
WELSH STATUTORY INSTRUMENTS

2004 No. 3094 (W.268)

COUNCIL TAX, WALES

The Local Authorities (Calculation of Council Tax Base) and Council Tax (Prescribed Classes of Dwellings) (Wales) (Amendment) Regulations 2004

Made - - - - 23 November 2004
Coming into force - - 24 November 2004

The National Assembly for Wales, in exercise of the powers given to the Secretary of State by sections 12, 33(5) and (6), 34(4), 44(5) and (6), 45(4) and (5), 48(5) and (6) and 116 of the Local Government Finance Act 1992(1), which are now vested in it in so far as exercisable in relation to Wales(2), hereby makes the following Regulations:

Name, commencement, application and interpretation

1.—(1) The name of these Regulations is the Local Authorities (Calculation of Council Tax Base) and Council Tax (Prescribed Classes of Dwellings) (Wales) (Amendment) Regulations 2004 and shall come into force on 24 November 2004.

(2) These Regulations apply in relation to authorities in Wales only.

(3) In these Regulations —

“the 1995 Regulations” (“*Rheoliadau 1995*”) means the Local Authorities (Calculation of Council Tax Base) (Wales) Regulations 1995(3); and

“the 1998 Regulations” (“*Rheoliadau 1998*”) means the Council Tax (Prescribed Classes of Dwellings) (Wales) Regulations 1998(4).

Interpretation of the 1995 Regulations

2. In regulation 1(3) of the 1995 Regulations —

(a) after “22A(10)” in the definition of “the authority’s list”, insert “or 22B(10)”; and

(b) at the end of the definition of “chargeable dwelling”, omit “and”;

(1) 1992 c. 14.

(2) See the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).

(3) S.I. 1995/2561, amended by S.I. 1999/2935.

(4) S.I. 1998/105, amended by S.I. 2004/452.

- (c) the full stop at the end of the definition of “major precepting authority” is replaced by “; and”;
- (d) at the end, insert
 - ““relevant percentage” means a percentage by which the amount of council tax payable in respect of any chargeable dwelling and any day is reduced due to the application of a discount under section 11 or 12.”.

Calculation of the relevant amounts for a financial year beginning on or after 1 April 2005

- 3. After regulation 5 of the 1995 Regulations, insert the following regulation —

“Calculation of the relevant amounts for a financial year beginning on or after 1 April 2005

5A.—(1) For the purposes of regulation 3, the relevant amount for a financial year beginning on or after 1 April 2005 (“the year”) for a valuation band (“the band”) is the amount found by applying the formula —

$$(H - Q + J) \times (F \text{ divided by } G)$$

where —

H is the number of chargeable dwellings in the area of the billing authority listed in the band on the relevant day calculated by the authority in accordance with paragraph (2) below;

Q is a factor to take account of the discounts to which the amount of council tax payable was subject on the relevant day calculated in accordance with paragraph (4) below;

J is the amount of any adjustment in respect of changes in the number of chargeable dwellings or discounts calculated by the authority in accordance with paragraph (6) below;

F is the number which, in the proportion set out in section 5(1), is applicable as regards the year to dwellings listed in the band;

G is the number which, in that proportion, is applicable as regards the year to dwellings listed in valuation band D.

(2) The authority shall calculate the number of chargeable dwellings for the purposes of item H in paragraph (1) above by deducting from the number of dwellings listed in the band on the relevant day its estimate of the number of such dwellings which were exempt on that day.

(3) For the purposes of paragraph (2) above, the authority shall ascertain the number of dwellings listed in any valuation band by reference to —

- (a) the state on the relevant day of the authority’s list, including any alterations of the list which were shown as having effect on that day; and
- (b) any alterations of the valuation list maintained by the listing officer for that authority which were not shown on the authority’s list but of which the authority had been informed by the listing officer and which had effect on that day.

(4) Q is the aggregate of amounts found by multiplying, for each different relevant percentage, R by S, where —

R is the number of dwellings taken into account for the purposes of item H in paragraph (1) above, for which the amount of council tax payable for the relevant

day was reduced by that relevant percentage, estimated by the authority in accordance with paragraph (5) below;

S is that relevant percentage.

(5) The authority shall make the estimates required for the purpose of paragraph (4) above on the basis of all the information available to the authority on the relevant day.

(6) The authority shall calculate the amount of any adjustment for the purposes of item J in paragraph (1) above as equal to the amount by which the number which the authority calculates in accordance with paragraph (7) below exceeds the number which the authority calculates in accordance with paragraph (8) below; and if there is no such excess, the adjustment shall be nil or, as the case may be, a negative amount.

