

EXPLANATORY MEMORANDUM TO
THE COUNCIL TAX (DEMAND NOTICES) (ENGLAND) REGULATIONS
2009

2009 No. 3193

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 2009 (“the Regulations”) make provision about the content of council tax demand notices (“bills”) and information which must be supplied with those bills when they are served (usually by way of council tax leaflets). The Regulations apply in relation to a council tax bill which relates to a financial year beginning on or after 1st April 2010 and which is served by an English billing authority.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.

4. **Legislative Context**
 - 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 council tax 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 relevant requirement (i.e. to serve a council tax bill) is included in regulation 18 of the Council Tax (Administration and Enforcement) Regulations 1992 (S.I. 1992/613).

 - 4.3 The Council Tax (Demand Notices) (England) Regulations 2003 (S.I. 2003/2613) (“the 2003 Regulations”) govern the matters to be contained in, and information to be supplied with, council tax and non-domestic rates bills which concern financial years on and after 1st April 2004.

4.4 The 2003 Regulations were modified in relation to the financial year beginning on 1st April 2009 (“the 2009-10 billing round”) by the Council Tax and Non-Domestic Rating (Demand Notices) (England) (Amendment) (No. 2) Regulations 2008 (S.I. 2008/3264) (“the 2008 Regulations”). In particular, the 2008 Regulations required efficiency information to be included in, and supplied with, council tax bills which related to the 2009-10 billing round. Efficiency information was required in relation to billing authorities, county councils which were not billing authorities and fire and rescue authorities.

4.5 The Regulations make provision about the content of council tax bills and information which must be supplied with those bills when they are served. They apply in relation to a council tax bill which relates to a financial year beginning on or after 1st April 2010 and which is served by an English billing authority. It follows that the 2003 Regulations will continue to apply to non-domestic rates bills served by an English billing authority, and to council tax bills served by an English billing authority in respect of the financial years 2004-05 to 2009-10.

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 Government believes that it is important that information on the effectiveness and efficiency of local authorities is made publicly available, to enable citizens to challenge their authorities to improve performance if necessary. The 2008 Regulations provided for this for the first time by requiring information on the efficiency savings of local authorities and fire and rescue authorities to be published on council tax demand notices and in accompanying leaflets.

7.2 The Regulations are largely a consolidation of the requirements which applied to council tax bills for the financial year 2009-10. However, the following general changes have been made-

- Efficiency information must be provided in relation to police authorities (this was not a requirement for the 2009-10 billing round).

- An authority's cumulative efficiency savings for a financial year need not be expressed as a percentage of the authority's baseline expenditure for the year (this was a requirement for the 2009-10 billing round).

7.3 The Regulations have been drafted in such a way that the requirements concerning efficiency information have been put on a more permanent footing. (the 2008 Regulations were drafted as modifications to the 2003 Regulations which were only applicable to the 2009-10 billing round).

An overview of the Regulations

7.4 Regulations 1 to 5 define certain terms which are used in the Regulations. In particular, regulation 4 defines the terms cumulative efficiency savings and estimated cumulative efficiency savings for efficiency authorities, whilst regulation 5 defines these terms in situations where local government restructuring has occurred.

7.5 Regulation 6 and Schedule 1 specify the matters which must be contained in a council tax bill. These include the dwelling to which the bill relates, the valuation band applicable to the dwelling and the amount of council tax payable in respect of the dwelling. A bill must also include comparisons with the preceding year and certain efficiency information. The efficiency information is considered further below.

7.6 Regulation 7 and Schedule 2 specify information which must be supplied with a council tax bill when it is served. This information includes the gross expenditure and budget requirements of the billing authority and certain precepting authorities for the relevant year and the preceding year. Further efficiency information must also be supplied and again this is considered further below.

7.7 Regulation 8 applies if as a consequence of a mistake a council tax 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.

7.8 Regulations 9 and 10 require precepting authorities and levying bodies to supply information to billing authorities when issuing a precept or a levy. Billing authorities require the information to meet their obligations under the Regulations.

7.9 In relation to each financial year, regulation 11 requires the Secretary of State to supply a billing authority with efficiency information no later than 31st December before that year. Again billing authorities require the information to meet their obligations under the Regulations. If the information is not supplied by the Secretary of State the relevant requirements of Schedule 1 and 2 do not apply to the billing authority.

Efficiency Information

7.10 The Regulations require billing authorities to include on council tax bills and in accompanying leaflets the cumulative efficiency savings for each efficiency authority their area. The Regulations require this information to be expressed in several ways.

7.11 Efficiency authorities are defined in regulation 2(1) as the billing authority or any county council, fire and rescue authority or police authority with a power to issue a precept to the billing authority for that year.

