

2012 No. 2964

COUNCIL TAX, ENGLAND

**The Council Tax (Prescribed Classes of Dwellings) (England)
(Amendment) Regulations 2012**

<i>Made</i>	- - - -	<i>26th November 2012</i>
<i>Laid before Parliament</i>		<i>30th November 2012</i>
<i>Coming into force</i>	- -	<i>1st April 2013</i>

The Secretary of State, in exercise of the powers conferred by sections 11A(1), (2), (4) and (4A) and 11B(2) and (3) of the Local Government Finance Act 1992(a), makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Council Tax (Prescribed Classes of Dwellings) (England) (Amendment) Regulations 2012 and shall come into force on 1st April 2013.

(2) These Regulations apply in relation to billing authorities in England only.

Amendment of Regulations

2.—(1) The Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003(b) are amended in accordance with paragraphs (2) to (4) below.

(2) For regulation 2 (interpretation) substitute—

“Interpretation

2.—(1) In these Regulations—

“the Act” means the Local Government Finance Act 1992;

“caravan” shall be construed in accordance with Part 1 of the Caravan Sites and Control of Development Act 1960(c);

“Class A” means the class of dwellings described in regulation 4;

“Class B” means the class of dwellings described in regulation 5;

“Class C” means the class of dwellings described in regulation 7;

“Class D” means the class of dwellings described in regulation 8;

“Class E means the class of dwellings described in regulation 9;

(a) 1992 c.14. See section 116(1) for the definition of “prescribed”. Section 11A as originally enacted was inserted by the Local Government Act 2003 (c. 26), section 75(1) and subsections (4A) and (4B) were inserted by the Local Government Finance Act 2012 (c. 17), section 11. Section 11B was inserted by the Local Government Finance Act 2012, section 12.

(b) S.I. 2003/3011. Relevant amendments were made by S.I. 2004/926, S.I. 2005/416 and S.I. 2005/2866.

(c) 1960 c.62.

“Class F” means the class of dwellings described in regulation 10;

“qualifying person” means a person who is liable for the council tax in respect of a dwelling on a particular day, whether or not jointly with any other person, or who would be liable for the council tax in respect of a dwelling on a particular day if that dwelling did not fall within—

(a) Class O of the Council Tax (Exempt Dwellings) Order 1992(a); or

(b) Class E of the Council Tax (Liability for Owners) Regulations 1992(b);

“the relevant year” means the financial year for which a billing authority makes a determination under section 11A of the Act;

an “unoccupied dwelling” means a dwelling in which no one lives.

(2) For the purposes of Class D—

(a) a dwelling is vacant on any day if on the day—

(i) in the case of a dwelling consisting of a pitch occupied by a caravan or a mooring occupied by a boat, the caravan or boat is unoccupied; and

(ii) in any other case, the dwelling is unoccupied and substantially unfurnished; and

(b) in considering whether a dwelling has been vacant for any period, any one period, not exceeding six weeks, during which it was not vacant shall be disregarded.”

(3) In regulation 3 (prescribed classes), for paragraphs (1) and (2) substitute—

“(1) Class A and Class B are prescribed as classes of dwelling for the purposes of section 11A(4) of the Act for each financial year beginning on or after 1st April 2013.

(2) Class C and Class D are prescribed as classes of dwelling for the purposes of section 11A(4A) of the Act for each financial year beginning on or after 1st April 2013.

(3) Class E and Class F are prescribed classes of dwelling for the purposes of section 11B(2) of the Act for each financial year beginning on or after 1st April 2013.”

(4) After regulation 7 (Class C) insert—

“Class D

8. The class of dwellings described in this regulation (“Class D”) comprises every chargeable dwelling in England—

(a) which satisfies the requirement set out in paragraph (b) unless it has been such a dwelling for a continuous period of twelve months or more ending immediately before the day in question;

(b) the requirement referred to in paragraph (a) is that the dwelling is vacant and—

(i) requires or is undergoing major repair work to render it habitable, or

(ii) is undergoing structural alteration; or

(iii) has undergone major repair work to render it habitable, if less than six months have elapsed since the date on which the alteration was substantially completed and the dwelling has continuously remained vacant since that date;

(c) for the purposes of paragraph (b) above “major repair work” includes structural repair work.

Class E

9.—(1) The class of dwellings described in this regulation (“Class E”) comprises every chargeable dwelling in England which—

(a) S.I. 1992/558.

(b) S.I. 1992/551.

