EXPLANATORY MEMORANDUM TO

THE BILLING AUTHORITIES (ANTICIPATION OF PRECEPTS) (AMENDMENT) (ENGLAND) REGULATIONS 2014

2014 No. 35

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

To enable billing authorities in England making council tax calculations in accordance with section 31A of the Local Government Finance Act 1992 ('the 1992 Act') to anticipate a precept from a local precepting authority.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None

4. Legislative Context

4.1 Sections 73 to 79 of the Localism Act 2011 made amendments to the calculations which billing authorities (in England these are district councils, London borough councils, the Common Council of the City of London, the Council of the Isles of Scilly or county councils with the functions of a district council), major precepting authorities (county councils in areas where there is a county council and a district council, police authorities, metropolitan county fire and civil defence authorities, combined fire and rescue authorities and the Greater London Authority) and local precepting authorities (parish, town or community councils, the chairman of a parish meeting where not formally constituted as a council, charter trustees, the sub-treasurer of the Inner Temple and the sub-treasurer of the Middle Temple) in England must make to determine their basic amounts of council tax for a financial year. The obligation to calculate a budget requirement for a year was replaced with an obligation to calculate a council tax requirement. Under the new provisions an authority's council tax requirement for a financial year is the amount the authority requires from council tax alone in order to finance its budget for the year and this amount is used to calculate the authority's basic amount of council tax. Section 74 of the Localism Act 2011 inserted a new section 31A into the Local Government Finance Act 1992 requiring a billing authority to calculate its council tax requirement each financial year, and section 32 of the Local Government Finance Act 1992 was modified to apply to Wales only rather than to England and Wales.

4.2 These Regulations make a minor amendment consequential on the changes made by the Localism Act 2011 to update the definition of

'calculations' in the Billing Authorities (Anticipation of Precepts) Regulations 1992 in relation to England to refer to the new section 31A inserted by the Localism Act 2011. This will enable billing authorities in England making their calculations in accordance with section 31A of the 1992 Act to anticipate a precept from a local precepting authority under section 41 of the 1992 Act if that precept has not been issued in time for their calculations.

5. Territorial Extent and Application

This instrument applies to England only.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 This is a minor consequential amendment. The amendment will enable billing authorities in England to anticipate local precepts in the event that these precepts are not issued in time for their council tax calculations as part of their budget requirements, so as to ensure that there are no difficulties for billing authorities in accounting for precepts which they expect to receive from parish and town councils but, for whatever reason, have not yet received.

7.2 When the Localism Act 2011 came into force it included enabling powers to allow regulations to be made to ensure that billing authorities in England can anticipate precepts. This amendment removes any uncertainty about the powers of billing authorities to anticipate local precepts from the date these Regulations come into force.

7.3 The Regulations are being made in time for billing authorities to make their council tax calculations before the end of the financial year. Local precepting authorities are meant to issue their precepts by 1st March each year.

7.4 As this is a minor amendment the Department does not consider it necessary to make a consolidated set of regulations.

8. Consultation outcome

As this is a minor consequential amendment no consultation was necessary.

9. Guidance

As this is a minor consequential amendment guidance is not necessary.

10. Impact

The amendment has a minor impact on the public sector, by making it easier for billing authorities to make their council tax calculations properly.

11. Regulating small business

The amendment does not apply to small business.

12. Monitoring & review

The Department does not intend to put in place any formal mechanism for monitoring or reviewing this amendment.

13. Contact

Jasna Begum at the Department for Communities and Local Government, email: jasna.begum@communities.gsi.gov.uk can answer any queries regarding the instrument.