one person’s flexibility is the next person’s postcode lottery. I just hope that those who know more about this than I do—and I sit on none of the substantive committees for this bill—work out where we really do need the flexibility and what it is meant to achieve, so that we do not finish up with something that can be criticised afterwards.

Would the minister like to come in?

Derek Mackay: I thank the member for offering an intervention. I clarify that the discretionary power will be for the empty homes element alone, and will be for each local authority to decide. The empty property rates relief scheme will still be universal and consistent across the country. The reason for that is that it is welcomed and supported by the private sector, which wants a consistent scheme across the country.

Nigel Don: The minister can see from his own local authority experience that, although there may be a general scheme across the country, every flexibility that is built in will turn out to be a double-edged sword somewhere—we just need to see that coming. That does not mean that we should not do it; it just means that it is a complexity that perhaps we could have done without.

There is a lot in the bill that is good. I have been slightly concerned by members talking about numbers which are, by definition, approximate, and which we should not be worrying about. It seems to me that the general principle is right. How effective it turns out to be is something that the history books will tell us, and I honestly do not think that we could predict that at this point.

The Deputy Presiding Officer: Thank you very much. I salute that heroic effort.

16:22

Alex Johnstone (North East Scotland) (Con): I will begin by doing as one or two other members have done and welcome Margaret Burgess to her new role. I look forward to seeing how she performs in it. I have worked with her on a committee, so I am sure that she is currently quite depressed that she will continue to benefit from my opinionated right-wing point of view in a different capacity.

Before I came over to participate in the debate, I very nearly did something that I have never done before: I almost phoned the minister because I needed a piece of information from him. I raked through my diary, but I could not work out when something had happened, although he may remember. It was a conference on commercial property interests that took place in Our Dynamic Earth, across the road. I cannot remember when it happened—I thought that it was some time in the spring, but I could not find it in my diary. However, it happened not long after the minister had been appointed to his role. For most of the day of the conference, the discussion was on the issue of empty commercial property rates and the proposal that they should be introduced or toughened up. I think that the minister enjoyed his introduction that day, when he found himself in a room with a large number of people on the panel and in the audience who all disagreed with him. I am sure
we have heard at great length how important it is that the private rented sector plays its role in housing Scotland's homeless. The Government itself has acted on many occasions to encourage that to happen. However, if there are currently empty properties in that sector—I know that there are—the danger is that any imposition of additional costs may result in those who bought to let simply selling their property and taking it out of that marketplace.

I object to the fact that the Government had the option to take either the carrot or the stick approach in this situation but chose the stick. I think that it should have chosen the carrot. I suggest that the powers that are already available to local authorities when levying rates for empty properties are probably adequate and that the Government should have decided to take a positive approach and encourage people to do all that they can to make property available and attractive. This very day, Eric Pickles has been talking in the House of Commons about relaxing planning bureaucracy and restrictions that currently prevent many properties that are marginally habitable from being improved.

Here in Scotland, particularly perhaps in our wealthier areas, there are a large number of empty properties for which individuals find it difficult to get planning permission to develop. It is important that we have a system that is fit for purpose, so we need to address that.

A number of times during the debate there has been repetition of the line that the bill is only an enabling power that may not be used. I suggest that if the Government considers it unlikely that the bill’s powers will be used, it should think of doing something different. Why should we introduce more charges at a time when markets are weak? We should support those who find themselves in difficulties in order to get properties back into the marketplace.

My final comment is about something that Joan McAlpine said and it is very different from the rest of what I have said. We need to remember that those apparent enemies of ours who hold commercial property in our cities and are not putting it up for let are not faceless and unimportant. Many owners are small businessmen, and the faceless owners that Joan McAlpine described are the people who run our pension funds. For the good of the country in the long term, we need to ensure that investment in property remains attractive. The bill will make it less attractive.

The Deputy Presiding Officer: I call Elaine Murray to close for the Labour Party.
Elaine Murray (Dumfriesshire) (Lab): Thank you, Presiding Officer. How long have I got?

The Deputy Presiding Officer: You can have a generous eight minutes. You can have a good deal longer than that, provided that you have something good to say. [Laughter.]

Elaine Murray: I always have something good to say, Presiding Officer.

I welcome Margaret Burgess to her new role. I look forward to working with her and shadowing part of her responsibilities, as I do part of Mr Brown's responsibilities.

At the outset, I had—and I still have—considerable sympathy for the policy intention behind the bill. Many of the towns and villages in my constituency are plagued with properties that have lain empty for years. The former shops that are up from my office in the Friars Vennel, in Dumfries, the former Co-op store in Kirkconnel, which is descending into disrepair, and the former Chinese restaurant and associated flats outside Lockerbie station are just a few examples.

I have seen how sympathetic restoration can transform a townscape. The investment by David Smith in restoring the grade A-listed townhouse, Bridge House, in Annan, to its former glory, has vastly improved the entrance to Annan's main street.

Therefore, I came to the bill feeling very well disposed towards it, not least because it mirrored legislation that the Labour Party had introduced in the UK Parliament in 2008. However, the evidence that I heard in the Finance Committee on the proposals, particularly in relation to commercial properties, gave me cause for concern. I began to worry that the policy is not the right one at the right time. I agree with the policy's aims, but I am not convinced that the bill will achieve them.

Derek Mackay: The member’s comments are helpful. I talked about amendments that the Government is considering. In the same spirit, will the Opposition suggest, here and now, how the bill might be improved?

Elaine Murray: One way in which the bill could be improved would be by requiring a BRIA to be undertaken, as a number of members said.

The minister said that he is considering a number of amendments; we need to see details of his proposals, as Sarah Boyack and other members said. I am hearing for the first time that information has been made available to the Local Government and Regeneration Committee that was not available to the Finance Committee. Has the financial memorandum been updated? At stage 1 we are still discussing the original bill and financial memorandum. Those pieces of work were rather sloppy, as Margaret Mitchell said, and the sloppiness needs to be tidied up.

The minister said in an intervention during John Pentland's speech that he will issue a response early next week. That is not early enough, I am afraid. The approach is sloppy and borders on being disrespectful to the Parliament, because we should have had information on the Government's intentions before this debate. That would have enabled us to have a more informed debate about the Government's proposals.

The Finance Committee took evidence from David Melhuish, from the Scottish Property Federation, and Tom Stokes, from the Business Centre Association. They talked about how business centres can encourage the development of small businesses, so their criticisms remain relevant despite what Mark McDonald said about how the bill will improve on what happened in England, because industrial and listed buildings are excluded from its scope.

Hanzala Malik: I want to reiterate that because small independent businesses have not been consulted, we are rather short on the facts. As Sarah Boyack said, so many details are missing that we cannot make a decision. I cannot emphasise too much that small businesses in cities up and down the country are being blocked and bogged down, and no one is talking to them. We are talking to institutions—unions and federations—but we are not talking to people who are at the coalface delivering a service. I ask the minister to address that point.

Elaine Murray: I am particularly concerned about the evidence from the Business Centre Association. John Mason said that the evidence was weak, but I do not think that it was. Tom Stokes told us that when the legislation was introduced—by Labour—in England, “the creation of new premises almost came to a standstill.”—[Official Report, Finance Committee, 25 April 2012; c 990.]

The UK Government was subsequently persuaded to introduce a threshold of £15,000, and later £18,000. Then the market picked up and the coalition Government reduced the threshold to £2,600. We witnessed a virtual standstill in new centres outside of London, with the economy in London being rather different.

An effect of the recession has been the cessation of building new business centres, because the cost of building is greater than the end value. Older properties that are no longer economic in their current use or are unlettable are therefore more likely to be attractive propositions where growth is likely. However, it was pointed out to the Finance Committee that the development of
such properties will not result in immediate 100 per cent occupation. That relates to the points made by Nigel Don—in his extremely reasonable and well-reasoned speech—that a business centre may typically have 50 per cent occupation in its first year, perhaps 75 per cent in its second year and around 90 per cent thereafter, as businesses grow and turnover happens. Additional taxation on the unoccupied units makes such an investment less attractive, yet we need such investment to encourage the small business sector.

A number of members mentioned the lack of a BRIA. As I said, we want the requirement for a BRIA to be introduced at stage 2. The Government says that the bill is an enabling bill—quite rightly, many bills that go through the Parliament are enabling bills. However, we want the bill to include a requirement that a BRIA be undertaken before any secondary legislation is introduced. After all, secondary legislation does not attract the same level of consultation or parliamentary scrutiny and we need to have that.

As was said, the scale of the BRIA can be proportionate to the task; a small amount of money is involved in comparison with the total take. That does not mean that a BRIA is not important for the individual business sectors and businesses, for example for those that might want to use the developments that the Business Centre Association is talking about.

Sarah Boyack, Jim Hume and other members made reference to the claims about bomb-site Britain. Some of that is anecdotal—it came out of the property press in England—but the press seems to be implying that, in some cases, owners were demolishing properties that were hard to let in order to avoid empty property rates.

As Anne McTaggart said, long-term unoccupied property is in the ownership of not only the private sector, but the public sector. The information that has gone to the Local Government and Regeneration Committee subsequently has included information that the public sector has a fair amount of unoccupied property. Indeed, a freedom of information request on a survey of local authorities in England and Wales that was performed by the Business Centre Association suggested that the English legislation costs the public sector around £400 million annually. We need to look at that and learn the lessons.

Local authorities expressed other concerns about the proposals. North Lanarkshire Council believes that the focus of the proposals is—as John Pentland mentioned—tax raising, rather than determining the need for funding to bring empty properties into use. I realise that that is a difficult task in the current climate, but it is a tax-raising measure first and foremost.

Ann Bain of Angus Council said:

“...The issue that we have is that a significant number of properties are probably not up to a marketable standard and the individuals concerned do not have the funding to bring them up to that standard.”—[Official Report, Finance Committee, 2 May 2012; c 1023.]

She pointed that there are around 1,000 unoccupied properties in Angus—I am sure that Dumfries and Galloway Council has a similar problem—with properties spread around rural areas. That is a resource issue for local authorities with regard to their inspection duty on such buildings.

Jim Hume mentioned housing support grant, the abolition of which affects only Shetland Islands Council. I have sympathy for that council—even though it has huge reserves, it has a history of housing debt as a consequence of the need to develop housing to connect with the development of the oil fields at Sullom Voe. At that time, the population of the islands rose by about 40 per cent, which resulted in the council having to borrow around £50 million. I know that the local authority has made money out of that but, equally, it was not Shetland Islands Council’s fault that Margaret Thatcher brought in the right to buy, with the result that a lot of those houses were sold off for less than they cost to build. I think that the council has a point. I had not known and was interested to learn from Kevin Stewart that the council borrowed from a harbour support trust rather than from the Public Works Loan Board—that sounds like quite a canny move.

Kevin Stewart: It was an extremely canny move on the part of Shetland Islands Council, and I congratulate the council on its canness in that regard.

Previous Westminster Governments supposedly said that they would eventually pay off the debt. Unfortunately, it seems that Shetland got no written guarantee to that effect. It appears that we have yet another scenario in which Westminster has not lived up to its obligations.

Elaine Murray: It might just be the case that Shetland Islands Council has been canny with regard to that allocation. The present situation definitely cannot continue for good. Transitional relief should perhaps be looked at, albeit that the sort of sums that the council is demanding could not be agreed to.

The evidence that was presented to the lead committee was generally supportive of the proposal to give councils a discretionary power, although Ann Bain of Angus Council mentioned that it could give rise to some problems. She thought that it could lead to owners being incentivised to evade payment. She also made the good point that the owners of unoccupied
properties sometimes live outwith Scotland—for example, they may live in England, where the court system is different. To be anecdotal, for years a home has been lying empty in Kirkconnel Main Street in my local authority area. We sort of know who owns it, but we cannot get to them. We keep trying to write to them, but they live in Wales or somewhere. I have tried to contact them, as did my predecessor, but we have not been able to track them down, to get them to upkeep the home. It is difficult to pursue such people, particularly when they live outside the country in a place with a different court system.

Some witnesses felt that the interplay with other forms of tax relief had not been properly considered. I understand from what the minister said that some of those issues have been addressed. I invite the minister to say whether he intends to produce an updated financial memorandum that takes account of some of those matters. If those sums have now been done, can we see them in a new financial memorandum? That would enable us to find out how some of the concerns have been addressed.

We have concerns about parts of the bill, but we are prepared to support it as it moves forward to the amendment stage. We will look at what happens at that stage. It is with a degree of disappointment that I must say that I am not as enthusiastic about the bill at the end of stage 1 as I was when I first started looking at it. However, we have an opportunity to improve it, and I look forward to people working together to do that. At the moment, we will support the bill, but with significant reservations.

16:43

Derek Mackay: This has been a highly encouraging debate in which a number of issues have been raised extremely constructively. I particularly welcome the Labour Party’s expressing its concerns and seeking information that may lead it to alter its position. I will rise to the challenge that Elaine Murray set. She asked whether I would reassess and reorder the financial information to give a fuller perspective on the bill as it has evolved, taking account of today’s debate. Yes, I will. If that will help us to reach a satisfactory conclusion, it would certainly be worth doing.

Alex Johnstone was right to say that when I had been fairly recently appointed I had quite a hard time at a meeting of the Scottish Property Federation. He was right that I am not used to being in a hall in which everyone is against me, including the panel and all the members present— unlike the Conservatives. He may have experienced that in his own party, but I am unaccustomed to such a political environment.

During my time in local government, I once attended a Tory party conference. I was informed that I was given a better reception than the then Tory spokesperson. Maybe that is why I did not feature in this week’s Cabinet promotions.

On the subject of the reshuffle, Sarah Boyack said that she did not prepare as she might have done because she thought that the reshuffle might affect me. I missed the reshuffle because I was at the conference of the Institute of Revenues, Rating and Valuation as the reshuffle was happening—such is my dedication to the issue of rates.

I am more than happy to be leading on both parts of the bill. Malcolm Chisholm described it as a bill of two halves, and both will make a difference on the issue of bringing empty properties back into use. There is also the important issue of Shetland and the housing support grant.

John Pentland had a helpful approach to dealing with interventions, which was to accept an intervention only if he thought that it would not progress someone’s career within the Government and the Scottish National Party. I have never seen the SNP back benches so animated, nor so many spontaneous interventions. Every member of the SNP is fit for government, which may not be the position with the Government down south at Westminster.

I welcome Kevin Stewart’s comments on how the bill can be improved and Nigel Don’s contribution from the perspective of the Subordinate Legislation Committee.

I turn to some specific points. It is right that we should give local authorities discretionary power to take the right steps to tackle the scourge of empty homes in their areas. When so many people are waiting to be housed, empty homes are a scandal. It is appropriate that there is consultation on the regulations so that we can ensure that they are right. We are taking on board the Local Government and Regeneration Committee’s concerns and the contributions made in Parliament today.

Mark McDonald: Alex Johnstone talked about the buy-to-let market. Looking at the issue on a discretionary, council-by-council basis, does the minister agree that there are some areas where rents in the buy-to-let market are still far too high and discourage people to take up those properties, and that the measures might encourage more affordable rents rather than the aspirational rents that are often set?

Derek Mackay: That is right. Contrary to the position expressed by Alex Johnstone, only 2,000 of the 25,000 long-term empty properties liable for council tax are social rented houses.
Returning to empty homes, there is the package of incentives, there is the funding support to bring empty homes back into use and there is the proposed new power, to be used at the discretion of local government, which can make that difference.

Shelter Scotland said that it “believes that charging a council tax levy on long-term empty homes is useful and appropriate where:

It is part of a package of measures being implemented by a council to bring long-term empty homes back into use”.

That is a welcome statement, which is in the spirit of the bill as introduced.

On the housing support grant for Shetland Islands Council, there has been a subsidy over a period of time—some £80 million in support since 1979. By anyone’s reckoning, that is a generous package. However, given the issues with which that council is wrestling at the moment, we want to ensure that we consider its finances in the round and work with it in partnership to support the transitional arrangements. That was referred to in members’ contributions to the debate. There are alternatives to simply raising rents to ensure that the impact on tenants in that island authority area is mitigated.

Much of the debate focused on empty property rates relief, which is perhaps not surprising, given other discussions. I reiterate that the power is an enabling power. Why is it so important? The Scottish Government has always tried to ensure that the system of rates, rates support and rates relief in Scotland means that we have a competitive advantage over the rest of the United Kingdom. The enabling power in the bill means that we will continue to have the flexibility to change, via a statutory instrument, rates support to ensure that if any other part of the United Kingdom changes or varies its support, we can do so just as quickly and effectively—and in the same way that we can deal with the small business bonus or indeed poundage. Interestingly, the system of there being ministerial responsibility to bring regulations to Parliament for scrutiny—using secondary as opposed to primary legislation—was good enough for other Administrations in respect of poundage and the small business bonus, so why not with empty property rates relief as well?

I have had a number of discussions, not just with representative bodies—as important as they are—but with individual owners of small and large properties. I have also had discussions with the Association of Town Centre Managers, the Scottish Property Federation, the Scottish Chambers of Commerce, the Scottish Council for Development and Industry and councils, in addition to the conference to which I referred. I have consulted with a wide range of stakeholders to ensure that we can refine our policy to achieve the savings that we must make and to deliver the incentivisation to bring empty properties throughout Scotland back into use.

Kevin Stewart: Although it was unable to do so, the Local Government and Regeneration Committee wanted to talk to the folk who are involved in business improvement districts. Will the minister talk to those folk, as I have done in my area of Aberdeen? They have a lot to give. As Hanzala Malik said, those districts often contain a large amount of small businesses, and that would give them a say in the proposals.

Derek Mackay: Of course that would be very helpful to the discussion.

As part of the rates review, we will consult on how the rates system works and whether the reliefs are proportionate and contribute to sustainable economic growth. There will also be a support package for our town centres as part of the town centre review; that was a manifesto commitment and we will progress it imminently.

Another measure to refine the policy could mirror the scheme in Northern Ireland, where relief is given once a property is filled. That is the type of constructive suggestion that we have heard from Mark McDonald, which will help to ensure that the policy more effectively meets the ambition that other members of the Parliament say that they share.

Sarah Boyack: Does the minister have a timescale for when he intends to bring forward statutory instruments that relate to the two parts of the bill on which there has been most discussion this afternoon?

Derek Mackay: After passing the primary legislation, we would look to return to Parliament to introduce the statutory instruments. That could be just before or after Christmas, but we will do so as quickly as we can.

There is on-going consultation and engagement. It is important that we talk to individuals, property owners, representatives and professionals who are working in the sector to ensure that we get the legislation right.

We have been asked again and again by the Opposition why there has been no BRIA. I have explained the difference, and the consistent approach that we have taken in keeping with the advice on the issue. I argue that on-going consultation and refinement of policy is better than a BRIA, because we are not just consulting on what was proposed in the budget, but refining our policy as we go along to ensure that it has the greatest effect when it is implemented.

I referred to the overall rates review that we will conduct. Our rates package is more generous
than that in any other part of the United Kingdom, with more than £0.5 billion going towards support for a range of organisations and sectors so that they can survive. Some parties in the chamber voted against that generous package, which is the most generous in the United Kingdom.

We are confident of our figures. We have been asked why they do not match up with those that the Scottish Property Federation has provided. The answer is clear: we used the data that is provided by local government and our own statisticians, whereas the Scottish Property Federation has modelled its figures on a sample. We are confident about the projected savings that could be achieved and the numbers of those who would be eligible for support.

We are incentivising owners with a support package, but it is worth putting that into perspective. We have to make savings because of the cuts from the UK Government in Westminster, but we must put into perspective the £18 million of savings from the proposed changes to empty property rates relief against a rates income of £2.5 billion. Even with the proposed reforms, which may change as a consequence of the debate, the cost after reform over the revaluation period will still be £721 million over five years. That is actually more expensive than the very popular and effective small business bonus scheme, which will cost a projected £697 million over the same period.

If circumstances change, we will, if the bill is passed, have the flexibility to adapt to ensure that we are at the cutting edge of delivering the right financial packages for Scotland’s commercial sector.

We have learned lessons from what happened in England and elsewhere, which is why we are continuing relief for industrial and listed properties. Some anecdotal experiences have informed that opinion, which is right. It is right that we provide practical help to organisations and companies that may want to promote their empty properties further, and Scottish Enterprise and other agencies are working with us on that.

However, when it comes to evidence for the policy, we cannot look at what happened in England in isolation, because the euro crisis and the recession happened when the policy there came in. Soon after, of course, came the UK increase in VAT, which had a cost to the commercial sector of more than £1 billion in Scotland alone. There is no control situation to enable us to understand exactly what the impact of the policy would be or what the evidence said either way, for or against it.

The policy was, of course, designed by Gordon Brown. I am not given to quoting him, but I will give again the quote that was given earlier. He said:

“commercial property lying empty should not continue to be given such generous business rate relief, particularly because that leads to higher rents in the areas with highest demand.”—[Official Report, House of Commons, 21 March 2007, Vol 458, c 822.]

That was the Labour Party’s position, which the Tories now want to disown in the newspapers. However, the UK Government is continuing with that policy and, in spite of all the rhetoric about George Osborne reviewing it, nobody seems to have told his minister for local government, who produced a paper that said that there was no evidence that the policy had a negative effect and that changing it would be unaffordable. It seems that it is good enough for the Conservatives and the Liberal Democrats in England, but not in Scotland for some reason. The Conservatives say, “Do as we say, not as we do.”

Many members have helpfully explained the rationale of how reducing empty property rates relief will stimulate action and ensure that properties are occupied. Joan McAlpine’s contribution was very helpful in that respect.

Jim Hume referred to the carrot and the stick, and we have both incentivisation and the proposed changes. I have outlined the maximum cost impact on the public sector, but that pales into insignificance, of course, against the £18 million saved as a consequence, which will make a contribution to local services.

The policy must, of course, come with a package of actions to support our town centres. That is why I welcome the town centre review, which will take place imminently. We are working hard on the planning reforms to ensure that we create the right conditions for Scotland and the right controls to enable sustainable economic growth.

It has been said that one element of the bill did not have much support. The Royal Institution of Chartered Surveyors has said:

“RICS Scotland wishes to see all land and property to have a purpose and be used efficiently. Empty property does not make valid contributions to the Scottish economy, environment or, generally, the sociability of places. Therefore, RICS Scotland agrees with the Scottish Government that the issue of unused and vacant properties needs be addressed, and would welcome positive measures that revitalise Scotland’s high streets and town centres.”

Therefore, across Scotland there is increasing support for our proposed measures to realise opportunities in our communities to tackle unused and underused properties. Our approach will be further expanded in the community empowerment and renewal bill, but the package will meet both aims of achieving the savings as outlined in the
budget and—as refined—delivering stimulation to support activity to fill hitherto empty properties. Up to 5,500 empty commercial properties can potentially be filled, and empty homes can be filled to house people who are in need and are desperately looking for accommodation.

The measures are designed to make the greatest change to support Scotland, and I think that they will have the right effect. Therefore, I ask members to support the bill to give us the enabling power to make that happen.

Local Government Finance (Unoccupied Properties etc) (Scotland) Bill: Financial Resolution

16:59

The Presiding Officer (Tricia Marwick): The next item of business is consideration of motion S4M-03534, in the name of John Swinney, on the financial resolution for the Local Government Finance (Unoccupied Properties etc) (Scotland) Bill. I call Derek Mackay to move the motion.

Motion moved,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill, agrees to—

(a) any expenditure of a kind referred to in Rule 9.12.3(b) of the Parliament’s Standing Orders arising in consequence of the Act; and

(b) any charge or payment in relation to which Rule 9.12.4 of the Standing Orders applies arising in consequence of the Act.—[Derek Mackay.]—

The Presiding Officer: The question on the motion will be put at decision time.
Decision Time

The Presiding Officer (Tricia Marwick): There are two questions to be put as a result of today’s business. The first question is, that motion S4M-03924, in the name of Derek Mackay, on the Local Government Finance (Unoccupied Properties etc) (Scotland) Bill, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For
Adam, Brian (Aberdeen Donside) (SNP)
Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
Baillie, Jackie (Dumbarton) (Lab)
Baker, Claire (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Biagi, Marco (Edinburgh Central) (SNP)
Bibby, Neil (West Scotland) (Lab)
Boyack, Sarah (Lothian) (Lab)
Brodie, Chic (South Scotland) (SNP)
Brown, Keith (Clackmannanshire and Dunblane) (SNP)
Burgess, Margaret (Cunninghame South) (SNP)
Campbell, Aileen (Clydesdale) (SNP)
Campbell, Roderick (North East Fife) (SNP)
Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Constance, Angela (Almond Valley) (SNP)
Crawford, Bruce (Stirling) (SNP)
Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Doris, Bob (Glasgow) (SNP)
Dornan, James (Glasgow Cathcart) (SNP)
Dugdale, Kezia (Lothian) (Lab)
Eadie, Helen (Cowdenbeath) (Lab)
Eadie, Jim (Edinburgh Southern) (SNP)
Ewing, Annabelle (Mid Scotland and Fife) (SNP)
Fabiani, Linda (East Kilbride) (SNP)
Fee, Mary (West Scotland) (Lab)
Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
Findlay, Neil (Lothian) (Lab)
Finnie, John (Highlands and Islands) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (East Lothian) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Harvie, Patrick (Glasgow) (Green)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
Hyslop, Fiona (Linlithgow) (SNP)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
Johnstone, Alison (Lothian) (Green)
Keir, Colin (Edinburgh Western) (SNP)
Kelly, James (Rutherglen) (Lab)
Kidd, Bill (Glasgow Anniesland) (SNP)
Lochhead, Richard (Moray) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacAskill, Kenny (Edinburgh Eastern) (SNP)
MacDonald, Angus (Falkirk East) (SNP)
The Presiding Officer: The next question is, that motion S4M-03534, in the name of John Swinney, on the financial resolution for the Local Government Finance (Unoccupied Properties etc) (Scotland) Bill, be agreed to.

Motion agreed to,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Local Government Finance (Unoccupied Properties etc) (Scotland) Bill, agrees to—

(a) any expenditure of a kind referred to in Rule 9.12.3(b) of the Parliament’s Standing Orders arising in consequence of the Act; and

(b) any charge or payment in relation to which Rule 9.12.4 of the Standing Orders applies arising in consequence of the Act.

The Presiding Officer: That concludes decision time.

Meeting closed at 17:37.
10 September 2012

Dear Convener

LOCAL GOVERNMENT FINANCE (UNOCCUPIED PROPERTIES ETC.)(SCOTLAND) BILL: RESPONSE TO LOCAL GOVERNMENT AND REGENERATION COMMITTEE STAGE 1 REPORT

I am grateful to the Committee for its detailed scrutiny of our proposals and its conclusions in the Stage 1 report. The Scottish Government welcomes the Committee’s support for the principles of the Bill and its key objectives of using local taxation to discourage properties from being left empty and abolishing the Housing Support Grant in order to ensure that the Scottish Government’s housing budget can in future be focused on supporting key priorities.

I would like to respond in more detail to the specific issues raised and the recommendations made in the Report. Attached in Annex A is our response to each of the points and recommendations highlighted by the Committee in your report and details of our suggested actions moving forward.

I trust that you will find this information helpful.

Derek Mackay
Local Government Finance (Unoccupied Properties etc.)(Scotland) Bill – Stage 1 Report – Response to Committee Recommendations

Council Tax Increase on long-term empty homes

**Recommendation 1 (para 33 of the report)**
The Committee welcomed the Bill’s provisions in respect of the council tax and endorsed the consensus that while the council tax provisions contained in the Bill will not, in themselves, solve the problem of long-term empty properties, they could be a useful, discretionary addition to the toolkit available to Local Authorities in address the issue. The Committee recommended that guidance to local authorities on best practice should be published when the Regulations are issued.

**Response**
We thank the committee for their recommendation and plan to provide updated guidance to help local authorities implement the new Regulations. Currently, the Scottish Empty Homes Partnership publishes best practice guidance for Councils on a range of other aspects of tackling empty homes and we propose that this continue to be part of their role.

**Recommendation 2 (para 46 of the report)**
The Committee felt that the level of the proposed new penalty for failure to disclose information to councils seems to be low in comparison to the amount an owner could save by failure to declare their property as empty. The Committee also questioned whether the proposed £200 would result in greater collection costs for local authorities than the benefits recouped through recovery of the penalty.

**Response**
We thank the Committee for their comments. We agree that there is a risk of both increased avoidance and increased tax evasion. Officials have sought further views on penalty charges from local authority colleagues. As a result, as indicated in the stage 1 debate, we now propose to bring forward a stage 2 amendment to increase the proposed penalty level from ‘up to £200’ to ‘up to £500’. This could be a useful deterrent and would ensure councils can recover their costs.

It is worth noting that Councils are also able to charge further penalty fees each time they ask for information and this is not provided by the owner so the proposed amendments to the Bill would also enable additional ‘repeat’ penalties which are charged to be increased to up to £500.

**Recommendation 3 (para 56 of the report)**
The Committee noted the views of witnesses that the proposed exemptions were fair and reasonable. The Committee asked to be kept informed of the broad developing trends of the exemption regime through the Regulations. The Committee recommended that the Scottish Government take steps to monitor the situation as regards exemptions across the country and ensure that local authorities collect data that can be reported to the Committee in due course as required.
Response
We have noted the Committee’s request. The consultation on the draft regulations was launched on 16 July 2012 and runs until 5 October. We hope this will assist in clarifying the proposals for special treatment of certain categories of home, although the scope of these categories it still subject to the views of respondents to the consultation before the regulations are finalised.

The Scottish Government is considering how to collect information from Councils annually on the level of discount or increases charged for unoccupied properties and the number of homes falling within the different unoccupied categories. Officials will be discussing these plans with a number of Council officers shortly.

Recommendation 4 (para 57 of the report)
The Committee noted there may be a lack of clarity in the Policy Memorandum on whether or not local authorities will have powers to grant exemptions on grounds other than those specified and called for this question to be addressed, in the light of ongoing discussions with local authorities, before the regulations are published.

Response
The consultation on the draft regulations hopefully helps to clarify this. Our proposals are that Councils would not have the powers to grant ‘exemptions’ from a council tax increase on a discretionary basis. Homes being marketed for sale or rent would automatically not be subject to any council tax increase as long as they have been unoccupied for a period of less than two years. Councils will however have the discretion not to impose an increase at all or apply it only to certain geographical locations.

Recommendation 5 (para 58 of the report)
The Committee accepted that, while it may be appropriate for local authorities to determine what evidence would be required in order to demonstrate, for example, that serious efforts are being made to market a property for sale or rent, such a process should not be excessively bureaucratic or burdensome. The Committee would therefore like this to be addressed in ongoing discussions with local authorities regarding the practicalities of exemptions.

Response
We expect that councils will not want to impose complex or bureaucratic requirements on owners or indeed on themselves. Officials plan to discuss this further with a working group of Council officers and look to provide further information as part of the updated non-statutory guidance for Councils.

Recommendation 6 (paragraphs 65 and 95 of the report)
The Committee advised that, on balance, it supports the proposals not to ring-fence any additional revenue generated by local authorities through the new powers. While the Committee acknowledges the argument that any sums raised should be dedicated towards affordable housing, it recommends that local authorities monitor how this additional revenue is used. The Committee would like to be advised, in high level terms, on how any additional revenue generated under the Bill has been spent.

Response
The Scottish Government will continue to seek information from Councils on their total council tax collection and through their annual Strategic Housing Investment Plans (SHIPs) on how their ring-fenced existing discount revenue is being spent on affordable housing. As any additional revenue provided by the new powers enabled through this Bill will not be ring-
fenced, it will not be possible to require Councils to provide a breakdown of how they spend it. However, an overview of how local authority revenue is being spent could be made available to the Committee through Councils’ audited accounts.

**Recommendation 7 (para 75 of the report)**
The Committee noted the point raised by Scottish Land and Estates about homes that remain on the valuation list that may be unlikely to be used as dwelling houses in the future. The Committee would welcome a review by assessors of properties designated as ‘unsuitable for habitation’.

**Response**
The Scottish Government wrote to the Scottish Assessors Association (SAA) to draw the Committee’s views to their attention. Douglas Gillespie, Chair of the SAA’s Domestic Subject Committee, responded on behalf of the SAA to advise that assessors are confident that they are acting in line with the requirements of the existing council tax legislation (in the Local Government Finance Act 1992) in determining whether or not a home should be included in the council tax register. To demonstrate this, he highlighted a decision of the Court of Session in 2000 in relation to a semi-derelict house which supported an Assessor’s decision that the property should be on the council tax register. However, he noted that, from time to time, properties are removed from the list using established principles under the council tax legislation and precedents set by the courts.

The response also notes that Assessors themselves suggest that there is not a compelling or urgent practical reason to change the legislation governing their part in the overall process, that of making entries on the list. The Scottish Government will consider this further as part of our broader plans to replace the council tax with a fairer system of local taxation.

**Recommendation 8 (paragraphs 91 and 96 of the report)**
The Committee acknowledged the potential variations and unknown quantities that make it difficult to estimate accurately the likely impact of the Bill on revenue. It also noted that the Financial Memorandum was perhaps optimistic in the assumptions it makes regarding the likely revenue raised as a result of the Bill’s provisions.

**Response**
We agree with the Committee that it is difficult to estimate levels of revenue, particularly given that most councils are so far undecided as to whether to implement the council tax increase. I would like to reiterate that the figures contained in the Financial Memorandum are the maximum figures and it is made clear in the Memorandum that actual revenue levels could be significantly less.

**Recommendation 9 (para 97 of the report)**
The Committee acknowledges that what is most important is that as many as possible of Scotland’s estimated 25,000 long-term empty homes are brought back into use as dwellings. The Committee, therefore, is more interested in ensuring that councils use these powers creatively and proportionately alongside other measures, to bring empty property back into use. The Committee called on the Scottish Government to continue to provide support to local authorities and others to ensure that this process continues and, indeed, accelerates.

**Response**
We agree with the Committee’s views on this and this is why we are continuing to fund the Scottish Empty Homes Partnership and are part-funding three pilot empty homes officers with seven Councils across Scotland. We have also launched the £4 million Empty Homes
Loan Fund in July, which will support a range of empty homes projects in addition to the potential support Councils can provide for renovating empty properties through the core Affordable Housing Supply Programme.

**Recommendation 10 (para 244 of the report)**
The Committee highlighted the point raised by the Subordinate Legislation Committee on there being no limit to the level of council tax increase included in the primary legislation.

**Response**
As a result of the concerns raised by the Subordinate Legislation Committee, the Scottish Government proposes to bring forward a stage 2 amendment which will limit council tax increases for unoccupied properties to 100% of the standard council tax rate on the face of the Bill (rather than limiting this only through regulations).

**Empty Property Relief**

**Recommendation 11 (paragraphs 119, 120, 129 of the report)**
Approach to consulting on the Bill - The Committee raised concerns on lack of consultation and Business and Regulatory Impact Assessment (BRIA) on empty non-domestic properties section of the Bill. The Committee also notes that this was carried out for the council tax and Housing Support Grant elements of the Bill.

**Response**
Allowing councils to introduce a council tax increase for long-term empty homes and was a key element of our proposals in our housing strategy paper 'Homes Fit for the 21st Century'. In addition, the council tax provisions could potentially affect up to 25,000 owners if all Councils use the new powers (a number of whom could be businesses, such as RSLs, landowners and developers). This policy will also have local variations so it was felt it was important to seek views on this.

The changes to empty property relief will affect a much smaller number of property owners - around 5,500 - with no local variation on implementation. The Scottish Government has had, and continues to have, discussions with stakeholders about the proposals.

The final decision to conduct a BRIA rests with Ministers and, on this occasion, Ministers decided that to conduct a BRIA would have been disproportionate given the modest savings that will arise from this policy.

**Recommendation 12 (paragraph 130 of the report)**
The Committee urged the Scottish Government to continue the dialogue with business organisations and other stakeholders as the policy develops.

**Response**
The Scottish Government will continue to remain a listening Government and is committed to engaging in ongoing dialogue with all stakeholders remains flexible in its approach. Meetings with stakeholders will continue to help us identify what might help to incentivise owners to bring their properties back into use.
**Recommendation 13 (Paragraph 151 of the report)**
The committee noted the potential negative impact on speculative development and asks the Minister to consider whether other measures can be taken to mitigate.

**Response**
The Scottish Government has considered new developments. However, Government policies, including those on taxation, must comply with EU State aid rules.

If new empty developments were exempted, this would create a position where newer premises could receive significant amounts of Government subsidy through reduced taxation, while existing empty premises, which may be in competition within the same market, did not.

**Recommendation 14 (paragraphs 174 and 175 of the report)**
Negative Impact on businesses of higher taxes - The Committee considers that the Financial Memorandum could have been more helpful in fully explaining the implications of the Bill's proposals for the public sector, although notes that additional information was subsequently provided. The Committee notes the concerns business organisations have expressed over the possible impact on Scottish business of an additional non-domestic rates liability.

**Response**
The Scottish Government and its enterprise agencies are working hard to ensure Scotland retains its reputation as the most competitive place to do business in the UK. An important part of this is reviewing our business rates to reflect the current economic challenges and opportunities. That is why we intend to review the business rates system later this year.

The current system of empty property relief is not working for our communities and we recognise there is a need to incentivise owners of business premises to find occupants - not to reward them for keeping premises closed. Through working with stakeholders across the business community, we plan to introduce new incentives which will revitalise our town centres and potentially bring up to 5,500 vacant business properties back into use.

**Recommendation 15 (paragraph 175 of the report)**
The Committee urges the Scottish Government to monitor the impact on the public sector in general and local authorities.

**Response**
Additional information was provided to the committee on public sector impact. The Government will carry out appropriate monitoring of the policy.

**Housing Support Grant**

**Recommendation 16 (paragraph 237 and 238 of the report)**
The Committee takes the view that it is likely that some kind of transitional funding will be needed in order to assist the Council to restructure its debt to sustainable levels while avoiding unaffordable and sudden rent increases. The Committee would be disappointed if it did not prove possible to agree a transitional scheme that saw central government support to the HRA taper off to zero by the end of the current session of the Parliament. The Committee urges both sides to strive to negotiate a solution that is fair and acceptable to the people of Shetland, but also to the rest of Scotland.
Response
Following the Minister for Housing and Transport’s visit to Shetland in July, officials have been in contact with council officials about possible funding options though no decision has been reached. The Council is currently looking at some financial scenarios and the Scottish Government is considering what resources, if any, it can make available and for what purpose. The Scottish Government will be engaging with the Council further on this in the coming weeks.
5 September 2012

Dear Nigel

LOCAL GOVERNMENT FINANCE (UNOCCUPIED PROPERTIES ETC.) (SCOTLAND) BILL: SUBORDINATE LEGISLATION COMMITTEE REPORT ON THE BILL

I am grateful to the Subordinate Legislation Committee for its report of 23 May 2012 on the proposed delegated powers within the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. The Scottish Government welcomes the Committee’s support for the powers in section 1 and 3 of the Bill to make or amend regulations in relation to both empty property relief for business rates and requirements on owners and other liable people to provide information to the relevant Council for council tax purposes as regards whether or not their home is occupied.

I would like to respond in more detail to the specific issues raised in the Committee’s report. Firstly, the Committee raised concerns that section 2 of the Bill places no limit on level of council tax increase that could be brought forward as this was to be set out in the regulations. I can assure the Committee that the Scottish Government has no intention of allowing Councils to impose any council tax increase of more than 100% and I have taken on board the Committee’s concerns about this. As a result, I plan to bring forward an amendment to the Bill at stage 2 to place a limit of 100% (i.e. double the standard rate of council tax for the applicable band) on the amount of any increase within the primary legislation.

In its report the Committee asked the Scottish Government to respond to its comments about the interaction between, on the one hand, sections 74 and 78 of the Local Government Finance Act 1992 (“the 1992 Act”) and, on the other hand, section 2 of the Unoccupied Properties Bill. We have reflected on the Committee’s remarks and remain satisfied that there is no problem with the drafting of section 2.
As regards section 74 of the 1992 Act, the Committee commented at paragraph 27 of its report that:

The understanding of the connection between those sections [section 74 of the 1992 Act and section 2 of the Bill] is complicated by the requirement to consult various different enactments.

The Scottish Government does not share the Committee's view that there is a connection between section 74 of the 1992 Act and section 2 of the Bill that needs to be elaborated.

The equation used for calculating the basic amount of council tax payable in respect of a property on any given day is set out in section 78 of the 1992 Act. The equation is \( A -: 0 \), where \( A \) is the council tax rate set for the valuation band the property falls into and \( D \) is the number of days in the financial year. Section 74, as the Committee’s report explains, deals with how the tax rates are to be set by reference to valuation bands. In other words, section 74 is concerned with establishing the value of \( A \) in the section 78 equation.

After the basic amount of tax has been calculated in accordance with section 78, the amount actually payable may be affected by certain modifying provisions. One of the modifying provisions, the one that relates to unoccupied properties specifically, is regulations made under section 33 of the Local Government in Scotland Act 2003 (“the 2003 Act”). Section 2 of the Bill will, if passed, amend section 33 of the 2003 Act so that whereas regulations made under that section can presently provide only for council tax discounts, the regulations will in future also be able to provide for increases in the amount payable in respect of unoccupied properties.

It is irrelevant when calculating the basic amount of tax under section 78 (which is the point at which section 74 is relevant) that at a later stage of the calculation the amount may be modified by regulations made under section 33 of the 2003 Act (whether in its present form or as amended by section 2 of the Bill). The Scottish Government therefore does not believe that there is a complicated connection between section 74 of the 1992 Act and section 2 of the Bill.

Furthermore, the Scottish Government does not agree with the Committee’s suggestion at paragraph 27 that section 2 of the Bill, if passed, will increase the number of enactments that need to be consulted. The present position is that in order to determine the tax liability in respect of a property it is necessary to consult sections 78 to 80A of the 1992 Act and the regulations made under section 33 of the Local Government in Scotland Act 2003 (currently S.S.I. 2005/51). The Bill will not change that position.

As explained above, section 2 of the Bill will amend section 33 of the 2003 Act. Once section 33 has been amended by the Bill, the Scottish Government intends to revoke S.S.I. 2005/51 and replace it with a new set of regulations which make use of the flexibility provided by the amendment of section 33. The number of enactments that need to be consulted to determine a property’s tax liability will therefore remain unchanged; that is, in order to determine the tax liability in respect of a property it will be necessary to consult sections 78 to 80A of the 1972 Act and the regulations made under section 33 of the 2003 Act. Consideration of the powers in section 2 will not be required, as the Committee posits, because section 2 of the Bill is simply an amending provision.
As regards section 78 of the 1992 Act, the Committee commented at paragraph 28 of its report that:

Section 78 is expressly subject to sections 79 and 80, which have the principal enabling provisions on discounts and reduced amounts of tax. It is clear therefore that the basic amount of tax is subject to discounts and reduced amounts. The Bill does not however make a similar qualifying provision, in relation to any increases in tax amounts which would be enabled by section 2 of the Bill.

The Scottish Government does not consider it problematic that there will be no reference in section 78 to any tax increases that section 2 of the Bill will enable. In addition to the expressly mentioned sections 79 and 80, the basic amount of tax calculated in accordance with section 78 may presently be modified by section 80A of the 1992 Act and by regulations made under section 33 of the 2003 Act. There are no express references acting as signposts to those enactments in section 78. The Scottish Government does not consider such signposts necessary. The modifying provisions are clear and unambiguous about their effects on the amount of tax payable.

It is important to reiterate once more that section 2 of the Bill will not, itself, be another modifier of the basic amount of council tax. Section 2 only provides for an amendment of section 33 of the 2003 Act so that, whereas regulations made under that section can presently provide only for a discount in respect of unoccupied properties, the regulations will in future also be able to provide for tax increases. We believe therefore that it would not be helpful to the reader to include in section 78 a signpost to section 2 of the Bill. The enactment that modifies the basic amount of council tax on account of a property's being unoccupied will remain the regulations made under section 33 of the 2003 Act. I hope that this is useful in clarifying the drafting approach which has been taken.

Finally, I welcome the Committee's agreement that the affirmative procedure is appropriate for consideration by the Parliament of regulations brought forward under section 2 of the Bill.

The Scottish Government is currently consulting on draft Council Tax (Variation for Unoccupied Dwellings) (Scotland) regulations (a copy of the consultation is available on the Scottish Government website at http://www.scotland.gov.uk/emptyhomes) until 5 October and, subject to the Parliament's support for the Bill, I look forward to discussing these regulations further with the Committee and the wider Parliament.

I trust that you will find this information helpful. I am copying this letter to Joe Fitzpatrick MSP, Convener of the Local Government and Regeneration Committee.

Kind regards

KEITH BROWN
SUBORDINATE LEGISLATION COMMITTEE

EXTRACT FROM THE MINUTES

20th Meeting, 2012 (Session 4)

Tuesday 18 September 2012

Present:

Chic Brodie
James Dornan (Deputy Convener)
Hanzala Malik
John Scott

Nigel Don (Convener)
Mike MacKenzie
John Pentland

Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill: The Committee noted the Scottish Government's response to its Stage 1 report.
Local Government Finance (Unoccupied Properties etc) (Scotland) Bill: After Stage 1

10:33

The Convener: Item 5 is consideration of the Scottish Government’s response to the committee’s stage 1 report on the bill. Members will have seen the briefing paper and the response from the Minister for Transport and Veteran Affairs to the issues raised by the committee. In the response, the Government makes a commitment to lodge a stage 2 amendment to the delegated powers in section 2, which provides for a variation of council tax liability for unoccupied properties. The committee will therefore consider the bill again once stage 2 has been completed.

Are we content to note the response and reconsider the bill after stage 2?

