



OFFICE OF THE
DEPUTY PRIME MINISTER

Local Government Bill
Part 6 (Council Tax Provisions)
Consequential Regulations and Directions
A Consultation Paper

September 2003

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Local Government Bill

Part 6 (Council Tax Provisions)

Consequential Regulations and Directions

A Consultation Paper

Purpose

1. This consultation paper seeks views on the draft regulations and directions that will give effect to Part 6 (the council tax provisions) of the Local Government Bill in England. Comments are invited on the wording and effect of the regulations and directions. It is not a consultation exercise on the policy behind the provisions of the Bill.
2. A copy of this consultation paper has been sent to all English billing and major precepting authorities, the Local Government Association, the Valuation Office Agency, the Chartered Institute of Public Finance Accounts and The Institute of Revenues, Rating and Valuation, and has been made available on the web-site of the Office of the Deputy Prime Minister at www.odpm.gov.uk The Welsh Assembly Government is responsible for implementation in Wales and they will undertake their own consultation exercise.
3. We invite responses by **29 October 2003**. Please send paper responses to:

*Ronnie Gasper
LGF2, ODPM
Zone 5/H5, Eland House
Bressenden Place
London SW1E 5DU*

Or e-mail responses to counciltax.consultations@odpm.gov.uk Please indicate whether you are replying as an individual or on behalf of an organisation.

4. Further copies of this consultation paper can be obtained from 0870 1226 236 or on the ODPM website at <http://www.local-regions.odpm.gov.uk/conindex.htm>
5. The Office may wish to publish responses to this consultation exercise in due course or deposit them in the Office's Library. If so, all responses received will be published or deposited, unless a respondent specifically asks the Office to treat their response as confidential. Confidential responses will, nevertheless be included in any statistical summary of the numbers of comments received and views expressed. If you are replying by email, any confidentiality generated by your organisation's IT system will be overridden, unless you specifically include a confidentiality request in the main text of your submission to us.

Comments and Complaints

6. This consultation is being undertaken in accordance with the *Code of Practice on Written Consultation*; the main consultation criteria are set out in the note enclosed below.

7. Consultees will wish to note that the consultation period is shorter than recommended in order that the regulations and directions can be made in time for local authorities to use these new powers in 2004/05. The consultation paper was not issued earlier as we wanted to ensure that the primary legislation in the Local Government Bill would pass unamended and so therefore we delayed the consultation until after Lords Third Reading on 10 September.
8. Any comments or complaints about the consultation procedure should be sent to:

David Moir,
ODPM Consultation Co-ordinator
Room 3/17, 26 Whitehall
LONDON SW1A 2WH

E mail address: david.moir@odpm.gsi.gov.uk

Code of Practice on Written Consultation - Main Consultation Criteria

1. Timing of consultation should be built into the planning process for a policy (including legislation) or service from the start, so that it has the best prospect of improving the proposals concerned, and so that sufficient time is left for it at each stage.
2. It should be clear who is being consulted, about what questions, in what timescale and for what purpose.
3. A consultation document should be as simple and concise as possible. It should include a summary, in two pages at most, of the main questions it seeks views on. It should make it as easy as possible for readers to respond, make contact or complain.
4. Documents should be made widely available, with the fullest use of electronic means (though not to the exclusion of others), and effectively drawn to the attention of all interested groups and individuals.
5. Sufficient time should be allowed for considered responses from all groups with an interest. Twelve weeks should be the standard minimum period for a consultation.
6. Responses should be carefully and open-mindedly analysed, and the results made widely available, with an account of the views expressed, and reasons for decisions finally taken.
7. Departments should monitor and evaluate consultations, designating a consultation co-ordinator that will ensure the lessons are disseminated.

Local Government Bill Part 6 (Council Tax Provisions) Consequential Regulations and Directions

A Consultation Paper

Introduction

1. The council tax in England and Wales is provided for and governed by the provisions of the Local Government Finance Act 1992 (“the 1992 Act”). Part 6 of the Local Government Bill will insert new sections 11A and 13A and amend Schedules 2 and 4 to the 1992 Act in respect to council tax discounts and enforcement.
2. Now that the Local Government Bill is nearing the completion of its passage through Parliament we are seeking views on the secondary legislation that is necessary or consequential to the new council tax provisions in relation to England. We therefore enclose drafts of:
 - a) The Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003;
 - b) The Local Authority (Calculation of Council Tax Base) (Amendment) (England) Regulations 2003;
 - c) The Collection Fund (Council Tax Reductions) (England) Directions 2003; and
 - d) The Council Tax (Administration and Enforcement) (Amendment) (England) Regulations 2003.
3. We also propose to make amendments to the new Council Tax and Non Domestic Rating (Demand Notices)(England) Regulations which are about to be made and this consultation document explains the proposed changes.
4. The summary below explains how the policy objectives will be achieved by the proposals in this consultation document.
5. The relevant provisions in the Bill will come into force 2 months after the Bill receives Royal Assent, apart from clause 82a (relating to combined fire authorities as major preceptors) which will be brought into force by commencement order. Assuming the Bill is enacted, we propose to make the regulations and directions shortly after the provisions come into force. We hope this will be in mid to late November.

SUMMARY OF HOW PROPOSALS WOULD DELIVER POLICIES

1. DISCOUNTS FOR SECOND HOMES

Policy	To be achieved by
Billing authorities will be able to change the nationally set 50% council tax discount for second homes to a minimum 10%.	Section 11A of the Local Government Finance Act 1992. Second home classes prescribed by regulations 3(1), 4 and 5 of The Council Tax (Prescribed Classes of Dwellings)(England) Regulations (Annex A)
Billing authorities will not be able to change the discount for the second homes of people who are liable for council tax on dwellings provided by an employer (tied accommodation).	Regulation 6 and Schedule of The Council Tax (Prescribed Classes of Dwellings)(England) Regulations (Annex A) which defines second homes on which discounts may be granted by excluding this category.
Tax base for tax setting purposes must reflect additional capacity to raise council tax in some or all of the area	The Local Authority (Calculation of Council Tax Base)(Amendment) Regulations (Annex B)
Local authorities (including major precepting authorities) will retain any additional income received from reducing the discount	Definition of tax base for RSG purposes in the annual Local Government Finance Report – see paragraph 15
Council tax bills must show any changed discount	See paragraph 46

2. DISCOUNTS FOR LONG TERM EMPTY PROPERTY

Policy	To be achieved by
Billing authorities will be able to reduce or remove completely the nationally set 50% council tax discount for long term empty property.	Section 11A of the Local Government Finance Act 1992. Long term empty homes prescribed by regulations 3(2) and 7 of The Council Tax (Prescribed Classes of Dwellings)(England) Regulations (Annex A)
Tax base for tax setting purposes must reflect additional capacity to raise council tax in some or all of the area	The Local Authority (Calculation of Council Tax Base)(Amendment) Regulations (Annex B)
Local authorities (including major precepting authorities) will not retain any additional income received from reducing or removing the discount	Definition of tax base for RSG purposes in the annual Local Government Finance Report – see paragraph 16
Council tax bills must show any changed discount	See paragraph 46

3. LOCALLY DEFINED DISCOUNTS

Policy	To be achieved by
Billing authorities will fund any locally defined discounts which they wish to create	The Collection Fund (Council Tax Reductions) (England) Directions 2003 (Annex C)
Any new discount will be treated as discount/exemption for council tax administration purposes	Regulations 3 & 4 of the Council Tax (Administration and Enforcement) (Amendment) Regulations 2003 (Annex D)
Council tax bills must show any locally defined discount	See paragraph 46

SUMMARY OF HOW PROPOSALS WOULD DELIVER POLICIES (continued)

