



**OFFICE OF THE  
DEPUTY PRIME MINISTER**

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27 November 2003

## **COUNCIL TAX INFORMATION LETTER 7/2003**

This is Council Tax Information Letter 7/2003. The topics covered in this letter are:

- **Local Government Act 2003: implementation**
- **Exception of students from joint and several liability**
- **Second homes and long term empty homes**
- **Local discounts**
- **Enforcement Regulations**
- **Combined fire authorities as major preceptors**
- **Council tax base**
- **Use of council tax information for empty homes purposes**
- **Council tax liability for care homes**

Please note that this information letter should not be considered as a definitive interpretation of the legislation. Authorities should seek their own legal advice, as appropriate.

### **Local Government Act 2003 (LGA 2003): implementation**

As noted in CTIL6/2003, the Local Government Bill received Royal Assent on 18 September and all the primary powers on council tax, except section 83, came into effect automatically on 18 November. Section 83 (power of combined fire authorities to precept) was brought into force on 18 November by the Local Government Act 2003 (Commencement No. 1 and Transitional Provisions and Savings) Order 2003 (SI 2003/2938).

Please be aware that although all the sections of Part 6 are now in force, some for example require the Secretary of State to make regulations and so these are not available for local authority use until the relevant regulations are made. See below for the latest information on making the powers available.

### **Exception of students from joint and several liability (section 74 of LGA 2003)**

Section 74 excepts students from joint and several liability. Although this section came into force on 18 November, section 74(3) makes clear that this change does not take effect until 1 April 2004.

## **Second homes and long term empty homes (new section 11A Local Government Finance Act 1992 inserted by section 75 of the LGA 2003)**

The power for billing authorities to change the discount on second homes and long term empty property will be available from 18 December 2003 when the necessary regulations defined the prescribed classes come into force. Annex A to this letter provides more information.

## **Local discounts (new section 13A LGFA 1992 inserted by section 76 of the LGA 2003)**

This power is available now to local authorities as no regulations need to be made to bring this into force. There is no requirement for a full council meeting. Section 13A discounts are applied to the amount which a person is liable to pay and so exemptions, disregards and discounts must be taken into account before applying the section 13A discount. Authorities will wish to bear this in mind when designing any section 13A discount arrangements.

We have made some directions under section 98 of the Local Government Finance Act 1988 in relation to the collection fund to ensure that any local discount is funded by the billing authority - copy of the text of these directions is at Annex B.

We will be amending the Council Tax and Non-Domestic Rating (Demand Notices)(England) Regulations shortly to ensure that council tax demand notices refer to any local discount.

## **Enforcement Regulations (amendments to schedule 4 of the LGFA 1992 as inserted by sections 80 - 82 LGA 2003)**

We are still considering the responses to the consultation exercise and so we have not yet made the regulations which would enable billing authorities to use these new powers. We aim to have the regulations in force before the beginning of the next financial year

## **Combined fire authorities as major preceptors (section 83 LGA 2003)**

We will be amending the Council Tax and Non-Domestic Rating (Demand Notices)(England) Regulations shortly to require the 2004/05 bills to have a footnote to explain that some year on year % figures are not comparable.

## **Council tax base for tax setting purposes (section 84 LGA 2003)**

Section 84 has amended section 67 of the LGFA 1992 which means that a full council meeting is no longer required to adopt the council tax base that is used when setting council taxes It will therefore be in effect in time for the tax-setting calculations for 2004/05. It is now for each local authority to make its own arrangements for adopting the council tax base.

However the regulations in relation to setting of the council tax base have been amended to reflect the changes introduced by Part 6. The Local Authorities (Calculation of Council

Tax Base)(Amendment)(England) Regulations 2003 (SI2003/3012) which come in to effect on 19 December 2003 now reflect the ability of billing authorities to increase the tax base by determining to reduce or remove the discount under new section 11A of the Local Government Finance Act 1992. Note that the period in which the tax base must be set is changed to run from 20 December 2003 to 31 January 2004 for 2004/05 because the power to make determination under section 11A was not available earlier. The normal 1 December to 31 January period will apply in subsequent years.

These changes relate to the tax base for tax setting purposes and ensure that preceptors can take account of any change which the billing authority makes to the tax base by changing second homes and long term empty discounts. The definitions in the Local Government Finance report will deliver the policy that local authorities will keep any additional revenue arising from reducing the second homes discount but not any extra revenue arising from the reducing or removing the long term empty discount.