Members indicated agreement.
Dear Kevin and Kenneth

LOCAL GOVERNMENT FINANCE (UNOCCUPIED PROPERTIES ETC.)(SCOTLAND) BILL: CONSOLIDATED FINANCIAL INFORMATION ON EMPTY PROPERTY RELIEF PROPOSALS

At the Stage 1 debate on the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill on 6 September, I confirmed I would provide a full set of financial information on the empty property relief proposals in the Bill.

I have attached a paper which provides detailed information in a combined form on the estimated impact of the Scottish Government's proposals on various stakeholders and the costs of non-domestic rates reliefs more widely, which I hope will be helpful to those members who raised concerns that the Financial Memorandum did not provide sufficient information. I am also copying this paper to SPICe to ensure that those members who had not seen the additional information the Scottish Government provided to the Finance Committee in May 2012 now have access to it.

I trust that you will find this information helpful.
Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill – Consolidated information on the financial implications of the proposed changes to empty property relief

This consolidated paper includes both the information provided to the Scottish Parliament in the Financial Memorandum which accompanied the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill at introduction, along with further information which was subsequently provided to the Finance Committee.

This paper includes:

- Information from the Financial Memorandum on the estimated impact of the Bill on the Scottish administration, local authorities and business operating in Scotland. This provides information on the proposed empty property relief treatment of different empty properties if the Scottish Government’s proposals for regulations are agreed to.

- A description of how the £18million in savings to the Scottish Government from the changes in empty property relief is estimated, including a breakdown of the number of properties affected by the proposed changes to empty property relief and those that move to the Small Business Bonus Scheme.


- Information on the impact on Councils, the NHS and Scottish Enterprise of the reform.

- A short note on comparisons with other business rates systems in other countries.

- Clarification of the Welsh Assembly Government’s position on reform of empty property relief in Wales.
Background

18. The Bill will allow the Scottish Ministers, by regulations, to vary the percentage of non-domestic rate relief available for defined classes of unoccupied premises. Currently the amount of liability can only be varied from 0% (which is the default rate) to 50%. That power has been used to apply the 50% rate to certain classes of property that have been empty for three months, for an indefinite period thereafter. The Scottish Government proposes to use the powers in the Bill to make regulations that would introduce from 2013-14, for the classes currently subject to a 50% liability to increase it to a 90% liability following the initial 3 month zero-rated period, and that this 90% rate would apply for an indefinite period. Paragraphs 19 to 26 assume reform as set out above. The powers in the Bill would also allow the Scottish Ministers flexibility to make regulations that would decrease the liability for the classes currently subject to a 50% liability (following the initial 3 month zero-rated period), though there is no intention to use the powers for this purpose at present. If the powers were used to decrease liability in this way there would be a cost to the Scottish Government budget (for reasons set out in paragraph 21 below) and an equivalent saving for owners of long-term empty premises eligible for non-domestic rates discount, dependent on the level of decrease in liability.

Revenue estimate

19. The cost to the Scottish Government of non-domestic rates income foregone in 2012-13 is estimated to be over £150 million. The proposed reform from 2013-14 onwards (as set out in paragraph 18 and summarised in table 2), would reduce the cost to the Scottish Government of providing the relief by an estimated £18 million per year. Current forecasts for the cost of empty property relief over the 3 year spending review period before and after introduction of legislation are:

Table 1 - Current forecasts for the cost of empty property relief over the 3 year spending review period

<table>
<thead>
<tr>
<th>Year</th>
<th>On current levels of discount (£m)</th>
<th>On proposed new levels of discount (£m)</th>
<th>Saving (£m)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012/13*</td>
<td>152</td>
<td>152</td>
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<tr>
<td>2013/14</td>
<td>155</td>
<td>137**</td>
<td>18</td>
</tr>
<tr>
<td>2014/15</td>
<td>162</td>
<td>144**</td>
<td>18</td>
</tr>
</tbody>
</table>

*Legislation will not apply until April 2013, therefore no effect on 2012/13 cost.

**These figures are estimates only as it is possible that there will be transfer to other eligible forms of relief upon introduction of legislation.

20. The reduction in the cost of providing empty property relief from the proposed reform in paragraph 18 was estimated by first identifying the total rateable value of properties receiving empty property relief and the proportion of those in receipt of 50% relief. A reduction in the cost of relief as a result of the proposed relief
changing from 50% to 10% was calculated. This was modelled by a combination of taking data from both actual rates bills and the valuation roll. A final adjustment was applied to take into account that some properties may switch over to another type of relief after reform of empty property relief. For example an empty property with a rateable value of £10,000 currently benefiting from 100% empty property relief may (depending on circumstances) be eligible for another form of relief, such as the Small Business Bonus Scheme or charity relief and will apply for that relief. This will increase the costs of those other reliefs, in turn reducing the net savings from the reform of empty property relief. For those properties that switch to another form of relief, the reform of empty property relief will have a reduced impact.

Costs on the Scottish Administration

21. No additional costs are expected from these proposals. While there would be staff time required in developing regulations and guidance following the passage of the Bill, this would be taken forward by existing staff so would not be an additional cost. The reduction in the discount level would lead to a saving in the Scottish Government budget of approximately £18 million per year. The annual local government finance settlement is shared out between all 32 local authorities using a needs-based formula. This formula determines how much money each local authority should get for the year ahead in comparison to the relative need of all the other local authorities. The Scottish Government guarantees that calculated figure through a combination of non domestic rate income (NORI) and general revenue grant (GRG) from the Scottish Budget. Any drop in NDRI collected is automatically compensated for by the Scottish Government providing an equivalent additional amount of GRG to offset this. Conversely any increase in NDRI, for example by collecting an additional £18 million NDRI after empty property relief is reformed leads to the Scottish Government reducing the level of GRG by £18 million accordingly and this £18million reduced GRG is a saving to the Scottish Government. As a result the amount of NDRI collected by an individual authority has direct impact on its total funding allocation. The approximately £18 million per year saving from reducing the empty property relief discount level would therefore accrue to the Scottish Government for reallocation within the Scottish Budget.

22. Any properties in the Scottish Government estate that are empty could also see their rates bill increase as a result. The Scottish Government expects that this will only affect a very small number of properties each year (less than a dozen properties are estimated to be affected).

Costs on Local Authorities

23. Local authorities currently carry out the work required to establish if a property is eligible for empty property relief and apply the discount at the two different levels available. The change proposed will only vary the level of discount, and will make no changes in terms of eligibility or timings of discount. It is anticipated that there will be a small administrative cost to local authorities in amending the level of discount applied to existing bills for non-domestic rates, and explaining the changes to ratepayers. The legislation and subsequent regulations, by reducing the discount
available, will reduce the financial incentive to keep a property empty, and thereby reduce the incentive to avoid incurring liability for full business rates. As a possible consequence, if the number of declared empty properties is reduced, local authorities may need to spend less time monitoring the ongoing status of declared empty properties. Any properties occupied by local authorities that are empty will also be affected by any change to the level of empty property relief offered.

**Costs on other bodies, individuals and businesses**

24. Some owners/occupiers of premises eligible for empty property relief for non-domestic rates will be affected by the regulations that would follow the introduction of legislation. The Scottish Government proposes, by regulation, to introduce a 10% discount in place of the 50% discount that currently exists. The reform would apply to owners/occupiers of empty premises in the public sector currently in receipt of empty property relief.

25. A summary of the main types of empty property relief currently available and the proposed rates that will be introduced by regulation are shown in table 2.

**Table 2 – Empty Property Relief Current and Proposed Rates in Scotland**

<table>
<thead>
<tr>
<th>Standard or “commercial” empty property relief first 3 months</th>
<th>Current position</th>
<th>Intended Position post legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td>100% relief (i.e. no rates payable)</td>
<td>No change. 10% relief (i.e. no rates payable)</td>
<td></td>
</tr>
<tr>
<td>Standard or “commercial” empty property relief after 3 months</td>
<td>50% relief (until occupancy status changes)</td>
<td>10% relief (until occupancy status changes)</td>
</tr>
</tbody>
</table>

**Exceptions**

- Listed property                                             | 100% | No change (100%) |
- Industrial property                                         | 100% | No change (100%) |
- Low Rateable Value (RV less than £1,700) property          | 100% | No change (100%) |

*In England and Wales, empty property relief was reformed in 2008 and currently offers 100% commercial relief for 3 months, then 0%. For listed/industrial property 100% relief is offered for 6 months, then 0% thereafter.

26. It is estimated that the total cost to business of the reduced discount would be in the region of £18 million in each of 2013-14 and 2014-15 (which accounts for approximately 12% of the annual cost of the discount that currently benefits businesses). The impact of this will fall solely on businesses who currently take up the discount or who may in the future. The figure of £18m is a best estimate based on data held on vacant property identified on the valuation rolls and data on properties in actual receipt of empty property relief provided by Councils. This figure may vary as property is built/demolished, existing property moves in and out of use or changes occupier (which in turn may lead to a change in relief entitlement).
Breakdown of how the £18 million saving to the Scottish Government from the changes in empty property relief is estimated

1. Introduction

The Local Government Finance (Unoccupied Properties Etc.) (Scotland) Bill includes an enabling power for the Scottish Government to introduce regulations to alter the level of empty property relief for certain empty commercial properties. Under the new proposals, all properties would continue to benefit from 100% rates relief for the first 3 months in which they are empty. The Scottish Government intends to bring forward regulations to reduce the current discount entitlement of 50%, which applies after the 3 month period, for standard commercial properties, to 10% from 1 April 2013. The current exceptions for listed properties, industrial properties, and those with a rateable value of less than or equal to £1,700 would continue to benefit from 100% rates relief for an indefinite period while they are empty.

2. Purpose of Paper

The Scottish Government funds empty property relief and estimates that the proposed reforms would result in a reduction in the cost of relief by around £18m and that up to 5,500 currently empty properties would be affected by the proposals and potentially could come back into economic use as a result of the reform. This paper details the methodology for estimating the reduction in cost of non-domestic rates reliefs resulting from the reforms to empty property rates relief, and the number of properties affected.

The main steps in arriving at these estimates are identified in section 3 below, and summarised in the diagram provided in the attached Appendix.
3. Key steps in the methodology

1. The total number (N) of all vacant properties (i.e. those receiving both the 100% and subsequent 50% relief) and the associated rateable value (RV) is identified from the Valuation Roll (excluding zero rated), and the gross bill for all vacant properties calculated (RV * poundage (including large business supplement (LBS))).

   
   \[\begin{array}{lcc}
   N: 21,425 & RV: 348,293,801 & \text{Bill: 158,495,540}
   \end{array}\]

   \[\downarrow\]

2. The number of, total rateable value and gross bill for, properties receiving 50% empty property relief was then calculated by applying the proportion of total vacant properties that are in receipt of 50% relief as estimated from data supplied by councils, which identifies that 34% of properties and 35% of RV/bill could be affected by the proposed reform.

   \[\begin{array}{lcc}
   \end{array}\]

   \[\downarrow\]

3. The gross bill for those on 50% relief can then be used to calculate the net bill (before other reliefs) at a 50% discount, and with a 10% discount – the difference being the net reduction in cost of reliefs (before other reliefs).

   \[\begin{array}{lcc}
   N: 7,285 & \text{Net reduction in cost (before other reliefs):} \\
   & £22.2m
   \end{array}\]

   \[\downarrow\]

4. Data to estimate the number of vacant properties eligible for each level of Small Business Bonus Scheme (SBBS) and associated bill is then taken into account. From this the movement of properties and cost from empty property relief to the SBBS is estimated (assuming the same proportions on 50% relief as for total vacant).

   \[\begin{array}{lcc}
   \text{Total vacant and eligible for SBBS:} & N: \text{up to 2,500} & \text{Estimated movement to SBBS relief (£):} \ £4.0m \\
   \text{of which} & \text{for up to 2,000 properties,} & \text{net bill remains the same.}
   \end{array}\]

   \[\downarrow\]

5. Total number of properties affected is total number of vacant properties, less those entitled to full drop in relief from the SBBS.

   \[\begin{array}{l}
   N: 5,328 (5,500 to the nearest 500)
   \end{array}\]

   \[\downarrow\]

6. Total net bill (before other reliefs), less movement to the SBBS equals total reduction in relief due to changes in empty property relief.

   \[\begin{array}{l}
   \text{Reduction in cost of reliefs:} \\
   \text{£18.2m}
   \end{array}\]
Diagram A: Vacant Properties

Changing EPR discount for properties empty > 3 months from 50% to 10%

Total vacant properties with RV > 0

N: 21,425
RV: 348,293,801

Exempt: Industrial and/or RV ≤1,700

N: 10,600
RV: 112,721,280

N: 49%
RV: 32%

N: 51%
RV: 68%

All other vacant properties

N: 10,825
RV: 235,572,521

N: 33%
RV: 48%

Industrial
N: 5,369
RV: 108,447,220

Industrial with RV ≤1,700
N: 1,914
RV: 1,637,590

Other, RV ≤1,700
N: 3,317
RV: 2,636,470

N: 67%
RV: 52%

Total other on 100% relief

N: 3,541
RV: 113,669,691

Total other on 50% relief

N: 7,285
RV: 121,902,830

Estimated saving from changes to EPR = £22.2m

Number of properties not affected by change in EPR as receive SBBS top up to same level (i.e. bill stays the same):

N: 5,327 (5,500 rounded)

Amount of relief (£) that move to SBBS = £3.982m

Estimated saving from changes to EPR = £18.2m
Costs of Scottish Government Business Rates Reliefs
This table shows estimated cost of business rates reliefs over the 5 year 2010 revaluation period
(2010-11 to 2014-15)

All estimates are £m and include the effect of reform of Empty Property Relief which is expected to reduce the cost of the relief by £18m in 2013-14 and 2014-15.

<table>
<thead>
<tr>
<th>Relief</th>
<th>2010-11 £m</th>
<th>2011-12 £m</th>
<th>2012-13 £m</th>
<th>2013-14 £m</th>
<th>2014-15 £m</th>
<th>Total £m</th>
</tr>
</thead>
<tbody>
<tr>
<td>Empty Property Relief</td>
<td>142</td>
<td>145</td>
<td>152</td>
<td>137</td>
<td>144</td>
<td>721</td>
</tr>
<tr>
<td>Charities</td>
<td>133</td>
<td>144</td>
<td>147</td>
<td>152</td>
<td>159</td>
<td>734</td>
</tr>
<tr>
<td>Small Business Bonus Scheme</td>
<td>117</td>
<td>129</td>
<td>143</td>
<td>151</td>
<td>157</td>
<td>697</td>
</tr>
<tr>
<td>Disabled Persons</td>
<td>49</td>
<td>53</td>
<td>54</td>
<td>56</td>
<td>58</td>
<td>269</td>
</tr>
<tr>
<td>Religious Property</td>
<td>22</td>
<td>23</td>
<td>24</td>
<td>25</td>
<td>26</td>
<td>120</td>
</tr>
<tr>
<td>Sports Clubs</td>
<td>12</td>
<td>12</td>
<td>13</td>
<td>13</td>
<td>14</td>
<td>63</td>
</tr>
<tr>
<td>Rural rates</td>
<td>4</td>
<td>4</td>
<td>5</td>
<td>5</td>
<td>5</td>
<td>22</td>
</tr>
<tr>
<td>Renewable Generator</td>
<td>1</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>5</td>
<td>18</td>
</tr>
<tr>
<td>Enterprise Areas</td>
<td>-</td>
<td>-</td>
<td>2</td>
<td>6</td>
<td>12</td>
<td>20</td>
</tr>
<tr>
<td>Total</td>
<td>481</td>
<td>514</td>
<td>542</td>
<td>549</td>
<td>580</td>
<td>2,665</td>
</tr>
</tbody>
</table>

(Note: table may not add up exactly due to roundings)
Information on non-domestic rates empty property relief reform and Council, NHS and Scottish Enterprise properties.

It is complex to identify specific properties including those belonging to Council, NHS or Scottish Enterprise on the valuation roll. This is mainly due to the differences and variety in how property names and occupiers are recorded. Therefore, data from the valuation roll along with billing system records from Councils have been used to estimate the impact of the proposed reform on these specific business groups.

Properties will be very unlikely to qualify for the SBBS, so we have not considered any overlap.

Councils

We estimate that approximately 2,000 council properties are vacant and in receipt of empty property relief at any given point in time. Of this total, we estimate that between 630 and 870 properties would be affected by the proposed reforms, with a reduction in relief awarded between £1.4m and £1.7m. The remaining properties are likely to be industrial or listed or in the initial 3 month 100% period and will see no change to the amount of relief awarded.

Scottish Enterprise

We estimate that there are around 200 Scottish Enterprise vacant properties. The proposed reforms to EPR, could reduce the rates relief awarded by up to a maximum of £0.4m. However, some properties may be industrial or listed or in the initial 3 month 100% period and will see no change to the amount of relief awarded, meaning actual change may be significantly lower.

NHS

We estimate that there are less than 40 vacant NHS properties. The proposed reforms to EPR, could reduce the rates relief awarded by up to a maximum of £0.3m. However, some properties may be industrial or listed or in the initial 3 month 100% period and will see no change to the amount of relief awarded, meaning actual change may be significantly lower.
Comparisons with other business rates systems in other countries

It has not been possible to find a valid international comparison in order to assess the impacts of lowering the amount of rates relief that empty properties enjoy in Scotland. Tax systems vary greatly between nations, and as such only a minority of nations levy taxes based on the rental value of commercial properties. In the nations that do, it is relatively rare for any provisions for empty property relief schemes to be changed so that empty properties receive less relief. However the biggest difficulty in finding a valid comparison is the availability of robust evidence as to whether or not a change in empty property rates relief was effective or not. Changing the amount of relief that empty commercial properties receive is a relatively minor tax change. Across the OECD property taxes make up 1.8% of GDP\(^1\), and so the amount of taxes levied on empty commercial properties makes up a very small proportion of the tax base. The effects of such a minor change in tax schemes is very difficult to distinguish from the effect of wider economic factors – this makes a robust analysis of such policies extremely difficult. As such it has not been possible to find robust evidence in order to form the basis of an international comparison.

More broadly, it is widely accepted that changes in a particular tax need to be considered alongside the wider tax system in order to judge their effectiveness\(^2\). Therefore a tax change that is beneficial in one nation may well have negative effects in another nation, based on there being two different tax systems. In this context it is also worth noting that the Scottish Government is proceeding with other policy changes relating to NDR in order to boost economic growth. Measures such as Tax Incremental Financing, Enterprise Zones and the Business Rates Incentivisation Scheme are all designed to increase economic growth.

Clarification of the Welsh Assembly Government’s position of reform of empty property relief in Wales

On empty property relief in Wales, the paper referenced by Gavin Brown MSP (paper WG15166) is a summary of responses to a call for evidence by an independent rates policy review group, chaired by Professor Brian Morgan. This paper is therefore not a reflection of current Welsh Government policy.

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Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill

Marshalled List of Amendments for Stage 2

The Bill will be considered in the following order—

Sections 1 to 6

Long Title

Amendments marked * are new (including manuscript amendments) or have been altered.

Section 1

Margaret Mitchell

15 In section 1, page 1, line 7, at end insert—

<(  ) In section 24, after subsection (2), insert—

“(2A) Regulations under subsection (2) may not make provision which would result in the rates payable in respect of lands and heritages which are being structurally repaired, improved or reconstructed being the rates mentioned in subsection (3) at any time during which the lands and heritages are incapable of occupation due to such repair, improvement or reconstruction.”.>

Anne McTaggart

16* In section 1, page 1, line 12, after <90%> insert <(or, in relation to lands and heritages the rates in respect of which are payable by a local authority or health board, 50%)>

Margaret Mitchell

11 In section 1, page 1, line 13, at end insert—

<(  ) In section 24, after subsection (3), insert—

“(3A) The Scottish Ministers may not exercise their power under subsection (3) to prescribe a percentage above 50% except in relation to lands and heritages (which fall within a class prescribed by regulations under subsection (2)) which have been wilfully left unoccupied for a period exceeding 10 years.

(3B) If, by virtue of subsections (3) and (3A), a percentage above 50% has been prescribed, the following factors are to be taken into account in determining whether particular lands and heritages are to be regarded as having been wilfully left unoccupied—

(a) how often the lands and heritages have been advertised for sale or let;

(b) how often offers to buy or let the lands and heritages have been made and the reasons why such offers have not resulted in the lands and heritages being occupied;
(c) the state of repair of the lands and heritages; and
(d) any other steps taken by the person entitled to possession of the lands and heritages to encourage occupation of the lands and heritages.”.>

John Pentland

17 In section 1, page 1, line 13, at end insert—

<( ) In section 24—
(a) in subsection (5), at the beginning insert “Subject to subsection (6),”,
(b) after subsection (5), insert—
“(6) The first regulations made under subsection (3) are subject to the affirmative procedure.”.>

Margaret Mitchell

12 In section 1, page 1, line 13, at end insert—

<( ) In section 24, after subsection (5), insert—
“(6) Any regulations under subsection (2) which—
(a) provide for the rates payable in respect of retail lands and heritages at any time to be the rates mentioned in subsection (3); but
(b) do not so provide in relation to industrial lands and heritages, must be accompanied when laid before the Scottish Parliament by an explanation for this difference in treatment.”.>

John Pentland

18 In section 1, page 1, line 22, at end insert—

<( ) In section 24A—
(a) in subsection (6), at the beginning insert “Subject to subsection (7),”,
(b) after subsection (6), insert—
“(7) The first regulations made under subsection (4)(b)(ii) are subject to the affirmative procedure.”.>

John Pentland

19 In section 1, page 1, line 22, at end insert—

<( ) After section 24A insert—

“24AA Consultation on certain regulations
Before making the first regulations under each of section 24(3) or 24A(4)(b), the Scottish Ministers must—
(a) consult—
(i) such persons as appear to them to be representative of the interests of persons likely to be affected by the proposed regulations about the likely impact on those interests of the proposed regulations being made, and

(ii) such other persons (if any) as they consider appropriate, and

(b) lay before the Scottish Parliament a report summarising the outcome of that consultation.”.>

Derek Mackay

5 In section 1, page 1, line 22, at end insert—

<(  ) In section 24B (certain lands and heritages to be treated as unoccupied), after subsection (2) insert—

“(3) The Scottish Ministers may provide by regulations that lands and heritages falling within a class prescribed by the regulations are to continue to be treated as unoccupied, for the purposes of section 24 (apart from subsection (4) of that section), for such period after becoming occupied as the regulations specify.

(4) Regulations under subsection (3) are subject to the negative procedure.”.>

Jim Hume
Supported by: Margaret Mitchell

1 Leave out section 1

After section 1

Margaret Mitchell

20 After section 1, insert—

<Inclusion of unoccupied properties in valuation roll

In section 3 of the Local Government (Scotland) Act 1975 (c.30) (provisions supplementary to sections on valuation roll), before subsection (1), insert—

“(A1) The Scottish Ministers must issue guidance as to a minimum state of repair that unoccupied lands and heritages must be in in order to be included in the valuation roll.”.>

Section 2

Derek Mackay

6 In section 2, page 2, line 5, at end insert—

<(  ) After subsection (1) insert—

“(1A) A variation provided under subsection (1) may not increase the amount of council tax payable in respect of a chargeable dwelling and a day by more than the amount calculated in respect of the dwelling and the day in accordance with section 78 of the Local Government Finance Act 1992 (basic amounts payable).”.
( ) In subsection (2)(b)—
(a) sub-paragraph (i) is repealed,
(b) in sub-paragraph (ii), for “they make provision” substitute “a different amount of variation, or no variation, applies”.

Margaret Mitchell

13 In section 2, page 2, line 5, at end insert—
( ) After subsection (1) insert—
“(1A) The Scottish Ministers may not exercise their power under subsection (1) to increase the amount of council tax payable in respect of a chargeable dwelling and any day above the amount that would be payable if, on that day, there was a resident of the dwelling except in relation to dwellings which have been wilfully left unoccupied for a period exceeding 10 years.”.

Anne McTaggart

21 In section 2, page 2, line 5, at end insert—
( ) After subsection (1) insert—
“(1A) A variation provided under subsection (1) may not increase the amount of council tax payable in respect of a chargeable dwelling and a day by more than half of the amount calculated in respect of the dwelling and the day in accordance with section 78 of the Local Government Finance Act 1992 (basic amounts payable).”.

Margaret Mitchell

22 In section 2, page 2, line 5, at end insert—
( ) After subsection (2) insert—
“(2A) Regulations under subsection (1) may not provide (or allow provision to be made by local authorities) for unoccupied dwellings owned by a local authority or a registered social landlord to be treated more favourably than other unoccupied dwellings solely on the ground of that ownership.”.

Derek Mackay

7 In section 2, page 2, leave out lines 7 and 8 and insert <, for the words from “set” to the end of the subsection substitute “—
(a) increase the amount of council tax payable in respect of a chargeable dwelling and a day by more than the amount calculated in respect of the dwelling and the day in accordance with section 78 of the Local Government Finance Act 1992,
(b) contravene any limits that may be specified in the regulations.”.

Anne McTaggart

7A As an amendment to amendment 7, line 4, after <than> insert <half of>
In section 2, page 2, line 8, at end insert—

“(4A) A power conferred under subsection (2)(b)(ii) may not permit local authorities to modify regulations under this section so as to increase the amount of council tax payable in respect of a chargeable dwelling and any day above the amount that would be payable if, on that day, there was a resident of the dwelling except in relation to dwellings which have been wilfully left unoccupied for a period exceeding 10 years.

(4B) If, by virtue of subsection (1) and either subsection (1A) or (2)(b)(ii) (read with subsection (4A)), the council tax payable in respect of a chargeable dwelling in an area and any day is permitted to be higher than the amount that would be payable if, on that day, there was a resident of the dwelling, the following factors are to be taken into account in determining whether particular dwellings in that area are to be regarded as having been wilfully left unoccupied—

(a) how often the dwelling has been advertised for sale or let;

(b) how often offers to buy or let the dwelling have been made and the reasons why such offers have not resulted in the dwelling being occupied;

(c) the state of repair of the dwelling; and

(d) any other steps taken by the owner of the dwelling to encourage occupation of the lands and heritages.”.

Section 3

In section 3, page 2, line 14, at end insert—

“(5A) The Scottish Ministers must issue guidance as to a minimum state of repair that an unoccupied property previously used as a dwelling must be in in order to fall within the definition of “dwelling” in subsection (2).”.

In section 3, page 2, line 14, at end insert—

“(7A) Regulations under subsection (6) may not provide for unoccupied dwellings owned by a local authority or registered social landlord to be treated differently from other unoccupied dwellings solely on the ground of that ownership (except where dwellings are being kept unoccupied with a view to them being demolished within a reasonable period of time).”.

In section 3, page 3, line 19, leave out £200 and insert £500
In section 3, page 3, line 26, leave out £200 and insert £500.

In section 3, page 3, line 31, at end insert , after “£200” insert “, or of an amount not exceeding £500 if the request is under any provision included in regulations under paragraph 4(5B) of Schedule 2.”.

After section 4

After section 4, insert—

<Transitional assistance for certain local authorities

(1) The Scottish Ministers must, no later than 31 March 2013, make arrangements for the provision, on a decreasing basis over the three years beginning 1 April 2013, of financial assistance to mitigate the effect on each affected authority of the abolition of housing support grants.

(2) The amount of assistance to be provided to an affected authority under subsection (1) must be agreed between the Scottish Ministers and the affected authority.

(3) In this section, “affected authority” means a local authority which was in receipt of a housing support grant in the year beginning 1 April 2012.>

Section 5

In section 5, page 4, line 5, leave out <section 4> and insert <sections 1 and 4>

In section 5, page 4, line 5, at end insert—

<(1A) Section 1 comes into force on such day as the Scottish Ministers may by order appoint.

(1B) Before making an order under subsection (1A), the Scottish Ministers must—

(a) consult—

(i) such persons as appear to them to be representative of the interests of persons likely to be affected by any exercise of the powers conferred by sections 24 and 24A of the Local Government (Scotland) Act 1966 (c.51) (as those sections would be amended by section 1) about the likely impact on those interests of the exercise of those powers, and

(ii) such other persons (if any) as they consider appropriate, and

(b) lay before the Scottish Parliament a report summarising the outcome of that consultation.>
Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill

Groupings of Amendments for Stage 2

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- the text of amendments to be debated during Stage 2 consideration, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

Groupings of amendments

**Non-domestic rates: treatment of premises undergoing renovation**
15

**Restriction of power to increase non-domestic rates: exclusion of certain unoccupied public sector buildings**
16

**Restriction of power to increase non-domestic rates and council tax: wilfully unoccupied properties**
11, 13, 14

**Power to increase non-domestic rates for unoccupied properties: consultation and procedure**
17, 18, 19, 2, 3

**Non-domestic rates: reason for different treatment of unoccupied industrial premises**
12

**Non-domestic rates: treatment of previously unoccupied premises**
5

**Introduction of power to increase non-domestic rates for unoccupied properties**
1

**Guidance on minimum state of repair below which non-domestic rates and council tax not payable**
20, 23
Council tax: restriction on level of increase for unoccupied properties etc.
6, 21, 7, 7A

Council tax: treatment of unoccupied social housing
22, 24

Council tax: penalties for failure to provide correct information regarding certain properties
8, 9, 10

Abolition of housing support grant: provision of transitional assistance
4
LOCAL GOVERNMENT AND REGENERATION COMMITTEE

EXTRACT FROM THE MINUTES

20th Meeting, 2012 (Session 4)

Wednesday 26 September 2012

Present:
Stuart McMillan    Anne McTaggart
Margaret Mitchell    John Pentland
Stewart Stevenson    Kevin Stewart (Convener)

John Wilson (Deputy Convener)

Also present: Sarah Boyack; Jim Hume; Derek Mackay (Minister for Local Government and Planning); Tavish Scott (item 5).

The meeting opened at 10.00 am.

Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill: The Committee considered the Bill at Stage 2.

The following amendments were agreed to (by division)—

5 (For 6, Against 0, Abstentions 1);
6 (For 4, Against 2, Abstentions 1);
7 (For 4, Against 2, Abstentions 1);
8 (For 6, Against 0, Abstentions 1);
9 (For 6, Against 0, Abstentions 1);
10 (For 6, Against 0, Abstentions 1).

The following amendments were disagreed to (by division)—

15 (For 1, Against 6, Abstentions 0);
16 (For 2, Against 4, Abstentions 1);
11 (For 1, Against 6, Abstentions 0);
17 (For 2, Against 4, Abstentions 1);
18 (For 2, Against 4, Abstentions 1);

541
19 (For 2, Against 4, Abstentions 1);
1 (For 3, Against 4, Abstentions 0);
13 (For 1, Against 6, Abstentions 0);
21 (For 3, Against 4, Abstentions 0);
7A (For 3, Against 4, Abstentions 0);
14 (For 1, Against 6, Abstentions 0);
23 (For 3, Against 4, Abstentions 0);
24 (For 1, Against 6, Abstentions 0);
4 (For 0, Against 7, Abstentions 0);
2 (For 3, Against 4, Abstentions 0);
3 (For 3, Against 4, Abstentions 0).

The following amendments were moved and, no member having objected, withdrawn: 12, 20 and 22.

The following provisions were agreed to without amendment: sections 4, 5 and 6 and the long title.

The following provisions were agreed to as amended: sections 1, 2 and 3.

The Committee completed Stage 2 consideration of the Bill.
Local Government Finance
(Unoccupied Properties etc)
(Scotland) Bill: Stage 2

10:03
The Convener: The next item is stage 2 consideration of the Local Government Finance (Unoccupied Properties etc) (Scotland) Bill.

John Pentland (Motherwell and Wishaw) (Lab): Before we move to consideration of the bill, convener, I wish to raise a point of order about the fact that certain information has not been provided to allow me to examine this legislation with the deep thoroughness that such a bill richly deserves. As a result, I have had to lodge amendments without having the full facts. I hope that in future such information will be made readily available when Parliament sets the timing for scrutinising the bill.

The Convener: First of all, there is no such thing as a point of order in committee. As for the issue in question, we have already said that we will write to the minister on the timing for receiving certain information. I am quite happy to do that and to say so on the record. Again, however, I make clear that that is not a point of order.

John Pentland: That decision was made in private, so I raised that point of order so we could get it on the record.

The Convener: Thank you, Mr Pentland. For the record, as I said, I will write to the minister on behalf of the committee about the timing of the information that we have received.

We move on to consider the bill, which we will take in the following order: sections 1 to 6; and then the long title.

Section 1—Rating of unoccupied lands and heritages

The Convener: The first group is on non-domestic rates: treatment of premises undergoing renovation. Amendment 15, in the name of Margaret Mitchell, is the only amendment in the group.

Margaret Mitchell (Central Scotland) (Con): Amendment 15 takes account of the fact that, currently, domestic properties that are undergoing renovation are exempt from council tax for the period during which they are uninhabitable and unoccupied due to renovation. That is provided by paragraph 2 of schedule 1 of the Council Tax (Exempt Dwellings) (Scotland) Order 1997, which exempts a dwelling that is “incapable of, and is not, being lived in because it is being structurally repaired, improved or reconstructed.”

Paragraph 9 of schedule 3 of the Local Government (Scotland) Act 1966 gives some protection to buildings that are being improved by the owner and are thereby rendered temporarily unsuitable for occupation. However, it is unclear about the extent to which that covers non-domestic properties that are undergoing renovation and for which there is unlikely to be a determined date on which the renovation of the building is completed.

The amendment seeks to clarify the position regarding non-domestic properties undergoing renovation, to ensure that they receive the same relief as domestic properties in similar circumstances.

I move amendment 15.

The Convener: As no one else wishes to enter the debate, I invite the minister to speak.

The Minister for Local Government and Planning (Derek Mackay): Thank you, convener, and congratulations to you and to your deputy convener on your new posts.

Amendment 15 seeks to give premises that are undergoing repair, improvement or reconstruction a complete rates exemption. I understand Ms Mitchell’s intention but, at best, all that her amendment would do is make tax avoidance easier, because an owner would simply need to start a renovation project and never complete it in order to enjoy a permanent rates exemption. At worst, the amendment could create a tax incentive for the owner of an unoccupied property to put it into a state of disrepair rather than to try to bring it back into use.

I urge Ms Mitchell to think again and not create a tax-avoider’s charter. Failing that, I recommend that members of the committee recognise the significant flaw and reject it.

Margaret Mitchell: The minister has confirmed that commercial properties that are uninhabited while they are undergoing renovation will be treated differently. For that reason, I will press the amendment.

The Convener: The question is, that amendment 15 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For
Mitchell, Margaret (Central Scotland) (Con)

Against
McMullan, Stuart (West Scotland) (SNP)
McTaggart, Anne (Glasgow) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (SNP)
The Convener: The result of the division is: For 1, Against 6, Abstentions 0.

Amendment 15 disagreed to.

The Convener: The next group is on restriction of power to increase non-domestic rates: exclusion of certain unoccupied public sector buildings. Amendment 16, in the name of Anne McTaggart, is the only amendment in the group.

Anne McTaggart (Glasgow) (Lab): Amendment 16 concerns the power to increase non-domestic rates and the exclusion of certain unoccupied public sector buildings.

The concern behind the amendment arose because some of the evidence that the committee took suggested that the bill would end up costing local government more money. I am sure that the minister will be able to inform us of his thinking in that regard.

Part of my concern is that it was stated that the change would cost Glasgow City Council £1 million. My other concern is that the Government has failed to think about the effect that the change will have on the health authorities. I asked the Government a question on that in August, but I have not received a reply yet. I would like the minister to fill us in on that.

Just because a building is empty at present does not mean that it cannot be used again. We find evidence for that in Glasgow City Council’s regeneration policy. However, the council would not be able to use buildings again if it was forced to demolish properties or sell them on.

There is no strategic thinking from the Government on this issue. It must realise that the change will be an extra tax on local government and the national health service and that that is a huge concern.

I move amendment 16.

Margaret Mitchell: I have a lot of sympathy for the intention behind amendment 16, but it appears to me that what it proposes would mean unequal treatment for properties that are under local authority or health board control. For that reason, I would have some difficulty in supporting amendment 16.

Stewart Stevenson: I wonder whether in her summing up the member might give the committee some more information about the situation in Glasgow. The figure of £1 million as a cost was suggested, but that would lead one to the rough conclusion that properties worth about £100 million in Glasgow City Council’s control are not currently occupied. I wonder whether the member could confirm that, because it seems a large number indeed for Glasgow to hold.

Derek Mackay: Amendment 16 from Anne McTaggart seeks to protect the NHS and councils from change to relief for empty properties. However, regardless of whether a property is in the public or the private sector, the owner or landlord should be encouraged to bring it back into use.

Furthermore, the impact of changes to empty property relief will be minor compared with the significant resources that councils and the NHS were given in the 2013-14 budget. I have given these figures before but, for clarity, for 2013-14 we estimate that the impact of the changes for councils will be up to £1.7 million in increased rates against total funding of around £10 billion. For the NHS, the impact will be up to a maximum of £300,000 against a funding package of around £12 billion.

Protecting the public sector from taxation in the way that amendment 16 proposes may also fall foul of state aid rules as, in certain instances, the public sector could be in direct competition with the private sector. I am unclear whether Ms McTaggart has given that point due consideration.

I urge Ms McTaggart not to press her amendment. Failing that, I recommend that committee members reject it.

The Convener: Thank you, minister. I ask you to wind up, Ms McTaggart, and to press or withdraw amendment 16.

Anne McTaggart: I press the amendment.

The Convener: The question is, that amendment 16 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For
McTaggart, Anne (Glasgow) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)

Against
McMillan, Stuart (West Scotland) (SNP)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (SNP)

Abstentions
Mitchell, Margaret (Central Scotland) (Con)

The Convener: The result of the division is: For 2, Against 4, Abstentions 1.

Amendment 16 disagreed to.

The Convener: The next group is on restriction of power to increase non-domestic rates and council tax: wilfully unoccupied properties. Amendment 11, in the name of Margaret Mitchell, is grouped with amendments 13 and 14.
Margaret Mitchell: Amendment 11 goes to the heart of what we were told that the bill seeks to achieve, that is, the penalisation of owners who do not actively market empty properties. It would ensure that the bill targeted only properties that had been "wilfully left unoccupied for a period exceeding 10 years."

The approach would ensure that people who are genuinely trying to lease properties would not be punished because of the lack of demand for commercial property in the current economic climate.

The amendment would enable properties that are left empty because of a lack of demand to be distinguished from properties that have been "wilfully left unoccupied"—there are such properties throughout Scotland—by providing that the following matters should be taken into account:

(a) how often the lands and heritages have been advertised for sale or let;
(b) how often offers to buy or let the lands and heritages have been made and the reasons why such offers have not resulted in the lands and heritages being occupied;
(c) the state of repair of the lands and heritages; and
(d) any other steps taken by the person entitled to possession of the lands and heritages to encourage occupation of the lands and heritages.

I understand that that is what the bill seeks to achieve and what the minister told us that it would achieve. Amendment 11 would ensure that the bill did what it said on the tin.

Amendments 13 and 14 would apply the principle of wilful unoccupation to council tax, by preventing the Scottish ministers and local authorities, respectively, from increasing the council tax that is applicable to unoccupied domestic properties by reducing rates relief, unless the property was wilfully unoccupied for the reasons that I have set out.

I move amendment 11.

John Pentland: Amendment 11 goes against the spirit of the bill and would be unworkable in practice. Ten years is far too long. If there was a short occupancy within the 10-year period, would that reset the clock? Perhaps Mrs Mitchell will advise on that when she sums up.

Stewart Stevenson: The member appears to want to subsidise the withdrawal of assets from use. Like John Pentland, I think that that goes very much against what this short bill seeks to do. I am surprised that an amendment couched in such terms should be lodged by a member of a party that, in many other contexts, seeks to embrace the market with such vigour. It would be straightforward to avoid wilfully keeping something from the market by deciding that the price should be three times what the market determines.

The bill gives modest encouragement to people to establish the real value of a property in the market and do something about unoccupied properties. That will contribute to economic activity in Scotland. I strongly urge the member not to press amendment 11.

John Wilson: Like Stewart Stevenson, I have some concerns about Margaret Mitchell's amendments, particularly in relation to the issue of who would monitor whether properties had been "wilfully left unoccupied" and whether it would add an extra burden on local authorities to check regularly through the various records what steps were being taken by the owner of a property or land to ensure that the land was being brought into full constructive use. Perhaps Margaret Mitchell could respond to that when she sums up.

Derek Mackay: The Scottish Government does not support amendments 11, 13 and 14. I welcome the fact that Margaret Mitchell at least acknowledges that something should be done to tackle empty properties in some cases. However, it is not acceptable for owners to leave property lying empty for 10 years, blighting the local community. By limiting increases in charges for non-domestic rates and council tax to premises that have been empty for more than 10 years, we are simply kicking the problem into the long grass. We need to get those properties back into use, for example by encouraging community groups and others to bring empty commercial properties back into use. That is essential to the work that I am progressing through the proposed community empowerment and renewal bill.

Amendments 13 and 14 would mean that for 10 years houses could sit empty and falling into disrepair—a wasted resource—while throughout Scotland there is a shortage of houses for people to live in. There has been widespread support from stakeholder organisations for allowing councils to charge a council tax increase after homes have been empty for more than one year and general support for giving owners who are trying to sell or let their homes an extra year before they would pay any increase.

Even in this difficult economic climate, we believe that two years gives those who are really trying to sell or let their home sufficient time to do so. It certainly should not take 10 years. Even the coalition Government's new empty homes premium on council tax in England can be applied to homes that have been empty for two years or more. Furthermore, Ms Mitchell seeks to create numerous get-out clauses, which will be burdensome for councils to administer and may lead to tax avoidance.
We have concerns that it could be extremely difficult on a practical level for councils to prove that a home or property has been "wilfully left unoccupied" for a whole 10-year period. The factors given for councils to take into account are quite subjective. It would require a lot of investigative work from councils to try to find evidence going back years and would leave owners easily able to challenge a council's decision.

I therefore ask Margaret Mitchell not to press the amendments to ensure that the powers in the bill still have sufficient teeth as a tool to encourage owners to bring their properties back into use. If she does not do that, committee members should acknowledge the need to tackle empty homes and business premises now, not in 10 years' time, and reject amendments 11, 13 and 14.

Margaret Mitchell: I will take some of the points in order, more or less. To answer John Pentland's question, the 10 years would be continuous.

On Stewart Stevenson's comment, if the rent being requested was three times the market value, that would be covered in reasons why it was not possible to lease out the property, which would help to prove that the property was being wilfully left empty.

The minister's comments are the kind that put politics into disrepute. We are considering a bill that was fairly shambolic at stage 1 and not much better at stage 2. This is a genuine attempt to deliver what the bill could do to have some value. My preference, which was well stated at stage 1, is to reject amendments to ensure that the powers in the bill still have sufficient teeth as a tool to encourage owners to bring their properties back into use. If she does not do that, committee members should acknowledge the need to tackle empty homes and business premises now, not in 10 years' time, and reject amendments 11, 13 and 14.

Amendment 11 seeks to do exactly what the minister is telling us that the bill will do, but which it will not achieve. As it stands, all that the bill will do is clobber businesses and public and private sector owners when they are already facing challenges.

The Convener: The question is, that amendment 11 be agreed to. Are we agreed?

Members: No.

Members: There will be a division.

For
Mitchell, Margaret (Central Scotland) (Con)
Against
McMillan, Stuart (West Scotland) (SNP)
McTaggart, Anne (Glasgow) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (SNP)

Amendment 11 disagreed to.

The Convener: The next group is on power to increase non-domestic rates for unoccupied properties: consultation and procedure. Amendment 17, in the name of John Pentland, is grouped with amendments 18, 19, 2 and 3.

John Pentland: The bill mostly gives powers to the minister. We are being asked to put our faith in the minister, and to trust him to do the right thing. However, that is not why we are in Parliament and it is not why our constituents put us here. They expect us to scrutinise the Scottish Government's actions. It is the committee's responsibility to examine and question legislation that gives powers to ministers, and to examine and question how those powers are used.

To do that, Parliament needs the opportunity to assess and debate secondary legislation, particularly when so much of the impact of a bill will be determined by the regulations that are issued by ministers. We need to have a proper business and regulatory impact assessment of the bill, not just a consultation before the bill followed by the minister's ad hoc promise of further consultation before regulations are issued.

Amendments 17 to 19 are designed to ensure that, before the powers are used and before regulations are issued, the proposals come back to Parliament, and we will have the information that we need to make a careful and considered judgment on them. Without parliamentary consideration of proposed regulations, based on a proper assessment of their potential impact, there is a significant danger that section 1 of the bill will
do more harm than good. We should not take such a risk.

I move amendment 17.

**The Convener:** I call Sarah Boyack to speak to amendment 2 and the other amendments in the group. Welcome to the committee, Ms Boyack.

**Sarah Boyack (Lothian) (Lab):** Thank you, convener, and thank you for letting me contribute to the debate. It is very clear that the problem with the bill is the way that it has been handled and the lack of robust information to underpin such crucial measures. We are not in principle against changing reliefs for non-domestic rates, but major problems resulted when that was done in England—there were demolitions and other unintended consequences. When the bill was introduced, we decided that we would test it. We want to see the information.

The response to the committee’s statement on principles came after the stage 1 debate, and information from the minister arrived last night, after our opportunity to lodge amendments. That is not good parliamentary process.

10:30

The amendments that John Pentland and I lodged are about giving the minister another chance. We are saying that we are not necessarily against the proposals but we must be aware of the economic situation, and without proper testing the proposals could make the situation worse. We are not necessarily against putting the proposals on the statute, as long as there is a process whereby a minister who intends to vary reliefs is required to lay a formal report before the Parliament, which can be tested by the people whom the variation would affect and by anyone else.

