EXPLANATORY MEMORANDUM TO

THE COUNCIL TAX (DEMAND NOTICES AND PRESCRIBED CLASSES OF DWELLINGS) (ENGLAND) (AMENDMENT) REGULATIONS 2025

2025 No. 8

1. Introduction

1.1 This explanatory memorandum has been prepared by the Ministry of Housing, Communities and Local Government and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

2.1 Jim McMahon, Minister of State for the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

2.2 Michelle Warbis, Deputy Director for Local Taxation and Pensions at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Temitope Akinrujomu at the Ministry of Housing, Communities and Local Government: temitope.akinrujomu@communities.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument will amend the Council Tax (Demand Notices) (England) Regulations 2011 to remove the requirement for billing authorities to provide bespoke information in relation to the Adult Social Care (ASC) Precept on council tax (CT) demand notices ("the notices") and accompanying materials sent to council taxpayers. This instrument will also amend the Local Government (Structural Changes) (Finance) Regulations 2008 to remove the requirement for any restructuring authorities to include bespoke information about the ASC precept on council tax bills. This will ensure that there is consistency of approach in how council tax levels for different types of authorities are presented on CT demand notices.

4.2 The instrument also makes amendments to the Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003 to clarify the operation of mandatory exceptions to the council tax premiums on empty and second homes which may apply to properties being marketed for sale or let. These amendments correct errors made in a previous amending instrument[1] and will (i) clarify the conditions under which a

[1] See paragraph 11.1 below.

dwelling can be excepted as being actively marketed for sale or let; (ii) clarify the definition of a dwelling which is marketed for sale.

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England only.

5. Policy Context

What is being done and why?

5.1 The government is aware of criticism feedback from taxpayers that the current approach on how council tax levels are presented on CT demand notices is misleading and confusing. This mainly centres around how the ASC precept is presented alongside the core council tax charge on demand notices. The Council Tax (Demand Notices) (England) Regulations 2011 ("2011 Regulations") requires billing authorities to present information about the council tax charged by ASC authorities in a different way to that required for other authorities. This involves separating out the cash amount for general services and ASC precepts, as well as the percentage increases that each of these contribute to the overall council tax increase for that billing authority. This approach differs to how information in relation to council tax charged by non-ASC authorities is presented in CT demand notices where those authorities are required to list the authority alongside the cash amount charges for the band, category of the dwelling, and the increase in the amount charged compared to the previous year. In sum, this means that the different approach required by billing authorities to present information on council tax levels set by ASC and non- ASC authorities makes it difficult for taxpayers to understand the council tax increases set for an area.

5.2 Local authorities have also reported that they spend significant amount of time responding to correspondence regarding this issue and have continually pressed government to review the requirements.

5.3 On 28 November, through the Local Government Finance policy statement, the government announced plans to remove the requirement for billing authorities to provide bespoke information on the ASC precept charged by ASC authorities on council tax bills issued from April 2025. This instrument amends the 2011 Regulations to require councils to adjust the presentation of the ASC precept on CT demand notices. In practice, this means that the ASC precept will no longer be shown on CT demand notices so that bills issued from April 2025 would show a single line only for the council tax levels set by the ASC authority. Whilst councils would no longer be required to provide further information on the ASC precept on the information notice supplied with the council tax bill, councils can continue to provide an explanation on how the bills are presented if they choose to. However, councils will still be required to provide other information with the CT demand notice as set out in Part 2, Schedule 2 to the 2011 Regulations.

5.4 This change is intended to provide greater simplicity and clarity to CT demand notices received by taxpayers. This change would also bring ASC authorities in line with how information on council tax levels of non-ASC authorities is presented on demand notices.

5.5 To ensure that there is a consistency of approach for all authorities, the requirement to show bespoke information about the ASC precept on CT demand notices will also be removed for restructuring authorities as currently set out in the Local Government (Structural Changes) (Finance) Regulations 2008.

What was the previous policy, how is this different?