4. COUNCIL TAX ENFORCEMENT

Policy	To be achieved by
Billing authorities will be able to apply to the court for the quashing of a liability order made in error	Regulation 5 of the Council Tax (Administration and Enforcement) (Amendment) Regulations 2003 (Annex D)
Billing authorities will be able to recover costs incurred during abortive distress or committal procedures through attachment of earnings orders	Regulation 6 of the Council Tax (Administration and Enforcement) (Amendment) Regulations 2003 (Annex D)
New requirements for information to be provided by bailiffs	Regulation 7 & 8 of the Council Tax (Administration and Enforcement) (Amendment) Regulations 2003 (Annex D)
Ability to amalgamate charging orders	Regulation 9 of the Council Tax (Administration and Enforcement) (Amendment) Regulations 2003 (Annex D)

5. COMBINED FIRE AUTHORITIES AS PRECEPTORS

Policy	To be achieved by
Council tax bills to include footnote to show year on year % increase not comparable on some lines	See paragraphs 47 & 48

SUMMARY OF CONSULTATION QUESTIONS

A) The Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003

We would welcome comments on whether you think the definitions of the prescribed classes of dwellings, and of job-related dwellings, are clear, workable and appropriate (see paragraphs 6 – 11)

B) The Local Authorities (Calculation of Council Tax Base) (Amendment) (England) Regulations 2003

We would welcome your views on whether the amending regulations will ensure that the tax base of both billing authorities and major precepting authorities will reflect the additional capacity to raise tax in the light of the billing authority's decision to reduce the second home discount or reduce or remove the long term empty property discount. (see paragraphs 13 – 19)

C) The Collection Fund (Council Tax Reductions) (England) Directions 2003

We would welcome your views on whether these Directions will ensure that the loss of revenue caused by the granting of local discounts and exemptions will be fully met by the billing authority and not shared with the major precepting authorities. (see paragraphs 21 – 26)

D) The Council Tax (Administration and Enforcement) (Amendment) (England) Regulations 2003

Your views are invited on whether the regulations will achieve the intended objectives, as set out in paragraphs 28 - 43.

E. The Council Tax and Non Domestic Rating (Demand Notices)(England) (Amendment) Regulations 2003

Your views are invited on whether council tax demand notices:

- (i) should show discounts changed under new section 11A or granted under new section 13A of the 1992 Act in the same way as is required for discounts granted under section 11. (see paragraph 46)
- (ii) in areas with a combined fire authority (CFA) should show that the year on year % increase figures are not comparable for the CFA and the county or unitary authority which previously funded it. (see paragraph 47 & 48)

The Regulations and Directions

A) The Council Tax (Prescribed Classes of Dwellings)(England) Regulations 2003

6. The Local Government Bill inserts new section 11A into the 1992 Act. This section will give the Secretary of State the power to prescribe classes of dwellings for which billing authorities may either reduce the current 50% council tax discount to a minimum of 10%, and for which they may reduce or completely remove it, in all or part of their areas.
7. The Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003 prescribe three classes of dwellings for these purposes - Class A, B and C. Classes A and B define those dwellings for which billing authorities may reduce the council tax discount from between 50% to 10% (second homes), and Class C those dwellings where they may reduce the discount to nil (long term empty homes).
8. Second homes are defined in Classes A and B (Regulations 4 and 5). These are dwellings that are no one's sole or main residence and furnished. Class A dwellings are second homes where occupation is prohibited by law for a continuous period of at least 28 days in the relevant year, e.g. holiday homes or chalets subject to a planning condition restricting year round occupancy. Class B dwellings are second homes where occupation is not restricted. The definition of two classes will give local authorities more flexibility in determining changes in second homes discounts.
9. However the second homes for which the discount can be reduced do not include any dwelling that consists of a pitch occupied by a caravan or mooring occupied by a boat. Neither do second homes for which the discount can be reduced include dwellings where the liable person is also liable for council tax for another, job-related, dwelling provided to him or his spouse by reason of their employment, i.e. tied accommodation (regulation 6 and the Schedule to the regulations). Nor will billing authorities will be able to reduce the discount for second homes owned by service personnel who live in a Class O exempt job-related dwelling (accommodation provided by the Ministry of Defence).
10. The definition of "job-related dwelling" has been taken from the Council Tax (Prescribed Classes of Dwelling) (Wales) Regulations 1998 (S.I. 1998/105), although the definition of "director" has been amended to reflect current legislation. (Welsh billing authorities already have power under section 12 of the 1992 Act to reduce from 50% to 25%, or remove, the discount for second homes falling within the classes prescribed in those regulations).
11. Long term empty homes, for which the discount can be reduced or removed, are defined in Class C (regulation 7). These are dwellings that are unoccupied and substantially unfurnished, and which are not exempt from council tax.

CONSULTATION QUESTION A.

12. **We would welcome comments on whether you think the definitions of the prescribed classes of dwellings, and of job-related dwellings, are clear, workable and appropriate.**

B) The Local Authorities (Calculation of Council Tax Base) (Amendment) (England) Regulations 2003

13. English billing and major precepting authorities (e.g. county councils and police authorities) must calculate their tax base, (roughly speaking the band D equivalent number of dwellings in their area for which council tax is payable), in accordance with the provisions of the Local Authorities (Calculation of Council Tax Base) Regulations 1992 (SI 1992/612). The tax base calculated by a billing authority is then notified by it to any relevant major precepting authority, which aggregates the tax bases of the billing authorities in its area to arrive at its own tax base.
14. In calculating their tax base authorities take into consideration the reduction in council tax due to certain discounts. The fewer council tax discounts there are, the higher the tax base. A higher tax base gives the authority the choice of raising more money overall from council tax payers, or setting a relatively lower band D council tax.
15. It is the Government's intention that where a billing authority chooses to reduce the second homes discount, both the billing authority and major precepting authorities should benefit from an increase in their tax base used in their council tax setting decisions. The tax base used in the calculations of revenue support grant payable to those authorities in the annual Local Government Finance Report will not be increased. Therefore both billing and major precepting authorities will benefit financially from the billing authority's decision.
16. Where the billing authority reduces or removes the discount for long term empty homes (dwellings in Class C of the regulations at Annex A), this will also be taken into account in calculating the tax base for council tax setting purposes. However, because the Government will also take this into account in the tax base used in revenue support grant calculations, the authorities will not receive the same financial benefits.
17. The Local Authorities (Calculation of Council Tax Base) Regulations 1992 will also need to be amended to take account of the fact that under the new section 11A, the discount on second homes and long term empty homes can be varied across a billing authority's area or part of a billing authority's area.
18. The Local Authority (Calculation of Council Tax Base) (Amendment) (England) Regulations 2003 regulations amend SI 1992/612 so that the tax base calculations take account of any change to the second and long term empty home discounts. At present to reflect the reduction in council tax caused by a discount an adjustment is made to the number of chargeable dwellings by applying the 'appropriate percentage (25%)'. In the case of a second homes discount this is twice the appropriate percentage (50%). The amending regulations (regulation 2) will replace this with a new definition "a relevant percentage" to reflect the fact that under the new section 11A, a billing authority can reduce the council tax payable by percentages other than the appropriate percentage.

19. The amending regulations will also provide for the calculation of “the relevant amounts” by a billing authority for financial years beginning on or after 1 April 2004 (regulation 3). The relevant amount for each council tax band is a measure of the number of dwellings in that band after taking account of exempt dwellings and discounts. The council tax base for the whole of a billing authority’s area (item T in section 33(1) of the 1992 Act) is found by adding together the relevant amount for each council tax band and multiplying this by the authority’s estimate of its collection rate (see regulation 3 of the principal Regulations). When calculating the tax base for financial years beginning on or after 1 April 2004, the authority must take account of discounts under sections 11 and 11A of the 1992 Act.

