Draft Regulations laid before Parliament under section 52ZQ(7) of the Local Government Finance Act 1992, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2012 No. XXXX

COUNCIL TAX, ENGLAND

The Local Authorities (Conduct of Referendums) (Council Tax Increases) (England) Regulations 2012

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 52ZQ and 113 of the Local Government Finance Act 1992(**1**).

The Secretary of State has consulted the Electoral Commission about these Regulations in accordance with section 52ZQ(6) of that Act.

In accordance with section 52ZQ(7) of that Act, a draft of this instrument has been laid before and approved by a resolution of each House of Parliament.

Citation and commencement

1. These Regulations may be cited as the Local Authorities (Conduct of Referendums) (Council Tax Increases) (England) Regulations 2012 and come into force on the day after the day on which they are made.

Interpretation

2.—(1) In these Regulations—

"the 1972 Act" means the Local Government Act 1972(**2**);

"the 1983 Act" means the Representation of the People Act 1983(**3**);

"the 1985 Act" means the Representation of the People Act 1985(**4**);

"the 1988 Act" means the Local Government Finance Act 1988(**5**);

(**1**) 1992 c.14. Section 52ZQ was inserted into the Local Government Finance Act 1992 by Schedule 5 to the Localism Act 2011 (c. 20) and section 113 was amended by paragraph 32 of Schedule 6 to that Act.
(**2**) 1972 c. 70.
(**3**) 1983 c. 2.
(**4**) 1985 c. 50
(**5**) 1988 c.41

"the 1992 Act" means the Local Government Finance Act 1992(**6**);

"the 2000 Act" means the Local Government Act 2000(**7**);

"the 2008 Regulations" means the Local Government (Structural Changes) (Finance) Regulations 2008(**8**);

"the 2011 Act" means the Police Reform and Social Responsibility Act 2011(**9**);

"the Representation of the People Regulations" means the Representation of the People (England and Wales) Regulations 2001(**10**);

"the Combination of Polls Regulations" means the Representation of the People (Combination of Polls)(England and Wales) Regulations 2004(**11**);

"the Local Government Finance Act Referendums Rules" means the rules set out in Schedule 3;

"the Local Government Finance Act Referendums (Combination of Polls) Rules" means the rules set out in Schedule 5;

"authority" means an authority of the kind mentioned in section 52ZA(1);

"campaign organiser" means the individual or body by whom, or on whose behalf, referendum expenses are incurred (including expenses treated as incurred) in connection with a referendum campaign;

"chief counting officer" means the person appointed under regulation 16;

"counting observer" means a person appointed by a counting officer under rule 18(2) of the Local Government Finance Act Referendums Rules or rule 18(1) of the Local Government Finance Act Referendums (Combination of Polls) Rules (as the case may be);

"counting officer" means a person referred to in regulation 15;

"European Parliamentary election" and "European Parliamentary general election" must be construed in accordance with section 27(1) of the 1985 Act(**12**);

"Local Government Act referendum" means a referendum held under section 9M (cases in which change is subject to approval in a referendum etc) of the 2000 Act, or by virtue of regulations or an order made under any provision of Part 1A (arrangements with respect to local authority governance in England) of that Act;

"local government election" must be construed in accordance with section 203(1) of the 1983 Act;

"notification date" means the date on which the notice required to be published by regulation 4, 5 or 6 (as the case may be) is published;

"police and crime commissioner" means an individual elected as a police and crime commissioner by relevant electors within the police area in accordance with provisions made by or under Chapter 6 of Part 1 of the 2011 Act;

"police area" must be construed in accordance with section 102 of the 2011 Act;

"police and crime commissioner election" must be construed in accordance with provision made by or under section 50 or 51 of the 2011 Act;

(**6**) 1992 c.14
(**7**) 2000 c. 22.
(**8**) S.I. 2008/3022
(**9**) 2011 c. 13.
(**10**) S.I. 2001/341; amended by SI 2001/1700, 2002/1871, 2004/226, 2006/752 and 2006/2910.
(**11**) S.I. 2004/294; amended by SI 2006/3278
(**12**) 1985 c.50; the definitions were amended by section 3 of the European Communities (Amendment) Act 1986 (c. 58) in consequence of the European Assembly being renamed the European Parliament.

"polling observer" means a person appointed by a counting officer under rule 18(1) of the Local Government Finance Act Referendums Rules or rule 19(1) of the Local Government Finance Act Referendums (Combination of Polls) Rules (as the case may be);

"referendum" means a referendum held under section 52ZG or section 52ZN (arrangements for referendum);

"referendum expenses limit" has the meaning given by regulation 12;

"referendum period", in relation to a referendum, means the period beginning with the notification date and ending on the date of the referendum;

"relevant billing authority" means the billing authority required to make arrangements to hold the referendum by virtue of section 52ZG or 52ZN of the 1992 Act;

"relevant election or referendum" means one or more of the following—

(a) another referendum;

(b) a Parliamentary election;

(c) a European Parliamentary election;

(d) a local government election;

(e) a mayoral election;

(f) a Local Government Act referendum;

(g) a police and crime commissioner election,

the poll at which is taken together with the poll at the referendum;

"relevant financial year" has the meaning given in regulation 4, 5 or 6 (as the case may be);

"special item" has the meaning given in section 89(2) of the Greater London Authority Act 1999(**13**);

"voting area" means the area in which a referendum is held.

(2) For the purposes of these Regulations—

(a) a billing authority's relevant basic amount of council tax for a financial year is not approved if it is not approved by a majority of persons voting in the referendum;

(b) a precepting authority's relevant basic amount of council tax for a financial year is not approved if—

(i) in a case where one referendum is held in respect of a precepting authority's relevant basic amount of council tax for a financial year, that amount is not approved by a majority of persons voting in the referendum, or

(ii) in a case where two or more referendums are held in respect of that amount, that amount is not approved by a majority of persons voting in all of those referendums taken together.

