

LOCAL GOVERNMENT FINANCE ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Council Tax

Section 9: Council tax reduction schemes: review

38. This section requires the Secretary of State to make provision for an independent review of all council tax reduction schemes made under the provisions of the Act within three years of the Act coming into effect. This applies both to schemes made under new section 13A(1)(a) of the LGFA 1992 in relation to England, and under regulations made under new section 13A(1)(b) of the LGFA 1992 in relation to Wales (new section 13A is inserted into the LGFA 1992 by section 10 of this Act).

Section 10: Council tax reduction schemes

39. **Section 10** substitutes a new section 13A of the LGFA 1992 for the current section 13A (reductions by billing authority). New section 13A(1) provides-
- in the case of a dwelling situated in England, that a person's liability to council tax is to be reduced in accordance with the billing authority's council tax reduction scheme;
 - in the case of a dwelling situated in Wales, that a person's liability is to be reduced to the extent required by any council tax reduction scheme made in accordance with regulations made by Welsh Ministers; and
 - in the case of a dwelling situated in England or Wales, that a person's liability to council tax may be reduced to such extent as the billing authority thinks fit.
40. Billing authorities in England must make a council tax reduction scheme by 31 January 2013 and those schemes must relate to the financial year 2013-14 (new section 13A(2) and section 10(4)). The Secretary of State may alter the commencement of these provisions by amending the 31 January 2013 date or the 2013-14 financial year (section 10(5)).
41. The power in new section 13A(1)(c) – which is a restatement of the current law – can be exercised in particular cases or by determining a class of case and an authority can reduce a person's liability to nil (new section 13A(6) and (7)).

Section 11: Power to determine further discounts for certain dwellings

42. This section inserts new subsections (4A) and (4B) into section 11A of the LGFA 1992. The new subsections allow the Secretary of State to prescribe a new class of dwelling for the purposes of allowing billing authorities to make a determination that any discount under section 11(2)(a) shall not apply or shall be such percentage (which may be 100%) as it may specify.

*These notes refer to the Local Government Finance Act 2012
(c.17) which received Royal Assent on 31 October 2012*

43. In practice, this will allow billing authorities to set a discount on unoccupied and unfurnished dwellings prescribed in the new class of dwelling mentioned above.

Section 12: Power to set higher amount for long-term empty dwellings

44. This section inserts a new section 11B into the LGFA 1992. In respect of a dwelling that has been unoccupied and substantially unfurnished for more than two years, the new section allows billing authorities to charge up to 150% of the council tax that would be payable if the dwelling were occupied by two adults and no discounts were applicable.
45. The new section allows the Secretary of State to make provision for exceptions, by prescribing classes of dwelling, taking into account the physical characteristics and the circumstances of any person liable, for which a billing authority will not be able to charge extra council tax.

Section 13: Mortgagee in possession to be liable for council tax

46. This section will include mortgagees who repossess homes situated in England in the hierarchy of liability for council tax as set out in section 6 of the LGFA 1992.

Section 14: Regulations about powers to require information, offences and penalties

47. This section inserts new sections 14A to 14D into the LGFA 1992. New section 14A allows the Secretary of State and the Welsh Ministers to make regulations providing powers for persons to require the provision of information and to require that a person must enter into arrangements under which access is permitted to their electronic records. These powers can only be used for prescribed purposes relating to a person's liability to pay council tax (new section 14A(1) and 14A(7)).
48. Provision may also be made in regulations about arrangements for access to a person's electronic records for purposes relating to a person's liability to pay council tax when arrangements are entered into otherwise than under a requirement mentioned in section 14A(1)(b) (new section 14A(2)).
49. Regulations may include provision about the persons by whom these powers may be exercised and who may enter into these arrangements and may, in particular, provide billing authorities with the power to authorise persons to exercise these powers or make these arrangements (new section 14A(3)).
50. Regulations made under this new section may, in particular, include provision equivalent to the provisions of the Social Security Administration Act 1992 listed in section 14A(5) (new section 14A(4)).
51. The Government intends that these powers will be used to ensure local authorities are able to access information to determine whether a claim for a reduction in council tax liability is fraudulent.
52. New section 14B enables the Secretary of State and the Welsh Ministers to make regulations providing for the creation of offences that may be committed by a person in prescribed circumstances. This includes where a person intentionally delays or obstructs a person when exercising a power under section 14A(1) or refuses or fails to supply information when required to do so. Offences may also be created where, for instance, a person makes a false statement or representation in connection with their liability to pay council tax (new section 14B(1)).
53. The intention is to create criminal offences equivalent to those that apply in relation to council tax benefit under the Social Security Administration Act 1992. New section 14B(9) therefore provides that the regulations may make provision equivalent to those listed in new section 14B(10) with modifications.

