

JEREMY KETLEY
COUNCIL TAX POLICY
LOCAL GOVERNMENT TAXATION DIVISION

DEPARTMENT OF THE ENVIRONMENT
TRANSPORT AND THE REGIONS
ZONE 5/H6
ELAND HOUSE
BRESSENDEN PLACE
LONDON
SW1E 5DU

DIRECT LINE: 020 7944 4206
DIVISIONAL ENQUIRIES: 020 7944 4208
FAX: 020 7944 4169
GTN CODE: 3533 4206
E-MAIL: jeremy_ketley@detr.gsi.gov.uk

WEB SITE: www.detr.gov.uk

22 MARCH 2001

Dear Chief Finance Officer

COUNCIL TAX INFORMATION LETTER NO.22

Welcome to CTIL22. The matters covered in this CTIL are:

- Enforcement: changes to Community Charge, Council Tax and Non-Domestic Rates Regulations
- Discount disregards: change in the name of certain qualifying benefits
- The Encon case
- Execution of Arrest Warrants
- Asylum seekers: roll out of NASS support
- New branch head

Enforcement: changes to Community Charge, Council Tax and Non-Domestic Rates Regulations.

New regulations, The Community Charges, Council Tax and Non-Domestic Rating (Enforcement) (Magistrates' Courts) (England) Regulations 2001, (S.I. 2001/362), have been made and will come into force on 1 April 2001. These bring into force a minor consequential amendment following the Access to Justice Act 1999.

At present, where a warrant is issued or a term of imprisonment has been fixed, but the sentence has not begun or been fully served, in certain prescribed circumstances, local authorities are required to notify the clerk to the court of changes to the amount owed. The regulations will have the effect of requiring notification to be made to the justices' chief executives instead.

Copies of the regulations have been despatched to local authorities.



INVESTOR IN PEOPLE

Discount disregards: changes to certain qualifying benefits

We are aware that the “disability working allowance” payable under section 129 of the Social Security Contributions and Benefits Act 1992, one of the qualifying benefits for discount disregards, has been renamed the “disabled person’s tax credit”.

The DSS have advised that there has not been any underlying change to the entitlement to or nature of the benefit, hence there is no need to amend the Council Tax (Additional Provisions for Discount Disregards) Regulations 1992 (S.I. 1992/552) to continue entitlement to the discount disregard. In future, however, we may make an amendment, when we next make substantive changes to the Council Tax (Discount Disregards) Order 1992 (S.I. 1992/548), for ease of reference.

Section 64 of the Welfare Reform and Pensions Act 1999 (coming fully into force on 6 April 2001) provides for a new category of people to become entitled to incapacity benefit under section 30A of the Social Security Contributions and Benefits Act 1992. Section 65 of that Act, which also comes fully into force on 6 April 2001, abolishes severe disablement provision, although there is a saving provision for existing recipients of the allowance. We are making no changes to the Council Tax (Discount Disregards) Order 1992 and the Council Tax (Additional Provisions for Discount Disregards) Regulations 1992 as a result of either of these changes to the qualifying benefits.

Billing Errors: the *Encon* case

I attach a copy of a recent Non-Domestic Rates information letter in case you have not seen this. It contains guidance in the light of the *Encon* case about rectifying billing errors. Although this was a Non-Domestic Rates case, as the information letter states, the case may have implications for the billing and collection of council tax. So, there may be circumstances where you may need to seek your own legal advice on the application of the *Encon* case to the collection and enforcement of council tax as well as NDR.

Execution of Arrest Warrants

On 21 December, Hilary Armstrong wrote to Council Leaders, and we copied to Chief Finance Officers, that from 1 April 2001, the magistrates courts will take on formal responsibility for execution of arrest warrants. As explained in the letter, a number of local authorities expressed a desire to be able to continue executing their own warrants. This will still be possible, under the Council Tax (Administration and Enforcement) Regulations 1992, following the transfer of responsibility from police to the magistrates courts.

However, it seems timely to remind authorities of the substance of the advice which we previously issued in CTIL 7 about the contracting out of the execution of arrest warrants by local authorities. Section 71 of the Deregulation and Contracting Out Act 1994 prevents the Secretary of State from making an order under section 70 of that Act to permit a local authority to contract out the exercise of any function if the exercise of that function, or a failure to exercise it, may affect the liberty of an individual. The IRRV and others have expressed concern that this provision may prevent a local authority from contracting out, for example, bailiff firms to execute arrest warrants. The Local Authorities (Contracting Out of Tax Billing, Collection and Enforcement Functions) Order 1996 (S.I. 1996/1880) allows authorities to contract out certain of their council tax

enforcement functions. It does not provide, however, for authorities to contract out the application for the issue, or execution of warrants of commitment to prison.

We cannot offer an authoritative interpretation of the law, which is of course a matter for the courts. Our informal view is that an authority could not appoint a bailiff to execute on their behalf a warrant which the court has addressed to the authority. However, there is nothing to prevent a Magistrate from directing the warrant for arrest to any other person, or a warrant of commitment to the authority and another person. The execution of the warrant would not in that case be on behalf of the authority and would not therefore involve the delegation or contracting out of any of the authority's functions.

Asylum Seekers: roll out of NASS support

I have had some queries from authorities who were not aware of the roll out of National Asylum Seeker Service (NASS) support for asylum seekers in their areas. Attached is a note prepared by NASS the on the roll out and effective dates for different local authority areas.

New Team Leader

Finally, the Council Tax Branch, or LGF2B as we are now formally known, has a new branch head - Heather Whicker - 0207 944 4263.

Electronic Distribution of Council Tax Information Letters

Please note that within the next six months we intend to circulate all council tax information letters electronically. Please contact Barbara Paterson (e-mail address barbara_paterson@detr.gsi.gov.uk) and give her details of your e-mail address.

JEREMY KETLEY