CONSULTATION QUESTION B

20. We would welcome your views on whether the amending regulations will ensure that the tax base of both billing authorities and major precepting authorities will reflect the additional capacity to raise tax in the light of the billing authority’s decision to reduce the second home discount or reduce or remove the long term empty property discount. (see paragraphs 13 – 19)

C) The Collection Fund (Council Tax Reductions) (England) Directions 2003

21. The Local Government Bill inserts a new section 13A into the 1992 Act. This gives billing authorities the power to reduce the amount of council tax payable in respect to any chargeable dwelling in their area. They may reduce the tax payable to nil and apply it either on an individual or class of dwellings basis. This will allow the billing authority effectively to introduce local discounts and exemptions for local situations such as flooding and which are not already covered by the national discounts and exemptions.

22. It is the Government’s intention that the loss in council tax revenue resulting from the granting of local discounts and exemptions must be met by the billing authority and not passed onto the major precepting authorities.

23. We do not therefore propose to require authorities to take account of any council tax reductions under section 13A in their tax bases. This is because if the reductions were taken into account, this would reduce the tax bases of both billing and major precepting authorities. We do not want major precepting authorities to have to choose between setting lower budget requirements (while keeping council tax the same) or setting a relatively higher council tax, due to the billing authority’s decision under section 13A.

24. We therefore propose instead to make a directions (CT 98(5)/32) under our powers contained in section 98(5) of the Local Government Finance Act 1988 to require a billing authority to transfer from its general fund to its collection fund the amount by which the council tax has been reduced by local discounts and exemptions granted under the new section 13A.

25. Because the billing authority must include, along with its estimated expenditure, as part of its budget requirement under section 32(2)(e) of the 1992 Act, an estimate of

amounts to be transferred from its general fund to its collection fund pursuant to a direction under section 98(5) of the Local Government Finance Act 1988, this will ensure the billing authority meets the whole cost of the discounts in its own budget requirement and council tax calculations.

26. The draft directions CT 98(4)/31, CT 98(4)/32 and CT 98(5)/33 are “tidying up” directions to ensure that if the authority has transferred too much or too little from its general fund to its collection fund, in respect of the cost of the extra discounts and exemptions under section 13A, during a financial year, it can transfer any excess back from the collection fund in the year or in a subsequent year, or make a further transfer. These should help prevent a collection fund surplus or deficit arising.

CONSULTATION QUESTION C

27. We would welcome your views on whether these Directions will ensure that the loss of revenue caused by the granting of local discounts and exemptions will be fully met by the billing authority and not shared with the major precepting authorities.

D) The Council Tax (Administration and Enforcement) (Amendment) (England) Regulations 2003

28. Schedules 2 and 4 to the 1992 Act give the Secretary of State various regulatory powers in relation to the administration and enforcement of council tax. The Local Government Bill will amend Schedules 2 and 4, to allow regulations to be made to;

- a) provide for the quashing of liability orders issued in error;
- b) allow the recovery of costs incurred during abortive distress or committal procedures through attachment of earnings orders;
- c) allow the amalgamation of charging orders; and
- d) provide for the prescription of information that must be left by bailiffs when levying distress;
- e) require reductions in the council tax payable under the new section 13A of the 1992 Act to be treated as discounts (where the reduction is of less than 100%) or exemptions (where there is 100% reduction) for council tax administration purposes.

29. The regulations made under the provisions of Schedules 2 and 4 of the 1992 Act are the Council Tax (Administration and Enforcement) Regulations 1992 - SI 1992/613 (“the principal regulations”). These will be amended by the Council Tax (Administration and Enforcement) (Amendment) (England) Regulations 2003 (“the amending regulations”).

a) Quashing of liability orders

30. It can emerge, after a liability order has been made, that a mistake has occurred, for example, the taxpayer may later find receipts proving that he had paid. In such cases a billing authority will take no further action. However, some taxpayers view the liability order as an unwarranted stain on their character and demand that the

order be deleted from the record. At present, this can only be achieved on application to a higher court. The cost involved is unwarranted where there is no dispute about the facts.

31. Clause 81 of the Local Government Bill will allow regulations to be made giving a magistrates' court the power to quash a liability order if it is satisfied that the order should not have been made. This only applies where the local authority has applied to have the liability order quashed. It does not give council taxpayers a right to require magistrates' courts to reconsider all liability orders made. It will also allow the magistrates' court to substitute a liability order for a lower amount where it considers that a liability order could properly have been made had it been made for that lower amount (which would include a sum for the costs incurred in obtaining the original order).
32. Regulation 5 of the amending regulations will insert a new regulation 36A into the principal regulations to enable the quashing of a liability order that has been made in error and the substitution of a liability order with one of a lesser amount.

b) Making of attachment of earnings order

33. Quite often, a local authority only finds out about a debtor's employment details late in the enforcement process, after a failed attempt to levy distress, during an application for a warrant to commit the debtor to prison, when the magistrates' court must inquire into the debtor's means (regulation 47(2) of the principal regulations). At present only the outstanding amount of the council tax, plus a sum for costs for obtaining the original liability order, can be recovered through attachment of earnings. An attachment of earnings order cannot be made to include any costs incurred trying to levy distress after the issue of the liability order or any costs incurred during a committal hearing itself. Clauses 79(2) and (3) of the Local Government Bill will amend paragraph 5 of Schedule 4 to the 1992 Act to allow regulations to be made to enable billing authorities the recovery of costs incurred in trying to levy distress or incurred during the aborted committal proceeding through an attachment of earnings order.
34. Regulation 6 of the amending regulations inserts new regulation 37(1A) into the principal regulations allowing the recovery of costs incurred following an abortive attempt to levy distress or committal to prison via an attachment of earnings order

c) Charging Orders

35. Billing authorities can apply to the county court for a charge against the debtor's dwelling for which the council tax remains unpaid, in respect of a liability order made by the magistrates' court. The principal regulations currently stipulate that at the time of the application for the charging order, at least £1,000 of the amount for which the liability order was made must remain outstanding. Clause 80 of the Local Government Bill will amend Schedule 4 to the 1992 Act, to allow regulations to be made to enable local authorities to aggregate two or more liability orders made against the same person to meet the £1,000 limit to enable an application for a charging order.

36. Regulation 9 of the amending regulations amends regulation 50 of the principal regulations to allow billing authorities to combine outstanding amounts under separate liability orders, each of less than £1,000, to enable an application for a charging order, provided the aggregate amount is more than £1,000.

c) Information relating to distress

37. Currently the principal regulations require local authorities to send certain specified information to debtors prior to the levy of distress. Clause 79(4) of the Local Government Bill will amend Schedule 4 to the 1992 Act to allow regulations to be made to prescribe information which authorities or bailiffs must supply to debtors when distress has been levied or when distress has been attempted unsuccessfully.

38. Regulation 7 of the amending regulations amends regulation 45(5) of the principal regulations. This will require bailiffs to hand to the debtor or to leave at the premises where distress is to be levied a copy of the warning letter that was sent to the debtor at least 14 days before the visit.

39. Regulation 8 of the amending regulations inserts new regulation 45B into the principal regulations. This will require bailiffs to provide the debtor with information about the courses of action available to the debtor if he is aggrieved by the levy or attempted levy of distress, including contact details for the billing authority, name of the certificated bailiff with contact details of the bailiff company, time and date of visit, charges incurred to date, and the fact that a further visit may be required and further costs incurred. It will also require the bailiff to supply information that an unsuccessful attempt was made to levy distress for unpaid council tax, and the appropriate amount owing, where such an unsuccessful attempt is made.

e) Treatment of reductions in the council tax payable under section 13A of the 1992 Act for administration purposes

40. Schedule 2 to the 1992 Act allows regulations to be made relating to council tax administration. In particular it allows regulations to be made requiring the billing authority to supply certain information to the tax payer, or person who would be tax payer were the dwelling not exempt, and to require the billing authority to take steps to ascertain whether any discounts or exemptions are applicable before sending out council tax bills.

