

EXPLANATORY MEMORANDUM TO
THE COUNCIL TAX (DEMAND NOTICES) (ENGLAND) REGULATIONS
2011

2011 No. 3038

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The Council Tax (Demand Notices) (England) Regulations 2011 (“the Regulations”) make provision about the content of council tax demand notices (“bills”) and information which must be supplied with those bills (usually by way of council tax leaflets) when they are served. The Regulations apply in relation to a bill which relates to a financial year beginning on or after 1st April 2012 (“2012-13”) and which is served by an English billing authority.

2.2 The Regulations are similar to the Council Tax (Demand Notices) (England) Regulations 2010 (S.I. 2010/2990) (“the 2010 Regulations”), but changes have been made, in particular, to reflect amendments to council tax legislation made by the Localism Act 2011 (“the 2011 Act”).

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

The 1992 Act

4.1 Part 1 of the Local Government Finance Act 1992 (“the 1992 Act”) concerns council tax in England and Wales. Under the 1992 Act billing authorities are required to levy and collect council tax in respect of dwellings situated in their areas (see section 1(1) of that Act).

4.2 There is power in the 1992 Act to require billing authorities to serve a bill on a person before that person becomes liable to pay council tax in respect of a dwelling and a financial year (see paragraph 2(4)(a) and (b) of Schedule 2 to the 1992 Act). The requirement to serve a bill is included in regulation 18 of the Council Tax (Administration and Enforcement) Regulations 1992 (S.I. 1992/613).

The Regulations

4.3 The Regulations make provision about the content of bills and information which must be supplied with those bills when they are served. They apply in relation to a bill which is served by an English billing authority and which relates to 2012-13 or a later financial year.

4.4 The 2010 Regulations make similar provision about the matters to be contained in, and information to be supplied with, bills concerning 2011-12 or a later financial year. However, as a consequence of the council tax provisions in the 2011 Act changes to the content of bills, and to the information supplied with bills, is required for the financial year 2012-13 and later financial years.

4.5 Regulation 1(3) of the Regulations provides that the 2010 Regulations will not apply to a bill for 2012-13 or a later financial year. Once the Regulations come into force it follows that the 2010 Regulations will only apply in relation to a bill served by an English billing authority in respect of 2011-12.

5. Territorial Extent and Application

5.1 This instrument applies in relation to England only.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- What is being done and why

Introduction

7.1 The 2011 Act makes two significant changes to the council tax legislation application in relation to England.

7.2 Firstly, the Government has a policy that local electors in England should via local referendums be able to approve or reject excessive council tax increases. A new Schedule 4ZA to the 1992 Act (which was inserted by Schedule 5 to the 2011 Act) implements this policy. The 2011 Act also repealed the former system of council tax capping in relation to England. This is achieved by amending Chapter 4A of Part 1 of the 1992 Act so that it only applies in relation to Wales (see paragraphs 4 to 28 of Schedule 6 to the 2011 Act).

7.3 Secondly, this change has enabled the way in which authorities in England calculate their council tax (“the requisite calculations”) to be changed and simplified. Sections 74 to 78 of the 2011 Act make amendments to the requisite calculations which billing and precepting authorities must make each financial year. In particular, authorities are no longer required to calculate a budget requirement for a financial year and instead must calculate a council

tax requirement. An authority's council tax requirement for a financial year is (in essence) the amount of council tax which the authority must raise in order to finance its proposed budget for that year.

7.4 Below the effect of the Regulations is described, in particular, by reference to the changes which have been as a result of the 2011 Act.

An overview of the Regulations

7.5 Regulations 1 to 4 define certain terms which are used in the Regulations. Regulation 3 (definition of "council tax requirement") is new. The regulation defines the term "council tax requirement" for 2011-12 and for 2012-13 and later financial years. Separate definitions are required for 2011-12, since the requisite calculations for that year did not require authorities to calculate a council tax requirement.

7.6 Regulation 5 and Schedule 1 specify the matters which must be contained in a bill. These include the dwelling to which the bill relates, the valuation band applicable to the dwelling, comparisons with the preceding financial year and the amount of council tax payable in respect of the dwelling. Compared with the 2010 Regulations, the following key changes have been made-

- Paragraphs 8 to 10 of Schedule 1 have been amended to reflect the changes to requisite calculations made by the 2011 Act.
- Where an authority has set an excessive amount of council tax paragraph 12 (excessive amounts of council tax) of Schedule 1 requires information be included in the bill in the form of a footnote.
- The information required by paragraph 21 (penalties) was previously required to be supplied with rather than on the bill.

7.7 Regulation 6 and Schedule 2 specify information which must be supplied with a bill when it is served. This information includes the gross expenditure and council tax requirements of the billing authority and certain precepting authorities for the relevant year and the preceding year.

7.8 Regulation 7 applies if as a consequence of a mistake a bill does not contain a matter specified in Schedule 1, but the council tax mentioned in the bill has been appropriately demanded. In these circumstances there is an obligation to pay the council tax, but the billing authority must rectify the mistake as soon as practicable by serving a statement on the person on whom the bill was served.

7.9 Regulations 8 and 9 require precepting authorities and levying bodies to supply information to billing authorities when issuing a precept or a levy. The information required from precepting authorities has been amended to reflect the changes to the requisite calculations made by the 2011 Act.

- Consolidation

7.10 The Regulations consolidate (with amendments) the provisions concerning council tax bills which are currently contained in the 2010 Regulations. The main changes reflect amendments to council tax legislation made by the 2011 Act.

8. Consultation outcome

8.1 No consultation has been undertaken in relation to the Regulations, since compared with the 2010 Regulations the amendments which have been made are almost exclusively consequential on the amendments to council tax legislation made by the 2011 Act.

9. Guidance

9.1 The Department is not planning to publish any guidance in relation to the Regulations. General guidance is not normally published when council tax demand notices regulations are made and since the Regulations are largely a consolidation of the 2010 Regulations the Department sees no reason to alter its usual practice on this occasion.

10. Impact

10.1 The impact on business, charities or voluntary bodies is nil.

10.2 The impact on the public sector is that:

Billing authorities will be required to comply with the Regulations when issuing bills for 2012-13 and later financial years, and precepting authorities and certain levying bodies will be required to supply information to billing authorities in accordance with the Regulations for those financial years.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 There are no plans for a formal review of the Regulations.

13. Contact

Peter Reilly at the Department for Communities and Local Government Tel: 0303 444 2092 or email: peter.reilly@communities.gsi.gov.uk can answer any queries regarding the instrument.