

# LOCAL GOVERNMENT FINANCE (UNOCCUPIED PROPERTIES ETC) (SCOTLAND) ACT 2012

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## EXPLANATORY NOTES

### COMMENTARY OF SECTIONS

#### *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”)<sup>1</sup> 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 Act 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 Act).
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 Act 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 Act 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

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<sup>1</sup> <http://www.legislation.gov.uk/ukpga/1992/14/contents>

*These notes relate to the Local Government Finance (Unoccupied Properties etc) (Scotland) Act 2012 (asp 11) which received Royal Assent on 5 December 2012*

section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010) and the Act will not change that.