41. Paragraph 53 of Schedule 6 to the Local Government Bill will amend Schedule 2, so that the where the council tax payable is reduced under the new section 13A inserted by the Bill, the dwelling is treated for the purposes of powers to make administration regulations, as exempt (where the reduction is 100%) or subject to a discount (where the reduction is less than 100%).

42. Regulation 3 of the draft amending regulations will make clear that references to discounts and exemptions in the principal regulations include reductions under the new section 13A.

43. Regulation 4 of the draft amending regulations will amend the principal regulations so that billing authorities will be required to take reasonable steps to ascertain

whether any reduction (other than a 100% reduction) under section 13A applies before calculating the chargeable amount.

CONSULTATION QUESTION D

44. Your views are invited on whether the regulations will achieve the intended objectives, as set out in paragraphs 28 – 43.

E. The Council Tax and Non Domestic Rating (Demand Notices)(England) (Amendment) Regulations 2003

45. The Office of the Deputy Prime Minister is about to make new regulations concerning the content of council tax demand notices. It is proposed that these regulations will be amended in two ways.

46. First, we propose to amend the regulations to ensure that from 1 April 2004, council tax demand notices must include a statement concerning discounts changed under new section 11A or granted under new section 13A of the 1992 Act in the same way as is required for discounts granted under section 11. This is a small amendment and so no draft regulations have been included with this consultation paper.

47. Second we propose to amend the regulations to ensure that in areas where there is a combined fire authority (CFA) precept from 1 April 2004, the council tax bills will make clear by means of a footnote that the required year on year comparison for some lines is not on a comparable basis. It would be difficult for affected authorities to provide figures on a comparable basis because of the assumptions they would need to make about levels of budgets, grant, balances and other matters. However the total council tax figure will be on a comparable basis. It was therefore concluded that a footnote was the most appropriate way of informing council taxpayers.

48. A proposed text of the addition to the 2003 regulations set out at Annex E. The first element relates to a bill where the CFA is currently funded by a unitary authority and there are no local precepts; the second element relates to a bill where the CFA is currently funded by a unitary authority and there are local precepts; the third element relates a bill to where the CFA is currently funded by a county.

CONSULTATION QUESTIONS E(i) & (ii)

Your views are invited on whether council tax demand notices:

- (i) Should show discounts changed under new section 11A or granted under new section 13A of the 1992 Act in the same way as is required for discounts granted under section 11. (see paragraph 46)**
- (ii) in areas with a combined fire authority (CFA) should show that the year on year % increase figures are not comparable for the CFA and the county or unitary authority which previously funded it. (see paragraphs 47 & 48)**

SUMMARY OF CONSULTATION QUESTIONS

A) The Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003

We would welcome comments on whether you think the definitions of the prescribed classes of dwellings, and of job-related dwellings, are clear, workable and appropriate (see paragraphs 6 – 11)

B) The Local Authorities (Calculation of Council Tax Base) (Amendment) (England) Regulations 2003

We would welcome your views on whether the amending regulations will ensure that the tax base of both billing authorities and major precepting authorities will reflect the additional capacity to raise tax in the light of the billing authority's decision to reduce the second home discount or reduce or remove the long term empty property discount. (see paragraphs 13 – 19)

C) The Collection Fund (Council Tax Reductions) (England) Directions 2003

We would welcome your views on whether these Directions will ensure that the loss of revenue caused by the granting of local discounts and exemptions will be fully met by the billing authority and not shared with the major precepting authorities. (see paragraphs 21 – 26)

D) The Council Tax (Administration and Enforcement) (Amendment) (England) Regulations 2003

Your views are invited on whether the regulations will achieve the intended objectives, as set out in paragraphs 28 - 43.

E. The Council Tax and Non Domestic Rating (Demand Notices)(England) (Amendment) Regulations 2003

Your views are invited on whether council tax demand notices:

- (iii) should show discounts changed under new section 11A or granted under new section 13A of the 1992 Act in the same way as is required for discounts granted under section 11. (see paragraph 46)
- (iv) in areas with a combined fire authority (CFA) should show that the year on year % increase figures are not comparable for the CFA and the county or unitary authority which previously funded it. (see paragraph 47 & 48)

 STATUTORY INSTRUMENTS

2003 No. 000**COUNCIL TAX, ENGLAND**

**The Council Tax (Prescribed Classes of Dwellings) (England)
Regulations 2003**

<i>Made</i> - - - -	2003
<i>Laid before Parliament</i>	2003
<i>Coming into force</i> - -	2003

The First Secretary of State, in exercise of the powers conferred upon him by section 11A of the Local Government Finance Act 1992^(a) hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003 and shall come into force on xx xxxx 2003.

Interpretation

2. In these Regulations—

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

“caravan” shall be construed in accordance with Part I of the Caravan Sites and Control of Development Act 1960;

“Class A” means the class of dwellings described in regulation 4;

“Class B” means the class of dwellings described in regulation 5;

“Class C” means the class of dwellings described in regulation 7;

“qualifying person” means a person who is liable for the council tax in respect of a dwelling on a particular day, whether or not jointly with any other person, or who would be liable for the council tax in respect of a dwelling on a particular day if that dwelling did not fall within Class O of the Council Tax (Exempt Dwellings) Order 1992^(b);

“the relevant year” means the financial year for which a billing authority makes a determination under section 11A of the Act;

an “unoccupied dwelling” means a dwelling in which no one lives.”

^(a) 1992 c. 14. Section 11A was inserted by the Local Government Act 2003.

^(b) S.I. 1992/558 as amended by the Council Tax (Exempt Dwellings) (Amendment) Order 1992 (S.I. 1992/2941).

Prescribed classes

3.—(1) Class A and Class B are prescribed as classes of dwellings for the purposes of section 11A(3) of the Act for each financial year beginning on or after 1st April 2004.

(2) Class C is prescribed as a class of dwellings for the purposes of section 11A(4) of the Act for each financial year beginning on or after 1st April 2004.

Class A

4. The class of dwellings described in this regulation (“Class A”) comprises every chargeable dwelling in England –

- (a) which is not the sole or main residence of an individual;
- (b) which is furnished; and
- (c) the occupation of which is prohibited by law for a continuous period of at least 28 days in the relevant year;

except that the class of dwellings described in this regulation shall not include any dwelling which is excluded from that class by virtue of regulation 6 below.

Class B

5. The class of dwellings described in this regulation (“Class B”) comprises every chargeable dwelling in England –

- (a) which is not the sole or main residence of an individual;
- (b) which is furnished; and
- (c) the occupation of which is not prohibited by law for a continuous period of at least 28 days in the relevant year;

except that the class of dwellings described in this regulation shall not include any dwelling which is excluded from that class by virtue of regulation 6 below.

Exceptions

6.—(1) Class A and Class B shall not include any dwelling which consists of a pitch occupied by a caravan, or a mooring occupied by a boat.

(2) Class A and Class B shall not include any dwelling where a qualifying person in relation to that dwelling is a qualifying person in relation to another dwelling which for him is job-related.

(3) For the purposes of paragraph (2), a dwelling is job-related if it falls within the description set out in paragraph 1 or 2 of the Schedule to these Regulations.

Class C

7. The class of dwellings described in this regulation (“Class C”) comprises every chargeable dwelling in England –

- (a) which is unoccupied;
- (b) which is substantially unfurnished.

Signed by authority of the
First Secretary of State

Parliamentary Under Secretary of State
Office of the Deputy Prime Minister

SCHEDULE

JOB-RELATED DWELLINGS

1.—(1) Subject to sub-paragraph (2), a dwelling is job-related for a person if it is provided for him by reason of his employment or for his spouse by reason of the spouse's employment, in any of the following cases—

- (a) where it is necessary for the proper performance of the duties of the employment that the employee should reside in that dwelling;
- (b) where the dwelling is provided for the better performance of the duties of the employment, and it is one of the kinds of employment in the case of which it is customary for employers to provide dwellings to employees;
- (c) where, there being a special threat to the employee's security, special security arrangements are in force and the employee resides in the dwelling as part of those arrangements.

