

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

2017 No. 1305

1. Introduction

- 1.1 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 (“the Prescribed Requirements Regulations”) (S.I. 2012/2885) and the Local Government Finance Act 1992 (“the 1992 Act”). The amendments in this instrument increase the figures which are used in calculating whether a person is entitled to a reduction and the amount of that reduction. Other changes are being made to maintain consistency with the housing benefit regime. The purpose of uprating the figures is to maintain consistency with changes which have come into effect in the housing benefit regime (see further paragraphs 7.1 and 7.3). This instrument also amends Schedule 1A to the 1992 Act to move the annual deadline for billing authorities to set and agree their local council tax reduction schemes from 31 January to 11 March.

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 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 reduction schemes replaced council tax benefit, which was abolished on 1 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 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 Marcus Jones MP, the Parliamentary Under Secretary of State (Minister for Local Government) has made the following statement regarding Human Rights:

“In my view the provisions of the Council Tax Reduction Schemes (Amendment) (England) Regulations 2017 are compatible with the Convention rights.”

7. Policy background

What is being done and why

- 7.1 Regulations 8, 12 and 13 amend the Prescribed Requirements Regulations so as to align all allowances and deductions with the Department for Work and Pension’s increased amounts following the November 2017 Autumn Budget, 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. Local council tax reduction schemes provide assistance to people on low income and help them pay their council tax.
- 7.2 Currently paragraph 5(2) of Schedule 1A to the 1992 Act requires billing authorities to make their local council tax reduction scheme for the next financial year by 31 January in the preceding financial year. An amendment is being made to that paragraph to change the deadline for billing authorities to implement their local council tax reduction schemes from 31 January to 11 March each year.
- 7.3 These Regulations will introduce several amendments listed below to the Prescribed Requirements Regulations:
 - a) Where the applicant is awarded child tax credit, the applicable amount (i.e. amount used in assessing an applicant’s income) is to include a maximum of two amounts for any children or young persons for whom the applicant or the applicant’s partner is responsible and who are members of the same household. This change is subject to a transitional provision.
 - b) The following definitions are being added to the Interpretation provision “Approved blood scheme”, “the London Emergencies Trust”, “Scottish Infected Blood Support Scheme” and “the We Love Manchester Emergency Fund”. Other definitions are being revised namely: “main phase employment and support allowance”, “member of the work-related activity group”, and “qualifying person”.

- c) To provide clarity on how notional income should be calculated following the introduction of pension flexibilities.
- d) To introduce a requirement that persons likely to be absent from Great Britain for at least 4 weeks must notify their billing authority.
- e) There are several other amendments as a consequence of several payments being disregarded namely:
 - any payment or part of a payment made by Scottish local authorities to self-employed people providing continuing care for looked after children;
 - payments made in Wales to self-employed people providing care and support for people that require social services;
 - a pension paid by a government to victims of National Socialist persecution;
 - payments from the Scottish Infected Blood Support Scheme; an approved blood scheme and the Thalidomide Health Trust Grants;
 - charitable payments made to victims of the Manchester and London terror attacks via the ‘We love Manchester Emergency Fund’ and the ‘London Emergencies Trust’;
 - payments made to an applicant in respect of the Scottish kinship care assistance.
- f) Up-rate figures by CPI relating 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 to which he or she is entitled)
 - the calculation of a person’s alternative maximum council tax reduction is calculated

7.4 The policy background to the changes is set out in more detail in the explanatory memorandum accompanying the Regulations listed below (amendments to the Prescribed Requirements Regulations are made in consequence of these instruments):

- The Children and Young People (Scotland) Act 2014 (Consequential Modifications) Order 2016 (2016 No. 732). Introduce disregards of income and capital paid for providing ‘continuing care’ to eligible people who have ceased to be looked after by Scottish local authorities.
<https://www.legislation.gov.uk/uksi/2016/732/contents/made>
- The Social Security (Income-Related Benefits) Amendment Regulations 2017 (2017 No. 174). They amend the disregard of income other than earnings in those Regulations where that income is a payment made by a government to victims of National Socialist persecution so that the same disregard is applied in all cases. <https://www.legislation.gov.uk/uksi/2017/174/made>
- The Social Security (Scottish Infected Blood Support Scheme) Regulations 2017 (2017 No. 329). These Regulations provide that payments from the

