

## LEGISLATION

### **Local Government Finance Bill (taken from explanatory notes)**

This Bill amends the Local Government Finance Act 1992 and makes provision for local authorities to establish their own, locally determined, council tax reduction scheme. According to the provisions of the Bill, the schemes are to be made by 31st January 2013 and will apply to the financial year 2013-14. (The commencement of the schemes can be altered by the Secretary of State.)

Each local authority is to make their own assessment as to which groups they consider to be in financial need and thereby entitled to a reduction to their council tax. The local authority's scheme must set out the classes of person who are entitled to a reduction, the level of reduction which is to apply to those classes and the procedure by which a person may apply for a reduction. The Secretary of State retains the power to prescribe classes of persons which must be included in a scheme and the reductions which must apply to them. The Secretary of State intends to use this power to ensure that reductions are provided for pensioners.

Local authorities must consult before making a scheme and each financial year it must consider whether to revise or to replace its scheme. Should a local authority fail to institute a scheme by 31st January 2013 a default scheme established by the Secretary of State will apply to that local authority for the financial year 2013-14.

A new power contained in the Bill will allow local authorities to set council tax discounts on dwellings of a particular kind as set out in regulations. In addition, local authorities will also be able to charge an 'empty homes premium' in respect of dwellings which have been empty for two years or more, with the amount of council tax payable increased by up to 50%.

### **Child Poverty Act (extract from explanatory notes)**

Places a duty on local authorities and their partners to co-operate to tackle child poverty in their area, to carry out an assessment of the levels of child poverty in that area, and to prepare a joint local child poverty strategy; and Amends section 4 of the Local Government Act 2000 to require local authorities in England to have regard to the arrangements they have made to co-operate with their partners to reduce child poverty in their area, their local child poverty needs assessment and their joint child poverty strategy when preparing their Sustainable Community Strategy.

Enables an order under section 512ZB of the Education Act 1996 to provide for free school lunches and milk to be provided to prescribed school children whose parents are entitled to a prescribed social security benefit without extending the same entitlement to other school children within the same family.

### **Disabled Persons (Services, Consultation and Representation) Act 1986 (summary explanation)**

This Act makes provisions to provide for the improvement of the effectiveness of, and the co-ordination of resources in, the provision of services for people with mental or handicap and for people with mental illness.

Section 1 explains the meaning of an authorised representative and

Section 2 sets out the rights of authorised representatives of disabled persons.

Section 3 makes provisions regarding the assessment by local authorities of needs of disabled persons.

Section 4 provides that services under Section 2 of the Act have a duty to consider the needs of disabled persons.

Section 5 applies to disabled persons leaving education.

Section 6 relates to the review of expected leaving dates from full time education of disabled persons.

### **The Chronically Sick and Disabled Persons Act 1970**

This Act makes further provisions with respect to the welfare of chronically sick and disabled persons.

Sections 1 – 3 consider welfare and housing. Section 3 imposes duties on the housing authorities for those with special needs, chronically sick or disabled.

Sections 4 – 7 apply to premises open to the public.

Section 8 makes provisions relating to university and school buildings.

Section 13 relates to the youth employment service which requires at least one person to be responsible for the employment of young disabled persons.

Section 16 sets out the duties of the national advisory council under Disabled Persons (Employment) Act 1944. Section 17 and 18 make special provisions with respect to persons under 65.

Section 26 imposes a duty on every local educational authority to require special educational treatment for children suffering from autism or other forms of early childhood psychosis.

Section 27 imposes a duty on every local educational authority for special educational treatment for children suffering with acute dyslexia.

### **Housing Act 1996 (prevention of homelessness)**

Households unable to meet their accommodation costs, and as a consequence become threatened with homelessness or homeless, may turn to the local authority for assistance with housing. The local authority has a statutory duty to prevent homelessness arising but where it is unable to do so a statutory housing duty may arise. In some circumstances that will entail the provision of emergency whilst enquiries into a household homelessness application is carried out.

Part 7 of the Housing Act 1996 as amended by the Homelessness Act 2002 sets out the main statutory housing duties to homeless households. A statutory housing duty only arises where a household is considered homeless or threatened with homelessness under the terms of the act and to have a 'priority need' for accommodation.

There are four categories of people that have a 'priority need' which can broadly be grouped into:

i) families

ii) a person who is 'vulnerable' as a result of old age, mental illness, learning or physical disability or other special reason.

Homelessness may arise where a household has:

i) no accommodation s/he can legally occupy

- ii) accommodation that s/he can legally occupy but cannot gain access to
- iii) has accommodation that s/he can occupy but it is not reasonable to continue to occupy that accommodation.

It has been established by case law that it is not reasonable for an applicant to continue to occupy accommodation if the cost of paying for it would deprive the applicant of the means to provide for 'the ordinary necessities of life'. The local authority is required to take into consideration the households whole financial resources to meet accommodation costs, any child support or other payments that the applicant is required to make, and all other reasonable living expenses. In determining 'affordability' of accommodation a financial assessment is undertaken and the household's income against expenditure is measured. Financial resources are allocated against priority expenditure of which rental or mortgage payments are considered the highest priority followed by gas, electricity, council tax and food and any income remaining left over is then allocated paid towards secured loans, followed by unsecured debts such as credit card, personal loans and overdrafts. The failure of a household to treat their rental or mortgage payment as priority expenditure may result in the household being found intentionally homeless should they lose that accommodation.