(2) If the dwelling is provided by a company and the employee is a director of that or an associated company, paragraph (a) or (b) of sub-paragraph (1) shall not apply unless either—

- (a) the employment is as a full-time working director, or
- (b) the company is non-profit making, that is to say, it does not carry on a trade nor do its functions consist wholly or mainly in the holding of investments or other property, or
- (c) the company is established for charitable purposes only.

2.—(1) Subject to sub-paragraph (2), a dwelling is job-related for a person if he or his spouse is required, under a contract to which this sub-paragraph applies, to live in that dwelling.

(2) Sub-paragraph (1) does not apply if the dwelling concerned is in whole or in part provided by any other person or persons together with whom the person or spouse carries on a trade or business in partnership.

(3) A contract to which sub-paragraph (1) applies is a contract entered into at arm's length and requiring the person concerned or his spouse (as the case may be) to carry on a particular trade, profession or vocation in a property provided by another person and to live in a dwelling provided by that other person.

3. In this Schedule—

“a company is an associated company of another person if one of them has control of the other or both are under the control of the same person;

“director”, “full-time working director” and “control”, in relation to a body corporate have the same meanings as they have in sections 67 and 69 of the Income Tax (Earnings and Pensions) Act 2003(c) in relation to the benefits code ;

“provided” means provided under a tenancy or otherwise; and

references to the spouse of a person shall be taken to include references to a person of the opposite sex who is living with the other as that person's husband or wife.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations relate to England. They prescribe three classes of dwellings for the purposes of section 11A of the Local Government Finance Act 1992 ("the Act"). Section 11A was inserted into the Act by the Local Government Act 2003.

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In relation to dwellings of any class prescribed by the Secretary of State for the purposes of section 11A(3) of the Act, an English billing authority (a district council, London borough council the Common Council of the City of London, the Council of the Isles of Scilly or a county council with the functions of a district council) may determine that the council tax discounts applicable where there is no resident of the dwelling (two discounts of 25 per cent each under section 11(2)(a) of the Act) shall be replaced by a lower discount (with a minimum discount of 10 per cent).

Class A is prescribed by regulation 4 of these Regulations for the purposes of section 11A(3). Billing authorities in England will be able to reduce the council tax discount, to a minimum of 10%, for chargeable dwellings which are unoccupied and furnished, and the occupation of which is prohibited by law for a continuous period of at least 28 days in the relevant year and therefore fall within Class A. Purpose built holiday homes or chalets subject to a planning condition restricting year round occupancy would fall within Class A.

Class B is prescribed by regulation 5 of these Regulations for the purposes of section 11A(3). Billing authorities in England will be able to reduce the council tax discount, to a minimum of 10%, for chargeable dwellings which are unoccupied and furnished, and the occupation of which is not prohibited by law for a continuous period of at least 28 days in the relevant year and therefore fall within Class B.

Regulation 6 and the Schedule to these regulations prevent a billing authority from reducing the discount for a second home owned by a council tax payer who is also liable for council tax for another dwelling (or who would be liable if that other dwelling were not exempt within Class O of the Council Tax (Exempt Dwellings) Order 1992 (S.I. 1992/558) as amended by the Council Tax (Exempt Dwellings) (Amendment) Order 1992 (S.I. 1992/2941)) provided to him or his spouse by reason of their employment. The definition of “qualifying person” in regulation 2 of these regulations, combined with regulation 6 and the Schedule, means that billing authorities cannot reduce the discount for second homes owned by service personnel who live in accommodation by the Ministry of Defence.

Regulation 6 and the Schedule also prevent billing authorities from reducing the discount in respect of a second home owned by a council tax payer who is also liable for council tax for another chargeable dwelling which he or his spouse is required to occupy under a contract requiring him to carry on a trade, profession or vocation in a property provide by another person and to live in a dwelling provided by that person. This means that second homes owned by e.g. . publicans who are required to live in the licensed premises of which they are tenant, would continue to be subject to the 50% discount.

In relation to dwellings of any class prescribed by the Secretary of State for the purposes of section 11A(4) of the Act, an English billing authority may determine that the council tax discounts applicable where there is no resident of the dwelling shall be replaced by a lower discount no discount at all.

Class C is prescribed by regulation 6 of these Regulations for the purposes of section 11A(4). Billing authorities in England will be able to reduce or end the council tax discount for chargeable dwellings which are unoccupied and substantially unfurnished and therefore fall within Class C. The dwellings falling within Class C will be long term empty homes, since for a shorter period, unoccupied and substantially unfurnished dwellings are exempt from council tax.

Class C of the Council Tax (Exempt Dwellings) Order 1992 (S.I. 1992/558) as amended by the Council Tax (Exempt Dwellings) (Amendment) Order 1993 (S.I. 1993/150), provides that a dwelling which is unoccupied and substantially unfurnished is exempt from council tax for up to six months. After that six month period of exemption, a dwelling which remains unoccupied and substantially unfurnished is currently subject to the 50 per cent discount under section 11(2)(a) of the Act. Dwellings falling within Class C of these Regulations will therefore be dwellings which are not exempt from council tax under Class C of the Council Tax (Exempt Dwellings) Order 1992 (i.e. which have been substantially unfurnished and unoccupied for more than six months).

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Class A of the Council Tax (Exempt Dwellings) Order 1992, as substituted by the Council Tax (Exempt Dwellings) Order 2000 (S.I. 2000/424) provides that a dwelling which is unoccupied, substantially unfurnished and either requires, is undergoing or has undergone within the last six months, major repair work to render it habitable, or is undergoing, or has undergone within the last six months, structural alteration, shall be exempt. Such dwellings are exempt for up to 12 months. Class C of these Regulations will also include dwellings which have ceased to be exempt under class A of the Council Tax (Exempt Dwellings) Order 1992 e.g. if the repair works were completed more than 6 months ago and the dwelling is still unoccupied and substantially unfurnished, or the dwelling has remained unoccupied, substantially unfurnished and undergoing major repair work for more than 12 months.

Any determination of the billing authority under section 11A of the Act will apply in respect of all the dwellings of that class in the whole, or only in a part its area, as the authority may specify.

 STATUTORY INSTRUMENTS

2003 No. 000**COUNCIL TAX, ENGLAND**
**The Local Authorities (Calculation of Council Tax Base)
 (Amendment) (England) Regulations 2003**

Made - - - - (early November) 2003

Laid before Parliament (early November) 2003

Coming into force - - (No later than 29 November) 2003

The First Secretary of State, in exercise of the powers conferred upon him by sections 33(5) and (6), 34(4), 44(5) and (6), 45(4) and (5), 48(4) and (5) and 116 of the Local Government Finance Act 1992 (a) and sections 88(6), 88(7) and 89(7) of the Greater London Authority Act 1999 (b) hereby makes the following Regulations:

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the Local Authorities (Calculation of Council Tax Base) (Amendment) (England) Regulations 2003 and shall come into force on xx November 2003.

(2) These Regulations apply in relation to authorities in England only (c).

(3) In these Regulations “the principal Regulations” means the Local Authorities (Calculation of Council Tax Base) Regulations 1992 (d).

Interpretation of the principal Regulations

2. In regulation 1(3) of the principal Regulations, for the definition of “the appropriate percentage” there is substituted the following definition –

““a relevant percentage” means a percentage by which the amount of council tax payable in respect of any chargeable dwelling and any day is reduced due to the application of a discount under section 11 or 11A(e);”.