This does not affect the position of local precepting authorities who will continue to calculate their precept as normal and will not benefit from the change in tax base arising from changes to discounts under section 11A.

### **Use of council tax information for empty homes purposes (section 85 LGA 2003)**

Section 85 is now in force and allows billing authorities to use information obtained for council tax purposes to be used for the purpose of identifying vacant dwellings and for taking steps to bring vacant dwellings back into use.

### **Council tax liability for care homes**

We consulted in the summer on ensuring that care homes could not be disaggregated and that the owner would be liable for council tax, as well as updating the definition of care homes. We hope to make the necessary regulations shortly.

### **Contact**

If you have any enquiries about anything in this letter, please contact Rai Tind on 020 7944 4187 or Brian Entwistle on 020 7944 4186 or fax to 020 7944 4179. Email: [council.tax@odpm.gsi.gov.uk](mailto:council.tax@odpm.gsi.gov.uk)



**STEPHEN BENTON**

**Second homes and long term empty homes (new section 11A Local Government Finance Act 1992 inserted by section 75 of the Local Government Act 2003)**

Section 11A gives the Secretary of State the power to prescribe classes of dwellings for which the billing authority may either reduce the current 50% discount to 10% or for which they may reduce or completely remove it, in all or part of their area.

The Council Tax (Prescribed Classes of Dwellings)(England) Regulations (SI 2003/3011) set out the classes of dwellings where authorities can change the discounts in all or part of their area. There is no provision for a billing authority to apply time limited changes - the determination must apply to all dwellings in the class set out in the regulations, but different arrangements can apply in different parts of an authority's area. The regulations do not exclude exempt dwellings because the classes are defined in terms of chargeable dwellings and this excludes anything which is exempt.

The regulations set out two classes of second homes:

**Class A:** Dwellings which are not the sole or main residence of an individual, which is furnished and the occupation of which is restricted by a planning condition preventing occupancy for a continuous period of at least 28 days.

**Class B:** Dwellings which are not the sole or main residence of an individual, which is furnished and the occupation of which is not restricted by a planning condition preventing occupancy for a continuous period of at least 28 days.

This is slightly reworded from the consultation draft which used the term "(not) prohibited by law". In the light of consultation responses we have changed this to "(not) restricted by a planning condition".

The regulations provide that a billing authority may determine to reduce the council tax discount from the nationally set 50% to a minimum 10% in some or all of its area except where the liable person is required to live in job related accommodation as part of his job - see the Schedule to the regulations and the explanatory notes for further information.

The definition of job related dwelling has been extended so that the discounts cannot be reduced on the second home whether it is the main residence that is job related or whether it is the second home.

Authorities will wish to bear in mind that any changed discount will also apply to landlords who are liable for council tax on any furnished let property between lettings. In finalising the regulations we acknowledged this was an issue but we concluded that there were practical difficulties in defining a class by reference to the intention of a landlord as to whether a property was to be let or not.

The regulations also provide for one class of dwelling which is long term empty:

**Class C:** Dwellings which are unoccupied and substantially unfurnished

The regulations provide that a billing authority may determine to reduce the council tax discount from the nationally set 50% to zero in some or all of its area. Class C applies once any exempt period ends and so the new regulations do not need to define when the changed discount starts to apply.

These regulations will come into force on 18 December 2003. Authorities need a full council meeting to make the determination - this is required as a result of an amendment to section 67 of the Local Government Finance Act 1992 made by paragraph 50(a) of Schedule 7 of the Local Government Act 2003.

We will be amending the Council Tax and Non-Domestic Rating (Demand Notices)(England) Regulations shortly to ensure that council tax demand notices refer to any changed discount.

