

**Explanatory Memorandum to the Council Tax (Administration and Enforcement) (Amendment No. 2) (Wales) Regulations 2013.**

This Explanatory Memorandum has been prepared by the Local Government Finance & Performance Division and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

**Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Council Tax (Administration and Enforcement) (Amendment No. 2) (Wales) Regulations 2013. I am satisfied that the benefits outweigh any costs.

**Carl Sargeant**

Minister for Local Government & Communities

12 March 2013

## **Description**

1. This statutory instrument introduces data-sharing provisions to the Council Tax (Administration and Enforcement) Regulations 1992 (“the 1992 Regulations”) to ensure local authorities are able to access HMRC data for their council tax reduction schemes.
2. The statutory instrument also amends existing provisions within the 1992 Regulations about the billing, collection and enforcement of council tax to make provision for the collection of penalties which may be imposed under regulations 13, 14, 16 and 17 of the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (Wales) Regulations 2013.
3. Minor amendments are also made to reflect the introduction of Universal Credit.

## **Matters of special interest to the Constitutional and Legislative Affairs Committee**

4. Regulations relating to powers for HMRC to supply information for purposes relating to council tax cannot be made by Welsh Ministers except with the consent of the Commissioners for Her Majesty’s Revenue and Customs.
5. This instrument also cross refers to the provisions of the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (Wales) Regulations 2013 (The Detection of Fraud Regulations) and cannot therefore be made before these Regulations are in force.
6. A plenary debate is being held on the Detection of Fraud Regulations on 12 March and therefore the earliest the Council Tax (Administration and Enforcement) (Amendment No. 2) (Wales) Regulations 2013 can be laid is the 12 March.
7. However in order for this instrument to come into force by 1 April in compliance with the 21 day rule, the latest it could be laid is 11 March. The Presiding Officer’s consent to breach the 21 day rule has therefore been sought.

## **Legislative background**

8. This statutory instrument makes amendments to the 1992 Regulations which make provision for the administration and enforcement of council tax including giving and obtaining information relevant to council tax.
9. The Local Government Finance Act 2012 inserted new paragraphs 15A, 15B, 15C and 15D into Schedule 2 to the Local Government Finance Act 1992 (“the 1992 Act”). Paragraph 15B provides Welsh Ministers with executive powers to make provision via regulations about the circumstances in which Revenue and Customs officials may supply information to qualifying persons, and for what purposes.

10. The Local Government Finance Act 2012 also inserted new sections 14A, 14B and 14C into the 1992 Act. These sections provide Welsh Ministers with executive powers to make provision via regulations for powers to require information, for the creation of offences and for the imposition of penalties in relation to council tax reduction schemes in Wales.
11. The relevant provisions in the Local Government Finance Act 2012 were subject to a Legislative Consent Motion which was approved by the National Assembly for Wales on 26<sup>th</sup> June 2012. The Local Government Finance Act 2012 received Royal Assent on 1 November 2012.
12. Paragraph 6 of Schedule 3 to the 1992 Act provides for regulations to be made for the collection of penalties, including penalties imposed via regulations made in accordance with section 14C of the 1992 Act.
13. The Welfare Reform Act 2012 makes provisions for the introduction of Universal Credit. The amendments made to the 1992 Regulations to account for the introduction of Universal Credit relate to provisions about the relationship between remedies available to a billing authority for the collection and enforcement of council tax. Paragraphs 1 and 12 of Schedule 4 to the 1992 Act provide power to make regulations about the relationship between remedies.
14. The Regulations follow the negative resolution procedure.

**Purpose and intended effect of the legislation**

15. The main purpose of this statutory instrument is to amend the 1992 regulations to make provisions for the sharing of HMRC data for purposes related to council tax.
16. These regulations provide the following:
  - The purposes for which a Revenue and Customs official may supply information relating to council tax to a qualifying person;
  - The purposes for which this information can be used, namely any purpose connected with:
    - Making a council tax reduction scheme;
    - Determining a person's entitlement or continued entitlement to a reduction under a council tax reduction scheme;
    - Preventing, detecting, securing evidence of or prosecuting the commission of a council tax offence; and
    - Any proceedings before the Valuation Tribunal for Wales in connection with a reduction under a council tax reduction scheme.
  - The purposes for which this information can be supplied to another qualifying person;

- Provisions to allow for the collection of penalties imposed in accordance with regulations 13,14, 16 and 17 of the Council Tax Reduction Schemes (Detection of fraud and Enforcement) (Wales) Regulations 2013; and
- Consequential amendments to account for the introduction of Universal Credit.

