

**EXPLANATORY MEMORANDUM TO**  
**THE COUNCIL TAX (ADDITIONAL PROVISIONS FOR DISCOUNT**  
**DISREGARDS) (AMENDMENT) (ENGLAND) REGULATIONS 2013**

**2013 No. 725**

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 To extend the circumstances in which a live-in carer is disregarded for the purposes of considering whether someone is eligible for a council tax discount as a single person. At present, a live-in carer of a person receiving the *higher* rate of Attendance Allowance (AA) is disregarded. These Regulations extend the disregard to a live-in carer of a person receiving the *higher or lower* rate of AA.

2.2 The Regulations also extend the provision of council tax discounts in respect of dwellings where there is a live-in carer of a person receiving the care component of a Disability Living Allowance (DLA). At present, the carer is disregarded where the person they care for receives the *highest* rate of the care component of DLA. These Regulations extend this to disregard a live-in carer of a person receiving the *highest or middle* rate of the care component of DLA.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

The Regulations come into force at the same time as the Regulations referred to in paragraph 4.4 below (i.e. 8<sup>th</sup> April 2013). Although these Regulations were finalised at the beginning of March they were not made then because of an administrative oversight. The Department will review its internal processes to ensure that such an oversight is not made in future. The Department apologises for this breach of the 21 day rule but considers that it is necessary to commence the provisions on 8<sup>th</sup> April to coincide with the commencement of the DWP Regulations given that they relate to the entitlement of individuals to council tax discounts.

**4. Legislative Context**

4.1 Part 1 of the Local Government Finance Act 1992 ('the 1992 Act') provides for council tax to be payable in respect of dwellings in England and Wales. Section 11 of the 1992 Act provides for council tax discounts to apply in relation to a chargeable dwelling where there are two or more residents of the dwelling and each of them except one falls to be disregarded (section 11(1)(b) – 25% discount) and where there are one or more residents of the

dwelling and each of them falls to be disregarded (section 11(2)(b) – 50% discount).

4.2 Schedule 1 to the 1992 Act determines who shall be disregarded for the purposes of section 11 discounts (section 11(5)) and sets out various categories of people who fall to be disregarded. One of these categories, in paragraph 9 of Schedule 1 to the Act is care workers, subject to such conditions as may be prescribed. These conditions or requirements are prescribed in regulation 2 of the Council Tax (Additional Provisions for Discount Disregards) Regulations 1992 ('the 1992 Regulations') and Part 2 of the Schedule to the 1992 Regulations.

4.3 Section 65 of the Social Security Contributions and Benefits Act 1992 ('the Social Security Act') provides for the payment of a benefit (AA) at a higher or lower rate to help severely disabled people. Section 72(4) of the Social Security Act provides for the payment of the care component of another benefit (DLA) at a highest or middle rate for the same purpose. The rates and eligibility criteria for lower rate AA are the same as the rates and eligibility for middle rate DLA care. The rates and eligibility criteria for higher rate AA are the same as the rates and eligibility for DLA higher rate care. Which benefit (AA or DLA) is claimed depends on the age of the claimant when they first claim the benefit.

4.4 The Department for Work and Pensions (DWP) are replacing DLA for people of working age (those people aged 16 to 64 on 8 April 2013, and people reaching 16 after that date) from 8<sup>th</sup> April 2013 with Personal Independence Payment (PIP). PIP will be implemented on a gradual basis starting with new claims only from April 2013; the vast majority of DLA claimants will be invited to claim PIP from October 2015. The DWP has already made a consequential amendment to the 1992 Regulations to add PIP to the list of benefits which entitle a recipient who also has a live-in carer to a council tax discount (see the Personal Independence Payment (Supplementary Provisions and Consequential Amendments) Regulations 2013 (S.I. 2013/388) which comes into force on 8<sup>th</sup> April 2013.

4.5 This Department is amending the 1992 Regulations to deal with an anomaly which has recently been identified concerning DLA (and which is therefore not dealt with in the DWP PIP consequential amendments to the 1992 Regulations). This Department considered that it was necessary to address that anomaly as soon as possible.

## **5. Territorial Extent and Application**

This instrument applies to England.

## **6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

7.1 The Government has decided that both the standard and enhanced rate of the daily living component of PIP should be included as qualifying benefits for the council tax discount disregard (i.e. who shall be disregarded for the purposes of council tax discounts) for those with severe mental impairment and for carers.

7.2 However, without further amendment this would create a minor anomaly between the application of the carers discount disregard in cases where the person being cared for is 16-64 on 8th April 2013 (and will therefore be reassessed for PIP) and where that person is under 16 or 65 years and over on 8th April 2013). It would mean that the live-in carer of a person over 65, in receipt of the middle rate care component of DLA or the lower rate of AA, would not be disregarded, whereas the carer of someone under 65 in receipt of the standard rate care component of PIP would be. In the former case, this could mean that a single person (the person who requires the carer) would not be entitled to a 25% single person discount.

7.3 In order to avoid such a discrepancy, these Regulations will include the middle rate care component of DLA and the lower rate of AA as qualifying benefits for carers disregard. This will maintain the integrity of the current discount disregards in that it was intended that a single person requiring a live-in carer should not lose their entitlement to the council tax discount disregard.

7.4 As these are minor amendments it was considered that there was no need to make consolidated regulations.

## **8. Consultation outcome**

No consultation was taken as the changes are minor and are intended to maintain the integrity of the current discount disregards.

## **9. Guidance**

This is a minor change to the legislation and does not require guidance.

## **10. Impact**

10.1 These Regulations have no impact on business, charities or voluntary bodies.

10.2 The impact on billing authorities will be to allow them to administer the council tax system and maintain the status quo in relation to the administration of the council tax discount disregards for those who require a live-in carer.

10.3 An Impact Assessment is not necessary for this instrument

## **11. Regulating small business**

The legislation does not apply to small business.

**12. Monitoring & review**

The Government will monitor the impact of these Regulations as part of the ongoing maintenance of the council tax system.

**13. Contact**

**Peter Reilly** at the Department for Communities and Local Government. Tel: 0303 444 2092 or email: [peter.reilly@communities.gsi.gov.uk](mailto:peter.reilly@communities.gsi.gov.uk) can answer any queries regarding the instrument.