



# Local Government Finance Act 2012

## 2012 CHAPTER 17

### *Council tax*

#### **14 Regulations about powers to require information, offences and penalties**

- (1) The LGFA 1992 is amended as follows.
- (2) After section 14 insert—

##### **“14A Regulations about powers to require information**

- (1) The appropriate authority may by regulations provide for the exercise, for prescribed council tax purposes, of—
  - (a) powers to require the provision of information;
  - (b) powers to require a person to enter into arrangements under which access is permitted to the person's electronic records.
- (2) The appropriate authority may by regulations make provision about arrangements for access to electronic records for prescribed council tax purposes where the arrangements are entered into otherwise than under a requirement of the kind mentioned in subsection (1)(b).
- (3) The appropriate authority may by regulations—
  - (a) make provision about the persons by whom powers conferred by regulations under this section may be exercised;
  - (b) make provision about the persons by whom arrangements under regulations under this section may be made;
  - (c) in particular, make provision for the authorisation by billing authorities of persons to exercise those powers or make those arrangements.
- (4) The provision that may be made by regulations under this section includes, in particular, provision equivalent to—
  - (a) provision made by a relevant enactment, or
  - (b) provision that is capable of being made under a relevant enactment,

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with such modifications as the appropriate authority thinks fit.

- (5) For the purposes of subsection (4), each of the following enactments as it had effect on the day on which the Local Government Finance Act 2012 was passed is a “relevant enactment”—
- (a) section 109A(8) of the Social Security Administration Act 1992 (application of section 109B of that Act to the Crown);
  - (b) section 109B of that Act (powers to require information);
  - (c) section 110A of that Act (authorisations by local authorities to exercise powers of investigation);
  - (d) section 110AA of that Act (power of local authority to require electronic access to information);
  - (e) section 121DA of that Act (interpretation of Part 6 of that Act);
  - (f) section 191 of that Act (interpretation of that Act).
- (6) This section does not affect the operation of Schedule 2 (administration of council tax).
- (7) In this section “council tax purposes” means purposes relating to a person's liability to pay council tax.

#### **14B Regulations about offences**

- (1) The appropriate authority may by regulations provide for the creation of offences that may be committed by a person in prescribed circumstances—
- (a) by intentionally delaying or obstructing a person in the exercise of a power conferred by regulations under section 14A(1);
  - (b) by refusing or failing to comply with any requirement under regulations under section 14A(1)(b) or with the requirements of any arrangements entered into in accordance with such regulations;
  - (c) by refusing or failing, when required to do so by or under this Act or by or under regulations made under this Act, to provide any information or document in connection with a person's liability to pay council tax;
  - (d) by making a false statement or representation in connection with such liability;
  - (e) by providing, or causing or allowing to be provided, in connection with such liability, a document or information which is false;
  - (f) by failing to notify, or causing or allowing a person to fail to notify, a matter that is relevant to such liability (including in particular any matter that is required to be notified by or under this Act or by or under regulations made under this Act).
- (2) Regulations under subsection (1)(a), (b) or (c)—
- (a) must provide for an offence under the regulations to be triable only summarily;
  - (b) may not provide for such an offence to be punishable with a fine exceeding level 3 on the standard scale.
- (3) Regulations under subsection (1)(a), (b) or (c)—
- (a) may provide, in a case where a person is convicted of an offence under the regulations and the act or omission constituting the offence

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- continues after the conviction, for the person to be guilty of a further offence and liable on summary conviction to a daily fine;
- (b) may not provide for the daily fine to exceed £40.
- (4) Regulations under subsection (1)(d), (e) or (f) that create an offence that may only be committed by a person acting dishonestly—
- (a) must provide for the offence to be triable summarily or on indictment;
- (b) may not provide for the offence to be punishable on summary conviction with imprisonment for a term exceeding 12 months or with a fine exceeding the statutory maximum;
- (c) may not provide for the offence to be punishable on conviction on indictment with imprisonment for a term exceeding 7 years (and may provide for the offence to be punishable on conviction on indictment with a fine).
- (5) Regulations under this section that create an offence within subsection (4) that may be committed before the date that section 154(1) of the Criminal Justice Act 2003 comes into force may not provide for such an offence committed before that date to be punishable on summary conviction with imprisonment for a term exceeding 6 months.
- (6) Regulations under subsection (1)(d), (e) or (f) that create an offence that may be committed by a person acting otherwise than dishonestly—
- (a) must provide for the offence to be triable only summarily;
- (b) may not provide for the offence to be punishable with imprisonment for a term exceeding 51 weeks or with a fine exceeding level 5 on the standard scale.
- (7) Regulations under this section that create an offence within subsection (6) that may be committed before the date that section 281(5) of the Criminal Justice Act 2003 comes into force may not provide for such an offence committed before that date to be punishable with imprisonment for a term exceeding 3 months.
- (8) The appropriate authority may by regulations make provision—
- (a) about defences to an offence under regulations under this section;
- (b) about the commission by a body corporate of such an offence;
- (c) about the conduct of proceedings for such an offence;
- (d) about the time limits for bringing such proceedings;
- (e) about the determination of issues arising in such proceedings;
- (f) about other matters of procedure and evidence in relation to such offences.
- (9) The provision that may be made by regulations under this section includes, in particular, provision equivalent to—
- (a) provision made by a relevant enactment, or
- (b) provision that is capable of being made under a relevant enactment, with such modifications as the appropriate authority thinks fit.
- (10) For the purposes of subsection (9), each of the following enactments as it had effect on the day on which the Local Government Finance Act 2012 was passed is a “relevant enactment”—

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- (a) section 111 of the Social Security Administration Act 1992 (offences relating to powers under that Act);
- (b) section 111A of that Act (dishonest representations for obtaining benefit etc);
- (c) section 112 of that Act (false representations for obtaining benefit etc.);
- (d) section 115 of that Act (offences by bodies corporate);
- (e) section 116 of that Act (legal proceedings);
- (f) section 121DA of that Act (interpretation of Part 6 of that Act);
- (g) section 191 of that Act (interpretation of that Act).

