

EXPLANATORY MEMORANDUM TO
THE COUNCIL TAX REDUCTION SCHEMES (PRESCRIBED
REQUIREMENTS AND DEFAULT SCHEME) (ENGLAND) (AMENDMENT)
REGULATIONS 2012

2012 No. 3085

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 This instrument amends the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 ('Prescribed Requirements Regulations') (S.I. 2012/2885) and the Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 ('Default Scheme Regulations') (S.I. 2012/2886). The regulations being amended make provision for the new localised council tax reduction schemes which come into effect, replacing council tax benefit, on 1 April 2013. The amendments in this instrument increase certain of the 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 figures is to make sure those transferring to council tax reduction schemes from council tax benefit on 1 April 2013 are not disadvantaged at the outset.

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

3.1 None.

4. Legislative Context

4.1 This instrument introduces amendments to increase certain of the elements of the Prescribed Requirement Regulations and Default Scheme Regulations. Section 13A(2) of the Local Government Finance 1992 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. 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 a scheme. He has done that in the Prescribed Requirement Regulations, and in particular schemes will be required to make provision in respect of pensioners (as defined by those Regulations). For those authorities that have not made a scheme by 31 January 2013, the default scheme (as set out in the Default Scheme Regulations) will apply. This makes provision for both people who have reached the eligible age for state pension credit ('pensioners', as defined) and

non-pension credit age residents and broadly reflects the existing council tax benefit regime.

5. Territorial Extent and Application

5.1 These instruments apply 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

7.1 In a note accompanying publication of a draft of the Prescribed Requirements Regulations and the Default Scheme Regulations on 7 September 2012, the Department for Communities and Local Government confirmed its intention to update and align the premiums and applicable amounts in those regulations with the Department for Work and Pension's increased amounts following the Autumn statement:

<https://www.gov.uk/government/publications/localising-support-for-council-tax-default-and-prescribed-requirements-schemes>

7.2 It was confirmed this would be done using housing benefit uprating amounts (which have always been identical to those for council tax benefit). The uprated figures relate to the applicable amount in relation to an applicant for a reduction (the amount against which an applicant's income is compared in order to determine the amount of reduction to which he or she is entitled) (regulations 4, 9 and 10), the income bands in relation to which the amount of a person's alternative maximum council tax reduction is calculated (regulations 5 and 11) and a disregard that applies when calculating a person who is a pensioner's income other than earnings (regulation 6).

7.3 At the same time, it was explained that the Department for Communities and Local Government was working with the Department for Work and Pensions to model the way in which non-dependent deductions would have been increased had council tax benefit continued. Non-dependant deductions are the 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 (regulations 3 and 8).

7.4 It was explained that the relevant changes would be introduced by an amending instrument. We are making amendments because we did not wish to delay making the Prescribed Requirements and Default Scheme Regulations until after the Autumn statement. Those Regulations were made as soon as possible after Royal Assent in order to provide certainty to billing authorities about the matters that must be included in their council tax reduction schemes,

which have to be in place by 31 January. The figures in this instrument could only be ascertained after the Autumn statement.

8. Consultation outcomes

8.1 This instrument has not been subject to specific consultation. The Government invited comments from stakeholders on its draft Prescribed Requirements and Default Scheme Regulations published in July 2012. Many of the comments received were responded to in an updated draft, accompanied by a list of amendments, published on 7 September along with a note setting out the Government's intention to amend the regulations following the Autumn statement to introduce increased amounts.

8.2 The full Government consultation on the localisation of council tax support policy was referred to in the Explanatory Memorandum for the Prescribed Requirements Regulations and the Default Scheme Regulations (see paragraphs 8.1 and 8.2).

9. Guidance

9.1 Billing authorities are already familiar with the way in which existing council tax benefit and council tax award calculations work and with the upratings process.

10. Impact

10.1 An impact assessment has not been produced for this instrument as no impact on the private or voluntary sector is foreseen. The impact on the public sector is minimal.

10.2 The Office of Budgetary Responsibility forecast for subsidised council tax benefit expenditure for 2013/14 on which the funding distribution for billing authorities was based, always took into account that council tax benefit allowances would be uprated. This forecast was revised in the recent Autumn Statement and reflects, among other things, all relevant measures announced at the Autumn Statement, including the up-rating of benefits.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Default Scheme will not have effect beyond 31 March 2014, and will not, therefore, be kept under review annually. The Government has undertaken to review the Prescribed Requirements Regulations on an annual basis, to check for any updates needed, including to premiums, disregards and the like.

13. Contact

Helen Richman at the Department for Communities and Local Government
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answer any queries regarding the instrument.