

SL(5)473 – The Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) (Amendment) Regulations 2020

Background and Purpose

Council Tax Reduction Schemes (**CTRS**) are the mechanism by which local authorities provide support to low income households in meeting their council tax liability.

These Regulations amend the Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2013 and the Council Tax Reduction Schemes (Default Scheme) (Wales) Regulations 2013. They uprate 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 makes certain technical and consequential amendments.

The Regulations make amendments that are consequential on The Civil Partnership (Opposite-sex Couples) Regulations 2019 and a suite of regulations that will implement provision in the Parental Bereavement (Leave and Pay) Act 2018.

Procedure

Affirmative.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

One point is identified for reporting under Standing Order 21.3 in respect of this instrument.

1. Standing Order 21.3(ii) - that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly

The Regulations refer to "article 3...of the Immigration (European Economic Area Nationals) (EU Exit) Order 2019 *made under section 3A of [the Immigration Act 1971]*" (emphasis added).

We ask why it is necessary to refer to the fact that the 2019 Order was made under section 3A of the Immigration Act 1971, and what would have been different if the Regulations had simply referred to article 3 of the 2019 Order (without citing the power under which the 2019 Order was made).

The same point arises in respect of the immigration rules *made under section 3(2) of the Immigration Act 1971*.

Implications arising from exiting the European Union

A new basis of stay has been created for EEA (European Economic Area) and Swiss nationals under the EU Settlement Scheme (**EUSS**) as of 30 March 2019. The EUSS is the means by which EEA and Swiss nationals and their family members, resident in the UK by the specified date, can apply for a UK immigration status which will protect their entitlements and right to remain in the UK. The specified date



has been set at 31 December 2020 in the event the UK agrees a deal with the EU and the deadline for applying to the EUSS is 30 June 2021. If the UK leaves the EU without a deal, then EEA and Swiss nationals will need to be living in the UK before it leaves the EU to apply and the deadline for applying will be 31 December 2020.

Provision in the CTRS about persons treated as not being in Great Britain has been updated to clarify that limited leave to enter or remain granted under the EUSS is not a relevant right to reside for the purposes of being habitually resident in the United Kingdom.

The Regulations also provide that a number of rights to reside established for nationals of European Economic Area states in connection with the United Kingdom's withdrawal from the EU are not relevant rights to reside for the purposes of establishing habitual residence.

Government Response

Regulation 6 amends regulation 28 of the Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2013 (Persons treated as not being in Great Britain). The amendment inserts a number of new rights to reside established for nationals of European Economic Area states in connection with the United Kingdom's withdrawal from the EU. Identical provision is made in Regulation 15 amending paragraph 19 of the Schedule in the Council Tax Reduction Schemes (Default Scheme) (Wales) Regulations 2013.

There is precedent for the drafting approach taken in referencing the relevant section of the Immigration Act 1971. See for example Regulation 28(5)(e) of the Prescribed Requirements Regulations 2013 and Paragraph 19(5)(e) of the Default Scheme Regulations 2013. It is also consistent with EU Exit provision made in other recent Regulations made by the Welsh Ministers and approved by the Assembly. See, for example, Regulation 2(3) of the [Allocation of Housing and Homelessness \(Eligibility\) \(Wales\) \(Amendment\) Regulations 2019](#) and Regulation 2(3) of the [Allocation of Housing and Homelessness \(Eligibility\) \(Wales\) \(Amendment\) \(No 2\) Regulations 2019](#). Both sets of Regulations reference Appendix EU to the immigration rules made under section 3 of the 1971 Act.

Legal Advisers

Constitutional and Legislative Affairs Committee

29 November 2019

