

**Explanatory Memorandum to the Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) (Amendment) Regulations 2013.**

This Explanatory Memorandum has been prepared by the Local Government Finance & 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 2013. I am satisfied that the benefits outweigh any costs.

*Carl Sargeant*

Minister for Local Government & Communities

17 January 2013

## **Description**

1. This statutory instrument makes a number of amendments to the Council Tax Reduction Schemes (Default Scheme) (Wales) Regulations 2012 and the Council Tax Reduction Scheme and Prescribed Requirements (Wales) Regulations 2012 (“the 2012 Regulations”) approved by the National Assembly for Wales on 19<sup>th</sup> December 2012.
2. This statutory instrument up-rates certain figures in the 2012 regulations used to calculate a claimant’s entitlement to a reduction under a council tax reduction scheme, and the subsequent level of reduction
3. This statutory instrument also amends an error which appears in both sets of the 2012 regulations within the provisions dealing with the award or payment of a reduction under a scheme, as well as addressing a number of minor technical referencing errors identified during the scrutiny of the 2012 regulations.
4. The statutory instrument also increases the maximum percentage by which a household’s council tax liability may be reduced under the scheme, from 90% to 100%.

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

5. It has not been possible to arrange for the Regulations to be provided in Welsh.
6. Due to timing constraints it has not been possible for the Committee to consider the regulations between them being laid and being considered in the Assembly.

## **Legislative background**

7. Section 10 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 new provisions provide Welsh Ministers with executive powers to introduce council tax reduction schemes in Wales, via regulations.
8. The relevant provisions of the Local Government Finance Act 2012 were subject to a Legislative Consent Motion which was approved by the National Assembly for Wales on 26<sup>th</sup> June 2012. The Local Government Finance Act 2012 received Royal Assent on 1 November 2012.
9. This statutory instrument is being made under the new section 13A of, and the new Schedule 1B to, the Local Government Finance Act 1992.
10. The instrument is subject to approval of the Assembly (the affirmative procedure).

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

11. The Welfare Reform Act 2012 contains provisions to abolish Council Tax Benefit (CTB) from 31 March 2013. From this date the responsibility for providing support for council tax and the funding associated with it, will be transferred to local authorities in England and to the Scottish Government and to the Welsh Government.
12. In line with the provisions in the Act, the 2012 regulations will govern the operation of council tax reduction schemes in Wales and these are designed to ensure that all local authorities introduce some form of council tax support.
13. The 2012 regulations were approved by the National Assembly for Wales on 19<sup>th</sup> December 2012.
14. This statutory instrument amends both sets of the 2012 regulations to up-rate certain figures used within those regulations to calculate entitlement to a reduction, and subsequently the amount of a reduction. The up-rated 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 against to determine amount of reduction entitled to); and
  - The disregard that applies when calculating a person's income.
15. These up-rated figures have been calculated following the Autumn Statement, and increase the various figures in line with increased living costs and earnings. While the impact is dependent on a claimant's particular circumstances, if the up-rating amendments are not made, then applicants could be, on average, between 50p and £10 worse off a week.
16. This statutory instrument also amends an error in both of the sets of the 2012 regulations, which appears within the provisions dealing with the award or payment of a reduction under a scheme:
  - Paragraph 10(2)(c) of Schedule 13 to the Council Tax Reduction Scheme and Prescribed Requirements (Wales) Regulations 2012; and
  - Paragraph 116(2)(c) of schedule to Council Tax Reduction Schemes (Default Scheme) (Wales) Regulations 2012 the default scheme regulations.
17. These provisions set out how an award or payment of a reduction is to be made to an applicant. They require that, in general, a billing authority must award a reduction by way of reducing an applicant's council tax liability. However, where it is inappropriate to reduce an applicant's council tax liability, the regulations enable billing authorities to make a payment to an applicant of the amount of the reduction.

18. The provisions of the 2012 regulations referred to in paragraph 16 incorrectly contain the word ‘appropriate’, and it is necessary to substitute this with the word ‘inappropriate’ so that billing authorities can make payments in accordance with paragraph 17.
19. This statutory instrument also rectifies a number of minor technical errors identified by the Constitutional and Legislative Affairs Committee during its scrutiny of the 2012 regulations. These relate to:
- A reference 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; and
  - A reference 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.
20. Regulations 3, 6 and 14 also increase the maximum percentage by which a household’s council tax liability may be reduced under the scheme from 90% to 100%. This has been increased as a result of the decision by Welsh Ministers to provide £22million in additional funding to give additional help to individuals facing a cut in their Council Tax support following the reduction in funding announced by the UK Government in the Comprehensive Spending Review 2010.
21. The effect of increasing the maximum percentage by which a household’s council tax liability may be reduced from 90% to 100% is to ensure that people eligible for a reduction under a council tax reduction scheme receive 100% of their entitlement. This means that in contrast to the 2012 regulations, not all claimants receiving support under the council tax reduction scheme will have to pay a proportion of their council tax bill.