Local authorities and businesses have criticised the proposals, and if there is no proper business and regulatory impact assessment, and no consultation or report to the Parliament, the proposals will be pushed through at speed by the minister, without due consideration, which will cause major problems for the business community.

There is a way round that. John Pentland and I have offered different solutions to the minister. Mine is tough. It is that before the minister gets the powers he must undertake a BRIA and lay an order before the Parliament. John Pentland’s solution is slightly softer and more consensual; it would give the minister the powers but require that before they were exercised and a statutory instrument was laid, the minister would have to go through a consultation and report on it to the Scottish Parliament.

I feel even more passionately about the issue in the light of the response from the minister and his officials. I hope that the amendments will be regarded as constructive. I repeat that we are not, in principle, against varying reliefs on non-domestic rates. However, in the current economic climate, and given the evidence from England and the robust contributions from people from the business community and local authorities, now is not the time to introduce such provisions, particularly without a BRIA.

We did not use the term “business and regulatory impact assessment” in our amendments, because the parliamentary drafters told us that such a term does not exist in statute. The drafters helpfully tried to capture the spirit and intent of a BRIA, and I think that they did that effectively.

I very much support John Pentland’s suggestion that instruments that deal with such issues should be subject to the affirmative procedure. If the provisions are agreed to without amendment, the minister will be able, as soon as he likes, to make a statutory instrument to give them effect.

On the housing side, there has been a consultation and people have been allowed to comment—even then, I think that the closing date for the consultation on the proposed statutory instruments in that regard is 5 October. There are no such safeguards in relation to the non-domestic rates element, which is fundamental to the bill and to whether we can support the proposals.

Minister, I hope that you will agree to amendments 2 and 3, in my name. If you do not do so, I will be more than happy if you agree to John Pentland’s amendments 17, 18 and 19, which would provide the caveat that we need before we can support the proposals.

**Stewart Stevenson:** There seems to be a lamentable failure to understand the parliamentary process and the role of committees. I am astonished by that, given that Ms Boyack has even more experience in the Scottish Parliament than I have—John Pentland I forgive, because of his comparative inexperience. The idea that a negative instrument is not subject to parliamentary scrutiny is bizarre—

**Sarah Boyack:** I did not say that.

**Stewart Stevenson:** When I was a minister, I had four such instruments rejected by the Parliament in session 3. All that a member requires to do is lay a motion that nothing further be done under the instrument—that is the formal terminology—and the Parliament can then scrutinise the negative instrument exactly as is required.
Underlying the amendments that we are considering is something much more fundamental—an attack on the integrity of the parliamentary committee system. It is precisely the role of committees to pick up matters of concern such as we are presented with today.

Of course, I am not astonished that Labour members have made these comments. Only this week, Lord Foulkes, late of this place, suggested in essence that the committees’ role be diminished and much of their work taken away to an unelected body 400 miles to the south—the House of Lords. Quite frankly, the proposal runs entirely against the role of committees in the Parliament and I will vigorously oppose any of the suggestions that we have heard from the two Labour members who are speaking to amendments today.

Margaret Mitchell: Following Stewart Stevenson’s pompous comments, I have to say that I am a little bit sympathetic to amendments 17 and 18. It is only reasonable that if one feels that a matter is important enough one should suggest that the affirmative rather than the negative procedure be followed. I believe that that is what lies at the heart of John Pentland’s amendments.

Derek Mackay: I note Sarah Boyack’s amendments 2 and 3, which seek to require that a consultation and business and regulatory impact assessment be carried out before section 1 can come into force. I will discuss those amendments together with amendments 17 and 18 in the name of John Pentland, which seek to require the use of affirmative procedure for the first set of regulations, and amendment 19, which seeks to require consultation before those regulations are made.

The Government’s policy on reform of empty rates was originally announced a year ago as part of the 2011 draft budget. Subsequent to that, I have met and listened to a range of stakeholders, as has the committee. Throughout the process I have made it very clear that I will be flexible and listen to all constructive suggestions. That is why I was happy to take on board Mark McDonald’s suggestion that we look at introducing the sort of relief scheme that is in operation in Northern Ireland and why I have lodged an amendment that, if agreed to, will enable me to create similar new incentives. We will discuss that amendment later but Ms Boyack should note that I have taken on board her colleagues’ suggestions to adapt this relief scheme to help smaller businesses. The Government now needs to prepare and introduce regulations and, when it does so, the committee will have yet another opportunity to scrutinise the proposals.

Amendments 17 and 18, in the name of John Pentland, seek to require the first regulations made under amended sections 24 and 24A of the 1966 act to use affirmative procedure. I remain unconvinced by Mr Pentland’s arguments. The Subordinate Legislation Committee raised no issue with the use of negative procedure for regulations made under those sections. The regulations deal with comparatively straightforward matters such as the percentage of relief to be given and the classes of property to which the percentage applies, and the amendments would attach a more onerous procedure to the regulations than their content justifies, especially as most other rates regulations are made under negative procedure—as indeed were changes that were made by previous Administrations. I therefore urge Ms Boyack and Mr Pentland not to press their five amendments and, if they press them, I urge members to reject them.

Reference has been made to the fact that the policy was introduced in 2008 by the then Labour Government, which was followed by the Conservative-Liberal Government. This Administration has learned many lessons from the application of that policy and, indeed, has refined its policy to reflect that. We will continue to consult; we do not require the legislation to be changed to compel us to do so. After all, we have taken that very approach throughout our handling of the bill.

John Pentland: First of all, I will press my amendments to the vote.

Mr Stevenson said that he forgave me because of my newness to the Parliament, but I point out that I have a wealth of experience in debating with Opposition members. In fact, I believe that Mr Stevenson himself has missed the point completely. My amendment seeks to protect the committee and to allow it to scrutinise things. When I first came to Parliament, my understanding was that committees were to be consensual and that their role was to scrutinise reports, the Government and so on. Mr Stevenson has failed miserably to realise that my amendments would strengthen the committee’s role.

I ask committee members to think seriously about supporting the amendments, because they will bring back to the committee the scrutiny role that it should play rather than giving power away to ministers.

The Convener: The question is, that amendment 17 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For
McTaggart, Anne (Glasgow) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)

Against
McMillan, Stuart (West Scotland) (SNP)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (SNP)

Abstentions
Mitchell, Margaret (Central Scotland) (Con)

The Convener: The result of the division is: For 2, Against 4, Abstentions 1.

Amendment 17 disagreed to.

The Convener: The next group is on non-domestic rates: reason for different treatment of unoccupied industrial premises. Amendment 12, in the name of Margaret Mitchell, is the only amendment in the group.

Margaret Mitchell: Amendment 12 is a probing amendment that seeks to provide more of an explanation for why industrial premises are deemed to be a special case and therefore exempt from the non-domestic rates relief proposals. Essentially, the amendment requires that the minister must provide an explanation to that effect.

I move amendment 12.

Derek Mackay: Margaret Mitchell’s amendment 12 would require an explanation of any different treatment that is produced by changes that affect retail premises but not industrial premises. The amendment is unnecessary, as any regulations that the Government introduces would be subject to parliamentary scrutiny.

However, I am happy to confirm to Margaret Mitchell that this Government—unlike the United Kingdom Government—intends to continue to provide 100 per cent relief for industrial property, which is a measure that has been widely welcomed. She will, of course, be aware that her colleagues in the UK Government reformed empty property relief in England in 2008, an action that they have said is unaffordable to reverse. She will know that we have sought to learn from the English experience in which some industrial premises were deroofed, and we are protecting industrial premises from such changes as have been undertaken in England.

I note with interest that Ms Mitchell mentions only retail and not any other type of property.

Margaret Mitchell: In that long-winded explanation, the minister failed to provide the information that was sought. I will withdraw the amendment in the hope that by stage 3 he will have had time to think about the matter and come up with some explanation for why those properties are treated differently.

The minister mentioned deroofing, but—as he should know—the Lambert Smith Hampton report that was published by the Royal Institution of Chartered Surveyors mentioned demolished premises and covered all sectors, not just industrial premises. I am at a loss to know from the minister’s explanation—even at this stage—why industrial properties have been singled out. Perhaps we will get more of an explanation at stage 3.

Amendment 12, by agreement, withdrawn.

Amendment 18 moved—[John Pentland].

The Convener: The question is, that amendment 18 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For
McTaggart, Anne (Glasgow) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)

Against
McMillan, Stuart (West Scotland) (SNP)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (SNP)

Abstentions
Mitchell, Margaret (Central Scotland) (Con)

The Convener: The result of the division is: For 2, Against 4, Abstentions 1.

Amendment 18 disagreed to.

Amendment 19 moved—[John Pentland].

The Convener: The question is, that amendment 19 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For
McTaggart, Anne (Glasgow) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)

Against
McMillan, Stuart (West Scotland) (SNP)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (SNP)

Abstentions
Mitchell, Margaret (Central Scotland) (Con)

The Convener: The result of the division is: For 2, Against 4, Abstentions 1.

Amendment 19 disagreed to.

10:45

The Convener: The next group is on non-domestic rates: treatment of previously unoccupied premises. Amendment 5, in the name of the minister, is the only amendment in the group.
Derek Mackay: Amendment 5 will allow the Government to create further incentives to encourage long-term empty non-domestic premises back into use. Throughout the bill process, I have said that I will listen to and consider any reasonable proposals that will help to address the problem of empty properties.

I am grateful to Mark McDonald, who in June made Parliament aware of a relief that is operating in Northern Ireland for new occupation of empty shops. I see significant merit in it and have discussed with stakeholders how it could be adapted for Scotland and something similar could be introduced.

I intend, subject to parliamentary approval of amendment 5, to introduce regulations that will create a new 50 per cent rates relief for new occupation of some premises that have previously been empty for at least 12 months. I intend that that relief will be available for potentially hundreds of properties from April next year. I remain flexible on the final details, but I noted suggestions during the stage 1 debate from some members—including Anne McTaggart—that any concessions should consider smaller businesses. As such, I intend to focus the new relief on smaller offices and shops by making it available only to premises that have a rateable value below a specified amount.

We have only a fixed budget at our disposal, but we would seek to contain the costs of the relief within the margins of the overall business rates income estimates, which will amount to approximately £2.4 billion in 2013-14.

Taken together, the original proposal to increase rates for landlords of empty premises and the new incentive to help them to attract tenants create a package that will help to get empty properties back into use. I urge the committee to support the amendment.

I move amendment 5.

John Pentland: I have a couple of questions. The minister said that the costs would be met within the margins. Would those costs outweigh the £18 million that it is anticipated the bill will bring in?

The Convener: Mr Pentland, you can ask all your questions and the minister will deal with them in summing up.

John Pentland: That is fine—one question will do.

Sarah Boyack: Will the minister outline what type of properties he envisages being given the relief? He mentioned shops and offices, but what about other types of potential high-street uses—for example surgeries, opticians or small business workshops? Does the minister intend to differentiate between different types of small businesses, or is the proposal intended to address the concerns of the retail industry?

The matter is important because there could be unintended consequences, with some types of properties being completely blighted and others being supported. That goes back to John Pentland’s question about the potential for robbing Peter to pay Paul. It would be good to see detail on how the minister thinks the scheme will work in practice.

Derek Mackay: To answer the questions on that figure directly, we propose that shops and offices that currently have a rateable value of less than £45,000 would be able to apply, which would achieve the purpose of targeting the relief on smaller properties.

On that basis, we suggest that the costs would not be above a maximum of £2 million. However, because the status of properties can change depending on the tenant, what they may be eligible for and so on, it is complicated to arrive at a figure. In our current proposals, there would be a maximum cost of £2 million, which fits within the financial envelope of the £2.4 billion that will be raised from non-domestic rates.

On Sarah Boyack’s question, we remain flexible and we are designing the regulations—I am talking about the enabling power to make regulations. We are more than happy to listen to suggestions about constructing and defining the power so that it does not have unintended consequences.

Key stakeholders have welcomed our approach; I will go back to them and ensure that we get the policy right, so that we achieve the purpose of regenerating properties throughout Scotland, particularly in our high streets, by offering a financial incentive to people to bring empty properties back into use. We have taken a consensual and constructive approach in arriving at our decision, and we think that the policy is perfectly affordable.

The Convener: The question is, that amendment 5 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For
McMillan, Stuart (West Scotland) (SNP)
McTaggart, Anne (Glasgow) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (SNP)

Abstentions
Mitchell, Margaret (Central Scotland) (Con)
The Convener: The result of the division is: For 6, Against 0, Abstentions 1.

Amendment 5 agreed to.

The Convener: The next group is on introduction of power to increase non-domestic rates for unoccupied properties. Amendment 1, in the name of Jim Hume, is the only amendment in the group.

Jim Hume (South Scotland) (LD): Amendment 1 would delete section 1, thereby removing the provisions that will allow the Scottish Government to alter the level of non-domestic rates relief for empty property, and would therefore maintain the current scheme, in which empty commercial properties benefit from 50 per cent non-domestic rates relief, after an initial three-month period during which they get 100 per cent relief.

The Scottish Government said that section 1 will encourage owners to let properties. I argue that if amendment 1 is not agreed to, the bill will encourage owners not to invest in new commercial property and might encourage some owners to take properties down or convert them to residential properties, thus causing a shortage of commercial properties, which are needed to help Scotland out of recession.

Our reducing non-domestic rates relief will do nothing to encourage letting of commercial properties. It is in the interests of businesses to let their properties—that is good business. Businesses have, when their commercial properties are not let, liabilities including electricity, security and maintenance costs. I think that all members received a letter from a property company that pointed out that whether or not a building is fully occupied, the company continues to bear the costs of management services, reception services, cleaning, buildings insurance and so on. That is an incentive to let a property; raising taxes on businesses discourages enterprise.

That is not just my opinion. The Confederation of British Industry Scotland said that the provisions represent a “tax on distress” and the Scottish Property Federation said that empty commercial properties are more likely to be a sign of economic conditions than a sign of business owners’ decisions. Scottish Chambers of Commerce said that our town centres need “a more healthy mix” of commercial properties, and that the increase in liability “will do nothing to assist this process”.

The Government would have known that—if it had consulted earlier and more fully. The lack of formal consultation or business and regulatory impact assessment has led to conflicting information.

The bill will have unintended consequences for the public purse, as well as the private purse. The Finance Committee estimated that up to 870 council properties might be affected.

The Government says:

“Reform of empty property relief will provide incentives to bring vacant commercial premises back into use and raise additional revenue for the Scottish Government.”

However, there is no evidence that empty properties here or elsewhere will be filled—indeed, the evidence is to the contrary. There is evidence only that there will be additional revenue for Government. The bill is ill thought out.

We talk of actions for jobs and growth; amendment 1 is such an action. I urge the committee to support it. Let us have a Scotland that promotes business and enterprise as a serious matter, rather than penalises it.

I move amendment 1.

Margaret Mitchell: I am happy to support amendment 1. As Jim Hume said, commercial properties are empty because of the lack of demand for them. In rejecting the amendments that related to commercial properties that are willfully left empty, the Government exposed the real intent behind the bill: it is a tax-raising measure. The bill will clobber businesses, against the advice of and warnings from the whole business community, from the CBI to the Scottish Chambers of Commerce and the Scottish Property Federation—the list goes on. The Government and the minister have quite simply refused to listen. In the circumstances, I am happy to agree that section 1 should be removed, so that businesses do not face more hardship. As the CBI said, the proposals represent a “tax on distress”.

Anne McTaggart: If the Government had supported amendment 19, we would not be supporting amendment 1. Labour has made compromises at every stage to make section 1 workable. We have been constructive, but the minister has turned his face against us at every turn. The Government is not interested in working collaboratively with the Opposition, as was clear from the new committee member’s outburst earlier in the meeting and as has been apparent throughout today’s debates. Government ministers and back benchers are not interested in working with us. For that reason, we will support Jim Hume’s amendment 1.

Stuart McMillan: During the past two or three years, I have met constituents who have had great difficulty trying to lease properties, and who have been told that the company or individual who owned a property did not want to lease it because that would be a short-term measure that was not in their financial interests. I listened to what Jim Hume said, but I have examples of cases that...
demonstrate that the current situation, which amendment 1 would maintain, is not working. I will vote against amendment 1.

Derek Mackay: I was disappointed to see amendment 1, which would delete the non-domestic rate provisions in the bill. Mr Hume has been unimaginative. How do we tackle empty premises that blight high streets? His answer is to do nothing.

Throughout the process I have made it clear that I am flexible and will listen to constructive suggestions. If Mr Hume had offered a better solution, I would readily have listened to it. However, amendment 1 is not constructive. The critical point is that it offers no solution to the problem of empty premises that blight town centres. It would also create an £18 million shortfall in each budget year—of course, Mr Hume voted for the budget.

To bury our heads in the sand, as Mr Hume would have us do, is not an option. I urge Mr Hume not to press amendment 1. Failing that, I urge members of the committee to reject it.

Members should not take just my word for it. The Government has discussed the proposals with a number of stakeholders, including the Association of Town Centre Management, which appreciates that the policy could be effectively deployed locally. Mr Hume and Margaret Mitchell might want to reflect on their Government’s position; the UK Government said in its command paper that to reverse the policy would be unaffordable. There is no evidence that what Mr Hume talked about would happen.

Labour is in a curious situation if it is arguing that free education, free prescriptions and the council tax freeze are unaffordable, but subsidising landlords to keep premises closed is affordable. That seems strange to me.

This committee and other committees have suggested a number of amendments that the Government has taken on board as we considered how to refine and improve the bill. The Government has lodged a number of amendments that reflect consideration at stage 1. We will consider such amendments shortly, and they will show that the Government has been listening. However, I reject the “Just don’t do this” approach from the Liberal Democrats.

In our view, we have tried to be constructive by saying, “Give us the evidence, and let us have some proper testing.” In the chamber debates and in committee, after members have read the evidence, there have been major criticisms of the bill’s potential impact. Without a proper business and regulatory impact assessment, it is simply not possible to test the legislation before it is passed.

Only a couple of weeks ago in the chamber, the minister spoke about the extensive consultations that he had directly with businesses during the summer. The problem for us, in coming up with amendments and in debating and testing the legislation in committee, is that that information is not in front of us. Only the minister has had those conversations.

As none of that information has been published, the process is not transparent, so we cannot make a judgment on the legislation. All that we can do is test what we have in front of us. We do not have a proper BRIA, so there is not the robust evidence behind the bill that we are seeking.

The Convener: I will let the minister respond to those comments.

Derek Mackay: On the question of carrying out a BRIA, would it have been okay to have ticked a box earlier at the time of the budget announcement and to have left it at that? Instead, we have continued to hold an effective dialogue with all our stakeholders on how the policy could be applied, and have refined our policy as a consequence. In many ways, that is better than a BRIA.

We have provided the financial assessments that have been requested—those have been in the public domain for some time—and I have supported further requests for information. We have also complied with parliamentary scrutiny. We have had on-going consultations, and we will continue to do so as we return to the committee with the regulations that the Government seeks to introduce. That is quite comprehensive engagement.

The Convener: I ask Mr Hume to sum up and to press or withdraw amendment 1.

Jim Hume: I do not agree with Stuart McMillan’s views. Perhaps some commercial property owners have not let properties to potential tenants, but we would have to look into the individual reasons for that. I find it difficult to believe that the situation that Stuart McMillan outlined would be the only reason. If someone lets a property, they will take over all the responsibilities and variable costs, so it would be far more in the interests of owners to let their commercial properties.

11:00

The Convener: We would normally move straight from the minister to the member’s summing up, but I will be lenient and let Sarah Boyack in on this occasion if she keeps her comments brief.

Sarah Boyack: I am grateful, convener.
The minister stated that my view is that it is better to do nothing. My view is that we should maintain the current scheme, which is not doing nothing. The minister said that there is no evidence, but we have evidence. If we look at what has happened down south, we can see that there has been a 15 per cent increase in empty commercial properties in the past four years since the change was made in England.

We are all elected to represent the people of Scotland and to learn from other places. That is what I am doing, and I am prepared to press amendment 1.

The Convener: The question is, that amendment 1 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For
McTaggart, Anne (Glasgow) (Lab)
Mitchell, Margaret (Central Scotland) (Con)
Pentland, John (Motherwell and Wishaw) (Lab)

Against
McMillan, Stuart (West Scotland) (SNP)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (SNP)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 1 disagreed to.
Section 1, as amended, agreed to.

After section 1

The Convener: The next group is on guidance on minimum state of repair below which non-domestic rates and council tax are not payable. Amendment 20, in the name of Margaret Mitchell, is grouped with amendment 23.

Margaret Mitchell: Amendments 20 and 23 reflect concerns that Scottish Land & Estates expressed to the committee about long-term empty properties that are classed as dwellings, but which are not suitable as modern homes. Scottish Land & Estates called on local authorities to be more realistic about removing properties from the council tax register. Uninhabitable ruins, which could not be made habitable, are currently on the register.

In essence, amendment 20 would ensure that the minister will issue guidance on the kind of properties that should be on the valuation roll. I note that the housing minister said that such an approach would not be appropriate. However, amendment 20 is a probing amendment, to ascertain whether anything can be done. I accept that it is for the assessor to decide whether a home should be on the register, but the minister could give guidance or direction on properties such as we are talking about. There are many properties that have no possibility of being made habitable, and it is time consuming for assessors to consider them. Guidance would be welcome. Amendments 20 and 23 would apply in relation to non-domestic rates and domestic properties respectively.

I move amendment 20.

Derek Mackay: I cannot support amendments 20 and 23. It would not be appropriate for the Government to give guidance to assessors, and assessors have not asked for such guidance. Assessors are independent of the Scottish Government and councils. To issue guidance to them would be to undermine their autonomy in determining whether a property should be included in the valuation roll.

Ms Mitchell’s proposed approach risks confusing, rather than clarifying, assessors’ work. Practice and case law play their part in determining whether a property should be included in the valuation roll, and it is not clear what place guidance would have in that landscape. Ms Mitchell has not proposed that assessors be legally required to have regard to guidance, so assessors might legitimately be uncertain about what weight, if any, they should give to guidance.

The only people whom Ms Mitchell’s approach might help would be people who were trying to avoid tax. The guidance could be treated as a manual on how to vandalise one’s property in order to avoid paying tax. I encourage Margaret Mitchell to seek leave to withdraw amendment 20 and not to move amendment 23.

Margaret Mitchell: I am continually amazed, minister, by the difference between your rhetoric about your intention always to be helpful, and your responses, which are often pre-prepared and do exactly the opposite. We are no further on with my probing amendment, which addresses a real issue. Perhaps we can make progress at stage 3. I will not press amendment 20.

Amendment 20, by agreement, withdrawn.

Section 2—Council tax: variation for unoccupied dwellings

The Convener: The next group is on council tax: restriction on level of increase for unoccupied properties et cetera. Amendment 6, in the name of the minister, is grouped with amendments 21, 7 and 7A.

Derek Mackay: Amendments 6 and 7, in my name, are designed to deal with concerns that the Subordinate Legislation Committee expressed, which were noted in the stage 1 report. The amendments will ensure that the bill places a limit
on the Scottish ministers’ discretion to set the amount of council tax increase through regulations. If amendments 6 and 7 are agreed to, regulations will not allow councils to impose on owners a council tax increase of more than 100 per cent, which is equivalent to double the standard rate of council tax.

The Scottish Government does not support amendments 21 and 7A. We intend to give councils the flexibility that they need to set the council tax increase at a high enough level to encourage owners to bring empty homes, which are wasted assets, back into use as houses for people who need them.

We received widespread support for a 100 per cent increase in the consultation on our proposals. No one suggested that the increase should be capped at 50 per cent—indeed, a few people suggested that it should be higher than 100 per cent.

Councils would still be able to set a level of increase at lower than 100 per cent if they felt that that would be appropriate in their area and in line with local circumstances and pressures. The committee welcomed the Scottish Government’s intention to give councils discretion so that they can adapt to their local situations. Setting the cap lower, at 50 per cent, would reduce that discretion.

The Government amendments include some minor changes to section 2. Amendment 6 clarifies that regulations that are made as a result of the bill will allow councils the broad discretion to offer council tax discounts, to offer no discount or to charge an increase. That will remove the existing provision, which could be used to allow councils to decide not to apply the regulations in their areas. Given the flexibility that councils will be given through the regulations, which I have just described, that provision has been overtaken.

I therefore urge the committee to support amendments 6 and 7 and to reject amendments 21 and 7A.

Anne McTaggart: If the minister’s proposal is not amended by amendment 21, people will be asked to pay twice as much on an unoccupied property in this current time of austerity. I am appalled and dismayed that some of the people to whom the minister has spoken would agree to going further than 100 per cent.

By ensuring that there is a cap, we can still ensure, without being overly punitive, that people work towards putting their property back into use.

John Wilson: I am quite surprised that Anne McTaggart is opposed to the proposal. In areas where pressured area status has been applied, I know of inherited properties that are lying empty because their owners have decided not to let them.

At a time when there is a demand for rented property, particularly in areas with pressured area status, those potential landlords should be made to release those properties in whichever way possible, whether by transferring their property to a tenant or by selling it.

One local authority has a waiting list that it cannot even attempt to address; at the same time, properties are lying empty in that area. One property in particular has been lying empty for more than 10 years, and I understand that the owner has no intention of selling or letting it.

Anything that can be done to release such properties to people who require adequate housing should be done.

Derek Mackay: The issue is fairly straightforward. We intend to respond to the committee’s concerns by setting a cap at 100 per cent. That figure has enjoyed much support from stakeholders, including key housing stakeholders. Some people would have liked us to have gone further than 100 per cent, but that level feels reasonable.

The crucial point is that local authorities will have discretion as to how they apply the policy, and if 50 per cent seems more appropriate to them they can apply a 50 per cent increase. The enabling power is democratic and can be adapted to local circumstances.

11:15

The Convener: The question is, that amendment 6 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For
McMillan, Stuart (West Scotland) (SNP)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (SNP)

Against
McTaggart, Anne (Glasgow) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)

Abstentions
Mitchell, Margaret (Central Scotland) (Con)
The Convener: The result of the division is: For 4, Against 2, Abstentions 1.
Amendment 6 agreed to.

Amendment 13 moved—[Margaret Mitchell].

The Convener: The question is, that amendment 13 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For
Mitchell, Margaret (Central Scotland) (Con)

Against
McMillan, Stuart (West Scotland) (SNP)
McTaggart, Anne (Glasgow) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (SNP)

The Convener: The result of the division is: For 1, Against 6, Abstentions 0.
Amendment 13 disagreed to.

Amendment 21 moved—[Anne McTaggart].

The Convener: The question is, that amendment 21 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For
McTaggart, Anne (Glasgow) (Lab)
Mitchell, Margaret (Central Scotland) (Con)
Pentland, John (Motherwell and Wishaw) (Lab)

Against
McMillan, Stuart (West Scotland) (SNP)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (SNP)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.
Amendment 21 disagreed to.

The Convener: The next group is on council tax: treatment of unoccupied social housing. Amendment 22, in the name of Margaret Mitchell, is grouped with amendment 24.

Margaret Mitchell: Amendment 22 is based on the assumption that council tax is payable in respect of empty social housing and would ensure that provision for increases or discounts could not result in social housing being treated more favourably than other properties, solely on the ground of ownership. If ministers and local authorities are increasing the council tax that is applicable to empty privately owned houses to encourage houses back into use, it is logical that the same rationale and provision should apply to empty publicly owned housing. Amendments 22 and 24 would therefore ensure that social housing could not be exempt from council tax increases. The amendments work in tandem and would provide that, if an increase were being applied to other empty properties in an area, empty social housing could not be subject to differential treatment simply on the basis of ownership.

I move amendment 22.

Derek Mackay: The Scottish Government does not support amendments 22 and 24. However, we agree with Margaret Mitchell that social landlords should not generally be exempt from paying the council tax or a council tax increase. Like any responsible landlord, councils and housing associations should seek to avoid leaving their properties empty over a long period, so that they maximise their income and help to reduce waiting lists.

As members will see if they look at the draft regulations that we are consulting on, it is not currently the Scottish Government’s intention to exempt social landlords from either the council tax or a council tax increase. Therefore, we think that the amendments are not required and, indeed, that they would introduce some inflexibility into the operation of the legislation. That could be undesirable, and I hope that Margaret Mitchell will consider not pressing amendments 22 and 24.

I welcome Margaret Mitchell’s conversion to the rationale on how to bring empty properties back into use, and appreciate that she is trying to be helpful. However, I say in the most generous spirit that the amendments are not helpful, as the Government shares her intention. There will be no exemptions, as the member has perhaps suggested.

Margaret Mitchell: We almost got some reasonable comments from the minister. It is a pity that he had to spoil things with the politics of the playground in his final comments.

I will seek to withdraw amendment 22 because, in a way, the question has been answered. Social housing will be liable for the council tax and will be treated the same as privately owned housing in the legislation. However, I will move amendment 24, which would ensure that, if the private properties in an area are deemed to be liable for an increase in council tax, the same will apply to social housing. That is certainly not covered in the bill.

Amendment 22, by agreement, withdrawn.

Amendment 7 moved—[Derek Mackay].

Amendment 7A moved—[Anne McTaggart].

The Convener: The question is, that amendment 7A be agreed to. Are we agreed?

Members: No.
The Convener: There will be a division.

For
McTaggart, Anne (Glasgow) (Lab)
Mitchell, Margaret (Central Scotland) (Con)
Pentland, John (Motherwell and Wishaw) (Lab)

Against
McMillan, Stuart (West Scotland) (SNP)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (SNP)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 7A disagreed to.

The Convener: The question is, that amendment 7 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For
McTaggart, Anne (Glasgow) (Lab)
Mitchell, Margaret (Central Scotland) (Con)
Pentland, John (Motherwell and Wishaw) (Lab)

Against
McMillan, Stuart (West Scotland) (SNP)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (SNP)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 7 agreed to.

Amendment 14 moved—[Margaret Mitchell].

The Convener: The question is, that amendment 14 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For
Mitchell, Margaret (Central Scotland) (Con)

Against
McMillan, Stuart (West Scotland) (SNP)
McTaggart, Anne (Glasgow) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (SNP)

The Convener: The result of the division is: For 1, Against 6, Abstentions 0.

Amendment 14 disagreed to.

The Convener: The next group is on council tax: penalties for failure to provide correct information regarding certain properties. Amendment 8, in the name of the minister, is grouped with amendments 9 and 10.

Derek Mackay: These amendments relate to the penalty charges for failures by an owner to provide accurate information to a local authority on whether their home is occupied.

The amendments respond to the concern that the committee raised in its report that the proposed maximum £200 penalty level should be reconsidered as it may not be sufficient to cover the costs to a local authority of collecting the penalty. The committee also highlighted that £200 could be much less than the council tax an owner could potentially save by not letting a local authority know that their home was unoccupied, so it would not offer a sufficient deterrent.
Officials have been in touch with some local authorities and we believe that our proposed revised penalty of up to £500 is sufficient to cover the average costs to local authorities of administering and recovering a penalty. It should also pose a greater deterrent to owners who may be tempted to either lie to their council or simply not tell it that their home is unoccupied to try to avoid paying a council tax increase. The Scottish Government believes that the revised level will allow councils to determine a penalty that is proportionate in the circumstances.

Amendments 8 and 9 would increase the initial penalty that a council could charge to up to £500 when accurate information about whether a home is occupied is not provided on request to a council, or when a council is undercharging an owner because it has not been made aware that a home is unoccupied.

Amendment 10 would allow a council to charge a repeat penalty of up to £500—in addition to the first penalty—each time it makes a further request for information regarding a home's occupation status that is not adequately responded to.

I hope that the committee will support the amendments to help councils that charge a council tax increase to enforce it.

I move amendment 8.

Stewart Stevenson: The minister said that the £500 is intended to cover the shortfall of council tax that has not been paid because of inadequate reporting. He makes provision for there to be fines when multiple requests are not adequately responded to. Can he assure me that there is no artificial limit on how many times a council could reasonably go back to someone to acquire the information that it seeks. On John Pentland’s question, the revised maximum is £500, but it is a matter for the local authority’s discretion what the figure might be in its area. I inform John Wilson that there has been dialogue with local authorities on how the process will be applied in practice.

11:30

The Convener: There are a number of questions for the minister to deal with in his summing up.

Derek Mackay: They are helpful questions. Amendment 8 responds to the committee’s concerns that £200 was too low a figure for a penalty and would not be enough of an incentive.

On Stewart Stevenson’s question, there is no artificial limit on how many times a council could reasonably go back to someone to acquire the information that it seeks. On John Pentland’s question, the revised maximum is £500, but it is a matter for the local authority’s discretion what the figure might be in its area. I inform John Wilson that there has been dialogue with local authorities on how the process will be applied in practice.

Amendment 8 agreed to.

Amendment 9 moved—[Derek Mackay].

The Convener: There will be a division.

For
McMillan, Stuart (West Scotland) (SNP)
McTaggart, Anne (Glasgow) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (SNP)

Abstentions
Mitchell, Margaret (Central Scotland) (Con)

The Convener: The result of the division is: For 6, Against 0, Abstentions 1.

Amendment 8 agreed to.

Amendment 9 moved—[Derek Mackay].

The Convener: The question is, that amendment 9 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For
McMillan, Stuart (West Scotland) (SNP)
McTaggart, Anne (Glasgow) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (SNP)

Abstentions
Mitchell, Margaret (Central Scotland) (Con)

The Convener: The result of the division is: For 6, Against 0, Abstentions 1.

Amendment 9 agreed to.

Amendment 10 moved—[Derek Mackay].

The Convener: There will be a division.

For
McMillan, Stuart (West Scotland) (SNP)
McTaggart, Anne (Glasgow) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (SNP)

Abstentions
Mitchell, Margaret (Central Scotland) (Con)

The Convener: The result of the division is: For 6, Against 0, Abstentions 1.

Amendment 9 agreed to.

Amendment 10 moved—[Derek Mackay].
The Convener: The question is, that amendment 10 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For
McMillan, Stuart (West Scotland) (SNP)
McTaggart, Anne (Glasgow) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (SNP)

Abstentions
Mitchell, Margaret (Central Scotland) (Con)

The Convener: The result of the division is: For 6, Against 0, Abstentions 1.

Amendment 10 agreed to.

Section 3, as amended, agreed to.

Section 4 agreed to.

After section 4

The Convener: The next group is on abolition of housing support grant: provision of transitional assistance. Amendment 4, in the name of Tavish Scott, is the only amendment in the group. I welcome you to the committee, Mr Scott, and invite you to speak to and move your amendment.

Tavish Scott (Shetland Islands) (LD): Thank you, convener. I do not think that you were the convener earlier this morning, but you are now, so I should begin by congratulating you.

The Convener: Thank you, Mr Scott.

Tavish Scott: It has been many years since I have enjoyed the excitement of a bill committee. Looking at Sarah Boyack reminds me that, many years ago, I was sitting at the other end of the table where Mr Mackay is and was doing the same kind of stuff as he is now, so I have every sympathy for him on these occasions.

I thank committee members, but particularly the convener, for their visit to Shetland, which was welcome. I believe that the evidence reflects that the committee gained considerably from that visit. I know that colleagues at home were appreciative of the quick turnaround of your visit and the fact that you had bothered to come, which was very welcome.

The point that I make in consideration of the issues that confront Shetland Islands Council and, perhaps more important, the 1,800 tenants who pay rent for their council houses in Shetland is that there needs to be an agreement between the Scottish Government and Shetland Islands Council over a transitional package that will allow the council to plan financially for new homes and affordable rent levels in Shetland. Abolishing housing support grant in one fell swoop without an agreement on transitional relief would be wrong, and the committee was presented with evidence showing why it would be wrong.

Shetland Islands Council is the only Scottish local authority receiving housing support grant. The Scottish Government receives that money from the Treasury and, in that sense, is merely the middle man. Amendment 4 is therefore about a particular set of circumstances that do not apply to other local authorities. That is why I accept the recommendation of this committee and the Finance Committee that transitional arrangements are needed. My purpose today is to ensure that that happens; otherwise the bill will become law and there will be no requirement backed by statute to ensure that an agreement is reached.

Amendment 4 does not contain any financial details; it would be wrong if it did. Parliament should not tie ministerial hands on the financial detail. Nor should Parliament tie the council's hands. This amendment respects the right of both parties—the Government and Shetland Islands Council—to reach agreement on a transitional package.

If there is no agreement, the impact on Shetland housing tenants will be desperate. According to the evidence that was presented to the committee, there will be a rise of £8.13 a week in rents; the proportion of rent that goes on servicing debt interest will rise from its current 40 per cent; and investment in social housing, with a Shetland waiting list in excess of 1,000, will be cut annually by £760,000.

It is important to recognise that if interest rates rise, which would of course affect the whole of Scottish housing, an increase of 1 per cent would equate to a rise of £4.80 in weekly rents in Shetland.

Over the past 15 years, Shetland Islands Council has managed to get the overall housing debt down from £60 million to £41 million. That is a fact that, if I may say so, contrasts with the supplementary evidence given to the committee after its meeting on 2 May by the Scottish Government. I found that evidence somewhat disappointing.

The council has presented analysis to the Government that demonstrates how, if an agreement could be reached to reduce the housing debt to £25 million, it would sustainably manage its housing revenue account at that level without the housing support grant. That would not be easy, but it would be manageable and it would be a fair outcome. However, such a financial scenario is against a background in Shetland of hard and painful decisions being taken on school closures, cuts to ferry timetables and reductions to
services—all aimed at balancing the council’s books. The council is dealing with significant financial pressures of which housing debt is but one.

I want to commend the committee in particular for paragraphs 205 and 206 of its stage 1 report. Paragraph 206 says:

“Housing need and demand continued to be high, but the Council’s ability to provide new social housing remained constrained by the requirement to service high levels of debt.”

That puts the context of amendment 4 in a fair light.

The Parliament and the Government cannot divorce the housing support grant from the level of housing debt that Shetland carries. A transitional agreement would allow the council to meet its own objective and the Government’s objective—to ensure housing development within the prudential borrowing constraints while not hiking rent levels to even higher levels.

I will end with the observations of the Shetland Tenants Forum, whose written evidence to the committee was clear. It said:

“our tenants are going to suffer severely if our HSG is abolished and the Debt is not reduced.”

My amendment provides a route to avoid that and I ask the committee to consider it and support it.

I move amendment 4.

**The Convener:** Thank you, Mr Scott. I think that I speak for my colleagues who went to Shetland when I say that we enjoyed our visit. I have never been to Shetland yet when there has been bad weather, but I have to admit that I have never been there in the winter.

Does anyone wish to enter the debate?

**Derek Mackay:** I fear that I may be about to lose the sympathy of Mr Scott. I, too, have visited Shetland to discuss a number of items with the local authority, including this one.

The Scottish Government opposes amendment 4. If the amendment were accepted, Shetland Islands Council could in effect hold the Scottish Government to ransom on the abolition of the housing support grant. Bear in mind that the council has requested a sum of £15 million as a transitional payment for ending a subsidy that would have paid only £840,000 over the next three years, then ceased. Requiring the Scottish Government to reach an agreement with the council seems neither appropriate nor prudent to me and it does not seem to be in the spirit of the committee’s conclusion in the stage 1 report that a solution should be fair not only to Shetland Islands Council tenants but to taxpayers generally.

On that point, I remind the committee that, over the past 34 years, the housing revenue account has paid very substantial loan charges to the harbour fund, which currently has a balance of £62 million that could be made available for housing purposes. In addition, Shetland Islands Council has received upwards of £80 million in housing support grant payments in cash terms since 1979-80, which translates into £124 million in today’s prices. That would have been sufficient to pay off today’s debt of £45 million nearly three times over.

Housing policy officials are continuing, in parallel, to talk to Shetland Islands Council about a possible solution and they will continue to do so. The Scottish Government is not against providing some transitional funding to the islands, which can be done in a number of ways that do not require any provisions in the bill. However, that cannot be done sensibly with amendment 4. The Scottish Government must balance the outcome between what is fair to Shetland Islands Council’s tenants and what is fair to Scottish taxpayers. Therefore, I hope that Tavish Scott will seek to withdraw the amendment. If not, I urge the committee to reject amendment 4 and allow the Scottish Government and the council to reach a fair outcome on the basis of continuing dialogue.

**The Convener:** Mr Scott, I ask you to wind up, and to press or withdraw amendment 4.

**Tavish Scott:** If I had put figures in my amendment, the minister would have a fair point. The purpose of not including figures is so that the minister’s hands are not tied behind his back. The minister used uncharacteristically explosive language to describe a situation that would not arise. If he was interested in reaching a fair settlement—which I accept, and I stated for the record that it had to be fair to both the Government and the council—I do not think that he would have expressed himself in that way.

Frankly, I think that the minister got it wrong on the finances, too. I refer him to the Finance Committee’s evidence from James Gray, Shetland Islands Council’s director of finance. I assure the minister that I will pass on the *Official Report* of today’s proceedings to Mr Gray, who is a hard-working local government servant, and I am sure that he will want to reflect back to the minister and his officials on the inaccuracies of the minister’s statements about the council’s financial position. What the minister said was gratuitously not the case.

I ask the committee to reflect on a statement made by the Government in paragraph 6 of its supplementary evidence to the committee, which stated:

“This suggests that the council considers the level of debt to be affordable, prudent and sustainable as they have not reduced the debt burden per property over this period.”
That is demonstrably unfair: Shetland Islands Council has reduced the debt from £60 million to £41 million during the past 15 years. For the Government to present evidence to the committee that states that the council has done nothing to reduce its debt is quite unfair.

Presiding Officer—Presiding Officer! You are not quite there yet, Mr Stewart, but no doubt it will be any day now.

Convener, I will deal with the point about negotiations. Shetland Islands Council presented financial modelling to the Government—I appreciate that this was not Mr Mackay’s portfolio at the time; there seem to have been a number of housing ministers over the past couple of years or so—in November last year, and again in February this year when asked to do so. At all stages, the council’s directors of housing and finance have been entirely open to opening the parameters of a discussion about how to reach an agreement. At no time has the Scottish Government, either at official or ministerial level, opened discussions. When Mr Brown, Mr Mackay’s colleague, was in the Shetlands in July, there was a perfectly convivial discussion but no opening of negotiations; Mr Mackay, as he said, was there in August.

If amendment 4 is not agreed to and the Government refuses it, what will simply happen is that the bill will be passed, housing support grant will be abolished, and Shetland Islands Council will be told by the Government to sort the matter out itself. That is the clear intention from what we have heard. That is disappointing given that the council wants to work with the Government to reach a constructive outcome. Of course, that outcome will not meet both parties’ absolute aims, but there can be a negotiated settlement. That seems a fair objective to reach and I am disappointed that the Government will not accept that. I therefore press amendment 4.

The Convener: Thank you, Mr Scott. I put on the record that I would never dare to challenge the Presiding Officer.

Tavish Scott: Neither would I.

The Convener: The question is, that amendment 4 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For
McTaggart, Anne (Glasgow) (Lab)
Mitchell, Margaret (Central Scotland) (Con)
Pentland, John (Motherwell and Wishaw) (Lab)

Against
McMillan, Stuart (West Scotland) (SNP)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (SNP)

The Convener: The result of the division is: For 0, Against 7, Abstentions 0.

Amendment 4 disagreed to.

Section 5—Commencement
Amendment 2 moved—[Sarah Boyack].

The Convener: The question is, that amendment 2 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For
McTaggart, Anne (Glasgow) (Lab)
Mitchell, Margaret (Central Scotland) (Con)
Pentland, John (Motherwell and Wishaw) (Lab)

Against
McMillan, Stuart (West Scotland) (SNP)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (SNP)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 2 disagreed to.

Amendment 3 moved—[Sarah Boyack].

The Convener: The question is, that amendment 3 be agreed to. Are we agreed?

Members: No.

For
McTaggart, Anne (Glasgow) (Lab)
Mitchell, Margaret (Central Scotland) (Con)
Pentland, John (Motherwell and Wishaw) (Lab)

Against
McMillan, Stuart (West Scotland) (SNP)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (SNP)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 3 disagreed to.

Section 5 agreed to.

Section 6 agreed to.

Long title agreed to.

The Convener: That ends stage 2 consideration of the bill. Thank you all very much.

Meeting closed at 11:45.
Amendments to the Bill since the previous version are indicated by sideling in the right margin. Wherever possible, provisions that were in the Bill as introduced retain the original numbering.

Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill
[AS AMENDED AT STAGE 2]

An Act of the Scottish Parliament to amend the law regarding non-domestic rates and council tax in respect of unoccupied properties; and to repeal certain provisions that allow grants to be made to local authorities to meet housing needs in their areas.

Unoccupied properties

1 Rating of unoccupied lands and heritages

(1) The Local Government (Scotland) Act 1966 (c.51) is amended in accordance with this section.

(2) In section 24(3) (unoccupied lands and heritages)—
   
   (a) for “this section” substitute “subsection (2)”,

   (b) for “one half” substitute “50%”,

   (c) after “occupied”, in the first place it appears, insert “or a rate equal to such other percentage, not exceeding 90%, of that amount as the Scottish Ministers may prescribe by regulations in relation to that class”.

(3) In section 24A(4) (lands and heritages partly unoccupied for a short time), for paragraph (b) substitute—

   “(b) either—

   (i) 50% of the value apportioned to the unoccupied part of the lands and heritages; or

   (ii) where the Scottish Ministers prescribe by regulations a different percentage, not exceeding 90%, in relation to the class into which the lands and heritages fall, that percentage of the value apportioned to the unoccupied part of the lands and heritages.”.

(4) In section 24B (certain lands and heritages to be treated as unoccupied), after subsection (2) insert—
“(3) The Scottish Ministers may provide by regulations that lands and heritages falling within a class prescribed by the regulations are to continue to be treated as unoccupied, for the purposes of section 24 (apart from subsection (4) of that section), for such period after becoming occupied as the regulations specify."

