

Constitutional and Legislative Affairs Committee Draft Report
CLA

Title: The Council Tax Reduction Schemes (Default Scheme) (Wales) Regulations 2012

These **Regulations made under the Local Government Act 1992 ('the 1992 Act')** detail the default scheme that will take effect if any local authority in Wales fails to adopt its own council tax reduction scheme under the Council Tax Reduction Schemes (Prescribed Requirements) (Wales) Regulations 2012 (**'the Prescribed Requirements Regulations'**) by 31 January 2013.

These Regulations 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.

The default scheme prescribed by the Welsh Ministers is set out in the Schedule to these Regulations. Parts 1 and 2 contain introductory provisions and definitions of key words and phrases.

Part 3 and Schedule 1 contain the procedure for reduction applications and appeals. Parts 4 and 5 specify the classes of person entitled and not entitled to a reduction under the scheme, respectively.

Parts 6 to 8 and Schedules 2 and 3 set out matters relevant to determining eligibility for a reduction and the amount of reduction under the scheme.

Part 9 and Schedules 4 to 9 set out how income and capital of the applicant and others is treated in calculating eligibility for a reduction, including in cases where an applicant or partner has an award of universal credit.

Part 10 provides for the application of the scheme to students. Part 11 provides for extended reductions in certain circumstances and Part 12 sets out the period of entitlement and how a change in circumstances affects any reduction.

Part 13 of the scheme provides for the making of an application for a reduction. Part 14 sets out the time within which an authority must make its decision on the application and provides for notification of the decision. Part 15 makes provision about the award or payment

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 4 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 Page 52, Chapter 5, Paragraph 53 4 (c) of the Scheme set out in the Schedule to these Regulations 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]

3. This reporting point is the same as the above but it occurs in the different part of the text. On pages 65, 66 Chapter 7, Paragraph 6 (b) 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 133 (Schedule 6, paragraph 18 (c) to the Scheme 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 Requirements Regulations and the default scheme regulations. The Prescribed Requirements 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 page 12 and 13 of the Explanatory Memorandum of the Prescribed Requirements Regulations 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 the Prescribed Requirements 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 the Prescribed Requirements Regulations **in a years' time**. The explanatory memorandum of the Prescribed Requirements Regulations 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 imposes 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 the Prescribed Requirements 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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Constitutional and Legislative Affairs Committee
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Government response to follow