

2012 No. 460

COUNCIL TAX, ENGLAND

**The Local Authority (Referendums Relating to Council Tax
Increases) Regulations 2012**

<i>Made</i>	- - - -	<i>21st February 2012</i>
<i>Laid before Parliament</i>		<i>24th February 2012</i>
<i>Coming into force</i>	- -	<i>16th March 2012</i>

The Secretary of State, in exercise of the powers conferred by sections 31(6), 52ZK(8), 52ZM(4), 52ZN(8) and 52ZX(5), (7) and (8) and 113(1) of the Local Government Finance Act 1992(a) and section 235(2) and 236(1) of the Localism Act 2011(b), makes the following Regulations:

PART 1

General

Citation, commencement, application and interpretation

- 1.—(1) These Regulations—
- (a) may be cited as the Local Authority (Referendums Relating to Council Tax Increases) Regulations 2012, and
 - (b) come into force on 16th March 2012.
- (2) These Regulations apply in relation to England only.
- (3) In these Regulations, “the Act” means the Local Government Finance Act 1992.

Consequential amendments

2. The Schedule (amendments consequential and to give full effect to Chapter 1 of Part 4 of the Localism Act 2011) to these Regulations has effect.

(a) 1992 c.14. Section 31(6) was inserted into the Local Government Finance Act 1992 by paragraph 2(5) of Schedule 6 to the Localism Act 2011 (c.20) and sections 52ZK, 52ZM, 52ZN and 52ZX were inserted into the Local Government Finance Act by Schedule 5 to the Localism Act 2011. The term “prescribed” is defined in section 116(1) of the Local Government Finance Act 1992.

(b) 2011 c.20.

PART 2

Major precepting authorities

Major precepting authority's duty to notify appropriate billing authorities

3. For the purposes of section 52ZK(8) of the Act (major precepting authority's duty to notify appropriate billing authorities), the date prescribed as the date by which a major precepting authority must make a notification under section 52ZK(1) of the Act is—

- (a) in relation to the financial year beginning on 1st April 2012, 17th March in the financial year preceding that year; and
- (b) in relation to any financial year beginning on or after 1st April 2013, 8th March in the financial year preceding that year.

Expenses incurred by a billing authority

4.—(1) This regulation applies in relation to a financial year if—

- (a) by the date prescribed by regulation 3 a major precepting authority has notified each appropriate billing authority under section 52ZK of the Act in relation to that year, and
- (b) one or more of those billing authorities fails to hold a referendum in relation to the major precepting authority's relevant basic amount of council tax for that year in accordance with section 52ZN (arrangements for a referendum) of the Act.

(2) In relation to the precept mentioned in section 52ZK(2) of the Act, sections 31(5) (substituted amounts) and 52ZN(7) of the Act do not apply to a defaulting authority.

(3) In relation to the precept mentioned in section 52ZK(2) of the Act, section 31(5) of the Act applies in relation to a complying authority with the following modifications—

- (a) if there is only one defaulting authority, for “the major precepting authority” substitute “the defaulting authority”; or
- (b) if there is more than one defaulting authority, for “the major precepting authority” substitute “each defaulting authority an equal proportion of the”.

(4) In relation to the precept mentioned in section 52ZK(2) of the Act, section 52ZN(7) of the Act applies in relation to a complying authority with the following modifications—

- (a) if there is only one defaulting authority, for “the precepting authority” substitute “the defaulting authority”; or
- (b) if there is more than one defaulting authority, for the words from “from” to the end substitute “an equal proportion of the expenses incurred by it in connection with the referendum from each defaulting authority.”.

(5) In this regulation—

“complying authority” means an appropriate billing authority mentioned in paragraph (1)(a) which is not a defaulting authority, and

“defaulting authority” means an appropriate billing authority to which paragraph (1)(b) applies.