(4) Regulations under subsection (3) are subject to the negative procedure.”.

2 Council tax: variation for unoccupied dwellings

(1) Section 33 of the Local Government in Scotland Act 2003 (asp 1) (council tax: discount for unoccupied dwellings) is amended in accordance with this section.

(2) In subsection (1)—

(a) paragraph (a) and the word “and” immediately following it are repealed,

(b) in paragraph (b)—

(i) the words “(whether by amendment of that section or otherwise)” are repealed,

(ii) for “discount”, in both places where it appears, substitute “variation”.

(2A) After subsection (1) insert—

“(1A) A variation provided under subsection (1) may not increase the amount of council tax payable in respect of a chargeable dwelling and a day by more than the amount calculated in respect of the dwelling and the day in accordance with section 78 of the Local Government Finance Act 1992 (basic amounts payable).”.

(2B) In subsection (2)(b)—

(a) sub-paragraph (i) is repealed,

(b) in sub-paragraph (ii), for “they make provision” substitute “a different amount of variation, or no variation, applies”.

(3) In subsection (4), for the words from “set” to the end of the subsection substitute “—

(a) increase the amount of council tax payable in respect of a chargeable dwelling and a day by more than the amount calculated in respect of the dwelling and the day in accordance with section 78 of the Local Government Finance Act 1992,

(b) contravene any limits that may be specified in the regulations.”.

(4) In the title of the section, for “discount” substitute “variation”.

3 Amendment of the Local Government Finance Act 1992

(1) The Local Government Finance Act 1992 (c.14) is amended in accordance with this section.

(2) In section 71(2)(d) (liability to be determined on a daily basis), for “discount”, in both places where it appears, substitute “variation”.

(3) In paragraph 4 of Schedule 2 (administration)—

(a) in sub-paragraphs (2) and (3), for “discount”, in each place where it appears, substitute “variation”,

(b) after sub-paragraph (5) insert—
“(5A) The regulations may include provision that where—

(a) in accordance with any provision included under sub-paragraph (4) the authority informs the person concerned of its assumption; and

(b) at any time before the end of the financial year following the financial year concerned, the person has reason to believe—

(i) that the authority’s assumption is based on a misapprehension about the period during which there will be, or was, no resident of the dwelling; and

(ii) that misapprehension has resulted in the authority incorrectly assuming that the chargeable amount is not subject to any increase, or in the authority underestimating the amount of the increase,

the person must, within such period as may be prescribed, notify the authority of that belief.

(5B) The regulations may include provision—

(a) that any person appearing to an authority to be a resident, owner or managing agent of a particular dwelling must supply to the authority such information as fulfils the following conditions—

(i) it is in the possession or control of the person concerned;

(ii) the authority requests the person concerned to supply it; and

(iii) it is requested by the authority for the purpose of ascertaining whether the chargeable amount is subject to any variation on the basis that, in respect of any period specified in the request, there is, was or will be no resident of the dwelling;

(b) that the information is to be supplied within a prescribed period of the request being made and, if the authority so requires, in a form specified in the request; and

(c) that a request may be served on the person concerned either by name or by such description as may be prescribed.”.

(c) in sub-paragraph (6), for “the reference in sub-paragraph (5)(b)” substitute “the references in sub-paragraphs (5)(b), (5A)(b)(ii) and (5B)(a)(iii)”.

(4) The italic cross-heading immediately preceding paragraph 4 of Schedule 2 becomes “Variation”, instead of “Discount”.

(5) In paragraph 2 of Schedule 3 (failure to supply information to or notify local authority)—

(a) after sub-paragraph (1) insert—

“(1A) Where a person is requested by a local authority to supply information under any provision included in regulations under paragraph 4(5B) of Schedule 2, the authority may impose on the person a penalty not exceeding £500 if—

(a) the person fails to supply the information in accordance with the provision; or

(b) in purported compliance with the provision the person knowingly supplies information which is inaccurate in a material particular.”,

(b) in sub-paragraph (2)(a), for “4” substitute “4(5)”,
(c) after sub-paragraph (2) insert—
“(2A) A local authority may impose on a person a penalty not exceeding £500 in any
case where—
(a) the person is required by any provision included in regulations under
paragraph 4(5A) of Schedule 2 to notify the authority; and
(b) the person fails to notify the authority in accordance with the provision.”,
(d) in sub-paragraph (3)—
(i) after “(1)” insert “or (1A)”,
(ii) after “£200” insert “, or of an amount not exceeding £500 if the request is
under any provision included in regulations under paragraph 4(5B) of
Schedule 2,”.

Abolition of housing support grants to local authorities

4 Abolition of housing support grants
The following provisions are repealed—

(a) in the Housing (Scotland) Act 1987 (c.26)—
(i) sections 191 to 193 (housing support grants to local authorities),
(ii) in section 338 (interpretation), the definition of “housing support grant”,
(iii) in Part 2 of Schedule 15 (housing revenue account), paragraph 2(1)(c),
(b) in the Housing (Scotland) Act 1988 (c.43), paragraphs 4 and 5 of Schedule 8,
(c) in the Housing (Scotland) Act 2001 (asp 10), section 94(1) (alteration of housing
finance arrangements).

General

5 Commencement
(1) This Act (other than section 4) comes into force on the day of Royal Assent.

(2) Section 4 comes into force on 1 April 2013.

6 Short title
The short title of this Act is the Local Government Finance (Unoccupied Properties etc.)
(Scotland) Act 2012.
Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill

[AS AMENDED AT STAGE 2]

An Act of the Scottish Parliament to amend the law regarding non-domestic rates and council tax in respect of unoccupied properties; and to repeal certain provisions that allow grants to be made to local authorities to meet housing needs in their areas.

Introduced by: Alex Neil
On: 26 March 2012
Supported by: John Swinney
Bill type: Government Bill
LO cal GOVERNMENT FINANCE (UNOCCUPIED PROPERTIES ETC.) (SCOTLAND) BILL

REVISED EXPLANATORY NOTES

CONTENTS

1. As required under Rule 9.7.8A of the Parliament’s Standing Orders, these revised Explanatory Notes are published to accompany the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill (introduced in the Scottish Parliament on 26 March 2012) as amended at Stage 2. Text has been added or amended as necessary to reflect amendments made to the Bill at Stage 2 and these changes are indicted by sideling in the right margin.

INTRODUCTION

2. 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.

3. The 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 schedule, or a part of a section or schedule, does not seem to require any explanation or comment, none is given.

THE BILL

4. The Bill will amend the law regarding non-domestic rates and council tax in respect of unoccupied properties. For non-domestic rates, it allows the Scottish Ministers greater flexibility to vary the relief that applies in relation to the rates payable in respect of unoccupied properties and formerly unoccupied properties. For council tax, the Bill enables variation (including an increase) of the tax payable where a property is unoccupied and amends powers in respect of the ability of councils to require provision of information. The Bill also repeals provisions that allow grants to be made to local authorities in order to allow them to balance their housing revenue account.

COMMENTARY ON SECTIONS

Section 1 – Rating of unoccupied lands and heritages

5. This section relates to non-domestic (business) rates relief in respect of unoccupied premises.
6. Subsections (2) and (3) will respectively amend sections 24 and 24A of the Local Government (Scotland) Act 1966 to allow the Scottish Ministers, by regulations (subject to the negative procedure), to vary the amount of rate relief in relation to unoccupied premises (or unoccupied parts of premises where there has been an apportionment under section 24A of the 1966 Act).

7. Currently, section 24 of the 1966 Act provides that no rates are payable in respect of wholly unoccupied premises (meaning there is 100% rates relief). However, it also allows the Scottish Ministers to provide, in regulations, that in respect of prescribed classes of premises a 50% relief applies. Section 24A of the 1966 Act provides a similar system of relief in respect of premises that are partly unoccupied for a short time. It permits the temporary apportionment of the rateable value of the premises between the occupied and unoccupied parts. The default position is that a nil value is attributed to the unoccupied part (which means, in effect, 100% rates relief is given in relation to that part). Like section 24, section 24A allows the Scottish Ministers to provide in regulations that a 50% relief applies to the unoccupied part in respect of prescribed classes of premises.

8. Thus sections 24 and 24A of the 1966 Act allow regulations to vary the level of relief in respect of prescribed classes of unoccupied premises from the default 100% to 50%. The Bill will amend those sections to permit regulations made under them to vary the percentage of relief that applies to the classes of premises prescribed. The power to vary the percentage of relief will however be subject to the limitation that the level of relief cannot be reduced to less than 10% (i.e. unoccupied premises, or unoccupied parts of premises, cannot be charged more than 90% of the rates that would be payable were the premises, or the part, occupied).

9. Section 1(4) of the Bill will amend section 24B of the 1966 Act to enable the Scottish Ministers, by regulations (subject to the negative procedure), to provide for classes of properties which were previously unoccupied to continue to be treated as unoccupied and so continue to receive unoccupied property relief for a prescribed period after they become occupied.

Section 2 – Council tax: variation for unoccupied dwellings

10. Existing provision in section 33 of the Local Government in Scotland Act 2003 gives the Scottish Ministers the power, by regulations, to provide for a council tax discount in respect of unoccupied dwellings. It also allows the Scottish Ministers to make regulations that confer a power on local authorities to vary the level of council tax discount provided for such dwellings in their areas. These powers were used to make the Council Tax (Discount for Unoccupied Dwellings) (Scotland) Regulations 2005 (“the 2005 Regulations”; S.S.I. 2005/51) which allowed for discounts of between 10% and 50% for unoccupied properties.

11. Section 2 of the Bill will amend section 33 of the 2003 Act so that the Scottish Ministers may, by regulations, vary the amount payable, or allow local authorities to vary the amount payable, in relation to such unoccupied properties as are specified in the regulations. This power will include the ability to provide for an increased charge either by removing the discount or imposing an increase. The power to set, by regulations, a limit to the maximum discount local authorities can allow is retained. By virtue of the amendment, future regulations will also be able to set a limit on the maximum increase local authorities can impose, as well as placing other
These documents relate to the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill as amended at Stage 2 (SP Bill 12A)

restrictions on any powers the regulations confer. Any increase in council tax liability imposed by virtue of regulations under section 33 as amended (whether imposed directly by the regulations or by local authority variation of the regulations) will not be able to increase the amount of council tax payable so that it is more than double the standard rate of council tax that applies to the property. As enacted, the powers conferred by section 33 of the 2003 Act are exercisable subject to the affirmative procedure (as defined by section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010) and the Bill will not change that.

12. As section 33(2)(b)(ii) of the 2003 Act, as amended, envisages local authorities having the power to modify regulations so as to turn a council tax discount into an increase (or vice-versa), it follows that the power that may be conferred under section 33(2)(b)(ii) would also allow local authorities to modify regulations so as to disapply a discount or an increase provided for in the regulations without going so far as to turn an increase into a discount or a discount into an increase (in other words local authorities could use the power described in section 33(2)(b)(ii) to provide that the standard rate of council tax applies rather than any discount or increase prescribed in the regulations). That being the case, section 33(2)(b)(i), which describes a specific power for local authorities to disapply regulations, is no longer required and will therefore be repealed by the Bill.

13. Section 2 of the Bill will also repeal section 33(1)(a) of the 2003 Act, on account of that provision being spent, the provision which it enabled having been used to make the 2005 Regulations. A power to amend section 33, which is contained in subsection (1)(b) of that section, is revoked, it being unnecessary as a result of the changes made by the 2005 Regulations.

Section 3 – Amendment of the Local Government Finance Act 1992

14. This section amends paragraph 4(2) of Schedule 2 to the Local Government Finance Act 1992 (“the 1992 Act”) to permit the Scottish Ministers, by regulations, to require local authorities to take reasonable steps to ascertain whether the amount of council tax to be charged is subject to any variation (section 2 of the Bill having replaced references to “discounts” with “variations” in the Local Government in Scotland Act 2003 where the references relate to unoccupied dwellings). It also amends paragraph 4(3) of Schedule 2 to the 1992 Act to ensure that the provisions in the regulations for assumptions that a local authority can make in calculating a chargeable amount can include an increased council tax charge as well as any circumstances where the dwelling is believed to be eligible for a discount. There is a consequential change to section 71 of the 1992 Act.

15. The section inserts a new paragraph 4(5A) into Schedule 2 to the 1992 Act, which allows the Scottish Ministers, by regulations, to impose a duty on owners to notify their local authority 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. The local authority may impose a penalty, not exceeding £500, on any person who fails to notify it within the period prescribed in regulations (this is provided for by section 3(5)(c) of the Bill).

16. The section also inserts paragraph 4(5B) into Schedule 2 to the 1992 Act in order to impose a requirement 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. New paragraph 2(1A) of Schedule 3 to the 1992 Act is inserted by section 3(5)(a) of the Bill to enable the local authority to impose a penalty not exceeding £500 on any person who fails to comply with a request. Section 3(5)(d) provides a consequential change to paragraph 2(3) of Schedule 3 to the 1992 Act in order to enable a local authority to impose a further penalty of £500 on a person if the local authority makes a further request for information to that person under the new paragraph 4(5B) of Schedule 2 to the 1992 Act and that person again fails to supply the information requested or knowingly supplies inaccurate information.

17. Section 3 of the Bill modifies the powers conferred by section 4 of the 1992 Act. Those powers, as enacted, are exercisable subject to the negative procedure (as defined by section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010) and the Bill will not change that.

Section 4 – Abolition of housing support grants

18. This section removes the requirements in the Housing (Scotland) Act 1987 on the Scottish Ministers to pay housing support grants to local authorities. These grants are payable by the Scottish Ministers to assist local authorities to meet reasonable housing needs in their areas. Section 4 will remove the legislative requirement to pay such grants from 1 April 2013. Two consequential changes to other legislation are also made.

Section 5 – Commencement

19. This section provides that the Act the Bill will become, if passed, will come into force on the day of Royal Assent. Section 4 is excepted and will come into force on 1 April 2013.
INTRODUCTION

1. This Supplementary Financial Memorandum relates to the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill (introduced in the Scottish Parliament on 26 March 2012) as amended at Stage 2. It has been prepared by the Scottish Government in order to satisfy Rule 9.7.8B of the Parliament’s Standing Orders. It does not form part of the Bill and has not been endorsed by the Parliament.

2. This information is supplemental to the Financial Memorandum for the Bill which, as introduced, will amend the law regarding non-domestic rates and council tax in respect of unoccupied properties. For non-domestic rates, the Bill allows Scottish Ministers, by regulations, to vary the amount of rates relief in relation to unoccupied premises (or unoccupied parts of premises where there has been an apportionment under section 24A of the 1966 Act). For council tax, the Bill enables variation (including an increase) of the tax payable where a property is unoccupied and amends powers in respect of the ability of councils to require provision of information. The Bill also repeals provisions that allow grants to be made to local authorities in order to allow them to balance their housing revenue account.

3. This document provides projected costs for the creation of a new relief using the new enabling power that is provided for by section 1(4) of the Bill, which was inserted at Stage 2. The new power will allow the Scottish Ministers to incentivise businesses to bring empty properties back into use by providing, by regulations, that prescribed classes of property are to continue to be treated as unoccupied, and so continue to receive unoccupied property relief, for a specified period after becoming occupied.

4. The projected costs provided in this Memorandum are based on the new power being used to create a relief along the lines described to the Local Government and Regeneration Committee by the Minister for Local Government and Planning during its Stage 2 consideration of the Bill on 26 September 2012. That is to say, a 50% rates relief which will be available for no more than 12 months in relation to:

1Available at: http://www.scottish.parliament.uk/S4_Bills/Local%20Government%20Finance%20Unoccupied%20Properties/b12s4-introd-en.pdf
This document relates to the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill as amended at Stage 2 (SP Bill 12A)

- non-domestic properties classified as shops and offices,
- which were in receipt of empty property relief for at least 12 months before being brought back into use,
- which are not in receipt of any other relief, and
- which have a rateable value of £45,000 or less.

The Government intends that the new relief should be available from the start of financial year 2013-14 and the projected costs in this Memorandum are for that intended first year of its operation.

5. This could mean that for certain empty property, it would receive 100% relief for the first three months it was empty, followed by nine months of 10% relief. If it became occupied after that period, it would attract 50% relief for the first 12 months of that occupied period.

50% RELIEF FOR SHOPS AND OFFICES COMING BACK INTO USE AFTER BEING EMPTY FOR ONE YEAR OR MORE

Costs on the Scottish Administration

6. The costings are based on assumptions as set out below. These will be additional costs to the Scottish Budget from within the Non-Domestic Rates Pool.

7. Cost estimates are split into additional estimated costs for two different categories of newly occupied property:
   - properties that could have been expected to come back into use irrespective of the changes to be effected by virtue of section 1 of the Bill (current turnover); and
   - additional properties expected to come back into use only because of the changes to be effected by virtue of section 1 of the Bill (including this new relief).

Estimate of impact of current turnover rate

8. The cost to the Scottish Government of properties in this category receiving the new relief is 50% of the gross rates bill for the property.

9. The current turnover rate of properties vacant for at least 1 year coming back into use was estimated using quarterly property level data from the Scottish Assessors Valuation Roll for 2011 and 2012 (collected on 1 January, 1 April, 1 July and 1 October).

10. It was assumed that properties that were vacant on the first day of each of 4 consecutive quarters had been vacant for at least a year.

11. Steps in the calculations to produce the estimated costs below were as follows:
   1. starting from a baseline date [e.g. Valuation Roll, 1 Jan 2011] identify properties that remained vacant for 4 quarters;
2. in the following quarter [e.g. Valuation Roll, April 2012], identify those properties which came back into use (i.e. after being vacant for 4 quarters) to estimate the quarterly turnover of empty properties;
3. work out the gross bill for those properties (i.e. rateable value (RV) x poundage);
4. work out the cost of the relief for each individual property (i.e. 50% of gross bill);
5. adjust for the impact of the Small Business Bonus Scheme (based on analysis of previous data);
6. exclude properties with RV > £45k (i.e. the RV cap);
7. apply assumptions that 15% of RV will go to other reliefs (e.g. charity relief);
8. apply assumption that take-up rate for those eligible will be 70%.

Result:
- estimated quarterly cost ~ £295k for approximately 285 properties coming back into use;
- estimated annual cost ~ £1.18m for approximately 1,140 properties coming back into use.

Estimate of cost of additional properties coming back into use

12. The estimated annual cost of the new relief if an additional 10% of all vacant shops and offices came back into use over a year (as a result of section 1 of the Bill), would be around £0.86m.

13. In these estimates, additional properties brought back into use are assumed to have similar characteristics to those which currently come back into use (turnover), with the exception that the additional relief cost for a property coming back into use is 40% of the gross bill (before other assumptions are applied). This is because the property, had it remained unoccupied, would have received 10% empty property relief (under powers to be conferred by section 1 of the Bill, as introduced, empty property relief is to be reduced by regulations from the current 50% to 10%). The cost of the new relief, in relation to each property that becomes reoccupied as a result of the Bill, is therefore the difference between the cost of the new relief (50%) and the cost of the 10% unoccupied property relief the property would have continued to receive had it remained unoccupied.

14. It is not possible to precisely quantify the number of additional properties that may come back into use as a result of the amendments to section 1 of the Bill. To give an indication of the implication on cost estimates, if only 5% of vacant shops and offices came back into use over a year (rather than 10%), the annual cost would be around £0.43m.

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2 Based on previous analysis of Valuation Roll data as at 1 July 2011 and 2011 Non-Domestic Rates Billing System data provided by Councils to Scottish Government
Total cost

15. Combining the costs of £1.18m (current turnover) and £0.86m (if an additional 10% of vacant shops and offices come back into use) gives a total estimated annual cost of around £2.04m.

16. Similarly, if only an additional 5% of vacant shops and offices come back into use (at an estimated cost of £0.43m), the total estimated annual cost would be around £1.61m.

17. The above are estimates of the annual cost of the new relief (as set out in paragraph 4) based on available data and the assumptions stated.

Margins of uncertainty

18. As indicated above, there are a number of margins of uncertainty in calculating the cost of the new relief. The main uncertainties, which are not judged to have a material impact on the estimated costs, are:

- The number of properties brought back into use, which could be higher or lower than the estimates provided above (both due to changes in the estimated numbers of turnover properties which would have come back into use anyway and increases or decreases in the number of others which are brought back into use as a result of the changes to empty property relief proposed by the Bill and the availability of the new relief for properties brought back into use).
- The rateable value of the properties which are brought back into use.
- The extent to which properties brought back into use are eligible for other non-domestic rates reliefs, such as the Small Business Bonus Scheme.

Costs on local authorities, other bodies, individuals and businesses

19. There will be no additional costs on local authorities, other bodies, individuals or businesses as a result of this amendment. However, where local authorities, bodies, individuals or businesses own or occupy empty premises this creates a new financial benefit for them from bringing these back into use.
This document relates to the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill as amended at Stage 2 (SP Bill 12A)

LOCAL GOVERNMENT FINANCE (UNOCCUPIED PROPERTIES ETC.) (SCOTLAND) BILL

REVISED DELEGATED POWERS MEMORANDUM

PURPOSE

1. This revised memorandum has been prepared by the Scottish Government in accordance with Rule 9.7.10 of the Parliament’s Standing Orders, in relation to the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill as amended at Stage 2. It describes the purpose of each of the subordinate legislation provisions in the Bill and outlines the reasons for seeking the proposed powers. This memorandum supersedes the Delegated Powers Memorandum on the Bill as introduced.

OUTLINE OF BILL PROVISIONS

2. The Bill deals with two topics. The first is the treatment of empty property and formerly empty property, under non-domestic rating legislation and council tax legislation. For that, powers are taken to enable some different types of provision to be made from the provision that is currently enabled. The second topic relates to housing support grant. No powers are being taken in relation to the second topic.

Empty Property Relief

3. The provision made by the Bill will allow the Scottish Ministers, by regulations, to vary the percentage of non-domestic rate relief available for defined classes of unoccupied, non-domestic premises and allow for a defined class of formerly unoccupied premises to continue to be treated as unoccupied. The provisions are aimed at encouraging owners of unoccupied premises to bring them back into use.

Council tax treatment of unoccupied dwellings

4. As enacted, section 33 of the Local Government in Scotland Act 2003 gave the Scottish Ministers powers to provide council tax discount in relation to unoccupied dwellings. It also permitted the relevant regulations to allow local authorities to adjust the level of discount applying in their areas. The Bill will modify the powers conferred by section 33 so that the Scottish Ministers may, in addition to providing discounts in relation to unoccupied dwellings, make regulations increasing, to no more than twice the standard rate, the amount of council tax payable in respect of unoccupied dwellings. Further, the Bill will allow the regulations to give local authorities a more flexible power, so that they will be able not only to increase or decrease the amount of council tax discount that is available in respect of an unoccupied dwelling, but will also be able to turn a discount into an increase in the amount payable, or vice versa. Like the
Scottish Ministers, local authorities will be unable to increase the amount of council tax payable in respect of any given property by more than 100% of the standard rate payable in respect of that property (or such lower percentage as may be specified in the regulations).

5. The Bill also amends the existing powers in paragraph 4 of Schedule 2 to the Local Government Finance Act 1992, which enable the Scottish Ministers, through regulations, to make provision in relation to:
   - the calculation of amounts persons are liable to pay in respect of council tax in respect of empty dwellings; and
   - other aspects of administration as regards council tax and empty dwellings.

### Housing Support Grant

6. The Bill removes the requirements in the Housing (Scotland) Act 1987 on the Scottish Ministers to pay housing support grants to local authorities where their Housing Revenue Account cannot be easily balanced from existing rent levels.

### DELEGATED POWERS

7. The delegated powers provisions are listed below, together with a short explanation of:
   - what each power allows;
   - who the power is conferred on;
   - the form in which the power is to be exercised;
   - why it is considered appropriate to delegate the power; and
   - the parliamentary procedure to which the exercise of the power is to be subject and why this procedure is considered appropriate.

8. The approach in the Bill to powers to make subordinate legislation is, generally, to augment existing powers, enabling variations to be made to the content of subordinate legislation to deliver the Government’s policy.

### Empty Property Relief

9. Section 1 of the Bill will allow the Scottish Ministers, by regulation, to modify the percentage of rate relief available on empty properties. It does this by amending sections 24 and 24A of the Local Government (Scotland) Act 1966 (“the 1966 Act”).

10. Section 24 deals with lands and heritages which are wholly unoccupied. Currently, the default position is that no rates are payable in respect of such property. By regulations, however, the Scottish Ministers may prescribe classes of lands and heritages in respect of which a 50% rate is payable. Regulations have been made to provide that where lands and heritages have been unoccupied for a continuous period of more than three months then, subject to prescribed exceptions, they are liable to pay 50% of the non-domestic rates they would pay were they occupied for the same purpose as that for which they were last used.
11. Section 24A deals with lands and heritages that are partly unoccupied, for a short time. It provides for the temporary apportionment of the rateable value between the occupied and unoccupied parts. The default position is a nil value is attributed to the unoccupied part, the practical effect of which is that no rates are payable in respect of the unoccupied part. However, section 24A(4) allows regulations to provide, in respect of prescribed classes of property, that the rateable value of the property is to be treated as the sum of 100% of the occupied part and 50% of the unoccupied part. Regulations to that effect have been made.

12. Section 1 of the Bill will also amend section 24B of the 1966 Act to allow the Scottish Ministers, by regulations, to provide that properties within a defined class are to continue to be treated as unoccupied, and so continue to enjoy unoccupied property relief, for a specified period after becoming occupied.

Subordinate Legislation Powers – Detail

Section 1(2) and (3) - Power to vary the percentage discount for rates relief applicable to unoccupied lands and heritages; and

Section 1(4) and (5) – Power for certain lands and heritages to be treated as unoccupied

Powers conferred on: the Scottish Ministers
Powers exercisable by: regulations made by statutory instrument
Parliamentary procedure: negative procedure

Provision

13. The amendments to sections 24 and 24A of the 1966 Act will allow regulations to vary the amount of rate relief in relation to unoccupied lands and heritages (or unoccupied parts of lands and heritages where there has been an apportionment under section 24A). As explained above, the default position is for no rates to be payable in respect of such property. By regulations, however, the Scottish Ministers may prescribe classes of lands and heritages for which a 50% rate is payable. The Bill, if passed, will amend the regulation-making powers conferred by sections 24 and 24A so that the Scottish Ministers can provide that the proportion of rates payable can be any other proportion, not exceeding 90% (i.e. a 10% relief), for such lands and heritages as are prescribed.

14. The amendment to section 24B of the 1966 Act will allow regulations to define a class of lands and heritages that are to continue to be treated as unoccupied for the purposes of section 24, for a period after the premises are occupied. This will enable the Scottish Ministers to define the circumstances in which a property brought back into use will qualify for a relief, to set the period that the relief will apply for and (using the power in section 24(3)) to set the percentage relief that will apply.

Reason for taking power

15. The reason for taking the powers in sections 24 and 24A is that the rate relief structure must operate between pre-set limits. The classes of lands and heritages to which different percentages of relief apply may need to be periodically changed, or the on-going monitoring of the regime may indicate that change would be desirable. Once the Parliament has set the range of
possible discount by primary legislation, it would be disproportionate to require further primary legislation to set particular figures in relation to particular classes of property. Subordinate legislation affords the flexibility to deliver the level of rates that is thought appropriate from time to time and to do so swiftly when circumstances so require.

16. The reason for taking the power in section 24B is to enable the relief already provided for by section 24 to be used to incentivise businesses to bring long term unoccupied properties back into use. Use of subordinate legislation to specify classes of lands and heritages that qualify for such relief retains flexibility to adapt provision for changed economic circumstances, which may over time suggest that incentives should be increased or scaled back, or re-targeted. It also allows the relief scheme to be adjusted to take account of experience in offering such an incentive, without taking up Parliament’s time with primary legislation to make what may be small refinements.

Choice of procedure

17. The amendments to sections 24 and 24A are modifications of existing powers that allow prescription of classes of lands and heritages that are to pay 50% of the non-domestic rates payable by occupied lands and heritages of that class. The existing powers, in sections 24 and 24A, are subject to the negative procedure, which therefore seems appropriate in relation to any regulations made in exercise of the amended powers. The powers deal with the straight-forward operational detail of the non-domestic rating system and the extended powers are simply an adjustment of an overly-rigid structure of reliefs. It is not a substantial innovation on the existing system, which operates with two reliefs (of 100% and 50%), to allow the relief to be reduced to 10% or set anywhere on the 100% to 10% scale. A higher level of parliamentary scrutiny does not appear to be appropriate.

18. The amendment to section 24B, giving Ministers a power to prescribe classes of lands and heritages that are to continue to enjoy unoccupied property relief for a period after being brought back into use, is a new power. It is inherently similar to the existing power in section 24. Both allow Ministers to define classes of lands and heritages for which the liability to pay rates is calculated subject to the relief in section 24. Prescription of classes of lands and heritages is often detailed and technical, and is commonly done using negative procedure. There seems no reason why the new power in section 24B should require a higher level of Parliamentary scrutiny.

Council Tax Treatment of Unoccupied Dwellings

19. Section 2 of the Bill will allow the Scottish Ministers, by regulation, to provide for council tax liability in respect of unoccupied dwellings to include the payment (within limits) of increased amounts of council tax. Such increases may be set by Ministers themselves or, where regulations so provide, may be determined by local authorities in respect of all or parts of their areas. This follows the style of the current system, which contains provision for local authorities to modify the application of a discount system within prescribed limits. The Bill does this by amending section 33 of the Local Government in Scotland Act 2003 (“the 2003 Act”).

20. Section 3 of the Bill makes changes to Schedule 2 to the Local Government Finance Act 1992. These changes are made to reflect the move from a council tax system that only provides
discounts in respect of unoccupied properties to one that will allow the amount of council tax payable to be increased in respect of unoccupied properties. The amended Schedule 2 will allow regulations to impose a requirement for taxpayers to notify a local authority that an assumption it has made about a property being occupied is incorrect, and a power allowing local authorities to request information about whether a property is, was or will be occupied. The Bill amends Schedule 3 to the 1992 Act to provide penalties, in both cases, for failure to supply the requisite information.

Subordinate Legislation Powers – Detail

Section 2(2) and (3) - Power to provide for variation of council tax liability for unoccupied dwellings

Power conferred on: the Scottish Ministers
Power exercised by: regulations made by Scottish statutory instrument
Parliamentary procedure: affirmative procedure

Provision

21. Section 2 of the Bill amends section 33 of the 2003 Act to allow council tax liability, in respect of unoccupied properties, to be varied by regulations. At present, section 33 allows regulations to provide only discounts of that liability.

Reason for taking power

22. The reason for taking the power is to enable regulations to set out, in detail, how the scheme of discounts and increases in council tax liability will operate in relation to unoccupied dwellings. Setting the scheme out in regulations will mean that it can be periodically changed if the ongoing monitoring of the scheme indicates that refinement is needed. This will avoid recourse to primary legislation. Through the Bill, if passed, Parliament will have scrutinised and approved the principle of imposing council tax increases on unoccupied properties. It would not be a productive use of scarce parliamentary time to require that every modification of the scheme be made by primary legislation. Using regulations, subject to the affirmative procedure, will allow responsive implementation of any required changes, while still retaining an appropriately strong element of scrutiny by the Parliament.

23. Section 33(1) of the 2003 Act currently allows the Scottish Ministers, by regulations, to provide discounts for classes of chargeable dwelling that have no resident. It also enables the Scottish Ministers to confer powers on local authorities to disapply the discounts or modify them in their areas. However, the power of local authorities to modify can be limited by the Scottish Ministers by setting maximum and minimum amounts of discount in the regulations. All of these powers have been used. In particular, local authorities have been enabled to modify 50% discounts in liability to reduce the discount to a lesser percentage.

24. The Bill will amend the existing scheme so that the Scottish Ministers will be able to prescribe “variations” of liability, thereby enabling the prescription of increases up to a maximum of 100 per cent of the standard rate of council tax payable for a dwelling. This will extend the current power to provide discounts (but not increases) in council tax liability for unoccupied dwellings. The power to allow local authorities to modify discounts will be amended.
accordingly, so that, for example, they can be enabled to provide for increases in liability (up to a maximum of 100 per cent of the standard rate of council tax payable for a dwelling) instead of discounts, or vice versa.

Choice of procedure

25. The Bill achieves its purpose in this regard by modifying the power conferred by section 33 of the 2003 Act, which is presently subject to the affirmative procedure. The council tax treatment of unoccupied dwellings is an important feature of the council tax system for a significant number of people and their communities, and it is appropriate that the Parliament should be able to scrutinise and comment on the detail of such provision. That includes the consideration of the classes of property made subject to variations of the tax liability that would otherwise apply and the limits that may be imposed on the powers of local authorities to modify such provision. The affirmative resolution procedure applies to any regulations under section 33 of the 2003 Act at present and it is appropriate to continue that level of scrutiny in relation to any regulations made in exercise of the power as it will be amended by the Bill (if passed). The Parliament is likely to wish to examine proposed regulations, and any amending regulations that might subsequently be made.

Repeal of delegated powers

26. As part of the introduction of the current unoccupied dwellings tax system, the Scottish Ministers were given powers to repeal section 79(2)(a) of the Local Government Finance Act 1992 (“the 1992 Act”), and to amend section 79 of that Act. The repeal was effected and the power to amend section 79 has not been required. The opportunity is now being taken to repeal the spent power to repeal section 79(2)(a) and to amend section 79 on the basis that that power is not required.

27. The Bill also repeals the power in section 33(2)(b)(i) of the 2003 Act that currently enables Scottish Ministers, by regulations, to confer powers on local authorities to disapply the regulations in their area or parts of their area. This provision is no longer required as the revisions made by section 2 of the Bill would, if passed by the Parliament, allow the regulations to give local authorities equivalent flexibility through modifying the application of the regulations in their area.

Section 3(3) - Power to make provision requiring supply of information relating to occupation of a dwelling

Power conferred on: the Scottish Ministers
Power exercised by: regulations made by Scottish statutory instrument
Parliamentary procedure: negative procedure

Provision

28. Section 3 of the Bill amends paragraph 4 of Schedule 2 to the 1992 Act. Paragraph 4 allows the Scottish Ministers to make regulations setting out how local authorities are to go about calculating the chargeable amount of council tax in relation to a dwelling and ascertaining whether any discount is available. The Bill will modify the power to refer to “variations” instead of “discounts” as a consequence of the amendments to section 33 of the 2003 Act discussed
above. The Bill will also amend the power, by inserting new sub-paragraphs (5A) and (5B) which will, respectively, enable regulations to:

- impose a duty on persons to notify a local authority that an assumption the authority has made, and informed the person that it has made, is based on a misapprehension as to there being no resident of the dwelling, leading to an underestimate of council tax liability; and
- allow a local authority to request information from a resident, owner or agent to ascertain whether a variation of council tax liability applies, based on occupancy.

29. Section 3 of the Bill also amends Schedule 3 to the 1992 Act so that a failure comply with the duty to notify, or failure to accurately respond to a request, will result in a penalty of up to £500 (at the local authority’s discretion), and potential further penalties of £500 for repeated failure to comply.

Reason for taking power

30. These powers are necessary as a consequence of the potential move from a scheme under which unoccupied properties enjoy council tax discounts to a scheme under which they face council tax increases. The powers are not inherently unusual in the general scheme of the 1992 Act.

31. Paragraph 4(5) of Schedule 2 to the 1992 Act currently allows regulations to impose a requirement on a home-owner (or other person responsible for the property) to notify a local authority if the authority has informed the person that it has applied a council tax discount and the person knows that no discount, or a smaller discount, is actually warranted. The power that will be conferred by the new sub-paragraph (5A) will allow regulations to make equivalent provision in relation to council tax increases. That is, it will allow regulations to be made requiring the person to notify the local authority if it has made an inaccurate assumption about the property being occupied or unoccupied with the result that the authority has underestimated the council tax liability in respect of the property.

32. The power that will be conferred by the new paragraph 4(5B) of Schedule 2 to the 1992 Act will allow regulations to give local authorities the power to request information about whether a property is, was or will be occupied from the resident, owner or managing agent of a particular dwelling. At present, the fact that a property is unoccupied results in a reduced council tax liability. There is therefore a financial incentive for people to volunteer information that a property is unoccupied. In the future, where council tax liability is increased for unoccupied properties, such information may not be so readily volunteered. It is therefore necessary to give local authorities a power to request information about whether a property is occupied at a particular point in time, backed by a financial sanction for failing to supply the information (or failing to supply it correctly).

33. Using regulations to address these matters will mean that the requirements can be periodically changed if the ongoing monitoring of the scheme indicates that refinement is needed. That will avoid unnecessary recourse to primary legislation for what are technical elements of the operation of the council tax system, of a similar nature to the other matters about which regulations may currently be made under paragraph 4 of Schedule 2 to the 1992 Act.
**Choice of procedure**

34. The regulations regarding provision of information are expected to be technical in nature. The 1992 Act already provides a power at paragraph 4(5) of Schedule 2, to make regulations in connection with discount assumptions, which is very similar to that which the Bill will insert as paragraph 4(5A) of that Schedule. Regulations made under the power conferred by the existing paragraph 4(5) are subject to the negative procedure.

35. Regulations made under the new paragraph 4(5B) of Schedule 2 to the 1992 Act will give local authorities a more pro-active ability to make enquiries about whether a property is, was or will be unoccupied. It is very similar to an existing regulation making power conferred by paragraph 2 of Schedule 2 to the 1992 Act, which is subject to the negative procedure.

36. Given that this Bill merely modifies existing regulation-making powers in the 1992 Act, with no significant innovation, the Government proposes that regulations made under paragraph 4 of Schedule 2 continue to be subject to the negative procedure.
Subordinate Legislation Committee

45th Report, 2012 (Session 4)

Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill as amended at Stage 2

Published by the Scottish Parliament on 24 October 2012
Subordinate Legislation Committee

Remit and membership

Remit:

The remit of the Subordinate Legislation Committee is to consider and report on—

(a) any—

(i) subordinate legislation laid before the Parliament;

(ii) [deleted]

(iii) pension or grants motion as described in Rule 8.11A.1;

and, in particular, to determine whether the attention of the Parliament should be drawn to any of the matters mentioned in Rule 10.3.1;

(b) proposed powers to make subordinate legislation in particular Bills or other proposed legislation;

(c) general questions relating to powers to make subordinate legislation;

(d) whether any proposed delegated powers in particular Bills or other legislation should be expressed as a power to make subordinate legislation;

(e) any failure to lay an instrument in accordance with section 28(2), 30(2) or 31 of the 2010 Act; and

(f) proposed changes to the procedure to which subordinate legislation laid before the Parliament is subject.

(Standing Orders of the Scottish Parliament, Rule 6.11)

Membership:

Nigel Don (Convener)
Mike MacKenzie
Hanzala Malik
Stuart McMillan
John Pentland
John Scott
Stewart Stevenson (Deputy Convener)

Committee Clerking Team:

Clerk to the Committee
Irene Fleming

Support Manager
Daren Pratt
The Committee reports to the Parliament as follows—

1. At its meeting on 23 October 2012, the Subordinate Legislation Committee considered the delegated powers provisions in the Local Government Finance (Unoccupied Properties) (Scotland) Bill, as amended at Stage 2. The Committee submits this report to the Parliament under Rule 9.7.9 of Standing Orders.

2. The Scottish Government provided the Parliament with a revised delegated powers memorandum\(^1\) in relation to the Bill as amended at Stage 2.

Delegated Powers Provisions

3. At Stage 1 of the Bill, the Committee reported that it did not need to draw the attention of the Parliament to the powers in sections 1(2) and (3), and section 3(3).

4. After Stage 2, the Committee reports that it does not need to draw the attention of the Parliament to the new or substantially amended powers in sections 1(4), 2(2A) and (3), and 2(2B).

5. The Committee welcomes that the amendments to the delegated powers made by section 2(2A) and (3) implement the Committee’s recommendation in its Report at Stage 1, that the Bill should state a maximum level of permitted council tax increase in relation to unoccupied dwellings, beyond which any levels specified in the regulations could not go.

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\(^1\) Local Government Finance (Unoccupied Properties) (Scotland) Bill, Revised Delegated Powers Memorandum. Available at: http://www.scottish.parliament.uk/S4_Bills/Local%20Government%20Finance%20Unoccupied%20Properties/b12s4_reviseddelegatedpowersmemorandum_Stage2_FINAL.pdf
LOCAL GOVERNMENT FINANCE (UNOCCUPIED PROPERTIES ETC.) (SCOTLAND) BILL: DRAFT REGULATIONS

During Stage 2 of the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill on 26 September, I confirmed my intent to lay future Regulations to reform empty property rates relief and create a new incentive for new occupation of long term empty shops and offices.

As it may be helpful for you to have an indication of these Regulations in advance of the Stage 3 debate on 31 October, I attach an early draft copy of the Regulations which I intend to lay, should the Bill be agreed by Parliament.

I am also copying this letter to SPICe to ensure that all members have access to the information.

I trust that you will find this information helpful.

DEREK MACKAY
The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 24(2) and (3), 24A(4) and 24B(3) of the Local Government (Scotland) Act 1966(1) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Non-Domestic Rating (Unoccupied Property) (Scotland) Amendment Regulations 2013 and come into force on 1st April 2013.

Amendment of the Non-Domestic Rating (Unoccupied Property) (Scotland) Regulations 1994

2. The Non-Domestic Rating (Unoccupied Property) (Scotland) Regulations 1994(2) are amended as follows.

3. In regulation 1(2) (interpretation) after the definition of “retail lands and heritages” insert—

"‘use as office premises’ means that the sole or principal use of the lands and heritages takes place there in a building or part of a building that is used wholly or mainly for the purposes of administration, clerical work or handling money, and for these purposes ‘clerical work’ includes writing, book-keeping, sorting papers, filing, data processing, drawing and the editorial preparation of material for publication; and

‘use as shop premises’ means that the sole or principal use of the lands and heritages takes place there in a building or part of a building that is used wholly or mainly for the retail sale of goods to members of the public who visit the building to buy goods for consumption or use elsewhere, whether or not by the buyer, for purposes unconnected with a trade or business.”.
4. For regulation 2 (rating of unoccupied lands and heritages) substitute—

“Rating of lands and heritages that are unoccupied, or treated as unoccupied

2.—(1) The following are prescribed as classes of lands and heritages under section 24(2) of the 1966 Act—

(a) all relevant lands and heritages which have been unoccupied for a continuous period of more than three months, other than lands and heritages to which any of the conditions specified in Parts 1 and 2 of the Schedule applies; or

(b) all lands and heritages that are, by virtue of regulation 4, to be treated as unoccupied for the purposes of section 24 of the 1966 Act.

(2) For the purposes of paragraph (1)(a), in determining the period during which lands and heritages have been continuously unoccupied they are to be regarded as having been unoccupied during any period of occupation—

(a) that ends within six weeks of beginning;

(b) in which the lands and heritages were, by virtue of regulation 4, treated as unoccupied.

(3) 90% is the percentage prescribed under section 24(3) of the 1966 Act in relation to the class prescribed by paragraph (1)(a).”.

5. After regulation 3(2) (rating of partly unoccupied lands and heritages) insert—

“(3) The percentage prescribed under section 24A(4)(b)(ii) of the 1966 Act is 90%.”.

6. After regulation 3 insert—

“Lands and heritages to be treated as unoccupied

4.—(1) The class of lands and heritages prescribed under section 24B(3) of the 1966 Act is all lands and heritages in respect of which the following conditions are met—

(a) for a continuous period of 12 months immediately prior to being occupied the person or persons entitled to possession of the lands and heritages during that period were in receipt of relief under section 24 of the 1966 Act;

(b) either—

(i) when last previously occupied, the lands and heritages were used as office premises or as shop premises, or

(ii) where the lands and heritages have never previously been occupied, they are being used as office premises or as shop premises;

(c) the rateable value of the lands and heritages is no greater than £45,000;

(d) no other reduction is being made to the liability of the person entitled to possession of the lands and heritages to pay rates;

(e) no longer than 12 months have elapsed since the lands and heritages became occupied; and

(f) the person entitled to possession of the lands and heritages has submitted an application to the rating authority in whose valuation roll the entry for the lands and heritages appear, requesting that they are treated as unoccupied, along with such information as is necessary for that authority to establish that the conditions in this article are met.

(2) Rate relief may be granted in consequence of paragraph (1) only to the extent that such relief is compatible with article 107(1) of the Consolidated Version of the Treaty on the Functioning of the European Union.

(3) No rate relief may be granted in consequence of paragraph (1) on or after 1st April 2016.”.

Name
Parliamentary Under Secretary of State

St Andrew’s House,
Edinburgh
Date

Victoria Quay, Edinburgh EH6 6QQ
Cidhe Bhictòria, Dùn Èideann, EH6 6QQ
www.scotland.gov.uk
EXPLANATORY NOTE
(This note is not part of the Regulations)

These Regulations amend the Non-Domestic Rating (Unoccupied Property) (Scotland) Regulations 1994 ("the principal regulations") as regards premises that, under those Regulations, attract a reduced non-domestic rate liability.

Certain unoccupied properties, under the principal regulations, attract a liability to pay 50% of the non-domestic rates that would be payable were they fully occupied. Regulation 4 provides that, instead, the liability is 90% of those rates. It also provides for a further class of property that, by virtue of regulation 6, is deemed to be unoccupied. For that property, the Local Government (Scotland) Act 1966 provides that the rate payable will be 50% of the rate that would be payable were the property not deemed unoccupied.

Regulation 5 makes provision for a 90% rate to apply where there is a reduced liability, as a result of premises being partly unoccupied for a short period of time.

