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

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

	On current levels of discount (£m)	**On proposed new levels of discount (£m)**	**Saving (£m)**
2012-13*	152	152	0
2013-14	155	137**	18
2014-15	162	144**	18

**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 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 (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.

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*

	Current position	**Intended Position post legislation**
Standard or **"commercial"** empty property relief first 3 months	100% relief (i.e. no rates payable)	**No change**. 100% relief (i.e. no rates payable)
Standard or **"commercial"** empty property relief after 3 months	**50% relief** (until occupancy status changes)	**10 % relief** (until occupancy status changes)
Exceptions		
• Listed property	100%	**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).

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).

[1] http://www.legislation.gov.uk/uksi/1997/728/schedule/1/made

[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

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)

	Estimated revenue (£m per year) on average for 2013-14 to 2016-17 based on which homes an increase applies to			
Council Tax Level	**6 months plus**	**1 year plus**	**1 year plus + 3% for sale**	**1 year plus + 6% for sale**
100% increase (200% council tax)	33,943,275	23,760,292	23,047,484	22,334,675
No Discount (100% council tax)	11,314,425	7,920,097	7,682,495	7,444,892
10% Discount (90% council tax)	9,051,540	6,336,078	6,145,996	5,955,913
50% Discount (50% council tax)	-	-	-	-

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

	Estimated revenue (£m per year) on average for 2013-14 to 2016-17 based on which homes an increase applies to			
Council Tax Level	**6 months plus**	**1 year plus**	**1 year plus + 3% for sale**	**1 year plus + 6% for sale**
100% increase (200% council tax)	26,943,275	16,760,292	16,047,484	15,334,675
No Discount (100% council tax)	4,314,425	920,097	682,495	444,892

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[3], 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

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

[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

	2013-14	**2014-15**	**2015-16**	**2016-17**	**Total**
Projected HSG payments	£0.524m	£0.282m	£0.034m	£0.0m	£0.840m

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

	2013-14	**2014-15**	**2015-16**	**2016-17**	**Total**
A. Projected HSG payments	£0.524m	£0.282m	£0.034m	£0.00m	£0.840m
B. Proportion of projected HRA rental income (across Scotland)	0.1%	0.0%	0.0%	0.0%	0.0%
C. Proportion of projected HRA rental income (Shetland Islands)	8.6%	4.5%	0.5%	0.0%	4.5%

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.[6] 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.

[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

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

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).[7] 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 rent 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.

[7] Registered Social Landlord weekly rental data for 2010-11 is available from the Scottish Housing Regulator's website at: http://www.scottishhousingregulator.gov.uk/stellent/groups/public/documents/webpages/shr_statisticstables-rents.hcsp#TopOfPage. Local authority weekly rental data for 2010-11 is available on the Scottish Government's website at: http://www.scotland.gov.uk/Topics/Statistics/Browse/Housing-Regeneration/HSfS/HRATables.

SUMMARY OF ESTIMATED COSTS AND SAVINGS ASSOCIATED WITH THE BILL

Table 9 – Summary of estimated costs and savings associated with the Bill

Bill provisions	**Costs to the Scottish administration (£m)**	**Costs to local authorities (£m)**	**Costs to other bodies, individuals and businesses (£m)**	**Estimated total cost for each Bill provision (£m)**
Non-domestic rates – empty property relief*	-18.00 per year (see paras 21 and 22)	0.00** (see para 23)	18.00 per year (see table 2 and paras 24 to 26)	0.00
Council tax – increase on long-term empty homes*	0.00	Set-up – up to 0.388-1.004 Ongoing – up to -12.59 to -15.14 per year (see paras 38 to 48) ***	Up to 15.33-16.05 per year (see tables 3 to 5 and paras 49 to 54)	0.388-1.004 (set up) plus up to 0.91-2.74 per year (ongoing)
Housing Support Grant – abolition	-0.84 (see para 58)	0.84 (see paras 59 to 63 and tables 7 and 8)	0.00	0.00
Estimated total costs by type of body	**-0.84 (total for 2013-14 to 2015-16) plus -18.0 per year**	**1.228-1.844 plus -12.61 to -15.14 per year**	**33.33-34.05m per year**	**0.388-1.004 plus up to 0.91 to 2.74 per year********

*** –** 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."

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

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)

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