

EXPLANATORY MEMORANDUM TO
THE COUNCIL TAX (DEMAND NOTICES) (ENGLAND) (AMENDMENT)
REGULATIONS 2017

2017 No. 13

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 The instrument amends the Council Tax (Demand Notices) (England) Regulations 2011 (“the 2011 Regulations”) (S.I. 2011/3038) which makes provision about matters to be contained in, and information to be supplied with, the council tax demand notices (“the notices”) sent to council tax payers. The amendments in this instrument:
- provide for notices for all financial years from the year beginning in 2017 (“2017-18”) to contain additional information about council tax charged to fund expenditure on adult social care functions from the year beginning in 2016 (“2016-17”) and to amend the information which must appear on the notice;
 - amend the information which precepting authorities which are adult social care authorities are required to supply to billing authorities in their areas to enable them to meet the requirements under the 2011 Regulations.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 Part 1 of the Local Government Finance Act 1992 (“the 1992 Act”) concerns council tax in England and Wales. Under the 1992 Act billing authorities are required to levy and collect council tax in respect of dwellings situated in their areas (see section 1(1) and (2) of that Act).
- 4.2 There is power in the 1992 Act to require billing authorities to serve a notice on a person before that person becomes liable to pay council tax in respect of a dwelling and a financial year (see paragraph 2(4)(a) and (b) of Schedule 2 to the 1992 Act). The requirement to serve a notice is included in regulation 18 of the Council Tax (Administration and Enforcement) Regulations 1992 (S.I. 1992/613).

- 4.3 The 2011 Regulations were made using powers in Schedule 2 to the 1992 Act. Those regulations specify the procedures to be followed by billing authorities for the billing of council tax.
- 4.4 The 2011 Regulations were amended by the Council Tax (Demand Notices) (England) (Amendment) Regulations 2016 (S.I. 2016/188) to require, for 2016-17, additional information to be contained in notices about council tax charged by adult social care authorities (as defined by section 1(4) of the Care Act 2014, plus the Council of the Isles of Scilly) to expend on adult social care functions.¹ This instrument amends the 2011 Regulations to require this information to be contained in notices for financial years subsequent to 2016-17 and amends the information which is required.

5. Extent and Territorial Application

- 5.1 This instrument extends to England and Wales.
- 5.2 This instrument applies to England only.

6. European Convention on Human Rights

- 6.1 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 In recognition of demographic pressures, and consequent demands on local authority services and finances, the Spending Review 2015 and Autumn Statement 2015 announced a number of measures to help local authorities with responsibility for adult social care. This included a specific council tax measure:
- “The Spending Review creates a social care precept to give local authorities who are responsible for social care the ability to raise new funding to spend exclusively on adult social care. The precept will work by giving local authorities the flexibility to raise council tax in their area by up to 2% above the existing threshold. If all local authorities use this to its maximum effect it could help raise nearly £2 billion a year by 2019-20.”²
- 7.2 The Secretary of State announced on 17 December 2015 that he would take steps to ensure that the amounts charged in respect of the flexibility (henceforth known as the “adult social care precept”) would appear on demand notices from the financial year 2016 onwards³. The adult social care precept for 2016-17 was confirmed by the House of Commons on 8 February 2016 when it approved the council tax referendum principles which were set out in a Report prepared by the Secretary of State.

¹ Whilst the Care Act 2014 applies in the Isles of Scilly subsequent regulations made under the Act - the Care and Support (Isles of Scilly) Order 2015 (S.I. 2015/642) define the Council of the Isles of Scilly as a “local authority” for the purpose of the care and support functions specified in that Act.

²

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/479749/52229_Blue_Book_PU1865_Web_Accessible.pdf [page 33]

³ Hansard 17 Dec 2015: Column 1722

- 7.3 The notices issued by billing authorities from mid-March each year must include a range of matters specified by the 2011 Regulations. These include the authorities charging council tax in the area, the amount being charged, and the percentage increase from the preceding year. The notice must be supplied in hard copy unless the recipient and authority agree to electronic billing. There are also requirements to supply additional information about the expenditure and council tax requirement of billing, precepting and levying bodies. This additional information may be supplied electronically unless the recipient requests it in hard copy.
- 7.4 There was only short period of time available between the approval of the referendum principles for 2016-17 and the issuing of council tax bills for that year. Consequently, having considered local authority representations, the Secretary of State proposed an interim approach to the display of information about the adult social care precept for that year only. In relation to any authority that was charging the adult social care precept, if the notice did not contain two separate council tax amounts (one expressed in pounds for the adult social care precept and one for council tax to fund other functions), it had to contain two separate figures showing the percentage change in the bill attributable to each amount.
- 7.5 The Secretary of State indicated that he would seek to put in place a revised approach for the display of information in subsequent years. His policy for the years 2017-18 onwards is that in relation to any authority that has used the adult social care precept since 2016-17, the notice must contain the following information:
- a) the amount of council tax set by the authority excluding any adult social care precept charged in the year to which the notice relates;
 - b) the total amount of adult social care precept charged since the scheme began in 2016-17;
 - c) the number of percentage points contributed to the authority's overall change in its basic amount of council tax in the year to which the notice relates by:
 - i. the change attributable to general expenditure; and
 - ii. the change attributable to the adult social care precept.
- 7.6 To assist council tax payers in understanding the new information, billing authorities are also required to include:
- a) a statement on the face of the notice indicating that the council tax charged by the adult social care authority includes an amount attributable to the adult social care precept (see paragraph 12A(2) of Schedule 1 to the 2011 Regulations and regulation 2 (4)(c) of this instrument);
 - b) information in the explanatory notes about the percentage increases shown on the notice (see regulation 2(4)(f) of this instrument); and
 - c) a statement about the purpose of the adult social care precept in the information supplied with notices (see regulation 2(5) of this instrument).
- 7.7 Precepting authorities are required to provide billing authorities with information about their use of the precept in order for this to be included in notices (see regulation 8 of the 2011 Regulations and regulation 2(3) of this instrument).
- 7.8 The regulations make no mention of the level of adult social care precept and so are not contingent upon the House of Commons approving a set of referendum principles for any financial year. It is intended that these regulations will be reviewed following

any future decisions about the continuation of the adult social care precept beyond 2019-20.

Consolidation

7.9 There are no plans to undertake a consolidation.

8. Consultation outcome

8.1 The Department was in contact with local authority representatives and billing software suppliers over a period of several weeks to seek views on the Secretary of State's policy and the practical issues it raised. This included sharing a draft of these regulations. The final approach takes account of the comments made, in particular the need to provide clear explanatory information to bill payers. Those consulted were broadly content with the proposed approach. Some expressed concern about the technicalities of changing billing software to present percentage changes in the adult social care precept in the required manner. However, the Department is satisfied that it is practicable for these changes to be made in time for council tax billing in 2017-18.

9. Guidance

9.1 Local authorities will receive a letter from the Department outlining the requirements of the regulations and providing contact details to obtain further information.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is minimal.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 As mentioned in paragraph 7.8 it is intended that these regulations will be reviewed following any future decisions about the continuation of the adult social care precept beyond 2019-20. The Department will also seek ongoing local authority feedback through existing forums.

13. Contact

13.1 Nick Littlewood at the Department for Communities and Local Government
Telephone: 0303 44 42096 or email: nick.littlewood@communities.gsi.gov.uk can answer any queries regarding the instrument.