LGiU
LOCAL GOVERNMENT INFORMATION UNIT

LOCAL GOVERNMENT FINANCE ACT 2012

AN LGIU GUIDE

Contents

- Introduction
- How different is the new system?
- Business rates retention
- Tax increment financing
- Enterprise Zones
- Localised council tax support schemes
- Council tax: empty homes
- References and external links

This guide to the Local Government Finance Act 2012 brings together and updates a series of LGiU briefings on the major provisions in the Act. These were written by LGiU associate, Mark Upton and published in December 2012 and January 2013. It also gives an update on the current position on council tax support schemes which was the subject of a briefing by Janet Sillett.

Introduction

The Local Government Finance Act 2012 completed all of its parliamentary stages in both houses and received Royal Assent on 31 October 2012. The legislation extends to England and Wales only; (with the exception of new powers for HMRC to supply information for council tax purposes which will also apply to Scotland and Northern Ireland). This guide is primarily concerned with the legislation as it applies in England.

The guide is a 'plain-English' guide to the legislation and isn't meant to be comprehensive in its detail. More detailed explanatory notes on the legislation are available. There is a list of official documents on the new regime at the end of the guide.

The Government consulted on draft secondary legislation and The Local Government Finance Act (Consequential Amendments) draft Order 2013 was published on 4 February 2013, which will give effect to the retention of business rates scheme.

This guide covers in detail the two most radical changes to the local government finance system – the changes to business rates and the localising of council tax support. It also briefly describes provisions in the Act relating to Tax Increment Financing, Enterprise Zones and on council tax and empty homes.

How different is the new system?

The 2012 Local Government Finance Act, and in particular the changes to business rates, is the centre piece of a shifting local government finance system. The provisional finance settlement announced on 19 December 2012 is the first under the new system where councils will retain part of their business rates from 1 April 2013.

The business rates retention scheme is turning the local government finance system on its head. Rather than handing this income back to Whitehall for it, in part, to be returned, it becomes in practical effect the starting point of meeting local funding requirements, levied and topped-up by exception rather than by rule by Whitehall.

The system will evolve from now. There will be opportunities for councils that can show growth but major challenges for others. The changes to central government funding for local services which focus on the new system for distributing business rates are the key to this evolution.

Business rates retention

The Government published its proposals for business rates retention in December 2011, alongside the introduction of legislation to give the reforms effect. In July 2012 it published a technical consultation paper setting out its detailed implementation proposals. A subsequent policy statement published in November 2012 confirms key policy decisions following that consultation. This change of policy originally arose from phase one of the Local Government Resource Review which concluded in July 2011.

The new business rates retention scheme applies only to England. Part 1 of Schedule 3 of the new Act amends Schedule 8 to the Local Government Finance Act 1988 to retain the current system of pooling and redistribution of non-domestic rates in Wales.

Business rate income is very significant in the financing of local government, for instance, in 2011/12 it accounted for seventy six per cent of formula grant from central government. The new Act allows local authorities to retain a proportion of non-domestic rates (business rates).

Since 1990-91 business rates have been collected by billing authorities (single tier authorities and district councils) and paid into a national pool and then re-distributed to local authorities as part of their formula grant allocation.

The Government's rationale for the change is that the current local government finance system is over-centralised with local authorities being over dependent on central government for funding; and that it does not provide financial incentives for local authorities to work towards promoting local economic growth and may even provide a disincentive for doing so.

The legislation does not change the way in which business rates is collected by billing authorities and set by central government where a business ratepayer's bill is calculated by multiplying its rateable value (as determined by the Valuation Office Agency) with the national rate or multiplier determined by the Government each year. The rate revaluation process will also stay unchanged as will 'rate relief' for groups such as charities, amateur sports clubs, voluntary groups, those in hardship, and eligible rural or small businesses.

The Government has announced its intention to postpone the next business rate revaluation in England to 2017. Primary legislation will be taken forward through the Growth and Infrastructure Bill which has been laid before Parliament. The last evaluation took place in 2008.

The business rate retention scheme will start from 1 April 2013; the Government intends to make the necessary secondary legislation early in 2013 subject to parliamentary approval.

Overview of the new system

- Instead of business rate income collected by billing authorities being returned to the Treasury, local authorities will now get to retain a proportion of their business rates generated in their area.
- At the beginning of the scheme the Government will calculate a 'baseline funding level' for every local authority ensuring that there is a stable starting point for all local authorities.
- Local government will be able to keep fifty per cent of locally collected business rates ('local share') with the other fifty per cent being paid to central government ('central share').
- Should a local authority receive more in business rates than its 'baseline funding level' it will pay government a 'tariff', which will be used entirely to 'top up' local authorities who receive less than their funding level, funded through the 'central share' of business rates.
- In addition to retaining their 'local share' of their business rates baseline, *overall* local authorities will also keep at least fifty per cent of their business rates growth.
- But where local authorities gain a "disproportionate" increase in their business rates income the government will take some of their business rates growth as a 'levy' to fund 'safety net payments' for those local authorities whose income from business rates income falls disproportionately.
- Where local authorities are charged a levy, even after the government's fifty per cent central share, at least twenty five pence in each extra pound of business rates generated locally, will be retained locally.