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54. New section 14C enables provision to be made in regulations giving billing authorities powers to issue a penalty to a person where their act or omission results or could result in the amount of council tax a person is liable to pay being reduced and where no such discount or reduction should be given (new section 14C(1)). Regulations may similarly provide that a penalty may be issued where a person's act or omission results in a dwelling being treated as exempt when no such exemption should be given (new section 14C(2)). The regulations can only provide that a penalty may be imposed as an alternative to criminal proceedings being taken against a person in respect of the act or omission to which the penalty relates or where a person has not yet been charged with an offence in respect of that act or omission (new section 14C(3)). The Treasury may make an order varying the amount of a penalty provided for in the regulations (new section 14C(4) and (5)). The intention is that this will allow for increases in inflation. Any new penalties created in regulations will not affect the operation of the existing penalties that may be imposed under paragraph 1 of Schedule 3 to the LGFA 1992 (new section 14C(6)).
55. Regulations made under this section may, in particular, make provision equivalent to the provisions of the Social Security Administration Act 1992 listed in new section 14C(8). The intention is to enable authorities to impose penalties in circumstances similar to those in which a penalty may be imposed in relation to council tax benefit under these provisions.
56. Section 14D sets out the procedure for making regulations under section 14A to 14C.
57. [Section 13\(5\) to \(9\)](#) provides individuals with a route of appeal to a Valuation Tribunal in England or Wales against the imposition of a penalty under regulations under section 14C.

Section 15: Calculation of a billing authority's council tax base

58. This section allows regulations to be made under sections 34 and 45 of the LGFA 1992 setting out different rules for calculating the council tax base for part of an area where special items such as local parish council precepts or waste or transport levies apply depending on the special item under consideration. It also allows consequential amendments to be made to the Local Government Finance Act 1992 in those regulations.

Section 16: Provision of information about council tax

59. This amends the provisions on collection of council tax in Schedule 2 to the LGFA 1992, the effect of which will enable publication of information by electronic means.

Section 17: Power for HMRC to supply information for purposes of council tax

60. This section amends Schedule 2 to the LGFA 1992, inserting new paragraphs 15A, 15B and 15C to enable Revenue and Customs officials to supply information to billing authorities in England and Wales and local authorities in Scotland for prescribed purposes relating to council tax. It also inserts new paragraph 15D into Schedule 2, providing for offences in relation to the unlawful disclosure of information provided under the preceding paragraphs. It also makes a number of consequential amendments to paragraphs 11, 12 and 16 of Schedule 2 to the LGFA 1992. Finally, it amends paragraph 8 of Schedule 11 to the LGFA 1988 to ensure regulations can be made about the use of information supplied under new paragraph 15A or 15B of Schedule 2 to the LGFA 1992 or section 131 of the Welfare Reform Act 2012 as evidence at a Valuation Tribunal.

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Section 18: Power for HMRC to supply information for purposes of rates in Northern Ireland

61. **Section 18** enables Revenue and Customs officials to supply information to the Department of Finance and Personnel in Northern Ireland and the Northern Ireland Housing Executive for prescribed purposes relating to rates. It also provides for offences in relation to the unlawful use of this information. This section largely mirrors the powers provided by section 16 in relation to England, Wales and Scotland.