Scottish Infected Blood Support Scheme are to be disregarded for certain social security purposes. <http://www.legislation.gov.uk/uksi/2017/329/made>

- The Social Security (Restrictions on Amounts for Children and Qualifying Young Persons) Amendment Regulations 2017 (2017 No. 376). These Regulations make changes in relation to various social security benefits as a consequence of the restrictions on entitlement to child tax credit. <https://www.legislation.gov.uk/uksi/2017/376/contents/made>
- The Employment and Support Allowance (Miscellaneous Amendments and Transitional and Savings Provision) Regulations 2017 (2017 No. 581). Make amendments to provide clarity on what allowances are available to certain claimants. <http://www.legislation.gov.uk/uksi/2017/581/note/made>
- The Social Security (Emergency Funds) (Amendment) Regulations 2017 (2017 No. 689). These Regulations provide that payments from the London Emergencies Trust (registered charity number 1172307 and company number 09928465) and the We Love Manchester Emergency Fund (registered charity number 1173260) (“the Charities”) are to be disregarded for certain social security purposes. <http://www.legislation.gov.uk/uksi/2017/689/note/made>
- The Social Security (Infected Blood and Thalidomide) Regulations 2017 (2017 No. 870). These Regulations provide that payments made: (i) Under or by certain schemes or trusts established for the purpose of providing compensation to those who have been infected from contaminated blood products, or (ii) Under or by certain trusts established for the purpose of giving relief and assistance to disabled people whose disabilities were caused by the fact that during their pregnancy their mother had taken the drug known as Thalidomide, are to be ignored for certain social security purposes. <http://www.legislation.gov.uk/uksi/2017/870/made>
- The Social Services and Well-being (Wales) Act 2014 and the Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Order 2017 (2017 No. 901). Contains a provision that allows payments a person receives from a local authority in relation to the authority’s duty to meet the care and support needs of adults or young people to be disregarded while determining a person’s entitlement to income-related social security benefits. <http://www.legislation.gov.uk/uksi/2017/901/note/made>
- The Social Security and Child Support (Care Payments and Tenant Incentive Scheme) (Amendment) Regulations 2017, SI 2017/995. Allow disregards of payments made to a claimant in respect of the Scottish kinship care assistance. http://www.legislation.gov.uk/uksi/2017/995/pdfs/uksi_20170995_en.pdf
- The Social Security (Miscellaneous Amendments No. 4) Regulations 2017, SI 2017/1015. Provide clarity on how notional income should be calculated following the introduction of pension flexibilities. http://www.legislation.gov.uk/uksi/2017/1015/pdfs/uksi_20171015_en.pdf

- The Social Security (Miscellaneous Amendments No. 5) Regulations 2017, SI 2017/1187. To introduce a requirement that persons likely to be absent from Great Britain for at least 4 weeks must notify their billing authority. Additionally, “the age of 65” is being replaced with “pensionable age”, <http://www.legislation.gov.uk/ukxi/2017/1187/regulation/7/made>

An Independent Review of Local Council Tax Reduction Schemes

Local council tax reduction schemes revisions date change

- 7.5 Another policy change is to move the annual deadline for billing authorities to set and agree their local council tax reduction schemes from 31 January to 11 March. This policy change is in response to one of the recommendations made by Eric Ollerenshaw in his review of local council tax reduction schemes, for the Government to extend the deadline for councils to design their local schemes, in order for councils to have sufficient time to design, consult and implement their schemes taking into account impacts on protected characteristics.
- 7.6 Existing power set out in Schedule 1A to the Local Government Finance Act 1992 allows the current date to be changed. So, the proposed change will address councils concerns and incentivise their ability to offer improved local council tax reduction schemes to their tax-payers.
- 7.7 The Government has considered the recommendations and the Government’s response to the review will be published shortly

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 paragraphs 7.1 and 7.3).

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 44 42460 or email: mercy.adebisi@communities.gsi.gov.uk.