

EXPLANATORY MEMORANDUM TO
THE COUNCIL TAX (PRESCRIBED CLASSES OF DWELLINGS)
(AMENDMENT) (ENGLAND) REGULATIONS 2005

2005 No.416

1. This explanatory memorandum has been prepared by the Office of the Deputy Prime Minister and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 These Regulations amend the Council Tax (Prescribed Classes of Dwellings) (England) Regulations to broaden their scope. The effect of the amendments is to provide that where a council tax payer has two homes, one of which is a job-related dwelling (within the definition in the regulations), billing authorities are prevented from reducing the council tax discount on that person's second home in England whether the main home is in England, Wales or Scotland. In most instances it does not matter whether it is the main home or the second home which is the job-related dwelling.

2.2 In particular, the amendments provide that where a member of the military or a minister of religion has a second home in England but has to live in a job-related dwelling in England, Wales or Scotland, the second home council tax discount of 50% is preserved.

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

3.1 None.

4. Legislative Background

4.1 These regulations are made under section 11A of the Local Government Finance Act 1992. Section 11A was inserted by section 75(1) of the Local Government Act 2003. Section 11A provides that the Secretary of State may prescribe classes of dwelling in England for which billing authorities may reduce council tax discounts on second homes or long term empty property from 50% down to a minimum of 10% or to zero.

5. Extent

5.1 This instrument applies to billing authorities in England.

6. European Convention on Human Rights

Not applicable

7. Policy background

- 7.1 The principal regulations have given billing authorities - from April 2004 - the discretion to set the council tax discount on second homes in England at any point between 50% and 10% and on long term empty properties property at any point between 50% and zero. ODPM has been monitoring the first year of operation of the regulations.
- 7.2 Many authorities have chosen to reduce the discounts and generally the regulations are working well. Therefore, no changes were considered necessary to the main power to reduce the discount.
- 7.3 Changes were considered necessary to the “job related concession” which operates to protect the position of people such as Ministers of Religion and publicans who are required to live in a particular property because of their employment terms and conditions. In such circumstances local authorities cannot reduce the 50% discount on their second home. The changes are relatively minor and are mainly concerned with tidying up the regulations.
- 7.4. It was the original policy intention that the concession would apply where the main home is anywhere in England, Scotland and Wales. However, under the principal regulations, it is arguable whether the 50% is generally retained where the main home is in Scotland or Wales. The discount is definitely not retained for Ministers of Religion and service personnel who have their main home in Scotland. Therefore, ODPM consulted (Questions 1 -3 below) on whether the regulations should be amended to carry out the original policy intention.
- 7.6 Beyond this, ODPM took the opportunity to consult (Questions 4 -7 below) on further optional changes, concerning whether the concession should be extended to apply where any person, or just Ministers of Religion and/or service personnel, who have their main home in Northern Ireland or in other places outside the UK. This would be a significant extension of the concession as currently council tax must be paid on the main property as well as the second home. Any extension to the situation where the main home is outside of Great Britain would mean that council tax is not payable on that property (this includes Northern Ireland which does not have a council tax scheme).
- 7.7 A copy of the consultation paper was sent to all English local authorities, the Local Government Association, the Association of London Government, the Valuation Office Agency, the Chartered Institute of Public Finance and Accountancy, the Institute of Revenues,

Rating and Valuation, Citizens Advice Bureaux on behalf of the Citizen generally, and was made available on the ODPM web-site.

- 7.8 We received 31 responses to the consultation: 23 from individual local authorities, one from the Greater Manchester Benchmarking Group which consists of 13 local authorities, and responses from the Valuation Tribunal Service, the Churches Main Committee, the Local Government Association, the Countryside Agency, the Ministry of Defence, the Royal Institution of Chartered Surveyors and one from a member of the public. The low number of responses is a reflection of the fact that these are minor changes which – as expected - have not aroused strong feeling. The following is a summary of responses.

Consultation Question 1

Should the regulations be amended to ensure that generally, the 50% second homes discount is retained in England where the main home is in Wales or Scotland (regardless of which home is job related)?

Support	Not support	No strong view
24	1	6

Consultation Question 2

Should the regulations be amended in particular to ensure that the 50% second homes discount is retained in England where service personnel live in job related dwellings in Scotland?

Support	Not support	No strong view
24	1	6

Consultation Question 3

Should the regulations be amended in particular to ensure that the 50% second homes discount is retained in England where a Minister of Religion's job related dwelling is in Scotland?

Support	Not support	No strong view
24	2	5

Consultation Question 4

Should the job related concession be extended generally to include dwellings in Northern Ireland, (regardless of which dwelling is job-related)?

Support	Not support	No strong view
11	13	7

Consultation Question 5

Should the job related concession be extended in particular to include job related dwellings in Northern Ireland?:

1. For Ministers of Religion
2. For service personnel

Support	Not support	No strong view
13 both 1 Ministers of Religion	11	6

Consultation Question 6

Should the job related concession be extended generally to include dwellings in other specific places/everywhere outside the UK (regardless of which dwelling is job-related)?

Support	Not support	No strong view
2	21	8

Consultation Question 7

Should the job related concession be extended in particular to include job related dwellings in other specific places/everywhere outside the UK?:

- 1 For Ministers of Religion
2. For service personnel

Support	Not support	No strong view
4 both 2 Service Personnel 1 Ministers of Religion	17	7

7.9 As expected, there was overwhelming support for amending the regulations to ensure that the concession applies to anyone – including Ministers of Religion and service personnel - who have their main home in Great Britain.

7.9 It appears from the small number of responses received that there is no real appetite for the concession to be extended to outside Great Britain. Some authorities were in favour of an extension to include main dwellings in Northern Ireland, and the Churches Main Committee and the Ministry of Defence were in favour of an extension to include main

dwellings in Northern Ireland and outside the UK for the clergy and service personnel respectively. However, other authorities were strongly of the opinion that any further extension of the concession – which would break the link of council tax being payable of both properties - could lead to considerable administrative difficulties.

7.10 These regulations therefore amend the principal regulations so that where someone has a second home in England but has to live in a job-related dwelling in England, Wales or Scotland, the second home council tax discount of 50% is preserved.

7.11 ODPM will continue to keep the workings of these regulations under review.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

David McDonald at the ODPM Tel: 020 7944 4206 or e-mail: david.mcdonald@odpm.gsi.gov.uk can answer any queries regarding the instrument.