

**EXPLANATORY MEMORANDUM TO
THE COUNCIL TAX AND NON-DOMESTIC RATING (DEMAND NOTICES)
(ENGLAND) (AMENDMENT) REGULATIONS 2008**

2008 No. 387

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. Description

2.1 These Regulations amend the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003 (S.I. 2003/2613) (“the 2003 Regulations”), which govern the matters to be included in, and the information to be given with, council tax and non-domestic rates demand notices (“bills”). The amendments relate to both council tax and non-domestic rating. For council tax the main change is to the information provided to council tax payers in areas which have been subject to local government structural change. For non-domestic rating the changes reflect the changes made to liability for rates in respect of empty property made by the Rating (Empty Properties) Act 2007 (c.9).

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

3.1 None.

4. Legislative Background

4.1 Schedule 1 to the 2003 Regulations specifies the information that council tax payers must receive about council tax generally and about the way that their bill for a year has been calculated. In particular, it requires billing authorities to show on the face of the bill the percentage change in council tax between the relevant and the preceding years¹ for the authority itself, for precepting authorities and in total.

4.2 Part 1 of the Local Government and Public Involvement in Health Act 2007 (c.28) (“the LGPIHA”) provides for a process of making structural and boundary change to local government areas in England. For example, it provides for a means by which an area where there are two-tiers of local government can be restructured so that there is only a single tier of local government. Other legislation also enables local government structural change to occur (for example, section 32 of the Police Act 1996 (c.16) and section 2 of the Fire and Rescue Services Act 2004 (c.21)).

¹ “Relevant year” is defined in regulation 1(2) of the 2003 Regulations as the financial year to which the demand for payment made by a demand notice relates. “Preceding year” is defined in paragraph 1(1) of the new Schedule 1 as the financial year preceding the relevant year.

- 4.3 Part 1 of the Schedule to these Regulations replaces Schedule 1 to the 2003 Regulations. With one exception the requirements of the new Schedule are the same as the old in policy terms, although the drafting has been changed in order to improve clarity.
- 4.4 The one exception concerns council tax bills issued for the financial year following a local government structural or boundary change. The comparisons which are required between the relevant year and the preceding year (see paragraph 11 of the new Schedule 1) generally do not operate in a meaningful way when structural or boundary change occurs and so other information is required in these circumstances (see paragraph 13 of the new Schedule 1).
- 4.5 Any structural or boundary change will result in functions being exercised by different authorities. Consequently, paragraph 13 of the new Schedule 1 applies where the authority exercising a relevant function as at 1st April in the relevant year is different from the authority that exercised that function as at 1st April in the preceding year (see paragraph 12 to the new Schedule).
- 4.6 “Relevant function” is defined for these purposes as any function exercised in relation to the area in which the dwelling is situated by (a) the billing authority, or (b) a major precepting authority which has power to issue a precept to the billing authority but it does not include a function which is exercised by an authority by reason only of arrangements made between that authority and another authority. It follows that the requirements in paragraph 13 of the new Schedule 1 do not apply-
- where a change in functions arises only as a result of arrangements made between that authority and another authority, or
 - if the structural or boundary change only affects local precepting authorities (that is, parish councils).
- 4.7 Where paragraph 13 of the new Schedule applies the information that it requires to be included in the council tax bill is-
- an explanation of why a different authority is exercising the relevant functions (in other words an explanation of the structural change),
 - the amounts which were included in the council tax bill for the dwelling for the preceding year, and
 - the percentage change in the total amount of council tax from the preceding year to the relevant year.
- 4.8 Schedule 2 to the 2003 Regulations specifies the information that ratepayers are to receive about the calculation of their rates bill and about rates generally. Part 2 of the Schedule to these Regulations replaces Schedule 2.
- 4.9 The Rating (Empty Properties) Act 2007 (“the R(EP)A”) made changes to liability for rates in respect of empty property. These are explained more fully at paragraph 7.5 below.