Eleven key components of the new system

1. All local government bodies, with the exception of local police bodies will be part of the scheme:

- All billing authorities and major precepting authorities (county councils, fire and rescue

authorities and the Greater London Authority) will be included in the system.

- Police and Crime Commissioners and other local policing bodies will not funded through the business rates retention scheme but will continue to be funded through a central government grant.

2. The starting point for the scheme will be a funding assessment for each local authority, which will become its baseline funding level for the scheme:

- These funding assessments will provide the basis for redistributing business rates income between those authorities who collect more business rates than they need and those who collect too little.
- The starting point for the calculation of the baseline funding level for each local authority will be largely based on 2012-13 formula grant methodology.
- Some adjustments will be made including the transfer of funding for central education services, changes to the needs formula for concessionary travel and the adding in of funding for special grants that are being rolled in for 2013-14.
- The formula will also be dampened at a service level to provide protection against excessive volitality.
- The baseline funding level will be funded through a mix of Revenue Support Grant and funding and the 'local share' of business rates.

3. The local government spending control totals are used to establish the start-up funding assessment for local authorities.

- Calculation of the aggregate start-up funding assessment will be based on the controls totals set out in the 2010 Spending Review and amended by the 2011 and 2012 Autumn Statements.
- A number of adjustments are made to these control totals and therefore the aggregated start-up funding assessment for 2013-14. This includes a number of top-slices including for the New Homes Bonus, specific grants being transferred in (e.g. children services' early intervention grant) and grants moving out of the control totals (e.g. central education services within Local Authority Central Spend Equivalent Grant).
- The estimated business rate aggregate includes two downward adjustments to help local authorities manage volatility owing to losses on appeals.
- The estimated aggregated totals for business rates will be adjusted to reflect historic differences between forecast and outturn data (where the latter have tended to be lower than the former) and to take account of future losses in business rate income due to successful appeals against the rating list which are still outstanding.

4. The aggregate business rate income will be shared between local areas and central government

- A proportion of the business rates collected by billing authorities will be paid into a central pool/ central government (the 'central share') with the remaining proportion retained by the billing authority (the 'local share').
- The proportions dictating the local and central share are set by the Secretary of State, which the

Government has confirmed will be a fifty-fifty split of the estimated business rates aggregate until any 'reset' of the system.

- The central share will be used "in its entirely" to fund local government through Revenue Support Grant (paying for 'top up' and 'safety net' payments) and other specific grants.
- Any changes in these costs mandatory and discretionary business rate reliefs between resets will be shared equally between central and government. The existing costs of these reliefs will be accounted for within local authorities' business rates baselines.

5. The local share of the aggregated business rate income will be split between billing areas based on proportionate shares to create an individual business rate baseline for each billing authority.

- These shares have been arrived at based on the average national business yield collected by individual authorities over two years (2010-11 and 2011-12)

6. Where necessary, each billing authority's business rate baseline is then split between the billing authority and its major precepting authorities, on the basis of shares.

- In two-tier areas, eighty per cent of the baseline will be allocated to district councils and twenty per cent to the county councils which have responsibility for fire and rescue services, and eighteen per cent for those that don't.
- Hundred per cent of the baseline will be allocated to unitary authorities which have responsibility for fire and rescue services, and nine-eight per cent for those that don't, while two per cent will be allocated for single purpose fire and rescue authorities.
- In London, the Greater London Authority will take forty per cent leaving the London Boroughs to retain sixty per cent.

7. There will be a one-off distribution of resources at the outset of the scheme ensuring that local authorities will receive its baseline funding level in 2013-14 and later years.

- A local authority must pay a 'tariff' if its individual business rates baseline is greater than its baseline funding level. Conversely a local authority will receive a 'top up' if its baseline funding level is greater than its individual business rate baseline.
- Tariffs and top-ups will nationally balance and will be fixed in real terms (i.e. will rise yearly by RPI inflation) until the business rates system is 'reset'.
- In order to provide two-tier counties and fire authorities with protection from volatility in their business rate income the Government has set the major precepting shares so that all two-tier county council and all single purpose fire authorities are top-up authorities.
- At each five yearly business rates revaluation, 'tariffs' and 'top-ups' will be adjusted to ensure that an authority's retained rates are not affected.

8. Where a local authority experiences disproportionate growth in business rates income they will be required to pay a 'levy' to central government.

- A levy rate (which in some cases will be zero) for each authority. The levy is a 1:1 proportionate levy based on the following calculation '1 minus (baseline funding level divided by an individual

business rates baseline)'.

