Draft Regulations laid before Parliament under section 14D(2) of the Local Government Finance Act 1992, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2013 No.

COUNCIL TAX, ENGLAND

The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013

Made - - - - ***

Coming into force in accordance with regulation 1

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 14A, 14B, 14C and 113(1) and (2) of the Local Government Finance Act 1992(**1**).

In accordance with section 14D(2) of that Act, a draft of this instrument has been laid before and approved by resolution of each House of Parliament.

Citation, commencement and application

1.—(1) These Regulations may be cited as the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013.

(2) Subject to paragraph (3), these Regulations come into force on the day after the day on which they are made.

(3) Regulation 7 comes into force 14 days after the day on which these Regulations are made.

(4) These Regulations apply in relation to England only.

Interpretation

2.—(1) In these Regulations—

"the 1992 Act" means the Local Government Finance Act 1992;

"the Contributions and Benefits Act" means the Social Security Contributions and Benefits Act 1992(**2**);

(**1**) 1992 c. 14; sections 14A, 14B and 14C were inserted by section 14 of the Local Government Finance Act 2012 (c. 17); section 113(1) and (2) were amended by section 127 of, and paragraph 40 and 52 of Schedule 7 to, the Local Government Act 2003 (c. 26) and section 80 of the Localism Act 2011 (c. 20).

(**2**) 1992 c.4.

"the Default Scheme" means the scheme set out in the Schedule to the Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012(**3**);

"the Prescribed Requirements Regulations" means the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012(**4**);

"application" means an application for a reduction under a council tax reduction scheme;

"authorised officer" means a person acting in accordance with any authorisation for the purposes of these Regulations which is for the time being in force in relation to that person;

"council tax offence" means—

(a) any criminal offence in connection with the making of an application;

(b) any criminal offence in connection with the award of a reduction under a council tax reduction scheme;

(c) any criminal offence committed for the purpose of facilitating the commission (whether or not by the same person) of an offence of the kind referred to in sub-paragraph (a) or (b); or

(d) any attempt or conspiracy to commit an offence of the kind referred to in sub-paragraph (a) or (b).

(2) For the purposes of these Regulations—

(a) references to a document include references to anything in which information is recorded in electronic or any other form;

(b) the requirement that a notice given by an authorised officer be in writing shall be taken to be satisfied in any case where the contents of the notice—

(i) are transmitted to the recipient of the notice by electronic means; and

(ii) are received by him or her in a form that is legible and capable of being recorded for future reference.

Authorisations by billing authorities

3.—(1) Subject to paragraphs (2) and (3), a billing authority may grant an authorisation to an individual to exercise the powers conferred on an authorised officer under regulations 4 and 5.

(2) A billing authority may only grant an authorisation to an individual if he or she is—

(a) an individual employed by that authority;

(b) an individual employed by another billing authority or joint committee that carries out functions relating to council tax reduction schemes on behalf of that authority; or

(c) an individual employed by a person authorised under the Local Authorities (Contracting Out of Tax Billing, Collection and Enforcement Functions) Order 1996(**5**) by—

(i) the authority in question;

(ii) any such authority as is mentioned in sub-paragraph (b),

to exercise functions relating to council tax reduction schemes.

(3) An authorisation granted to an individual for the purposes of these Regulations—

(a) must be in writing and provided to that individual as evidence of his or her entitlement to exercise powers conferred by these Regulations;

(b) may contain provision as to the period for which the authorisation is to have effect; and

(**3**) S.I. 2012/2886 as amended by S.I. 2012/3085.
(**4**) S.I. 2012/2885 as amended by S.I. 2012/3085.
(**5**) S.I. 1996/1880 as amended by S.I. 2013/

(c) may restrict the powers exercisable by virtue of the authorisation so as to prohibit their exercise except for particular purposes or in particular circumstances.

(4) An authorisation may be withdrawn at any time in writing by the billing authority that granted it.

(5) The written authorisation or withdrawal of an authorisation by any billing authority must be issued under the hand of either—

(a) the officer designated under section 4 of the Local Government and Housing Act 1989(**6**) as the head of the authority's paid service; or

(b) the officer who is the authority's chief finance officer (within the meaning of section 5 of that Act).

(6) An individual who for the time being is authorised for the purposes of regulation 4, shall only be entitled to exercise any of the powers which are conferred on an authorised officer by that regulation for the purpose of preventing, detecting and securing evidence of the commission (whether by particular persons or more generally) of a council tax offence.

(7) An authorised officer shall be entitled to obtain information in accordance with arrangements entered into under regulation 5(1) only if that officer's authorisation states that their authorisation applies for the purposes of that paragraph.

(8) Nothing in this regulation conferring any power on an authorised officer shall require that power to be exercised only in relation to cases in which the authority administering the council tax reduction scheme is the authority by which that officer's authorisation was granted.

Power to require information

4.—(1) An authorised officer who has reasonable grounds for suspecting that a person—

(a) is a person falling within paragraph (2) or (3) below, and

(b) has or may have possession of or access to any information about any matter that is relevant for the purpose mentioned in regulation 3(6),

may, by written notice, require that person to provide all such information described in the notice of which that person has possession, or to which that person has access, and which it is reasonable for the authorised officer to require for the purpose so mentioned.

