

**EXPLANATORY MEMORANDUM TO**  
**THE LOCAL AUTHORITIES (STANDING ORDERS) (ENGLAND) (AMENDMENT)**  
**REGULATIONS 2014**

**2014 No. 165**

**1.** This explanatory memorandum has been prepared by the Department for Communities and Local Government (“the Department”) and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 These Regulations amend the Local Authorities (Standing Orders) (England) Regulations 2001 (“the 2001 Regulations”) in order to make provision about the standing orders of local authorities in relation to the recording of votes taken at budget decision meetings. They also make amendments consequential on the enactment of the Local Government and Public Involvement in Health Act 2007 and the Localism Act 2011.

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

3.1 None.

**4. Legislative Context**

4.1 Section 8 of the Local Government and Housing Act 1989 (“the 1989 Act”) allows the Secretary of State by regulations to require certain local authorities to incorporate prescribed provisions in standing orders relating to their staff. Section 20 allows the Secretary of State by regulations to require certain local authorities to adopt prescribed procedural standing orders.

4.2 The 2001 Regulations require English county, district, and London borough councils, the Common Council of the City of London and the Isles of Scilly to make or modify standing orders to include certain provisions relating to staff and procedural matters. The provisions in these Regulations affect English county, district and London borough councils only, and are principally about the procedures to be followed by authorities making their annual budget and council tax calculations.

4.3 Part 3 of the Local Government and Public Involvement in Health Act 2007 provided for the discontinuance of the mayor and council manager form of executive provided for in the Local Government Act 2000. Part 1 of the Localism Act 2011 made changes as to the governance of English local authorities, including providing for local authorities to operate either executive arrangements or the committee system. Section 21 of the Localism Act 2011 substituted, in England, for Part 1 of the Local Government Act 2000, a new Part 1A including a new Schedule A1.

4.4 Chapter 3 of Part 1 of the Local Government Finance Act 1992 provides for the setting of council tax by billing authorities in England, including a requirement to

calculate the council tax requirement under section 31A. Chapter 4 of that Part provides for the issue of precepts by certain authorities (including county councils) to billing authorities. These precepts form part of the overall council tax charge which council tax payers are required to pay.

## **5. Territorial Extent and Application**

This instrument applies to local authorities in 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**

*What is being done and why?*

7.1 These Regulations require authorities to include in their Standing Orders the requirement to record any votes on the budget, taken at their budget meeting. There will thus be in the minutes of the meeting, a record of how each member present voted on the budget ie, voted on the council tax or the issuing of the precept in the case of precepting authorities. The policy aim is to increase the transparency and accountability of local authority decision making on the critical issue of the annual budget setting out its spending decisions, and council tax. With recorded votes, electors and local tax payers will be able to see how those who represent them voted on the issue of the local tax which impacts directly on all council tax payers in the area.

7.2 In addition these Regulations make amendments to the 2001 Regulations as a consequence of provisions in the Localism Act 2011 that relate to the new and current local authority governance arrangements, to reflect the discontinuance of the mayor and council manager governance model and that the committee system is now open to all councils to adopt if they wish.

- ***Consolidation***

There are currently no plans to consolidate the 2001 Regulations.

## **8. Consultation outcome**

8.1 An informal soundings exercise (limited consultation) was undertaken inviting comments from the Local Government Association, Lawyers in Local Government (previously known as the Association of Council Secretaries and Solicitors), the Association of Local Authority Chief Executives, the Centre for Public Scrutiny, the Chartered Institute of Public Finance and Accountancy, the Society of Local Authority Chief Executives, and the Tax Payers Alliance, on a draft of the provisions now included in these Regulations. The soundings exercise closed on 14 January.

8.2 Two representations were received on these provisions. The Association of Democratic Services Officers (ADSO), expressed concerns about the way in which the draft

provisions referred to the matters on which votes are to be recorded. The Association considered that the language in the draft “may have been used in previous legislation but this is not conventional or recognised language within local government”. They also sought clarity as to whether recorded voting would be required on amendments to the budget or simply the substantive motion to set the council tax and approve the budget. The Regulations as now drafted clearly describe the matters on which votes are to be recorded, making clear these are the substantive budget motion (i.e. the final decision on agreeing the budget and setting the council tax or issuing the precept) and any amendments proposed at the budget meeting.

- 8.3 One local authority, whilst suggesting the principle of what the Regulations sought to achieve was not in itself particularly problematic, doubted the value of the measures in practice and expressed concern that introducing them at this stage would result in some councils falling foul of the requirement in the budget setting meetings to be held in this February and March, and could cause confusion. However, the Government believes that recording budget votes represents best practice, recognises that it is already open to councils to do this, and hence wishes to make this a requirement as soon as practicable. The Department will be writing to all councils concerned when the Regulations are laid before Parliament to ensure that there is no confusion. The Department intends to highlight to councils not only the new requirement imposed by the Regulations, but also that the recording of votes represents best practice for transparency and accountability and that accordingly the expectation is that all councils will follow this practice at their budget meetings even where these are held in advance of the practice becoming mandatory.

## **9. Guidance**

These Regulations are considered to be self explanatory and there is no plan to produce guidance. However, as explained above, the Department intends to write to all councils concerned when the Regulations are laid before Parliament highlighting both the new requirements and the expectation that voting will be recorded at all of this year’s budget meetings held in February and March 2014.

## **10. Impact**

An impact assessment has not been prepared for this instruction as it has no impact on businesses, charities or voluntary bodies. As the Regulations require votes taken at a budget meeting of a local authority to be recorded, they affect all councils concerned, but the Government does not believe that there will be any material impact on councils’ finance or manpower. However, through the greater transparency and accountability these Regulations will require, the Government anticipates that they will contribute to more effective budget setting with greater regard to the interest of local tax payers and the communities councils serve.

## **11. Regulating small business**

The legislation does not apply to or affect small business.

## **12. Monitoring & review**

The Regulations make amendments to the existing 2001 Regulations and the Department does not intend to put in place any formal means for monitoring and reviewing the Regulations.

## **13. Contact**

Ian Barber at the Department for Communities and Local Government  
Tel: 0303 44 42578 or email: [ian.barber@communities.gsi.gov.uk](mailto:ian.barber@communities.gsi.gov.uk) can answer any queries regarding the instrument.