

EXPLANATORY MEMORANDUM TO
THE COUNCIL TAX (ADMINISTRATION AND ENFORCEMENT)
(AMENDMENT) (ENGLAND) REGULATIONS 2013

2013 No. 590

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 To amend the Council Tax (Administration and Enforcement) Regulations 1992 (“the 1992 Regulations”) to reflect new penalties under the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013 (“the Detection of Fraud Regulations 2013”) following the introduction of local council tax reduction schemes.
 - 2.2 To prescribe the purposes related to council tax for which officials of Her Majesty’s Revenue and Customs may share data with billing authorities (within the meaning in Part 1 of the Local Government Finance Act 1992); the purposes for which authorities may use such information and for which authorities may supply the information to another 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”) introduced council tax in England and Wales to be levied and collected by certain local authorities (‘billing authorities’ in England). The 1992 Act provides for council tax to be subject to various exemptions, discounts and reductions under sections 4, 11 (subject, in England, to sections 11A and 11B), 13 and 13A.
 - 4.2 Section 13A of the 1992 Act as substituted by section 10 of the Local Government Finance Act 2012 (“the 2012 Act”) requires each billing authority in England to make a scheme specifying the reductions which are to apply to amounts of council tax payable by persons or classes of person whom the authority considers are in financial need (a council tax reduction scheme). Sections 14A to 14C of the 1992 Act (inserted by section 14 of the 2012 Act) allow for regulations to make provision to require information and to create offences and powers to impose penalties in connection with council tax reduction schemes. The Detection of Fraud Regulations 2013 were made

under sections 14A to 14C of the 1992 Act and came into force on 07 March 2013.

4.3 The 1992 Regulations make provision about the billing, collection and enforcement of council tax. Specifically, they allow for penalties relating to exemptions, discounts and reductions to be added to the council tax bill and collected. The amendments contained in the Regulations extend the provisions in the 1992 Regulations to include the new penalties contained in the Detection of Fraud Regulations 2013.

4.4 Paragraph 15A of the 1992 Act gives officials of Her Majesty's Revenue and Customs ("HMRC") power to supply information to qualifying persons (defined in paragraph 15A(2) as billing authorities and persons exercising functions of, or providing services to, such authorities) for prescribed purposes. The paragraph gives the Secretary of State power to prescribe the purposes for which information held by HMRC may be supplied to qualifying persons, used by them and supplied to another qualifying person. These Regulations exercise those powers and amend the 1992 Regulations to insert new regulations 5A to 5C.

5. Territorial Extent and Application

5.1 This instrument applies to England.

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

Amendments related to creation of new penalties

7.1 Council tax benefit is being abolished on 1st April 2013. Instead local authorities that are billing authorities within the meaning of the 1992 Act (see section 1(2)) are required to make a scheme ("a council tax reduction scheme") specifying the reductions which are to apply to amounts of council tax payable by persons, or classes of person, whom the authority considers are in financial need.

7.2 The Detection of Fraud Regulations 2013 provide local authorities with the ability to impose financial penalties on individuals in connection with a council tax reduction scheme where they have failed to supply relevant information to a billing authority or to notify them of a relevant change of circumstances and as a result have, or could have, benefited from a reduction or discount to which they were not entitled. These penalties are intended to be treated as part of a person's council tax liability and collected as one element of the overall council tax bill.

7.3 Billing authorities have the ability to impose financial penalties on persons in connection with the current system of council tax discounts. The 1992 Regulations detail how these penalties may be added to the council tax bill and collected. This instrument extends those regulations so that they also apply to the new penalties created in the Detection of Fraud Regulations 2013.

7.4 The new penalties fall into two categories;

- fixed civil penalties of £70.00, which may be imposed on those who through negligence fail to promptly notify a relevant change in circumstances or who make an incorrect statement,
- civil penalties that the billing authority may offer to impose on an individual, as an alternative to undertaking a criminal prosecution. The level of the penalty will vary between £100 and £1,000 based on the excess reduction which had been awarded or applied for.

Amendments related to information sharing

7.5 It is expected that all council tax reduction schemes will take into account the income of applicants. Many people will have already provided this information to HMRC in connection with an application for a welfare benefit or tax credits. For both the applicant and the authority it is preferable to avoid the need for the applicant to provide the information a second time.

7.6 Billing authorities are qualified persons within the meaning of paragraph 15A(2) of Schedule 2 to the 1992 Act. The information that will be passed to qualifying persons is primarily concerned with Tax Credits and is already supplied to billing authorities alongside benefit information from DWP for the purpose of the administration of council tax benefit on DWP's behalf. Section 131 of the Welfare Reform Act 2012 provides the legal information sharing gateway between DWP and billing authorities for council tax purposes. The 1992 Act provides the legal gateway for sharing of HMRC information.

7.7 The Regulations enable billing authorities to use information supplied in pursuance of the power in paragraph 15A in, for example, making decisions on applications under its council tax reduction scheme (including verifying information provided by the applicant for a reduction), when investigating an offence relating to an application for a council tax reduction under an authority's scheme and in an appeal to the Valuation Tribunal for England relating to a person's reduction under an authority's scheme.

7.8 As these are minor amendments the Department considers that there is no need for consolidated regulations.

8. Consultation outcome

8.1 There has not been a consultation on these Regulations. However, there was a 10 week public consultation on localising council tax support from 2 August 2011 to 14 October 2011. That consultation asked amongst other questions, what information billing authorities would need in order to set up

their reduction schemes, make decisions on individuals' entitlement to a reduction and investigate suspected fraud. The responses gave strong support to the proposal that billing authorities should have access to the same information as is available to them in connection with council tax benefit for administering local schemes, with 73 percent of respondents agreeing. 63 percent of respondents also agreed that billing authorities should have the same powers to investigate suspected fraud as are available to them currently in relation to council tax benefit. 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

9. Guidance

9.1 Guidance will be provided to billing authorities explaining the new data sharing powers and their remit. Information on changes to the council tax system due to the move from Council Tax Benefit to localised council tax reduction schemes is provided to billing authorities through regular updates from the Department.

9.2 The Local Authority Data Share project team, which comprises representatives from local authorities, DWP and DCLG is working to ensure that appropriate electronic links are in place to facilitate the safe and secure transfer of data to local authorities.

10. Impact

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

10.2 The impact on the public sector is to enable billing authorities to collect and enforce financial penalties created in other regulations. The impact from the information sharing provision is minimal. Authorities have made their council tax reduction schemes and will need information about applicants and their circumstances in order to process applications and manage awards. In conjunction with DWP regulations, this instrument provides that most information will not need to be sought directly from the applicant.

10.3 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 Government will monitor the impact of these Regulations as part of the ongoing maintenance of the council tax system.

13. Contact

Leon Bond at the Department for Communities and Local Government Tel: 030 344 44422 or email: leon.bond@communities.gsi.gov.uk can answer any queries regarding the instrument.