

Local Government, Housing and Planning Committee

**28th Meeting, 2022 (Session 6),
Tuesday 21 November 2023**

SSI cover note for the Council Tax (Variation for Unoccupied Dwellings) (Scotland) Amendment Regulations 2023

Background

The purpose of this paper is to provide information for the Committee's consideration of the Council Tax (Variation for Unoccupied Dwellings) (Scotland) Amendment Regulations 2023 (the draft Regulations).

1. The draft Regulations give councils discretionary powers to charge an increase in council tax (a 'premium') on second homes of up to 100%. There are currently 24,287 second homes¹ that pay council tax.
2. The draft Regulations also provide for a grace-period from the application of a premium of up to 100%, that is payable on an empty property, when it is purchased by a new owner. This grace-period will apply where the property has been purchased by a new owner within the past six months, and renovations or repairs are being undertaken.
3. The draft Regulations amend the existing Council Tax (Variation for Unoccupied Dwellings) (Scotland) Regulations 2013. Those Regulations defined a second home as a property which is no-one's main residence but is furnished and lived in for at least 25 days in any twelve-month period.²
4. This does not include any second homes that are used for holiday lets that are classed as businesses, and therefore pay non-domestic rates rather than council tax.³ In October 2022 there were 18,290 self-catering accommodation units on the valuation roll for non-domestic rates across Scotland.

¹[Second Homes - Council Tax for second and empty homes, and non-domestic rates thresholds: consultation - gov.scot \(www.gov.scot\)](#) Page 4

²[The Council Tax \(Variation for Unoccupied Dwellings\) \(Scotland\) Regulations 2013 \(as amended\) Regulation 2](#)

³[If a second home is available as a holiday let for 140 days a year or more, and let out for at least 70 days in the financial year the owner may have to pay non-domestic rates instead of council tax.](#)

5. In April 2023, the Scottish Government and COSLA issued a joint consultation paper [Council tax on second and empty homes / non-domestic rates: consultation](#).

6. The consultation noted that the proposals are aimed at encouraging second home owners to use their accommodation differently, for example to let their property for long term residential use. The additional revenue generated could also be used to benefit the local community and contribute to affordable housing schemes. However, the Scottish Government also recognised that there could be benefits to some local communities for second homes, for example to support local tourist economies.

7. The Scottish Government estimate that if a 100% premium was added to council tax on all second homes across Scotland this [could generate around £35m in additional council tax](#). This figure assumes no behavioural change as a result of increased council tax charges.

8. The draft Regulations propose to provide for an exclusion of the ability of councils to impose a premium of up to 100% on the amount of council tax payable on any property which has been empty for at least 12 months, where the property has been purchased by a new owner within the past six months, and repairs or renovations are being undertaken. Councils will have discretion to extend the period for which the exclusion applies, where they consider that it is appropriate to do so in order to enable works to be completed.

9. The policy objective of providing a 'grace-period' from a council tax premium, is to ensure that the premium on empty homes is not a disincentive for a prospective purchaser that intends to bring the property back into use.

10. The Scottish Government plans to work in partnership with local government to produce joint guidance on the circumstances in which the grace period will apply and the types of work that will be included under "repairs or renovations". It will, however, ultimately be left to the discretion of local authorities to determine whether work falls into this category.

11. Further information on the draft Regulations is contained at Annex A.

Delegated Powers and Law Reform Committee consideration

12. At its meeting on 14 November the Delegated Powers and Law Reform Committee considered the Council Tax (Variation for Unoccupied Dwellings) (Scotland) Amendment Regulations 2023 and was content with that instrument.

Local Government, Housing and Planning Committee consideration of the Regulations

13. The Committee has until 17 December to consider the Council Tax (Variation for Unoccupied Dwellings) (Scotland) Amendment Regulations 2023.

14. At the meeting, the Committee will take evidence from the following witnesses:

- Fergus Walker, Revenues and Benefits Manager, Argyll & Bute Council
- Gareth Waterson, Corporate Director, Enterprise and Sustainable Regeneration, Orkney Islands Council
- Councillor Bill Lobban, Convener, Highland Council
- Eilidh Keay, representative, Living Rent
- Timothy Douglas, Head of Policy and Campaigns, Propertymark

15. On the 5th December the Committee will take evidence from the Minister for Community Wealth and Public Finance and from Cosla. The Minister will then move the motion recommending approval of the draft Regulations. The Committee must then decide whether or not to agree to the motion, and then report to Parliament by 17 December.

Annex A

Council Tax (Variation for Unoccupied Dwellings) (Scotland) Amendment Regulations 2023

Title of Instrument:	Council Tax (Variation for Unoccupied Dwellings) (Scotland) Amendment Regulations 2023
Type of Instrument:	Affirmative
Laid Date:	8 November 2023
Circulated to Members:	9 November 2023
Meeting Date:	21 November 2023
Minister to attend meeting:	Attending 5 December 2023
Motion to approve:	S6M-11186
Drawn to the Parliament's attention by the Delegated Powers and Law Reform Committee?	No
Reporting deadline:	17 December 2023

Purpose

1. The draft regulations give councils discretionary powers to charge an increase in council tax (a 'premium') on second homes of up to 100%.
2. The regulations also provide for a grace-period from the application of a premium of up to 100%, that is payable on an empty property, when it is purchased by a new owner. This grace-period will apply where the property has been purchased by a new owner within the past six months, and renovations or repairs are being undertaken.
3. A copy of the Explanatory Notes and the Policy Notes are included below.