Regulation 6 adds a new relief for property that has been unoccupied for at least a year before becoming occupied in the circumstances described. Such property is deemed to be unoccupied, notwithstanding the actual occupation, for a period of up to one year. Regulation 2 inserts related definitions into regulation 1 of the principal Regulations.

Paragraph (2) of the material inserted by regulation 6 prevents the new relief being granted if to do so would breach state aids limits, and paragraph (3) provides that any relief granted will cease to be available after 31st March 2016.
Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill

Marshalled List of Amendments selected for Stage 3

The Bill will be considered in the following order—

Sections 1 to 6     Long Title

Amendments marked * are new (including manuscript amendments) or have been altered.

Section 1

Margaret Mitchell

8 In section 1, page 1, line 13, at end insert—

<( ) In section 24, after subsection (3), insert—

“(3A) The Scottish Ministers may not exercise their power under subsection (3) to prescribe a percentage above 50% except in relation to lands and heritages which have been wilfully left unoccupied for a period exceeding 7 years.

(3B) Where, by virtue of subsections (3) and (3A), a percentage above 50% has been prescribed, lands and heritages which have been unoccupied for a period exceeding 7 years are to be treated as having been wilfully left unoccupied for that period unless the person entitled to possession of the lands and heritages provides evidence that satisfies the local authority within whose area the lands and heritages are situated that the lands and heritages have not been wilfully left unoccupied for that period.

(3C) Evidence provided under subsection (3B) may include information about (for example)—

(a) how often the lands and heritages have been offered for sale or let;
(b) the price (or prices) at which the lands and heritages have been so offered;
(c) how often offers to buy or let the lands and heritages have been made and the reasons why such offers have not resulted in the lands and heritages being occupied;
(d) the state of repair of the lands and heritages; and
(e) any other steps taken by the person entitled to possession of the lands and heritages to encourage occupation of the lands and heritages.” >

Margaret Mitchell

9 In section 1, page 1, line 13, at end insert—

<( ) In section 24, after subsection (3), insert—
“(3A) The Scottish Ministers may not exercise their power under subsection (3) to prescribe a percentage above 50% in relation to lands and heritages which are a unit—

(a) within a building or development where all of the units are owned or managed by the same person, and

(b) in relation to which that person is the person liable to pay any rates due in respect of the unit during the period when it is unoccupied.”.

Gavin Brown

10 In section 1, page 1, line 13, at end insert—

<( ) In section 24, after subsection (3), insert—

“(3A) The Scottish Ministers may not exercise their power under subsection (3) to prescribe a percentage above 50% in relation to lands and heritages which have been unoccupied for less than 15 months and which the person entitled to occupation of the lands and heritages can show are being actively marketed for sale or let.”.

Margaret Mitchell

11 In section 1, page 1, line 13, at end insert—

<( ) In section 24, after subsection (4), insert—

“(4A) Any—

(a) newly erected or constructed building,

(b) building that has been rendered temporarily unsuitable for occupation due to being improved by the person entitled to possession of the building,

(c) part of a building mentioned in paragraph (a) or (b),

which would, but for this subsection, fall within a class of lands and heritages prescribed under subsection (2) is to be treated as not falling within that class unless the building (or part) has been occupied at some point since its erection, construction or improvement.”.

John Pentland

3 In section 1, page 1, line 13, at end insert—

<( ) In section 24—

(a) in subsection (5), at the beginning insert “Subject to subsection (6),”,

(b) after subsection (5), insert—

“(6) The first regulations made under subsection (3) are subject to the affirmative procedure.”.

John Pentland

4* In section 1, page 1, line 22, at end insert—

<( ) In section 24A—
(a) in subsection (6), at the beginning insert “Subject to subsection (6A),”,
(b) after subsection (6), insert—
“(6A) The first regulations made under subsection (4)(b)(ii) are subject to the
affirmative procedure.”.

Sarah Boyack
Supported by: Gavin Brown

5 In section 1, page 1, line 22, at end insert—

 cruiser After section 24A insert—

“24AA Consultation on certain regulations
Before making the first regulations under each of section 24(3) or 24A(4)(b),
the Scottish Ministers must—
(a) consult—

 (i) such persons as appear to them to be representative of the interests
     of persons likely to be affected by the proposed regulations about
     the likely impact on those interests of the proposed regulations
     being made, and

 (ii) such other persons (if any) as they consider appropriate, and

(b) lay before the Scottish Parliament a report summarising the outcome of
that consultation.”.

Margaret Mitchell

12 In section 1, page 2, line 5, at end insert—

 cruiser Schedule 3 (rating of unoccupied property) is repealed.

Jim Hume
Supported by: Margaret Mitchell

1 Leave out section 1

After section 1

Gavin Brown

13 After section 1, insert—

<Section 1(2) and (3): duration of effect and report on impact of changes
(1) The changes made to the 1966 Act by section 1(2) and (3) expire on 31 March 2016,
unless an order is made under subsection (3).

(2) On the expiry of the changes mentioned in subsection (1)—

 (a) sections 24(3) and 24A(4) of the 1966 Act have effect as they had effect on the
day before the Bill for this Act received Royal Assent, subject to any changes to
those sections made by order under subsection (4), and

 (b) any regulations implementing any rate change are to be treated as revoked.
(3) The Scottish Ministers may by order, after 31 March 2015 and no later than 31 January 2016, provide that the changes mentioned in subsection (1) are to continue in effect despite that subsection.

(4) The Scottish Ministers may by order make such provision (including provision modifying any enactment) as may be necessary or expedient in consequence of the expiry, by virtue of subsection (1), of the changes mentioned in that subsection.

(5) An order under subsection (4) may include provision conferring power on the Scottish Ministers to set the percentage of rates payable in respect of lands and heritages which fall within a class prescribed in regulations under section 24(2) or 24A(4) of the 1966 Act at a level lower than 50% of the amount that would be payable if the lands and heritages were occupied.

(6) An order under subsection (3) or (4) is subject to the affirmative procedure.

(7) The Scottish Ministers must prepare a report on the effect that any rate change implemented since the Bill for this Act received Royal Assent has had in the year beginning—

(a) 1 April 2013, and

(b) 1 April 2014.

(8) A report prepared under subsection (7) must, in particular, contain—

(a) information on—

(i) the number of unoccupied lands and heritages—

(A) brought back into use,

(B) demolished or rendered unsuitable for occupation,

during the year to which the report relates,

(ii) the proportion of non-domestic rates payable in respect of unoccupied lands and heritages which were collected during that year, and

(iii) the number of businesses which ceased to trade during that year, and

(b) an assessment of—

(i) the contribution that the rate change being reported on made to each of the things mentioned in paragraph (a), and

(ii) the overall economic impact of any such change.

(9) In preparing a report under subsection (7), the Scottish Ministers must consult—

(a) such persons as appear to them to be representative of the interests of persons affected by any rate change, and

(b) such other persons (if any) as they consider appropriate.

(10) The Scottish Ministers must—

(a) as soon as practicable after the end of the year to which a report under subsection (7) relates, lay the report before the Scottish Parliament, and

(b) as soon as practicable after the report is so laid, publish the report in such manner as they consider appropriate.

(11) In this section—

“the 1966 Act” means the Local Government (Scotland) Act 1966 (c.51),
“rate change” means a change in the percentage of rates payable in respect of
lands and heritages which are unoccupied (or partly unoccupied for a short time)
made by virtue of sections 24(3) or (as the case may be) 24A(4) of the 1966 Act
(as amended by section 1(2) and (3)).>

Margaret Mitchell
14 After section 1, insert—

<Inclusion of unoccupied properties in valuation roll

In section 3 of the Local Government (Scotland) Act 1975 (c.30) (provisions
 supplementary to sections on valuation roll), before subsection (1), insert—

“(A1) The Scottish Ministers must by regulations prescribe a minimum state of repair
that unoccupied lands and heritages must be in in order to be included in the
valuation roll.

(A2) Regulations under subsection (A1) are subject to the negative procedure.”.>

Section 2

Margaret Mitchell
15 In section 2, page 2, line 14, at end insert—

<(  ) After subsection (1) insert—

“(1ZA) The Scottish Ministers may not exercise their power under subsection (1) to
increase the amount of council tax payable in respect of a chargeable dwelling
and any day above the amount that would be payable if, on that day, there was
a resident of the dwelling except in relation to dwellings which have been
wilfully left unoccupied for a period exceeding 7 years.”.>

Anne McTaggart
6 In section 2, page 2, line 17, after <than> insert <half of>

Margaret Mitchell
16 In section 2, page 2, line 24, at end insert—

<(  ) After subsection (2) insert—

“(2A) Regulations under subsection (1) may not provide (or allow provision to be
made by local authorities) for unoccupied dwellings owned by a local authority
or a registered social landlord to be treated more favourably than other
unoccupied dwellings solely on the ground of that ownership.”.>

Anne McTaggart
7 In section 2, page 2, line 27, after <than> insert <half of>

Margaret Mitchell
17 In section 2, page 2, line 30, at end insert—

<(  ) After subsection (4) insert—
“(4A) A power conferred under subsection (2)(b)(ii) may not permit local authorities to modify regulations under this section so as to increase the amount of council tax payable in respect of a chargeable dwelling and any day above the amount that would be payable if, on that day, there was a resident of the dwelling except in relation to dwellings which have been wilfully left unoccupied for a period exceeding 7 years.

(4B) Subsection (4C) applies where, by virtue of subsection (1) and either subsection (1ZA) or (2)(b)(ii) (read with subsection (4A)), the council tax payable in respect of a chargeable dwelling in an area and any day is permitted to be higher than the amount that would be payable if, on that day, there was a resident of the dwelling.

(4C) A chargeable dwelling that has been unoccupied for a period exceeding 7 years is to be treated as having been wilfully left unoccupied for that period unless the person who is liable to pay council tax in respect of the dwelling provides evidence that satisfies the local authority in whose area the dwelling is situated that the dwelling has not been wilfully left unoccupied for that period.

(4D) Evidence provided under subsection (4C) may include information about (for example)—

(a) how often the dwelling has been offered for sale or let;
(b) the price (or prices) at which the dwelling has been so offered;
(c) how often offers to buy or let the dwelling have been made and the reasons why such offers have not resulted in the dwelling being occupied;
(d) the state of repair of the dwelling; and
(e) any other steps taken by the owner of the dwelling to encourage occupation of the lands and heritages.”.

Section 3

Margaret Mitchell

18 In section 3, page 2, line 36, at end insert—

<( ) In section 72 (dwellings chargeable to council tax), after subsection (5), insert—

“(5A) The Scottish Ministers must by regulations prescribe a minimum state of repair that an unoccupied property previously used as a dwelling must be in in order to fall within the definition of “dwelling” in subsection (2).”.

Margaret Mitchell

19 In section 3, page 2, line 36, at end insert—

<( ) In section 72 (dwellings chargeable to council tax), after subsection (7), insert—

“(7A) Regulations under subsection (6) may not provide for unoccupied dwellings owned by a local authority or registered social landlord to be treated differently from other unoccupied dwellings solely on the ground of that ownership (except where dwellings are being kept unoccupied with a view to them being demolished within a reasonable period of time).”.
After section 4

Tavish Scott

2 After section 4, insert—

<Transitional assistance for certain local authorities

(1) The Scottish Ministers must, no later than 31 March 2013, make arrangements for the provision, on a decreasing basis over the three years beginning 1 April 2013, of financial assistance to mitigate the effect on each affected authority of the abolition of housing support grants.

(2) The amount of assistance to be provided to an affected authority under subsection (1) must be agreed between the Scottish Ministers and the affected authority.

(3) In this section, “affected authority” means a local authority which was in receipt of a housing support grant in the year beginning 1 April 2012.>
Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill

Groupings of Amendments for Stage 3

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- the text of amendments to be debated during Stage 3 consideration, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

**Groupings of amendments**

**Note:** The time limits indicated are those set out in the timetabling motion to be considered by the Parliament before the Stage 3 proceedings begin. If that motion is agreed to, debate on the groups above each line must be concluded by the time indicated, although the amendments in those groups may still be moved formally and disposed of later in the proceedings.

**Group 1: Restriction on circumstances in which higher non-domestic rates (and council tax) for unoccupied properties permitted**
8, 9, 10, 15, 17

**Group 2: Non-domestic rates payable in respect of new build and refurbished properties prior to occupation**
11, 12

**Debate to end no later than 30 minutes after proceedings begin**

**Group 3: Power to increase non-domestic rates for unoccupied properties: consultation and procedure**
3, 4, 5

**Group 4: Introduction of power to increase non-domestic rates for unoccupied properties etc.**
1, 13

**Debate to end no later than 1 hour 5 minutes after proceedings begin**
Group 5: Minimum state of repair below which non-domestic rates and council tax not payable
14, 18

Group 6: Restriction on level of increase in council tax permitted for unoccupied properties
6, 7

Debate to end no later than 1 hour 30 minutes after proceedings begin

Group 7: Treatment of unoccupied social housing for council tax purposes
16, 19

Group 8: Abolition of housing support grant: provision of transitional assistance
2

Debate to end no later than 1 hour 50 minutes after proceedings begin
Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill - Stage 3: The Bill was considered at Stage 3.

Amendment 16 was agreed to (by division: For 82, Against 33, Abstentions 0). 2

The following amendments were disagreed to (by division)—

8 (For 17, Against 96, Abstentions 0)
9 (For 17, Against 94, Abstentions 0)
10 (For 50, Against 61, Abstentions 0)
11 (For 17, Against 96, Abstentions 0)
3 (For 52, Against 64, Abstentions 0)
4 (For 51, Against 64, Abstentions 0)
5 (For 52, Against 63, Abstentions 0)
1 (For 53, Against 63, Abstentions 0)
13 (For 52, Against 64, Abstentions 0)
14 (For 14, Against 99, Abstentions 0)
15 (For 14, Against 101, Abstentions 0)
6 (For 34, Against 69, Abstentions 12)
7 (For 33, Against 69, Abstentions 14)
17 (For 15, Against 101, Abstentions 0)
18 (For 14, Against 102, Abstentions 0)
19 (For 14, Against 100, Abstentions 0)

Amendment 2 was moved, and with the agreement of the Parliament, withdrawn.
Amendment 12 was not moved.

Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill - Stage 3: The Minister for Housing and Welfare (Margaret Burgess) moved S4M-04598—That the Parliament agrees that the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill be passed.

After debate, the motion was agreed to ((DT) by division: For 66, Against 20, Abstentions 32).
The Deputy Presiding Officer (John Scott): The next item of business is stage 3 proceedings on the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. In dealing with the amendments, members should have the bill as amended at stage 2, which is paper SP bill 12A, the marshalled list, which is SP bill 12A-ML, and the groupings, which is SP bill 12A-G. The division bell will sound and proceedings will be suspended for five minutes for the first division of the afternoon. The period of voting for the first division will be 30 seconds. Thereafter, I will allow one minute for the first division after a debate. Members should refer to the marshalled list of amendments.

Section 1—Rating of unoccupied lands and heritages

The Deputy Presiding Officer: We come to group 1. Amendment 8, in the name of Margaret Mitchell, is grouped with amendments 9, 10, 15 and 17.

Margaret Mitchell (Central Scotland) (Con): Amendment 8 would ensure that the bill would actually do what the Minister for Local Government and Planning has constantly asserted is intended. The amendment specifically seeks to ensure that the non-domestic rate increase applies only to the small but significant number of commercial properties throughout Scotland that are wilfully left unoccupied. A list of safeguards— including on how often the property has been advertised, how often offers to buy or let have been received, the state of repair and any other steps that have been taken to encourage occupation—to test for wilful inoccupation are included in the consideration when a decision is being made.

I lodged a similar amendment at stage 2 and have taken into account the minister’s and other members’ comments at that stage. Amendment 8 differs from my previous amendment in the following respects. First, the period of time after which an empty property will be deemed to be wilfully unoccupied has been lowered from 10 years to seven years. That change is made in response to concerns about the 10-year timescale being too long. Furthermore, the amendment now contains a specific reference to the price at which properties have been offered for sale or let as one of the factors to be considered.

Crucially, amendment 8 would now ensure that the burden of proof that a property is not wilfully unoccupied rests with the owner rather than with the local authority. That addresses concerns that were expressed at stage 2 to the effect that my amendment then presented an unacceptable extra burden on local authorities in terms of determining whether properties are wilfully unoccupied.

Without amendment 8, the additional tax burden that will be imposed by the bill will fall heavily on businesses and commercial property owners who are desperate to sell or lease their properties but who have unoccupied properties not through choice, but due to a fundamental lack of demand and the current economic climate.

Amendments 15 and 17 relate to domestic properties and again seek to target the small number of domestic properties that are deliberately being left empty and allowed to deteriorate. The arguments that have already been outlined on amendment 8 and the list of factors to be taken into account are applicable here in determining whether a domestic property is wilfully occupied.

Gavin Brown (Lothian) (Con): I am an enthusiastic supporter of Margaret Mitchell’s amendments—especially amendment 8. However, in case amendment 8 does not find favour with Parliament, I want to speak to amendment 10, which would give a fair exemption to businesses that are making a big effort to let or sell their properties.

I tried very hard to reflect the language that is used by the Government in its policy memorandum on the bill. Paragraph 38 of the policy memorandum clearly states that it would be “unfair to penalise owners who may be attempting to bring their home back into use, but are unable to”.

Amendment 9 relates to existing commercial properties that have a number of different businesses located within the premises. It seeks to ensure that if one tenant were to vacate a business unit within a property, the owner of the building would not become liable for the increase in rates that the bill will impose. Amendment 9 is vitally important in protecting other business that are located within a multiple-occupancy commercial property, given that in these dire economic times even a small increase in overheads could be sufficient to put the owner of a property business into administration, which would result in uncertainty for other businesses located there, and potential job losses.

I move amendment 8.

Gavin Brown (Lothian) (Con): I am an enthusiastic supporter of Margaret Mitchell’s amendments—especially amendment 8. However, in case amendment 8 does not find favour with Parliament, I want to speak to amendment 10, which would give a fair exemption to businesses that are making a big effort to let or sell their properties.

I tried very hard to reflect the language that is used by the Government in its policy memorandum on the bill. Paragraph 38 of the policy memorandum clearly states that it would be “unfair to penalise owners who may be attempting to bring their home back into use, but are unable to”.

14:40

The Deputy Presiding Officer (John Scott): The next item of business is stage 3 proceedings on the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. In dealing with the amendments, members should have the bill as amended at stage 2, which is paper SP bill 12A, the marshalled list, which is SP bill 12A-ML, and the groupings, which is SP bill 12A-G. The division bell will sound and proceedings will be suspended for five minutes for the first division of the afternoon. The period of voting for the first division will be 30 seconds. Thereafter, I will allow one minute for the first division after a debate. Members should refer to the marshalled list of amendments.

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Crucially, amendment 8 would now ensure that the burden of proof that a property is not wilfully unoccupied rests with the owner rather than with the local authority. That addresses concerns that were expressed at stage 2 to the effect that my amendment then presented an unacceptable extra burden on local authorities in terms of determining whether properties are wilfully unoccupied.

Without amendment 8, the additional tax burden that will be imposed by the bill will fall heavily on businesses and commercial property owners who are desperate to sell or lease their properties but who have unoccupied properties not through choice, but due to a fundamental lack of demand and the current economic climate.

Amendments 15 and 17 relate to domestic properties and again seek to target the small number of domestic properties that are deliberately being left empty and allowed to deteriorate. The arguments that have already been outlined on amendment 8 and the list of factors to be taken into account are applicable here in determining whether a domestic property is wilfully occupied.

14:45

Amendment 9 relates to existing commercial properties that have a number of different businesses located within the premises. It seeks to ensure that if one tenant were to vacate a business unit within a property, the owner of the building would not become liable for the increase in rates that the bill will impose. Amendment 9 is vitally important in protecting other business that are located within a multiple-occupancy commercial property, given that in these dire economic times even a small increase in overheads could be sufficient to put the owner of a property business into administration, which would result in uncertainty for other businesses located there, and potential job losses.

I move amendment 8.

Gavin Brown (Lothian) (Con): I am an enthusiastic supporter of Margaret Mitchell’s amendments—especially amendment 8. However, in case amendment 8 does not find favour with Parliament, I want to speak to amendment 10, which would give a fair exemption to businesses that are making a big effort to let or sell their properties.

I tried very hard to reflect the language that is used by the Government in its policy memorandum on the bill. Paragraph 38 of the policy memorandum clearly states that it would be “unfair to penalise owners who may be attempting to bring their home back into use, but are unable to”.
Of course, that is in reference to council tax, as opposed to non-domestic rates. The approach to council tax appeared to be backed up at the committee stage, when Keith Brown stated:

“If it was clear that a sincere effort had been made to sell or let a property, for example, we would not want to punish somebody for a genuine attempt to bring an empty home into productive use.”—[Official Report, Local Government and Regeneration Committee, 30 May 2012; c 1077.]

If the principle holds for the Government in relation to council tax, why does it not hold in relation to non-domestic rates? Surely it would be equally unfair to penalise businesses that are working round the clock to bring their properties back into use.

Those sentiments came through in the consultation on the council tax element of the bill, but such sentiments were unable to come through in the consultation on non-domestic rates because there was no such consultation.

The policy memorandum also argues at paragraph 41 for

“a mandatory exemption from the tax increase for up to twelve months for owners who are proactively trying to sell their home at a reasonable price.”

At paragraph 42, it states that there ought to be a “discretionary exemption” where

“the owner is actively trying to let their empty home.”

We believe that both those exemptions should be mandatory and applicable in the case of non-domestic rates, and that that ought to appear in the bill—hence, amendment 10. If it is to vote against amendment 10, the Scottish Government must explain why hard-pressed businesses are not entitled to the same rights as hard-pressed house owners.

The Minister for Local Government and Planning (Derek Mackay): At an earlier stage, Ms Mitchell proposed that empty properties should not be subject to tax increases until they had been wilfully unoccupied for 10 years or more. I appreciate that in amendments 8, 15 and 17 she has made attempts to change that proposal, which was rejected at stage 2. However, I am unconvinced of the difference in intention between seven and 10 years—a difference of three years. Margaret Mitchell’s attempt to improve on her original amendment fails to address the significant problems that we identified at stage 2. Seven years would still be far too long to leave owners without encouraging them to do something about bringing their properties back into use. Fundamentally, if one believes—as we do—that the change to rates relief will incentivise properties back into use, why wait seven years? As I said at stage 2, the Scottish Government believes that it would be extremely difficult for a council to verify that a property had been wilfully unoccupied throughout a seven-year period.

The creation of a bureaucratic system to include a requirement for the owner to satisfy the local authority that they have been trying to occupy the property over a seven-year period would be difficult for business as well as local authorities. Even the detail of the amendments gives us an insight into how problematic it could be.

Amendment 10, in the name of Gavin Brown, seeks to allow properties that are being actively marketed a grace period of up to 15 months. An obvious weakness is that nothing in the amendment would require that the marketing price be realistic. Again, the amendment misses the point that, right now, the level of non-domestic rates means that it is cheaper to keep properties closed than it is to have them open for business, unless they are eligible for one of our many other generous reliefs.

Gavin Brown: Why is it fair to give the exemption to home owners but not to businesses? That is in the Government’s own policy memorandum on the bill.

Derek Mackay: As has been explained before, there is a world of difference between domestic properties and non-domestic properties in terms of how such a system could be administered. I remind members that we have the most generous package of rates relief in the United Kingdom.

I understand that Mrs Mitchell was, in lodging amendment 9, attempting to protect serviced office or business-park accommodation. However, in reality, the amendment would simply create scope for tax avoidance, because any owner could—often cheaply and temporarily—subdivide a property in order to avoid rates increases.

The Government cannot support any of the amendments in the group, but will continue to listen to stakeholders and adapt policy to fit what they tell us would assist their particular needs. The new fresh start relief scheme, which I announced at stage 2, will create a new incentive to encourage our entrepreneurs to occupy long-term empty retail and office property. That relief will also encourage use of long-term empty new-build property as offices and shops. So, high streets and new developments will benefit.

Mrs Mitchell may also be interested to learn that, in the rates consultation that we will publish shortly, we intend to ask whether local authorities should be given wider powers to offer local relief. That approach could address concerns that were raised during my extensive engagement. Currently, no such flexibility exists.

I urge members not to support any of the amendments.
Margaret Mitchell: The minister still fails to accept and to realise that businesses are left empty not through choice and to save money, but due to lack of demand in this economic crisis. The fact that generous packages for rates relief are available to certain businesses is due, particularly, to the Scottish Conservatives having supported the Scottish National Party Government to make that a priority. However, the bill will ensure that businesses that do not benefit from those generous packages will be at a competitive disadvantage compared to businesses elsewhere in the UK. I say to anyone who is minded to support the SNP's and the minister's stance today that they should be prepared to go out into their constituency and justify why they voted for a measure that will increase the rates burden on all the empty properties in our town centres for businesses that simply cannot rent or sell them.

I press amendment 8.

The Deputy Presiding Officer: The question is, that amendment 8 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division. I suspend the proceedings for five minutes to allow the division bell to be rung and members to return to the chamber.

14:53

Meeting suspended.

14:58

On resuming—

The Deputy Presiding Officer: We move to the division on amendment 8.

For

Brown, Gavin (Lothian) (Con)
Davidson, Ruth (Glasgow) (Con)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Goldie, Annabel (West Scotland) (Con)
Hume, Jim (South Scotland) (LD)
Johnstone, Alex (North East Scotland) (Con)
Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
McArthur, Liam (Orkney Islands) (LD)
McGrigor, Jamie (Highlands and Islands) (Con)
McInnes, Alison (North East Scotland) (LD)
Milne, Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Rennie, Willie (Mid Scotland and Fife) (LD)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, Tavish (Shetland Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, Brian (Aberdeen Donside) (SNP)
Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
Baillie, Jackie (Dumbarton) (Lab)
Baker, Claire (Mid Scotland and Fife) (Lab)
Baker, Richard (North East Scotland) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Biagi, Marco (Edinburgh Central) (SNP)
Bibby, Neil (West Scotland) (Lab)
Boyack, Sarah (Lothian) (Lab)
Brodie, Chic (South Scotland) (SNP)
Brown, Keith (Clackmannanshire and Dunblane) (SNP)
Burgess, Margaret (Cunninghame South) (SNP)
Campbell, Aileen (Clydesdale) (SNP)
Campbell, Roderick (North East Fife) (SNP)
Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Constance, Angela (Almond Valley) (SNP)
Crawford, Bruce (Stirling) (SNP)
Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Doris, Bob (Glasgow) (SNP)
Dornan, James (Glasgow Cathcart) (SNP)
Dugdale, Kezia (Lothian) (Lab)
Eadie, Helen (Cowdenbeath) (Lab)
Eadie, Jim (Edinburgh Southern) (SNP)
Ewing, Annabelle (Mid Scotland and Fife) (SNP)
Ewing, Fergus (Inverness and Nairn) (SNP)
Fabiani, Linda (East Kilbride) (SNP)
Fee, Mary (West Scotland) (Lab)
Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
Findlay, Neil (Lothian) (Lab)
Finnie, John (Highlands and Islands) (Ind)
FitzPatrick, Joe (Dundee City West) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (East Lothian) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Harvie, Patrick (Glasgow) (Green)
Henry, Hugh (Renfrewshire South) (Lab)
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
Johnstone, Alison (Lothian) (Green)
Keir, Colin (Edinburgh Western) (SNP)
Kelly, James (Rutherglen) (Lab)
Kidd, Bill (Glasgow Anniesland) (SNP)
Lamont, Johann (Glasgow Pollok) (Lab)
Lochhead, Richard (Moray) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacAskill, Kenny (Edinburgh Eastern) (SNP)
MacDonald, Angus (Falkirk East) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Macintosh, Ken (Eastwood) (Lab)
Mackay, Derek (Renfrewshire North and West) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
Malik, Hanzala (Glasgow) (Lab)
Martin, Paul (Glasgow Provan) (Lab)
Mason, John (Glasgow Shettleston) (SNP)
Matheson, Michael (Falkirk West) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
Mc Alpine, Joan (South Scotland) (SNP)
McCulloch, Margaret (Central Scotland) (Lab)
McDougall, Margaret (West Scotland) (Lab)
McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
Mcloughlin, Alastair (South Scotland) (SNP)
Mcleod, Alastair (South Scotland) (SNP)
Mcleod, Fiona (Strathkelvin and Bearsden) (SNP)
McManus, Michael (Uddingston and Bellshill) (Lab)
McMahon, Siobhan (Central Scotland) (Lab)
McMillan, Stuart (West Scotland) (SNP)
McNeil, Duncan (Greenock and Inverclyde) (Lab)
McTaggart, Anne (Glasgow) (Lab)
The Deputy Presiding Officer: The result of the division is: For 17, Against 96, Abstentions 0.

Amendment 8 disagreed to.

15:00

Amendment 9 moved—[Margaret Mitchell].

The Deputy Presiding Officer: The question is, that amendment 9 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Brown, Gavin (Lothian) (Con)
Davidson, Ruth (Glasgow) (Con)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Goldie, Annabel (West Scotland) (Con)
Hume, Jim (South Scotland) (LD)
Johnstone, Alex (North East Scotland) (Con)
Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
McArthur, Liam (Orkney Islands) (LD)
McGrigor, Jamie (Highlands and Islands) (Con)
McInnes, Alison (North East Scotland) (LD)
Milne, Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Rennie, Willie (Mid Scotland and Fife) (LD)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, Tavish (Shetland Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, Brian (Aberdeen Donside) (SNP)
Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Alian, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
Bailie, Jackie (Dumbarton) (Lab)
Baker, Claire (Mid Scotland and Fife) (Lab)
Baker, Richard (North East Scotland) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Biagi, Marco (Edinburgh Central) (SNP)
Bibby, Neil (West Scotland) (Lab)
Biboyack, Sarah (Lothian) (Lab)

Brown, Keith (Clackmannanshire and Dunblane) (SNP)
Burgess, Margaret (Cunninghame South) (SNP)
Campbell, Aileen (Clydesdale) (SNP)
Campbell, Roderick (North East Fife) (SNP)
Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Constance, Angela (Almond Valley) (SNP)
Crawford, Bruce (Stirling) (SNP)
Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Doris, Bob (Glasgow) (SNP)
Dornan, James (Glasgow Cathcart) (SNP)
Dugdale, Kezia (Lothian) (Lab)
Edie, Helen (Cowdenbeath) (Lab)
Edie, Jim (Edinburgh Southern) (SNP)
Ewing, Annabelle (Mid Scotland and Fife) (SNP)
Ewing, Fergus (Inverness and Nairn) (SNP)
Fabiani, Linda (East Kilbride) (SNP)
Fee, Mary (West Scotland) (Lab)
Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
Findlay, Neil (Lothian) (Lab)
Finnie, John (Highlands and Islands) (Ind)
FitzPatrick, Joe (Dundee City West) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (East Lothian) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Harvie, Patrick (Glasgow) (Green)
Henry, Hugh (Renfrewshire South) (Lab)
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
Johnstone, Alison (Lothian) (Green)
Keir, Colin (Edinburgh Western) (SNP)
Kelly, James (Rutherglen) (Lab)
Kidd, Bill (Glasgow Anniesland) (SNP)
Lamont, Johann (Glasgow Pollok) (Lab)
Lochhead, Richard (Moray) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacAskill, Kenny (Edinburgh Eastern) (SNP)
MacDonald, Angus (Falkirk East) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Macintosh, Ken (Eastwood) (Lab)
Mackay, Derek (Renfrewshire North and West) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
Malik, Hanzala (Glasgow) (Lab)
Martin, Paul (Glasgow Provan) (Lab)
Mason, John (Glasgow Shettleston) (SNP)
Matheson, Michael (Falkirk West) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McCulloch, Margaret (Central Scotland) (Lab)
McDougall, Margaret (West Scotland) (Lab)
McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
McLeod, Aileen (South Scotland) (SNP)
McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
McMahon, Michael (Uddingston and Bellshill) (Lab)
McMahon, Siobhan (Central Scotland) (Lab)
McMillan, Stuart (West Scotland) (SNP)
McNeill, Duncan (Greenock and Inverclyde) (Lab)
Neil, Alex (Airdrie and Shotts) (SNP)
Park, John (Mid Scotland and Fife) (Lab)
Paton, John (Mid Scotland and Fife) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)
Robertson, Dennis (Aberdeenshire West) (SNP)
Robison, Shona (Dundee City East) (SNP)
Salmond, Alex (Aberdeenshire East) (SNP)
Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
Smith, Drew (Glasgow) (Lab)
The Deputy Presiding Officer: The result of the division is: For 17, Against 94, Abstentions 0.

Amendment 9 disagreed to.

Amendment 10 moved—[Gavin Brown].

The Deputy Presiding Officer: The question is, that amendment 10 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For
Baillie, Jackie (Dumbarton) (Lab)
Baker, Claire (Mid Scotland and Fife) (Lab)
Baker, Richard (North East Scotland) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Bibby, Neil (West Scotland) (Lab)
Boyack, Sarah (Lothian) (Lab)
Brown, Gavin (Lothian) (Con)
Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
Davidson, Ruth (Glasgow) (Con)
Dugdale, Kezia (Lothian) (Lab)
Edie, Helen (Cowdenbeath) (Lab)
Fee, Mary (West Scotland) (Lab)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Findlay, Neil (Lothian) (Lab)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Goldie, Annabel (West Scotland) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (East Lothian) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Henry, Hugh (Renfrewshire South) (Lab)
Hume, Jim (South Scotland) (LD)
Johnstone, Alex (North East Scotland) (Con)
Kelly, James (Rutherglen) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
Macintosh, Ken (Eastwood) (Lab)
Malik, Hanzala (Glasgow) (Lab)
Martin, Paul (Glasgow Provan) (Lab)
McArthur, Liam (Orkney Islands) (LD)
McCulloch, Margaret (Central Scotland) (Lab)
McDougal, Margaret (West Scotland) (Lab)
McGrigor, Jamie (Highlands and Islands) (Con)
McInnes, Alison (North East Scotland) (LD)
McMahon, Michael (Uddingston and Bellshill) (Lab)
McMahon, Siobhan (Central Scotland) (Lab)
McNeil, Duncan (Greenock and Inverclyde) (Lab)
McTaggart, Anne (Glasgow) (Lab)
Milne, Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Park, John (Mid Scotland and Fife) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)
Rennie, Willie (Mid Scotland and Fife) (LD)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, Tavish (Shetland Islands) (LD)
Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
Smith, Drew (Glasgow) (Lab)
Smith, Elaine (Coatbridge and Chryston) (Lab)
Smith, Liz (Mid Scotland and Fife) (Con)
Stewart, David (Highlands and Islands) (Lab)

Against
Adam, Brian (Aberdeen Donside) (SNP)
Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Biagi, Marco (Edinburgh Central) (SNP)
Brown, Keith (Clackmannanshire and Dunblane) (SNP)
Burgess, Margaret (Cunninghame South) (SNP)
Campbell, Aileen (Clydesdale) (SNP)
Campbell, Roderick (North East Fife) (SNP)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Constance, Angela (Almond Valley) (SNP)
Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Doris, Bob (Glasgow) (SNP)
Dornan, James (Glasgow Cathcart) (SNP)
Eadie, Jim (Edinburgh Southern) (SNP)
Ewing, Annabelle (Mid Scotland and Fife) (SNP)
Ewing, Fergus (Inverness and Nairn) (SNP)
Fabiani, Linda (East Kilbride) (SNP)
Finnie, John (Highlands and Islands) (Ind)
Fitzpatrick, Joe (Dundee City West) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Harvie, Patrick (Glasgow) (Green)
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
Johnstone, Alison (Lothian) (Green)
Keir, Colin (Edinburgh Western) (SNP)
Kidd, Bill (Glasgow Anniesland) (SNP)
Lochhead, Richard (Moray) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacAskill, Kenny (Edinburgh Eastern) (SNP)
MacDonald, Angus (Falkirk East) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Mackay, Derek (Renfrewshire North and West) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
Mason, John (Glasgow Shettleston) (SNP)
Matheson, Michael (Falkirk West) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
McLeod, Aileen (South Scotland) (SNP)
McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
McMillan, Stuart (West Scotland) (SNP)
Neil, Alex (Airdrie and Shotts) (SNP)
Paterson, Gill (Clydebank and Milngavie) (SNP)
Robertson, Dennis (Aberdeen West) (SNP)
Robison, Shona (Dundee City East) (SNP)
Salmond, Alex (Aberdeen East) (SNP)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Sturgeon, Nicola (Glasgow Southside) (SNP)
Swinney, John (Perthshire North) (SNP)
Urquhart, Jean (Highlands and Islands) (Ind)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
Wheelhouse, Paul (South Scotland) (SNP)
White, Sandra (Glasgow Kelvin) (SNP)
Wilson, John (Central Scotland) (SNP)
Yousaf, Humza (Glasgow) (SNP)

The Deputy Presiding Officer: The result of the division is: For 50, Against 61, Abstentions 0.
Amendment 10 disagreed to.

The Deputy Presiding Officer: Group 2 is on non-domestic rates payable in respect of new build and refurbished properties prior to occupation. Amendment 11, in the name of Margaret Mitchell, is grouped with amendment 12.

Margaret Mitchell: Amendments 11 and 12 seek to address the concerns that were expressed in evidence to the Local Government and Regeneration Committee about the detrimental effects that the proposed cuts in empty property non-domestic rates relief could have on commercial speculative development.

If the Scottish National Party Government is serious about economic recovery—a vital part of which is the boosting of the construction industry—speculative development and inward investment must be encouraged and supported. There is a wealth of evidence that confirms that the bill, as it stands, will do precisely the opposite. The Business Centre Association noted that many such developments and refurbishments “are being shelved” already, while the Scottish Chambers of Commerce expressed the concern that “the reduction of Empty Property Relief could also stifle speculative development”.

That view was echoed by the Scottish Retail Consortium, the Scottish Property Federation and the Scottish Council for Development and Industry.

If we were to exempt speculative developments from the cuts in empty property non-domestic rates relief, new developments and refurbishments of existing properties would not be affected. Therefore, amendment 11 seeks to ensure that the bill will, if not actively encourage speculative development, at least refrain from approving a barrier and deterrent to such developments.

Amendment 12, which provides for repeal of schedule 3, is intended to give effect to amendment 11.

I move amendment 11.

Derek Mackay: The Scottish Government does not support amendments 11 and 12. Although I understand that the intention behind them is well-meaning, speculative development is more greatly affected by the general downturn and issues of bank lending.

Many new eligible developments without a pre-let would benefit from the fresh start initiative after 12 months on bringing their property into use on occupation.

I believe that the unintended consequences are that amendment 11 could create an incentive for people to make their properties unsuitable for occupation and thereby avoid paying tax, even with regard to new builds that are nearing completion. For those reasons, the Government cannot support the amendments, so I urge Mrs Mitchell not to press them. Non-domestic rates are not a profit tax or an operational tax; they are a property tax and our duty should be to deploy policies that incentivise their use, not policies that create loopholes.

Margaret Mitchell: The Scottish Government is constantly arguing that it should have more powers and that if only it did have more powers, our economic prospects would be so much more rosy. [Interruption.] The SNP back benchers are cheering, but today they will be voting against an amendment that seeks to encourage speculative development. We may as well put up the sign, “Inward investment not welcome in Scotland under this SNP Government”.

The Deputy Presiding Officer: The question is, that amendment 11 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For
Brown, Gavin (Lothian) (Con)
Davidson, Ruth (Glasgow) (Con)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Goldie, Annabel (West Scotland) (Con)
Hume, Jim (South Scotland) (LD)
Johnstone, Alex (North East Scotland) (Con)
Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
McArthur, Liam (Orkney Islands) (LD)
McGregor, Jamie (Highlands and Islands) (Con)
McInnes, Alison (North East Scotland) (LD)
Milne, Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Rennie, Willie (Mid Scotland and Fife) (LD)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, Tavish (Shetland Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Against
Adam, Brian (Aberdeen Donside) (SNP)
Adam, George (Paisley) (SNP)
Adamson, Clari (Central Scotland) (SNP)
Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
Bailie, Jackie (Dumbarton) (Lab)
Baker, Claire (Mid Scotland and Fife) (Lab)
Baker, Richard (North East Scotland) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Biagi, Marco (Edinburgh Central) (SNP)
Bibby, Neil (West Scotland) (Lab)
Boyack, Sarah (Lothian) (Lab)
Brodie, Chic (South Scotland) (SNP)
Brown, Keith (Clackmannanshire and Dunblane) (SNP)
Burgess, Margaret (Cunninghame South) (SNP)
Campbell, Ailean (Clydesdale) (SNP)
Campbell, Roderick (North East Fife) (SNP)
The Deputy Presiding Officer: The result of the division is: For 17, Against 96, Abstentions 0.

Amendment 11 disagreed to.

The Deputy Presiding Officer: We move to group 3, which is on the power to increase non-domestic rates for unoccupied properties: consultation and procedure. Amendment 3, in the name of John Pentland, is grouped with amendments 4 and 5.

John Pentland (Motherwell and Wishaw) (Lab): Amendment 3 is designed to address the democratic deficit that has been created by the bill. The arguments for this amendment also apply to amendment 4, which deals with the corresponding legislation for partially occupied properties. The progress of the bill has raised serious concerns about the ability of this Parliament to ensure that there is effective scrutiny of legislation.

The first reason for that is that the main effect of the bill is to remove limitations and to give additional powers to ministers. The impact of the bill is thus hugely dependent on how those powers are used through secondary legislation.

The second reason is that getting a clearer picture of the Scottish Government’s intentions for the regulations—and the evidence to support them, which is important—has been tortuous. Time and again, information has been produced at the last minute or after the relevant discussions have taken place. Although the minister has now issued draft regulations to give a more favourable discount to properties that are reoccupied after being empty, they were made available only recently and there has not been an opportunity to scrutinise the evidence on that measure.

That leads to the third reason: information has not been gathered about the impact of the bill in the form of a business and regulatory impact assessment. I therefore want to ensure that secondary legislation receives the parliamentary scrutiny that has so far been denied or at least diminished by how the bill has been treated to date. Only by the Parliament supporting my amendments can that be guaranteed. The alternative leaves the decision to the discretion of a small handful of MSPs.

Without such scrutiny, we are being asked to put our faith in the minister and to trust him to do
the right thing. I do not believe that that is why our constituents put us in this place. They expect us to be sceptical and to scrutinise the Scottish Government’s actions. It is our responsibility to examine and question legislation that gives powers to ministers and to examine and question how they are used. To do so, the Parliament needs the opportunity to assess and debate secondary legislation. That is particularly the case when much of the impact of a bill will be determined by the regulations that are issued by ministers.

My amendments are designed to ensure that regulations will come back to the Parliament so that we can make a careful and considered judgment on them. Ministers are not infallible; I am sure that many will agree—even the odd minister—that they are far from infallible. If the Scottish National Party wants a mature democracy, it must overcome its fear of scrutiny—in this instance by supporting the affirmative procedure.

I move amendment 3.

The Deputy Presiding Officer: I call Sarah Boyack to speak to amendment 5 and the other amendments in the group.

Sarah Boyack (Lothian) (Lab): I am concerned that the non-domestic rates proposals in the bill will create problems for many businesses and will not deliver on the SNP Government’s aspirations.

Throughout the process of discussion on the bill, the most worrying aspect has been the lack of financial rigour in relation to the non-domestic rates proposals. Those proposals were announced in last year’s budget, and the Government declined to carry out a business and regulatory impact assessment on the basis that it would not be proportionate.

Ministers see the amount of money involved as small in the context of the Scottish Government’s overall budget. I understand that, but the point is that the proposals will create major problems for businesses and representatives of business and retail interests as they struggle through these tough economic times. Given the potentially disastrous impact on businesses, it is simply unacceptable that the Parliament has not seen a proper impact assessment of the proposals.

That is government by assertion. We know the problems that have been experienced in England on the back of similar legislation. There have been demolitions and a stalling of speculative investment in town centres. For some businesses, it has simply been the last straw. Many commercial and retail properties are empty because of the recession and the lack of demand in the economy. That is why we have consistently argued for a proper assessment of the proposals since the Finance Committee and the Local Government and Regeneration Committee took evidence on the bill.

We know that the minister inherited the proposals when he was appointed and that he has argued that he needs to claw back £18 million to fix a hole in his budget. However, the hole in his budget was created by a decision by his own Government. It allocated 83 per cent of the cuts to the local government budget.

That is why we proposed at stage 2 and propose again today that the changes to non-domestic rates should not come into effect without proper financial assessment, as opposed to a set of estimates, produced in-house by civil servants, that bear no relation to reality. Even the minister is not prepared to hazard a guess about how many properties will be brought back into use as a result of the bill. Every time that he has presented us with a reworking of the figures, the credibility of the proposals has been further shot to pieces. The point of a business and regulatory impact assessment is that not only will the minister and his officials have to treat it seriously, but the figures would be open to assessment, criticism and consultation for stakeholders and the Parliament.

The concerns that committees, local authorities, business organisations and the Scottish Retail Consortium have raised need to be addressed. In relation to the public sector, the proposals will simply rob Peter to pay Paul. One arm of the public sector will pay money through extra non-domestic rates to the Scottish Government.

The absence of a BRIA is unacceptable. I was deeply disappointed that the minister failed to take the opportunity to remedy the matter at stage 2, but I hope that he will do so today and that amendment 5 will be supported.

Gavin Brown: I support amendment 5, in the name of Sarah Boyack.

Consultation is extremely important, and amendment 5 would prevent the Scottish Government from simply sidestepping difficult issues associated with non-domestic rates. It would ensure that the Scottish Government has to consult and that it must lay a report before the Parliament.

