

EXPLANATORY MEMORANDUM TO
THE COUNCIL TAX REDUCTION SCHEMES (PRESCRIBED
REQUIREMENTS) (ENGLAND) (AMENDMENT) REGULATIONS 2016

2016 No. 1262

1. Introduction

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

2. Purpose of the instrument

- 2.1 This instrument amends the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 (“the Prescribed Requirements Regulations”) (S.I. 2012/2885). The Prescribed Requirements Regulations make provision for localised council tax reduction schemes which replaced council tax benefit on 1 April 2013. The amendments in this instrument increase certain figures which are used in calculating whether a person is entitled to a reduction and the amount of that reduction. The purpose of uprating the figure is to maintain consistency with the situation that would have applied under council tax benefit. This instrument also updates the regulations to maintain consistency with changes which have come into effect in the housing benefit regime (see further paragraph 7.1).

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 Section 13A of the Local Government Finance Act 1992 (“the 1992 Act”) requires billing authorities to make a scheme reducing the amount of council tax payable by those whom the authority considers to be in financial need. Local council tax reductions schemes replaced council tax benefit, which was abolished on 1st April 2013. Schedule 1A to that Act sets out the particular matters that a scheme must include and the process by which it must be made. The Secretary of State may prescribe other matters that must be included in that scheme. He has done that in the Prescribed Requirement Regulations, and in particular schemes are required to make provision in respect of pensioners (as defined by those Regulations).
- 4.2 This instrument introduces amendments to increase certain of the figures in the Prescribed Requirement Regulations. This instrument also makes various amendments to the Prescribed Requirements Regulations in order to mirror, as far as possible, changes to the Housing Benefit (Persons who have attained the qualifying

age for state pension credit) Regulations 2006 (S.I. 2006/214) (“the 2006 Regulations”).

5. Extent and Territorial Application

- 5.1 The extent of this instrument is England and Wales.
- 5.2 This instrument applies to England only.

6. European Convention on Human Rights

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

7. Policy background

What is being done and why

- 7.1 Regulation 2(3)(b), (4) and (5) amends the Prescribed Requirements Regulations so as to aligns certain allowances and deductions with the Department for Work and Pension’s increased amounts following the November 2016 Autumn Statement , in order to maintain consistency with the situation that would have applied under council tax benefit had council tax benefit not been abolished. The Secretary of State’s policy is to make amendments to the Prescribed Requirements Regulations in line with amendments made to the housing benefit regime; this is because housing benefit and council tax benefit were broadly on all fours prior to 1st April 2013.
- 7.2 These Regulations also amend the Prescribed Requirements Regulations in consequence of the power of the Scottish Parliament to set a Scottish rate of income tax provided for in Part 4A of the Scotland Act 1998 (c. 46). The power was first exercised for the tax year 2016-2017.
- 7.3 The amendments made by regulation 2(2), (3)(c) and (d) follow similar amendments made by the Social Security (Scottish Rate of Income Tax etc.) (Amendment) Regulations 2016 (S.I. 2016/233). They insert appropriate references to ‘Scottish taxpayer’ and ‘Scottish basic rate’ of income tax and to be taken into account when calculating the net earnings of employed earners and self-employed taxpayers, and certain disregards, for the purposes of determining eligibility for a discount. They also update references to “personal allowance” and “personal reliefs”, in each of the provisions in question, so as to refer to the relevant provisions of the Income Tax Act 2007 (c. 3).
- 7.4 The policy background to the changes is set out in more detail in the explanatory memorandum to the Social Security (Scottish Rate of Income Tax etc.) (Amendment) Regulations 2016
http://www.legislation.gov.uk/ukxi/2016/233/pdfs/ukxiem_20160233_en.pdf
- 7.5 The amendments made by regulation 2(3)(a) to paragraph 5 of Schedule 1 to the Prescribed Requirements Regulations reflects similar changes to the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/214) as amended by S.I. 2016/624. Where the Prescribed Requirements Regulations apply, a person entitled to a discount under a local authority’s council tax reduction scheme is treated as resident in the property in question during certain periods of temporary absence, specified in paragraph 5 of Schedule 1. The amendments provide that temporary absences from GB are, in most

cases, reduced from 13 weeks to 4 weeks. This aligns the temporary absence rules in the Prescribed Requirements Regulations with Universal Credit. There are, however, exceptions to that general rule which are specified in the amending provisions.

- 7.6 The policy background to the changes are set out in more detail in the explanatory memorandum to the Housing Benefit and State Pension Credit (Temporary Absence) (Amendment) Regulations 2016
<http://www.legislation.gov.uk/ukxi/2016/624/memorandum/contents>LCTS Review
- 7.7 A transitional provision is included in these amendments will apply to people who are temporarily absent from GB when the Regulations come into force. The transitional provision does not to members of the armed forces on operations outside GB, continental shelf workers or mariners as these groups are entitled to up to 26 weeks absence and so the new measure is more beneficial to them.

In accordance with the requirements set out in the Local Government Finance Act 2012, the Secretary of State asked Eric Ollerenshaw OBE to look at whether local council tax support schemes were efficient, effective, fair and transparent; consider their impact on the localism agenda, and to recommend whether or not schemes should be brought within Universal Credit. Eric Ollerenshaw OBE published his review into Local Council Tax Support (LCTS) schemes across England in April 2016. The independent report recognises the successful implementation of LCTS schemes by local government and makes a number of recommendations to improve their efficiency and effectiveness, whilst remaining a local discount. The Government is considering the recommendations, and the Government's response to the review will be published in 2017.

Consolidation

- 7.8 There are no plans to undertake a consolidation.

8. Consultation outcome

- 8.1 This instrument has not been subject to specific consultation; however billing authorities are aware of the Government's intention to maintain consistency with the situation which would have applied under council tax benefit and with the housing benefit regime for pensioners (see paragraph 7.1).

9. Guidance

- 9.1 We do not plan to issue guidance. Billing authorities are already familiar with the Prescribed Requirements Regulations, and with the uprating process. Billing authorities will be notified individually of this instrument, and reminded of the approach to updating the Prescribed Requirement Regulations as part of the Department's regular communications.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 The impact on the public sector is minimal.
- 10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

- 12.1 The Government has undertaken to review the Prescribed Requirements Regulations on an annual basis to ensure that any necessary updating is carried out, and to implement any other necessary updates.
- 12.2 The Regulations do not include a review provision under section 28 of the Small Business, Enterprise and Employment Act 2015 because the Regulations do not make any regulatory provision in relation to a qualifying activity carried on by business or voluntary and community bodies.

13. Contact

- 13.1 Mercy Adebisi at the Department of Communities and Local Government telephone: 0303 444 2460 or email: mercy.adebisi@communities.gsi.gov.uk.