

2012 No. 672

COUNCIL TAX, ENGLAND

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

<i>Made</i>	- - - -	<i>2nd March 2012</i>
<i>Laid before Parliament</i>		<i>7th March 2012</i>
<i>Coming into force</i>	- -	<i>1st April 2012</i>

The Secretary of State, in exercise of the powers conferred by sections 113(1) and (2) of, and paragraphs 1(1) and 2(4)(a) of Schedule 2 and paragraphs 1(1), 2(1) and 3 of Schedule 4 to, the Local Government Finance Act 1992(a), makes the following Regulations:

Citation, commencement and application

- 1.—(1) These Regulations—
- (a) may be cited as the Council Tax (Administration and Enforcement) (Amendment) (England) Regulations 2012, and
 - (b) come into force on 1st April 2012.
- (2) These Regulations apply in relation to England only.

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

- 2.—(1) The Council Tax (Administration and Enforcement) Regulations 1992(b) are amended as follows.
- (2) After regulation 21 insert—

“Referendums relating to council tax increases: excessive amount not approved

- 21A.—(1) This regulation applies if—
- (a) a billing authority has served a demand notice on a liable person in respect of an amount set under section 30 of the Act(c) for a financial year, and

(a) 1992 c.14. Section 113(1) was amended by paragraph 52(2) of Schedule 7 to the Local Government Act 2003 (c.26). These powers are now vested in the Welsh Ministers so far as they are exercisable in relation to Wales. They were previously transferred to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions Order 1999 (S.I. 1999/672); see the entry in Schedule 1 for the Local Government Finance Act 1992. By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c.32), they were transferred to the Welsh Ministers.

(b) S.I. 1992/613, amended by S.I. 1992/3002 and 1995/22; there are other amending instruments but none is relevant.

(c) Section 30 was amended by section 81 of the Greater London Authority Act 1999 (c.29) and paragraphs 7 and 8 of Schedule 7 to the Localism Act 2011 (c.20).

(b) as a consequence of a relevant event the authority subsequently sets a different amount in substitution for that amount under section 31 of the Act^(a).

(2) The demand notice mentioned in paragraph (1)(a) shall continue to have effect unless and until a notice is issued under paragraph (3), but for the purposes of Part VI (enforcement) of these Regulations the demand notice shall have effect as if it did not include the additional amount and accordingly no liability order may be issued and no enforcement action may be taken under that Part in respect of that amount.

(3) The billing authority—

(a) may issue a notice in accordance with paragraph 10 of Schedule 1 to these Regulations as modified by paragraph (4) below, and

(b) must do so if the person mentioned in paragraph (1)(a) so requires.

(4) The modifications are as follows—

(a) omit sub-paragraph (1),

(b) at the start of sub-paragraph (2) insert “If issuing a notice under regulation 21A(3),”, and

(c) for the definition of “the relevant day” in sub-paragraph (8) substitute—

““the relevant day” means the day on which the different amount mentioned in regulation 21A(1)(b) is set.”.

(5) In this regulation and in regulation 21B—

“additional amount” means the difference between the amount mentioned in paragraph (1)(a) and the different amount mentioned in paragraph (1)(b),

“Conduct of Referendums Regulations” means the Local Authorities (Conduct of Referendums) (Council Tax Increases) (England) Regulations 2012^(b), and

“relevant event”, in relation to a billing authority, means any of the following—

(a) the authority’s substitute calculations having effect in accordance with section 52ZH(5) or section 52ZI(1) of the Act^(c) or regulation 22(5) of the Conduct of Referendums Regulations,

(b) the making by the authority of substitute calculations mentioned in section 52ZI(3)(b) of the Act,

(c) substitute precepts issued to the authority having effect in accordance with section 52ZO(5) or section 52ZP(7) of the Act or regulation 22(13) of the Conduct of Referendums Regulations,

(d) the issuing to the authority of a precept under section 52ZP(3) of the Act.

Referendums relating to council tax increases: excessive amount approved

21B.—(1) This regulation applies if—

(a) a billing authority has served a demand notice on a liable person in respect of an amount set under section 30 of the Act for a financial year,

(b) as a consequence of a relevant event the authority subsequently sets a different amount in substitution for that amount under section 31 of the Act, and either—

(i) the billing authority’s relevant basic amount of council tax for the financial year is subsequently given effect for the purposes of the Act by virtue of regulation 22(9) of the Conduct of Referendums Regulations and section 52ZH(3) of the Act, or

(a) Section 31 was amended by paragraph 2 of Schedule 6, and paragraph 9 of Schedule 7, to the Localism Act 2011.

(b) S.I. 2012/444.

(c) Sections 52ZH, 52ZI, 52ZO and 52ZP were inserted into the Local Government Finance Act 1992 by Schedule 5 to the Localism Act 2011

- (ii) a relevant precepting authority's calculations from which its relevant basic amount of council tax was derived are subsequently given effect for the financial year by virtue of regulation 22(17) of the Conduct of Referendums Regulations and section 52ZO(3) of the Act.

(2) Where a notice has not been issued in accordance with regulation 21A(3), the demand notice referred to in regulation 21A(1)(a) shall continue to have effect and regulation 21A(2) shall no longer apply in relation to that notice.

(3) Where a notice has been issued in accordance with regulation 21A(3), the billing authority must issue a notice in accordance with paragraph 10 of Schedule 1 to these Regulations as modified by paragraph (4) below.

(4) The modifications are as follows—

- (a) omit sub-paragraph (1),
- (b) at the start of sub-paragraph (2) insert “If issuing a notice under regulation 21B(3),” and
- (c) for the definition of “the relevant day” in sub-paragraph (8) substitute—
““the relevant day” means the day on which the election court allows the petition referred to in regulation 22(8)(b) or (16)(b) (as the case may be) of the Conduct of Council Tax Referendums Regulations.””

(5) In this regulation, “relevant precepting authority” means a precepting authority which issues a precept to the billing authority for the financial year concerned.”.

Signed by authority of the Secretary of State for Communities and Local Government

Bob Neill

Parliamentary Under Secretary of State

Department for Communities and Local Government

2nd March 2012

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Council Tax (Administration and Enforcement) Regulations 1992 by introducing a new regulation 21A and 21B into those Regulations. The amendment is consequential on the introduction, under the Localism Act 2011, of council tax referendums in England.

Where a local authority sets an excessive relevant basic amount of council tax for a financial year a referendum must be held. If the excessive amount is not approved in a referendum, or if no referendum is held or a referendum is held to be void, a substitute non-excessive amount takes effect. Regulation 21A makes provision in these circumstances.

Where the billing authority has already issued a demand notice to a liable person, it may issue a new notice to that person and must do so if the person so requires (regulation 21A(1), (3) and (4)).

If a new notice is not issued, the existing demand notice continues to have effect but no enforcement action may be taken in respect of the difference between the excessive amount and the substituted amount (regulation 21A(2)).

Where an authority's excessive relevant basic amount of council tax is not approved in a referendum, its substitute calculations have effect. However, an election court may subsequently overturn the result on the basis that it is not in accordance with the votes cast. Regulation 21B makes provision for these circumstances. Any demand notices originally issued for the excessive amount will continue to have effect, and will have effect as if they include the difference between the excessive amount and the substituted amount (regulation 21B(2)).

Where revised demand notices (based upon the authority's substitute calculations) have been issued before the election court makes a decision, the billing authority must issue a revised notice as soon as practicable after the day on which the election court allows the referendum petition (regulation 21B(3)).

A full impact assessment has not been produced for these Regulations as no impact on the private or voluntary sectors is foreseen.

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