

## **Explanatory Memorandum to the Council Tax (Demand Notices) (Wales) (Amendment) Regulations 2017**

This Explanatory Memorandum has been prepared by the Local Government Finance Policy 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.

### **Cabinet Secretary's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Council Tax (Demand Notices) (Wales) (Amendment) Regulations 2017. I am satisfied that the benefits justify the likely costs.

Mark Drakeford  
Cabinet Secretary for Finance and Local Government  
25 January 2017

## **1 Description**

The Council Tax (Demand Notices) (Wales) (Amendment) Regulations 2017 (“the Regulations”) amend the Council Tax (Demand Notices) (Wales) Regulations 1993 (“the 1993 Regulations”) to reflect the introduction of the council tax premiums on long-term empty homes and second homes from 1 April 2017.

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

None

## **3 Legislative Background**

The Housing (Wales) Act 2014 amends the Local Government Finance Act 1992 (“the Act”) by inserting new sections 12A and 12B which enable a billing authority in Wales to apply a council tax premium in respect of long-term empty homes and second homes.

The Regulations amend the 1993 Regulations to take account of the amendments made to the Act.

The Regulations are made by the Welsh Ministers in exercise of the powers conferred by on the Secretary of State by sections 113 (1) and 116 (1) of, and paragraphs 1(1) and 2 (4)(a), (e) and (j), and 4(4) and (5) of Schedule 2 to, the Local Government Finance Act 1992. Functions of the Secretary of State, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). Those functions were subsequently transferred to the Welsh Ministers by virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006.

The Regulations are subject to the negative procedure.

## **4 Purpose and intended effect of the legislation**

The Regulations make amendments to the 1993 Regulations to enable local authorities to administer effectively the council tax premiums on long-term empty and second homes. The Regulations make provision about matters to be contained in, and information to be supplied with, council tax demand notices.

Schedule 1 to the 1993 Regulations is amended to require demand notices to include a statement of the number of days (if any) it has been assumed that a premium applies. Where a premium applies, a demand notice must also state the amount of the premium and the reason for it, as well as detailing the requirement for the recipient to notify the local authority of certain information and the possible consequences of failing to comply with that duty.

Schedule 2 to the 1993 Regulations is amended to require local authorities to provide explanatory information about the council tax premiums with the demand notices to enable council tax payers to understand the basis on which their bill has been calculated. This information includes whether the local authority is charging a premium for the relevant year and, if so, the amount of the premium, a general indication of the circumstances in which a premium applies and a general indication of the circumstances in which a dwelling is exempt from the premium.

## **5 Consultation**

Details of the consultation undertaken are included in the Regulatory Impact Assessment below.

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

### **Options**

#### **Option 1 – Do nothing**

From 1 April 2017, local authorities will be able to charge a premium of up to 100% on council tax on long-term empty homes and second homes in their areas. If these Regulations are not made, local authorities will be unable to reflect the premiums on their demand notices or to provide explanatory information to taxpayers regarding the premiums.

#### **Option 2 – Make amending Regulations**

Making the amending Regulations will ensure that demand notices issued by local authorities can reflect the introduction of the council tax premiums and provide explanatory information to council tax payers regarding the basis on which the premium applies and has been calculated.

#### **Option 1 – Do nothing**

### **Costs**

Not making the Regulations would mean council tax payers would not be provided with all the information they need to understand whether a premium applies and the basis on which their bill has been calculated. It could be unclear as to whether a premium is being charged, the level of premium and number of days to which the premium applies. This could lead to confusion for taxpayers and potential difficulties in paying.

In addition to this, there would be no requirement for taxpayers to notify local authorities of certain information relating to the premiums. This could lead to local authorities not collecting the correct amount of council tax and taxpayers being under or overcharged.

### **Benefits**

There are no benefits to not amending the 1993 Regulations as local authorities would be unable to administer effectively the council tax premiums.

## **Option 2 – Make amending Regulations**

### **Costs**

There may be some minor costs for local authorities in relation to providing additional information on demand notices and the accompanying explanatory information, although the latter is minimal as authorities are able to provide this information electronically. As the council tax premiums are discretionary, it is for local authorities to take into account the additional administration costs when deciding whether or not to implement the premiums.

### **Benefits**

Council tax payers will be able to clearly understand whether a premium is being charged, the amount of the premium, the number of days to which it applies, as well as the requirement to notify the local authority of certain information and the possible consequences of failing to comply. This will assist authorities in effectively implementing the council tax premiums.

### **Consultation**

A Consultation on Technical Amendments to Council Tax Legislation to Reflect the Introduction of Council Tax Premiums on Long-Term Empty Homes and Second Homes ran for an eight-week period from 6 October 2016 to 1 December 2016.

The consultation sought views on the amendments being made to the Regulations to take account of the implementation of the council tax premiums from 1 April 2017.

In total, 19 responses to the consultation were received. A breakdown of respondents is provided below:

- Local Authorities – 4
- Police and Crime Commissioners – 1,
- Private Landlords – 2,
- Individuals – 12,

The majority of consultation responses commented on the introduction of the council tax premiums rather than the amendments being consulted on to existing council tax legislation to allow for their effective administration. Three responses provided technical comments regarding the amendments proposed to the 1993 Regulations.

The full consultation can be found at the following link, where a summary of responses will also be published:

<https://consultations.gov.wales/consultations/amendments-council-tax-legislation-reflect-introduction-premiums-long-term-empty-homes>.

## **7 Duties**

The Regulations themselves, being technical in nature are likely to have minimal impacts as regards Tackling Poverty, UNCRC and the Well-Being of Future Generations. However, they provide for the full operation of the overall policy of allowing the introduction of premiums in Wales, which is assessed to have the following impacts.

### Well-Being of Future Generations (Wales) Act 2015

The introduction of council tax premiums on long-term empty homes and second homes is intended to help to bring empty properties back into use, to generate additional income to improve the supply of affordable housing and to support the sustainability of local services and communities.

The policy will contribute to the wellbeing objectives of a prosperous Wales; a more equal Wales; and a Wales of cohesive communities.

### Tackling poverty

For the same reasons, the premiums are likely to benefit those in poverty. The existing exemptions from council tax and the exceptions to the premiums ensure that there is no negative impact on people in poverty as no additional council tax will be charged in situations where it would be unfair or unreasonable to do so.

### UNCRC

Although the council tax premiums will apply to parents of children and young people, there is no adverse effect on children's rights as one of the aims of the premiums is to increase housing supply which would protect the standard of living of families with the lowest incomes.

### Welsh Language

The 1993 Regulations are in English only as they predate devolution. The amending Regulations are made bilingually. In line with Welsh Language Standards, consideration has been given to remaking the 1993 Regulations bilingually in their entirety rather than amending them. However, due to the complexity of the 1993 Regulations, and to ensure local authorities can meet statutory timescales for billing, it has not been possible to do so. Any delay would present a clear operational risk for local authorities.

The amending Regulations are bilingual and the consultation asked for comments in relation to the Welsh Language Standards but none were received.

## **8 Competition Assessment**

No competition impacts have been identified as arising from these Regulations.