

EXPLANATORY MEMORANDUM TO
THE COUNCIL TAX (DEMAND NOTICES AND REDUCTION SCHEMES)
(ENGLAND) (AMENDMENT) REGULATIONS 2022

2022 No. 127

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Levelling Up, Housing and Communities and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This instrument requires local authorities in England responsible for the administration and collection of council tax (“billing authorities”) to provide information about the Energy Rebate Scheme 2022 to households in council tax bands A-D who receive a bill in respect of 1 April 2022. The instrument will also ensure that any reduction provided to council taxpayers under a local council tax support scheme is unaffected by payments received under the Energy Rebate Scheme.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 The instrument will come into force two days after it has been made and one day after it is laid before Parliament. It forms part of a comprehensive package of measures announced by the Chancellor specifically to respond to the announcement by Ofgem on 3 February 2022 that the energy price cap would rise significantly as a result of increased wholesale gas prices.
- 3.2 The issue and implications of rising energy costs has been developing quickly. In responding it was necessary for the Government to use the most up to date information in order to best assist households whilst still allowing time to amend the regulations ahead of annual council tax billing. To meet this objective, it was not possible to make the regulations at an earlier date.
- 3.3 Billing authorities are currently making preparations to issue around 24 million council tax bills for 2022-23 in mid-March 2022. This process involves design, software changes, printing and posting which have significant lead-in times and costs which increase significantly if last minute changes are required. Concurrently, billing authorities are finalising the terms of their local council tax support schemes which provide reductions to 3.97 million applicants,¹ and which must be approved at a meeting of the full council no later than 11 March 2022.
- 3.4 In order to provide certainty to billing authorities ahead of the new financial year, to avoid significant costs, and to protect council tax payers in low incomes, the instrument breaks the convention that negative statutory instruments should not come

¹ Data for Q2 2021-22

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1035416/LCTS_claimants_2021-22_Q2.xlsx

into effect until a minimum of 21 calendar days after they are laid. The Department apologises sincerely for this.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.
- 4.2 The territorial application of this instrument is England only.

5. European Convention on Human Rights

- 5.1 As this instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 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). Under powers in Schedule 2 to the 1992 Act, the Secretary of State may require billing authorities to serve a notice on a person before they are liable for council tax, and may specify matters that must be included in the notice. The requirement to serve a demand notice is included in regulation 18 of the Council Tax (Administration and Enforcement) Regulations 1992 (S.I. 1992/613). The Council Tax (Demand Notices) (England) Regulations 2011 (“the Demand Notice Regulations”) (S.I. 2011/3038) prescribe the information which must be contained in a notice (see regulation 5 of, and Schedule 1 to, those Regulations) and the information which must be provided with the notice (see regulation 6 of, and Schedule 2 to, those Regulations).
- 6.2 Section 13A of the Local Government Finance Act 1992 requires billing authorities to make a scheme reducing the amount of council tax payable by those whom the authority considers to be in financial need. Schedule 1A to that Act sets out the particular matters that a scheme must include and the process by which the scheme must be made. The Secretary of State may prescribe other matters that must be included in the scheme and has done so in the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 (“the Prescribed Requirements Regulations”) (S.I. 2012/2885).

7. Policy background

What is being done and why?

- 7.1 On 3 February 2022 the Chancellor of the Exchequer announced that an Energy Bills Rebate will be provided to households in England in April 2022 to help protect them from rising energy costs.² This includes a £150 rebate for most households in council tax bands A-D. In addition to this payment, discretionary funding will also be provided to local authorities to support vulnerable people and individuals on low incomes that do not pay council tax, or who pay council tax for properties in Bands E-H.
- 7.2 The rebate will be payable to households in bands A-D in England which are liable for council tax on 1 April 2022 (including those whose bill is £0 owing to an existing

² <https://www.gov.uk/government/news/millions-to-receive-350-boost-to-help-with-rising-energy-costs>

award of council tax support), as well as to certain exempt dwellings which will shortly be set out in guidance to billing authorities. The rebate will not be payable in respect of empty or second homes.

- 7.3 In order to ensure that households in bands A-D are provided with clear and timely information about the Energy Rebate Scheme, it is necessary to include explanatory material in council tax bills issued prior to the payments being made at start of the 2022-23 financial year. Requiring this information to be provided through the making of regulations will ensure that it is provided to households across England quickly and in a consistent way.
- 7.4 The purpose of the Energy Rebate Scheme is to alleviate financial pressures on households. It is therefore essential to ensure that it does not create adverse financial consequences for people on low incomes who already receive support through income-based council tax support schemes.
- 7.5 Regulation 2(2) therefore amends the Demand Notice Regulations to require that council tax bills issued to dwellings in bands A-D must include a short statement explaining that most households in those bands will receive a £150 payment from the Energy Rebate Scheme.
- 7.6 Regulation 3 amends the Prescribed Requirements Regulations to require that from 1 April 2022 all local council tax support schemes must disregard Energy Rebate Scheme payments in determining a person's eligibility for a council tax reduction and the amount of any such reduction.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 The Department does not plan to undertake a consolidation of the Demand Notice Regulations or the Prescribed Requirements Regulations.

10. Consultation outcome

- 10.1 No time was available for formal consultation, but the Department contacted local authority representatives to seek views on the amendments made by this instrument. Although concerns were raised about the challenge of making changes to bill formatting a few weeks prior to their being issued, the change was not considered impractical. The representatives emphasised the need for clear information to be provided to households and agreed that the rebate payments should be disregarded when assessing a person's eligibility for local council tax support schemes.

11. Guidance

- 11.1 The Department will write to billing authorities setting out the changes made by this instrument, and will issue guidance about the administration of the Energy Rebate Scheme, including the detailed information about payment processes that must be provided to eligible households.

12. Impact

- 12.1 As this instrument makes changes to council tax billing and to the operation of the support schemes available to individual council tax payers there is no impact on business, charities, or voluntary bodies.
- 12.2 Billing authorities will be required to undertake additional work to amend the format and content of demand notices and will be compensated for the resulting costs. Billing authorities will take account of the instrument while undertaking their annual review and updating of their local council tax support scheme. There will be no other impact on the public sector.
- 12.3 A separate Impact Assessment has not been prepared for this instrument because there will be no impact on business.

13. Regulating small business

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

14. Monitoring & review

- 14.1 The changes to council tax bills will only apply to those issued in relation to 1 April 2022. Consequently, there will be no review of the provisions. The Government reviews the provisions of the Prescribed Requirements Regulations on an annual basis.
- 14.2 The Regulations do not include a review provision under section 28 of the Small Business, Enterprise and Employment Act 2015 because the Regulations do not make a regulatory provision in relation to a qualifying activity carried out by businesses, charities, or voluntary bodies.

15. Contact

- 15.1 Nick Littlewood at the Department for Levelling Up, Housing and Communities, Telephone: 0303 44 42096 or email: nick.littlewood@levellingup.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Chris Megainey, Deputy Director for Local Taxation at the Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Michael Gove, Secretary of State, at the Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.