

EXPLANATORY MEMORANDUM TO
THE COUNCIL TAX REDUCTION SCHEMES (PRESCRIBED REQUIREMENTS)
(ENGLAND) (AMENDMENT) REGULATIONS 2021

2021 No. 29

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Ministry of Housing, 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 amendments in this instrument uprate figures which are used for calculating whether pensioners are entitled to a reduction in council tax and the amount of that reduction. Other changes are also being made to maintain consistency with the housing benefit regime.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.
4.2 The territorial application of this instrument is England.

5. European Convention on Human Rights

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

6. Legislative Context

- 6.1 Section 13A of the Local Government Finance Act 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. Local council tax reduction schemes replaced council tax benefit 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 and has done that in the Prescribed Requirements Regulations. In particular,

schemes are required to make provisions in respect of pensioners as defined by those Regulations.

7. Policy background

What is being done and why?

- 7.1 The Secretary of State's policy is to make amendments to the Prescribed Requirements Regulations in line with amendments to the housing benefit regime.
- 7.2 Within this instrument, amendments at regulations 6, 7, and 8 uprate figures relating to:
- Non-dependant deductions (adjustments made to the maximum amount of reduction an applicant can receive to take account of non-dependant adults living in the property).
 - Applicable amounts (the amount against which an applicant's income is compared to determine the amount of reduction to which they are entitled).
- 7.3 Amendments at regulations 3, 6, and 8 - 10 of this instrument mirror changes made to the housing benefit regime by introducing amendments to make provision for the treatment of some types of payments. These payments are listed below:
- Payments of universal credit will be disregarded when calculating an applicant's income. The policy background to this change is set out in the explanatory memorandum accompanying the Universal Credit (Persons who have attained state pension qualifying age) (Amendment) Regulations 2020¹ which provides for the disregarding of payments of universal credit in the calculating of a person's income when determining eligibility for pension-age housing benefit.
 - Payments made by the Child Migrants Trust will be disregarded when calculating an applicant's capital. These are payments made under the scheme established by the UK Government for former British child migrants who were separated from their families and sent overseas as part of the UK's historic participation in child migration programmes. The policy background to this change is set out in the explanatory memorandum to the Social Security (Income and Capital) (Miscellaneous Amendments) Regulations 2020² which provide for the disregarding of payments made by the Child Migrants Trust in the calculating of a person's capital when determining eligibility for housing benefit.
 - Payments made to rectify, or compensate for, errors made by the Department for Work and Pensions in relation to the way claims for new-style Employment and Support Allowance were initially handled will be disregarded when calculating an applicant's capital. The policy background to this change is set out in the explanatory memorandum accompanying the Social Security (Income and Capital) (Miscellaneous Amendments) Regulations 2020 which provide for the disregarding of such payments in the calculating of a person's capital when determining eligibility for housing benefit.

¹ Available online at: <https://www.legislation.gov.uk/uksi/2020/655/contents/made>

² Available online at: <https://www.legislation.gov.uk/uksi/2020/618/contents/made>

- Payments made by the National Emergencies Trust (NET) will be disregarded when determining an applicant’s entitlement to a council tax reduction. The NET is a new charity established to coordinate the distribution of funds raised following national disasters and emergencies to victims and their families. The policy background to this change is set out in the explanatory memorandum accompanying the Social Security (Income and Capital) (Miscellaneous Amendments) Regulations 2020 which provide for the disregarding of payments made by the NET when determining eligibility for housing benefit.
- Any victims’ payments made to persons permanently disabled as a consequence of an injury caused by an incident relating to the Troubles in Northern Ireland will be disregarded when calculating an applicant’s income and capital. The policy background to this change is set out in the explanatory memorandum to the Victims’ Payments Regulations 2020³ which provides for the disregarding of victims’ payments in the calculating of a person’s income and capital when determining eligibility for housing benefit.
- The Scottish Government is establishing several social security schemes under which payments will be made to persons in financial need. These payments will be disregarded when determining a council tax reduction applicant’s income and capital. Although these Regulations only apply to billing authorities in England, these disregards relating to Scottish social security payments are being introduced to account for persons who move from Scotland to England. The policy background to this change is set out in the explanatory memorandum accompanying the Social Security (Scotland) Act 2018 (Young Carer Grant, Short-Term Assistance and Winter Heating Assistance) (Consequential Provision and Modifications) Order 2020⁴ which provides for the disregarding of these payments in the calculating of a person’s income and capital when determining eligibility for housing benefit. The relevant payments are:
 - Winter Heating Assistance (WHA). The Scottish Government is introducing WHA under section 30 of the Social Security (Scotland) Act 2018 (“the 2018 Act”) to provide financial assistance for the purposes of meeting or reducing expenses for heating in cold weather.
 - Short-Term Assistance (STA). The Scottish Government is introducing STA under section 36 of the 2018 Act to provide financial assistance to, or in respect of, persons who appear to require it for the purposes of meeting, or helping to meet, a short-term need that requires to be met to avoid a risk to the well-being of a person.
 - Young Carer Grant (YCG). The Scottish Government has introduced YCG under section 28 of the 2018 Act to provide additional financial assistance to eligible carers aged between 16-18.
 - Payments of Scottish Child Payment Assistance will be disregarded when calculating an applicant’s income and capital. These payments have been introduced by the Scottish Government and will be paid to eligible households with children aged 16 or younger. The policy background to this change is set out in the explanatory memorandum

³ Available online at: <https://www.legislation.gov.uk/ukxi/2020/103/contents/made>

⁴ Available online at: <https://www.legislation.gov.uk/ukxi/2020/989/contents/made>

accompanying the Social Security (Scotland) Act 2018 (Information-Sharing and Scottish Child Payment) (Consequential Provision and Modifications) Order 2020⁵ which provides for the disregarding of Scottish Child Payment Assistance in the calculating of a person's income and capital when determining eligibility for housing benefit.

