WELSH STATUTORY INSTRUMENTS

2004 No. 785 (W.82)

COUNCIL TAX, WALES

The Council Tax (Administration and Enforcement) (Amendment) (Wales) Regulations 2004

Made - - - -	*16th March 2004*
Coming into force - -	*18th March 2004*

The National Assembly for Wales, in exercise of the powers conferred upon the Secretary of State by sections 113(1) and (2) of, paragraphs 1 and 4(2) of Schedule 2 to, and paragraphs 1, 3, 5, 11A and 12A of Schedule 4 to, the Local Government Finance Act 1992(**1**) and now vested in the National Assembly for Wales so far as exercisable in Wales(**2**), and in reliance on the powers directly conferred on the National Assembly for Wales by section 113(4) of, and paragraph 20(b) of Schedule 4 to, that Act, hereby makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations are called the Council Tax (Administration and Enforcement) (Amendment) (Wales) Regulations 2004.

(2) These Regulations apply to Wales only.

(3) These Regulations come into force on the 18th of March 2004.

Amendment of Regulations

2.—(1) The Council Tax (Administration and Enforcement) Regulations 1992(**3**) shall be amended in accordance with the following provisions of these Regulations.

(**1**) 1992 c. 14.

(**2**) The powers of the Secretary of State under sections 113(1) and (2) of, paragraphs 1 and 4(2) of Schedule 2 to, and paragraphs 1, 3, 5, 11A and 12A of Schedule 4 to the Local Government Finance Act 1992 were transferred to the National Assembly for Wales pursuant to article 2(2) of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). Section 113(4) was inserted into the 1992 Act by section 127(1) of, and paragraphs 40, 52(1) and (5) of Schedule 7 to, the Local Government Act 2003 (2003 c. 26). Paragraph 20(b) of Schedule 4 was inserted into the 1992 Act by section 127(1) of, and paragraphs 40 and 54 of Schedule 7 to, the 2003 Act.

(**3**) S.I. 1992/613.

Citation, commencement and interpretation

3. In regulation 1(2), after the definition of "demand notice regulations", there shall be inserted the following definitions(**4**)—

""discount" means a discount under section 11 or section 12 of the Act, or a reduction in the amount of council tax payable for a dwelling under section 13A of the Act where the dwelling falls into a class for which the billing authority has determined under section 13A(3) that liability shall be reduced otherwise than to nil;

"exempt dwelling" means a dwelling which is exempt from council tax under the Exempt Dwellings Order or a dwelling which falls into a class for which the billing authority has determined under section 13A(3) of the Act that the amount of council tax payable shall be reduced to nil."

Ascertainment of entitlement to discount and amount of discount

4. For regulation 14 substitute—

"**14.** Before making any calculation for the purposes of Part V of these Regulations of the chargeable amount in respect of any dwelling in its area, a billing authority shall take reasonable steps to ascertain whether that amount is subject to a discount, and if so, the amount of that discount."

Liability orders

5.—(1) In regulation 32(1), in the definition of "liability order" after "regulation 34" insert "or regulation 36A(5)".

(2) After regulation 36 insert the following regulation(**5**)—

"**Quashing and substitution of liability orders**

36A.—(1) Where—

(a) a magistrates' court has made a liability order pursuant to regulation 34(6); and

(b) the authority on whose application the liability order was made considers that the order should not have been made,

the authority may apply to a magistrates' court to have the liability order quashed.

(2) Where, on an application by an authority in accordance with paragraph (1) above, the magistrates' court is satisfied that the liability order should not have been made, it shall quash the order.

(3) Where an authority makes an application under paragraph (1) for a liability order ("the original order") to be quashed, and a lesser amount than the amount for which the original order was made has fallen due under paragraph (3) or (4) of regulation 23 (including those paragraphs as applied as mentioned in regulation 28A(2)) and is wholly or partly unpaid or (in a case where a final notice is required under regulation 33) the amount stated in the final notice is wholly or partly unpaid at the expiry of the period of seven days beginning with the day on which the notice was issued, the billing authority may also apply to the magistrates' court for an order against the person by whom the lesser amount was payable.

(4) Paragraphs (2) to (5) of regulation 34 shall apply to applications under paragraph (3) above.

(**4**) Regulation 1(2) was amended by the Council Tax (Administration and Enforcement) (Amendment) Regulations 1992 (S.I. 1992/3008).

(**5**) Regulation 36 was amended by the Council Tax (Administration and Enforcement) (No. 2) Regulations 1993 (S.I. 1993/733).

(5) Where, having quashed a liability order in accordance with paragraph (2) above, the magistrates' court is satisfied that, had the original application for the liability order been for a liability order in respect of a lesser sum payable, such an order could properly have been made, it shall make a liability order in respect of the aggregate of—

(a) that lesser sum payable; and

(b) any sum included in the quashed order in respect of the costs reasonably incurred by the authority in obtaining the quashed order."

Making of attachment of earnings order

6. In regulation 37—

(a) in paragraph (1) for "any outstanding sum which is or forms part of the amount in respect of which the liability order was made" substitute "the appropriate amount"(**6**);

(b) after paragraph (1) insert —

"(1A) For the purposes of this regulation the appropriate amount is the aggregate of —

(a) any outstanding sum which is or forms part of the amount in respect of which the liability order was made; and

(b) where the authority concerned has sought to levy an amount by distress and sale of the debtor's goods under regulation 45 and the person making the distress has reported that he was unable (for whatever reason) to find any or sufficient goods of the debtor on which to levy the amount —

(i) a sum determined in accordance with Schedule 5 in respect of charges connected with the distress, and

(ii) if the authority has applied for the issue of a warrant committing the debtor to prison in accordance with regulation 47, the authority's reasonable costs incurred up to the time of the making of the order under regulation 37, in making one or more of the applications referred to in Schedule 6, but not exceeding the amount specified for that application in Schedule 6.".

Charging orders

7. In regulation 50—

(a) for paragraph (1) substitute—

"(1) An application to the appropriate court may be made under this regulation where—

(a) a magistrates' court has made one or more liability orders pursuant to either regulation 34(6) or 36A(5);

(b) the amount mentioned in regulation 34(7)(a) or 36A(5)(a) in respect of which the liability order was made, or, where more than one liability order was made, the aggregate of the amounts mentioned in regulation 34(7)(a) or 36A(5)(a) in respect of which each such liability order was made, is an amount the debtor is liable to pay under Part V; and

(c) at the time that the application under this regulation is made at least £1000 of the amount in respect of which the liability order was made, or, where more

(**6**) Regulation 37(1) was amended by the Council Tax (Administration and Enforcement) (Amendment) Regulations 1998 (S.I. 1998/295).