

EXPLANATORY MEMORANDUM TO
THE COUNCIL TAX (ADMINISTRATION AND ENFORCEMENT)
(AMENDMENT) (No.2) (ENGLAND) REGULATIONS 2012

2012 No. 3086

AND

THE COUNCIL TAX (DEMAND NOTICES) (ENGLAND) (AMENDMENT)
REGULATIONS 2012

2012 No. 3087

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 instruments**
 - 2.1 To provide for council tax to be paid in 12 monthly instalments rather than 10 if requested by the person liable to pay it.
 - 2.2 To allow certain information which billing authorities are required to supply when demands for council tax are made to be published on a website rather than supplied in hard copy unless requested to do so.
 - 2.3 To make consequential amendments to administrative procedures relating to the billing and collecting of council tax to reflect the new local reduction schemes and empty homes premiums introduced through the Local Government Finance Act 2012.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative Context**
 - 4.1 The Council Tax (Administration and Enforcement) Regulations 1992 and the Council Tax (Demand Notices) (England) Regulations 2011 specify the procedures to be followed by billing authorities (in England these are district councils, London borough councils, the Common Council of the City of London, the Council of the Isles of Scilly or county councils with the functions of a district council) for the billing and collection of council tax and for enforcement against people for non payment of council tax.
 - 4.2 For each financial year starting on 1 April billing authorities are required to send a notice in writing (a demand notice) on every liable person

specifying the billing authority's estimate of how much that person owes in council tax and the payments required in relation to it.

4.3 The Local Government Finance Act 2012 ('the 2012 Act') substituted a new section 13A into the Local Government Finance Act 1992 ('the 1992 Act'). This introduced new local council tax reduction schemes to replace council tax benefit. Regulations made under the new provisions set out certain prescribed requirements to be included in all local schemes (the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 S.I. 2012/2885) and a default scheme (the Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 S.I. 2012/2886). The 2012 Act also inserted a new section 11B into the 1992 Act. This introduced an empty homes premium which billing authorities may charge in relation to empty homes which have been empty and substantially unfurnished for two years or more of up to 150% of council tax payable in relation to that home.

4.4 These instruments amend the Council Tax (Administration and Enforcement) Regulations 1992 and the Council Tax (Demand Notices) (England) Regulations 2011 in relation to England to refer to reductions under the new local reduction schemes and increases under the new empty homes premiums so that billing authorities can take them into account when issuing demand notices and more generally in all issues relating to the collection and enforcement of council tax.

4.5 The provisions on the payment of council tax are in Part 1 of Schedule 1 to the Council Tax (Administration and Enforcement) Regulations 1992. These provide for 10 monthly instalments as the default payment option for the payment of council tax. These instruments allow for another payment option of 12 monthly instalments if requested by the person liable to pay the council tax.

4.6 Regulation 6 of the Council Tax (Demand Notices) (England) Regulations 2011 provide that when a billing authority serves a demand notice on a person it must also supply that person with certain information specified in Part 2 of Schedule 2 to those regulations. Section 16 of the 2012 Act broadened the regulation making power in paragraph 2(4) of Schedule 2 to the 1992 Act to provide that the Secretary of State may in regulations require the billing authority to supply such information on the request of the person liable for the council tax and that the authority must publish the information in a prescribed manner. These instruments use this power and allow a billing authority to fulfil its duty to supply this information by publishing it on their website. They also require a billing authority to supply a hard copy instead if requested to do so by the liable person.

5. Territorial Extent and Application

5.1 These instruments apply to England only.

6. European Convention on Human Rights

As the instruments are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

The Council Tax (Administration and Enforcement) (Amendment) (No.2) (England) Regulations 2012

Local Council Tax Reduction Schemes

7.1 The Government announced in the 2010 Spending Review that council tax benefit will be replaced by local council tax reduction schemes from April 2013. From April 2013 council tax benefit will be abolished by the Welfare Reform Act 2012. Future support for council tax payers will be offered as reductions within the council tax system under provisions in the Local Government Finance Act 2012.

