

Constitutional and Legislative Affairs Committee Draft Report

Title: The Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2012

These Regulations set out the practical framework within which council tax reduction schemes will operate in Wales after the abolition of the current council tax benefit system. These Regulations make provision for local authorities to adopt council tax reduction schemes which incorporate a limited range of discretionary elements to provide support for council tax.

In line with the provisions in the Local Government Finance Act 2012 (the Act) which amend the Local Government Finance Act 1992, the Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2012 (“the prescribed requirements regulations”) and the Council Tax Reduction Schemes (Default Scheme) (Wales) Regulations 2012 (“the default scheme regulations”) will govern the introduction and operation of council tax reduction schemes in Wales.

Section 13A of the Local Government Finance Act 1992 (“the 1992 Act”), substituted by section 9 of the Local Government Finance Act 2012, enables the Welsh Ministers to make regulations in connection with council tax reduction schemes. These Regulations require each billing authority in Wales to make a scheme specifying the reductions which are to apply to amounts of council tax payable by persons, or classes of person, considered to be in financial need. Paragraphs 2 to 7 of Schedule 1B to the 1992 Act enable the Welsh Ministers to prescribe by regulations, matters that must be included in a scheme together with additional requirements which must or must not be included in a scheme.

Part 1 of these Regulations contains introductory provisions and definitions of key words and phrases. Part 2 makes provision about scheme requirements in relation to billing authorities in Wales, including classes of persons, reductions and scheme procedural requirements. Part 3 prescribes classes of person who must be included **in an authority’s scheme. Part 4 prescribes classes of person who must not be included in an authority’s** scheme.

Part 5 and Schedules 1 to 5 prescribe the matters that must be included in **an authority’s scheme in relation to pensioners. Schedules 1 to 5** set out the rules relevant to determine the eligibility of pensioners for a reduction and

the amount of reduction under a scheme, and set out how income and capital of pensioners is to be treated in calculating eligibility for a reduction.

Part 5 and Schedules 6 to 10 prescribe the matters that must be included in **an authority's scheme in relation to persons who are not pensioners.**

Schedules 6 to 10 set out the rules relevant to determine the eligibility of non-pensioners for a reduction and the amount of reduction under a scheme, and set out how income and capital of non-pensioners is to be treated in calculating eligibility for a reduction, including in cases where a non-pensioner or partner has an award of universal credit.

Schedule 11 provides for the application of the scheme to students.

Part 5 and Schedules 12 to 14 contain matters that must be included in an **authority's scheme in respect of all applicants.**

Procedure: Affirmative

Technical Scrutiny

Under Standing Order 21.2 the Assembly is invited to pay special attention to the following instrument: -

1. These Regulations have not been made bilingually.

[Standing Order 21.2(ix) - that it is not made or to be made in both English and Welsh].

Paragraph 5 of the Explanatory memorandum gives an explanation as to why these Regulations have not been made bilingually:

“Because of the length and technical complexity of the regulations, the timeframes within which they have been compiled and the fact that they draw on council tax benefit regulations for which there is no existing translation, it has not been possible to arrange for the Regulations to be provided in Welsh.”

2. On pages 96 and 97, (Schedule 6, Paragraph 19) references are made to regulations 75(1)(a)(ii), 75(1)(a)(iv) and 75(1)(b)(ii) of the Jobseeker's Allowance Regulations 1996. In fact these references should be to 75(1)(a) and 75(1)(b) instead.

[Standing Order 21.2 (vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements]

3. This reporting point is the same as the above but it occurs in a different part of the text. On page 109 (Schedule 6, paragraph 30) reference is made to regulation 75(1)(a)(ii), 75(1)(a)(iv) and 75(1)(b)(ii) of the **Jobseeker’s Allowance Regulations 1996**. In fact these references should be to 75(1)(a) and 75(1)(b) instead.

[Standing Order 21.2 (vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements].

4. On page 134 (Schedule 8, paragraph 18(c)) reference is made to regulation 18(3) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002. This provision has in fact been repealed by regulation 2(19) of the Tax Credits (Miscellaneous Amendments) Regulations 2012. This provision allowed claimants to a further benefit/reduction in Council Tax.

[Standing Order 21.2 (vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements].

Merits Scrutiny

Under Standing Order 21.3 the Assembly is invited to pay special attention to the following instrument:-

1. Two sets of Council Tax regulations have been laid for approval, the prescribed requirement regulations and the default scheme regulations. The prescribed requirement regulations make provision for requirements for local schemes to be made by individual local authorities in Wales, as well as specifying a number of areas of local discretion. The default scheme regulations will take effect if local authorities choose not to adopt their own schemes or they do not adopt schemes within the required time.

If local authorities wish to adopt their own schemes under the prescribed requirements regulations, then regulation 13 **states “each authority in Wales must make a scheme no later than the 31st January 2013, and the first financial year to which that scheme relates must be the year beginning 1 April 2013”**. Unless Local Authorities have already begun preparations of their own for the schemes then they only have a very limited period of time to adopt their own schemes.

The type of changes and work required that is envisaged for Local Authorities to adopt their own schemes is identified on pages 12 and 13 of the Explanatory Memorandum which contains a table setting out the estimated costs for moving from the existing council tax benefit system to a new scheme (transition costs). Examples include **alterations to each local authority's IT system**, modelling new software, training of staff and publicising the new schemes via a range of media channels.

2. Both sets of regulations were re-tabled on 12th December 2012. The substantive amendment to the prescribed requirements regulations was that a “sun-set” clause was inserted in to regulation 1. Regulation 1(3) states *“These Regulations apply in relation to the financial year beginning on 1 April 2013.”* This limits the application of these Regulations and they will cease to have effect on midnight on 31st March 2014. Regulation 1(4) states *“On or before 1 January 2014 the Welsh Ministers must publish draft regulations under section 13A(4) of the 1992 Act in respect of the financial year beginning 1 April 2014 and subsequent financial years.”* This means that the prescribed requirements regulations will be redrafted and published by or before the first of January next year. This will give the Assembly the opportunity to re-visit and scrutinise in good time any future draft prescribed requirements regulations. The explanatory memorandum has been amended to reflect the above changes (paragraphs 6, 7 and 8).

No amendments have been made to the Council Tax Reduction Schemes (Default Scheme) (Wales) Regulations 2012 as none were required. The effect of paragraph 6(1)(e) of Schedule 1B to the Local Government Finance Act 1992 is that any default scheme prescribed in regulations will only apply in the event that a local authority fails to comply with any duty set out in regulations requiring authorities to introduce council tax reduction schemes. The Council Tax Reduction Schemes (Default Scheme) (Wales) Regulations 2012 therefore have practical effect only during the period of the applicability of the prescribed requirements regulations which impose the duty to have a scheme, which by virtue of regulation 1(3) of those regulations is the financial year 2013-14.

3. The Regulatory Impact Assessment outlines the various options and possible outcomes of making these Regulations. Page 11 of the Explanatory Memorandum explains there is a funding shortfall from HM Treasury which means that from now on, persons claiming support

under the council tax reduction scheme will have to pay a proportion of their own council tax bill. The Explanatory Memorandum states that ***“due to the funding available, the new scheme will mean that approximately 70% of current Council Tax Benefits (CTB) claimants in Wales will have to pay council tax for the first time and as a result local authorities are expecting that their council tax collection rates could fall and the costs of collecting this additional council tax could rise”***. It is estimated that collection rates are expected to fall up to 1.5%.

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Government response to follow