#### **14C Regulations about penalties**

- (1) The appropriate authority may by regulations make provision for the imposition of a penalty by a billing authority on a person where in prescribed circumstances—
  - (a) that person's act or omission results or could result in the amount of council tax that a person ("P") is liable to pay being reduced or subject to a discount, and
  - (b) P is not or will not be entitled to that reduction or discount.
- (2) The appropriate authority may by regulations make provision for the imposition of a penalty by a billing authority on a person where in prescribed circumstances—
  - (a) that person's act or omission results or could result in a dwelling in respect of which a person ("P") would otherwise be liable to pay council tax being treated as an exempt dwelling for a period, and
  - (b) the dwelling is not or will not be an exempt dwelling for all or part of that period.
- (3) Regulations under this section must—
  - (a) make provision with the effect that a penalty may only be imposed on a person where the person agrees to the imposition of the penalty as an alternative to criminal proceedings being taken against the person in respect of the act or omission to which the penalty relates,
  - (b) make provision with the effect that a penalty may only be imposed on a person where the person has not been charged with an offence in respect of the act or omission to which the penalty relates, or
  - (c) make provision within paragraph (a) and (b).
- (4) Where—
  - (a) regulations under this section specify a sum as a penalty (or a minimum or maximum penalty), and
  - (b) it appears to the Treasury that there has been a change in the value of money since those regulations were made or (as the case may be) the last occasion when an order under this subsection was made,
 the Treasury may by order substitute for that sum such other sum as appears to them to be justified by the change.
- (5) An order under subsection (4) does not apply in relation to any act done or omission which began before the date on which the order comes into force.

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- (6) This section does not affect the operation of paragraph 1 of Schedule 3 (penalties).
- (7) The provision that may be made by regulations under this section includes, in particular, provision equivalent to—
  - (a) provision made by a relevant enactment, or
  - (b) provision that is capable of being made under a relevant enactment, with such modifications as the appropriate authority thinks fit.
- (8) For the purposes of subsection (7), each of the following is a “relevant enactment”—
  - (a) section 115A of the Social Security Administration Act 1992 (penalty as alternative to prosecution);
  - (b) section 115B of that Act (penalty as alternative to prosecution: colluding employers etc);
  - (c) section 115C of that Act (penalties in respect of incorrect statements etc);
  - (d) section 115D of that Act (penalties in respect of failures to disclose information);
  - (e) section 121DA of that Act (interpretation of Part 6 of that Act);
  - (f) section 191 of that Act (interpretation of that Act).
- (9) The reference in subsection (8)—
  - (a) to section 115C or 115D of the Social Security Administration Act 1992 is to that section without the repeals in it contained in Part 1 of Schedule 14 to the Welfare Reform Act 2012;
  - (b) to any other provision of that Act is to the provision as it had effect on the day on which the Local Government Finance Act 2012 was passed.

#### **14D Sections 14A to 14C: supplementary**

- (1) In sections 14A to 14C—
    - “the appropriate authority” means—
      - (a) the Secretary of State, in relation to England, and
      - (b) the Welsh Ministers, in relation to Wales;
    - “prescribed”, in relation to regulations made by the Welsh Ministers, means prescribed by such regulations.
  - (2) A statutory instrument containing regulations made by the Secretary of State under any of sections 14A to 14C may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
  - (3) A statutory instrument containing regulations made by the Welsh Ministers under any of sections 14A to 14C may not be made unless a draft of the instrument has been laid before and approved by a resolution of the National Assembly for Wales.”
- (3) In section 18(1)(c) (death of person liable for penalty), after “him” insert “ under regulations under section 14C or ”.

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- (4) In section 113(3) (application of negative procedure to orders and regulations under the Act), after “except in the case of regulations under section” insert “ 14A, 14B, 14C or ”.
- (5) Schedule 3 (penalties) is amended as follows.
- (6) After paragraph 3(1) (appeals) insert—
  - “(1A) A person (“P”) may appeal to a valuation tribunal if aggrieved by the imposition on P of a penalty under regulations under section 14C, unless P agreed to the imposition of the penalty as an alternative to criminal proceedings being taken against P in respect of the act or omission to which the penalty relates.”
- (7) After paragraph 3(3) insert—
  - “(4) Where a penalty is imposed on a person (“P”) under regulations under section 14C, and P alleges that there is no power in the case concerned to impose a penalty of the amount imposed, P may appeal to a valuation tribunal under this sub-paragraph against the imposition.”
- (8) In paragraph 6(1) and (5) (regulations about collection), after “paragraph 1 or 2 above” insert “ or under regulations under section 14C ”.
- (9) In Schedule 11 to the LGFA 1988 (tribunals), in paragraph 10A(1)(d) (orders), after “under” insert “ regulations under section 14C of or ”.

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