(2) The persons who fall within this paragraph are—

(a) any person who is or has been an employer or employee within the meaning of any provision made by or under the Contributions and Benefits Act;

(b) any person who is or has been a self-employed earner within the meaning of any such provision;

(c) any person who by virtue of any provision made by or under that Act falls, or has fallen, to be treated for the purposes of any such provision as a person within sub-paragraph (a) or (b);

(d) any person who is carrying on, or has carried on, any business involving the supply of goods for sale to the ultimate consumers by individuals not carrying on retail businesses from retail premises;

(e) any person who is carrying on, or has carried on, any business involving the supply of goods or services by the use of work done or services performed by persons other than employees of that person;

(**6**) 1989 c.42. Amendments have been made to section 4 but they are not relevant to these Regulations.

(f) any person who is carrying on, or has carried on, an agency or other business for the introduction or supply, to persons requiring them, of persons available to do work or to perform services;

(g) any local authority acting in their capacity as an authority responsible for the granting of any licence;

(h) any person who is or has been a trustee or manager of a personal or occupational pension scheme; or

(i) the servants and agents of any person as is specified in any of sub-paragraphs (a) to (h).

(3) The persons who fall within this paragraph are—

(a) any bank;

(b) the Director of Savings appointed under section 1(1) of the National Debt Act 1972(**7**);

(c) any person carrying on a business the whole or a significant part of which consists in the provision of credit (whether secured or unsecured) to members of the public;

(d) any insurer;

(e) any person carrying on a business the whole or a significant part of which consists in the provision to members of the public of a service for transferring money from place to place;

(f) any water undertaker or sewerage undertaker;

(g) any person who—

(i) is the holder of a licence under section 7 of the Gas Act 1986(**8**) to convey gas through pipes; or

(ii) is the holder of a licence under section 7A(1) of that Act(**9**) to supply gas through pipes;

(h) any person who (within the meaning of the Electricity Act 1989(**10**)) distributes or supplies electricity;

(i) any person conducting any educational establishment or institution;

(j) any body the principal activity of which is to provide services in connection with admissions to educational establishments or institutions;

(k) the Student Loans Company; or

(l) any servant or agent of any person mentioned in sub-paragraphs (a) to (k).

(4) Subject to the following provisions of this regulation, the powers conferred by this regulation on an authorised officer to require information from any person by virtue of that person falling within paragraph (3) shall be exercisable for the purpose only of obtaining information relating to a particular person identified (by name or description) by the officer.

(5) An authorised officer shall not, in exercise of those powers, require any information from any person by virtue of that person falling within paragraph (3) unless it appears to that officer that there are reasonable grounds for believing that the identified person to whom it relates is—

(a) a person who has committed, is committing or intends to commit a council tax offence;

(b) a person who is a member of the family of a person falling within sub-paragraph (a); or

(**7**) 1972 c.65.

(**8**) 1986 c. 44; subsection (1) was amended by section 76 of the Utilities Act 2000 (c. 27). Other amendments made to that subsection and section 7 more generally are not relevant to these Regulations.

(**9**) Section 7A was inserted by section 6(1) of the Gas Act 1995 (c. 45). Subsection (1) was subsequently amended by section 3(2) of the Utilities Act 2000 (c. 27); subsection (2) was amended by section 108 of, and paragraphs 1 and 2 of Schedule 6 to, that Act; and subsection (3) was amended by section 149 of the Energy Act 2004 (c. 20). Other amendments have been made to section 7A but they are not relevant to these Regulations.

(**10**) 1989 c. 29.

(c) where a person falling within sub-paragraph (a) is polygamously married, any partner of that person.

(6) The obligation of a person to provide information in accordance with a notice under this regulation shall be discharged only by the provision of that information, at such reasonable time and in such form as may be specified in the notice, to the authorised officer who—

(a) is identified by or in accordance with the terms of the notice; or

(b) has been identified, since the giving of the notice, by a further written notice given by the authorised officer who imposed the original requirement or another authorised officer.

(7) The power of an authorised officer under this regulation to require the provision of information shall include a power to require the production and delivery up and (if necessary) creation of any such documents containing the information as may be specified or described in the notice imposing the requirement, or the creation of copies of or extracts from any such documents.

(8) No person shall be required under this regulation to provide—

(a) any information that tends to incriminate either that person or, in the case of a person who is married or is a civil partner, that person's spouse or civil partner; or

(b) any information in respect of which a claim to legal professional privilege would be successful in any proceedings;

and for the purposes of this paragraph it is immaterial whether the information is in documentary form or not.

(9) The powers conferred by this regulation shall be exercisable in relation to persons holding office under the Crown and persons in the service of the Crown, as they are exercisable in relation to other persons.

(10) In this regulation—

"bank" means—

(a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000(**11**) to accept deposits;

(b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act(**12**) which has permission under paragraph 15 of that Schedule(**13**) (as a result of qualifying for authorisation under paragraph 12 of that Schedule(**14**)) to accept deposits or other repayable funds from the public; or

(c) a person who does not require permission under that Act to accept deposits in the course of that person's business in the United Kingdom;

"credit" includes a cash loan or any form of financial accommodation, including the cashing of a cheque;

"family" has the meaning given in paragraph 6 of the Default Scheme;

"insurer" means—

(d) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance; or

(e) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act(**15**), which has permission under paragraph 15 of that Schedule (as a result of qualifying for

(**11**) 2000 c. 8.
(**12**) Sub-paragraph (b) was substituted by regulation 29 of, and paragraph 2 of Schedule 3 to, S.I. 2006/3221.
(**13**) Sub-paragraph (1) of paragraph 15 was amended by S.I. 2007/3253. Other amendments made to paragraph 15 are not relevant to these Regulations.
(**14**) Sub-paragraph (9) of paragraph 12 was inserted by S.I. 2012/1906. Other amendments made to paragraph 12 are not relevant to these Regulations.
(**15**) Sub-paragraph (d) was amended by regulation 6 of S.I. 2004/3379.