5.6 In 2015, the government offered authorities responsible for adult social care additional flexibility on their council tax referendum threshold[2] which would be used entirely for adult social care. This flexibility now referred to as the Adult Social Care Precept (ASC precept) was offered in recognition of growing demand for adult social care and increased pressure on council budgets. To ensure transparency for council taxpayers, the offer required billing authorities to include information in relation to the ASC precept set by ASC authorities on the CT demand notice and the leaflet accompanying the notice setting out the council tax increases attributed to funding adult social care services.

5.7 In 2016, the 2011 Regulations were amended (by the Council Tax (Demand Notices) (England) (Amendment) Regulations 2016)[3] to include the requirement for billing authorities to include information in relation to the ASC precept set by ASC authorities on CT demand notices and the information leaflet supplied with the demand notices. The regulations also provided for CT demand notices issued from 2016 to include additional information about council tax to fund expenditure on adult social care functions. Due to the lateness in the scheme being announced and the difficulties in amending billing software at local level, councils were given a choice of how to present the percentage increases for ASC authorities on demand notices.

5.8 In 2017, the 2011 Regulations were amended (by the Council Tax (Demand Notices) (England) (Amendment) Regulations 2017)[4] to prescribe how billing authorities were required to present the ASC precept charged by ASC authorities on CT demand notices issued to taxpayers for 2017-18 onwards. For ASC authorities, the demand notice would need to show how much the increase for general expenditure and adult social care expenditure each contributed to its overall council tax increase. To illustrate this, where a county council increased its council tax by 5%, with 3 percentage points for general expenditure and 2 percentage points for social care, this would need to be shown on the demand notice as 3% and 2% respectively. The billing authority would also need to disaggregate the cash amount charged by the authority to separate out the total cumulative amount of ASC precept charged, and the amount charged for the authority's other services. The regulations also provided that CT demand notices issued from 2017 contained additional information about the council tax to fund expenditure on adult social care functions.

5.9 In 2020, it became necessary to amend the 2011 Regulations (by the Council Tax (Demand Notices) (England) (Amendment) Regulations 2020)[5] to amend the information about the ASC precept supplied with CT demand notices issued from 2020-2021 onwards. This change was made to reflect that the duration of the ASC

[2] The council tax referendum thresholds is the level at which local authorities can set council tax levels without holding a referendum, any proposed council tax increases above the thresholds will require the local authority to hold a referendum. Section 52ZC of the Local Government Finance Act 1992 gives the Secretary of State the power to determine the council tax referendum thresholds for a financial year which are then approved by the House of Commons. The council tax referendum thresholds for 2024-25 can be found here: The Referendums Relating to Council Tax Increases (Principles) (England) Report 2024-25

[3] The Council Tax (Demand Notices) (England) (Amendment) Regulations 2016

[4] The Council Tax (Demand Notices) (England) (Amendment) Regulations 2017

[5] The Council Tax (Demand Notices) (England) (Amendment) Regulations 2020

precept was being extended indefinitely and as with previous statements provided information about how council tax would fund expenditure on adult social care functions.

5.10 These Regulations will end the requirement for ASC councils to separate out the ASC precept charges (and percentage increases) from the core council tax charges on the CT demand notices. For CT demand notices issued from 2025-2026 for ASC authorities, a single line only will need to be shown for the council tax increases set with one cash figure and one percentage figure which will represent the overall increase in their charge. This will ensure that the presentation of information on council tax levels on demand notices is the same for ASC and non-ASC authorities. There will also be no requirement for councils to provide additional information on the ASC precept on the face of the bill or in the information supplied with the demand notice. However, authorities will still be required to provide information on ASC precept charges on and with CT demand notices which will need to be issued for previous financial years from 1 April 2016 to 31 March 2025.

6. Legislative and Legal Context

How has the law changed?

6.1 Part 1 of the Local Government Act 1992 ("the 1992 Act) concerns council tax in England and Wales. Under the 1992 Act, billing authorities are required to levy and collect council tax in respect of dwellings situated in their areas (see section 1(1) and (2) of the 1992 Act).

6.2 There is power in the 1992 Act to require billing authorities to serve a notice on a person before that person becomes liable to pay council tax in regard to a dwelling and a financial year. The power also prescribes the manner and contents of the CT demand notice[6]. The requirement to serve a notice is included in Regulation 18 of the Council Tax (Administration and Enforcement) Regulations 1992.