Sarah Boyack is right. There is a credibility issue with the Government in relation to non-domestic rates. We were told initially that only 12 public sector properties in Scotland would be hit, but it turns out to be several hundred. We were told initially that there would be minimal costs to the public sector, but they turn out to be at least £3.5 million, almost £1 million more than the final revised estimate that the Scottish Government came up with. There was no formal consultation
on non-domestic rates; that was specifically excluded for reasons that are simply inexplicable. The Government consulted on the council tax elements of the bill and on the housing support grant element, but it specifically excluded consultation on non-domestic rates.

15:15

The Government also failed to do business and regulatory impact assessments. The reasons given for that are equally weak. Scottish statutory instruments and legislation that has far less impact on business than is proposed by this bill regularly have impact assessments, but this bill, which will affect almost every public sector organisation, thousands of properties across the country and millions of pounds of revenue, does not get an impact assessment. That cannot be allowed to happen again, and that is why amendment 5 is most certainly required.

Patrick Harvie (Glasgow) (Green): I will respond briefly to Mr Pentland’s remarks on the affirmative and negative procedures and the argument about not giving ministers powers to make decisions without coming back to the Parliament. I wonder whether Mr Pentland is aware of some of the legislation that was passed during the first two sessions of the Parliament. For example, under the planning legislation the then Scottish Executive took enormous powers that can be exercised by order without coming back to the Parliament for decisions. I wonder whether in his closing remarks on this group of amendments Mr Pentland might tell us when his conversion took place. Was it perhaps around May 2007 or am I wide of the mark?

Ken Macintosh (Eastwood) (Lab): It is extremely worrying and very revealing that the Scottish Government did not fully consult in advance of the bill on its measures and has steadfastly refused to listen to calls for a full business and regulatory impact assessment. That is despite forceful and convincing evidence that the bill will not have the effect to which it lays claim: it will not bring unoccupied business properties back into productive use.

When similar measures were introduced in England and Wales, the argument was made then that some businesses were sitting on empty properties, knowing that their price was rising in a thriving property market. That is certainly no longer the case, and has not been the case for the past four years, which is why the measure has not worked in England and Wales.

In towns such as Paisley, which the minister knows very well, up to a quarter of retail properties now lie empty because of lack of demand, but the Scottish Government is in effect now going to punish business failure. We are also unsure of the impact that the measures will have on public revenue. One of the unintended consequences of the measures in England and Wales has been an increase in the number of charity shops. A very interesting briefing from the Scottish Property Federation points out that as the income from business rates relief has dropped in England, the amount given out in charity relief has risen. I am sure that that is not the picture that the minister and the Scottish Government wish to support in Scotland.

There is also an unintended or unknown impact on the public sector, because we know that the measures will cost local authorities a lot of money for their properties, and it will even cost Government agencies such as Scottish Enterprise money. I urge members to support amendments 3, 4 and 5.

Derek Mackay: Mr Pentland’s amendments 3 and 4 seek to require the first regulations made to be subject to affirmative procedure. However, the Subordinate Legislation Committee had no concerns about the continued use of negative procedure for regulations. That should not come as a surprise, because the norm in that regard is the negative procedure, which was good enough for the previous Scottish Executive. Negative procedure is common for most rates matters, and amendments 3 and 4 would create a more onerous procedure than can be justified.

Mr Pentland will be aware that regulation changes will go to committee. In the case of empty property rates relief, the appropriate subject committee will be the Local Government and Regeneration Committee. Ministers are not removing parliamentary scrutiny but applying consistency.

Sarah Boyack’s amendment 5 seeks consultation before the bill comes into force. I welcome her intention, but the Scottish Government has undertaken extensive stakeholder engagement and will continue to do so. The engagement has led to the refinement of our proposals—for example, the fresh start initiative—and informed the wider rates consultation that we are about to launch.

Gavin Brown: The minister seems to say, “We did consult in terms of the debate,” but does he think that important sections of primary legislation should be excluded from formal consultations?

Derek Mackay: We will make regulations that mean that if we want to vary rates relief we will return to the Parliament. That is consistent with most other rates matters. I do not see what issue Mr Brown has with that approach. The engagement has involved those who do not support our direction of travel, and it has informed
the approach that we are taking, as well as future proposals, and will inform the consultation that I referred to earlier.

Although a BRIA was not conducted, there has been a level of engagement that goes beyond a traditional BRIA, as I understand it. That will feature more fully in the debate later on. I have said before that the impact of the policy will remain under review. As such, I can confirm today that the Scottish Government will undertake post-legislative scrutiny of the empty property rates reform. A similar process was undertaken by the United Kingdom Government in command paper 8411, “Memorandum—Post Legislative Scrutiny Rating (Empty Properties) Act 2007”. The Scottish Government’s scrutiny will take place in early-to-mid 2015, once sufficient time has elapsed to collate data on the impact. I will ensure that the convener of the Local Government and Regeneration Committee is kept informed.

To assist members, last week I provided an early draft of the regulations that I intend to lay under the new powers created by the bill if it is passed today. The bill is an enabling bill, but the Scottish Government has made its intentions on the use of the powers known. To consult further now, giving the impression that we may not proceed as proposed, would cause unnecessary short-term delay and uncertainty as we approach the new financial year. Generous reliefs will still be available. I want to get on with promoting those proposed reliefs, including industrial and listed building exemptions and the fresh start initiative. I hope that sight of the draft regulations, the consistency and the intention to undertake scrutiny provide enough reassurance to allow Ms Boyack and Mr Pentland to withdraw or not move their amendments and support the bill.

John Pentland: Neither the minister nor Mr Harvie have convinced me that I should withdraw amendment 3 or not move amendment 4. I will also support Sarah Boyack’s amendment, which complements mine.

We need a proper assessment of the business and regulatory impact of the bill, not just a consultation before the bill, followed by the minister’s ad hoc promise of further consultation before regulations are issued. Without parliamentary consideration of proposals for regulations based on a proper assessment of their impact there is a significant danger that this part of the bill will do more harm than good, which is a risk that we should not take.

The Deputy Presiding Officer: The question is, that amendment 3 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For
Baillie, Jackie (Dumbarton) (Lab)
Baker, Claire (Mid Scotland and Fife) (Lab)
Baker, Richard (North East Scotland) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Bibby, Neil (West Scotland) (Lab)
Boyack, Sarah (Lothian) (Lab)
Brown, Gavin (Lothian) (Con)
Carlaw, Jackson (West Scotland) (Con)
Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
Davidson, Ruth (Glasgow) (Con)
Dugdale, Kezia (Lothian) (Lab)
Edie, Helen (Cowdenbeath) (Lab)
Fee, Mary (West Scotland) (Lab)
Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Findlay, Neil (Lothian) (Lab)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Goldie, Annabel (West Scotland) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (East Lothian) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Henry, Hugh (Renfrewshire South) (Lab)
Hume, Jim (South Scotland) (LD)
Johnstone, Alex (North East Scotland) (Con)
Kelly, James (Rutherglen) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
Macintosh, Ken (Eastwood) (Lab)
Malik, Hanzala (Glasgow) (Lab)
Martin, Paul (Glasgow Provan) (Lab)
McArthur, Liam (Orkney Islands) (LD)
McCulloch, Margaret (Central Scotland) (Lab)
McDougall, Margaret (West Scotland) (Lab)
McGrigor, Jamie (Highlands and Islands) (Con)
McInnes, Alison (North East Scotland) (LD)
McMahon, Michael (Uddingston and Bellshill) (Lab)
McMahon, Siobhan (Central Scotland) (Lab)
McNeil, Duncan (Greenock and Inverclyde) (Lab)
McTaggart, Anne (Glasgow) (Lab)
Milne, Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Murray, Elaine (Dumfrieshire) (Lab)
Park, John (Mid Scotland and Fife) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)
Rennie, Willie (Mid Scotland and Fife) (LD)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, Tavish (Shetland Islands) (LD)
Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
Smith, Drew (Glasgow) (Lab)
Smith, Elaine (Coatbridge and Chryston) (Lab)
Smith, Liz (Mid Scotland and Fife) (Con)
Stewart, David (Highlands and Islands) (Lab)

Against
Adam, Brian (Aberdeen Donside) (SNP)
Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
Beatlie, Colin (Midlothian North and Musselburgh) (SNP)
Biagi, Marco (Edinburgh Central) (SNP)
Brodie, Chic (South Scotland) (SNP)
Brown, Keith (Clackmannanshire and Dunblane) (SNP)
Burgess, Margaret (Cunninghame South) (SNP)
Campbell, Aileen (Clydesdale) (SNP)
Campbell, Roderick (North East Fife) (SNP)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Constance, Angela (Almond Valley) (SNP)
Crawford, Bruce (Stirling) (SNP)
Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Doris, Bob (Glasgow) (SNP)
Dornan, James (Glasgow Cathcart) (SNP)
Eadie, Jim (Edinburgh Southern) (SNP)
Ewing, Annabelle (Mid Scotland and Fife) (SNP)
Ewing, Fergus (Inverness and Nairn) (SNP)
Fabiani, Linda (East Kilbride) (SNP)
Finnie, John (Highlands and Islands) (Ind)
FitzPatrick, Joe (Dundee City West) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Harvie, Patrick (Glasgow) (Green)
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
Johnstone, Alison (Lothian) (Green)
Keir, Colin (Edinburgh Western) (SNP)
Kidd, Bill (Glasgow Anniesland) (SNP)
Loc hend, Richard (Moray) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacAskill, Kenny (Edinburgh Eastern) (SNP)
MacDonald, Angus (Falkirk East) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Mackay, Derek (Renfrewshire North and West) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
Mason, John (Glasgow Shettleston) (SNP)
Matheson, Michael (Falkirk West) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McDonald, Mark (North East Scotland) (SNP)
McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
McLeod, Aileen (South Scotland) (SNP)
McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
McLeod, Aileen (South Scotland) (SNP)
McMillan, Stuart (West Scotland) (SNP)
Neil, Alex (Airdrie and Shotts) (SNP)
Paterson, Gil (Clydebank and Milngavie) (SNP)
Robertson, Dennis (Aberdeenshire West) (SNP)
Robison, Shona (Dundee City West) (SNP)
Salmond, Alex (Aberdeenshire East) (SNP)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Sturgeon, Nicola (Glasgow Southside) (SNP)
Swimney, John (Perthshire North) (SNP)
Urquhart, Jean (Highlands and Islands) (Ind)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
Wheelhouse, Paul (South Scotland) (SNP)
White, Sandra (Glasgow Kelvin) (SNP)
Wilson, John (Central Scotland) (SNP)
Yousaf, Humza (Glasgow) (SNP)
Brown, Gavin (Lothian) (Con)
Carlaw, Jackson (West Scotland) (Con)
Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
Davidson, Ruth (Glasgow) (Con)
Dugdale, Kezia (Lothian) (Lab)
Eadie, Helen (Cowdenbeath) (Lab)
Fee, Mary (West Scotland) (Lab)
Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Goldie, Annabel (West Scotland) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (East Lothian) (Lab)
Griffith, Mark (Central Scotland) (Lab)
Henry, Hugh (Renfrewshire South) (Lab)
Hume, Jim (South Scotland) (SNP)
Johnstone, Alex (North East Scotland) (Con)
Kelly, James (Rutherglen) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
Macintosh, Ken (Eastwood) (Lab)
Mallik, Hanzala (Glasgow) (Lab)
Martin, Paul (Glasgow Provan) (Lab)
McArthur, Liam (Orkney Islands) (LD)
McCulloch, Margaret (Central Scotland) (Lab)
McDougall, Margaret (West Scotland) (Lab)
McGrigor, Jamie (Highlands and Islands) (Con)
McInnes, Alison (North East Scotland) (LD)
McMahon, Michael (Uddingston and Bellshill) (Lab)
McMahon, Siobhan (Central Scotland) (Lab)
McNeil, Duncan (Greenock and Inverclyde) (Lab)
McTaggart, Anne (Glasgow) (Lab)
Milde, Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Murray, Elaine (Dumfriesshire) (Lab)
Park, John (Mid Scotland and Fife) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)
Rennie, Willie (Mid Scotland and Fife) (LD)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, Tavish (Shetland Islands) (LD)
Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
Smith, Drew (Glasgow) (Lab)
Smith, Elaine (Coatbridge and Chryston) (Lab)
Smith, Liz (Mid Scotland and Fife) (Con)
Stewart, David (Highlands and Islands) (Lab)

Against
Adam, Brian (Aberdeen Donside) (SNP)
Adam, George (Paisley) (SNP)
Adamson, Claira (Central Scotland) (SNP)
Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Biagi, Marco (Arbroath and Angus East) (SNP)
Brodie, Chic (South Scotland) (SNP)
Brown, Keith (Clackmannanshire and Dunblane) (SNP)
Burgess, Margaret (Cunninghame South) (SNP)
Campbell, Aileen (Clydesdale) (SNP)
Campbell, Roderick (North East Fife) (SNP)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Constance, Angela (Almond Valley) (SNP)
Crawford, Bruce (Stirling) (SNP)
Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
Dey, Graeme (East Lothian) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Doris, Bob (Glasgow) (SNP)
Dornan, James (Glasgow Cathcart) (SNP)
Eadie, Jim (Edinburgh Southern) (SNP)
Ewing, Annabelle (Mid Scotland and Fife) (SNP)
Ewing, Fergus (Inverness and Nairn) (SNP)
Fabianì, Linda (East Kilbride) (SNP)
Finnie, John (Highlands and Islands) (Ind)

The Deputy Presiding Officer: The result of the division is: For 52, Against 64, Abstentions 0.
Amendment 3 disagreed to.
Amendment 4 moved—[John Pentland].
The Deputy Presiding Officer: The question is, that amendment 4 be agreed to. Are we agreed?
Members: No.
The Deputy Presiding Officer: There will be a division.
For
Bailie, Jackie (Dumbarton) (Lab)
Baker, Claire (Mid Scotland and Fife) (Lab)
Baker, Richard (North East Scotland) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Bibby, Neil (West Scotland) (Lab)
Boyack, Sarah (Lothian) (Lab)
The Deputy Presiding Officer: The result of the division is: For 51, Against 64, Abstentions 0.

Amendment 4 disagreed to.

Amendment 5 moved—[Sarah Boyack].

The Deputy Presiding Officer: The question is, that amendment 5 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Baillie, Jackie (Dumbarton) (Lab)
Baker, Claire (Mid Scotland and Fife) (Lab)
Baker, Richard (North East Scotland) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Bibby, Neil (West Scotland) (Lab)
Boyack, Sarah (Lothian) (Lab)
Brown, Gavin (Lothian) (Con)
Carlaw, Jackson (West Scotland) (Con)
Chisholm, Malcolm (Dundee, Northncht and Leith) (Lab)
Davidson, Ruth (Glasiso) (Con)
Dugdale, Kezia (Lothian) (Lab)
Edie, Helen (Cowdenbeath) (Lab)
Fee, Mary (West Scotland) (Lab)
Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Findlay, Neil (Lothian) (Lab)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Goldie, Annabel (West Scotland) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (East Lothian) (Lab)
Griffith, Mark (Central Scotland) (Lab)
Henry, Hugh (Renfrewshire South) (Lab)
Hume, Jim (South Scotland) (LD)
Johnstone, Alex (North East Scotland) (Con)
Kelly, James (Rutherglen) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
Macintosh, Ken (Eastwood) (Lab)
Malik, Hanzala (Glasgow) (Lab)
Martin, Paul (Glasgow Provan) (Lab)
McArthur, Liam (Orkney Islands) (LD)
McCulloch, Margaret (Central Scotland) (Lab)
McDougal, Margaret (West Scotland) (Lab)
McGrigor, Jamie (Highlands and Islands) (Con)
McInnes, Alisa (North East Scotland) (LD)
McMahon, Michael (Uddingston and Bellshill) (Lab)
McMahon, Siobhan (Central Scotland) (Lab)
McNeil, Duncan (Greenock and Inverclyde) (Lab)
McTaggart, Anne (Glasgow) (Lab)
Mlne, Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Murray, Elaine (Dumfriesshire) (Lab)
Park, John (Mid Scotland and Fife) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)
Rennie, Willie (Mid Scotland and Fife) (LD)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, Tavish (Shetland Islands) (LD)
Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
Smith, Drew (Glasgow) (Lab)
Smith, Elaine (Coatbridge and Chryston) (Lab)
Smith, Liz (Mid Scotland and Fife) (Con)
Stewart, David (Highlands and Islands) (Lab)

Against

Adam, Brian (Aberdeen Donside) (SNP)
Adam, George (Paisley) (SNP)
Adamson, Clara (Central Scotland) (SNP)
Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Biagi, Marco (Edinburgh Central) (SNP)
Brodie, Chic (South Scotland) (SNP)
Brown, Keith (Clackmannanshire and Dunblane) (SNP)
Burgess, Margaret (Cunningham South) (SNP)
Campbell, Aileen (Clydesdale) (SNP)
Campbell, Rodenick (North East Fife) (SNP)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Constance, Angela (Almond Valley) (SNP)
Crawford, Bruce (Stirling) (SNP)
Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Doris, Bob (Glasgow) (SNP)
Dornan, James (Glasgow Cathcart) (SNP)
Eadie, Jim (Edinburgh Southern) (SNP)
Ewing, Annabelle (Mid Scotland and Fife) (SNP)
Ewing, Fergus (Inverness and Nairn) (SNP)
Fabian, Linda (East Kilbride) (SNP)
Finnie, John (Highlands and Islands) (Ind)
FitzPatrick, Joe (Dundee City West) (SNP)
Gibson, Kenneth (Cunningham North) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Harvie, Patrick (Glasiso) (Green)
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
Johnstone, Alison (Lothian) (Green)
Keir, Colin (Edinburgh Western) (SNP)
Kidd, Bill (Glasgow Anniesland) (SNP)
Lochhead, Richard (Moray) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacAskill, Kenny (Edinburgh Eastern) (SNP)
MacDonald, Angus (Falkirk East) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Mackay, Derek (Renfrewshire North and West) (SNP)
Mason, John (Glasgow Shettleston) (SNP)
Matheson, Michael (Falkirk West) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McDonald, Mark (North East Scotland) (SNP)
McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
McLeod, Aileen (South Scotland) (SNP)
McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
McMillan, Stuart (West Scotland) (SNP)
Neil, Alex (Airdrie and Shotts) (SNP)
Paterson, Gil (Clydebank and Milngavie) (SNP)
Robertson, Dennis (Aberdeenshire West) (SNP)
Robison, Shona (Dundee City East) (SNP)
Salmond, Alex (Aberdeensehine East) (SNP)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Sturgeon, Nicola (Glasgow Southside) (SNP)
Swinney, John (Perthshire North) (SNP)
Urguhart, Jean (Highlands and Islands) (Ind)
Watt, Maureen (Aberdeenshire South and North Kincardine) (SNP)
Wheelhouse, Paul (South Scotland) (SNP)
White, Sandra (Glasgow Kelvin) (SNP)
Wilson, John (Central Scotland) (SNP)
Yousaf, Humza (Glasgow) (SNP)

The Deputy Presiding Officer: The result of the division is: For 52, Against 63, Abstentions 0.
Amendment 5 disagreed to.
Amendment 12 not moved.

The Deputy Presiding Officer: Group 4 concerns the introduction of a power to increase non-domestic rates for unoccupied properties. Amendment 1, in the name of Jim Hume, is grouped with amendment 13.

Jim Hume (South Scotland) (LD): As the amendments that we have previously discussed have not been agreed to by the Government, I remain concerned about the serious and—to give Mr Mackay the benefit of the doubt—perhaps unintended consequences of increasing property rates on empty commercial properties.

At stage 2, I lodged an amendment to leave out section 1. Unfortunately, due procedure at the committee did not allow me a vote on the amendment and, of course, the vote was lost by only one.

I have made clear my concerns. Increasing rates on empty properties when we need to encourage business at a time of recession is a burden too far. There is no evidence that the Government’s bill will have any effect other than a negative one. It is in the interests of businesses to let out their properties. That is how they make money and recoup the costs of electricity, security and so on.

It is not only me who has concerns. The Confederation of British Industry Scotland’s director, Iain McMillan, said:

“This increase in taxation will make it more expensive for firms to create jobs ... this proposal remains a tax on distress.”

David Melhuish, the director of the Scottish Property Federation, said that the proposal would be a “major blow to businesses” and

“a dangerous tax rise at exactly the wrong time in the economic cycle.”

Garry Clark, of the Scottish Chambers of Commerce, said:

“This proposal ... runs contrary to common sense and to the Government's stated policy objective.”

He continued, saying that we all want the issue of vacant premises to be addressed, but that

“this is not the way to go about it.”

The director of the Scottish Retail Consortium, Fiona Moriarty, said:

“This is the wrong measure at the wrong time and will act as an additional barrier to investment, especially in our ailing town centres.”

Jennifer Brooke, the executive director of the Business Centre Association said that, if the Government presses ahead with its plans,

“there will be a critical shortage of usable flexible space in Scotland within the next two to three years.”

She also said that the proposal would stifle and suppress growth at a time when the economy is at its most fragile and will put jobs at risk.

Garrie Renucci, chairman of the British Council of Shopping Centres Scotland, said:

“We strongly urge the Scottish Government to reconsider this ill-conceived Bill, which was introduced with minimal consultation, without a Business Impact Regulatory Assessment.”

I move amendment 1.

15:30

Gavin Brown: I concur with Mr Hume and dearly hope that amendment 1 is agreed to; in case it is not, I will speak to amendment 13, which could play an important role if the bill is passed.

Amendment 13 has two broad aims, the first of which is to provide a classic sunset clause, so that the damaging—or, at least, the most damaging—provisions are automatically extinguished after three years unless positive action is taken to retain them. The second aim is to ensure that there is vigilant and consistent monitoring of their impact on the economy following the passage of the bill.
I acknowledge Derek Mackay’s earlier comments, which I hope I have noted down correctly, that the Government will undertake post-legislative scrutiny from mid-2015. However, I fear a near-term impact on the economy, particularly from demolitions and companies potentially going into administration. That appeared to be the case in other jurisdictions, such as when a similar proposal was introduced south of the border back in 2008. The often-quoted Lambert Smith Hampton report, which was conducted jointly with the Royal Institution of Chartered Surveyors, was produced in April 2009 or a mere 12 months after the implementation of the Rating (Empty Properties) Act 2007. That report found that economic harm had taken place at that point, particularly from demolitions but also from companies going into administration.

Amendment 13 seeks to ensure that a report is published within 12 months of the passage of the bill, as opposed to two years, as well as every 12 months thereafter. The sunset clause would extinguish the provisions within three years unless positive action is taken. That is why I commend amendment 13.

Sarah Boyack: We supported Jim Hume’s amendment at stage 2 because there had been no proper consultation on and assessment of the Government’s proposals. When the SNP Government came to power, it claimed that it would govern as if it were a minority Government, but I think that this bill truly demolishes that claim. There is no sign of the Government listening or being prepared to listen to what is being said, however critical, by people either within or outside the Parliament. Jim Hume’s amendment 1 would enable the bill to go forward and allow local authorities to pick up on the provisions on getting empty houses back into use. The amendment would give the Government the time to do the right work and bring forward a credible set of proposals.

However, I suspect that the minister will not accept amendment 1 today, and that is why Gavin Brown’s amendment 13 is welcome. I do not normally support sunset clauses, but given the huge uncertainty, the lack of credibility and the lack of financial justification that the Government has put forward, I think that it would be appropriate to require Parliament to come back and affirm whether it wants to continue with the provisions. It would also be entirely appropriate to put ministers through the discipline of justifying the proposals again.

Another reason why I support amendment 13 is its provisions on post-legislative scrutiny. The minister has offered, very kindly, to do his own post-legislative scrutiny. That is a useful contribution, but the problem is that, if that work is done to the same standard as was evident in the preparation for the bill, it will not properly test the impact of the provisions. That is why the requirement for post-legislative scrutiny should be stated in the bill. We should have a proper assessment of what happens from the beginning of financial year 2013 and from the beginning of financial year 2014. We need scrutiny not by and for the Government, but scrutiny by the Parliament that is reported to us and done to the strictures set out—

The Deputy Presiding Officer (Elaine Smith): I must ask you to finish.

Sarah Boyack: The number of buildings that have been demolished and the actual amount of non-domestic rates that has been collected for unoccupied properties should be assessed. There should be a proper consultation and a proper report to the Parliament.

The Deputy Presiding Officer: Thank you. Members must try to be brief.

Margaret Mitchell: I support amendment 1, which is in Jim Hume’s name. I had hoped that Jim Hume would not have to move or press the amendment and that the Scottish Government, even at this late stage, would have been prepared to alter the bill’s provisions on empty commercial properties to ensure that only those properties that are deliberately left unoccupied would be subject to the cut in non-domestic rates relief. However, the Scottish Government has not been prepared to do that. Instead, it has confirmed that the measures provide no incentive to bring empty commercial properties back into use; rather, they represent a tax grab on businesses that cannot rent or sell their properties.

I therefore support amendment 1, in Jim Hume’s name, which would remove section 1. When the SNP inevitably uses its parliamentary majority to vote down the amendment, I will support amendment 13, in Gavin Brown’s name.

Ken Macintosh: I support amendment 13 and particularly Jim Hume’s amendment 1. My colleague Sarah Boyack has accurately described the debate about section 1 as the politics of assertion over argument. Evidence to the Parliament on the section has not simply opposed the measures as a policy but convincingly and credibly argued that they will not work in practice. Few businesses or property owners are not desperate to find paying tenants to cover their overheads and costs. The minister is unconvincing in his evidence-light assertions to the contrary.

Perhaps even more worrying is the proposal’s overall context. It is one month since the Cabinet Secretary for Finance, Employment and Sustainable Growth introduced what he called a budget for jobs and growth, but it is difficult to see how the new tax on businesses boosts the
economy. The Scottish Chambers of Commerce highlighted today that the business rates burden is expected to rise from £2.18 billion in 2011-12 to £2.66 billion in 2014-15, which is an increase of 22 per cent in just three years. That is not the action of a Government that is trying to support growth or jobs.

Section 1 will not return properties to productive use and will hurt the Scottish economy. We should listen to the evidence and reject the section entirely.

Patrick Harvie: I will put on the record a response to Sarah Boyack’s comments. She argued that the Government has not listened to voices inside Parliament on the matter, but I am afraid that that is not true. Nearly two years ago, the Green Party proposed actions such as the bill proposes. I am pleased that the Government eventually listened to that and has legislated.

I commend Jim Hume for his powers of persuasion. I have no idea how on earth he managed to persuade so many representatives of business interests to say publicly that they would rather pay less tax. That is a revelation. However, I will not vote for his amendment 1.

Derek Mackay: Mr Brown and Mr Brown oppose the action that we are taking but offer no credible alternatives to address the problem of empty properties. By opposing the enabling powers, Mr Hume would even deny the Government the ability to deliver the fresh start initiative.

The Local Government and Regeneration Committee rejected an amendment from Jim Hume on 26 September. He complained that he did not have a vote, but that was because he is not a member of that committee.

The enabling powers to which I referred give us the flexibility to vary the percentage of unoccupied property relief that is given and the classes of property to which the percentage will apply. Surely Parliament wants ministers to be in a position to respond quickly to changing circumstances, while maintaining parliamentary scrutiny. The status quo would mean a Government bill every time that we sought to amend the relief that was to be awarded. That would be inconsistent with other reliefs.

Mr Brown and the Conservative Party oppose the variation of empty property rates relief. Their opposition is at least consistent—except where they are in power, of course. However, such opposition is no reason to try to create a bureaucratic and overregulated regime for the Government to take decisions, which must be proportionate to the sums that are involved. Mr Brown is renowned for his sense of proportionality, but he would have us create an unprecedented legal framework for an £18 million variation of a £2.4 billion rates budget.

Throughout the policy’s development, I have emphasised that I will listen. If Mr Hume and Mr Brown had constructive alternatives, I would gladly have considered and responded to them, but the members have presented no alternatives. Others have been more constructive. That is why I proposed a new subsection at stage 2 to allow the creation of the fresh start initiative, which Mark McDonald originally suggested.

Mr Hume’s amendment would scrap that new incentive despite the widespread support that it has received. The enabling powers that are created by the bill are only one of the multiple strands that we are taking forward to encourage economic regeneration. Other streams will follow in the community empowerment and renewal bill and the town centre review. They will identify key issues that affect the viability of Scottish towns and explore other measures to bring vacant commercial and residential town centre property back into use.

The Government retains the most competitive business rates system in the UK, with the small business bonus scheme now at record levels. New statistics that have just been published show that, through the scheme, the Government has removed or reduced taxation for more than 89,000 premises. That figure is up by almost 4,000 from last year.

I think that every member in the chamber agrees that the empty premises that blight many high streets are a problem. Neither Mr Hume’s amendment nor Mr Brown’s provides any constructive ideas to tackle that problem. I therefore urge members to reject them.

The Deputy Presiding Officer: I ask Jim Hume to wind up briefly, please, and to say whether he wishes to press or withdraw his amendment.

Jim Hume: Today, we are witnessing a bulldozing Government. Sarah Boyack is correct. If the SNP had listened to what people not just in the Parliament but outside it have said, I would not have to press my amendment. However, it did not do that, so I will press it.

The bill will discourage the provision of new commercial properties. We will possibly see properties being converted to residential use or even being taken down. That has been witnessed. I will give the minister a credible alternative. We need measures that focus on regenerating our town centres and creating jobs, not measures that will hammer our economy and jobs at a time when we can least afford it.

I press amendment 1.

The Deputy Presiding Officer: The question is, that amendment 1 be agreed to. Are we agreed? Members: No.
The Deputy Presiding Officer: There will be a division.

For

Bailie, Jackie (Dumbarton) (Lab)
Baker, Claire (Mid Scotland and Fife) (Lab)
Baker, Richard (North East Scotland) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Bibby, Neil (West Scotland) (Lab)
Boyack, Sarah (Lothian) (Lab)
Brown, Gavin (Lothian) (Con)
Carlaw, Jackson (West Scotland) (Con)
Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
Davidson, Ruth (Glasgow) (Con)
Dugdale, Kezia (Lothian) (Lab)
Eadie, Helen (Cowdenbeath) (Lab)
Fee, Mary (West Scotland) (Lab)
Fergusson, Alex (Galloway and West Dumfries) (Lab)
Fergusson, Alex (Galloway and West Dumfries) (Lab)
Findlay, Neil (Lothian) (Lab)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Gibson, Kenneth (Cunninghame North) (SNP)
Goldie, Annabel (West Scotland) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (East Lothian) (Lab)
Griffith, Mark (Central Scotland) (Lab)
Henry, Hugh (Renfrewshire South) (Lab)
Hume, Jim (South Scotland) (LD)
Johnstone, Alex (North East Scotland) (Con)
Kelly, James (Rutherglen) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Lamont, John (Strathclyde) (Con)
Macintosh, Ken (Eastwood) (Lab)
Malik, Hanzala (Glasgow) (Lab)
Martin, Paul (Glasgow Provan) (Lab)
McArthur, Liam (Armagh) (LD)
McCulloch, Margaret (Central Scotland) (Lab)
McDougall, Margaret (West Scotland) (Lab)
McGrigor, Jamie (Highlands and Islands) (Con)
McInnes, Alasdair (North East Scotland) (LD)
McMahon, Michael (Uddingston and Bellshill) (Lab)
McMahon, Siobhan (Central Scotland) (SNP)
McNeil, Duncan (Greenock) (SNP)
McTaggart, Anne (Glasgow) (Lab)
Milne, Nanette (North Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Lab)
Murray, Elaine (Dumfries) (Lab)
Park, John (Mid Scotland and Fife) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)
Rennie, Willie (Mid Scotland and Fife) (LD)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, John (Ayr) (Con)
Scott, Tavish (Shetland Islands) (LD)
Simpson, Dr. Richard (Mid Scotland and Fife) (Lab)
Smith, Drew (Glasgow) (Lab)
Smith, Liz (Mid Scotland and Fife) (Con)
Stewart, David (Highlands and Islands) (Lab)

Against

Adam, Brian (Aberdeen) (SNP)
Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Biagi, Marco (Edinburgh Central) (SNP)
Brodie, Chic (South Scotland) (SNP)
Brown, Keith (Clackmannanshire and Dunblane) (SNP)
Burgess, Margaret (Cunninghame South) (SNP)
Campbell, Aileen (Clydesdale) (SNP)
Campbell, Roderick (East Scotland) (SNP)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Constance, Angela (Almond Valley) (SNP)
Crawford, Bruce (Stirling) (SNP)
Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
Dey, Graeme (Aberdeen South) (SNP)
Don, Nigel (Aberdeen North and Mearns) (SNP)
Doris, Bob (Glasgow) (SNP)
Dornan, James (Glasgow Cathcart) (SNP)
Eadie, Jim (Edinburgh South) (SNP)
Ewing, Annabelle (Mid Scotland and Fife) (SNP)
Ewing, Fergus (Inverness and Nairn) (SNP)
Fabiani, Linda (East Kilbride) (SNP)
Finnie, John (Highlands and Islands) (Ind)
Fitzpatrick, Joe (Dundee City West) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Harvie, Patrick (Glasgow) (Green)
Hepburn, Jamie (Glesga and Kilsyth) (SNP)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
Johnstone, Alison (Lothian) (Green)
Keir, Colin (Edinburgh Western) (SNP)
Kidd, Bill (Glasgow Anniesland) (SNP)
Lochhead, Richard (Moray) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacAskill, Kenny (Edinburgh Eastern) (SNP)
MacDonald, Angus (Falkirk East) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Mackay, Derek (Renfrewshire North and West) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
Mason, John (Glasgow Shettleston) (SNP)
Matheson, Michael (Falkirk West) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McDonald, Mark (North Scotland) (SNP)
McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
McLeod, Aileen (South Scotland) (SNP)
McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
McMillan, Stuart (West Scotland) (SNP)
Neil, Alex (Airdrie and Shotts) (SNP)
Paterson, Gil (Clydebank and Milngavie) (SNP)
Robertson, Dennis (Aberdeenshire West) (SNP)
Robison, Shona (Perthshire North) (SNP)
Robison, Shona (Dundee City East) (SNP)
Salmond, Alex (Aberdeen West) (SNP)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Sturgeon, Nicola (Glasgow Southside) (SNP)
Swinney, John (Punishire North) (SNP)
Urguhart, Jean (Highlands and Islands) (Ind)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
Wheelhouse, Paul (South Scotland) (SNP)
White, Sandra (Glasgow Kelvin) (SNP)
Wilson, John (Central Scotland) (SNP)
Yousaf, Humza (Glasgow) (SNP)

The Deputy Presiding Officer: The result of the division is: For 53, Against 63, Abstentions 0.

Amendment 1 disagreed to.

After section 1

Amendment 13 moved—[Gavin Brown.]

The Deputy Presiding Officer: The question is, that amendment 13 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.
For
Baillie, Jackie (Dumbarton) (Lab)
Baker, Claire (Mid Scotland and Fife) (Lab)
Baker, Richard (North East Scotland) (SNP)
Beamish, Claudia (South Scotland) (Lab)
Bibby, Neil (West Scotland) (Lab)
Boyack, Sarah (Lothian) (Lab)
Brown, Gavin (Lothian) (Con)
Carlaw, Jackson (West Scotland) (Con)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Davidson, Ruth (Glasgow) (Con)
Dugdale, Kezia (Lothian) (Lab)
Edie, Helen (Cromarty) (Lab)
Fee, Mary (West Scotland) (Lab)
Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Findlay, Neil (Lothian) (Lab)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Goldie, Annabel (West Scotland) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (East Lothian) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Henry, Hugh (Renfrewshire South) (Lab)
Hume, Jim (Edinburgh South) (LD)
Johnstone, Alex (North East Scotland) (Con)
Kelly, James (Rutherglen) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Lamont, John (Etrick, Roxburgh and Berwickshire) (Con)
Macintosh, Ken (Eastwood) (Lab)
Malik, Hanzala (Glasgow) (Lab)
Martin, Paul (Glasgow Provan) (Lab)
McCarter, Liam (Orkney Islands) (LD)
McCulloch, Margaret (Central Scotland) (Lab)
McDougall, Margaret (West Scotland) (Lab)
McGrigor, Jamie (Highlands and Islands) (Con)
McInnes, Alison (North East Scotland) (LD)
McMahon, Michael (Uddingston and Bellshill) (Lab)
McManus, Siobhan (Mid Scotland and Fife) (Lab)
Mile, Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Murray, Elaine (Dumfries and Galloway) (Lab)
Park, John (Mid Scotland and Fife) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)
Rennie, Willie (Mid Scotland and Fife) (LD)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, John (Ayr) (Con)
Scott, Tavish (Shetland Islands) (LD)
Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
Smith, Drew (Glasgow) (Lab)
Smith, Liz (Mid Scotland and Fife) (Con)
Stewart, David (Highlands and Islands) (Lab)
Against
Adam, Brian (Aberdeen Donside) (SNP)
Adam, George (Paisley) (SNP)
Adamson, Claire (Central Scotland) (SNP)
Alian, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Bieda, Marco (Edinburgh Central) (SNP)
Brodie, Chic (South Scotland) (SNP)
Brown, Keith (Clackmannanshire and Dunblane) (SNP)
Burgess, Margaret (Cunninghame South) (SNP)
Campbell, Aileen (Clydesdale) (SNP)
Campbell, Roderick (North East Fife) (SNP)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Constance, Angela (Almond Valley) (SNP)
Crawford, Bruce (Stirling) (SNP)
Cunningham, Roseanna (Perthshire South and Kinross- shire) (SNP)
Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Doris, Bob (Glasgow) (SNP)
Dornan, James (Glasgow Cathcart) (SNP)
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Fabiani, Linda (East Kilbride) (SNP)
Finnie, John (Highlands and Islands) (Ind)
FitzPatrick, Joe (Dundee City West) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Harvie, Patrick (Glasgow) (Green)
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
Johnstone, Alison (Lothian) (Green)
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MacDonald, Gordon (Edinburgh Pentlands) (SNP)
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Robertson, Dennis (Aberdeenshire West) (SNP)
Robison, Shona (Dundee City East) (SNP)
Salmond, Alex (Aberdeenshire East) (SNP)
Stevenson, Stewart (Barnsley and Chesterfield) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Surgeon, Nicola (Glasgow Southside) (SNP)
Swinney, John (Perthshire North) (SNP)
Urquhart, Jean (Highlands and Islands) (Ind)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
Wheelhouse, Paul (South Scotland) (SNP)
White, Sandra (Glasgow Kelvin) (SNP)
Wilson, John (Central Scotland) (SNP)
Yousaf, Humza (Glasgow) (SNP)

The Deputy Presiding Officer: The result of the division is: For 52, Against 64, Abstentions 0.

Amendment 13 disagreed to.

The Deputy Presiding Officer: Group 5 is on minimum state of repair below which non-domestic rates and council tax are not payable. Amendment 14, in the name of Margaret Mitchell, is grouped with amendment 18.

15:45
Margaret Mitchell: Amendments 14 and 18 seek to require Scottish ministers to prescribe by way of regulation a minimum state of repair for unoccupied lands or heritages to be included on the assessor’s valuation roll and therefore fall within the terms of the bill.
The amendments, which deal respectively with non-domestic and residential properties, are intended to remedy the concern raised by Scottish Land & Estates in evidence to the Local Government and Regeneration Committee about long-term properties that are classified as dwellings but are not suitable for habitation or use as modern homes. Scottish Land & Estates called on assessors “to be ... more realistic about removing properties from the ... register.”—[Official Report, Local Government and Regeneration Committee, 16 May 2012; c 983.]

Having listened carefully to the minister’s response to similar amendments at stage 2, I have altered these amendments to take into account his three main objections. First, the minister suggested:

“To issue guidance to” assessors
“would be to undermine their autonomy in determining whether a property should be included in the valuation roll.”

However, assessors already interpret Scottish Government regulations that lay out assumptions they should follow when valuing properties without their autonomy being undermined. If assessors are not interpreting those regulations sufficiently, it is entirely appropriate for ministers to give direction on how they should be interpreted.

Secondly, the minister objected to the amendment on the basis that it risked “confusing, rather than clarifying, assessors’ work” and that it was “not clear what place guidance would have”
given that the amendment did not propose to make assessors legally required to have regard to it. The point was well made and I have taken the minister’s constructive criticism on board. Consequently, amendment 14 now provides for binding regulations to be made.

Finally, the minister said that the amendment was tantamount to “a manual on how to vandalise one’s property in order to avoid paying tax.”—[Official Report, Local Government and Regeneration Committee, 26 September 2012; c 1200.]

I do not believe that that is a serious argument against bringing much needed clarity to the law in this area.

I move amendment 14.

The Minister for Housing and Welfare (Margaret Burgess): The Scottish Government does not support amendments 14 and 18. As Mr Mackay indicated in the discussion on a similar stage 2 amendment—and as Mrs Mitchell has made clear just now—practice and case law already play their part in determining whether a property should be included in the valuation roll. Although Mrs Mitchell now proposes that that be done through regulations rather than guidance, as was proposed at stage 2, these amendments still risk confusing rather than clarifying assessors’ work. In any case, regulations cannot contradict the definitions in the relevant primary legislation about the properties that should be included in either the valuation roll for non-domestic rates or the council tax register. If they did, they would be ultra vires; as a result, they would need to be restricted in the detail they provided.

The Scottish Government considers that the existing definitions in the primary legislation remain appropriate. We want neither to reward those who have allowed their properties to fall into disrepair by potentially allowing them to be exempt from local taxation nor to encourage others to let their properties to get into a poor state of repair or even to vandalise them just to avoid paying council tax or non-domestic rates.

As these amendments do nothing to tackle empty properties and could, in fact, create a perverse incentive that would contradict the bill’s very intentions, I encourage Mrs Mitchell to withdraw amendment 14 and not to move amendment 18.

Margaret Mitchell: Despite all my efforts to meet the concerns of the Minister for Local Government and Planning and now the concerns of the new Minister for Housing and Welfare, I regret to say that the Scottish Government is determined to remain intransigent on this matter. Another opportunity has been lost to ensure that the bill has some provisions relating to empty and unoccupied properties that might give it some validity.

I will press amendment 14.

The Deputy Presiding Officer: The question is, that amendment 14 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For
Brown, Gavin (Lothian) (Con)
Carlaw, Jackson (West Scotland) (Con)
Davidson, Ruth (Glasgow) (Con)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Goldie, Annabel (West Scotland) (Con)
Johnstone, Alex (North East Scotland) (Con)
Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
McGrigor, Jamie (Highlands and Islands) (Con)
Milne, Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, John (Ayr) (Con)
Smith, Liz (Mid Scotland and Fife) (Con)

Against
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<th>Constituency</th>
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<td>Yousef, Humza</td>
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**The Deputy Presiding Officer:** The result of the division is: For 14, Against 99, Abstentions 0.

**Amendment 14 disagreed to.**

**Section 2—Council tax: variation for unoccupied dwellings**

**Amendment 15 moved—[Margaret Mitchell].**

**The Deputy Presiding Officer:** The question is, that amendment 15 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

**For**
- Brown, Gavin (Lothian) (Con)
- Carlaw, Jackson (West Scotland) (Con)
- Davidson, Ruth (Glasgow) (Con)
- Ferguson, Alex (Galloway and West Dumfries) (Con)
- Fraser, Murdo (Mid Scotland and Fife) (Con)
- Goldie, Annabel (West Scotland) (Con)
- Johnstone, Alex (North East Scotland) (Con)
- Lamont, John (Edinburgh) (Berwickshire) (Con)
- McGrigor, Jamie (Highlands and Islands) (Con)
- Milne, Nanette (North East Scotland) (Con)
- Mitchell, Margaret (Central Scotland) (Con)
- Scanlon, Mary (Highlands and Islands) (Con)
- Scott, John (Ayr) (Con)
- Smith, Liz (Mid Scotland and Fife) (Con)

**Against**
- Adam, Brian (Aberdeen Donside) (SNP)
- Adam, George (Paisley) (SNP)
- Adamson, Clare (Central Scotland) (SNP)
- Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
- Baille, Jackie (Dumbarton) (SNP)
- Baker, Claire (Mid Scotland and Fife) (Lab)
As public bodies are struggling to meet the increasing demands of those whom they work to support at a time of shrinking budgets and scarce resources. Asking public bodies to fund such a substantial jump in rates is clearly detrimental to our public services and it obstructs the long-term planning for currently unoccupied estates.

Simply because buildings are not in current use does not mean that they will always be unoccupied, nor that they should be sold to private developers or demolished to avoid a serious increase in rates payable.
in such a situation as a result of unforeseen inheritances or because they cannot sell their home in an increasingly difficult property market. To ask people in that situation to pay twice the amount of council tax that they may have expected to pay is not only irresponsible but plainly wrong. The Scottish Government will potentially force Scottish families into negative equity as a result of these measures and the subsequent pressure to sell property to avoid the increased council tax charges.

I move amendment 6.

Margaret Burgess: The Scottish Government does not support amendments 6 and 7, which relate to the level of council tax being charged on empty properties. As Mr Mackay indicated during stage 2, we intend to give councils the flexibility that they need to set the council tax increase at a high enough level to encourage owners to bring their empty homes back into use as a house for people who need it. In some cases, that may mean an increase of 50 per cent or less, but in others the council may feel that a higher increase of up to 100 per cent is appropriate in its area to provide sufficient incentive to owners.

The Local Government and Regeneration Committee broadly welcomed the proposal in its stage 1 report. Our proposal has always been to give councils discretion to impose a maximum increase of 100 per cent of the standard rate of council tax. We received strong support for a 100 per cent increase in the consultation on our proposals and Shelter yesterday confirmed its support for the proposal in a news release. I therefore urge the Parliament to reject amendments 6 and 7.

The Deputy Presiding Officer: I ask Anne McTaggart to wind up and indicate whether she intends to press or withdraw amendment 6.

