



Local Government Finance Act 2012

2012 CHAPTER 17

Council tax

9 Council tax reduction schemes: review

- (1) The Secretary of State shall make provision for an independent review of all council tax reduction schemes made under the provisions of this Act—
 - (a) to consider their effectiveness, efficiency, fairness and transparency and their impact on the localism agenda, and
 - (b) to make recommendations as to whether such schemes should be brought within universal credit.
- (2) A review under subsection (1) shall take place within three years after this Act comes into effect.

10 Council tax reduction schemes

- (1) For section 13A of the LGFA 1992 (billing authority's power to reduce amount of tax payable) substitute—

“13A Reductions by billing authority

- (1) The amount of council tax which a person is liable to pay in respect of any chargeable dwelling and any day (as determined in accordance with sections 10 to 13)—
 - (a) in the case of a dwelling situated in the area of a billing authority in England, is to be reduced to the extent, if any, required by the authority's council tax reduction scheme (see subsection (2));
 - (b) in the case of a dwelling situated in the area of a billing authority in Wales, is to be reduced to the extent, if any, required by any council tax reduction scheme made under regulations under subsection (4) that applies to that dwelling;

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- (c) in any case, may be reduced to such extent (or, if the amount has been reduced under paragraph (a) or (b), such further extent) as the billing authority for the area in which the dwelling is situated thinks fit.
- (2) Each billing authority in England must make a scheme specifying the reductions which are to apply to amounts of council tax payable, in respect of dwellings situated in its area, by—
 - (a) persons whom the authority considers to be in financial need, or
 - (b) persons in classes consisting of persons whom the authority considers to be, in general, in financial need.
 - (3) Schedule 1A (which contains provisions about schemes under subsection (2)) has effect.
 - (4) The Welsh Ministers may by regulations—
 - (a) require a person or body specified in the regulations to make a scheme specifying the reductions which are to apply to amounts of council tax payable, in respect of dwellings to which the scheme applies, by persons to whom the scheme applies,
 - (b) impose requirements on that person or body regarding the matters which must be included in that scheme, and
 - (c) make other provision for and in connection with such schemes.
 - (5) Schedule 1B (which contains further provisions about regulations under subsection (4) and about schemes under those regulations) has effect.
 - (6) The power under subsection (1)(c) includes power to reduce an amount to nil.
 - (7) The power under subsection (1)(c) may be exercised in relation to particular cases or by determining a class of case in which liability is to be reduced to an extent provided by the determination.
 - (8) No regulations under subsection (4) are to be made unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, the National Assembly for Wales.
 - (9) In this Part “council tax reduction scheme” means a scheme under subsection (2) or regulations under subsection (4).”
- (2) Schedule 4 (amendments relating to council tax reduction schemes) has effect.
 - (3) In that Schedule—
 - (a) Part 1 sets out the Schedules to be inserted as Schedules 1A and 1B to the LGFA 1992, and
 - (b) Part 2 contains other amendments.
 - (4) Each billing authority in England must make a council tax reduction scheme under section 13A(2) of the LGFA 1992 no later than 31 January 2013; and the first financial year to which that scheme relates must be the year beginning with 1 April 2013.
 - (5) But the Secretary of State may by order made by statutory instrument amend subsection (4) by substituting a different date or a later financial year (or both).

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11 Power to determine further discounts for certain dwellings

- (1) In section 11A of the LGFA 1992 (discounts: special provision for England), after subsection (4) insert—

“(4A) For any financial year for which a class of dwellings is prescribed for the purposes of this subsection, a billing authority in England may by determination provide—

- (a) in relation to all dwellings of that class in its area, or
- (b) in relation to such description of dwellings of that class as it may specify in the determination,

that the discount under section 11(2)(a) shall not apply or shall be such percentage (which may be 100) as it may so specify.

(4B) Where a class of dwellings is prescribed for the purposes of subsection (4A) by reference to the period of time for which a condition is met, a billing authority may not, under paragraph (b) of that subsection, specify a description of dwellings of that class by reference (wholly or partly) to a shorter such period.”

- (2) In subsections (1) and (5) of that section, for “or (4)” substitute “, (4) or (4A) ”.
- (3) Regulations may be made for the purposes of the subsection inserted by subsection (1) for a financial year beginning with or after 1 April 2013 (and, if a class of dwelling is prescribed by reference to a period of time for which a condition is met, it does not matter whether the period begins before this section comes into force).

12 Power to set higher amount for long-term empty dwellings

- (1) The LGFA 1992 is amended as follows.
- (2) After section 11A insert—

“11B Higher amount for long-term empty dwellings: England

- (1) For any financial year, a billing authority in England may by determination provide in relation to its area, or such part of its area as it may specify in the determination, that if on any day a dwelling is a long-term empty dwelling—
- (a) the discount under section 11(2)(a) shall not apply, and
 - (b) the amount of council tax payable in respect of that dwelling and that day shall be increased by such percentage of not more than 50 as it may so specify.
- (2) The Secretary of State may by regulations prescribe one or more classes of dwelling in relation to which a billing authority may not make a determination under this section.
- (3) A class of dwellings may be prescribed under subsection (2) by reference to such factors as the Secretary of State thinks fit and may, in particular, be prescribed by reference to—
- (a) the physical characteristics of, or other matters relating to, dwellings;
 - (b) the circumstances of, or other matters relating to, any person who is liable to the amount of council tax concerned.