6.3 The 2011 Regulations were made using powers in Schedule 2 to the 1992 Act and make provision for certain information to be included in the CT demand notice issued to taxpayers in England for the payment of council tax.

6.4 Regulation 2 amends the 2011 Regulations to remove the requirements for billing authorities to present information regarding the ASC precept charged by ASC authorities on demand notices issued to taxpayers from 1 April 2025. This will include removing the requirement to provide the explanatory statement with additional information on council tax to fund expenditure on adult social care functions. The instrument will remove the requirement for billing authorities to include information on the ASC precepts in the information accompanying the demand notices from 1 April 2025. However, these requirements will remain for CT demand notices still to be issued for previous financial years from 1 April 2016 to 31 March 2025.

6.5 Regulation 3 amends the Local Government (Structural Changes) (Finance) Regulations 2008 to ensure that the removal of the requirements regarding the ASC precept on CT demand notices for financial years from 2025-26 onwards will apply to any new or continuing ASC authorities going through structural changes.

6.6 Regulation 4 amends the Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003 to clarify the administrative definitions of the mandatory exceptions (to the council tax premiums) which may apply to properties being marketed for sale

[6] Paragraph 2(4)(a)(b)(d) and (e) of Schedule 2 to the 1992 Act.

or let to correct errors in the amendments made by the Council Tax (Prescribed Classes of Dwellings and Consequential Amendments) (England) Regulations 2024.

Why was this approach taken to change the law?

6.7 Pre-2016 there was a consistent approach across authorities on how council tax levels were presented in CT demand notices. Since the ASC precept was introduced in 2015, the 2011 Regulations have gone through a number of amendments to reflect the requirements which come with the additional flexibilities. However, the criticism levelled at the current requirements on how flexibilities are presented on CT demand notices points to a need to reconsider this approach. The government is also committed to simplifying council tax bills received by taxpayers. The required changes can only be accomplished by amending the Regulations. Overall, this approach will return CT demand notices to how they were presented pre-2016 and ensure that there is a consistent approach across England on how council tax levels are presented on CT demand notices from the financial year of 2025-26 onwards.

7. Consultation

7.1 The department has repeatedly received representation from local authorities and taxpayers noting concerns regarding the prescribed approach to presenting council tax levels on CT demand notices and requesting that the current approach should be changed or revoked completely. Whilst no formal consultation has been undertaken, sectoral feedback on the changes has mainly been around seeking clarity on the new requirements to ensure that software suppliers can make the bill changes in time to meet the council tax billing for March 2025. On balance, the government is content that the approach set out in the instrument will bring consistency to how all authorities across England present council tax levels on CT demand notices. The approach will also simplify and clarify council tax levels presented on demand notices received by taxpayers.

8. Applicable Guidance

8.1 The Government will write to local authorities outlining the requirements of the revised regulations and providing contact details to obtain further information.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because it amends a local tax regime.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because billing authorities collect and administer council tax. The legislation does not apply to activities that are undertaken by businesses, charities or voluntary bodies.

9.3 The legislation does not impact small or micro businesses.

9.4 The impact on the public sector is minimal. There will be an initial cost for billing authorities to make necessary changes to billing software to accommodate the new requirements on demand notices. However, the costs of the changes will be minimal compared to the ongoing costs of meeting the requirements of presenting the ASC information on CT demand notices.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 These regulations will be reviewed following any future decisions about changes to the Adult Social Care Precept.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 Regulation 4 of this instrument corrects errors in the amendments made to the Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003 by the Council Tax (Prescribed Classes of Dwellings and Consequential Amendments) (England) (Amendment) Regulations 2024[7]. This instrument will be issued free of charge to all known recipients of the latter statutory instrument.

12. European Convention on Human Rights

12.1 The Minister of State for Local Government and English Devolution has made the following statement regarding Human Rights:

"In my view the provisions of the Council Tax (Demand Notices and Prescribed Classes of Dwellings) (England) (Amendment) Regulations 2025 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").

[7] S.I. 2024/1007: The Council Tax (Prescribed Classes of Dwellings and Consequential Amendments) (England) Regulations 2024. See the fourth report of the 2024-25 session from the Joint Committee on Statutory Instruments: Fourth Report of Session 2024–25.