PART 3

Local precepting authorities

Local precepting authority's duty to notify appropriate billing authority

5. For the purposes of section 52ZM(4) (local precepting authority's duty to notify appropriate billing authority) of the Act, the date prescribed as the date by which a local precepting authority must make a notification under section 52ZM(1) of the Act is—

- (a) in relation to the financial year beginning on 1st April 2012, 17th March in the financial year preceding that year; and
- (b) in relation to any financial year beginning on or after 1st April 2013, 8th March in the financial year preceding that year.

Expenses incurred by a billing authority

6.—(1) This regulation applies in relation to a financial year if—

- (a) by the date prescribed by regulation 5 a local precepting authority has notified its appropriate billing authority under section 52ZM of the Act in relation to that year, and
- (b) the billing authority fails to hold a referendum in relation to the local precepting authority's relevant basic amount of council tax for that year in accordance with section 52ZN (arrangements for a referendum) of the Act.

(2) Sections 31(4A)(a) and 52ZN(7) of the Act do not apply in relation to the billing authority mentioned in paragraph (1)(b).

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

21st February 2012

Bob Neill
Parliamentary Under Secretary of State
Department for Communities and Local Government

(a) Section 31(4A) was inserted into the Local Government Finance Act 1992 by paragraph 2(3) of Schedule 6 to the Localism Act 2011.

SCHEDULE

Regulation 2

Amendments consequential and to give full effect to Chapter 1 of Part 5 of the Localism Act 2011

The Local Authorities (Calculation of Council Tax Base) Regulations 1992(a)

Regulation 2

1. In regulation 2 (application of rules), for “33(1) and 44(1)” substitute “31B(1)(b), 42B(1)(c), and 52ZX(5)”.

Regulation 3

2. In regulation 3(1) (calculation of billing authority’s council tax base), for “33(1)” substitute “31B(1)”.

Regulation 6

3. In regulation 6 (calculation of billing authority’s council tax base for a part of its area)—

- (a) in paragraph (1)—
 - (i) after “34(3)” insert “and item T in section 52ZX(5)”, and
 - (ii) in the definition of item N, for “33(1)” substitute “31B(1)”,
- (b) in paragraph (2)(b), for “33(1)” substitute “31B(1)”, and
- (c) in paragraph (2)(d)(ii), after each occurrence of “34(3)” insert “and item T in section 52ZX(5)”.

Regulation 7

4. In regulation 7 (calculation of council tax base for the purposes of a major precepting authority)—

- (a) in paragraph (1)—
 - (i) before “33(1)” insert “31B(1) or”, and
 - (ii) before “44(1)” insert “42B(1) or”, and
- (b) in paragraph (2), before “44(1)” insert “42B(1) or”.

Regulation 8

5. In regulation 8 (prescribed period)—

- (a) in paragraph (1)—
 - (i) for “33(1) and 44(1)” substitute “31B(1), 42B(1), and 52ZX(5)”, and
 - (ii) for “(2) and (3)” substitute “(2) to (4)”, and
- (b) after paragraph (3), insert—

(a) S.I. 1992/612, amended by S.I. 1992/1742, 1992/2943, 1999/3437 and 2003/3012; there are other amending instruments but none is relevant.

(b) Section 31B was inserted into the Local Government Finance Act 1992 by section 74 of the Localism Act 2011 (c.20).

(c) Section 42B was inserted into the Local Government Finance Act 1992 by section 75 of the Localism Act 2011.

“(4) In respect of the financial year beginning on 1st April 2012, the prescribed period for the purposes of item T in section 52ZX(5) is the period beginning on 1st April 2012 and ending on 31st May 2012.”

Regulation 9

6. In regulation 9(1) (determination of billing authority’s council tax base), for “33(1)” substitute “31B(1)”.

Regulation 10

7. In regulation 10 (determination of council tax base for the purposes of a major precepting authority)—

- (a) in paragraph (1), for “44(1)” substitute “42B(1)”, and
- (b) in paragraph (4), for “33(1)” substitute “31B(1)”.