- (a) is the sole or main residence of an individual where that individual is a qualifying person in relation to another dwelling provided by the Secretary of State for Defence for the purposes of armed forces accommodation, and which for that individual is job-related; or
- (b) would be the sole or main residence of an individual if that individual were not a qualifying person in relation to another dwelling provided by the Secretary of State for Defence for the purposes of armed forces accommodation, and which for that individual is job-related.

(2) For the purposes of paragraph (1) a dwelling is job-related if it falls within the description set out in paragraph 1 of the Schedule to these Regulations.

Class F

10.—(1) The class of dwellings described in this regulation (“Class F”) comprises every chargeable dwelling in England—

- (a) which forms part of a single property which includes at least one other dwelling; and
- (b) which is being used by a resident of that other dwelling, or as the case may be, one of those other dwellings, as part of their sole or main residence.

(2) For the purposes of paragraph (1) “single property” means property which would apart from the Council Tax (Chargeable Dwellings) Order 1992^(a) be one dwelling within the meaning of section 3 of the Act.”

Signed by authority of the Secretary of State for Communities and Local Government

Brandon Lewis

Parliamentary Under Secretary of State

Department for Communities and Local Government

26th November 2012

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 11(2) of the Local Government Finance Act 1992 (“The Act”) makes provision for empty homes discounts of 50%. Section 11A of the Act makes special provision for England in relation to the empty homes discounts, providing for the discounts to be reduced in relation to certain classes of dwelling prescribed by the Secretary of State. Section 11B of the Act (inserted by the Local Government Finance Act 2012) makes provision for an empty homes premium to be charged in relation to such classes of long term empty dwelling as billing authorities choose, subject to exceptions prescribed by the Secretary of State.

These Regulations relate to England. They make amendments to the Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003 (“the 2003 Regulations”). They prescribe one additional class of dwelling for the purposes of section 11A of the Act and two further classes of dwelling for the purposes of section 11B of the Act.

In relation to dwellings of any class prescribed by the Secretary of State for the purposes of section 11A(4) of the Act, an English billing authority (a district council, a London borough council, the Common Council of the City of London, the Council of the Isles of Scilly or a county council with the functions of a district council) may determine that the council tax discounts

(a) S.I. 1992/549

applicable where there is no resident of the dwelling shall be replaced by a lower discount or no discount at all.

Paragraph (3) of regulation 2 prescribes Classes A and B in the 2003 Regulations for the purposes of section 11A(4) of the Act. Billing authorities in England will be able to reduce or end the council tax discount for chargeable dwellings which are unoccupied and furnished, and the occupation of which is restricted by a planning condition preventing occupation for a continuous period of at least 28 days in the relevant year and therefore fall within Class A. Billing authorities will also be able to reduce or end the council tax discount for chargeable dwellings which are unoccupied and furnished, and the occupation of which is not restricted by a planning condition preventing occupancy for a continuous period of at least 28 days in the relevant year and therefore fall within Class B.

In relation to dwellings of any class prescribed by the Secretary of State for the purposes of section 11A(4A) of the Act (inserted by section 11 of the Local Government Finance Act 2012), an English billing authority may determine that the council tax discounts applicable where there is no resident of the dwelling shall be replaced by any percentage of Council Tax up to 100%.

Classes C and D are prescribed by paragraph (3) of regulation 2 for the purposes of section 11A(4A). Class D is an additional class inserted into the 2003 Regulations by paragraph (4) of regulation 2 of these Regulations. Billing authorities in England will be able to decide what percentage of Council Tax to charge in relation to these classes of dwelling instead of the discount, up to the full amount. Dwellings which are unoccupied and substantially unfurnished will fall into Class D where they are undergoing, or have undergone within the last six months, major repairs, but they will only fall into this class for a maximum period of 12 months. Dwellings which are unoccupied and substantially unfurnished will fall into Class C.

Classes E and F are prescribed by paragraph (3) of regulation 2 for the purposes of section 11B(2) of the Act. These classes are inserted into the 2003 Regulations by paragraph (4) of regulation 2 of these Regulations. Billing authorities in England will not be able to charge an empty homes premium in relation to a dwelling which would be the sole or main residence of a person but which is empty while that person resides in accommodation provided by the Ministry of Defence by reason of their employment i.e. service personnel posted away from home (described by Class E and the definitions and Schedule currently in the 2003 Regulations). Billing authorities will also be prevented from charging an empty homes premium in relation to dwellings which form annexes in a property which are being used as part of the main residence or dwelling in that property (described by Class F in the Regulations).

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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