(3) Any reference in the following provisions of these Regulations to the authority in respect of which a referendum is held is to the authority which calculated a relevant basic amount of council tax requiring a referendum to be held under section 52ZG or 52ZN.

(4) Any reference in the following provisions of these Regulations to a section followed by a number is, unless the context otherwise requires, a reference to the section of the 1992 Act that bears that number.

(**13**) 1999 c.29. Section 89(2) was amended by Article 2 and paragraphs 1 and 6 of SI 2000/1435.

Question to be asked in a referendum

3.—(1) The question to be asked in the referendum is to be in the form set out in Schedule 1.

(2) Where—

(a) a referendum is held in relation to the Greater London Authority's relevant basic amount of council tax for a financial year; and

(b) the special item does not apply to the relevant billing authority's area,

references to an authority's relevant basic amount of council tax in Schedule 1 are to be interpreted as references to the authority's unadjusted relevant basic amount of council tax(**14**).

(3) Where—

(a) a referendum is held in relation to the Greater London Authority's relevant basic amount of council tax for a financial year; and

(b) the special item applies to the relevant billing authority's area,

references to an authority's relevant basic amount of council tax in Schedule 1 are to be interpreted as references to the authority's adjusted relevant basic amount of council tax(**15**).

Publicity and other information to be provided in connection with referendums by billing authorities

4.—(1) This regulation applies where a billing authority has determined that its relevant basic amount of council tax for a financial year (the relevant financial year) is excessive under section 52ZB(1).

(2) Where this regulation applies, the authority must, as soon as is reasonably practicable, and not fewer than 28 days before the date on which the referendum will be held in accordance with sub-paragraph (b) below, publish in such a manner as it considers likely to bring to the attention of persons who live in the authority's area, a notice which contains a statement—

(a) that a referendum is required to be held on the authority's council tax increase for the relevant financial year in accordance with Chapter 4ZA of Part 1 of the Local Government Finance Act 1992;

(b) of the date on which the referendum will be held;

(c) of the question to be asked in the referendum;

(d) that the referendum will be conducted in accordance with procedures similar to those used at local government elections;

(e) of the referendum expenses limit that will apply in relation to the referendum and the number of local government electors by reference to which that limit has been calculated;

(f) of the authority's relevant basic amount of council tax for the relevant financial year;

(g) of the authority's relevant basic amount of council tax for the financial year preceding the relevant financial year;

(h) of the percentage change in the authority's relevant basic amount of council tax from the preceding year to the relevant financial year expressed to one decimal place;

(**14**) See section 52ZX(4)(a) of the Local Government Finance Act 1992 for the meaning of "unadjusted relevant basic amount of council tax". Section 52ZX was inserted into the Local Government Finance Act 1992 by Schedule 5 to the Localism Act 2011 (c. 20)

(**15**) See section 52ZX(4)(b) of the Local Government Finance Act 1992 for the meaning of "adjusted relevant basic amount of council tax". Section 52ZX was inserted into the Local Government Finance Act 1992 by Schedule 5 to the Localism Act 2011 (c. 20)

(i) of what the amount calculated by the authority as its relevant basic amount of council tax for the relevant financial year would be if the authority's relevant basic amount of council tax is not approved;

(j) of what the percentage change in the authority's relevant basic amount of council tax from the preceding year to the relevant financial year expressed to one decimal place would be if the authority's relevant basic amount of council tax is not approved;

(k) that, not fewer than 28 days before the date on which the referendum will be held, the authority will publish a statement containing the matters referred to in regulation 7(1);

(l) of the procedures for obtaining a copy of the statement referred to in sub-paragraph (k).

(3) Where paragraph (4) applies, the notice published under paragraph (2) must include an explanation that—

(a) the amounts stated in the question to be asked in the referendum under paragraph (2)(c) and the amounts stated in sub-paragraphs (f) to (j) of paragraph (2) above do not take into account the amount of any levies; and

(b) the referendum is not being held in relation to the authority's expenditure on such levies.

(4) This paragraph applies where the authority is—

(i) issued with a levy or special levy for the relevant financial year, or

(ii) the authority anticipates such a levy in pursuance of regulations under section 74 or 75 of the 1988 Act.

(5) The notice published under paragraph (2) may also include—

(a) any other factual information relating to the authority's council tax or the referendum so far as it is presented fairly, or

(b) details of the procedures for obtaining such other factual information.

Publicity and other information to be provided in connection with referendums by precepting authorities other than the Greater London Authority

5.—(1) This regulation applies where a precepting authority, other than the Greater London Authority, has determined that its relevant basic amount of council tax for a financial year (the relevant financial year) is excessive under section 52ZB(3) or (5).

(2) Where this regulation applies, the authority must, as soon as is reasonably practicable, and not fewer than 28 days before the date on which the referendum will be held in accordance with sub-paragraph (c) below, publish in such a manner as it considers likely to bring to the attention of persons who live in the authority's area, a notice which contains a statement—

(a) that a referendum is required to be held on the authority's council tax increase for the relevant financial year in accordance with Chapter 4ZA of Part 1 of the Local Government Finance Act 1992;

(b) that arrangements to hold the referendum will be made by relevant billing authorities which are to be specified in the notice;

(c) of the date on which the referendum will be held;

(d) of the question to be asked in the referendum;

(e) that the referendum will be conducted in accordance with procedures similar to those used at local government elections;

(f) of the referendum expenses limit that will apply in relation to the referendum and the number of local government electors by reference to which that limit has been calculated;

(g) of the authority's relevant basic amount of council tax for the relevant financial year;