## **Consultation**

22. Details of the consultation undertaken are provided in the RIA below.

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

### **Options**

#### Option 1 – Do Nothing

23. Make no amendments to the 2012 regulations so that all those claiming support under the council tax reduction scheme would have to pay a proportion of their council tax bill.
24. None of the figures used to calculate entitlement to a reduction, and subsequently the amount of reduction which eligible claimants will receive on their council tax bill, would be up-rated in line with increased cost of livings and earnings.

## Option 2 – Make Amendments to the 2012 Regulations

25. Make amendments to the 2012 regulations to include up-rated figures and to increase the maximum reduction in council tax liability from 90% to 100%.

### **Costs & benefits**

#### **Costs**

#### Option 1 – Do Nothing

26. If no action was taken to amend the 2012 regulations then all those claiming support under the council tax reduction scheme would have to pay a proportion of their council tax bill. While the amount a claimant would be required to pay would depend on their individual circumstances it is estimated that setting the maximum level of council tax liability which could be rebated at 90% would result in claimants losing on average an estimated £67 of support in 2013-14.
27. This would result in approximately 70% of current CTB claimants in Wales having to pay council tax for the first time and as a result local authorities expecting that their council tax collection rates could fall and the costs of collecting this additional council tax could rise. Individual estimates from local authorities suggest that dependent on the local authority area collections rates could be expected to fall by between 0%-1.5%.
28. Furthermore if the figures used to calculate entitlement to a reduction, and subsequently the amount of reduction which eligible claimants will receive on their council tax bill are not up-rated in line with increases in the cost of living and earnings, then it is likely to result in claimants being worse off by between 50p and £10 a week depending on their individual circumstances.

#### Option 2 – Amend the 2012 Regulations

29. The Welsh Government is providing £22m in additional funding. This covers the 10 per cent cut in the funding as calculated by the UK Government. By meeting the shortfall in funding, the 2012 regulations can be amended to increase the maximum percentage reduction of a claimant's council tax liability from 90% to 100%.
30. The up-rated financial figures will increase local government expenditure on the council tax reduction schemes as the applicable amount and income disregards will be increased in line with the cost of living. This will be off-set in part by the increase in the amount deducted from a claimant's reduction under the scheme for non-dependants. However the funding transfer set out as a result of the Autumn Statement reflects the estimated expenditure for 2013-14 and this takes into account annual up-rating.

### **Benefits**

31. The additional funding to increase the maximum reduction in a claimant's council tax liability from 90% to 100% means that claimants will receive 100% of the reduction they are entitled to under the scheme. This means that claimants on the lowest incomes will not have to make any contribution to their council tax bills. As a result there will not be the anticipated fall in local government collection rates or the increase in demand for advice services in relation to council tax support.

### **Sectors**

32. Local Government and the Voluntary Sector have been consulted during the development of proposals to introduce council tax reduction schemes in Wales. This is detailed in the Consultation section at paragraph 36 below.

33. This legislation will not affect the Business Sector.

### **Duties**

34. In drafting these regulations consideration has been given to Welsh Minister's duty to promote equality and eliminate discrimination. A detailed Equality Impact Assessment was undertaken to support the 2012 regulations which provided a maximum reduction of 90% in a claimant's council tax liability. This statutory instrument restores the 100% maximum reduction in council tax liability meaning that all eligible claimants will receive 100% of their entitlement. As a result there will be no net negative impact for claimants as a result of changes made to the 2012 regulations.

35. Council tax reduction schemes will be adopted and operated by local authorities who are under general duties to comply with Welsh Language and Sustainable Development duties.

### **Consultation**

36. The details of the consultation undertaken were provided in the Explanatory Memorandum to the 2012 regulations. There has been no further consultation in relation to the amendments made by this statutory instrument.

### **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. The sunset clause means that the regulations only operate for the 2013-14 financial year. Therefore there will need to be a review to consider any amendments required in order to draft new legislation for 2014-15.