### **Consultation**

17.No consultation has been undertaken in respect of this statutory instrument

### **Regulatory Impact Assessment (RIA)**

## **PART 2 – REGULATORY IMPACT ASSESSMENT**

### **Options**

#### Option 1 – Do nothing

The Social Security (Information sharing in relation to welfare services etc) (Amendment) Regulations 2013 allow for the sharing of relevant information for prescribed purposes relating to council tax. However these regulations only provide a legal gateway for social security data held by DWP it does not extend to the data provided by HMRC. Without the ability to access HMRC data for council tax purposes local authorities would have to collect information from claimants that they have already provided and they could also have to undertake a separate means testing calculation.

#### Option 2 - Draft regulations to provide for access to HMRC data for council tax reduction schemes

18.Drafting regulations to allow local authorities to access HMRC data for council tax purposes will ensure that local authorities can make use of data that has already been collected from claimants and that a separate means test will not be necessary.

### **Costs**

#### Option 1 – Do nothing

19.If no action was taken to allow local authorities to access HMRC data for purposes relating to council tax then local authorities would have to request data from claimants that they have already provided to DWP. It is also likely that local authorities would have to undertake a separate means test to determine a claimant's eligibility for a reduction. Both of these processes would have significant resource implications for local authorities as well as being confusing and time-consuming for claimants.

20.As such this is not considered a viable option.

## Option 2 - Draft regulations to provide for access to HMRC data for council tax reduction schemes

21. Local Authorities already have staff and IT systems in place that allow them to access and utilise HMRC data for council tax benefit purposes as such there is not expected to be any additional costs for local authorities as a result of this statutory instrument.

### **Benefits**

22. By drafting regulations to allow local authorities to access HMRC data for purposes relating to council tax, local authorities will be able to utilise their existing staff and software to determine a person's entitlement to a reduction under a council tax reduction scheme. They will not have to recollect data that a claimant has already provided to DWP or to undertake a separate means test.

23. The provisions to allow for the collection of penalties imposed under the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (Wales) Regulations 2013 will allow local authorities to add penalties imposed in accordance with those Regulations to a claimant's council tax account and collect the penalty as part of council tax.

### **Sectors**

24. Local Government and the Voluntary Sector have been consulted during the development of proposals to introduce council tax reduction schemes in Wales. This is detailed in the Consultation section.

25. There will be no impact on the Business Sector as a result of this statutory instrument.

### **Duties**

26. In drafting these regulations consideration has been given to Welsh Minister's duty to promote equality and eliminate discrimination. A detailed Equality Impact Assessment was undertaken in relation to the introduction of council tax reduction schemes.

27. The council tax reduction schemes will be implemented and operated by local authorities who are under general duties to comply with Welsh Language and Sustainable Development duties.

### **Consultation**

28. A consultation on the policy and delivery options for the development of a new scheme to provide council tax support, which included questions in relation to data requirements, was sent to:

- Chief Executives, Leaders and Finance Directors of County and County Borough Councils in Wales
- Welsh Local Government Association
- Welsh Police Forces

- Local Taxation Working Group Members
- Institute of Revenues, Rating and Valuation
- Society of Welsh Treasures
- Children's Commissioner
- Older Person's Commissioner
- End Child Poverty Network
- Citizen's Advice Bureau and other Advisory Services
- Community Housing Groups, Tenants Associations & Housing Providers
- Members of the Welsh Government's Welfare Reform Officials Group who circulated the consultation to stakeholders likely to have an interest in the consultation

29. The consultation was also published on the Welsh Government's website.

### **Competition Assessment**

30. This has been scored against the competition filter test which indicated that there will be no detrimental effect on competition.

### **Post implementation review**

31. As a result of the impact of wider welfare reform changes and the current uncertainty around the level of funding that will be provided by the UK Government to operate council tax reductions schemes in Wales, this legislation will have to be reviewed in 2013-14 to consider any amendments required for 2014-15.