(7) Subject to paragraph (10) below, the authority shall calculate the aggregate of —

(a) the authority's estimate of the number of chargeable dwellings which are not ascertained for the purposes of paragraph (2) above as listed in the band on the relevant day but which will be listed in the band for the whole or part of the year; and

(b) the aggregate of amounts found by multiplying, for each different relevant percentage, U by V, where —

U is the authority's estimate of the number of dwellings in respect of which the amount of council tax payable for the relevant day was reduced by that relevant percentage and which were taken into account for the purposes of item R in paragraph (4) above, but in respect of which the amount of council tax payable for the whole or part of the year will not be reduced by that relevant percentage;

V is that relevant percentage.

(8) Subject to paragraph (10) below, the authority shall calculate the aggregate of —

(a) the authority's estimate of the number of chargeable dwellings which are ascertained for the purposes of paragraph (2) above as listed in the band on the relevant day but which:

(i) will not be listed in the band for the whole or part of the year; or

(ii) will be exempt at any time in the year or that part of the year for which they will be listed; and

(b) the aggregate of amounts found by multiplying, for each different relevant percentage, W by X, where —

W is the number of dwellings, taken into account for the purposes of item H in paragraph (1) above or falling within paragraph (7)(a) above, in respect of which the amount of council tax payable for the whole or part of the year will be reduced by that relevant percentage, and which were not taken into account for the purposes of item R in paragraph (1) above, estimated by the authority in accordance with paragraph (4) above;

X is that relevant percentage.

(9) Paragraph (3) of regulation 4 shall apply for the purposes of making any of the calculations or estimates referred to in paragraphs (2), (7) and (8) above as it applies for the purposes of paragraph (2) of regulation 4.

(10) Where it appears to the authority likely that —

(a) a dwelling will be listed in a band in the authority's list, or will not be so listed, for part of the year;

- (b) a dwelling will be exempt for part of the year during a period for which it will be listed in a band in the authority's list; or
 - (c) the amount of council tax payable in respect of a dwelling will be subject to a discount of a relevant percentage for part of the year,
- the authority shall, for the purposes of making any of the estimates referred to in paragraphs (7) or (8) above, treat such a dwelling or discount as a fraction produced by dividing the number of days in that part of the year by the number of days in the year.

- (11) For the purposes of this regulation, the relevant day —
 - (a) in respect of the financial year beginning on 1 April 2005 is 24 November 2004; and
 - (b) in respect of financial years beginning on or after 1 April 2006 is 31 October in the financial year preceding that for which the relevant amount is calculated.”.

Calculation of billing authority's council tax base for a part of its area

- 4. Regulation 6(2) of the 1995 Regulations is amended as follows —
 - (a) for “5 but”, substitute “5 to 5A but”;
 - (b) after sub-paragraph (c) insert —
 - “(d) in regulation 5A, the relevant day in respect of the year is —
 - (i) for the financial year beginning on 1 April 2005 —
 - (aa) where the authority determines the amount for item TP in section 34(3) in the period beginning 24 November and ending on 31 January in the preceding financial year, 24 November in the preceding financial year; and
 - (bb) in any other case, the day on which the authority calculates the relevant amount for the year for the purpose of item TP in section 34(3).
 - (ii) for financial years beginning on or after 1 April 2006 —
 - (aa) where the authority determines the amount for item TP in section 34(3) in the period beginning on 1 November and ending on 31 December in the preceding financial year, 31 October in the preceding financial year; and
 - (bb) in any other case, the day on which the authority calculates the relevant amount for the year for the purposes of item TP in section 34(3).”.

Calculation of council tax base for the purposes of a major precepting authority

- 5. Regulation 7 of the 1995 Regulations is amended as follows —
 - (a) in paragraph (1) —
 - (i) for “5 and” substitute “5 or 5A and”;
 - (ii) after “regulation 5” insert “or items H, Q and J in regulation 5A”;
 - (b) in paragraph (2) after “regulation 5” insert “or items H, Q and J in regulation 5A”.

Prescribed period

- 6. For paragraph (3) of regulation 8 of the 1995 Regulations, substitute —

“In relation to calculations for the financial year beginning on 1 April 2005, the period beginning on 24 November 2004 and ending on 31 January 2005 is hereby prescribed for the purposes referred to in paragraph (1) above.”.