Anne McTaggart: I refer to my previous speech on the proposals and conclude that, as it stands, the bill penalises families in difficult situations and weakens the ability of many public bodies to make their own decisions about financial planning and property reallocation. I therefore press amendment 6.

The Deputy Presiding Officer: The question is, that amendment 6 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For
Bailie, Jackie (Dumbarton)  (Lab)
Baker, Claire (Mid Scotland and Fife)  (Lab)
Baker, Richard (North East Scotland) (Lab)
Beamish, Claudia (South Scotland)  (Lab)
Bibby, Neil (West Scotland)  (Lab)
Boyack, Sarah (Lothian)  (Lab)
Chisholm, Malcolm (Edinburgh Northern and Leith)  (Lab)
Dugdale, Kezia (Lothian)  (Lab)
Eddie, Helen (Cowdenbeath)  (Lab)
Fee, Mary (West Scotland)  (Lab)
Ferguson, Patricia (Gloucester Maryhill and Springburn) (Lab)
Findlay, Neil (Lothian)  (Lab)
Grant, Rhoda (Highlands and Islands)  (Lab)
Gray, Iain (East Lothian)  (Lab)
Griffin, Mark (Central Scotland)  (Lab)
Henry, Hugh (Renfrewshire South)  (Lab)
Kelly, James (Rutherglen)  (Lab)
Lamont, Johann (Glasgow Pollok)  (Lab)
Macintosh, Ken (Eastwood)  (Lab)
Malik, Hanzala (Glasgow)  (Lab)
Martin, Paul (Glasgow Provan)  (Lab)
McCulloch, Margaret (Central Scotland)  (Lab)
McDougall, Margaret (West Scotland)  (Lab)
McMahon, Michael (Uddingston and Bellshill)  (Lab)
McMahon, Siobhan (Central Scotland)  (Lab)
McNeil, Duncan (Greenock and Inverclyde)  (Lab)
McTaggart, Anne (Glasgow)  (Lab)
Milne, Nanette (North East Scotland)  (Con)
Murray, Elaine (Dumfriesshire)  (Lab)
Park, John (Mid Scotland and Fife)  (Lab)
Pentland, John (Motherwell and Wishaw)  (Lab)
Simpson, Dr Richard (Mid Scotland and Fife)  (Lab)
Smith, Drew (Glasgow)  (Lab)
Stewart, David (Highlands and Islands)  (Lab)

Against
Adam, Brian (Aberdeen Donside)  (SNP)
Adam, George (Paisley)  (SNP)
Adamson, Clare (Central Scotland)  (SNP)
Alban, Dr Alasdair (Na h-Eileanan an Iar)  (SNP)
Beattie, Colin (Midlothian North and Musselburgh)  (SNP)
Biagi, Marco (Edinburgh Central)  (SNP)
Brodie, Chic (South Scotland)  (SNP)
Brown, Keith (Clackmannanshire and Dunblane)  (SNP)
Burgess, Margaret (Cunninghame South)  (SNP)
Campbell, Aileen (Clydesdale)  (SNP)
Campbell, Roderick (North-East Fife)  (SNP)
Coffey, Willie (Kilmarnock and Irvine Valley)  (SNP)
Constantine, Angela (Almond Valley)  (SNP)
Crawford, Bruce (Stirling)  (SNP)
Cunningham, Roseanna (Perthshire South and Kinross-shire)  (SNP)
Dey, Graeme (Angus South)  (SNP)
Don, Nigel (Angus North and Mearns)  (SNP)
Doris, Bob (Glasgow)  (SNP)
Dornan, James (Glasgow Cathcart)  (SNP)
Eddie, Jim (Edinburgh Southern)  (SNP)
Ewing, Annabelle (Mid Scotland and Fife)  (SNP)
Ewing, Fergus (Inverness and Nairn)  (SNP)
Fabian, Linda (East Kilbride)  (SNP)
Finnie, John (Highlands and Islands)  (Ind)
FitzPatrick, Joe (Dundee City West)  (SNP)
Gibson, Kenneth (Cunninghame North)  (SNP)
Gibson, Rob (Cairnhead, Sutherland and Ross)  (SNP)
Harvie, Patrick (Glasgow)  (Green)
Hepburn, Jamie (Cumbernauld and Kilsyth)  (SNP)
Hume, Jim (South Scotland)  (LD)
Ingram, Adam (Carrick, Cumnock and Doon Valley)  (SNP)
Johnstone, Alison (Lothian)  (Green)
Keir, Colin (Edinburgh Western)  (SNP)
Kidd, Bill (Glasgow Anniesland)  (SNP)
Lochhead, Richard (Moray)  (SNP)
Lyle, Richard (Central Scotland)  (SNP)
MacAskill, Kenny (Edinburgh Eastern)  (SNP)
MacDonald, Angus (Falkirk East)  (SNP)
McDonald, Gordon (Edinburgh Pentlands)  (SNP)
Mackay, Derek (Renfrewshire North and West)  (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
Mason, John (Glasgow Shettleston) (SNP)
Matheson, Michael (Falkirk West) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McArthur, Liam (Orkney Islands) (LD)
McDonald, Mark (North East Scotland) (SNP)
McInnes, Alison (North East Scotland) (LD)
McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
McLeod, Aileen (South Scotland) (SNP)
McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
McMilan, Stuart (West Scotland) (SNP)
Neil, Alex (Airdrie and Shotts) (SNP)
Paterson, Gille (Clydebank and Milngavie) (SNP)
Rennie, Willie (Mid Scotland and Fife) (LD)
Robertson, Dennis (Aberdeen West) (SNP)
Robison, Shona (Dundee City East) (SNP)
Salmond, Alex (Aberdeenshire East) (SNP)
Scott, Tavish (Shetland Islands) (LD)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stuart, Kevin (Aberdeen Central) (SNP)
Sturgeon, Nicola (Glasgow Southside) (SNP)
Swinney, John (Perthshire North) (SNP)
Urquhart, Jean (Highlands and Islands) (Ind)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
Wheelhouse, Paul (South Scotland) (SNP)
White, Sandra (Glasgow Kelvin) (SNP)
Wilson, John (Central Scotland) (SNP)
Yousaf, Humza (Glasgow) (SNP)

Abstentions
Brown, Gavin (Lothian) (Con)
Carlaw, Jackson (West Scotland) (Con)
Davidson, Ruth (Glasgow) (Con)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Goldie, Annabel (West Scotland) (Con)
Johnstone, Alex (North East Scotland) (Con)
Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
McGrigor, Jamie (Highlands and Islands) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, John (Ayr) (Con)
Smith, Liz (Mid Scotland and Fife) (Con)

The Deputy Presiding Officer: The result of the division is: For 34, Against 69, Abstentions 12.

Amendment 6 disagreed to.

The Deputy Presiding Officer: Group 7 is on the treatment of unoccupied social housing for council tax purposes. Amendment 16, in the name of Margaret Mitchell, is grouped with amendment 19.

Margaret Mitchell: Amendments 16 and 19 are based on the assumption that council tax is payable in respect of empty social housing as well as domestic dwellings in private ownership. The amendments therefore ensure that the provisions made for the increases or discounts cannot result in social housing being treated more favourably than other properties merely because it is in public ownership.

If ministers or local authorities increase the council tax applicable to empty privately owned housing to encourage it back into use, the same rationale and provisions should apply to empty publicly owned housing.

Amendments 16 and 19 ensure that the principles of fair and equal treatment are upheld and that local authorities cannot give themselves preferential treatment and allow vacant and void stock to further deteriorate.

16:00
At stage 2, the Minister for Local Government and Planning said:

“it is not currently the Scottish Government’s intention to exempt social landlords”—[Official Report, Local Government and Regeneration Committee, 26 September 2012: c 1204.]

from the bill’s provision. Amendments 16 and 19 would make that clear and give a firm statutory footing to that stated intention.

Finally, confusion remains over how the application of these provisions will work in practice, as it appears that local authorities will merely be moving figures from one column to another. I would therefore welcome an explanation of how the mechanics of that will work in terms of a local authority collecting the increase in council tax from properties that it owns and deems to be wilfully unoccupied.

I move amendment 16.

Margaret Burgess: The Scottish Government is willing to support amendment 16, although we do not support amendment 19. As was said at stage 2, we agree with Margaret Mitchell that social landlords should not generally be exempt from paying council tax or a council tax increase. It was never our intention to give more favourable treatment to social landlords than to private home owners. Both councils and housing associations seek to minimise void periods in order to help to reduce waiting lists. We are willing to accept amendment 16, as it would prevent councils and social landlords from using the broad discretion given to them by the regulations to treat social rented housing more favourably.

However, as is clear from our recent consultation on the draft council tax regulations, there are no plans to exempt social landlords from council tax, so we believe that amendment 19 is unnecessary. We also believe that there could be difficulties in specifying a reasonable period of time for properties to be left empty before they are demolished.

Neil Findlay (Lothian) (Lab): I am not sure whether I am hearing this correctly. Are we going to encourage social landlords to get their properties quickly back into circulation by punishing them even further? Is that what the
minister is saying? It is not a very good start for the minister.

Margaret Burgess: I am saying that we are making no exemption for social landlords. We are treating social landlords and private residential property owners in the same way. The discretion will still apply, but we are not differentiating between them. That was also said at stage 2.

I will finish by saying that the issue can vary from case to case, particularly for large tower blocks, given the need to place existing tenants in a new block of homes. Sometimes, for example, there is a need for the compulsory purchase of homes that owners occupy in the same block. Therefore, we cannot accept amendment 19.

Margaret Mitchell: I welcome the minister’s support for amendment 16. The amendment could result in a maximum increase in council tax due to double the amount that is being charged in empty properties. However, the minister is rejecting amendment 19, so I fear that the absolute reassurance that I sought has not been given to private owners of empty properties that they will be treated equitably with landlords of social and publicly owned housing.

The Deputy Presiding Officer: The question is, that amendment 16 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For
Adam, Brian (Aberdeen Donside) (SNP)
Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Biagi, Marco (Edinburgh Central) (SNP)
Brown, Alan (Edinburgh Central) (SNP)
Brown, Gavin (Lothian) (Con)
Brown, Keith (Clackmannanshire and Dunblane) (SNP)
Campbell, Aileen (Clydesdale) (SNP)
Campbell, Roderick (North East Fife) (SNP)
Carlaw, Jackson (West Scotland) (Con)
Constance, Angela (Almond Valley) (SNP)
Crawford, Bruce (Stirling) (SNP)
Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
Davidson, Ruth (Glasgow) (Con)
Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Doris, Bob (Glasgow) (SNP)
Dornan, James (Glasgow Cathcart) (SNP)
Dowie, Richard (Highlands and Islands) (SNP)
Ewing, Fergus (Inverness and Nairn) (SNP)
Fabbian, Linda (East Kilbride) (SNP)
Finnie, John (Highlands and Islands) (Ind)
FitzPatrick, Joe (Dundee City West) (SNP)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Gibson, Kenneth (Cunninghame North) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Goldie, Annabel (West Scotland) (Con)
Harvie, Patrick (Glasgow) (Green)
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
Hume, Jim (South Scotland) (LD)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
Johnstone, Alex (North East Scotland) (Con)
Johnstone, Alison (Lothian) (Green)
Keir, Colin (Edinburgh Western) (SNP)
Kidd, Bill (Glasgow Anniesland) (SNP)
Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
Lochhead, Richard (Moray) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacAskill, Kenny (Edinburgh Eastern) (SNP)
MacDonald, Angus (Falkirk East) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Mackay, Derek (Renfrewshire North and West) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
Mason, John (Glasgow Shettleston) (SNP)
Matheson, Michael (Falkirk West) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
Mcauley, Joan (South Scotland) (SNP)
McArthur, Liam (Orkney Islands) (LD)
McDonald, Mark (North East Scotland) (SNP)
McGrigor, Jamie (Highlands and Islands) (Con)
McInnes, Alison (North East Scotland) (LD)
McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
McLeod, Aileen (South Scotland) (SNP)
McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
McMillan, Stuart (West Scotland) (SNP)
Milne, Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Neil, Alex (Airdrie and Shotts) (SNP)
Paterson, Gill (Clydebank and Milngavie) (SNP)
Rennie, Willie (Mid Scotland and Fife) (LD)
Robertson, Dennis (Aberdeenshire West) (SNP)
Robison, Shona (Dundee City East) (SNP)
Salmond, Alex (Aberdeenshire East) (SNP)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, John (Ayr) (Con)
Scott, Tavish (Shetland Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Sturgeon, Nicola (Glasgow Southside) (SNP)
Swinney, John (Perthshire North) (SNP)
Urquhart, Jean (Highlands and Islands) (Ind)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
Wheelhouse, Paul (South Scotland) (SNP)
White, Sandra (Glasgow Kelvin) (SNP)
Wilson, John (Central Scotland) (SNP)
Yousaf, Humza (Glasgow) (SNP)
Against
Ballie, Jackie (Dumbarton) (Lab)
Baker, Claire (Mid Scotland and Fife) (Lab)
Baker, Richard (North East Scotland) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Bibby, Neil (West Scotland) (Lab)
Boyack, Sarah (Lothian) (Lab)
Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
Dugdale, Kezia (Lothian) (Lab)
Edie, Helen (Cowdenbeath) (Lab)
Fee, Mary (West Scotland) (Lab)
Ferguson, Patricia (Glasgow Maryhill and Springfield) (Lab)
Findlay, Neil (Lothian) (Lab)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (East Lothian) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Henry, Hugh (Renfrewshire South) (Lab)
Amendment 7 moved—[Anne McTaggart].

The Deputy Presiding Officer: The question is, that amendment 7 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Bailie, Jackie (Dumbarton) (Lab)
Baker, Claire (Mid Scotland and Fife) (Lab)
Baker, Richard (North East Scotland) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Bibby, Neil (West Scotland) (Lab)
Boyack, Sarah (Lothian) (Lab)
Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
Dugdale, Kezia (Lothian) (Lab)
Eadie, Helen (Cowdenbeath) (Lab)
Fee, Mary (West Scotland) (Lab)
Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
Findlay, Neil (Lothian) (Lab)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (East Lothian) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Henry, Hugh (Renfrewshire South) (Lab)
Kelly, James (Rutherglen) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Macintosh, Ken (Eastwood) (Lab)
Malik, Hanzala (Glasgow) (Lab)
Martin, Paul (Glasgow Provan) (Lab)
McCulloch, Margaret (Central Scotland) (Lab)
McDougall, Margaret (West Scotland) (Lab)
McMahon, Michael (Uddingston and Bellshill) (Lab)
McMahon, Siobhan (Central Scotland) (Lab)
McNeil, Duncan (Greenock and Inverclyde) (Lab)
McTaggart, Anne (Glasgow) (Lab)
Murray, Elaine (Dumfrieshire) (Lab)
Park, John (Mid Scotland and Fife) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)
Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
Smith, Drew (Glasgow) (Lab)
Stewart, David (Highlands and Islands) (Lab)

Against

Adam, Brian (Aberdeen Donside) (SNP)
Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Biagi, Marco (Edinburgh Central) (SNP)
Brodie, Chic (South Scotland) (SNP)
Brown, Keith (Clackmannanshire and Dunblane) (SNP)
Burgess, Margaret (Cunninghame South) (SNP)
Campbell, Alileen (Clydesdale) (SNP)
Campbell, Roderick (North East Fife) (SNP)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Constance, Angela (Almond Valley) (SNP)
Crawford, Bruce (Stirling) (SNP)
Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Doris, Bob (Glasgow) (SNP)
Dornan, James (Glasgow Cathcart) (SNP)
Eadie, Jim (Edinburgh Southern) (SNP)
Ewing, Annabelle (Mid Scotland and Fife) (SNP)
Ewing, Fergus (Inverness and Nairn) (SNP)
Fabian, Linda (East Kilbride) (SNP)
Finnie, John (Highlands and Islands) (Ind)
FitzPatrick, Joe (Dundee City West) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Harvie, Patrick (Glasgow) (Green)
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
Hume, Jim (South Scotland) (LD)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
Johnstone, Alison (Lothian) (Green)
Keir, Colin (Edinburgh Western) (SNP)
Kidd, Bill (Glasgow Anniesland) (SNP)
Lochhead, Richard (Moray) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacAskill, Kenny (Edinburgh Eastern) (SNP)
MacDonald, Angus (Falkirk East) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Mackay, Derek (Renfrewshire North and West) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
Mason, John (Glasgow Shettleston) (SNP)
Matheson, Michael (Falkirk West) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McArthur, Liam (Orkney Islands) (LD)
McDonald, Mark (North East Scotland) (SNP)
McInnes, Alison (North East Scotland) (LD)
McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
McLeod, Alileen (South Scotland) (SNP)
McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
McMillan, Stuart (West Scotland) (SNP)
Neil, Alex (Airdrie and Shotts) (SNP)
Paterson, Gill (Clydebank and Milngavie) (SNP)
Rennie, Willie (Mid Scotland and Fife) (LD)
Robertson, Dennis (Aberdeenshire West) (SNP)
Robison, Shona (Dundee City East) (SNP)
Salmond, Alex (Aberdeenshire East) (SNP)
Scott, Tavish (Shetland Islands) (LD)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Sturgeon, Nicola (Glasgow Southside) (SNP)
Swinney, John (Perthshire North) (SNP)
Urquhart, Jean (Highlands and Islands) (Ind)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
Wheelhouse, Paul (South Scotland) (SNP)
White, Sandra (Glasgow Kelvin) (SNP)
Wilson, John (Central Scotland) (SNP)
Yousaf, Humza (Glasgow) (SNP)

Abstentions

Brown, Gavin (Lothian) (Con)
Carlaw, Jackson (West Scotland) (Con)
The Deputy Presiding Officer: The result of the division is: For 33, Against 69, Abstentions 14.

Amendment 7 disagreed to.

Amendment 17 moved—[Margaret Mitchell].

The Deputy Presiding Officer: The question is, that amendment 17 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Brown, Gavin (Lothian) (Con)
Carlaw, Jackson (West Scotland) (Con)
Davidson, Ruth (Glasgow) (Con)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Goldie, Annabel (West Scotland) (Con)
Johnstone, Alex (North East Scotland) (Con)
Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
McGrigor, Jamie (Highlands and Islands) (Con)
Miline, Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, John (Ayr) (Con)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, Brian (Aberdeen Donside) (SNP)
Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
Baillie, Jackie (Dumbarton) (Lab)
Baker, Claire (Mid Scotland and Fife) (Lab)
Baker, Richard (North East Scotland) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Biagi, Marco (Edinburgh Central) (SNP)
Bibby, Neil (West Scotland) (Lab)
Boyack, Sarah (Lothian) (Lab)
Brodie, Chic (South Scotland) (SNP)
Brown, Keith (Clackmannanshire and Dunblane) (SNP)
Burgess, Margaret (Cunninghame South) (SNP)
Campbell, Aileen (Clydesdale) (SNP)
Campbell, Roderick (North East Fife) (SNP)
Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Constance, Angela (Almond Valley) (SNP)
Crawford, Bruce (Stirling) (SNP)
Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Doris, Bob (Glasgow) (SNP)
Dorman, James (Glasgow Cathcart) (SNP)

Dugdale, Kezia (Lothian) (Lab)
Eadie, Helen (Cowdenbeath) (Lab)
Eadie, Jim (Edinburgh Southern) (SNP)
Ewing, Annabelle (Mid Scotland and Fife) (SNP)
Ewing, Fergus (Inverness and Nairn) (SNP)
Fabiani, Linda (East Kilbride) (SNP)
Fee, Mary (West Scotland) (Lab)
Fergusson, Patricia (Glasgow Maryhill and Springburn) (Lab)
Findlay, Neil (Lothian) (Lab)
Finnie, John (Highlands and Islands) (Ind)
FitzPatrick, Joe (Dundee City West) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (East Lothian) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Harvie, Patrick (Glasgow) (Green)
Henry, Hugh (Renfrewshire South) (Lab)
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
Hume, Jim (South Scotland) (LD)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
Johnstone, Alison (Lothian) (Green)
Keir, Colin (Edinburgh Western) (SNP)
Kelly, James (Rutherglen) (Lab)
Kidd, Bill (Glasgow Anniesland) (SNP)
Lamont, Johann (Glasgow Pollok) (Lab)
Lochhead, Richard (Moray) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacAskill, Kenny (Edinburgh Eastern) (SNP)
MacDonald, Angus (Falkirk East) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Macintosh, Ken (Eastwood) (Lab)
Mackay, Derek (Renfrewshire North and West) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
Malik, Hanzala (Glasgow) (Lab)
Martin, Paul (Glasgow Provan) (Lab)
Mason, John (Glasgow Shettleston) (SNP)
Matheson, Michael (Falkirk West) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
Mcauliffe, Joan (South Scotland) (SNP)
McArthur, Liam (Orkney Islands) (LD)
McCulloch, Margaret (Central Scotland) (Lab)
McDonald, Mark (North East Scotland) (SNP)
McDougall, Margaret (West Scotland) (Lab)
McInnes, Alison (North East Scotland) (LD)
McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
McLeod, Aileen (South Scotland) (SNP)
McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
McMahon, Michael (Uddingston and Bellshill) (Lab)
McMahon, Siobhan (Central Scotland) (Lab)
McMillan, Stuart (West Scotland) (SNP)
McNeil, Duncan (Greenock and Inverclyde) (Lab)
McTaggart, Anne (Glasgow) (Lab)
Murray, Elaine (Dumfriesshire) (Lab)
Neil, Alex (Airdrie and Shotts) (SNP)
Park, John (Mid Scotland and Fife) (Lab)
Paterson, Gill (Clydebank and Milngavie) (SNP)
Pentland, John (Motherwell and Wishaw) (Lab)
Rennie, Willie (Mid Scotland and Fife) (LD)
Robertson, Dennis (Aberdeen West) (SNP)
Robison, Shona (Dundee City East) (SNP)
Salmond, Alex (Aberdeenshire East) (SNP)
Scott, Tavish (Shetland Islands) (LD)
Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, David (Highlands and Islands) (Lab)
Stewart, Kevin (Aberdeen Central) (SNP)
Sturgeon, Nicola (Glasgow Southside) (SNP)
Swinney, John (Perthshire North) (SNP)
Urquhart, Jean (Highlands and Islands) (Ind)
Watt, Maureen (Aberdeen South and North Kincardine)
Amendment 17 disagreed to.

Section 3—Amendment of the Local Government Finance Act 1992

Amendment 18 moved—[Margaret Mitchell].

The Deputy Presiding Officer: The question is, that amendment 18 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For
Brown, Gavin (Lothian) (Con)
Carlaw, Jackson (West Scotland) (Con)
Davidson, Ruth (Glasgow) (Con)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Goldie, Annabel (West Scotland) (Con)
Johnstone, Alex (North East Scotland) (Con)
Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
McGrigor, Jamie (Highlands and Islands) (Con)
Milne, Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, John (Ayr) (Con)
Smith, Liz (Mid Scotland and Fife) (Con)

Against
Adam, Brian (Aberdeen Donside) (SNP)
Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
Baillie, Jackie (Dumbarton) (Lab)
Baker, Claire (Mid Scotland and Fife) (Lab)
Baker, Richard (North East Scotland) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Biagi, Marco (Edinburgh Central) (SNP)
Bibby, Neil (West Scotland) (Lab)
Boyack, Sarah (Lothian) (Lab)
Brodie, Chic (South Scotland) (SNP)
Brown, Keith (Clackmannanshire and Dunblane) (SNP)
Burgess, Margaret (Cunninghame South) (SNP)
Campbell, Aileen (Clydesdale) (SNP)
Campbell, Roderick (North East Fife) (SNP)
Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Constance, Angela (Almond Valley) (SNP)
Crawford, Bruce (Stirling) (SNP)
Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Doris, Bob (Glascow) (SNP)
Dornan, James (Glasgow Cathcart) (SNP)
Dugdale, Kezia (Lothian) (Lab)
Eadie, Helen (Cowdenbeath) (Lab)
Eadie, Jim (Edinburgh Southern) (SNP)
Ewing, Annabelle (Mid Scotland and Fife) (SNP)
Ewing, Fergus (Inverness and Nairn) (SNP)
Fabiani, Linda (East Kilbryde) (SNP)
Fee, Mary (West Scotland) (Lab)
Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
Findlay, Neil (Lothian) (Lab)
Finnie, John (Highlands and Islands) (Ind)
FitzPatrick, Joe (Dundee City West) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (East Lothian) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Harvie, Patrick (Glasgow) (Green)
Henry, Hugh (Renfrewshire South) (Lab)
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
Hume, Jim (South Scotland) (Lab)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
Johnstone, Alison (Lothian) (Green)
Keir, Colin (Edinburgh Western) (SNP)
Kelly, James (Rutherglen) (Lab)
Kidd, Bill (Glasgow Anniesland) (SNP)
Lamont, Johann (Glasgow Pollok) (Lab)
Lochhead, Richard (Moray) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacAskill, Kenny (Edinburgh Eastern) (SNP)
MacDonald, Angus (Falkirk East) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Macintosh, Ken (Eastwood) (Lab)
Mackay, Derek (Renfrewshire North and West) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
Malik, Hanzala (Glasgow) (Lab)
Martin, Paul (Glasgow Provan) (Lab)
Mason, John (Glasgow Shettleston) (SNP)
Matheson, Michael (Falkirk West) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McArthur, Liam (Orkney Islands) (LD)
McCulloch, Margaret (Central Scotland) (Lab)
McDonald, Mark (North East Scotland) (SNP)
McDougall, Margaret (West Scotland) (Lab)
McInnes, Alison (North East Scotland) (LD)
McKevie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
McLeod, Aileen (South Scotland) (SNP)
McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
McMahon, Michael (Uddingston and Bellshill) (Lab)
McMahon, Siobhan (Central Scotland) (Lab)
McMillan, Stuart (West Scotland) (SNP)
McNeil, Duncan (Greenock and Inverclyde) (Lab)
McTaggart, Anne (Glasgow) (Lab)
Murray, Elaine (Dumfrieshire) (Lab)
Neil, Alex (Airdrie and Shotts) (SNP)
Park, John (Mid Scotland and Fife) (Lab)
Paterson, Gil (Clydebank and Milngavie) (SNP)
Pentland, John (Motherwell and Wishaw) (Lab)
Rennie, Willie (Mid Scotland and Fife) (LD)
Robertson, Dennis (Aberdeenshire West) (SNP)
Robison, Shona (Dundee City East) (SNP)
Salmond, Alex (Aberdeenshire East) (SNP)
Scott, Tavish (Shetland Islands) (LD)
Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
Smith, Drew (Glasgow) (Lab)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, David (Highlands and Islands) (Lab)
Stewart, Kevin (Aberdeen Central) (SNP)
Sturgeon, Nicola (Glasgow Southside) (SNP)
Swinney, John (Perthshire North) (SNP)
Urquhart, Jean (Highlands and Islands) (Ind)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
Wheelhouse, Paul (South Scotland) (SNP)
White, Sandra (Glasgow Kelvin) (SNP)
The Deputy Presiding Officer: The result of the division is: For 14, Against 102, Abstentions 0.
Amendment 18 disagreed to.
Amendment 19 moved—[Margaret Mitchell].
The Deputy Presiding Officer: The question is, that amendment 19 be agreed to. Are we agreed?
Members: No.
The Deputy Presiding Officer: There will be a division.

For
Brown, Gavin (Lothian) (Con)
Carlaw, Jackson (West Scotland) (Con)
Davidson, Ruth (Glasgow) (Con)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Goldie, Annabel (West Scotland) (Con)
Johnstone, Alex (North East Scotland) (Con)
Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
McGrigor, Jamie (Highlands and Islands) (Con)
Milne, Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, John (Ayr) (Con)
Smith, Liz (Mid Scotland and Fife) (Con)

Against
Adam, Brian (Aberdeen Donside) (SNP)
Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
Baird, Jackie (Dumbarton) (Lab)
Baker, Richard (North East Scotland) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Bibi, Neil (West Scotland) (Lab)
Boyack, Sarah (Lothian) (Lab)
Brodie, Chic (South Scotland) (SNP)
Brown, Keith (Clackmannanshire and Dunblane) (SNP)
Burgess, Margaret (Cunninghame South) (SNP)
Campbell, Aileen (Clydesdale) (SNP)
Campbell, Roderick (North East Fife) (SNP)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Constance, Angela (Almond Valley) (SNP)
Crawford, Bruce (Stirling) (SNP)
Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Doris, Bob (Glasgow) (SNP)
Donnan, James (Glasgow Cathcart) (SNP)
Dugdale, Kezia (Lothian) (Lab)
Eadie, Helen (Cowdenbeath) (Lab)
Eadie, Jim (Edinburgh Southern) (SNP)
Ewing, Annabelle (Mid Scotland and Fife) (SNP)
Ewing, Fergus (Inverness and Nairn) (SNP)
Fabiani, Linda (East Kilbride) (SNP)
Fee, Mary (West Scotland) (Lab)
Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
Findlay, Neil (Lothian) (Lab)
Finnie, John (Highlands and Islands) (Ind)
FitzPatrick, Joe (Dundee City West) (SNP)

The Deputy Presiding Officer: The result of the division is: For 14, Against 100, Abstentions 0.
Amendment 19 disagreed to.

After section 4
The Deputy Presiding Officer: Group 8 is on the abolition of housing support grant: provision of transitional assistance. Amendment 2, in the name of Tavish Scott, is the only amendment in the group.

Tavish Scott (Shetland Islands) (LD): The Government has accepted only one of 18 amendments; let me give it the opportunity to turn that record into two.

Amendment 2 seeks to extend a transitional agreement between the Scottish Government and the Shetland Islands Council—the only local authority in Scotland that receives housing support grant—before the grant is abolished, which is what the bill intends.

I accept—the minister will no doubt remind me of this—that a similar amendment was not supported at the Local Government and Regeneration Committee. However, to a large extent, the committee’s decision was based on a ministerial assurance to the committee that negotiations with the council about the housing debt incurred in the 1970s would continue.

Every Scottish Government up until 2007 retained a budget to write off that debt—Shetland Islands Council’s past and present finance directors have confirmed that to me. At committee, I asked the minister to work on a transitional scheme to help the 1,800 tenants who otherwise face a rent increase of £8 a week. I did not ask the minister—nor should I—to specify what that transitional agreement would be. I did not, and nor does amendment 2, lay down the conditions of that agreement. Those issues are very much for the Government to negotiate with the council.

Sadly, I must report to members that no such effective negotiations on a transitional scheme have taken place. The Government appears to have decided that it is a matter for the council to resolve without any assistance whatsoever.

Mark McDonald (North East Scotland) (SNP): Will the member take an intervention?

Tavish Scott: No—I want to make my argument.

Today, I ask the minister to reflect on the impact that the rent increase will have on housing tenants and the problems that will be incurred if there is no support for the amendment and if the bill is passed in its current form. Housing support grant paid to Shetland Islands Council—I stress that it is the only local authority in Scotland to receive the grant—is £800,000. That money is transferred from the Treasury to the council; the Scottish Government is merely the middleman, as it has been for a long time.

The convener of Shetland Islands Council has written the most polite and reasoned letter—if I may say so—to Highlands and Islands list MSPs of all political parties in support of the amendment. The council always welcomes discussion of housing support grant and other matters with members of the Scottish Parliament who represent the area. Today, Shetland will wonder what those members will do on a measure that directly affects the lives and livelihoods of 1,800 SIC tenants.

I particularly commend the amendment to Highlands and Islands members and to our two new independent members, who are now free from the nationalist shackle. Let us hope that they will be brave today.

I move amendment 2.

Sarah Boyack: I ask the minister to say what progress has been made with negotiations. Reassurances were given at the committee. We understand that a change is being proposed, but what is key is how that affects the ordinary tenants mentioned by Tavish Scott—tenants on whom there could be an impact, through no fault of their own. Our concern is to ensure that the Scottish Government addresses the issue.

Margaret Burgess: At stage 2, the Minister for Local Government and Planning said that negotiations with Shetland Islands Council would take place; those negotiations have been ongoing.

We cannot accept amendment 2, in the name of Tavish Scott, because it would effectively hold the Scottish Government to ransom on the abolition of housing support grant. However, I confirm that we have talked to the leader of Shetland Islands Council and, before we came to the chamber, an offer was made to, and accepted by, the council leader. We will write to the council shortly with confirmation of the payment details. Given those developments, I hope that Tavish Scott will withdraw the amendment.

16:15

Tavish Scott: You never know the power of an amendment when it comes in front of a Parliament.

I commend and thank the minister for making that phone call; perhaps it was Mr Mackay who made it. Ministers will forgive me if I wait to hear the details of what the Government’s offer will mean for tenants, but—believe me—if the leader of Shetland Islands Council has accepted it, that is good enough for me. I seek to withdraw my amendment.

Amendment 2, by agreement, withdrawn.
Local Government Finance (Unoccupied Properties etc) (Scotland) Bill

The Deputy Presiding Officer (Elaine Smith): The next item of business is a debate on motion S4M-04598, in the name of Derek Mackay, on the Local Government Finance (Unoccupied Properties etc) (Scotland) Bill. Before I invite the Minister for Housing and Welfare to open the debate, I call the Cabinet Secretary for Finance, Employment and Sustainable Growth to signify Crown consent to the bill.

The Cabinet Secretary for Finance, Employment and Sustainable Growth (John Swinney): For the purposes of rule 9.11 of the standing orders, I advise the Parliament that Her Majesty, having been informed of the purport of the Local Government Finance (Unoccupied Properties etc) (Scotland) Bill, has consented to place her prerogative and interests, so far as they are affected by the bill, at the disposal of the Parliament for the purposes of the bill.

The Deputy Presiding Officer: Thank you very much, cabinet secretary.

We now begin the debate. I call Margaret Burgess to speak to and move the motion in the name of Derek Mackay.

16:17

The Minister for Housing and Welfare (Margaret Burgess): I am pleased to open the stage 3 debate on the Local Government Finance (Unoccupied Properties etc) (Scotland) Bill. I thank the Local Government and Regeneration Committee, in particular, for its scrutiny of the bill throughout its parliamentary stages, and I thank all those organisations and individuals who provided oral and written evidence to the Parliament.

The bill is a key part of our wider work to reduce the number of empty properties, whether homes or non-residential properties, so that we can make best use of existing buildings and minimise the number of properties that fall into disrepair and become a blight on our communities. Long-term empty homes frequently fall into disrepair and can attract vandalism and other forms of crime. They reduce the value of surrounding properties and can affect the perception of a neighbourhood as a good place to live, which, in turn, reduces residents’ quality of life.

At the same time, we are determined to reduce the number of homes that sit empty in the long term—of which we have more than 25,000—while around 140,000 families are on waiting lists for a social rented home. Bringing many of those homes back into use will help, directly or indirectly, to free up more homes for those who really need them.

Giving councils the flexibility to increase council tax charges for certain long-term empty properties will help, encourage or, where needed, push owners not to leave their property lying empty. Councils will also be given the flexibility to target any additional revenue at delivering key local priorities, which will provide a useful additional tool, alongside the other measures that councils can already use. For example, the Scottish Government has been funding the empty homes partnership to provide support to councils in tackling empty homes. In addition, we are part-funding three empty homes officers, who are shared across seven councils, on a pilot basis. Those officers are having considerable success in developing a blueprint for successful empty homes engagement work that could be replicated across Scotland, and we should all support the fact that their interventions have already seen a number of empty homes brought back into use.

We recognise that some owners need financial assistance to bring their homes up to a standard that makes them suitable for letting. That is why we have made £4 million available through the empty homes loan fund.

The fund will make at least 160 empty homes available for affordable housing—more, I hope. I am pleased to say that we have had a good response to our call for bids for the fund. Many of those homes could be made available for intermediate rent, which, in turn, would help to grow a more vibrant private rented sector, providing tenants with a greater choice of good-quality homes.

We have listened to stakeholders—Parliament and others—throughout the development of our proposals for the council tax increase and we have amended our proposals as the policy has been developed through active engagement. Examples of changes include limiting exceptions to the increase to only those who are actively trying to bring their homes back into use—whether they intend to sell or rent them—and bringing forward stage 2 amendments to increase the maximum level of penalty charge. A council can charge an owner if they fail to provide information about whether their home is unoccupied. That charge has been increased from £200 to £500. There is also now a limit in the bill itself, restricting the maximum amount of council tax increase to 100 per cent of the applicable standard rate, rather than placing that restriction in regulations.

We have also recently consulted on our proposals for draft council tax regulations and I thank everyone who gave their views. Responses are currently being analysed and we are considering some changes in the light of the
Ending the housing support grant will allow us to make better use of our funding for housing by focusing only on key priorities, including funding new homes for people who need them rather than helping to pay interest on councils’ historic debts. We recognise, however, that Shetland Islands Council has continuing high levels of housing debt and that the council has been working hard to reduce that debt. As I said earlier in response to Tavish Scott’s amendment 2, I can confirm that the Scottish Government has made Shetland Islands Council an offer of transitional funding that will assist the council in tackling its housing debt. I am pleased to say that that offer has been accepted by the leader of the council.

If members vote to pass the Local Government Finance (Unoccupied Properties etc) (Scotland) Bill, they will be voting for a key tool to assist and complement our wider efforts to reduce the number of empty properties, whether they are homes or shops or other commercial premises.

I move,

That the Parliament agrees that the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill be passed.

16:25
Sarah Boyack (Lothian) (Lab): I thank those who gave evidence to the committees that dealt with the bill, the organisations that lobbied us, and the committee clerks.

From the outset, Labour has been clear that we share the objective of bringing empty properties—whether they are commercial or residential—back into productive use. It is in no one’s interests that properties lie empty, bring down an area and are vulnerable to vandalism, and that the best use is not made of them. We also understand the financial pressure that the Scottish Government faces, and particularly the minister’s challenge of trying to deal with the reality of the finance secretary’s decisions on his budget. We have been prepared to listen to the arguments, to consider the representations that have been made, and to judge whether the bill can be made fit for purpose.

In relation to the handling of the bill, there is a huge contrast between the provisions on non-domestic rates and those on empty housing. I will take them in turn.

On non-domestic rates, we know of the experience of similar measures in England. Since those measures were introduced, we have had a recession and a banking crisis, and it is clear that they have not delivered on ministers’ aspirations; indeed, they have actually made things worse. On the basis of the evidence that has been presented,
we do not believe that the proposals in the bill will do what the minister believes they will do.

Throughout the process, there has been a lack of rigour in calculating the bill’s potential impact, particularly in relation to non-domestic rates. The financial projections that were initially submitted to the Finance Committee were woefully unconvincing and fell apart under scrutiny. The revised projections to the Local Government and Regeneration Committee were more back-of-the-envelope stuff. Every time we get another projection, we know that there will be a big hole in it and that the key issues will not have been properly looked at.

We have not had a proper business and regulatory impact assessment, which would have let the Parliament test the evidence in the light of comments on the projections by interested parties. That is a fundamental weakness, because the financial projections are simply untested assertions. Moreover, the experience in England does not show only the impact on business; it shows that the amount of money that the minister has claimed will be raised will not actually materialise.

The business community simply does not believe that the proposals will help; rather, it believes that they will make matters worse at a terrible time for Scottish business. The main reason why business and commercial properties are unoccupied is that there is a lack of demand, and the proposals do not address that basic problem, even with the minor changes that the minister has made.

Compared with the overall budget, the projected amount that the Scottish Government claims the measure will raise is relatively small. However, in the current economic climate, given the lack of demand and the difficulty of securing finance for development, the proposals have the ability to have a disproportionate effect on business and the public sector. A proper assessment should have been carried out.

We made those points during the Tory debate on the proposals for empty property non-domestic rates, during stages 1 and 2 and again today, and I am deeply disappointed that the minister has not been prepared to acknowledge the weight of criticism or the weight of the evidence that has been put to him.

The regulations that will follow will be submitted on a take-it-or-leave-it basis. There will be no opportunity to amend them, and Scottish National Party ministers will use their majority to push them through, regardless of their impact. We all know that.

The truth is that our local councils are struggling. They took 83 per cent of the Scottish Government’s budget cuts last year, they are facing an underfunded council tax freeze, and we all know that thousands of jobs are disappearing in them.

The Minister for Local Government and Planning (Derek Mackay): The figures are not true, of course—but even the figure that the Labour Party has conjured up excludes £2.3 billion of non-domestic rates from the local government settlement. The member cited evidence of the experience in England. Let us put assertion and opinion to one side. What evidence is she referring to?

Sarah Boyack: The evidence that was presented to the committee and MSPs. There are not only demolitions in the industrial sector; there are demolitions in the commercial sector.

Derek Mackay: Will the member take an intervention?

Sarah Boyack: No. I have answered the minister’s question. He asked about the evidence, and I have told him what it is.

We have been told—by town centre managers, I think—that the amount of speculative development has fallen off the face of a cliff. Therefore, there have been problems.

John Mason (Glasgow Shettleston) (SNP): Will the member take an intervention?

Sarah Boyack: No. I want to get on and address the minister’s other point about estimates.

Glasgow City Council estimates that, on its own, it will take more than £1 million of the hit from the increase in non-domestic rates. I wonder whether the minister disagrees with that estimate.

Derek Mackay: Sorry. Can the member say that again?

Sarah Boyack: I will repeat it for the minister’s benefit. The information that was submitted to me by Glasgow City Council is that it alone will have to pay more than £1 million as part of the non-domestic rates increase.

Derek Mackay: I am happy that the member will take my intervention. Perhaps she would like to have another go at citing exactly which evidence she was talking about when she said that there was substantial evidence.

If Glasgow City Council is right, that suggests that more than half of all empty properties are in that city, which should be a call to action to do something about it. I suspect that the Scottish Government figures are absolutely correct.

Sarah Boyack: I gave the minister the source: I said that it related to town centre managers. I am
sure that that was the reference that we got. I will certainly check the evidence after today.

The minister has not disputed the information from Glasgow City Council. The council will potentially pay a big chunk of the projected £16 million. I cannot see how that will automatically bring empty properties back into use. There is a reason why properties are empty, and just clobbering people is not going to help.

This short bill will produce major financial problems for businesses that are struggling to get through these tough economic times. Only this morning, the Clydesdale Bank reported that it had suffered an 80 per cent increase in bad debts due to the drop in the value of commercial property. That is the real backdrop to the bill. The most that we can hope for is scrutiny after the bill is enacted so that Parliament can return to the proposals.

In relation to the provisions on bringing empty housing back into use, the proposals on their own are not likely to be enough, but they may be useful to local authorities as an option and as part of the kit that they have in their toolbox to regenerate communities. Although we do not believe that the proposals as they relate to housing are perfect, at least they have been the subject of consultation, so stakeholders have been able to submit their views, a number of which have improved the bill that is in front of us.

It is the detail that will be important. Shelter’s empty homes campaign has highlighted that there are thousands of properties that could be rented or sold and brought back into productive use. The principle of using councils’ flexibility in relation to council tax to act as a stimulus alongside other assistance to house owners is one that we support. The test will be whether councils have the staff and resources to make use of the provisions.

The bill that is in front of us is deeply flawed and will remain unfinished business for us. We will go back to the minister and repeat the evidence that has been given to us through the committee and by a number of stakeholders. We do not believe the minister’s figures, and we do not believe that his proposals will deliver what he claims. We do not believe that the bill will deliver on bringing back empty properties into productive use.

16:33

Margaret Mitchell (Central Scotland) (Con): I cannot pretend that it gives me any pleasure to speak in this stage 3 debate on the Local Government Finance (Unoccupied Properties etc) (Scotland) Bill, which will in effect rubber-stamp the final stage of the bill—given the Scottish National Party majority in the Parliament, it is a foregone conclusion that the bill will be passed at decision time this evening.

This is a bad bill that should never have seen the light of day, based as it is on the false premise that commercial property is empty through choice. No matter how often or how dogmatically the minister and the SNP Government make that assertion, it will not alter the fact that the vast majority of commercial properties are unoccupied due to a lethal combination of lack of demand and the current economic climate.

During the passage of the bill, the Scottish Conservatives have done everything that we can, including drafting amendments, to try to mitigate the adverse consequences and to ensure that the provisions will apply only to the few, but notable, examples throughout Scotland where properties have been wilfully left empty. In response, the SNP has systematically and arrogantly watered down all those amendments, which would have given the bill some legitimacy.

From the outset, the approach to the abolition of the non-domestic rates relief discount has been particularly shambolic. There was no formal consultation on the non-domestic rates relief reform proposals, which will cost Scottish businesses millions of pounds each year. The minister has claimed that £18 million is a modest saving but, for those businesses hit by the new tax, the provisions are anything but modest and could result in devastating consequences, precipitating the closure of businesses.

Derek Mackay: In light of what the member has just said, does she have a view on the United Kingdom Government’s intervention on listed properties, which will be exempt from rates? Meanwhile the UK Government has slapped VAT on those who choose to refurbish properties to try to bring them back into use. Does the member support that UK Government intervention?

Margaret Mitchell: The UK Government proposals that the minister is talking about are not part of the bill; they are not relevant. What the UK Government is doing is looking at the proposals that it inherited from the Labour Government and seeking to amend the policies that this Government is going ahead and introducing, which are absolutely preposterous.

As the Confederation of British Industry stated, the bill introduces a “tax on distress”, with a cash grab on organisations and businesses that can least afford to pay. The adverse consequences of the new tax will not be borne by the private sector alone; the impact will also be felt by the public sector at a time when national health service boards, local councils and other service providers in Scotland are coping with stringent financial constraints on their budgets. As such, the bill will affect the delivery of public services to people throughout Scotland and will lead to job losses
and all the misery and dire consequences that that means for families in Scotland.