New regulation 10A

8. After regulation 10 insert—

“Determination of council tax base for the purposes of a local precepting authority

10A.—(1) Item T in section 52ZX(5) shall, in a case where a billing authority fails to notify its calculation for a financial year to the local precepting authority concerned within the period prescribed in regulation 8, be determined by the local precepting authority in the following manner.

(2) Item T shall be determined in accordance with the rules contained in regulation 6 on the basis of all the information available to the local precepting authority but, for this purpose, the relevant day in respect of a financial year is the day on which the authority calculates the relevant amount for the year for the purposes of the determination.

(3) The local precepting authority shall, in particular, have regard to any amount calculated for the preceding financial year by the billing authority—

- (a) as item TP in section 34(3) for the part of its area falling within the local precepting authority’s area, or
- (b) as item T in section 52ZX(5).”

The Transport Levying Bodies Regulations 1992(a)

Regulation 12

9. In regulation 12 (anticipation of levies: billing authorities), for each occurrence of “32” substitute “31A”(b).

Regulation 13

10. In regulation 13 (anticipation of levies: county councils), for each occurrence of “43” substitute “42A”(c).

(a) S.I. 1992/2789, to which there are amendments not relevant to these Regulations.

(b) Section 31A was inserted into the Local Government Finance Act 1992 by section 74 of the Localism Act 2011.

(c) Section 42A was inserted into the Local Government Finance Act 1992 by section 75 of the Localism Act 2011.

The Levying Bodies (General) Regulations 1992(a)

Regulation 11

11. In regulation 11 (anticipation of levies), in paragraph (2)—

- (a) for “32” substitute “31A”, and
- (b) for “43” substitute “42A”.

The National Park Authorities (Levies) (England) Regulations 1996(b)

Regulation 9

12. In regulation 9 (anticipation of levies), in paragraph (3), for “that section 32 or 43” substitute “section 31A or 42A of the 1992 Act (calculation of council tax requirement by authorities in England)”.

The Charter Trustees Regulations 1996(c)

Regulation 13

13. In regulation 13 (precepts)—

- (a) in paragraph (2), in the text substituted for section 41(3) of the Local Government Finance Act 1992, for each occurrence of “32” substitute “31A”,
- (b) in paragraph (3)(a)—
 - (i) for “32” substitute “31A”,
 - (ii) for “budget” substitute “council tax”, and
 - (iii) after “(6)” insert “(b)”,
- (c) in paragraph (4), for “32” substitute “31A”, and
- (d) in paragraph (5)—
 - (i) for “50” substitute “49A”,
 - (ii) for each occurrence of “budget” substitute “council tax”, and
 - (iii) for “local precepting authorities” substitute “authorities in England”.

The Local Authorities (Standing Orders) (England) Regulations 2001(d)

Schedule 2

14.—(1) In Part 1 (authority with mayor and cabinet executive or mayor and council manager executive)—

- (a) in paragraph 8(a)—
 - (i) for “32 to 37” substitute “31A, 31B and 34 to 36A(e)”,
 - (ii) for “43 to 49” substitute “42A, 42B and 45 to 49(f)”, and
 - (iii) for “budget” substitute “council tax”, and
- (b) omit paragraph 14.

(a) S.I. 1992/2903, to which there are amendments not relevant to these Regulations.
(b) S.I. 1996/2794, amended by S.I. 1996/610; there are other amending instruments but none is relevant.
(c) S.I. 1996/263, to which there are amendments not relevant to these Regulations.
(d) S.I. 2001/3384, to which there are amendments not relevant to these Regulations.
(e) Sections 34 to 36 were amended by paragraphs 12 to 14 of Schedule 7 to the Localism Act 2011 and section 36A was inserted into the Local Government Finance Act 1992 by paragraph 15 of that Schedule.
(f) Sections 45 to 49 were amended by paragraphs 22 to 26 of Schedule 7 to the Localism Act 2011.

