

2012 No. 338

COUNCIL TAX

**The Council Tax (Administration and Enforcement) (Scotland)
Amendment Regulations 2012**

Made - - - - - *6th December 2012*

Laid before the Scottish Parliament *10th December 2012*

Coming into force - - - *9th February 2013*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 113(1) and 116(1) of, and paragraphs 1(1), 2(2), 2(4)(a) and (e), 2(5) and 4(2) to (5B) of Schedule 2 to, the Local Government Finance Act 1992(a) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Council Tax (Administration and Enforcement) (Scotland) Amendment Regulations 2012 and come into force on 9th February 2013.

Amendment of the Council Tax (Administration and Enforcement) (Scotland) Regulations 1992

2. The Council Tax (Administration and Enforcement) (Scotland) Regulations 1992(b) are amended as follows.

3. After regulation 2, insert—

“Information as to occupancy

2A.—(1) Any person appearing to a levying authority to be a resident, owner or managing agent of a particular dwelling must supply to the authority in accordance with paragraph (2) such information as fulfils the following conditions—

- (a) it is in the possession or control of the person concerned;
- (b) the authority request the person to supply it, by serving a notice addressed as set out in regulation 2(1)(b); and

(a) 1992 c.14. Paragraph 4 of Schedule 2 is amended by section 3 of the Local Government Finance (Unoccupied Properties etc.) (Scotland) Act 2012 (asp 11), which inserts new sub-paragraphs (5A) and (5B). The functions of the Secretary of State were transferred to the Scottish Ministers by section 53 of the Scotland Act 1998 (c.46). Section 116(1) defines “prescribed”.

(b) S.I. 1992/1332, which is amended by S.I. 1992/3290, 1994/3170, 1996/430, 1996/746. and 1997/728 and S.S.I. 2000/166, 2000/261, 2002/166, 2006/67 and 2006/402.

- (c) it is requested by the authority for the purpose of ascertaining whether the chargeable amount is subject to any variation on the basis that, in respect of any period specified in the request, there is, was or will be no resident of the dwelling.
- (2) Information must be supplied within the period of 21 days beginning on the day on which the notice was served and, if the authority so require, in a form specified in the request.
- (3) In paragraph (1), the reference to a managing agent of a particular dwelling is to a person authorised to arrange lettings of the dwelling.”.
- 4.** In regulation 9 (notification of assumptions, exempt dwellings), in paragraph (2)(f), after “Act” insert “, or where paragraph 2(2A) of that Schedule applies a penalty of up to £500,”.
- 5.** As the title to Part IV, for “Discounts” substitute “Variations”.
- 6.** In regulation 12(a) (ascertainment of entitlements)—
- in the heading, after “discount” insert “or liability to increase”;
 - after “Act” insert “or variation under section 33 of the Local Government in Scotland Act 2003”; and
 - at the end, insert “or variation”.
- 7.** In regulation 13 (assumptions as to discount)—
- in the heading, for “discount” substitute “variation”;
 - in paragraph (1), for “discount” in both places where it appears substitute “variation”; and
 - in paragraph (2), for “discount” in both places where it appears substitute “variation”.
- 8.** In regulation 14 (notification of discount assumptions)—
- in the heading, for “discount assumptions” substitute “assumptions as to variation”;
 - in paragraph (2)(a), for “discount” substitute “variation”; and
 - in paragraph (2)(b), after “Act” insert “, or where paragraph 2(2A) of that Schedule applies a penalty of up to £500,”.
- 9.** In regulation 15 (correction of assumptions)—
- in the heading, for “discount assumptions” substitute “assumptions as to variation”; and
 - in sub-paragraph (b) of paragraph (1), for “is not in fact” to the end of that sub-paragraph substitute “understates that person’s liability to pay council tax;”.
- 10.** In regulation 20(b) (demand notices: assumptions)—
- in paragraph (3)(e), for “discount” in both places where it appears substitute “variation”;
 - in paragraph (3)(f)—
 - for “discount” where it first appears substitute “variation”; and
 - for “rate of discount” substitute “variation”.
- 11.** In regulation 28(4)(c) (content of demand notices) for “and (ii)” insert “, (ii) or (iia)”.
- 12.** In paragraph 6(2)(d) (variation of instalment payments) of Schedule 1 —
- in sub-paragraph (d), for “the person” to the end substitute “there would be a variation in the person’s liability to pay council tax and that variation has understated the person’s liability;”; and

(a) Regulation 12 is amended by regulation 8 of S.I. 1996/430.
 (b) There are amendments to regulation 20 that are not relevant to these Regulations.
 (c) Regulation 28 is amended by S.I. 1996/430 and S.I. 2002/166.
 (d) There are amendments to paragraph 6 that are not relevant to these Regulations.

- (b) in sub-paragraph (e), for “the person” to the end substitute “there would be a variation in the person’s liability to pay council tax and that variation has overstated the person’s liability;”.

13. In paragraph 5(a) of Schedule 2 (content of demand notices), after sub-paragraph (ii) insert—

“(iia) variations under section 33 of the Local Government in Scotland Act 2003;”.

14. In paragraph 8(a)(b) (explanatory notes) of Schedule 2, after sub-paragraph (iii) insert—

“(iiia) an amount may be subject to a variation under section 33 of the Local Government in Scotland Act 2003;”.

15. In paragraph 9 of Schedule 2 (matters to be contained in demand notices)—

- (a) for “deduction” substitute “variation”; and
- (b) after “sub-paragraph (ii)” insert “or (iia)”.

M J BURGESS

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
6th December 2012

(a) Paragraph 5 is amended by regulation 21(b) of S.I. 1996/430 and regulation 5(2) of S.I. 1996/746.
(b) There are amendments to paragraph 8 that are not relevant to these Regulations.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Council Tax (Administration and Enforcement) (Scotland) Regulations 1992 as regards dwellings that are unoccupied. This is as a result of changes made by the Local Government Finance (Unoccupied Properties etc.) (Scotland) Act 2012, in particular those which allow for an increase in council tax liability where a dwelling is unoccupied for a period of time.

Regulation 3 places an obligation on specific persons to provide information which is sought by a levying authority for the purposes of ascertaining whether a discount or increase in council tax liability applies as a result of non-occupation of the dwelling.

Regulation 4 amends a notice that is given to a relevant person whose dwelling is exempt from council tax as a result of an assumption made by an authority. The amendment refers to the higher penalty that can apply in some circumstances for failure to notify the authority that the assumption is erroneous.

Regulations 5 to 9 relate to variations in council tax liability. The changes made by regulation 6 require a levying authority to take reasonable steps to ascertain whether a taxpayer is entitled to a discount or liable to an increased amount before calculating the council tax liability, with regulation 7 ensuring that the default position remains that there is no variation unless a reason for variation is identified. Regulations 8 and 9 ensure that the taxpayer is notified of assumptions made and of their responsibilities to advise of changes in their circumstances or of an erroneous assumption.

Regulation 10 amends the assumptions to be made when a demand notice is issued in advance of a financial year to take account of the possibility of increases in council tax liability as a result of non-occupation of a dwelling.

Regulations 11 to 15 adapt the content of demand notices and their explanatory notes for that possibility, including the action to be taken when an assumption in a demand notice is no longer, or never was, correct.

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