Calculation of the relevant amounts for a financial year beginning on or after 1 April 2004

3. Before regulation 5A of the principal Regulations, insert the following regulation–

(a) 1992 c. 14.

(b) 1999 c. 29.

(c) The power to make regulations under sections 33(5) and (6), 34(4), 44(5) and (6), 45(4) and (5), 48(4) and (5) and 116 of the Local Government Finance Act 1992 in relation to Wales transferred from the Secretary of State to the National Assembly for Wales under article 2(a) of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672): see the entry in Schedule 1 for the Local Government Finance Act 1992.

(d) S.I. 1992/612, amended by S.I. 1992/1742, S.I. 1992/2943, S.I. 1999/3123 and S.I. 1999/3437.

(e) Section 11A was inserted by the Local Government Act 2003 (c.)

“ Calculation of the relevant amounts for a financial year beginning on or after 1 April 2004

5AA.—(1) For the purposes of regulation 3, the relevant amount for a financial year beginning on or after April 1, 2004 (“the year”) for a valuation band (“the band”) is the amount found by applying the formula—

$$(H - Q + J)F/G$$

where—

H is the number of chargeable dwellings in the area of the billing authority listed in the band on the relevant day calculated by the authority in accordance with paragraph (2) below;

Q is a factor to take account of the discounts to which the amount of council tax payable was subject on the relevant day calculated in accordance with paragraph (4) below;

J is the amount of any adjustment in respect of changes in the number of chargeable dwellings or discounts calculated by the authority in accordance with paragraph (6) below;

F is the number which, in the proportion set out in section 5(1), is applicable as regards the year to dwellings listed in the band;

G is the number which, in that proportion, is applicable as regards the year to dwellings listed in valuation band D.

(2) The authority shall calculate the number of chargeable dwellings for the purposes of item H in paragraph (1) above by deducting from the number of dwellings listed in the band on the relevant day its estimate of the number of such dwellings which were exempt on that day.

(3) For the purposes of paragraph (2) above, the authority shall ascertain the number of dwellings listed in any valuation band by reference to—

- (a) the state on the relevant day of the authority’s list, including any alterations of the list which were shown as having effect on that day; and
- (b) any alterations of the valuation list maintained by the listing officer for that authority which were not shown on the authority’s list but of which the authority had been informed by the listing officer and which had effect on that day.

(4) Q is the aggregate of amounts found by multiplying, for each different relevant percentage, R by S, where—

R is the number of dwellings taken into account for the purposes of item H in paragraph (1) above, for which the amount of council tax payable for the relevant day was reduced by that relevant percentage, estimated by the authority in accordance with paragraph (5) below;

S is that relevant percentage.

(5) The authority shall make the estimates required for the purpose of paragraph (4) above on the basis of all the information available to the authority on the relevant day.

(6) The authority shall calculate the amount of any adjustment for the purposes of item J in paragraph (1) above as equal to the amount by which the number which the authority calculates in accordance with paragraph (7) below exceeds the number which the authority calculates in accordance with paragraph (8) below; and if there is no such excess, the adjustment shall be nil or, as the case may be, a negative amount.

(7) Subject to paragraph (10) below, the authority shall calculate the aggregate of—

- (a) the authority’s estimate of the number of chargeable dwellings which are not ascertained for the purposes of paragraph (2) above as listed in the band on the relevant day but which will be listed in the band for the whole or part of the year; and

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- (b) the aggregate of amounts found by multiplying, for each different relevant percentage, U by V, where—

U is the authority's estimate of the number of dwellings in respect of which the amount of council tax payable for the relevant day was reduced by that relevant percentage and which were taken into account for the purposes of item R in paragraph (4) above, but in respect of which the amount of council tax payable for the whole or part of the year will not be reduced by that relevant percentage;

V is that relevant percentage.

- (8) Subject to paragraph (10) below, the authority shall calculate the aggregate of—

- (a) the authority's estimate of the number of chargeable dwellings which are ascertained for the purposes of paragraph (2) above as listed in the band on the relevant day but which:

- (i) will not be listed in the band for the whole or part of the year; or
(ii) will be exempt at any time in the year or that part of the year for which they will be listed; and

- (b) the aggregate of amounts found by multiplying, for each different relevant percentage, W by X, where—

W is the number of dwellings, taken into account for the purposes of item H in paragraph (1) above or falling within paragraph (7)(a) above, in respect of which the amount of council tax payable for the whole or part of the year will be reduced by that relevant percentage, and which were not taken into account for the purposes of item R in paragraph (1) above, estimated by the authority in accordance with paragraph (4) above;

X is that relevant percentage.

- (9) Paragraph (3) of regulation 4(f) shall apply for the purposes of making any of the calculations or estimates referred to in paragraphs (2), (7) and (8) above as it applies for the purposes of paragraph (2) of regulation 4.

- (10) Where it appears to the authority likely that—

- (a) a dwelling will be listed in a band in the authority's list, or will not be so listed, for part of the year;
(b) a dwelling will be exempt for part of the year during a period for which it will be listed in a band in the authority's list; or
(c) the amount of council tax payable in respect of a dwelling will be subject to a discount of a relevant percentage under section 11 or section 11A for part of the year;

the authority shall, for the purposes of making any of the estimates referred to in paragraphs (7) or (8) above, treat such a dwelling or discount as a fraction produced by dividing the number of days in that part of the year by the number of days in the year.

- (11) For the purposes of this regulation, the relevant day is 30th November in the financial year preceding that for which the relevant amount is calculated."

Band A dwellings: reductions for disability

4. In regulation 5A(1) of the principal Regulations, for "3 and 5" substitute "3, 5 and 5AA".

Calculation of billing authority's council tax base for a part of its area

5. Regulation 6(2) of the principal Regulations is amended as follows—

- (a) for "5 but", substitute "5 or 5AA but";
(b) in sub-paragraph (c), after "regulation 5", insert "or 5AA".

(f) Regulation 4(3)(a) was amended by S.I. 1999/3123.

Calculation of council tax base for the purposes of a major precepting authority

6. Regulation 7 of the principal Regulations is amended as follows—

- (a) in paragraph (1)(g)—
 - (i) for “5 and” substitute “5 or 5AA and”;
 - (ii) after “regulation 5” insert “, or items H, Q and J in regulation 5AA”;
- (b) in paragraph (2) after “regulation 5” insert “, or items H, Q and J in regulation 5AA”.

Determination of billing authority’s council tax base

7. In regulation 9(3) of the principal Regulations, for “be, 5” substitute “be, 5 or 5AA”.

Signed by authority of the First Secretary of State

November 2003

Minister of State
Office of the Deputy Prime Minister

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Local Authorities (Calculation of Council Tax Base) Regulations 1992 (S.I. 1992/612) (“the principal Regulations”) which provide for the calculation by billing authorities and major precepting authorities in England of the council tax bases for the whole and parts of their areas. These Regulations amend the principal Regulations in consequence of the insertion into the Local Government Finance Act 1992 (“the 1992 Act”) of section 11A by sections 74 of the Local Government Act 2003.

Section 11A of the 1992 Act, allows billing authorities in England to reduce from 50% to a minimum of 10% the discount which applies under section 11 of the 1992 Act to dwellings falling into classes prescribed in regulations, or to reduce or end the 50% discount for dwellings falling into other classes prescribed in regulations. The classes of dwellings are prescribed in the Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003 (S.I. 2003/XXX).

Regulation 2 of these Regulations substitutes for the definition of “the appropriate percentage” in regulation 1(3) of the principal Regulations, a definition of “relevant percentage” as section 11A of the 1992 Act allows a billing authority to reduce the council tax payable by percentages other than the appropriate percentage (25%) or twice the appropriate percentage.