- The levy rate will be used as part of the calculation to determine levy payments for those authorities that are required to pay a levy. The levy rate is being limited to '0.5' or 50p in the pound. And a negative number means that no levy will be paid (as business rates baseline is lower than the baseline funding level).
- At the end of the financial year, Government will calculate whether a levy payment is due from an authority by comparing an authority's retained business rates income (i.e. the local share after any tariffs or top ups) with its baseline funding, to establish growth above baseline funding level. This is multiplied with the authority's 'levy rate'.
- For the purposes of these calculations from 2014-15 onwards the baseline funding levels will be indexed to RPI (i.e. only growth above RPI is levied).
- The way the calculation is made means that no authority receiving a 'top-up' payment (which includes county councils in two-tier areas and single purpose fire and rescue authorities) will be required to make a levy payment.
- The maximum level or the levy rate will be fifty pence in the pound which means that after the central share and levy payments, at least twenty five pence in each extra pound of business rates generated locally will be retained, locally, shared between billing authorities and any major precepting authorities.
- Any surplus levy will be returned to the sector, subject to affirmative regulations laid before Parliament and consultation in drafts setting out the basis of distribution.

9. Conversely those local authorities who find that their business rate income drops disproportionately may be entitled to a 'safety net payment'.

- The safety net will provide local authorities with protection against significant decreases in their business rate income for whatever reason. Income from the 'levy' will be used to fund the safety net.
- At the end of the financial year, the Government will calculate whether a safety net payment should be paid. It will do this by comparing each local authority's retained business rates income (i.e. its share of the 'local share' less any 'tariffs' made or 'top ups' received) with its baseline funding level.
- The safety net is to be fixed at a 7.5% threshold so effectively guaranteeing authorities 92.5% of their baseline funding under the scheme level. This protection will be maintained in real terms since baseline funding levels will be up rated annually by RPI.
- A payment will be made if a local authority's retained business rates income for a year is less than the safety net threshold, with the amount paid being the difference between the retained business rates income and the safety net threshold for that year. These payments can be made on 'account'.
- The Government will hold back a sum of money for safety net support, in the event of insufficient funds being available from the levy in any year. But before the start of the financial year, on the basis of estimates, it will announce how much of the funding which was held back is not required and can be returned to local government early in the financial year.

10. While the baseline funding requirements, tariffs and top-ups determined at the beginning of the

scheme will be uprated each year to take account of inflation, the whole system will be fixed until a 'reset' takes place.

- This stability allows local authorities to take the benefit of increasing business rates revenues.
- The Government does not intend to 'reset' the system until 2020 at the earliest, except in 'exceptional' circumstances. How a reset will be undertaken will be determined nearer the time.
- In the longer term, the Government is committed to the "aspiration" for ten year reset periods.

11. Local authorities are allowed to voluntarily pool business rates, including through local enterprise partnerships.

- Local authorities may be designated as pools and therefore treated as a single authority for the purposes of the scheme, this includes for the determining of tariffs, top-ups, levy and safety net payments.
- Pooling potentially gives local authorities opportunities to generate additional growth through collaborative effort and to smooth the impact of volatility in business rate income across a wider economic area.
- For a pool to come into effect it must be formally designated by the Secretary of State, who will invite requests on an annual basis ahead of publication of the Local Government Settlement. Pools will continue from year to year until a designation is revoked by the Secretary of State by his own volition or in response to a request to do so.

The key legislative provisions

Section 1 gives effect to Schedule 1 of the new Act, inserting a new schedule 7B into the Local Government Finance Act 1988 ('LGFA 1988'). Given that much of this part of the Act is 'enabling' the detail will be contained in the secondary legislation under powers given to the Secretary of State. The main legislative provisions, which are contained primarily in Schedule 1 include:

Schedule 1, Part 1 - requires the Secretary of State to keep and administer a non-domestic rating account. Paragraph 3 requires the Secretary of State "as soon as possible" after the end of the financial year to calculate the aggregate items credited and debited.

Schedule 1, Part 2 - requires the Secretary of State to prepare a local government finance report each year setting out the central and local percentage share for each bill authority. This has to be laid before the House of Commons before sending it to each authority.

Schedule 1, Part 4 – provides for the Secretary of State to make regulations requiring billing authorities to pay a proportion of their local share income to major precepting authorities. This cannot happen until the local government finance report has been approved by the House of Commons.

Schedule 1, Part 5 governs the process by which tariff and top-up payments are to be made between the Secretary of State and authorities. These calculations and the basis on which they are made have to be set out in the local government finance report. Before making such a report, the Secretary of State must notify local government representatives of the general nature of the basis of these calculations.

Schedule 1, Part 6 - requires the Secretary of State each year to keep a levy account covering levy payments from relevant authorities and payments made by the Secretary of State to provide safety net payments in the event of insufficient levy income.

Schedule 1, Part 7, gives him the power to make regulations regarding levy payments to the account and safety net payments from it. This will be calculated at the end of the financial year. Paragraph 27 provides that local authorities will be able to request during the financial year that the Secretary of State calculates whether they are likely to receive a safety net payment; details about when and why such request may occur will be set out in regulations.