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- (4) Where a determination under this section has effect in relation to a class of dwellings—
- (a) the billing authority may not make a determination under section 11A(3), (4) or (4A) in relation to that class, and
 - (b) any determination that has been made under section 11A(3), (4) or (4A) ceases to have effect in relation to that class.
- (5) A billing authority may make a determination varying or revoking a determination under this section for a financial year, but only before the beginning of the year.
- (6) A billing authority which makes a determination under this section must publish a notice of it in at least one newspaper circulating in its area and do so before the end of the period of 21 days beginning with the date of the determination.
- (7) Failure to comply with subsection (6) does not affect the validity of a determination.
- (8) For the purposes of this section, a dwelling is a “long-term empty dwelling” on any day if for a continuous period of at least 2 years ending with that day—
- (a) it has been unoccupied, and
 - (b) it has been substantially unfurnished.
- (9) In determining whether a dwelling is a long-term empty dwelling, no account is to be taken of any one or more periods of not more than 6 weeks during which either of the conditions in subsection (8)(a) and (b) is not met (or neither of them is met).
- (10) The Secretary of State may by regulations substitute a different period, of not less than 6 weeks, for the period which is for the time being specified in subsection (9).”
- (3) In section 11(2) (discounts: no chargeable residents), after “sections 11A” insert “, 11B”.
- (4) In section 11A (discounts: special provision for England), after subsection (4B) (inserted by section 11) insert—
- “(4C) Subsections (3), (4) and (4A) are subject to section 11B(4).”
- (5) In section 13(3) (amounts which may be reduced by regulations), after “section 11, 11A” insert “, 11B”.
- (6) In section 66(2)(b) (matters to be questioned only by judicial review), after “section 8(2), 11A” insert “, 11B”.
- (7) In section 67(2)(a) (functions to be discharged only by authority), after “section 8(2), 11A” insert “, 11B”.
- (8) In Schedule 2 (administration), paragraph 4 (discounts) is amended as follows.
- (9) In sub-paragraph (2), after “discount” (in both places) insert “ or increase”.
- (10) In sub-paragraph (3)—
- (a) after “discount” in the first and third places insert “ or to an increase”;

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- (b) after “discount” in the second and fourth places insert “ or increase ”.
- (11) In sub-paragraph (5)(a), for “is subject to a discount of a particular amount; and” substitute “—
- (i) is subject to a discount of a particular amount, or
 - (ii) is not subject to any increase; and”.
- (12) In sub-paragraph (5)(b), for the words from “is not in fact” to “smaller amount,” substitute “—
- (i) is not in fact subject to any discount, or is subject to a discount of a smaller amount, or
 - (ii) is in fact subject to an increase (whether or not the person is aware of the amount of the increase),”.
- (13) After sub-paragraph (6) insert—
- “(7) In this paragraph, “increase” means an increase under section 11B(1)(b) (higher amount of tax for empty dwellings).”
- (14) In the heading preceding that paragraph, after “Discounts” insert “ and increases ”.
- (15) A determination may be made for the purposes of the section inserted by subsection (2) for a financial year beginning with or after 1 April 2013 (and it does not matter whether the period mentioned in subsection (8) of that section begins before this section comes into force).

PROSPECTIVE

13 Mortgage in possession to be liable for council tax

- (1) In section 6(2) of the LGFA 1992 (persons liable to pay council tax) omit the “or” at the end of paragraph (e) and after that paragraph insert—
- “(ea) in the case of a dwelling situated in the area of a billing authority in England, the person is a mortgagee in possession of the owner's interest in the dwelling; or”.
- (2) This section comes into force on such day as the Secretary of State may by order made by statutory instrument appoint.

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.

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- (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, 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

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- 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 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.

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- (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”—
- (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—

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- (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.
- (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.

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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 ”.
- (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 ”.

15 Calculation of billing authority's council tax base

- (1) In section 34 of the LGFA 1992 (calculations to be made in setting council tax: additional calculations where special item relates to part only of billing authority's area), after subsection (4) insert—

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“(5) Regulations under subsection (4) that apply to billing authorities in England may contain different rules for the purposes of calculating item TP in relation to different kinds of special item.”

- (2) In section 45 of the LGFA 1992 (calculations to be made in setting council tax: additional calculations where special item relates to part only of major precepting authority's area), after subsection (5) insert—

“(5A) Regulations under subsection (4) that apply to authorities in England may contain different rules for the purposes of calculating item TP in relation to different kinds of special item.

(5B) Regulations under subsection (4) that make provision by virtue of subsection (5A) may make consequential amendments to this Act.”

16 Provision of information about council tax

- (1) In Schedule 2 to the LGFA 1992, paragraph 2 (collection of council tax) is amended as follows.

- (2) After sub-paragraph (4)(i) (but before the word “and” following that paragraph) insert—

“(ia) that the authority must publish prescribed information in the prescribed manner;”.

- (3) In sub-paragraph (4)(j), after “when it serves a notice” insert “ or on the request of the person ”.

Status:

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