7.4 Amendments are also being made to already existing disregards to ensure consistency with the housing benefit regime:

- Payments relating to the Grenfell Tower Fire are already disregarded when determining an applicant's entitlement to a council tax reduction. The amendments made by regulations 3, 9, and 10 of this instrument are drafting changes rather than any changes of substance.
- Payments of occasional assistance are also already being disregarded when calculating an applicant's entitlement to a council tax reduction. The amendments made by regulation 6 of this instrument achieve consistency with the equivalent provision in the housing benefit regime.

7.5 Regulation 3 of this instrument makes amendments to the meaning of "pensioner" and "person who is not a pensioner" within the Prescribed Requirements Regulations. These amendments mean that an award of universal credit will be disregarded, for the purpose of determining whether an applicant is considered a pensioner, during the applicant's final universal credit assessment period from the date on which the applicant reaches the qualifying age for state pension credit. Awards of universal credit will similarly be disregarded for this purpose during the universal credit assessment period when the younger, or youngest, member of a mixed-aged couple reaches this qualifying age and in respect of the elder partner in a mixed-aged couple where that couple ceases to exist. The policy background to this change is set out in the explanatory memorandum to the Universal Credit (Persons who have attained state pension credit qualifying age) (Amendment) Regulations 2020⁶ which provide for an equivalent outcome to that set out above for claimants of housing benefit.

7.6 Finally, regulation 12 of this instrument makes amendments relating to the requirement that persons treated as not being habitually resident in Great Britain must not be included in an authority's scheme. These changes are set out below:

- Family members of persons of Northern Ireland granted limited leave to enter or remain in the UK under Appendix EU to the Immigration Rules will be able to access council tax reduction schemes on broadly the same terms as family members of citizens of the Republic of Ireland. The policy background to this change is set out in the explanatory memorandum to the Social Security (Income-Related Benefits) (Persons of Northern Ireland – Family Members) (Amendment) Regulations 2020⁷ which provide for eligible family members of persons of Northern Ireland to access housing benefit on broadly the same terms as family members of Irish citizens.
- Under existing legislation, citizens of the European Union and other constituent countries of the European Economic Area (Iceland, Liechtenstein, and Norway) as well as Switzerland ("EEA citizens") and their family

⁵ Available online at: <https://www.legislation.gov.uk/uksi/2020/482/contents/made>

⁶ Available online at: <https://www.legislation.gov.uk/uksi/2020/655/contents/made>

⁷ Available online at: <https://www.legislation.gov.uk/uksi/2020/683/contents/made>

members who wish to claim a council tax reduction must have a right to reside and be habitually resident in the UK. These Regulations make an amendment to maintain this status quo, so that where a person who is a family member of an EEA citizen has limited leave to enter the UK deriving from an entry clearance that was granted under Appendix EU to the Immigration Rules this does not, in itself, affect eligibility. The policy background to this change is set out in the explanatory memorandum to the Immigration (Citizens' Rights etc.) (EU Exit) Regulations 2020⁸ which make an equivalent amendment to housing benefit legislation.

- These Regulations make amendments to ensure continued access to council tax reductions for frontier workers, and family members of frontier workers, protected under the EU Withdrawal Agreement. The policy background to this amendment is set out in the explanatory memorandum to the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provision) (EU Exit) Regulations 2020⁹ which make an equivalent amendment to housing benefit legislation.
- Amendments are also made to remove references to European Union legislation which will no longer have effect in the UK.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 There are no plans to undertake a consolidation.

10. Consultation outcome

10.1 This instrument has not been subject to specific consultation. However, billing authorities are aware of the Government's intention to maintain consistency with the housing benefit regime for pensioners.

11. Guidance

11.1 We do not plan to issue guidance. Billing authorities are already familiar with the Prescribed Requirements Regulations and the updating process. Billing authorities will be notified of this instrument as part of the Department's regular communications.

12. Impact

12.1 There is no impact on business, charities, or voluntary bodies.

12.2 The impact on the public sector is minimal.

12.3 An Impact Assessment has not been prepared for this instrument because there will be no impact on business.

⁸ Available online at: <https://www.legislation.gov.uk/ukxi/2020/1372/contents/made>

⁹ Available online at: <https://www.legislation.gov.uk/ukxi/2020/1309/contents/made>

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small business.

14. Monitoring & review

14.1 The Government has undertaken to review the Prescribed Requirements Regulations on an annual basis to ensure that any necessary uprating carried out and to implement any other necessary updates.

14.2 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 a regulatory provision in relation to a qualifying activity carried out by businesses, charities, or voluntary bodies.

15. Contact

15.1 Rhys Tomlinson at the Ministry of Housing, Communities and Local Government, telephone: 0303 444 8966 or email: Rhys.Tomlinson@communities.gov.uk, can be contacted with any queries regarding the instrument.

15.2 Chris Megainey, Deputy Director for Local Taxation at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.

15.3 Minister Luke Hall at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.