Paragraph 29 requires the Secretary of State to calculate the remaining balance on the levy account at the end of the financial year. Paragraph 30 allows the Secretary of State through regulations to distribute all or part of the balance to one or more local authorities.

Schedule 1, Part 9 – enables the Secretary of State to designate two or more authorities as a 'pool' of authorities if they agree to such an arrangement and generally lasts for one year.

In addition, section 8 of the Act will allow local authorities to publish information related to the business rates online instead of in paper form, unless a rate payer requests a paper copy.

Secondary Legislation

The Government has prepared five sets of draft regulations under the new schedule 7B to the Local Government Finance Act 1988 (provided for by Schedule 1 to the new Act). These are:

- The Non-Domestic Rating (Rates Retention) Regulations 2012 – these set out how billing authorities are to calculate their liability and make payments to central government in respect of the central share of business rates and, to major precepting authorities in respect of a share of the business rates collected.
- The Non-Domestic Rating (Levy and Safety Net) Regulations 2012 – provide for the calculation of the levy and safety net payments after the end of the year on the basis of outturn figures for non-domestic rates income. They also set out the arrangements by which authorities will be able to secure safety net payments "on account" during the course of a year.
- The Non-Domestic Rating (Renewal Energy Projects) Regulations 2012 - provide for the calculation of the proportion of non-domestic rates income, in respect of renewable energy projects, which authorities will be entitled to disregard from calculations under the rates retention scheme. Any sums disregarded will be retained by authorities outside the scheme.
- The Non-Domestic Rating (Designated Areas) Regulations 2012 - provide for the calculation of the non-domestic rates income, in respect of designated areas, which authorities will be entitled to disregard from calculations under the rates retention scheme. Any sums disregarded will be retained by authorities outside the scheme.
- The Non-Domestic Rating (Transitional Protection Payments) Regulations 2012 - provide for payments to and from authorities to adjust for the operation of transitional arrangements, under which changes to rate payers' bills are phased-in following a revaluation.

Tax Increment Financing

Tax increment financing (TIF) works by allowing local authorities to borrow money for infrastructure against the anticipated increase in business rates income expected as a result of those projects - creating funding for local public projects that may otherwise be unaffordable.

The Core Cities Group describe the kind of scenario where TIF's might be used as when a public project such as a new road or bypass, school or hazardous waste clean-up is carried out and as a result there is an increase in the value of the surrounding real estate leading to new and additional investment creating more taxable property which in turn increases tax revenues.

The Act allows two options for such arrangements:

- First by simply allowing local authorities to retain an element of their business rate income thereby creating a funding stream which can be used to offset against future borrowing. This is achieved through the general provisions on the local retention of business rates and supported by 'Prudential Borrowing' statutory framework (see the previous section of this briefing on 'Local retention of non-domestic rates').
- The second allows the Secretary of State to designate an area (of any geography) which would fall outside the new business rate retention system and allow the local authority for that area to retain all the increases in business rates in that designated area for a define period. This would support, but is not legally restricted to Enterprise Zones.

Enterprise Zones

The Act supports the development of Enterprise Zones by allowing the Secretary of State to designate specific areas and allowing those areas to be taken outside the business rates retention scheme in order to allow these areas to retain all the business rate growth in the designated area.

In comparison with borrowing off the back of an income stream from the 'local share' of retained business rates (sometimes referred to as 'TIF Option 1') this should provide for a more steady income stream and additional headroom against which a local authority or a group of local authorities could borrow against.

Schedule 1 of the Act allows the Secretary of State to designate areas, through regulations which would include a map of and calculation relevant to the area and the likely future income stream available to the local authority. These legal provisions are not restricted to 'enterprise zones'. Though the intention behind them is to support the 'enterprise zones' policy. The Government has made clear that because this form of TIF (sometimes referred to as 'Option 2 Tax Investment Financing' or TIF2) could reduce the resources available to the wider local government sector, it intends to limit the number of this kind of scheme that can proceed.

Since the 2011 Budget a total of twenty four Enterprise Zones in England have been awarded to Local Enterprise Partnerships which will benefit from simplified planning and Government support for super-fast broadband and other freedoms and flexibilities depending on local circumstances.

All business rate growth within the zones will be retained by the LEP/the designated area and reinvested in the area for twenty five years from April 2013. This will be funded by Central Government – the 2012 Budget announced that up to £150 million will be available for this. In addition all businesses that move into an Enterprise Zone before April 2015 will benefit (from April 2012) from an up to 100% rate discount over a five year period worth up to £275,000 per business and £205 million overall (until 2015-16).

Localised Council Tax Support Schemes

The Government announced in the 2010 Spending Review its intention to localise council tax support from April 2013-14 and to reduce expenditure on this benefit by ten per cent (£420 million per annum in England). The Welfare Reform Act 2012 provides for the abolition of Council Tax Benefit; the new Act creates a framework within which local Council Tax Reduction Schemes must be devised by local authorities.