- 4.10 The new Schedule 2 reflects these changes so that the new regime is explained to ratepayers and, in the case of ratepayers affected by the reforms, so that they can understand the new way in which their rates bill has been calculated.
- 4.11 Much of the remainder of the new Schedule 2 is unchanged from the previous version. However, some changes have been made to the explanatory notes which must be provided to ratepayers to improve clarity and ease understanding. These changes include adjustments to the text on small business rate relief so that the criteria for entitlement to the relief are more clearly explained.

5. Extent

- 5.1 This instrument applies 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

New Schedule 1 to the 2003 Regulations

- 7.1 From 1st April 2009 it is anticipated that new authorities will be created as a result of local government restructuring under the LGPIHA. In areas which are subject to structural change of this type in the financial year following the structural change it will not be possible to make the usual comparisons between the council tax payable for the relevant year and that payable for the previous year. This is because there will have been changes in the identities of the authorities which are responsible for the constituent element parts of the overall bill.
- 7.2 However, it is important that council tax payers can still make a comparison between their bills for the relevant year and the preceding year. The new Schedule 1 to the 2003 Regulations therefore requires that the information mentioned in paragraph 4.7 above be included in council tax bills for the financial year following any structural change.
- 7.3 Previously amendments have been made to the 2003 Regulations to cover the specific circumstances of any local government restructuring. The amendments in these Regulations are intended to have general application; that is, they are intended to apply whenever a local government structural or boundary change occurs whether under the LGPIHA or otherwise. The amendments should, therefore, avoid the need for further and more specific amendments in the future.
- 7.4 Paragraph 13 of the new Schedule 1 does not apply to structural changes which only involve local precepting authorities (that is, parish councils). This is because the precepts of local precepting authorities are very much lower than either the precepts of major precepting authorities or the council tax calculated

by billing authorities. Consequently, where structural change occurs at the level of local precepting authorities only, paragraph 11 of the new Schedule 1 still applies in a meaningful way and it is unnecessary to make alternative provision.

New Schedule 2 to the 2003 Regulations

- 7.5 The R(EP)A, which received Royal Assent on 19th July 2007, gave effect to the reforms announced in the 2007 Budget aimed at encouraging the more efficient use of land. With effect from the financial year which begins on 1st April 2008, it raises the rates liability in respect of unoccupied properties from 50% to 100% of the basic occupied rate. In the event of changes to the property market, the R(EP)A gives the Secretary of State the power to reduce the unoccupied business rate back to a minimum of 50% of the basic occupied rate. The R(EP)A also reduces the rates liability in respect of empty properties owned by charities or community amateur sports clubs from 10% of the basic occupied rate to zero pounds.
- 7.6 The existing initial three month rate-free period in respect of empty properties, which is provided for by Regulations made under section 45 of the Local Government Finance Act 1988, will remain in place once R(EP)A is fully in force, but the reforms announced in the 2007 Budget mean that the permanent exception from rates in respect of certain empty industrial properties is reduced to a six month exception.²
- 7.7 It is important that ratepayers, particularly the owners of empty non-domestic buildings, understand these reforms and the impact that they will have on their rates bill in the financial year beginning on 1st April 2008 and in subsequent financial years. This, in particular, assists ratepayers in raising queries with their billing authority if they feel that their bill is not correct. Accordingly, new Schedule 2 reflects the changes announced in the 2007 Budget.
- 7.8 Other minor changes have been made to Schedule 2 to the 2003 Regulations to ease understanding for ratepayers.

Consolidation

- 7.9 Following amendment on previous occasions, these Regulations consolidate Schedules 1 and 2 to the 2003 Regulations so that there is a single point of reference for billing authorities responsible for compiling council tax and rates bills.

8. Impact

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

² With effect from the financial year beginning 1st April 2008, the Non-Domestic Rating (Unoccupied Property) Regulations 1989 (S.I. 1989/2261) are replaced, in relation to England, by the Non-Domestic Rating (Unoccupied Property) (England) (Regulations) 2008 (S.I. 2008/386) for the purposes of calculating liability for rates in respect of that financial year and subsequent financial years.

9. Contact

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