

## **POLICY NOTE**

### **THE COUNCIL TAX (EXEMPT DWELLINGS) (SCOTLAND) AMENDMENT ORDER 2012**

#### **SSI 2012/339**

The above instrument was made in exercise of the powers conferred by sections 72(6) and (7) and 113(2) of the Local Government Finance Act 1992. The instrument is subject to negative procedure.

#### **Policy Objectives**

This Order is part of a package of three SSIs which will enable local authorities to charge a council tax increase for certain long-term unoccupied homes in order to help encourage owners to bring their empty homes back into use.

The Order is not intended to affect the categories of homes or owners which are exempt from paying council tax; these will remain unchanged. Instead, the Order makes a minor amendment to the existing Council Tax (Exempt Dwellings) (Scotland) Order 1997 ('the 1997 Order') in order to assist local authorities in enforcing any council tax increase in their area.

The Order will make it more difficult for owners to avoid paying a council tax increase or reduced level of discount by repeatedly claiming an empty dwelling exemption. Currently, under Schedule 1 to the 1997 Order, dwellings which are both unoccupied and unfurnished are exempt from council tax for the first six months they are empty. A dwelling has to then be reoccupied or furnished for a period of at least six weeks before an owner can again receive an empty dwelling exemption. Such exemption would be for another six months.

This Order will, from 1 April 2013 (subject to transitional provisions for empty dwellings reoccupied or furnished just before 1 April 2013) require dwellings to be reoccupied for at least three months before an owner can receive a further empty dwelling exemption. Just furnishing a dwelling for a period without occupying it will no longer entitle an owner to claim a further empty dwelling exemption.

The objectives of these changes are, firstly, to make it harder for owners to occupy their home for a short period of less than three months in order to then claim a further period of council tax exemption and, secondly, to prevent owners from being able to claim further exemptions simply due to having furnished their home for a period. While local authorities have not often experienced problems due to owners seeking to exploit these provisions, if local authorities implement either council tax increases and/or further reduce discounts for unoccupied dwellings, it is possible that some owners will seek to exploit any provisions which would enable them to avoid paying more council tax. In addition, some local authorities have noted that the current six week minimum reoccupation period is too short to allow them to check that a home is genuinely being occupied; a longer minimum period of three months would give the local authority more opportunity to carry out checks.

## Consultation

The Scottish Government carried out an initial public consultation<sup>1</sup> from October 2011 to January 2012 on plans for legislation on a council tax increase, which included a question about the proposal that the minimum reoccupation period to qualify for a further empty dwelling exemption should be extended beyond six weeks. A further consultation<sup>2</sup> on the draft package of council tax instruments was held from July to October 2012, which included seeking views on a draft of this Order. The consultations were sent to local authorities, NHS Boards, key housing and council tax stakeholders, equalities groups and other bodies whose members were likely to own empty homes. The Scottish Government also promoted the consultations through News Releases and announcements to raise wider awareness. Two open consultation events were held as part of the first consultation, along with ongoing discussions with local authorities through an officer working group on the regulations.

The Scottish Government has published consultation analysis reports<sup>3</sup> for both consultations. In both cases, the majority of respondents favoured the Scottish Government's proposals for this Order and three months was the minimum length of reoccupation period suggested by most stakeholders who expressed a view. Copies of individual responses to both consultations (except where respondents asked for their response not to be published) are also available on the Scottish Government's website<sup>4</sup>.

## Impact Assessments

An Equality Impact Assessment has been completed on the proposals for the council tax legislation<sup>5</sup>. A draft of this Assessment was consulted on and copies were sent to bodies representing equalities groups. The Assessment did not specifically consider the proposals for this Order as the proposals simply aim to prevent tax avoidance and should not have any impacts on particular equality groups.

## Financial Effects

A Business and Regulatory Impact Assessment (BRIA) has been completed following the consultation on the legislation<sup>6</sup>. It does not specifically consider the change in this Order as the extension of the minimum reoccupation period from six weeks to three months is not expected to have any adverse impact on businesses.

Scottish Government

Housing and Regeneration, the Commonwealth Games and Sport Directorate

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<sup>1</sup> See <http://www.scotland.gov.uk/Publications/2011/10/17105007/0> - particularly Section 1 and question 8

<sup>2</sup> See <http://www.scotland.gov.uk/Publications/2012/07/9137> - particularly page 11 on the draft Order

<sup>3</sup> See <http://www.scotland.gov.uk/Publications/2012/03/3821> - legislation consultation analysis and <http://www.scotland.gov.uk/Publications/2012/11/5103>

<sup>4</sup> See <http://www.scotland.gov.uk/Publications/2012/02/7761/downloads> and <http://www.scotland.gov.uk/Publications/2012/11/4993/0>

<sup>5</sup> See Assessment at <http://www.scotland.gov.uk/Publications/2012/04/7872/2>

<sup>6</sup> See <http://www.scotland.gov.uk/Publications/2012/04/7872/1>