Regulation 3 of these Regulations inserts a new regulation 5AA into the principal Regulations. This provides for the calculation of “the relevant amounts” by a billing authority for financial years beginning on or after 1 April 2004. The relevant amount for each council tax band is a measure of the number of dwellings in that band after taking account of exempt dwellings and discounts. The council tax base for the whole of a billing authority’s area (item T in section 33(1) of the 1992 Act) is found by adding together the relevant amount for each council tax band and multiplying this by the authority’s estimate of its collection rate (see regulation 3 of the principal Regulations). When calculating the tax base for financial years beginning on or after 1 April 2004, regulation 5AA requires the authority to take account of discounts under sections 11 and 11A of the 1992 Act.

Regulations 4, 5, 6 and 7 of these Regulations insert references to the new regulation 5AA, and to items in the calculations in the new regulation 5AA, into regulations 5A, 6, 7 and 9 of the principal Regulations. The latter regulations provide for dwellings in band A in respect of which

(g) Regulation 7(1) was amended by S.I. 1999/3437.

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the amount of council tax payable is reduced in accordance with the Council Tax (Reductions for Disabilities) Regulations 1992 (S.I. 1992/554) to be treated as if they were in an additional lower band, for the calculation of the tax base for part of a billing authority's area, for the calculation of the tax base for the purposes of a major precepting authority and for the determination by a major precepting authority of a billing authority's tax base where the billing authority has failed to notify its tax base to the major precepting authority in the prescribed period.

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.

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Signed by authority of the First Secretary of State

xx November 2003

 STATUTORY INSTRUMENTS

2003 No.

COUNCIL TAX, ENGLAND
**The Council Tax (Administration and Enforcement)
 (Amendment) (England) Regulations 2003**

<i>Made</i> - - - - -	2003
<i>Laid before Parliament</i>	2003
<i>Coming into force</i> - - -	2003

The First Secretary of State in exercise of the powers conferred upon him by sections 113(1) and (2) of, paragraphs 1 and 21 of Schedule 2 to, and paragraphs 1, 3, 5, 7, 11A, 12A and 20 of Schedule 4 to the Local Government Finance Act 1992^(a) hereby makes the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Council Tax (Administration and Enforcement) (Amendment) (England) Regulations 2003.

- (2) These Regulations extend to England only ^(b).
- (3) These Regulations come into force on xx xxxxx 2003.

Amendment of Regulations

2.—(1) The Council Tax (Administration and Enforcement) Regulations 1992^(c) shall be amended in accordance with the following provisions of these Regulations.

Citation, commencement and interpretation

3. In regulation 1(2)^(d), after the definition of “demand notice regulations” there shall be inserted the following definitions—

““discount” means a discount under section 11, section 12 or section 11A of the Act, or a reduction in the amount of council tax payable for a dwelling under section 13A of the Act

^(a) 1992 c.14.

^(b) The Secretary of State can exercise the powers under sections 113(1) and (2) and paragraphs 1, 5, 7, 11A and 12A of Schedule 4 to the Local Government Finance Act 1992 only in relation to England: *see* article 2 of and the entry relating to the Local Government Finance Act 1992 in Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).

^(c) S.I. 1992/613.

^(d) Regulation 1(2) was amended by the Council Tax (Administration and Enforcement) (Amendment) Regulations 1992 (S.I. 1992/3008).

where the dwelling falls into a class for which the billing authority has determined under section 13A(3) that liability shall be reduced otherwise than to nil;

“exempt dwelling” means a dwelling which is exempt from council tax under the Exempt Dwellings Order or a dwelling which falls into a class for which the billing authority has determined under section 13A of the Act that the amount of council tax payable shall be reduced to nil.”

Ascertainment of entitlement to discount

4. In regulation 14–

- (a) after “to any discount” insert “in the case of a chargeable dwelling in England”;
- (b) after “section 11” insert “section 11A or a reduction in the amount of council tax payable otherwise than to nil under section 13A”.

Quashing of liability orders

5.—(1) In regulation 32(1), in the definition of “liability order” after “regulation 34” insert “or regulation 36A(5)”.

(2) After regulation 36(e) insert the following regulations–

“**36A.**—(1) Where–

- (a) a magistrates’ court has made a liability order pursuant to regulation 34(6), and
- (b) the authority on whose application the liability order was made considers that the order should not have been made,

the authority may apply to a magistrates’ court to have the liability order quashed.

(2) Where, on an application by an authority in accordance with paragraph (1) above, the magistrates’ court is satisfied that the liability order should not have been made, it shall quash the order.

(3) Where an authority makes an application under paragraph (1) for a liability order (“the original order”) to be quashed, and a lesser amount than the amount for which the original order was made has fallen due under paragraph (3) or (4) of regulation 23 (including those paragraphs as applied as mentioned in regulation 28A(2)) and is wholly or partly unpaid or (in a case where a final notice is required under regulation 33) the amount stated in the final notice is wholly or partly unpaid at the expiry of the period of seven days beginning with the day on which the notice was issued, the billing authority may also apply to the magistrates’ court for an order against the person by whom the lesser amount was payable.

(4) Paragraphs (2) to (5) of regulation 34 shall apply to applications under paragraph (3) above.

(5) Where, having quashed a liability order in accordance with paragraph (2) above, the magistrates’ court is satisfied that, had the original application for the liability order been for a liability order in respect of a lesser sum payable, such an order could properly have been made, it shall make a liability order in respect of the aggregate of–

- (a) that lesser sum payable, and
- (b) any sum included in the quashed order in respect of the costs reasonably incurred by the authority in obtaining the quashed order.”

Making of attachment of earnings order

6. In regulation 37–

(e) Regulation 36 was amended by the Council Tax (Administration and Enforcement) (No. 2) Regulations 1993 (S.I. 1993 No. 733).

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- (a) in paragraph (1)(f) for “any outstanding sum which is or forms part of the amount in respect of which the liability order was made” substitute “the appropriate amount”;
- (b) after paragraph (1) insert –
 - “(1A) For the purposes of this regulation the appropriate amount is the aggregate of –
 - (a) any outstanding sum which is or forms part of the amount in respect of which the liability order was made; and
 - (b) where the authority concerned has sought to levy an amount by distress and sale of the debtor’s goods under regulation 45 and the person making the distress has reported that he was unable (for whatever reason) to find any or sufficient goods of the debtor on which to levy the amount –
 - (i) a sum determined in accordance with Schedule 5 in respect of charges connected with the distress, and
 - (ii) if the authority has applied for the issue of a warrant committing the debtor to prison in accordance with regulation 47, the authority’s reasonable costs incurred up to the time of the making of the order under regulation 37, in making one or more of the applications referred to in Schedule 6, but not exceeding the amount specified for that application in Schedule 6.”.

Distress

7. In regulation 45(5)(g) after “Schedule 5” insert “, a further copy of the warning letter which was sent under regulation 45A at least 14 days before the visit”.

Information to be supplied when a visit is made in connection with distress

8. After regulation 45A(h) insert the following regulation–

“Information to be supplied when a visit is made in connection with distress

45B.—(1) Where a person makes a visit to premises in connection with distress, and which visit attracts a charge specified in Schedule 5, that person shall, at the time of the visit, hand to the debtor or leave at the premises visited written notice of the matters specified in paragraph (3) below.

(2) Where a person makes a visit to premises–

- (a) which attracts a charge specified in Schedule 5, and
- (b) which does not result in a distress being levied, whether because the person making the distress is unable to find sufficient goods of the debtor on which to levy the amount or for any other reason

that person shall in addition, at the time of the visit, hand to the debtor or leave at the premises written notice of the matters specified in paragraph (4) below.

(3) The matters are–

- (a) information about the courses of action which are available to the debtor if he is aggrieved by the levy of, or attempt to levy the distress, including:
 - (i) the address and telephone number of the relevant team or section of the authority to which a complaint relating to the visit may be addressed; and
 - (ii) a copy of regulation 46.

