

Explanatory Memorandum to the Council Tax (Administration and Enforcement) (Amendment) (Wales) Regulations 2022

This Explanatory Memorandum has been prepared by Local Government Finance Reform Division and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Council Tax (Administration and Enforcement) (Amendment) (Wales) Regulations 2022.

Rebecca Evans
Minister for Finance and Local Government
9 February 2022

PART 1: DESCRIPTION

1 Overview

- 1.1 An Attachment of Earnings Order (AEO) is a council tax enforcement and recovery tool for local authorities. It enables an authority to recover money directly from an employee's earnings via their employer in order to pay outstanding council tax.
- 1.2 This statutory instrument makes amendments to the Council Tax (Administration and Enforcement) Regulations 1992 ("the 1992 Regulations"). It uprates the tables within Schedule 4 used to determine the amount deductible by local authorities via the employer in the recovery of council tax arrears.

2 Matters of special interest to the Legislation, Justice and Constitution Committee

- 2.1 None.

3 Legislative background

- 3.1 Article 2(a) of and Schedule 1 to the National Assembly of Wales (Transfer of Functions) Order 1999 transferred the power to make regulations in relation to AEOs from the Secretary of State to the National Assembly of Wales. Those powers were subsequently transferred to the Welsh Ministers by virtue of section 162 and Schedule 11 to the Government of Wales Act 2006.
- 3.2 Section 14(3) and paragraphs 1(1) and 5(2)(e) of Schedule 4 of the Local Government Finance Act 1992 ("the 1992 Act") enable Welsh Ministers to make regulations in relation to AEOs.
- 3.3 The initial regulations made pursuant to the 1992 Act were the 1992 Regulations which listed the rates applicable in respect of AEO in Schedule 4 to the Regulations. These were subsequently amended in SI [1998/295](#) to update the amounts in Schedule 4 and the regulations were further amended for Wales only in SI [2007/582](#).
- 3.4 These Regulations are being made under the negative resolution procedure.

4 Purpose and intended effect of the legislation

- 4.1 This statutory instrument amends the 1992 Regulations to uprate figures in those Regulations used to calculate deductible amounts in line with current Average Weekly Earnings (AWE).
- 4.2 The regulations will come into force on 1 April 2022.

Background

- 4.3 Once a liability order has been granted to a billing authority, the authority can instruct an employer to recover unpaid council tax from an employee's wages using an AEO. The amount that employers may deduct from an employee's wages under an AEO is set out in tables at Schedule 4 of the 1992 Regulations. The percentage deducted is based on the level of the employee's net earnings.
- 4.4 The earnings thresholds used to determine the deduction rates for council tax payment do not reflect recent changes in the cost-of-living. The tables were last amended in 2007 – by the Council Tax (Administration and Enforcement) (Amendment) (Wales) Regulations 2007 – when the thresholds were uprated in line with the Average Earnings Index (AEI). In January 2010, the AEI was replaced by the Average Weekly Earnings (AWE) measure, providing the headline indicator of short-term earnings.
- 4.5 In order to maintain fairness in the system, this statutory instrument uprates the thresholds so that the level of earnings taken into account for council tax purposes reflects real terms change. AWE data indicates an increase of 41.8% in average earnings between April 2006 and March 2021. This figure has been used to uprate the average earnings thresholds.
- 4.6 Increasing the earnings limits will protect council taxpayers who are currently required to yield a greater proportion of their income to pay off council tax debt than was the case when the thresholds were last increased.

5 Consultation

- 5.1 A public consultation ran from 8 October 2021 to 31 December 2021 seeking views on the policy intention to increase the earnings thresholds and the method of uprating. It also sought views on how often the earnings thresholds should be updated.
- 5.2 The consultation was published on the Welsh Government website and also sent directly to key stakeholders including local authorities and third sector advice services.
- 5.3 A second technical consultation on the draft instrument was issued to Welsh local authorities for comment between 20 December and 10 January 2022.
- 5.4 There were a total of 26 responses to the consultation from a range of stakeholders. The majority of respondents agreed with the Welsh Government's proposed approach for increasing the earnings thresholds and the method of uprating.
- 5.5 Some respondents thought the rates should be updated on an annual basis to bring this in-line with other taxes, RPI and pension contributions. Some responses felt that a review cycle of anything shorter than five years would

prove burdensome on employers, who would bear the responsibility for ensuring payroll software was up-to-date.

5.6 Responses also highlighted concerns about the implementation of diverging rates between Wales and England with regards to the modification of the payroll software used to make the deductions.

5.7 The consultation documents and a summary of the responses are available at: [Income thresholds for Attachment of Earnings Orders | GOV.WALES](#).

6 Regulatory Impact Assessment (RIA)

6.1 An RIA has not been prepared for this instrument as it is only increasing the earnings thresholds in line with average weekly earnings. This is consistent with the policy set out in the Welsh Ministers code of practice for carrying out regulatory impact assessments for subordinate legislation.