Council Tax Benefit is a national social security benefit with rules set by the Department for Work and Pensions and administered by local authorities in England, Scotland and Wales linked to council tax billing arrangements. It takes the form of a reduction to the council tax a person would otherwise be liable to pay following the rules for other income related benefits such as Income Support and income-based Jobseeker's Allowance. Local authorities are reimbursed at a hundred per cent for correctly processed claims. In future support for council tax will be offered as reductions within the council tax and not the welfare system.

The Government's rationale for localising financial assistance with council tax payments is:

- To give local authorities a greater stake in the economic future of their local area
- To provide local authorities with the opportunity to reform the system of support for working age claimants

- To reinforce local control over the council tax consistent with a drive for greater local financial accountability and decision-making
- To give local authorities a significant degree of control over how the ten per cent reduction in expenditure is achieved
- To provide stronger incentives for councils to help get people back to work and so support the work incentives being introduced through the Universal Credit planned for next April.

Council tax is a devolved matter in Scotland and Wales, whereas Council Tax Benefit is reserved to the UK Government. Section 31 of the Welfare Reform Act abolished Council Tax Benefit in England, Scotland and Wales. The Act provides Welsh Ministers with the secondary legislation powers to establish their own council tax support scheme or schemes. The Scottish Administration is competent to bring forward its own legislation.

The Scottish and Welsh Governments have decided to operate centralised council tax support schemes but have taken different approaches for addressing the ten per cent funding cut. Scotland has opted to maintain existing levels of support for the time being. The Welsh Assembly agreed in January 2013 to find £22 million to fund the ten per cent cut from central government.

Key components of the new system

The key components of the new regime are:

- Billing authorities for council tax will be the default lead-authority for support schemes.
- They will be able to collaborate with other billing authorities on joint schemes, develop schemes on behalf of others or allow upper-tier authorities to develop schemes on behalf of local authorities in their area. This will be achieved through existing powers.
- It will be for individual billing authorities to design their own Council Tax Reduction Scheme and they will be able reduce tax liability as they see fit.
- This is with the exception of certain individuals who are subject to immigration control or who are not habitually resident in the UK (like with Council Tax Benefit) will be ineligible to apply for support. There will be a national entitlement for support based on the current Council Tax Benefit means test for state pension aged pensioners.
- Councils must conduct a consultation exercise before preparing their Council Tax Reduction Schemes which must involve any major precepting authority.
- Billing authorities are required to put in place a Council Tax Reduction Scheme by 31 January 2013 for implementation in 2013-14, otherwise a default scheme, based on the current Council Tax Benefit regime, will be imposed upon them.
- They will be able to revise or replace their schemes for the start of each financial year, for which transitional arrangements must be in place, but authorities will not be able to make in-year revisions.
- Two or more authorities will be able to work together to deal with deficits in the billing authority's collection fund.
- The principal funding for local schemes will be provided (for billing and major precepting authorities) through the reformed local government/business rates retention system. This is with the exception of local police bodies which will be provided through a separate grant.
- They will continue to receive funding to meet on-going administrative costs, as well as new

burdens payments to meet the one off and recurring costs associated with implementing the new regime.

- Levels of central government funding will be provided to help offset council tax reductions set through an upfront allocation for all billing and major precepting authorities from 2013 – at ninety per cent of the forecast subsidised Council Tax Benefit expenditure for 2013-14.
- There will be no restrictions on the amount that authorities can put towards schemes and billing authorities retain their existing powers to offer discretionary support over and above that provided through statutory local schemes.

The key legislative provisions

Section 10 of the new Act substitutes a new section 13A in the Local Government and Finance Act 1992 ("LGFA 1992") providing that in respect of household dwellings in England, a person's liability for council tax will be reduced in accordance with the billing's authority's 'council tax reduction scheme'. The main legislative provisions include:

- Section 10(4) and new Section 13A (2) of LGFA 1992 requires billing authorities in England to make a council tax reduction scheme by 31 January 2012. The Secretary of State may alter the commencement of these provisions by amending the 31 January 2013 date for the 2013-14 financial year (Section 10(5)).
- Council tax liability may be reduced to such an extent as the billing authority thinks fit, in particular cases and by determining a class of case (new Section 13A(7)) and they can reduce that liability to nil (new Section13A(6)).

Section 14: inserts new sections 14A to 14D into the LGFA 1992, which provides for a range of powers allowing the Secretary of State to make regulations which:

- Ensure that local authorities are able to access information to determine whether a claim for a reduction in council tax liability is fraudulent (new section 14A)
- Create criminal offences equivalent to those that apply in relation to council tax benefit where a person intentionally delays or obstructs an investigation into a fraudulent claim.
- Gives billing authorities powers to issue a penalty to a person where their act or omission results or could result in the amount of tax being reduced and where no such discount, reduction or exemption should be given (new section 14C).

