

**Explanatory Memorandum to the Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) (Amendment) Regulations 2015.**

This Explanatory Memorandum has been prepared by the Local Government Finance and Performance Division and is laid before the National Assembly for Wales 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 Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) (Amendment) Regulations 2015. I am satisfied that the benefits outweigh any costs.

**Leighton Andrews**  
Minister for Public Services  
11 December 2014

## **Description**

1. This statutory instrument updates certain figures used to calculate an applicant's entitlement to a reduction under a Council Tax Reduction Scheme, and the subsequent level of reduction, and relates to both the Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2013 and the Council Tax Reduction Schemes (Default Scheme) (Wales) Regulations 2013.
2. This instrument also makes amendments relating to eligibility for a Council Tax reduction and makes consequential amendments as a result of wider changes to welfare benefits.

## **Matters of special interest to the Constitutional and Legislative Affairs Committee**

3. None.

## **Legislative background**

4. Section 9 of, and Schedule 4 to, the Local Government Finance Act 2012 inserted a new Section 13A and new Schedule 1B into the Local Government Finance Act 1992. These provisions enabled the Welsh Ministers to introduce Council Tax Reduction Schemes in Wales via regulations.
5. The relevant provisions in the Local Government Finance Act 2012 were subject to a Legislative Consent Motion which was approved by the National Assembly for Wales on 26 June 2012. The Local Government Finance Act 2012 received Royal Assent on 1 November 2012.
6. This statutory instrument is made under the new section 13A of, and the new Schedule 1B to, the Local Government Finance Act 1992.
7. The instrument is subject to approval of the Assembly (the affirmative procedure).

## **Purpose and intended effect of the legislation**

8. The Welfare Reform Act 2012 contained provisions to abolish Council Tax Benefit from 31 March 2013. From this date, the responsibility to provide support for Council Tax and the funding associated with it, has been devolved to Local Authorities in England, to the Scottish Government and to the Welsh Government.
9. Following the UK Government's decision to abolish Council Tax Benefit, the Welsh Government sought provisions in the Local Government Finance Act

2012 which amended the Local Government Finance Act 1992 (“the 1992 Act”), to provide the Welsh Ministers with executive powers to introduce Council Tax Reduction Schemes in Wales via regulations.

10. The Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2013 and the Council Tax Reduction Schemes (Default Scheme) (Wales) Regulations 2013 (referred to together in this Memorandum as “the 2013 Regulations”) were approved by the National Assembly for Wales on 26 November 2013.
11. In line with the provisions in the 1992 Act, the 2013 Regulations govern the operation of Council Tax Reduction Schemes in Wales and are designed to ensure all Local Authorities introduce some form of Council Tax support.
12. This statutory instrument amends the 2013 Regulations to uprate certain figures used within those Regulations to calculate entitlement to a reduction, and subsequently the amount of a reduction. The uprated figures relate to:
  - Non-dependant deductions (adjustments made to the maximum amount of reduction a person can receive to take account of adults living in the dwelling who are not dependants of the applicant);
  - The applicable amount (the amount against which an applicant’s income is compared to determine the amount of reduction they are entitled to); and
  - The disregard that applies when calculating a person’s income.
13. These uprated figures have been calculated with assistance from the Department of Work and Pensions following the Chancellor’s Autumn Statement and the uprating of interrelated social security benefits such as Savings Credit. The uprating increases the various figures used to calculate an applicant’s entitlement to a reduction, and the amount of the reduction, in line with increased living costs and earnings.
14. Whilst the scale of the impact is dependent on an applicant’s particular circumstances, almost all applicants will be worse off in 2015-16 if the uprating amendments are not made.

#### Additional Amendments

15. In addition to the uprating, this statutory instrument amends the 2013 Regulations to:
  - Remove the requirement for Local Authorities to publish a draft scheme and consult interested persons where a Local Authority revises a scheme in consequence of amendments made to the prescribed requirements in the Regulations. This removes an administrative burden from Local Authorities as it means they are no longer required to consult on legislative changes made to their schemes as a result of changes made to the Regulations over which they have no control.

