

**Explanatory Memorandum to the Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) (Amendment) Regulations 2014.**

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 2014. I am satisfied that the benefits outweigh any costs.

**Lesley Griffiths**

Minister for Local Government & Local Government Business  
9 December 2013

## **Description**

1. This statutory instrument uprates certain figures used to calculate a claimant'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 (Default Scheme) (Wales) Regulations 2013 and the Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2013 (the 2013 Regulations).
2. This statutory instrument also addresses a number of minor technical points identified during the scrutiny of the 2013 Regulations

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

3. The Committee may wish to refer to the Welsh Government response laid on 20 November, which accepts a number of the technical points raised in the Committee's reports on the 2013 Regulations.

## **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 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<sup>th</sup> June 2012. The Local Government Finance Act 2012 received Royal Assent on 1 November 2012.
6. This statutory instrument is being 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. In line with the provisions in the Act, the 2013 regulations govern the operation of council tax reduction schemes in Wales and these are designed to ensure all Local Authorities introduce some form of council tax support.

10. The 2013 regulations were approved by the National Assembly for Wales on the 26 November 2013.
11. This statutory instrument amends both sets of 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.
12. These uprated figures have been calculated with assistance from DWP 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.
13. Whilst the scale of the impact is dependent on an applicant's particular circumstances, almost all applicants will be worse off in 2014/15 if the uprating amendments are not made. For example, a disabled, lone parent with a disabled child, and a weekly Council Tax liability of £20 per week, would be, on average, £1.08 a week worse off if the Regulations are not uprated (or £56.16 per year).
14. In addition to the uprating, this statutory instrument also amends the list of persons who do not need to show habitual residence for the purposes of determining entitlement to a reduction, to:
  - Update provisions covering persons with leave to remain in the United Kingdom, to enable the provisions to be extended in the future to include further categories of persons granted leave to remain or the right to reside in the United Kingdom; and
  - Include nationals from Croatia who are subject to the worker authorisation scheme.
15. Provisions are also included for certain payments to be disregarded when assessing an applicant's capital, namely:
  - Certain payments made by local government for welfare purposes, for example the Discretionary Assistance Fund;
  - Certain arrears of Universal Credit;
  - Any payment made by the Treasury to the applicant or the applicant's partner under the Age-Related Payments Regulations 2013 (Equitable Life) as a qualifying Equitable Life annuitant; and
  - Any payment made to the applicant in respect of any travel or other expenses incurred, as a result of the applicant's participation in a

scheme prescribed in Regulation 3 of the Jobseeker's Allowance (Schemes for Assisting Persons to Obtain Employment) Regulations 2013.

16. This statutory instrument also addresses a number of minor technical points identified by the Constitutional and Legislative Affairs Committee during its scrutiny of the 2013 regulations.
17. A number of other minor errors relating to differences between the English and Welsh text of the Regulations, identified by the Constitutional and Legislative Affairs Committee during scrutiny, have also been corrected.

### **Consultation**

18. 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

19. Not making an amending set of Regulations to uprate the financial figures in the 2013 Regulations in line with cost-of-living increases.
20. Due to cost-of-living increases such as council tax rises and inflation, not uprating could make applicants approximately 50p to £1.50 worse of per week (approximately £26 to £78 worse of a year) dependent on their personal circumstances.

##### Option 2 – Make amending Regulations to uprate the financial figures

21. Making amending Regulations to uprate the financial figures will maintain applicants' entitlement to a council tax reduction in line with cost-of-living increases.

#### **Costs & benefits**

##### Option 1 – Do nothing

22. Not uprating the financial figures in line with cost-of-living increases could make applicants who are not pass-ported onto CTRS i.e. those not in receipt of a contributory benefit (for example Job Seeker's Allowance or Pension Credit) worse off by approximately 50p to £1.50 per week, 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. CTRS and Housing Benefit are administered together by Local Authorities and most applicants for CTRS are also in receipt of Housing Benefit. The UK Government is uprating Housing Benefit therefore not uprating CTRS 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 government 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 expenditure on 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.

#### Option 2 – Make amending Regulations to uprate the financial figures

26. 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 (of approximately 50p to £1.50 per week) which could result if the figures are not uprated.
27. Uprating the financial figures used to calculate entitlement to a reduction will keep CTRS in line with Housing Benefit, which the UK Government will be uprating. This will avoid any additional administrative burden for Local Authorities or advice providers.
28. However uprating will increase expenditure on council tax reduction schemes, exacerbating 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.

#### **Sectors**

29. 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.

30. This legislation will not affect the Business Sector.

### **Duties**

31. In drafting these Regulations consideration has been given to Welsh Minister's duty to promote equality and eliminate discrimination and an Equality Impact Assessment has been completed.

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

### **Competition Assessment**

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

### **Post implementation review**

34. As a result of the impact of wider welfare reform changes and the current uncertainty around the level of funding that will be provided by the UK Government to operate council tax reductions schemes in Wales, this legislation will have to be reviewed in 2014-15 to consider any amendments required for 2015-16.