## **LOCAL GOVERNMENT FINANCE ACT 1988**

### **The Collection Fund (Council Tax Reductions) (England) Directions 2003**

- 1 (1) The First Secretary of State, in exercise of his powers under sections 98(4) to (6) of the Local Government Finance Act 1988, hereby makes the following directions.
  - (2) The directions contained below (CT98(4)/31, CT98(4)/32, CT98(5)/32 and CT98(5)/33) have effect for the financial year beginning on 1 April 2004 and subsequent years.
- 2 (1) In these directions -

“the 1988 Act” means the Local Government Finance Act 1988,

“the 1992 Act” means the Local Government Finance Act 1992,

“instalment day” means:-

  - (a) a day on which an amount is or will be transferred from the authority’s collection fund under section 97(1) of the 1988 Act in accordance with the Local Authorities (Funds) (England) Regulations 1992 (S.I. 1992/2428),
  - (b) where no such amount is or will be so transferred in the financial year in question, the first working day in May and in each subsequent month up to and including February in that year,

and (in either case) the last working day of the financial year in question.
- (2) Any reference in these directions (however framed) to amounts liable to be paid in respect of council tax is a reference to amounts liable to be paid before any reductions made for council tax benefit.

### **Direction CT98(4)/31 under section 98(4) of the 1988 Act: adjustment of reduced amounts of council tax under section 13A of the 1992 Act**

- 3 The First Secretary of State hereby directs that a billing authority shall transfer to its general fund from its collection fund the amount (if it is a positive amount) calculated in accordance with the following formula -

$$A - B$$

where -

A is the total of the amounts calculated by the authority in relation to the financial year under direction CT98(5)/32 below,

B is the amount by which the amounts liable to be paid to the authority in respect of council tax as it has effect for the financial year are less than the amounts which would be so payable but for any reductions granted by the billing authority under section 13A of the 1992 Act

such amount, if any, to be transferred on the last instalment day of the financial year.

**Direction CT98(4)/32 under section 98(4) of the 1988 Act: adjustment of reduced amounts of council tax under section 13A of the 1992 Act for preceding years**

- 4 The First Secretary of State hereby directs that a billing authority shall transfer to its general fund from its collection fund the amount (if it is a positive amount) calculated in accordance with the following formula -

$$A - B$$

where -

A is the total of the amounts calculated by the authority in relation to any preceding financial year, under directions CT98(5)/32 and CT98(5)/33 below, less the total of the amounts calculated by the authority in relation to that preceding year under direction CT98(4)/31 above and under this direction,

B is the amount by which the amounts liable to be paid to the authority in respect of council tax as it has effect for that preceding financial year are less than the amounts which would be so payable but for any reductions granted by the billing authority under section 13A of the 1992 Act;

such amount, if any to be transferred on the last instalment day of the financial year.

**Direction CT98(5)/32 under section 98(5) of the 1988 Act: reduced amounts of council tax under section 13A of the 1992 Act**

- 5 The First Secretary of State hereby directs that a billing authority shall transfer to its collection fund from its general fund the amount (if it is a positive amount)

calculated on an instalment day in the financial year in accordance with the following formula -

$$\frac{A - B}{C}$$

where -

A is the amount, calculated on the instalment day, by which the amounts liable to be paid to the authority in respect of council tax as it has effect for the financial year are less than the amounts which would be so payable but for any reductions granted by the billing authority under section 13A of the 1992 Act,

B is the total of the amounts calculated by the authority, under this direction and in relation to the financial year, on instalment days preceding that on which the amount is calculated,

C is the number of instalment days remaining (immediately before the day on which the amount is calculated) in the financial year;

such amount, if any, to be transferred on or before the last instalment day in the financial year.

**Direction CT98(5)/33 under section 98(5) of the 1988 Act: reduced amounts of council tax under section 13A of the 1992 Act for preceding years**

- 6 The First Secretary of State hereby directs that a billing authority shall transfer to its collection fund from its general fund the amount (if it is a positive amount) calculated on an instalment day in the financial year in accordance with the following formula -

$$A - B$$

where -

A is the amount, calculated on the instalment day, by which the amounts liable to be paid to the authority in respect of council tax as it has effect for any preceding financial year are less than the amounts which would be so payable but for any reductions granted by the billing authority under section 13A of the 1992 Act,

B is the total of the amounts calculated by the authority in relation to that preceding financial year under direction CT98(5)/32 above and under this direction, less the total of the amounts calculated by the authority under directions CT98(4)/31 and CT98(4)/32 above, in relation to that preceding financial year;

such amount, if any, to be transferred on or before the last instalment day in the financial year.

Signed by authority of the First Secretary of State

Andrew Allberry  
Local Government Finance 2 (Taxation Valuation and General Policy) Division  
in the Office of the Deputy Prime Minister

28 November 2003