- Incorporate the introduction of shared parental leave and statutory shared parental pay, into the rules for calculating entitlement to a reduction. This replaces additional paternity leave and additional statutory paternity pay for babies due or adopted on or after 5 April 2015.
- Provide that being entitled to an income-based Jobseeker's Allowance ("JSA") will no longer grant access to a Council Tax Reduction for jobseeker's who are nationals of the European Economic Area ("EEA"). The 2013 Regulations are amended so that only EEA nationals who are receiving JSA because they have a right to reside other than as a jobseeker or as a family member of a jobseeker will continue to be eligible. The amendment will not apply to a person who is entitled to housing benefit and income-based jobseeker's allowance on 31st March 2014 until that person ceases to be entitled to jobseeker's allowance or makes a new claim for a Council Tax Reduction, whichever is earlier. EEA nationals who are self-employed, are workers or who are unemployed but retain their worker status have the same rights to a Council Tax Reduction as a UK national and their situation remains unchanged. This amendment reflects similar changes made to Housing Benefit from 1 April 2014. Council Tax Reduction Schemes and Housing Benefit are administered together by Local Authorities and most applicants for a Council Tax Reduction are also in receipt of Housing Benefit. The amendment therefore aligns the treatment of applicants for Council Tax Reductions and Housing Benefit.
- Make minor consequential amendments in relation to definitions around Employment and Support Allowance and references to Universal Credit. Income related Employment and Support Allowance no longer consists of separate contributory and income related allowances, but only of a contributory allowance known as the 'employment and support allowance'. Amendments are also made to insert references to Universal Credit into the 2013 Regulations where there are already references to other income-related benefits.

## **Consultation**

16. No consultation has been undertaken in respect of this statutory instrument. However, the 2013 Regulations were consulted upon and details of this are provided in the Regulatory Impact Assessments accompanying those Regulations.

## **Regulatory Impact Assessment (RIA)**

### **Options**

#### Option 1 – Do nothing

17. This option would mean that amendments would not be made to uprate the financial figures in the 2013 Regulations in line with cost-of-living increases or to reflect consequential amendments to interrelated social security benefits.
18. Due to cost-of-living increases such as Council Tax rises and inflation, not uprating could make applicants worse off depending on their personal circumstances.
19. It would also mean that amendments would not be made to the eligibility provisions in the Regulations or as a result of wider welfare changes made by the UK government. This could create confusion for applicants and increase the administrative burden for Local Authorities.

#### Option 2 – Make amending Regulations

20. Making amending Regulations to uprate the financial figures in the 2013 Regulations for 2015-16 will maintain applicants' entitlement to a Council Tax Reduction in line with cost-of-living increases.
21. As part of these Regulations, consequential and technical amendments are made that are associated with wider welfare changes made by the UK government. This ensures Council Tax Reduction Schemes reflect changes made to interrelated social security benefits which often determine entitlement to a reduction.

### **Costs and Benefits**

#### Option 1 – Do nothing

##### *Uprating*

22. Not uprating the financial figures in line with cost-of-living increases could make applicants who are not passported onto Council Tax Reduction Schemes i.e. those not in receipt of a contributory benefit (for example Job Seeker's Allowance or Pension Credit) worse off, dependent on their personal circumstances. For applicants currently in receipt of a partial reduction in their Council Tax liability, this could mean their Council Tax liability will increase. For applicants currently in receipt of a full reduction in their Council Tax liability (as their income is less than the applicable amount) it could mean they will have to pay a small amount of Council Tax for the first time.
23. Council Tax Reduction Schemes and Housing Benefit are administered together by Local Authorities and most applicants for Council Tax Reduction Schemes are also in receipt of Housing Benefit. The UK Government is

uprating Housing Benefit and, therefore, not uprating Council Tax Reduction Schemes could lead to confusion for applicants who will be treated differently under schemes providing similar financial assistance.