Determination of billing authority’s council tax base

7. In regulation 9(2) of the 1995 Regulations, for “be, 5” substitute “be, 5 or 5A”.

Amendment of the 1998 Regulations

8. In regulation 3(2) of the 1998 Regulations, for “section 12” substitute “section 12(4)”.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(5).

23 November 2004

D. Elis-Thomas
The Presiding Officer of the National Assembly

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Local Authorities (Calculation of Council Tax Base) (Wales) Regulations 1995 (“the 1995 Regulations”) and the Council Tax (Prescribed Classes of Dwellings) (Wales) Regulations 1998 (“the 1998 Regulations”).

The 1995 Regulations provide for the calculation by billing authorities and major precepting authorities in Wales of the council tax bases for the whole and parts of their areas. These Regulations amend the 1995 Regulations in consequence of the substitution of section 12 of the Local Government Finance Act 1992 (“the 1992 Act”) by section 75 of the Local Government Act 2003 (“the 2003 Act”).

Section 12 of the 1992 Act allows billing authorities in Wales to reduce from 50% to a minimum of 10% the discount which applies under section 11(2)(a) of the 1992 Act to dwellings falling into classes prescribed in regulations for the purposes of section 12(3) of the 1992 Act. Section 12 of the 1992 Act also allows billing authorities in Wales to reduce or end the 50% discount for dwellings falling into other classes prescribed in regulations for the purposes of section 12(4) of the 1992 Act.

Classes of dwellings are prescribed in the Council Tax (Prescribed Classes of Dwellings) (Wales) Regulations 1998. (Sub-sections (3), (4) and (5) of section 75 of the 2003 Act preserve in force the effect of regulations, which prescribe classes of dwellings, existing immediately before the coming into force of that section).

Regulation 2 of these Regulations amends the definition of “the authority’s list” in regulation 1(3) of the 1995 Regulations, so as to take account of the insertion of section 22B into the 1992 Act by section 77 of the 2003 Act.

Regulation 2 of these Regulations also includes in regulation 1(3) of the 1995 Regulations a definition of “relevant percentage”. This is in addition to the definition of “appropriate percentage” as section 12 of the 1992 Act allows a billing authority to reduce the council tax payable by percentages other than the appropriate percentage (25%) or twice the appropriate percentage.

Regulation 3 of these Regulations inserts a new regulation 5A into the 1995 Regulations. This provides for the calculation of “the relevant amounts” by a billing authority for financial years beginning on or after 1 April 2005. The relevant amount for each council tax band is a measure of the number of dwellings in that band after taking account of exempt dwellings and discounts.

The council tax base for the whole of a billing authority’s area (item T in section 33(1) of the 1992 Act) is found by adding together the relevant amount for each council tax band and multiplying this by the authority’s estimate of its collection rate (see regulation 3 of the 1995 Regulations). When calculating the tax base for financial years beginning on or after 1 April 2005, regulation 5A requires the authority to take account of discounts under sections 11 and 12 of the 1992 Act. The relevant day for the financial year commencing 1 April 2005 will be 24 November 2004 (new regulation 5A(11) (a) of the 1995 Regulations as inserted by regulation 3 of these Regulations refers). For financial years commencing on or after 1 April 2006, the relevant day will be 31 October in the financial year preceding the year for which the calculations are made.

Regulation 4 of these Regulations inserts references to the new regulation 5A into regulation 6 of the 1995 Regulations. That regulation 6 provides for the calculation of the tax base for part of a billing authority’s area. Regulation 6 of the 1995 Regulations is also amended such that the relevant day for the purposes of regulation 5A is 24 November 2004 for the financial year beginning on 1 April 2005 where item TP in section 34(4) is determined in the period 24 November 2004 to 31 January 2005.

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Regulation 5 of these Regulations inserts references to the new regulation 5A and to items in the calculations in the new regulation 5A into regulation 7 of the 1995 Regulations. That regulation 7 provides for the calculation of the tax base for the purposes of a major precepting authority.

Regulation 6 substitutes a new regulation 8(3) into the 1995 Regulations such that in relation to calculations for the financial year beginning on 1 April 2005, the prescribed period is 24 November 2004 to 31 January 2005.

Regulation 7 of these Regulations inserts a reference to the new regulation 5A into regulation 9 of the 1995 Regulations. That regulation 9 provides for the determination by a major precepting authority of a billing authority's tax base where the billing authority has failed to notify its tax base to the major precepting authority in the prescribed period.

Regulation 8 of these Regulations amends regulation 3 of the 1998 Regulations in order to clarify that the class of dwellings that is Class C is prescribed by that regulation 3 for the purposes of section 12(4) of the 1992 Act.