7.2 The Council Tax (Administration and Enforcement) Regulations 1992 have been amended so that the definitions of 'discount' and 'exempt dwelling' include references to local council tax reduction schemes, thereby allowing reductions under these schemes to be incorporated within the council tax administration system.

7.3 The amendments also ensure that where a dwelling is treated as an exempt dwelling due to a 100% reduction in council tax payable under a local council tax reduction scheme and a notice is issued informing the relevant person of the assumptions made in this case, that the notice includes information about the requirement on the person receiving that reduction to notify the authority of a relevant change in circumstances.

7.4 As there is a specific duty for recipients of a reduction to notify their authority of changes in circumstances in all local council tax reduction schemes by virtue of the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 and the Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012, the existing duty to notify in the Council Tax (Administration and Enforcement) Regulations 1992 is disapplied in relation to local council tax reduction schemes.

7.5 A further amendment ensures that, where as a result of a local council tax reduction being granted, the billing authority issues a cash payment instead of applying a discount to the council tax bill (in circumstances where a person is jointly liable and the council considers a reduction is inappropriate) there is not a reduction in the council tax bill. This is to prevent the recipient of a reduction from receiving a double payment in effect.

Information from Public Bodies

7.6 Regulation 4(7) of the Council Tax (Administration and Enforcement) Regulations 1992 enables a billing authority to supply information obtained in exercising its functions under Part 1 of the 1992 Act to another billing authority, where it believes it would be useful to the other authority in exercising its functions under that Part of the Act.

7.7 Under section 131 of the Welfare Reform Act 2012 and paragraph 15A of Schedule 2 to the 1992 Act, the Department of Work and Pensions and HMRC, may in future supply information to billing authorities for purposes relating to council tax which are to be prescribed in regulations. Regulations made under section 131 of the Welfare Reform Act 2012 and paragraph 15A of Schedule 2 to the 1992 Act will also prescribe the purposes for which a billing authority may supply information obtained under those provisions to another billing authority. The amendments in regulation 2(4) prevent a billing authority from passing this information on to another authority, except where it is allowed for under the Welfare Reform Act 2012 or paragraph 15A of Schedule 2 to the 1992 Act.

7.8 This ensures that an individual's personal information supplied to the Department of Work and Pensions or HMRC, continues to be treated appropriately and is not shared more widely for other unrelated purposes.

Empty Homes Premium

7.9 These Regulations also make changes to take account of the provisions on empty homes premiums contained in section 11B of the 1992 Act (inserted by the Local Government Finance Act 2012), and will allow billing authorities to administer the collection and enforcement of the premium as well as complementing the changes brought in by the Council Tax (Prescribed Classes of Dwellings) (England) (Amendment) Regulations 2012 (SI 2012/2964).

7.10 The Government believes that the Premium will give local authorities the tools to incentivise owners to bring empty properties back into use. The Premium will be able to be levied from 1 April 2013 on properties that have been unoccupied and substantially unfurnished for two years on that day. Periods of no more than six weeks where a property has been occupied, regardless of whether it was furnished or not, and periods of no more than six weeks where a property has been furnished but not occupied, will be disregarded for the purpose of calculating the two years.

Payment of council tax by 12 instalments

7.11 Council tax bills can be paid through a lump sum or through instalments. The number of instalments is normally 10 and local billing authorities can agree with the taxpayer to payment in some other manner. These Regulations give effect to the Government's wish that council taxpayers should be entitled to pay by 12 month instalments without having to enter into such an agreement with the billing authority. This would provide more

flexibility to individuals to manage their finances, and may be particularly helpful to those on fixed incomes, such as pensioners.

7.12 Section 11 of the Local Government Finance Act 2012 (which amends section 11A of the Local Government Finance Act 1992) and the Council Tax (Prescribed Classes Of Dwellings) (England) (Amendment) Regulations 2012 (SI 2102/2964) provide billing authorities with complete discretion to set the discount on unoccupied and substantially unfurnished properties anywhere between zero and 100 per cent, and to vary the level of discount over time. The amendments made by these Regulations implement the Government's decision that billing authorities should be able to decide whether to offer variable instalment levels, to reflect any discounts, or to spread the bill evenly over the total number of instalments..

