POLICY NOTE

THE COUNCIL TAX (VARIATION FOR UNOCCUPIED DWELLINGS) (SCOTLAND) AMENDMENT REGULATIONS 2026

SSI 2026/169

The above instrument was made in exercise of the powers conferred by section 33(1) and (2) of the Local Government in Scotland Act 2003. The instrument is subject to *affirmative procedure*.

Summary Box

This instrument amends the Council Tax (Variation for Unoccupied Dwellings) (Scotland) Regulations 2013 to remove the existing legislative cap on the imposition by local authorities of Council Tax premiums for second homes and long-term empty homes, and to enable local authorities to determine how those premiums apply in their area from 1 April 2026.

Policy Objectives

The Programme for Government 2025 committed to removing the legislative constraint on the level of Council Tax premium that can be applied to second homes and long-term empty homes.

The Housing (Scotland) Act 2025 amended the legislative framework governing Council Tax variation for unoccupied dwellings, creating the opportunity to remove the existing statutory cap that limited local authorities' ability to impose Council Tax premiums for second homes and long-term empty homes. These changes were intended to enable greater local flexibility in the use of Council Tax as a housing policy lever.

These Regulations give effect to those provisions by amending the Council Tax (Variation for Unoccupied Dwellings) (Scotland) Regulations 2013, and to set out the detailed framework within which local authorities may exercise these powers.

The purpose of these Regulations is to amend the existing Council Tax variation framework for unoccupied dwellings in order to provide local authorities with greater flexibility in setting Council Tax premiums for second homes and long-term empty homes.

In particular, the Regulations:

a) establish a national default rate for Council Tax premiums for second homes and long-term empty homes of 100 per cent; and

b) enable local authorities to vary that rate, including increasing or reducing the premium, applying no premium, or applying a discount, and to apply different approaches for different cases, classes of dwelling or areas.

This amendment gives local authorities greater discretion over the Council Tax treatment of unoccupied dwellings in their areas, allowing them to respond to local housing pressures. In

exercising these powers, local authorities will be supported by statutory guidance issued by the Scottish Ministers.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

The Scottish Ministers have made the following statement regarding children's rights.

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the The Council Tax (Variation for Unoccupied Dwellings) (Scotland) Amendment Regulations 2026 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU. Council Tax is a devolved local tax and does not fall within an area of former EU competence.

Consultation

The policy approach underpinning these Regulations has been informed by a public consultation undertaken in 2023 on Council Tax on second homes and long-term empty homes, which sought views on thresholds, premiums and the role of Council Tax in supporting local housing objectives.

The approach has also been informed by Parliamentary scrutiny of the Housing (Scotland) Act 2025, including evidence sessions and consideration of amendments relating to the treatment of second homes and long-term empty homes and the role of Council Tax premiums as a local housing policy lever.

In addition, the Scottish Government has engaged on an ongoing basis with local government, including COSLA, on the operation of the Council Tax system and the practical implications of providing greater local flexibility.

Responses to the consultation and evidence provided during Parliamentary scrutiny highlighted support for increased local discretion to respond to differing housing pressures across Scotland, while retaining a clear national framework. These views have informed the approach taken in these Regulations, which establish a national default position while enabling local authorities to determine how premiums apply in their area.

Given the enabling nature of the Regulations, and the extensive engagement already undertaken through consultation and Parliamentary scrutiny, no further public consultation was undertaken specifically on the draft SSI.

The consultation report is published on the Scottish Government website, Council tax for second and empty homes, and thresholds for non-domestic rates: consultation analysis - gov.scot[1].

Impact Assessments

A Child Rights and Wellbeing Impact Assessment (CRWIA) has been completed and is attached. The assessment concludes that the Regulations are enabling in nature and have a neutral impact on children's rights, as they apply to second homes and long-term empty homes and do not directly affect households with children.

A Financial Memorandum was prepared and considered by the Scottish Parliament as part of the passage of the Housing (Scotland) Act 2025 - Supplementary Financial Memorandum[2]. That analysis considered the potential financial implications of removing the legislative cap on Council Tax premiums and providing local authorities with greater flexibility in relation to second homes and long-term empty homes.

These Regulations maintain a national default premium rate of 100 per cent for second homes and long-term empty homes. The Regulations do not themselves require local authorities to increase Council Tax premiums above that level, and any decision to vary the baseline amount will be a matter for each individual local authority.

As local authorities are independent, democratically elected bodies, accountable to their own local electorates, it is for each authority to determine whether and how to vary premiums in their area and to assess the local impacts of those decisions, including any financial effects. The Scottish Government cannot predict local decisions that may be taken under this enabling framework.

No Equality Impact Assessment, Fairer Scotland Duty assessment, or Data Protection Impact Assessment was required, as the Regulations do not introduce differential treatment of protected characteristics, do not affect personal data, and do not directly impact individuals' access to services.

Financial Effects

A Financial Memorandum was prepared and considered by the Scottish Parliament as part of the passage of the Housing (Scotland) Act 2025 - Supplementary Financial Memorandum[3]. That analysis considered the potential financial implications of removing the legislative cap on Council Tax premiums and providing local authorities with greater flexibility in relation to second homes and long-term empty homes.

Any financial effects arising from a decision to vary the baseline premium will depend on choices taken by individual local authorities, based on local housing conditions. As independent, democratically elected bodies, local authorities are responsible for determining

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[1] https://www.gov.scot/publications/council-tax-second-empty-homes-thresholds-non-domestic-rates-consultation-analysis/

[2] https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/housing-scotland-bill/stage-2/spbill45afms062025.pdf

[3] https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/housing-scotland-bill/stage-2/spbill45afms062025.pdf

whether and how to exercise these powers and for assessing the local financial impacts of their decisions, including impacts on local residents and local services.

The Scottish Government cannot predict local decisions that may be taken under this enabling framework. Local authorities already have established systems in place to administer Council Tax variations, and no significant additional administrative costs are expected to arise as a result of these Regulations.

Scottish Government
Local Government Directorate

January 2026