Part 1 of Schedule 4 inserts Schedule 1A into the LGFA 1992. Part 2 of Schedule 4 makes a number of consequential amendments. The main legislative provisions in the new Schedule 1A include:

- Paragraph 2 - provides that billing authorities must include the following matters in their Council Tax Reduction schemes:
    - A description of the classes of person entitled to a reduction (Paragraph 2(1)) and the reductions which are to be applied (different classes of persons may be entitled to different reductions) (Paragraph 2(3)); and,
    - The procedure for applying for a reduction (Paragraph 2(5)) together with an appeals procedure covering decisions over entitlement and the amount of any reduction due (Paragraph 2(6)).
- Paragraph 2(2) - sets out the type of considerations an authority might take into account in deciding which classes of person are entitled to a reduction, including the capital and

income levels of the person liable for tax and other residents in the dwelling, the number of dependents and whether the person has applied for a reduction.

- Paragraph 2(4) prescribes the form of the reduction may take.
- Paragraph 8 requires local authorities 'to have regard' to guidance issued by the Secretary of State in exercising their functions.

Section 9 requires the Secretary of State to make provision for an independent review of all council tax reduction schemes within three years of the Act coming into effect. This applies both to both England and Wales.

The Secretary of State has powers to set out in more detail how the new localised regime should operate.

The Government has issued a statement of intent on powers it will be seeking on criminal offences, penalties and enabling local authorities to gain access to information.

Prescribed Requirements Regulations

The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 (SI 2012/2885) came into force on 27 November 2012.

The prescribed requirements regulations are concerned with ensuring that each billing authority's local scheme contains certain administrative provisions including classes of persons, which must or must not be included in a scheme and to prescribe the reductions applicable to individuals who are within a class included in the scheme.

In terms of all local schemes these regulations:

Exclude foreign nationals with limited immigration status from applying for council tax support.

But, those who have recognised refugee status, humanitarian protection, discretionary leave or exceptional leave to remain granted outside the immigration rules and who are exempt from the Habitual Residence Test will be allowed to apply for council tax support as long as their status has not been revoked.

Allow current arrangements for a person to act on behalf of another to continue. For example, where a person has been granted a power of attorney over a liable council tax-payer or in cases where a couple wishes to make an application.

Allow an individual who is approaching pension credit eligible age, and who is in receipt of a local council tax reduction and not in receipt of working age benefits or whose partner has claimed state pension credit, to continue to receive an extended payment of their localised council tax reduction for a prescribed period of four weeks, whilst they or their partner apply for support under the new scheme.

These regulations also prescribe the support to be provided in all schemes for persons who have reached qualifying age for state pension credit:

The default scheme regulations

The Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 (SI 2012/2886) came into force on 18 December 2012.

The default scheme is being put in place to make sure that should a billing authority fail to make a scheme on or before 31 January 2013 a scheme will be in place to reduce the council tax liability of eligible people in the authority's area.

The default scheme broadly mirrors the existing council tax benefit scheme. This is so billing authorities who find themselves in this position will be able to administer their default arrangements without significant changes to local systems

Transitional arrangements

The Government has announced that it is making up to £100 million available to support English local authorities in the transition to the new regime. This is in addition to the £30 million of funding to help councils draw up local support schemes.

The grant will be available only for one year and will be payable in March 2013 to those authorities who adopt schemes that:

- Cap liabilities to 8.5% for those who previously entitled to hundred per cent support under the Council Tax Benefit
- Where the rate at which the support is withdrawn as income rises (known as the 'taper rate') is no higher than twenty five per cent (compared with twenty per cent at the moment); and,
- Where there is no sharp reduction in support for those entering work (i.e. cliff edges), with the taper continuing to operate as under the current Council Tax Benefit regulations.

It has published the amounts of funding that individual local authorities can expect to receive if they qualify under the scheme together with details of the application process.

Update on new system

The local schemes devised by councils have been the subject of research. The Resolution Foundation published[11] a report on 31 January setting out what was known about councils' intentions. They used data from the New Policy Institute (NPI) who collected and collated it over a number of months.

The NPI most recent figures (at the end of January 2013) show that of the 235 councils that have a finalised council tax support scheme in place 187 councils intend to reduce the provision of council tax support and 48 councils intend to make no change to the existing council tax benefit arrangements – they had not got the plans for 90 other authorities.

The Resolution Foundation report was able to analyse plans from 184 out of the 325 local authorities that will take over responsibility for council tax support. The evidence shows a wide variation in the detail of the schemes but the report says that the overwhelming majority of schemes broadly follow four model scheme designs, summarised here:

- Scheme 1 – 'no change': the confirmed schemes of 51 local authorities (28 per cent) fall within this category. A small number of these 51 authorities are making some adjustments to the current system (for example by removing the Second Adult Rebate) but none are planning to introduce flat rate cash cuts that would alter existing levels of support for all recipients.
- Scheme 2 – 'moderate increase': the confirmed schemes of 60 local authorities (33 per cent) fall

within this category. All of these 60 authorities are planning to introduce a flat-rate cash cut (by council tax band) the value of which is calculated at 8.5 per cent of the maximum Council Tax liability for a given Council Tax band in a given area.