- (2) In Part 2 (authority with leader and cabinet executive)—
- (a) in paragraph 6(a)—
 - (i) for “32 to 37” substitute “31A, 31B and 34 to 36A”, and
 - (ii) for “43 to 49” substitute “42A, 42B and 45 to 49”.
 - (b) omit paragraph 10.

The Local Government Finance (New Parishes) (England) Regulations 2008(a)

Regulation 3

- 15.** In regulation 3 (calculation of budget requirement)—
- (a) in the heading, for “budget” substitute “council tax”,
 - (b) in paragraph (2)—
 - (i) for “32” substitute “31A”, and
 - (ii) for “budget” substitute “council tax”,
 - (c) in paragraph (3)—
 - (i) for “32” substitute “31A”, and
 - (ii) after “(6)” insert “(b)”, and
 - (d) in paragraph (4)—
 - (i) for “50” substitute “49A”,
 - (ii) for each occurrence of “budget” substitute “council tax”, and
 - (iii) for “local precepting authorities” substitute “authorities in England”.

The Local Government (Structural Changes) (Further Financial Provisions and Amendment) Regulations 2009(b)

Regulation 3

- 16.** In regulation 3 (establishment of collection funds)—
- (a) for “32” substitute “31A”, and
 - (b) for “budget” substitute “council tax”.

Regulation 6

17. In regulation 6 (anticipation of amounts required to discharge functions of charter trustees)—

- (a) in paragraph (1)—
 - (i) for “32” substitute “31A”, and
 - (ii) for “budget” substitute “council tax”, and
- (b) for paragraph (3) substitute—

“(3) Where paragraph 1 applies, section 36A(1) of the 1992 Act (substitute calculations: England) shall have effect as if after “purpose” there were inserted “and taking into account the modification of that section by regulation 6(1) of the Local Government (Structural Changes) (Further Provisions and Amendment) Regulations 2008.”.

(a) S.I. 2008/626, to which there are amendments not relevant to these Regulations.
(b) S.I. 2009/5, to which there are amendments not relevant to these Regulations.

Regulation 11

18. In regulation 11 (anticipation of levy)—

- (a) in paragraph (4)(a), for “32” substitute “31A”, and
- (b) in paragraph 4(b), for “43” substitute “42A”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in relation to council tax referendums and the changes to local authority requisite calculations made by the Localism Act 2011 (“the Act”).

The Regulations apply in relation to England only (regulation 1). Regulation 2 introduces the Schedule to the Regulations, which amends a number of existing statutory instruments. The amendments are consequential and give full effect to the changes made by the Act in respect of council tax referendums and requisite calculations.

Part 2 of the Regulations concerns major precepting authorities. Regulation 3 prescribes the date by which a major precepting authority must notify its billing authorities if it has set an excessive relevant basic amount of council tax for a financial year.

Where a billing authority holds a referendum on behalf of a major precepting authority it can recover its costs from the precepting authority. Regulation 4 modifies that position where one or more of the billing authorities (“the defaulting authorities”) fails to hold a referendum in accordance with Chapter 4ZA of Part 1 of the Local Government Finance Act 1992. In this situation the defaulting authorities are unable to recover their costs and they must also pay the costs of any billing authorities which do hold a referendum in accordance with Chapter 4ZA.

Part 3 of the Regulations concerns local precepting authorities. Regulation 5 prescribes the date by which a local precepting authority must notify its billing authority if it has set an excessive relevant basic amount of council tax for a financial year.

Regulation 6 makes similar provision to regulation 4. Since a local precepting authority can issue a precept to one billing authority only, the modifications made by regulation 6 simply ensure that the billing authority cannot recover its costs from the precepting authority where it fails to hold a referendum in accordance with Chapter 4ZA.

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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(a) S.I. 2011/696, to which there are amendments not relevant to these Regulations.

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