(f) Regulation 37(1) was amended by the Council Tax (Administration and Enforcement) (Amendment) Regulations 1998 (S.I. 1998/295).

(g) Regulation 45 has been amended by the Council Tax (Administration and Enforcement) (Amendment) (No. 2) Regulations 1993 (S.I. 1993/773) and the Council Tax (Administration and Enforcement) (Amendment) Regulations 1998 (S.I. 1998/295).

(h) Regulation 45A was added by the Council Tax (Administration and Enforcement) (Amendment) Regulations 1998 (S.I. 1998/295).

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- (b) the name of the person, authorised to act as a bailiff by a general certificate granted under section 7 of the Law of Distress Amendment Act 1888, visiting the premises;
 - (c) where the person visiting the premises is not an employee of the authority, the name, address and telephone number of that person's employer;
 - (d) the date and time of the visit;
 - (e) an itemised list of the charges as a result of the visit, and incurred to date, in accordance with Schedule 5;
 - (f) the fact that a further visit may be made in connection with distress, and that if such further visit is made further costs will be incurred by the debtor.
- (4) The matters are—
- (a) that an unsuccessful attempt to levy distress in respect of unpaid council tax has been made; and
 - (b) the appropriate amount.”.

Charging orders

9. In regulation 50—

- (a) in paragraph (1)—
 - (i) in sub-paragraph (a) for “a liability order” substitute “one or more liability orders”;
 - (ii) in sub-paragraph (b) after “the liability order” insert “or, where more than one liability order was made, the amount mentioned in regulation 34(7)(a) in respect of which each such liability order was made,”;
 - (iii) in sub-paragraph (c) after “was made” insert “, or, where more than one liability order was made, the aggregate of the amounts in respect of which those liability orders were made,”;
- (b) in paragraph (3)(c)(i) after “the liability order was made” insert “, or, where more than one liability order was made, those liability orders were made,”.

Signed by authority of the First Secretary of State

xx xxxx 2003

Name
Parliamentary Under Secretary of State
Office of the Deputy Prime Minister

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Council Tax (Administration and Enforcement) Regulations 1992 (“the principal regulations”).

Regulation 3 inserts new definitions of “discount” and “exempt dwelling” into regulation 1(2) of the principal regulations. This is to ensure that dwellings which fall within a class for which the authority has determined under section 13A of the Local Government Finance Act 1992 (“the LGFA 1992”) that the amount payable shall be reduced otherwise than to nil are treated as subject to a discount for the purposes of council tax administration. It will ensure that dwellings which fall within a class for which the authority has determined under section 13A of the LGFA 1992 that the amount payable shall be reduced to nil are treated as exempt for the purposes of council tax administration. Section 13A was inserted into the LGFA 1992 by the Local Government Act 2003.

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Regulation 4 inserts references to sections 11A and 13A into regulation 14 of the principal regulations, which requires authorities to take reasonable steps to ascertain whether any discounts apply to dwellings before calculating the chargeable amount. Section 11A (which was inserted into the LGFA 1992 by the Local Government Act 2003) allows billing authorities in England to reduce to a minimum of 10% the discount which applies under section 11 of the LGFA 1992 to dwellings falling into classes prescribed in regulations, or to reduce or end the discount for dwellings falling into other classes prescribed in regulations.

Regulation 5(2) inserts a new regulation 36A into the principal regulations to allow a magistrates' court, on the application of a billing authority, to quash a liability order which has been made, where the court is satisfied that the order should not have been made.

Regulation 36A(3) will allow the magistrates' court to substitute a liability order for a lesser sum payable where it considers that a liability order for such a lesser sum could properly have been made. Regulation 36A(4) means that the requirements of paragraphs (2) to (5) of regulation 34 of the principal regulations will apply to any such application for a substituted liability order. A summons would have to be served on the debtor before such an order could be made. If the outstanding amount and the authority's reasonable costs of the application are tendered before the application is heard, the application shall not be proceeded with.

Regulation 6 amends regulation 37 of the principal regulations to allow the sum in respect of which an authority an attachment of earnings order is made to include any costs incurred by the authority in an unsuccessful attempt to levy distress to secure the payment of an outstanding sum in respect of which a liability order was made, and any costs incurred by the authority in an abortive application for a warrant to commit the debtor to prison. An authority may only apply to the magistrates' court for a warrant to commit the debtor to prison under regulation 47 after an unsuccessful attempt to levy distress (where the person making the distress was unable to find any or sufficient goods of the debtor on which to levy the amount). As the magistrates' court must inquire as to the debtor's means when considering whether to grant a warrant of commitment, the debtor's means may become apparent to the authority at this late stage, and instead of further pursuing the application for a warrant of commitment, the authority may decide to make an attachment of earnings order instead.

Regulation 7 amends regulation 45 of the principal regulations to require the person levying distress to hand to the debtor or leave at the premises where the distress is levied a further copy of the warning letter that had been sent in accordance with regulation 45A.

Regulation 8 inserts a new regulation 45B which requires certain information to be handed to the debtor or left at the premises when a visit is made to the premises in connection with distress, for which visit a charge is made in accordance with Schedule 5 to the regulations. Regulation 45B(3) lists the information which must be handed or left when a visit is made, whether or not that visit results in successful levying of distress. Regulation 45B(4) specifies the additional information which must be handed or left when an unsuccessful visit is made (i.e. distress is not levied whether because the debtor was not at the premises, or insufficient goods were there to be seized or for any other reason).

Regulation 9 amends regulation 50 of the principal regulations. Regulation 50 allows a charging order to be made over the premises in respect of which council tax remains unpaid. Only where more than £1000 is outstanding may a charging order be made. Previously regulation 50 only allowed a charging order to be made where more than £1000 was outstanding under a single liability order. Regulation 7 amends regulation 50 so that where the aggregate of sums outstanding under two or more liability orders exceeds £1000 a liability order can be made.

Proposed wording to amend the Council Tax and Non Domestic Rating (Demand Notices)(England) Regulations 2003 as a result of combined fire authorities becoming major preceptors

8A.—(1) For the financial year 2004/5 in billing authority areas with a combined fire authority where the contribution to the net expenses of the combined fire authority for the preceding year was taken into account in the budget requirement set by the billing authority in accordance with section 32 of the Act, and where a statement of the amount mentioned in paragraph 6(1)(ii) is given, a footnote to that amount for the relevant year stating—

“The contribution to the net expenses of the combined fire authority was taken into account in the previous financial year in the budget requirement set by [insert name of billing authority.] Therefore, the figures comparing the amount of council tax set by [insert name of authority] for your dwelling this financial year and last financial year are not direct comparisons.”

(2) For the financial year 2004/5 in billing authority areas with a combined fire authority where the contribution to the net expenses of the combined fire authority for the preceding year was taken into account in the budget requirement set by the billing authority in accordance with section 32 of the Act, and where a statement is provided in accordance with paragraph 6(2)(a) and (b), a footnote to the amount stated in accordance with paragraph 6(2)(b) for the relevant year stating—

“The contribution to the net expenses of the combined fire authority was taken into account in the previous financial year in the budget requirement set by [insert name of billing authority.] Therefore, the figures comparing the amount of council tax set by [insert name of authority] less any local precepts for your dwelling this financial year and last financial year are not direct comparisons.”

(3) For the financial year 2004/5 in billing authority areas with a combined fire authority where the contribution to the net expenses of the combined fire authority for the preceding year was taken into account in the budget requirement set by the county council in accordance with section 43 of the Act, a footnote to the amount stated in accordance with 6(1)(iii) for the county council for the relevant year stating—

“The contribution to the net expenses of the combined fire authority was taken into account in the previous financial year in the budget requirement set by [insert name of county council]. Therefore the figures comparing the amount of council tax set by [insert name of county council] for your dwelling this financial year and last financial year are not direct comparisons.”