7.12 The following information must be included on a council tax bill (see regulation 6 and paragraph 23 of Schedule 1) -

- each efficiency authority's estimated cumulative savings for the preceding financial year, and
- the aggregate of those estimates for each efficiency authority divided by the aggregate of the council tax bases for each of those authorities. This calculation expresses the aggregate of the efficiency forecasts by reference to a band D dwelling.

7.13 The following information must be supplied with council tax bills (usually by means of council tax leaflets) in relation to each efficiency authority (see regulation 7 and paragraph 8 of Schedule 2)-

- the estimated cumulative efficiency savings for the preceding year,
- that amount expressed by reference to a band D dwelling in the authority's area,
- the cumulative savings for the year before the preceding year, and
- the relevant benchmark for the authority.

7.14 The Regulations require cumulative efficiency savings to be calculated in accordance with the relevant efficiency document. The efficiency document for an efficiency authority is the service-specific guidance published by the Department or the Home Office which informs the authority how to calculate its efficiency savings. These documents are specified in the Regulations (see the definition of "efficiency document" in regulation 2(1)).

7.15 The various efficiency documents require savings to be calculated by reference to a baseline expressed by reference to a particular financial year. For this reason the Regulations also refer to a baseline document and a baseline year which is defined by reference to that document (see the definitions of "baseline document" in regulation 2(1) and baseline year in regulation 4(4)(a)).

7.16 The relevant benchmark for an efficiency authority is an average, expressed by reference to a band D dwelling, of the estimated cumulative efficiency savings for all authorities in the same category as the efficiency authority (see generally paragraph 2 of Schedule 2). The categories of authority for these purposes are specified in paragraph 2(4), (6) and (7) of Schedule 2.

7.17 The 2008 Regulations included a separate benchmark for authorities which were established in 2009-10. The Regulations by contrast provide for restructuring authorities to be placed in the same category as other similar authorities.

7.18 Where an authority is a multi-function authority, the efficiency information concerning that authority is provided separately for the authority's fire and rescue and its other functions. The term "multi-function authority" is defined in regulation 2(1).

7.19 Where local government restructuring has occurred the cumulative efficiency savings for an efficiency authority include the efficiency savings of the predecessor authorities to the extent that those savings are relevant to the area of the authority (see regulation 5(2)). For these purposes restructuring is defined by reference to the coming into force of an order which establishes (as the case may be) a new fire and rescue, police, or local authority. Taken together, these cover the full range of possible newly-established efficiency authorities (see the definition of "relevant event" in regulation 5(5)). A predecessor authority is an authority which ceases to exist in consequence of the relevant event (see the definition of "predecessor authority" in regulation 5(5)).

- ***Consolidation***

7.20 The Regulations consolidate (with amendments) the provisions concerning council tax bills which are currently contained in the 2003 Regulations.

8. Consultation outcome

2008 Consultation

8.1 In September 2008 the Department consulted on the draft 2008 Regulations, which it was proposed would modify the 2003 Regulations to provide for the publication of efficiency information on and with council tax bills. There were 218 respondents to the consultation, the key conclusions of which were:

- More than ninety percent accepted the case for providing greater transparency for the public on efficiency achievements;
- Almost all did not accept the case for requiring information on the face of the bill, citing in particular a lack of room for such information.

8.2 After considering the responses to the consultation, the Rt Hon. John Healey MP, the then Minister of State for Local Government, announced in November 2008 his decision to amend the 2003 Regulations to give effect to the requirement for billing authorities to publish efficiency information on and with council tax bills. In December 2008 the Department published a government response to the consultation and gave an undertaking to review the outcome of the implementation of the 2008 Regulations, which applied to the 2009-10 billing round only.

2009 Consultation

8.3 In preparing new regulations to make the requirement to include efficiency information on and with council tax bills applicable for 2010-11 and subsequent financial years (incorporating the lessons learned from implementation for the 2009-10 billing round), the Department considered that it would also be sensible to take the opportunity to consolidate the council tax aspects of the 2003 Regulations.

8.4 The consultation on a draft of the Regulations began on 22 July 2009 and lasted for eight weeks. The consultation sought views on aspects of Government's proposed policy for providing for the requirement to publish efficiency information for 2010-11 and subsequent financial years. Key policy questions were:

- whether information showing forecast cumulative efficiencies as a percentage of an authority's baseline expenditure is helpful for public understanding of efficiencies;
- whether to include police efficiency information on the same basis as that applied for councils and fire and rescue authorities;
- whether the draft Regulations placed the policy of including efficiency information on and with council tax bills on a sustainable footing.

8.5 The consultation did not reopen the question of whether efficiency information should be included on council tax bills, as this had already been the subject of the 2008 consultation and a ministerial decision in the light of that consultation. There were 50 respondents to the consultation, of which 34 were individual local authorities, four were fire and rescue authorities, three were police authorities, three were parish councils, five were organisations representing local authorities and one was from an individual.