- Scheme 3 – 'large increase': the plans of 26 local authorities (14 per cent) fall within this category. All of these are planning to introduce a flat-rate cash cut (by council tax band) the value of which is calculated at 20 per cent of the maximum Council Tax liability for a given Council Tax band in a given area.
- Scheme 4 –'severe increase': the plans of 39 local authorities (21 per cent) fall within this category. As with the above 'large' model scheme, all of these 39 authorities are planning to introduce a flat rate cash cut (by council tax band) the value of which is calculated at 20 per cent of the maximum Council Tax liability for a given Council Tax band in a given area. However, in addition to this flat rate cash cut each authority in this category also plans to make at least one additional significant change. The report assumes that all local authorities in this category will adopt one of the most common of those changes: the inclusion of child benefit as income when calculating levels of Council Tax support, which has the effect of increasing assessed income levels and therefore further reducing the amount of support provided.

The NPI's research shows that over two thirds of councils that have decided on their local Council Tax support schemes for 2013-14 will introduce a minimum payment. A minimum payment could be in the form of a maximum cap on the amount of Council Tax support available to households or a uniform reduction in support. Thirty-two per cent of featured councils intend to introduce a discretionary fund for persons experiencing exceptional hardship. Eighteen per cent intend to introduce a band cap which involves limiting the amount of benefit received in higher value properties to the amount provided to those in lower value properties (most that are applying the cap at the entitlement of band D properties). Thirteen per cent of councils will introduce a minimum CTS payment to residents (e.g. £5 per week: claimants will only receive benefit payments of £5 and above). Six per cent of councils will change the income taper.

The NPI has published a spreadsheet with a breakdown of the data at local authority level here.

Council Tax - Empty Homes

The Government has introduced a number of policies and programmes designed to bring more empty homes back into use. The Act helps in this objective by giving local authorities greater freedom and flexibilities in the treatment of empty homes for council tax purposes to help provide incentives on home owners to bring more empty homes back into use.

The Act gives local authorities discretion to reduce some of the council tax exemptions currently prescribed in statute by allowing them to give variable discounts instead, as well as powers to charge a council tax premium in certain cases. Specifically:

- To give a discount which they may set at 100% or lower for a period of one year in respects of dwellings which currently fall within Class A exemptions (i.e. where major repairs or structural alterations are required). Local authorities will have discretion to make determinations in relation to all or certain dwellings in their area. After this time, an authority can set a discount of between 0% and 50% indefinitely unless after two years it is subject to a premium (see below).
- Give a discount set at 100% or lower in respect of dwellings which current fall within Class C (i.e. unoccupied and unfurnished) for a period determined locally. Again local authorities will have discretion to make determinations in relation to all or certain dwellings in their area.

- Charge an 'empty homes premium' of up to 50% of the council tax on properties left unoccupied and unfurnished for two years or more. This may be charged for all such properties in a local authority area or for a particular part of that area.
- Making mortgagees in possession of an empty dwelling liable to council tax who may still, subject to the discretion of billing authorities, qualify for discounts outlined above.

Local authorities will retain any additional revenues that might be raised and will be able to use that revenue for whatever purposes the authority may choose. They have also confirmed that a decision to charge an empty homes premium should not make it more likely that an authority will trigger a council tax referendum.

It will be for individual billing authorities to design their own schemes for applying discounts for empty dwellings and for charging a premium for long-term empty properties. They will determine both the circumstances and the level of discounts or premium to be charged. Though the Government intends to use its powers under the new Act to prevent authorities charging a premium in the cases of dwellings which are sole or main residence of a member of the armed forces and annexes deemed unoccupied because it is being treated by the occupier of the main dwelling, as part of that main dwelling.

The way in which the legislation has been brought in means the current Class A and C exemptions, outlined above, will apply unless a billing authority chooses to adopt a local policy.

Independent review

In the last stages of its passing through the House of Lords, Baroness Hollis, the Labour Peer, secured a little noticed but significant amendment which survived the Bill's return to the House of Commons. This (section 9 of the Act) will require the Government to commission an "independent review" of the policy within three years and "to make recommendations as to whether" council tax support "should be brought within the Universal Credit".

In the meantime the Work and Pensions Select Committee have requested that DWP provide it with details about how it will monitor the impact of the local council tax support arrangements and its interaction with the introduction of the Universal Credit.