Procedure for Affirmative instruments

4. The draft Regulations were laid on 8 November 2023 and referred to the Local Government, Housing and Planning Committee. The Order is subject to affirmative procedure (Rule 10.6). It is for the Local Government, Housing and Planning Committee to recommend to the Parliament whether the Order should be approved. The Minister for Community Wealth and Public Finance has, by motion S6M-11186, proposed that the Committee recommends the approval of the Order.

Scottish Government Explanatory Note

5. The Regulations remove the restriction on local authorities imposing a Council Tax increase on second homes. Instead, local authorities will be able to increase the amount of Council Tax payable on second homes by up to 100%. In this scenario the amount of Council Tax payable could be as much as double the full rate of Council Tax.

6. The Regulations also provide for an exclusion of the ability of local authorities to impose a premium of up to 100% on the amount of Council Tax payable on any property which has been unoccupied for at least 12 months, where the property has been purchased by a new owner within the past six months, and repairs or renovations are being undertaken. Local authorities will have discretion to extend the period for which the exclusion applies, where they consider that it is appropriate to do so in order to enable works to be completed.

Scottish Government Policy Note

THE COUNCIL TAX (VARIATION FOR UNOCCUPIED DWELLINGS) (SCOTLAND) AMENDMENT REGULATIONS 2023

SSI 2023/XXX

The above instrument will, if approved by resolution of the Scottish Parliament, be made in exercise of the powers conferred by section 33(1) and (2) of the Local Government (Scotland) Act 2003. The instrument is subject to the affirmative procedure.

Policy Objectives

Second Homes

A second home is a home which is furnished and lived in for at least 25 days in a 12 month period, but is not someone's sole or main residence. The Council Tax (Variation for Unoccupied Dwellings) (Scotland) Regulations 2013 (as amended in 2016) ("the 2013 Regulations") set a 50% Council Tax discount as the default charge for accommodation that is not someone's sole or main residence and gives local authorities the power to change that discount.

In practice, for second homes, this means local authorities can currently:

- alter the level of discount, to provide a discount of between 10% and 50%
- offer no discount.

These Regulations remove the restriction on local authorities imposing an increase in the amount of Council Tax payable on second homes, and instead provide a power for local authorities to increase the Council Tax payable on second homes by up to 100%.

The discretionary nature of these additional powers mean that local authorities will be able to make decisions in relation to the treatment of second home based on local circumstances, including on how to achieve the right balance in the use of housing to meet local needs and to support thriving communities.

Exclusion from the 100% premium on the Council Tax liability

Currently, local authorities are required to apply a 50 per cent discount, for six months after sale, to a property that requires "major repair work" or structural alterations to make it habitable. Local authorities do not have the ability to reduce the level of discount in relation to such properties; and nor can they impose a premium on the amount of Council Tax payable. This discount will only apply where a property is undergoing (or has undergone) major repair work or structural alteration and is uninhabitable as a consequence. Where a property prior to sale had been a long-term empty property and is then unoccupied due to renovations or repairs that are not of a structural nature, a new owner may be required to pay a Council Tax premium.

These Regulations provide for a grace-period from exposure to the Council Tax premium of up to 100%, that is payable on an unoccupied property, when it is purchased by a new owner. This grace-period will apply where the property has been purchased by a new owner within the past six months, and renovations or repairs are being undertaken. Joint guidance will be produced in partnership with Local Government on the circumstances in which the graceperiod will apply and the types of work that will be included under “repairs or renovations”. It will, however, ultimately be left to the discretion of local authorities to determine whether work falls into this category. Local authorities may also choose to extend the period for which the exclusion applies, where they consider that it is appropriate to do so in order to enable works to be completed.

The policy objective is to ensure that the Council Tax premium on long-term empty homes, is not a disincentive for a prospective purchaser that intends to bring the property back into use.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government’s policy to maintain alignment with the EU.

Consultation

Second Homes

A public consultation seeking views on providing additional powers to councils allowing them discretion to charge up to 100% premium on Council Tax for second homes closed on 11 July 2023. A total of 981 responses were received, 73 from groups or organisations and 908 from individual members of the public. The consultation included a question on whether there should be a power to impose a premium on second homes, and this received majority support. The full analysis of the public consultation can be found at the following link, [Council tax for second and empty homes, and thresholds for non-domestic rates: Consultation analysis](#). The full analysis of the public consultation can be found at the following link, [Council tax for second and empty homes, and thresholds for non-domestic rates: Consultation analysis \(www.gov.scot\)](#).

Exclusion from the 100% premium on the Council Tax liability

An Empty Homes Audit, produced by Indigo House, published its findings in September 2023. It made recommendations intended to help inform how commitments on empty homes within the Housing to 2040 Strategy can best be met. The report contained a specific recommendation regarding Council Tax and the treatment of Long-term Empty Homes. Specifically, that the Council Tax premium should work as an incentive to bring homes back into use and should not act as a barrier - [Bringing empty homes back into use: audit of privately owned empty homes - gov.scot](#)

Both policies have been developed in partnership with Local Government through the Joint Working Group on Sources of Local Government Funding and Council Tax Reform, jointly chaired by COSLA. Local Government stakeholders have been consulted on the delivery of the legislation.

Impact Assessments

Impact assessment associated with the public consultation proposals were completed, and are available at the following link, [Non-domestic rates/Council Tax second and empty homes consultation: partial impact assessments](#)

There are no specific impact issues associated with the delivery of these policies.

Financial Effects

A partial Business and Regulatory Impact Assessment (BRIA) associated with the public consultation proposals has been completed and is available at the following link, [Nondomestic rates/Council Tax second and empty homes consultation: business and regulatory impact assessment](#)