

EXPLANATORY MEMORANDUM TO
THE COUNCIL TAX (REDUCTIONS FOR ANNEXES) (ENGLAND)
REGULATIONS 2013

2013 No. 2977

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**

To create a new national discount (reduction in the amount of council tax payable) for people living in properties with annexes as long as the annexe is either in use by a resident of the property with the annexe, or occupied by a relative of the person who pays the council tax in the property with the annexe.

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

None

4. **Legislative Context**

4.1 Part 1 of the Local Government Finance Act 1992 ('the 1992 Act') provides for council tax to be payable in England and Wales in respect of dwellings, and section 2 provides that this is determined on a daily basis. Sections 3 and 4 of the 1992 Act provide that council tax is payable in respect of chargeable dwellings which are not exempt by virtue of an order made under section 4 (the Council Tax (Exempt Dwellings) Order 1992 (SI 1992/558) 'the Exempt Dwellings Order'). Chargeable dwellings are defined in section 3 and the Council Tax (Chargeable Dwellings) Order 1992 (SI 1992/549) made under section 3. These provide that an annexe is a separate chargeable dwelling. However, there are two exemptions for annexes under the Exempt Dwellings Order:- Class T for empty annexes which are subject to planning restrictions which means that they cannot be let separately from the main property, and Class W for annexes occupied by a dependent relative of a person who is resident in the main property.

4.2 Section 11(1)(a) of the 1992 Act provides a council tax discount for people living on their own. Section 11(1)(b) provides a discount for dwellings where there are two or more residents and all except one of them are disregarded for various reasons, for example because they are care workers or severely mentally impaired. Section 11(2)(a) provides a council tax discount for empty homes. Section 11A gives billing authorities in England (district councils, London borough councils, the Common Council of the City of London, the Council of the Isles of Scilly or a county council with the

functions of a district council) the discretion to reduce or remove the discount for certain classes of dwelling prescribed in regulations. Section 11(2)(b) provides a discount for dwellings where all the residents are disregarded (for various reasons). The Local Government Finance Act 2012 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.

4.3 Section 13 of the 1992 Act provides for reduced amounts of council tax to be payable where prescribed conditions are fulfilled. Subsection (3) provides that the reduction applies to the amount of council tax payable after any discounts under section 11 or 11A of the 1992 Act or premium under section 11B have been applied. The reduced amount may be further reduced under section 13A of the 1992 Act by council tax reduction schemes (section 13A(1)(a)) or discretionary reductions under section 13A(1)(c)). Section 13A(1) provides that reductions made under that section apply on top of the amount determined under sections 10 to 13.

4.4 These Regulations prescribe conditions under section 13 of the 1992 Act which, for each day on which either condition is fulfilled, reduce the amount of council tax payable in relation to a dwelling by 50%.

5. Territorial Extent and Application

This instrument applies to England only.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The Government is committed to promoting local growth across the country and to support the housing construction industry in providing affordable housing.

7.2 The Government is helping local councils and developers work with communities to plan and build better places to live for everyone. This includes building affordable housing, improving the quality of rented housing, helping more people to buy a home, and providing housing support for vulnerable people.

7.3 Extended families living together are becoming increasingly common within our society, for example children saving for a new home or in order to care for elderly parents. In order to support these families and to contribute towards the Government's policy of increasing affordable housing a national council tax discount for annexes is to be introduced. The Government's view is that the current council tax system unfairly penalises owners of properties

with annexes through double taxation as owners are receiving council tax demands for annexes in addition to demands for their main building.

The Government considered the following four options

- Option 1 - provide an exemption for annexes occupied by the owner or their family;
- Option 2 - provide councils with discretion to offer a discount in those circumstances;
- Option 3 - require councils to offer a fixed percentage discount; or
- Option 4 - no change.

The Government believes a national discount (option 3) will provide taxpayers with more certainty and more consistent approach by billing authorities across England in relation to the level of the discount.

7.4 The Government published its consultation paper, *Council Tax – national discount for annexes*, on 25th August 2013. The consultation closed on 8th October 2013. It asked two questions:

- **Question 1: What should the level of the discount be?**
 - 10 per cent
 - 25 per cent
 - 50 per cent or
 - 100 per cent
- **Question 2: Are there additional costs for administering a new discount for annexes, over and above those already incurred in administering the existing system of discount and exemptions? If so, from what activities do those costs arise?**

8. Consultation outcome

8.1 There were 63 respondents to this consultation, of which 53 were from local authorities, eight were from members of the public and two were from associations.

8.2 The results of the consultation showed a high level of support for the introduction of a national council tax discount for annexes with 47 out of 63 respondents supporting the proposal to introduce a discount. Of these, 32 agreed with the Government's preferred level of discount being 50 per cent, with the remaining 14 being split between the other options.

8.3 Eight respondents disagreed with the introduction of national discount, while eight made no comment. Of the eight who disagreed with the proposal, three (including the Local Government Association) were opposed in principle to a centrally imposed discount. Two were opposed on the basis that Classes T & W in the Exempt Dwellings Order provided adequate protection for people

living in annexes or in properties with annexes and one was opposed on the basis that it was a discount aimed at rich people who could afford annexes. Two major precepting bodies were also opposed as they felt that they would not be compensated for loss of revenue.

8.4 Thirty-six out of 63 respondents believed there would be additional costs associated with the administration of the discount. Reasons given for costs included a mixture of IT software changes and general administrative processes being created. However, no respondent attempted to quantify the potential costs. Twelve considered that there would be no costs.

8.5 The Government's summary of responses report is available at

<https://www.gov.uk/government/consultations/council-tax-national-discount-for-annexes>

9. Guidance

The Government considers that guidance is unnecessary as billing authorities have been administering council tax, including making decisions about discounts and exemptions, since 1993 and will have the expertise in place to administer the annexe discount.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 DCLG will compensate billing authorities for any council tax forgone due to the discount. Billing authorities are already under a statutory duty to take reasonable steps to ascertain whether a discount or exemption should be applied, including in respect of annexes. The Government has taken into account the way the discount will operate and the consultation responses, and does not consider that there are additional costs for administering this discount, over and above those already incurred in administering the existing system.

10.3 An Impact Assessment has therefore not been prepared for this instrument.

11. Regulating small business

The legislation does not affect small business.

12. Monitoring & review

Information on the operation of the policy will be collected as part of the routine collection of data on local authorities' council tax base. There are no plans for a formal review of the Regulations.

13. Contact

Peter Reilly at the Department for Communities and Local Government (tel: 0303 444 2092 or e-mail peter.reilly@communities.gsi.gov.uk) can answer any queries regarding the instrument.