Provision of information by electronic means.

7.13 The Government proposed to allow billing authorities to provide certain information that is supplied with council tax bills to be provided by electronic means. This would enable billing authorities to cut costs associated with having to publish hard copies. However, the Government believes that taxpayers should be entitled to a hard copy on request which the authority must provide. These Regulations will bring into force the Government's policy on electronic information.

The Council Tax (Demand Notices) (England) (Amendment) Regulations 2012

Local Council Tax Reduction Schemes

7.14 The Council Tax (Demand Notices) (England) Regulations 2011 have been amended to allow for the new local council tax reduction schemes to be reflected within the demand notices issued for council tax payments. Where a reduction is made under a local council tax reduction scheme the notice must include information relating to the requirement on the person receiving that reduction to notify the authority of changes in circumstances.

7.15 The Regulations also make minor amendments so that it is clear that council tax benefit is only available up to 31st March 2013 and so that information on eligibility for local council tax reduction schemes is supplied with the demand notice.

Payment of council tax by 12 instalments

7.16 These Regulations have been amended so that council tax payers will be informed of the right to pay in 12 instalments on the face of the demand notice.

Consolidation

7.17 As these are minor amendments it was considered that there was no need to make consolidated regulations.

8. Consultation outcome

8.1 There has not been a consultation upon the technical amendments to these Regulations with regards to local council tax reductions schemes as these are [consequential amendments to implement previously announced policy to localise council tax support](#). With regards to the overarching policy to localise council tax support there was a 10 week public consultation from 2 August 2011 to 14 October 2011. The consultation paper is available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/8463/19510253.pdf

8.2 The Government response is available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/8467/2053712.pdf.

Provision of information by electronic means Payment of council tax by 12 instalments

8.3 These policies were subject to an 8 week consultation, Technical Reforms to Council Tax, which was launched on 31st October 2011 and ended on 29th December 2011. The consultation period was shortened in order to meet the legislative timetable of the Local Government Finance Act 2012.

8.4 The Government published its response on 28th May 2012. 399 responses were received. Of the 221 responses that answered the question of whether to allow information to be provided electronically, 217 (207 local government, while 10 were non-government) agreed stating that authorities would be able to save costs, while 4 local authorities said no stating that hard copies should still be provided.

8.5 Of the 231 responses that answered the question of whether to make the default pattern of council tax bill instalments payable by 12 monthly instalments 44 (35 local government, 9 non-government) agreed and 187 (182 local government with 5 non-government) disagreed. Those who disagreed cited a number of factors. These included the potential effect on local authority cash flow, but particularly the benefits to bill payers of having two months of council tax 'holiday' at the end of the financial year where payment is made by 10 monthly instalments.

8.6 In response the Government stated that the default instalment pattern should remain at 10 months but that the case for a legal right to pay in 12 instalments for those who requested it was compelling in terms of allowing council tax payers (particularly those on fixed incomes) greater flexibility to manage their finances.

8.7 The consultation paper is available at:
www.gov.uk/government/consultations/technical-reforms-of-council-tax

8.8 The Government response is available at:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/8437/2152512.pdf

9. Guidance

9.1 Commentary on how it is intended that local council tax reductions will be administered within the council tax system is available at:
<https://www.gov.uk/government/publications/localising-support-for-council-tax-guidance-note-on-administrative-matters>

9.2 Local authorities will be informed of changes to provisions relating to payment by instalments through the issuing of a Council Tax Information Letter from DCLG.

10. Impact

10.1 These Regulations have no impact on business, charities or voluntary bodies.

10.2 The impact on billing authorities will be to allow them to administer local council tax reduction schemes within the council tax system.

10.3 An Impact Assessment has not been prepared for this instrument. An Impact Assessment is available in relation to the proposals for localising council tax support and is available at:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/8465/2158675.pdf.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Government will monitor the impact of these Regulations as part of the ongoing maintenance of the system.

13. Contact

Please contact Michael Ning at the Department for Communities and Local Government on telephone number 030 344 42072 or by email at michael.ning@communities.gsi.gov.uk if you have any queries regarding the instruments.