The minister and his Government have repeatedly heard the legitimate concerns expressed by the CBI, the Scottish Chambers of Commerce, the Scottish Property Federation and the Scottish Retail Consortium—to name but a few—about the adverse effects of the reduction in rates relief on commercial empty property. Despite that, the SNP has continued to use its parliamentary majority to force through what the Scottish Property Federation accurately described as “the wrong tax at the wrong time.”

It said that “if it goes ahead”, we will “see yet more businesses going into administration on our high streets.”

Scottish Land & Estates stated that the proposal “will further penalise owners of business premises who are already experiencing real financial difficulties through loss of rental income.”

Members should forgive me, therefore, if I and all those affected by this legislation take with the proverbial pinch of salt the Scottish Government’s contention that it has been listening throughout the progress of the bill. Significantly, the Scottish Government has succeeded in uniting the business community in Scotland as never before—in opposition to the bill. [Interruption.] I am not surprised that the cabinet secretary does not like what he is hearing. It will get much worse in the next few months as the bill’s provisions kick in.

The legislation will not only punish property owners, who are already suffering in the current economic climate; it will also punish Scottish businesses and put them at a competitive disadvantage with the rest of the UK, deter speculative development, stifle inward investment, and further hinder the construction industry.

No business and regulatory impact assessment has been carried out and there is no evidence to support the contention that empty properties will be brought back into use as a result of this legislation. The vast majority of empty properties are not wilfully left unoccupied but unoccupied due to lack of demand.

This is bad legislation, which will only add to the problems already faced by the business community and others. Consequently, the Scottish Conservatives will vote against the bill this evening.

The Presiding Officer (Tricia Marwick): We now move to the open debate. I remind members that speeches are four minutes. If everybody keeps to their four minutes, it will ensure that everyone who has requested to speak will be called.

16:39

John Wilson (Central Scotland) (SNP): I come to this debate as a relatively new member of the Local Government and Regeneration Committee. I was not a member of the committee when the Local Government Finance (Unoccupied Properties etc) (Scotland) Bill was debated at stage 1. That said, it is clear to me that not all property owners have been vigorous in their approach when dealing with long-term empty properties.

The proposal to give local authorities a provision to increase council tax charges on long-term empty properties will have the effect of positively dealing with long-term empty homes. Equally, I know that various agencies, including the national review of town centres, have been involved in the discussion around how best to regenerate town centres.

There was general agreement by the Local Government and Regeneration Committee of the principles as outlined in the legislation, although some clarification of the proposals was desired.

Clearly, some sectors of the business community, such as the Scottish Retail Consortium, are not satisfied with regard to the business rates relief issue. The proposal has been described by some as contentious. With regard to the proposal that businesses will get a 10 per cent discount on unoccupied properties, the actual situation is that business have not shown sufficient incentive while they have received a 50 per cent discount on unoccupied properties.

I know that the minister gave a commitment at stage 2 that confirmed the Government’s intention to introduce future regulations to reform empty property rates relief and create a new incentive for new occupation of long-term empty shops and offices. The fresh start scheme aims to provide business rates relief for a year and encourage new occupants of offices and shops that are lying empty.

At stage 2 of the bill, the Government allayed the concerns that were noted during the stage 1 debate, particularly in relation to the fine for not registering an empty property going up from £200 to £500. I know that that is a matter of discretion for local authorities, but I hope that the minister keeps it under constant review and thinks about whether the revised figure is sufficient, as it is not even a week’s rental income for some owners.

The light-touch regulation that is associated with the landlord registration scheme came in for some
criticism from me and others in the previous session of the Parliament. I trust that we can move forward and that the legislation assists in that process.

The intention of getting empty properties back into use is of real merit as, according to Shelter, there are around 23,000 long-term empty houses. The issue is brought home to me when I see people who seek housing looking enviously at an empty property in a village of pressured-area status, wishing that they could call that their home, but that property has been lying empty for a number of years and the owner has no intention of letting it or selling it on.

The issue of regenerating our existing town centres is a tall order, especially when there are out-of-town shopping centres that are geared towards cars, which makes the retail decision for some consumers not exactly a difficult choice. There is a lack of parking spaces in towns throughout certain parts of—

The Presiding Officer: You need to start to bring your remarks to a close.

John Wilson: Thank you, Presiding Officer.

In many ways, the traditional town centre has been losing out as a result of wider societal change, and the challenge is for it to find new ways of doing things differently and better. I hope that the bill will be a step in the right direction and will encourage landlords to think seriously about renting out properties so that the market can gain a foothold in the town centres that are currently being blighted by the number of empty properties that exist.

16:45

Anne McTaggart (Glasgow) (Lab): I want to express my concerns on the challenging process and the questionable content of the bill.

As a member of the Local Government and Regeneration Committee, I have been involved with the progress of this bill from its inception, and I have consistently been disappointed by the lack of compromise on the part of the Scottish National Party Government at each stage. Not one Labour amendment has been accepted during the process.

With more than 100,000 empty properties in Scotland, I recognise that there is a serious issue and that the regeneration of these buildings must be a priority. High streets and city centres are too often blighted by derelict buildings, unoccupied properties and abandoned offices. That must be addressed, and I encourage the Scottish Government to invest in our town and city centres in order to tackle that growing problem.

However, a principal aim of the bill is to encourage economic growth and allow our local communities and small businesses to develop. How can that be achieved when councils across Scotland are telling the Scottish Government that they will have to demolish buildings in order to survive the economic implications of this ill-considered bill?

In such a challenging economic environment, the Scottish Government’s proposals fail to take into account the many public bodies that will have either to sell off or to pull down buildings simply to maintain current budgets. The proposals also fail to consider the negative impact that the measures will have on future planning processes, where buildings have been designated for long-term reallocations. Local authorities, health bodies and other public bodies are deeply concerned by the uncertainty and unnecessary challenges that the measures contained within the bill will bring.

Despite that, the Scottish Government continues to claim that the bill will have a positive impact on our fragile economy and somehow encourage growth in our town and city centres. The bizarre belief that charging small businesses and public bodies more for disused buildings will result in fewer unoccupied properties is both misinformed and unfounded. The assertion that the measures will generate much-needed funds for the public purse is shamefully short-sighted, given that the Scottish Property Federation has estimated that around 20 per cent of the additional revenue generated by the bill will come directly from public bodies.

The Scottish Government has consistently sidelined the concerns of public bodies, small business owners and town planners. It is shameful that there has been such poor-quality dialogue and discussion from the SNP Government and, if passed, the bill will be poorer and substantially less effective as a direct result.

16:46

George Adam (Paisley) (SNP): I am extremely pleased to speak in this debate. I do so not in a cold or academic way, because the town that I represent, and in which I was born, has already been mentioned today in a rather negative tone by a Labour front bencher. For me, the town of Paisley provides a perfect example of how we can use this bill as a tool to regenerate our town centres.

In Paisley, we have a situation where about half a mile of the high street is owned by about 90 different individual landlords who have shops that are now just sitting empty. No one knows who currently has the lease if there is a need to gain entry to those properties. During the election
campaign last year, I said that I would represent the people of Paisley—I made a pact with them that I would put their case forward—and the high street in Paisley is one thing that has constantly been discussed in the town over the past 10 to 15 years. With the bill, we are going beyond just talking about the issue and are actually doing something about it. Instead of just sitting and constantly complaining and debating backwards and forwards, we are putting something forward that will make a difference in towns across the whole of Scotland.

Earlier today, I met two young constituents who were in the public gallery. They are not there now—stage 3 was obviously just too exciting for them—as they have left to meet the Kingston bridge. They came here and they wanted to see the debate because, the minute that we mentioned the bill, the two of them right away, without prompting or anything else, said, “That’s the bill that could make the difference in our high street.” Now, this is the vision thing that we have to remember: none of us in this chamber got involved in politics to stand here for two-and-a-half to three hours debating non-stop for no reason. We came here and we got involved to make a difference in our communities, and that is exactly what the bill will do.

**Jim Hume (South Scotland) (LD):** The member mentioned that he consulted two children. Did he actually consult any businesses in Paisley regarding empty properties?

**George Adam:** Ironically, anyone who had listened earlier would know that our problem in Paisley is trying to retain people because of previous Administrations in Westminster, including Labour Administrations.

**Derek Mackay:** Does the member welcome the fact that we consulted businesses on this issue, including the business improvement district steering group, which supports our direction of travel in relation to empty property rates relief?

**George Adam:** Yes.

We have talked about Mr Hume’s contributions to the debate. We must remember that some organisations take a purely business perspective and do not consider the greater good of a community or town. Some people involved in the property cartels that own properties in my area probably do not know where Paisley, Penrith or Perth is. They own property purely because it is part of their property portfolio, and they do not consider the community. The bill will make a major difference for towns such as mine.

The bill will be part of an on-going programme from the Scottish Government that looks at practical ways to regenerate our town centres. That means delivering on a promise that I made to the voting public in Paisley. The bill will benefit the whole country. Some see debates as some academic way of hitting each other. For me, they are about the people whom I represent—the people of Paisley—and about the people of Scotland. The bill will go a long way towards us delivering for them.

16:51

**John Pentland (Motherwell and Wishaw) (Lab):** I supported the bill’s objectives, but I have not been convinced that it will achieve those objectives. The lack of evidence for and the shakiness of some of the assumptions that underpin the bill are such that the jury is still out on its effectiveness and on whether some actions could be counterproductive.

As I have previously said, I am disappointed by the way in which the bill has been handled, which has been disrespectful of our democracy and our Parliament. Was it acceptable that information that the Scottish Government promised to supply on finance to assist with stage 2 deliberations was not received until the evening before the meeting when the Local Government and Regeneration Committee was to debate amendments? That was far too late to shed light on issues that had a bearing on amendments, and it followed a late response at stage 1 and difficulties in obtaining the Finance Committee’s assessment. We also had to contend with committee changes at stage 2; new members had not been involved in the evidence gathering and the debate.

It should be noted that reviews of business rates, local taxation and town centres are being undertaken, all of which have a bearing. Despite that, the reasonable request for more time and further information was given short shrift.

As a result, we are being pushed to sign a blank cheque with inadequate information about what it will be used for and what the impact will be. What does that say about the careful and proper consideration of legislation that we are supposed to undertake? It says that, despite the battering that it has taken, the Government is determined to undermine its credibility further and reduce it to a new low.

We are left with legislation that could have an adverse impact and do more harm than good. The affirmative procedure has been denied us, but the regulations can still be given proper scrutiny, if SNP members do not block that. I say to them, “Don’t be afraid—accountability and scrutiny are supposed to be part of the democratic process.”

16:53

**Kevin Stewart (Aberdeen Central) (SNP):** I thank all the folks who gave evidence to the Local
Government and Regeneration Committee and I thank the members of that committee and the clerking team.

One of the most pleasurable aspects of dealing with the bill was that some of us took a trip to Shetland and gained a huge amount of knowledge in the short time that we were there. I am really glad that the Government has recognised the plight of Shetland Islands Council and has moved to try to alleviate some of its difficulties. That is to be applauded and shows that the Government has listened to the Shetland case.

The Government has listened on a number of other issues, too. As George Adam does, I want to see empty properties being brought back into use. The target is 5,500 properties across Scotland, and I hope that that is achieved. The fact that the Government has listened is shown by the fact that it has said that it will introduce the fresh start scheme. That scheme will operate similarly to the scheme that was introduced earlier in the year in Northern Ireland; it will provide 50 per cent relief for 12 months for properties that are brought back into use after being empty for a year. The Federation of Small Businesses said:

"A rates discount for properties brought back into use is a great idea that we hope can be made to deliver for Scottish town centres and high streets ... The details of the scheme will be crucial to its success and we hope that all sorts of small enterprises can benefit."

I am sure that the minister will continue his discussions with the FSB and others to ensure that the fresh start scheme is a success.

We did not hear much—I mean in particular from the Con-Dem partners—today about the situation in England and Wales. The scheme that operates there is somewhat different, and I have to say that it is not as good as what is proposed in Scotland. Robert Neill, who was a junior minister at the Department of Communities and Local Government, has said that the coalition has listened to the 2008 reforms—reforms that I believe are not as good as the bill that we are debating today.

If we look around our constituencies and nearby, we see that there are, without doubt, property owners who deliberately keep their properties empty for whatever reason. They are being subsidised to do that by not having to pay the rates that they should be paying. I will give an example. In my old council ward of Northfield in Aberdeen, which is in Brian Adam’s constituency of Aberdeen Donside, there is a set of shops that have been empty for 13 years. It is not as though offers have not been made for them; for example, there was a suggestion that they could be taken over for community use, but that was rejected by the owners, for whatever reason.

Although a lot has been said about the doom and gloom in the economy, in many parts of the country—including my patch—where the recession has not hit as hard as it has hit elsewhere, we have property owners who are deliberately keeping properties empty. That has to be resolved.

As I said at the start of my speech, the Government has listened. It has listened in the case of Shetland Islands Council and it has listened to small businesses and has come up with the fresh start scheme. I hope that the Government will continue to listen to those who are affected—I see the minister nodding—and that we will see 5,500 empty properties being brought back into use sooner rather than later.

16:58

Jim Hume (South Scotland) (LD): I start by expressing my appreciation of the minister’s last-minute announcement about her phone call today with Shetland Islands Council. Although there is no detail on that, it is proof that my colleague Tavish Scott’s amendment has pushed the Government to act, finally, on the Shetland question.

This has been a disappointing day for business and for jobs in Scotland. The bill is a clear message from the Government that it is not open for business and that it wants to tax businesses at a time when we should be encouraging them. In particular, we should be encouraging them to invest in commercial property so that Scotland can be primed and set to grow out of the recession.

The Government did not carry out a timeous business impact study on the consequences of the bill and it failed to deliver a consultation on time and it has not considered the committees’ views on the implications of hammering hard-hit businesses that employ people. The bill will make it more expensive to provide job opportunities, and businesses that are at the heart of our struggling town centres will struggle to invest to bring life back into the hearts of our communities.

The Government has a majority, just, but it is intent on bulldozing its ill-thought-out plans into the very parts of Scotland that are struggling just now—our town centres and businesses that employ Scottish people.

I used a lot of quotations in my previous speech, and could use others. Members have said that the bill will have a devastating impact on Scotland’s most economically vulnerable regions, that it will be a deterrent to new commercial development, that it will be a barrier to investment in our ailing town centres and that it will stifle and suppress growth. Therefore I do not agree with Kevin Stewart; the Government has not listened fully to
those who know better. Instead, it has shown its true colours in being neither open for business nor having considered the effects of poor legislation on the economy and on jobs that are much needed at this time.

The bill in no way encourages businesses to let their properties to other businesses, and it positively discourages investment in the commercial property that is, as I have stated, needed to boost Scotland out of recession and to boost our town centres, and which is at the heart of job creation in Scotland.

Why ignore concerns and threaten jobs only to gain some rates from business in the short term? If this Government had listened and consulted—

Derek Mackay: Will the member give way?

Jim Hume: The minister can address my comments in his summing up. If this Government had done that, it would not be threatening business growth as it is today.

At question time this afternoon, Fergus Ewing stated that “small businesses are the backbone” of Scotland and that they create jobs. However, those are the very small businesses that are being kicked in the back today. We will not support the bill.

17:01

Michael McMahon (Uddingston and Bellshill) (Lab): In 13 years as a member of this Parliament, I have seen quite an array of legislation go through. Some of it was vital, and some of it was technical in nature and, at times, bewildering in its meaning and outcome. Some of it has tested my loyalty to the maximum and some that this Government has introduced since it came to office has tested my ability to treat it at face value and give it my support. I have supported some legislation and afterwards regretted having done so.

However, without doubt, the bill that is before Parliament today is the worst that I can recall in respect of its policy intention and technical merits. It has been badly conceived and intransigently pursued in a way that I have never experienced and hope never to encounter again.

I strongly opposed the Offensive Behaviour at Football and Threatening Communications (Scotland) Bill and take pride in having voted against it. However, in doing so, I was always prepared to believe that the Government was genuinely seeking to address a major problem in Scottish society, even if I fundamentally disagreed with the efficacy of the proposal and its potentially detrimental unintended consequences.

However, this bill has nothing whatever to commend it. It is not properly evidenced. In fact, it is not just poorly evidenced; it contains no evidential sustenance at all. Previous speakers have highlighted the root-and-branch flaws in the bill, but I will quote the Scottish Chambers of Commerce to highlight just how badly the bill sits. It said that “the Scottish Government is demonstrating, at best, a total lack of understanding of the pressures facing business in Scotland today”.

Although evidence on the legislation that was introduced in England in 2008 is there for all to see, the Government refuses to take it on board. There are truly none so blind as those who will not see.

Derek Mackay: I will ask Michael McMahon the same question that I asked Sarah Boyack. What evidence is he specifically referring to?

Michael McMahon: I refer the minister to the evidence that was given to the Finance Committee by the Scottish Property Federation, but there is more than that. The CBI, among others, has looked at and provided evidence on what happened in England—the detrimental impacts and the businesses that have been knocked down instead of being regenerated. The evidence is there, but the minister does not want to see it.

John Mason: As far as England is concerned, the evidence that was received by the Finance Committee was that no one knows whether the problems with property are a result of the downturn in the economy or the legislation. There is no evidence.

The Presiding Officer: You have taken interventions, Mr McMahon, so I can give you a little more time.

Michael McMahon: Thank you very much, Presiding Officer.

John Mason was at the Finance Committee and heard the evidence to which I have just referred. The Government was asserting that the bill will bring 5,000 empty properties back into circulation, but there is no evidence whatever to back that up. Whatever John Mason wants to say about what has happened in England, we know that the legislation there has had a detrimental impact. It was introduced at the wrong time and in the wrong way—and it was a Labour Government that introduced it. Why would the Government want to copy what is being done at Westminster when that has not worked?

The fact is that the Government evidence that was brought to the Finance Committee was shot through with holes that were created by false assumptions and downright mistakes in the costings that were presented.
After listening to the arguments that were conveyed clearly by the business community, local authorities and others, and which have been reiterated in the debate this afternoon, and in the absence of any credible rebuttal from the Scottish Government, there is no course of action available to me today other than to oppose the bill as vigorously as I can, and that is what I will do.

17:05

Gavin Brown (Lothian) (Con): The first fundamental question to ask about any bill is whether there is a problem that needs to be addressed. The obvious answer in this case is, “Yes.” It is clear that there are far too many empty homes and properties throughout Scotland, and I think that there is political support throughout the chamber and the country for that issue to be addressed.

However, the second question that we must ask about any legislation is whether it will solve the problem that it is designed to tackle. In answer to that question, there is a resounding “No.” No evidence whatever has been presented, either in written form or at committee, or even at a late stage by the Government, to suggest that the legislation will have any impact on the problem.

We keep hearing the magical figure of 5,500 properties. Kevin Stewart repeated that figure, saying that the target is to bring back into use 5,500 properties. However, when the bill team was asked about the figure, it said clearly that 5,000 is the number of properties that will be affected by the increase in the tax. That is the number of properties that will be hit, not the number of properties that will be brought back into use.

Mark McDonald (North East Scotland) (SNP): Will the member give way?

Gavin Brown: I will accept an intervention at any time—even from Mark McDonald.

Mark McDonald: Looking at the issue purely on first principles, does Mr Brown believe that subsiding empty properties is a justifiable and good use of taxpayers’ money?

Gavin Brown: Scottish National Party members keep referring to “subsidising empty properties”. The position is very clear; there are several thousand properties throughout Scotland that the owners are, because of market conditions, unable to let or sell, through no fault of their own. If we look at the numbers of such properties 10 years ago in comparison with the numbers today, it is apparent that the vast majority are empty because of market conditions. I will turn the question round, and ask whether it is fair to penalise those people by almost doubling their tax overnight purely because they happen to be unlucky. As Margaret Mitchell said, it is a “tax on distress”.

The minister wanted to talk about evidence. The Scottish Government has provided no evidence at all that the bill will have any impact on the number of properties in use. We heard time and again evidence to that effect in the Finance Committee and in the Local Government and Regeneration Committee. I have read every single submission that was made to each committee, and I sat in on every evidence session in the Finance Committee and read the Official Report of every evidence session in the Local Government and Regeneration Committee.

I cannot identify a single person—other than the Government or a minister—who thinks that the bill is a good idea. Every single organisation—not just the business organisations, as Patrick Harvie pointed out—presented its fears and concerns. The submissions included evidence from business organisations, as members have outlined. I will not repeat the names, but it was pretty much all of them. However, the submissions also included evidence from organisations such as the Association of Town Centre Management and the enterprise trusts. The Convention of Scottish Local Authorities was slightly cagey about the bill, and councils such as Glasgow, Falkirk and Fife expressed serious concerns about it. We even heard an NHS body express deep concerns about it.

For those reasons, there is a broad consensus against the bill. The only people I can find who think that the bill is a good idea are from the Government and the team that presented the bill to us.

Mark McDonald: Earlier this afternoon, I spoke on the subject on the BBC alongside Mr Brown’s colleague, Jackson Carlaw. The BBC had spoken to representatives of the Aberdeen business improvement district who welcome the legislation and think that it will be beneficial in bringing empty properties back into use. Perhaps Mr Brown wishes to take that on board.

Gavin Brown: If that is correct, perhaps that organisation should have submitted evidence to the committee when it was considering the bill. However, I would be astonished if any business organisation thinks that the legislation will bring empty properties back into use, because there is no evidence to suggest that it will.

Let us consider the Scottish Government’s own enterprise body, Scottish Enterprise, which is charged with helping the economy and business across the country and has a fairly large budget with which to do so. As of yesterday, it has 400 empty properties across Scotland that it has been unable to shift. If the enterprise body has 400
commercial properties that it is unable to shift, how on earth can we expect smaller organisations and businesses to shift their properties?

Chic Brodie (South Scotland) (SNP): Will the member take an intervention?

Gavin Brown: I am afraid, Mr Brodie, that my time is up.

We are left with a total turkey of a bill. On that basis we will oppose it, come decision time.

17:11

Sarah Boyack: Members have highlighted their fears about the impact that the bill is likely to have on our hard-pressed business community.

Labour members started from the principle of supporting the idea behind the bill of bringing empty properties back into use, so we interrogated the proposals and listened to the concerns that were raised by stakeholders. John Pentland and Michael McMahon both highlighted the procedural problems with the handling of the bill and the evidence that was presented on the bill.

No doubt the minister will remonstrate with those who bring him unhappy news, but the number of major shopping centres being constructed is at a 20-year low. That is partly due to the recession but, in representations to us, the organisation that deals with the construction of shopping centres in the UK has been firmly of the view that the additional burden that would result from businesses losing their empty property rates relief once they had built new properties is a financial risk that they cannot afford to take. Their financial calculations have been altered not only by the impact of the recession—but by the lack of finance from banks.

Problems in the business sector have been reported to us. We know that the number of empty properties in England and Wales has increased from 5 to 15 per cent during the period concerned.

We welcome the changes with regard to empty housing that have been made to the bill. Local authorities will now have the appropriate discretion and can decide when, how and where to use the provisions in the bill. They will be able to place more realistic penalties on those who do not cooperate by providing the appropriate information. However, we all know that the provisions in the bill on their own will not be enough to bring back into use the estimated 23,000 homes that Shelter estimates are lying vacant. Shelter is right to say that a package of measures is needed, including advice and information for the owners of empty homes and incentives such as loans and grants to bring homes back into use.

Glasgow City Council has suggested that the power to use enforced sale procedures, which exists in England, should be included in the community empowerment and renewal bill. I hope that the minister will give that suggestion serious consideration. Such a power would enable the council to force a property sale without the requirement for a public inquiry, and the council would not have to own the property. I hope that the minister will look at the proposal positively.

We all know that councils are cash strapped. One of their main concerns is whether they have the staff and the resources to put in place the mechanisms that will enable them to use the powers in the bill in practice. Councils are working extremely hard to deal with the huge pressure on them, particularly on their housing departments, to help people who are struggling to make ends meet and keep their houses, following the Tory welfare reforms.

Those are the circumstances in which the legislation will be tested. We question how extensively the powers will be used by local authorities. They will not be a magic bullet. The Scottish Government could do more to provide publicity and information so that the legislation is drawn to householders’ attention and they are informed about the provisions. The minister should make a commitment on that. When the statutory instrument is passed by the Parliament—as it no doubt will be—clarity for householders and other affected stakeholders will be crucial, so that they understand the process.

As a result of the massive unpopularity and problems on the non-domestic rates side, the housing element of the bill has not received the same representations and lobbying as it might otherwise have done. The minister will have to ensure that there is maximum publicity and that local authorities are supported by decent guidance on how the statutory instrument will be implemented.

There is a supreme irony in the fact that the Scottish Government is using the council tax—a tax that it does not believe in or think credible, and which it is committed to abolishing—to bring empty homes back into productive use. I would be interested to hear from the minister in his closing remarks how he thinks that abolishing council tax and introducing the hated local income tax would help in the circumstance of bringing empty properties back into use.

As many members have said, the bill contains fundamental flaws. We think that the SNP should have taken the non-domestic rates element off the table and explored it properly before bringing it back to the chamber.
The bill will be voted through, regardless of the representations that have been made. The minister will not get his £18 million—he has already revised that down to £16 million—but businesses will take the hit for this policy. It will make their struggle to get through the economic times in which we are living and to create jobs harder.

There have been some positive elements in the housing provisions, but not enough to make us vote for the bill. The NDR proposals are fundamentally flawed and the SNP Government is letting down the business community by not acknowledging the problems that the bill will create.

It is right that local authorities will have access to new powers on housing, which they think will make a positive difference. However, we believe that the Scottish Government has set the potential increase too high, and we hope that local authorities will reflect on that view when they come to use those powers. Council flexibility and local strategic approaches will be vital, because the powers on their own will not be enough. House owners will need support. People with empty properties have not automatically decided to have those properties empty; there are many reasons why people’s properties are unoccupied. People will need support with marketing their properties and with gaining tenants, which is why we think that a proper approach is needed. The bill will not be sufficient. The guidelines that will accompany the proposals will be crucial and the Scottish Government needs to get the detail right.

The key point is that this will be unfinished business for all of us. There are many unanswered questions and concerns about the proposals, and the detail will be absolutely crucial. I do not believe that this will be our last discussion on the bill. We will have to come back to the bill, because it will create more problems than it can ever solve. It will be Parliament’s job to scrutinise the minister’s actions and put pressure on him so that the bill will not be left where it is, and so that more action will be taken to give businesses and hard-pressed householders practical help, not just give them a problem with the bill.

The Presiding Officer: I call Derek Mackay to wind up the debate. Minister, I would consider it a favour if you would continue until 17:29.

17:18

The Minister for Local Government and Planning (Derek Mackay): I would consider it a pleasure to continue until that time—[Laughter.] After those popular opening remarks, I begin with the least controversial part of the bill—the housing support grant. Shetland Islands Council has benefited from that and indeed will continue to benefit from it, as a result of an offer made to the council and accepted by its leader. I would say to Tavish Scott—who is not here at the moment—that that goes to show how strong ministerial assurances are in the Scottish Government, and that we can deliver on our promises, as we have done in this instance. I believe that the policy intention of the other elements of the bill will be delivered, too.

There is a great deal of consensus around the empty homes action and it is right that local authorities will have the discretion to choose which level will be appropriate for their local circumstance. Anne McTaggart made the point that perhaps 50 per cent will be more appropriate in some circumstances, but it will be for local authorities to choose whether they apply 0, 50 or 100 per cent on top of the council tax for empty properties.

It has been suggested that we have not taken on board many of the Opposition’s comments. In fact, at stage 2 I moved a number of amendments on behalf of the Government that were a consequence of listening to stage 1 proceedings and other contributions to the debate. For example, we capped the council tax increase at 100 per cent at the request of the appropriate committee.

Sarah Boyack asked about local income tax. We will consult on that during our current term in office. We would want to look at any policy implication, including how we could bring further properties back into use.

On a more controversial subject, we must tackle the blight of empty commercial properties, particularly in our town centres. I am still at a loss to explain why Opposition members do not get the rationale that it is simply unfair for a Government to make it cheaper to keep properties closed than it is to open them up for economic regeneration in local communities. It would be wrong to suggest that there is no support for our policy. There is a great deal of support for the policy, whether it is for travelling to business improvement districts or from local communities who do not see why their taxes are contributing to a subsidy to keep properties closed.

Margaret Mitchell was wrong to suggest that the rates relief system in Scotland is less generous than the system in any other part of the United Kingdom. In fact, the relief that we give to Scottish business is more generous than the relief in any other part of the United Kingdom. It now costs more than £0.5 billion but is targeted appropriately at local businesses. Three in five premises in the commercial sector pay zero or reduced business rates as a result of the policies of this
Government, which the Conservatives used to support but voted against at the last budget.

Margaret Mitchell: Can the minister confirm that, as a result of the Government's policies, businesses in Scotland are now facing more than £150 million more in taxation than businesses south of the border, in the form of the retail levy and the unoccupied properties tax?

Derek Mackay: I can confirm that the rates relief offered in Scotland is more generous than the relief offered in any other part of the United Kingdom. The poundage delivered by this SNP Government was matched to the poundage in England, which was more generous than the position under the previous Labour Executive or the Conservatives.

On the subject of consultation, I would argue that to have ticked a box on a BRIA and left it at that would have been unacceptable in the circumstances. That is why I have engaged with many members in the private sector—

Gavin Brown: Will the minister give way?

Derek Mackay: I would like to make progress. There are a number of questions to which Gavin Brown wanted answers.

There has been on-going consultation, engagement and refinement of our policy, such as the fresh start initiative. I cannot believe that the Liberal Democrats will vote against that, as it delivers an incentive to provide rates relief to those people who bring unused properties back into use, which is a position that they supposedly support.

I will return to Parliament to ensure that the regulations are given the robust interrogation that members would expect, consistent with equivalent reliefs such as the small business bonus scheme. I have committed the Government to post-legislative scrutiny so that we can test the impact of the policy in our communities.

The Conservatives have talked about “a tax on distress”. I bow to their experience in delivering taxes that cause distress. For example, the VAT rise cost Scottish business and Scottish consumers £1 billion. Where was the BRIA for that? Their approach was to apply VAT when people were trying to refurbish listed properties in Scotland. This is not an operational tax; it is a property tax.

Gavin Brown: If I heard the minister correctly—I wrote down what he said—he suggested that carrying out a BRIA would have been just ticking a box. BRIAs came about as a result of the regulatory review group—an outstanding group that was set up by the Government and by Mr Swinney in particular. The group is an excellent idea that can make legislation far better. Will the minister retract his statement that carrying out a BRIA is simply ticking a box?

Derek Mackay: I support the BRIA approach, but the level of engagement that I have deployed in relation to empty property rates relief is better than that which it would have received through a BRIA.

Sarah Boyack: Will the minister give way?

Derek Mackay: Please let me make some progress.

I asked a number of Opposition members for the evidence and the response was, “You know, the evidence.” I have looked at the evidence and, in particular, the Lambert Smith Hampton report that was published by the Royal Institution of Chartered Surveyors, which Margaret Mitchell wanted me to look at. That report identified that there had been an impact in England and that there had been demolition of properties to avoid non-domestic rates. However, that related to industrial properties, so this Government's response was to exempt them from the variation. That shows that we have responded to concerns.

I have further evidence in support of the Government's position. The Association of Town Centre Management Scotland has been mentioned. Its most recent statement welcomes the plans to offer businesses entering long-term vacant property a 50 per cent discount for the first 12 months under the fresh start scheme as a credible package of measures to support town centres and high streets that is being introduced by the Government. It states:

“We think this can help stimulate growth in the economy.”

Gavin Brown: The minister, rather flippantly, waved about the Lambert Smith Hampton report. Where in that report does it say—as he said—that only industrial property had been demolished?

Derek Mackay: The bottom paragraph of page 2 states:

“The sector most impacted by APR was industrial property.”

Gavin Brown: “Most impacted”. Right.

Derek Mackay: It seems a logical response for the Scottish Government to exempt industrial property, just as we have done with listed property. Our range of reliefs will still be more generous than that in any other part of the United Kingdom.

I have cited other areas of support, but it was the UK Conservative Government’s command paper that said that there was no evidence to suggest that the variation caused any disturbance in the private sector because of the other factors
that were in play. Indeed, it said that to change the policy would be "unaffordable".

The Labour Party’s responses were most disappointing, because the legislation is about incentivising the use of empty properties. It is about making savings, too. The £2.3 billion that is raised through non-domestic rates goes to public services. Why does the Labour Party talk in terms of what is on and off the table? Why does it say that free prescriptions are not to be delivered and that free education, personal care, travel and a council tax freeze for hard-pressed families are unaffordable, but that the £18 million subsidy to businesses to keep their premises closed is on the table and affordable? That says much about the Labour Party’s sense of priorities.

Sarah Boyack: Will the minister give way?

Derek Mackay: I am in my final minute.

It is fair to say that an empty property rates relief policy, which was invented by the Labour Party and continued by the Conservatives and the Liberals, is not one that the SNP Government would naturally feel a sense to adopt—and we have not adopted it in the form in which it affected England. We have refined the policy and we have mitigated the impacts in Scotland by providing exemptions. In considering the most generous package of rates relief in the United Kingdom and in looking at the incentive scheme in Northern Ireland, we have ensured that we have the right balance to tackle the blight of empty properties in our town centres and empty homes across Scotland. We have ensured that we deploy appropriate policies that contribute to the regeneration of our country and which, importantly, sustain the budget that Mr Swinney has balanced for a number of years.

All that we have heard from the Opposition is opportunism and a lack of alternatives. I commend the bill to Parliament to ensure that we tackle the issue of blight across Scotland.
Decision Time

17:30

The Presiding Officer (Tricia Marwick): There are two questions to be put as a result of today’s business. The first question is, that motion S4M-04598, in the name of Derek Mackay, on the Local Government Finance (Unoccupied Properties etc) (Scotland) Bill, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For
Adam, Brian (Aberdeen Donside) (SNP)
Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Bianchi, Marco (Edinburgh Central) (SNP)
Brodie, Chic (South Scotland) (SNP)
Brown, Keith (Clackmannanshire and Dunblane) (SNP)
Burgess, Margaret (Cunninghame South) (SNP)
Campbell, Aileen (Clydesdale) (SNP)
Campbell, Roderick (North East Fife) (SNP)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Constance, Angela (Almond Valley) (SNP)
Crawford, Bruce (Stirling) (SNP)
Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Doris, Bob (Glasgow) (SNP)
Doman, James (Glasgow Cathcart) (SNP)
Eadie, Jim (Edinburgh Southern) (SNP)
Ewing, Annabelle (Mid Scotland and Fife) (SNP)
Ewing, Fergus (Inverness and Nairn) (SNP)
Fabiani, Linda (East Kilbride) (SNP)
Finnie, John (Highlands and Islands) (Ind)
FitzPatrick, Joe (Dundee City West) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Gibson, Rob (Cathness, Sutherland and Ross) (SNP)
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
Harvie, Patrick (Glasgow) (Green)
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
Johnstone, Alison (Lothian) (Green)
Keir, Colin (Edinburgh Western) (SNP)
Kidd, Bill (Glasgow Anniesland) (SNP)
Lochhead, Richard (Moray) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacAskill, Kenny (Edinburgh Eastern) (SNP)
MacDonald, Angus (Falkirk East) (SNP)
MacDonald, Gordon (Edinburgh Penitants) (SNP)
Mackay, Derek (Renfrewshire North and West) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
Mason, John (Glasgow Shettleston) (SNP)
Matheson, Michael (Falkirk West) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McDonald, Mark (North East Scotland) (SNP)
McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
McLeod, Aileen (South Scotland) (SNP)
McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
McMillan, Stuart (West Scotland) (SNP)
Neil, Alex (Airdrie and Shotts) (SNP)
Paterson, Gil (Clydebank and Milngavie) (SNP)
Robertson, Dennis (Aberdeeneshire West) (SNP)
Robison, Shona (Dundee City East) (SNP)
Salmond, Alex (Aberdeeneshire East) (SNP)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Sturgeon, Nicola (Glasgow Southside) (SNP)
Swinney, John (Perthshire North) (SNP)
Urquhart, Jean (Highlands and Islands) (Ind)
Walker, Bill (Dunfermline) (Ind)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
Wheelhouse, Paul (South Scotland) (SNP)
White, Sandra (Glasgow Kelvin) (SNP)
Wilson, John (Central Scotland) (SNP)
Yousaf, Humza (Glasgow) (SNP)

Against
Brown, Gavin (Lothian) (Con)
Carlaw, Jackson (West Scotland) (Con)
Davidson, Ruth (Glasgow) (Con)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Goldie, Annabel (West Scotland) (Con)
Henry, Hugh (Renfrewshire South) (Lab)
Hume, Jim (South Scotland) (LD)
Johnstone, Alex (North East Scotland) (Con)
Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
McArthur, Liam (Orkney Islands) (LD)
McGrigor, Jamie (Highlands and Islands) (Con)
McInnes, Alison (North East Scotland) (LD)
McMahon, Michael (Uddingston and Bellshill) (Lab)
Mile, Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, John (Ayr) (Con)
Scott, Tavish (Shetland Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Abstentions
Ballie, Jackie (Dumbarton) (Lab)
Baker, Claire (Mid Scotland and Fife) (Lab)
Baker, Richard (North East Scotland) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Bibby, Neil (West Scotland) (Lab)
Boyack, Sarah (Lothian) (Lab)
Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
Dugdale, Kezia (Lothian) (Lab)
Eadie, Helen (Cowanbeath) (Lab)
Fee, Mary (West Scotland) (Lab)
Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
Findlay, Neil (Lothian) (Lab)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (East Lothian) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Kelly, James (Rutherden) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Macintosh, Ken (Eastwood) (Lab)
Malik, Hanzala (Glasgow) (Lab)
Martin, Paul (Glasgow Provan) (Lab)
McCulloch, Margaret (Central Scotland) (Lab)
McDougall, Margaret (West Scotland) (Lab)
McMahon, Siobhan (Central Scotland) (Lab)
McNeil, Duncan (Greenock and Inverclyde) (Lab)
McTaggart, Anne (Glasgow) (Lab)
Murray, Elaine (Dumfriesshire) (Lab)
Park, John (Mid Scotland and Fife) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)
Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
Smith, Drew (Glasgow) (Lab)
Smith, Elaine (Coatbridge and Chryston) (Lab)
Stewart, David (Highlands and Islands) (Lab)
The Presiding Officer: The result of the division is: For 66, Against 20, Abstentions 32.

Motion agreed to,

That the Parliament agrees that the Local Government Finance (Unoccupied Properties etc) (Scotland) Bill be passed.
Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill

[AS PASSED]

An Act of the Scottish Parliament to amend the law regarding non-domestic rates and council tax in respect of unoccupied properties; and to repeal certain provisions that allow grants to be made to local authorities to meet housing needs in their areas.

Unoccupied properties

1 Rating of unoccupied lands and heritages

(1) The Local Government (Scotland) Act 1966 (c.51) is amended in accordance with this section.

(2) In section 24(3) (unoccupied lands and heritages)—

(a) for “this section” substitute “subsection (2)”,

(b) for “one half” substitute “50%”,

(c) after “occupied”, in the first place it appears, insert “or a rate equal to such other percentage, not exceeding 90%, of that amount as the Scottish Ministers may prescribe by regulations in relation to that class”.

(3) In section 24A(4) (lands and heritages partly unoccupied for a short time), for paragraph (b) substitute—

“(b) either—

(i) 50% of the value apportioned to the unoccupied part of the lands and heritages; or

(ii) where the Scottish Ministers prescribe by regulations a different percentage, not exceeding 90%, in relation to the class into which the lands and heritages fall, that percentage of the value apportioned to the unoccupied part of the lands and heritages.”.

(4) In section 24B (certain lands and heritages to be treated as unoccupied), after subsection (2) insert—
“(3) The Scottish Ministers may provide by regulations that lands and heritages falling within a class prescribed by the regulations are to continue to be treated as unoccupied, for the purposes of section 24 (apart from subsection (4) of that section), for such period after becoming occupied as the regulations specify.

(4) Regulations under subsection (3) are subject to the negative procedure.”.

2 Council tax: variation for unoccupied dwellings

(1) Section 33 of the Local Government in Scotland Act 2003 (asp 1) (council tax: discount for unoccupied dwellings) is amended in accordance with this section.

(2) In subsection (1)—

(a) paragraph (a) and the word “and” immediately following it are repealed,

(b) in paragraph (b)—

(i) the words “(whether by amendment of that section or otherwise)” are repealed,

(ii) for “discount”, in both places where it appears, substitute “variation”.

(2A) After subsection (1) insert—

“(1A) A variation provided under subsection (1) may not increase the amount of council tax payable in respect of a chargeable dwelling and a day by more than the amount calculated in respect of the dwelling and the day in accordance with section 78 of the Local Government Finance Act 1992 (basic amounts payable).

(2B) In subsection (2)(b)—

(a) sub-paragraph (i) is repealed,

(b) in sub-paragraph (ii), for “they make provision” substitute “a different amount of variation, or no variation, applies”.

(2C) After subsection (2) insert—

“(2A) Regulations under subsection (1) may not provide (or allow provision to be made by local authorities) for unoccupied dwellings owned by a local authority or a registered social landlord to be treated more favourably than other unoccupied dwellings solely on the ground of that ownership.”.

(3) In subsection (4), for the words from “set” to the end of the subsection substitute “—

(a) increase the amount of council tax payable in respect of a chargeable dwelling and a day by more than the amount calculated in respect of the dwelling and the day in accordance with section 78 of the Local Government Finance Act 1992,

(b) contravene any limits that may be specified in the regulations.”.

(4) In the title of the section, for “discount” substitute “variation”.

3 Amendment of the Local Government Finance Act 1992

(1) The Local Government Finance Act 1992 (c.14) is amended in accordance with this section.
(2) In section 71(2)(d) (liability to be determined on a daily basis), for “discount”, in both places where it appears, substitute “variation”.

(3) In paragraph 4 of Schedule 2 (administration)—

(a) in sub-paragraphs (2) and (3), for “discount”, in each place where it appears, substitute “variation”,

(b) after sub-paragraph (5) insert—

“(5A) The regulations may include provision that where—

(a) in accordance with any provision included under sub-paragraph (4) the authority informs the person concerned of its assumption; and

(b) at any time before the end of the financial year following the financial year concerned, the person has reason to believe—

(i) that the authority’s assumption is based on a misapprehension about the period during which there will be, or was, no resident of the dwelling; and

(ii) that misapprehension has resulted in the authority incorrectly assuming that the chargeable amount is not subject to any increase, or in the authority underestimating the amount of the increase, the person must, within such period as may be prescribed, notify the authority of that belief.

(5B) The regulations may include provision—

(a) that any person appearing to an authority to be a resident, owner or managing agent of a particular dwelling must supply to the authority such information as fulfils the following conditions—

(i) it is in the possession or control of the person concerned;

(ii) the authority requests the person concerned to supply it; and

(iii) it is requested by the authority for the purpose of ascertaining whether the chargeable amount is subject to any variation on the basis that, in respect of any period specified in the request, there is, was or will be no resident of the dwelling;

(b) that the information is to be supplied within a prescribed period of the request being made and, if the authority so requires, in a form specified in the request; and

(c) that a request may be served on the person concerned either by name or by such description as may be prescribed.”,

(c) in sub-paragraph (6), for “the reference in sub-paragraph (5)(b)” substitute “the references in sub-paragraphs (5)(b), (5A)(b)(ii) and (5B)(a)(iii)”.

(4) The italic cross-heading immediately preceding paragraph 4 of Schedule 2 becomes “Variation”, instead of “Discount”.

(5) In paragraph 2 of Schedule 3 (failure to supply information to or notify local authority)—

(a) after sub-paragraph (1) insert—
“(1A) Where a person is requested by a local authority to supply information under any provision included in regulations under paragraph 4(5B) of Schedule 2, the authority may impose on the person a penalty not exceeding £500 if—

(a) the person fails to supply the information in accordance with the provision; or

(b) in purported compliance with the provision the person knowingly supplies information which is inaccurate in a material particular.”,

(b) in sub-paragraph (2)(a), for “4” substitute “4(5)”,

(c) after sub-paragraph (2) insert—

“(2A) A local authority may impose on a person a penalty not exceeding £500 in any case where—

(a) the person is required by any provision included in regulations under paragraph 4(5A) of Schedule 2 to notify the authority; and

(b) the person fails to notify the authority in accordance with the provision.”,

(d) in sub-paragraph (3)—

(i) after “(1)” insert “or (1A)”,

(ii) after “£200” insert “, or of an amount not exceeding £500 if the request is under any provision included in regulations under paragraph 4(5B) of Schedule 2,”.

Abolition of housing support grants to local authorities

4 Abolition of housing support grants

The following provisions are repealed—

(a) in the Housing (Scotland) Act 1987 (c.26)—

(i) sections 191 to 193 (housing support grants to local authorities),

(ii) in section 338 (interpretation), the definition of “housing support grant”,

(iii) in Part 2 of Schedule 15 (housing revenue account), paragraph 2(1)(c),

(b) in the Housing (Scotland) Act 1988 (c.43), paragraphs 4 and 5 of Schedule 8,

(c) in the Housing (Scotland) Act 2001 (asp 10), section 94(1) (alteration of housing finance arrangements).

General

5 Commencement

(1) This Act (other than section 4) comes into force on the day of Royal Assent.

(2) Section 4 comes into force on 1 April 2013.

6 Short title

The short title of this Act is the Local Government Finance (Unoccupied Properties etc.) (Scotland) Act 2012.
Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill
[AS PASSED]

An Act of the Scottish Parliament to amend the law regarding non-domestic rates and council tax in respect of unoccupied properties; and to repeal certain provisions that allow grants to be made to local authorities to meet housing needs in their areas.

Introduced by: Alex Neil
On: 26 March 2012
Supported by: John Swinney
Bill type: Government Bill