References

Primary and Secondary Legislation:

- Local Government Finance Act 2012
- Explanatory Notes to the LGFA 2012
- Business Rates Retention Draft Regulations - Consultation (October 2012)

Business Rates Retention:

- Local government resource review: proposals for business rates retention consultation: government response (July 2011)
- Local government resource review: proposals for business rates retention consultation: summary of responses (December 2011)
- Business rates retention scheme: the economic benefits of local business rates retention (May 2012)
- Business rates retention scheme: Pooling Prospectus (published in May 2012, updated July 2012)
- Business rates retention scheme: technical consultation (July 2012)
- Business Rates Retention – Policy Statement (November 2012)
- Business rates retention and the local government finance settlement: a practitioners guide (version 2) (December 2012)
- Business rates retention and the local government finance settlement: a plain English guide (December 2012)
- Business rates retention: technical details (summary of the responses to the July 2012 consultation) (December 2012)

Enterprise Zones:

- List and map of the 24 Enterprise Zones
- Summary descriptions for the 24 Enterprise Zones
- Supporting Local Growth Policy Paper (December 2011)
- Enterprise Zones Prospectus (March 2011)
- Enterprise Zones Application and Guidance (May 2011)

– DCLG micro-site on Enterprise Zones

Legislation:

– Local Government Finance Act 2012
– Explanatory Notes – Local Government Finance Act 2012
– The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 (SI 2012/2885)
– The Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 (SI 2012/2886)
– The Local Authorities (Calculation of Council Tax Base) (England) Regulations 2012

Empty Homes:

– Technical Reforms to Council Tax – Consultation (December 2011)
– Local Government Finance Bill: technical reforms to Council Tax - impact assessment (December 2011)
– Technical Reform for Council Tax: Summary of Response Document (May 2012)
– Technical Reforms to Council Tax: Determining the circumstances in which dwellings should not be liable to empty homes premium – consultation (September 2012)
– Technical Reforms to Council Tax: Empty Homes premium, calculation of Council Tax base – Consultation (September 2012)
– Council Tax Information Letter 2/2012 – Potential Council Tax Discount on Empty Homes
– Technical Reforms to Council Tax: when dwellings should not be liable to the empty homes premium - Summary of responses (November 2012)
– Technical Reforms to Council Tax, empty homes premium, calculating of Council Tax base – summary of the consultation responses (November 2012)

Localised Council Tax Reduction Schemes:

On the development of initial and over policy:

- Localising support for council tax in England: Consultation (August 2011)
- Localising support for council tax in England: Government's response to the outcomes of the consultation (December 2011)
- Local Government Finance Bill: Localising support for council tax – equality impact assessment (January 2012)
- Localising support for Council Tax: Vulnerable people – key local authority duties (May 2012)
- Localising support for Council Tax: taking work incentives into account: guidance (May 2012)
- Local Government Bill: Impact Assessment on localising support for Council Tax (updated, June 2012)

Development of the secondary legislation:

- Localising Support for Council Tax: A Statement of Intent (May 2012)
- Localising support for Council Tax: explanatory note on draft regulations (July 2012)
- Localising support for Council Tax: prescribed requirements draft regulations (September 2012)
- Localising support for Council Tax: default scheme draft regulations (September 2012)
- Localising support for Council Tax: default and prescribed requirements-Publication Note (September 2012)
- The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 (SI 2012/2885)
- The Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 (SI 2012/2886)
- Differences between Default Scheme Regulations – September compared with November 2012
- Differences between Prescribed Regulations – September compared with November 2012

Adjustments to the Council Tax base:

– Localising support for council tax – Council tax base and funding for local precepting authorities: Consultation (August 2012)
– Localising support for Council Tax – Council Tax base and funding for local precepting authorities: Government response to the outcome of consultation (November 2012)
– The Local Authorities (Calculation of Council Tax Base) (England) Regulations 2012

Funding arrangements:

– Localising Support for Council Tax: Funding arrangements consultation (May 2012)
– Localising support for Council Tax: transitional grant scheme (October 2012)
– Question and Answer Briefing on the transitional grant scheme
– Localising support for Council Tax: update on funding arrangements (November 2012)

Relationship with the Universal Credit:

– Localising support for Council Tax: restated default scheme universal credit provisions (October 2012)
– Localising support for Council Tax: explanatory note on restated default scheme universal credit provisions (October 2012)
– Localising support for Council Tax: Council Tax reduction scheme - taking account of universal credit income (December 2012)

Other detailed implementation issues:

– Localising support for Council Tax: information sharing and powers to tackle fraud (July 2012)
– Localising support for Council Tax: guidance note on administrative matters (November 2012)

About the LGiU

The LGiU is a local government think tank and membership organisation - with nearly 200 local authorities and others subscribing to its networks . Our mission is to strengthen local democracy to put citizens in control of their own lives, communities and local services. We work with councils and other public services providers, along with a wider network of public, private and third sector organisations. Through information, innovation and influencing public debate, we help address local and national policy challenges such as demographic, environmental and economic change, improving healthcare and reforming the criminal justice system. We publish 200 expert briefings annually on key policy issues and co-ordinate the Local Government All Party Parliamentary Group. We also organise the Children's Services Network (CSN) and Local Government Flood Forum (LGFF) and are the host organisation for Local Energy Ltd.

For membership information contact chris.naylor@lgiu.org.uk

22 Upper Woburn Place London WC1H 0TB

020 7554 2800; info@lgiu.org.uk, www.lgiu.org.uk
www.lgiu.org.uk/blog

© LGiU February 2013