24. Not uprating could also lead to increased costs for Local Authorities, as they could have to issue, and subsequently collect, additional small value bills. This could also lead to indirect costs such as increased Council Tax collection costs or a decrease in collection rates.
25. However, not uprating will help to limit any increases in total reductions under Council Tax Reduction Schemes, helping to manage the funding shortfall. Although this impact will be partially offset by an increase in the non-dependant deduction rates. The uprating will increase the fixed amount deducted from an applicant's Council Tax Reduction based on the gross weekly income of any non dependants. Consequently, the overall increase in the cost of Council Tax Reduction Schemes is not expected to rise significantly as a result of the uprating.

#### *Other Amendments*

26. Other technical and consequential amendments to the 2013 Regulations relate to, for example, wider welfare changes made by the UK government. Such changes have been incorporated into the Housing Benefit system which is administered alongside Council Tax Reduction Schemes by Local Authorities. Similarly, the amendment to the eligibility of EEA jobseekers reflects a change made to Housing Benefit Regulations.
27. Therefore, opting not to make the amendments would mean that it would not be possible to align Council Tax Reduction Schemes with Housing Benefit provisions. This could lead to confusion for some applicants who, as a result, could be treated differently under schemes providing similar financial assistance. It also places an additional administrative burden on Local Authorities and advice providers as there would now be diverging Regulations relating to Housing Benefit and Council Tax Reduction Schemes.

#### Option 2 – Make amending Regulations

##### *Uprating*

28. Uprating the financial figures will maintain applicants' entitlement to a Council Tax reduction in line with cost-of-living increases such as inflation and Council Tax rises. This will avoid the likely increases in applicants' Council Tax liability which could result if the figures are not uprated.
29. Uprating the financial figures used to calculate entitlement to a reduction will keep Council Tax Reduction Schemes in line with Housing Benefit, which the UK Government will be uprating in 2015. This will avoid any additional administrative burden for Local Authorities or advice providers.

30. However, uprating will increase total reductions under Council Tax Reduction Schemes, potentially exacerbating funding pressures on local authorities. Although this impact will be partially offset by an increase in the non dependant deduction rates. The uprating will increase the fixed amount deducted from an applicant's Council Tax reduction based on the gross weekly income of any non dependants. Consequently, the overall increase in the cost of Council Tax Reduction Schemes is not expected to rise significantly as a result of the uprating.

#### *Other Amendments*

31. Under Option 2, other amendments to the Scheme can be made as part of the uprating Regulations. These changes relate to, for example, wider welfare changes such as the introduction of Shared Parental Leave and a change to the eligibility of EEA jobseekers. Such changes are incorporated into the Housing Benefit system which is administered alongside Council Tax Reductions schemes by Local Authorities.

32. Therefore, this Option makes it possible to amend the 2013 Regulations to align Council Tax Reduction Schemes with Housing Benefit. This avoids any confusion for some applicants who, as a result of Option 1, could be treated differently under schemes providing similar financial assistance. It also removes any administrative burden for Local Authorities or advice providers associated with diverging Regulations relating to Housing Benefit and Council Tax Reduction Schemes.

#### **Sectors**

33. Local Government and the Voluntary Sector were consulted during the development of proposals to introduce Council Tax Reduction Schemes in Wales.

34. This legislation will not affect the Business Sector.

#### **Duties**

35. In drafting these Regulations consideration has been given to Welsh Minister's duty to promote equality and eliminate discrimination. An Equality Impact Assessment was completed for the introduction of the 2013 Regulations.

36. Council Tax Reduction Schemes are implemented and operated by Local Authorities who are under general duties to comply with Welsh Language and Sustainable Development duties.

#### **Competition Assessment**

37. This has been scored against the competition filter test which indicated that there will be no detrimental effect on competition.

## **Post implementation review**

38. Amendments are required on an annual basis to uprate financial figures used to calculate entitlement to a reduction in line with cost of living increases, this provides an opportunity to review the legislation.