8.6 The consultation asked whether respondents agreed with the proposed treatment of reorganised authorities; that is, the proposal for newly-established authorities to use the appropriate share of their predecessor authorities' savings in their own calculations of cumulative efficiency savings, and the proposal to measure new savings against the appropriate share of their predecessor authorities' baseline expenditure. Ninety-four percent of local authorities who answered the question were in favour of these proposals. Two Police authorities were both against, arguing that 'to use shares of predecessor organisations' efficiencies feels inappropriate'.

8.7 It was agreed after last year's consultation that the Home Office and the Department would work together to firm up options for reporting information on police authorities' efficiencies on and with council tax bills in good time for the 2010-11 billing round. The consultation asked whether respondents agreed with our proposals for including police authorities' efficiency information on and with council tax bills from the 2010-11 billing round. Seventy-three percent of the local authorities who answered the question were in favour of inclusion on these terms, as were all Fire and Rescue authorities who answered the question. All three responding police authorities said that they did not agree with the proposals, primarily on the basis that they did not agree with the policy of publishing information on efficiency savings, which, it was suggested would be confusing for council tax payers.

8.8 The 2008 Regulations required billing authorities to publish efficiency gains on the council tax bill and in accompanying leaflet as a percentage of total expenditure in the baseline year (2007-08). This was intended to allow the public to see if their authority is performing above or below the percentage expectation for the public sector.

8.9 However, of the five efficiency indicators set out in the last consultation, forecast cumulative efficiencies as a percentage of baseline expenditure received the least endorsement and so the consultation asked whether respondents found forecast cumulative efficiencies expressed as a percentage of baseline expenditure data helpful. Sixty-three percent of those who answered the question stated that expressing efficiency information as a percentage of total expenditure in the baseline year was unhelpful.

Decisions taken following the consultation

8.10 In the light of the consultation responses, the following key changes were made to the Regulations-

- There is no requirement to publish forecast cumulative efficiencies expressed as a percentage of baseline data either on council tax bills or in accompanying leaflets;
- Information on police authorities' efficiency will be included on council tax bills and in accompanying leaflets. While all police

authorities who responded opposed this proposal, it was based on a general opposition to the policy - which had been settled following the previous consultation and policy review. Therefore to ensure comparability of available information for local services, ministers have decided to extend the requirements to police efficiency information.

Policy Review

8.11 The Explanatory Memorandum to the 2008 Regulations committed the Department to review their operation this financial year. This commitment to review has been addressed through-

- a survey of a small sample of local authorities and their representative bodies to explore how people reacted to the efficiency information and what difficulties, if any, they encountered in meeting the relevant requirements for the 2009-10 billing round; and
- a parallel consultation with consumer groups to test their understanding of the public response and seek their views about how we might improve the presentation of efficiency information on council tax bills.

8.12 The survey of local authorities indicated that overall authorities did not experience the level of difficulty anticipated in their response to the 2008 consultation. All said that the requirement was complied with for their bills. About a third of councils were contacted at least once in response to the efficiency information presented on or with the council tax bills, with queries about the detail of the figures rather than wider points about efficiency.

8.13 None of the consumer groups interviewed had been contacted with regard to the efficiency information. However, provision of such information was generally welcomed by the consumer groups insofar as it meant that the public could be better informed about the work that their local authorities are engaged in. The main findings of this research were set out in the consultation on the Regulations – there is no plan to publish this separately.

9. Guidance

9.1 The Department has taken a number of steps to promote effective dissemination of guidance-

- It will include indicative mock-ups of the efficiency information contained on a council tax bill and in an accompanying leaflet in the Response to the 2009 consultation;
- It will issue a Council Tax Information Letter on the inclusion of efficiency figures on council tax bills shortly after the laying of the Regulations.

10. Impact

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

10.2 The impact on the public sector is as follows:

Citizens will be more aware of the efficiency performance of their local authorities, and be able to compare the performance with other authorities, and challenge where performance is poor.

10.3 In order to cover the additional burdens that this new requirement will impose, in line with the new burdens principle the Department committed following the 2008 consultation to providing £2.35m capital funding in each of financial years 2008-09 and 2009-10, plus £1.84m revenue funding in each of financial years 2008-09, 2009-10 and 2010-11.

10.4 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 The Department undertook to review the experience of the 2009-10 billing round when drafting new Regulations. The results of this review are described in the Consultation section, above. As a review has already been carried out on the implementation of the 2008 Regulations, which included the bulk of these provisions, and identified no significant issues, there are no plans for a further formal review of the Regulations.

13. Contact

13.1 Katy Baldwin at the Department for Communities and Local Government Tel: 0303 444 2643 or email: katy.baldwin@communities.gsi.gov.uk can answer any queries regarding the instrument.