

**EXPLANATORY MEMORANDUM TO**  
**THE COUNCIL TAX REDUCTION SCHEMES (PRESCRIBED REQUIREMENTS)**  
**(ENGLAND) (AMENDMENT) REGULATIONS 2023**

**2023 No. 16**

**1. Introduction**

1.1 This explanatory memorandum has been prepared by the Department for Levelling Up, Housing and Communities and is laid before Parliament by Command of His 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 used to calculate whether persons of pension age are entitled to a reduction in council tax and the amount of that reduction. Other changes are made to maintain consistency with the wider benefits system, particularly the Housing Benefit regime, which contains many provisions in common with the Prescribed Requirements Regulations.

**3. Matters of special interest to Parliament**

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

3.1 None.

**4. Extent and Territorial Application**

4.1 The extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England only.

**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 (“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. Schedule 1A to that Act sets out the particular matters that a scheme must include and the process by which the scheme must be made. The Secretary of State may prescribe other matters that must be included in the scheme and has done so in the Prescribed Requirements Regulations. In particular, schemes are required to make provision in respect of persons of pension age as defined by the Regulations.

## 7. Policy background

### *What is being done and why?*

- 7.1 Local Council Tax Support (LCTS) schemes provide support to residents in financial need by granting reductions to their council tax bills. In England, billing authorities have discretion over the design of schemes for working-age residents, with the exception of certain matters such as application and appeals processes, and immigration and residency-related requirements. In respect of persons of pension age, the Secretary of State's policy – as set out in 2013 - is to maintain the level of support in line with that provided by the wider benefits system.<sup>1</sup>
- 7.2 The Government has undertaken to review the Prescribed Requirements Regulations on an annual basis and to update them as necessary. This includes the annual review of benefits and pension rates undertaken by the Department for Work and Pensions (DWP) which uprates income and capital thresholds and other matters which may affect a claimant's entitlement to support.
- 7.3 DWP published its latest annual review on 28 November 2022, which will affect the benefits regime for 2023-24.<sup>2</sup> The instrument reflects its provisions by uprating figures in the Prescribed Requirements Regulations by the September 2022 Consumer Prices Index inflation rate (10.1%) as reported by the Office for National Statistics. The uprated figures relate 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 a person's income is compared to determine the amount of reduction to which they are entitled);
  - Premiums (additional amounts of income which persons with particular characteristics – such as those with disabilities – can have without their eligibility being affected);
  - The amount which may be disregarded where the applicant is the parent of a specified student under the age of 25 and makes an eligible contribution to their maintenance; and
  - The alternative maximum council tax reduction (which allows an LCTS recipient whose income or savings exceed the usual eligibility threshold to obtain a 25 per cent reduction in their bill where they share their home with one or more adults who do not pay rent, are not their partner, and who have a combined weekly income of less than £288).
- 7.4 Following the example of the wider benefits system, the instrument also makes provision so that certain new payments are disregarded when assessing a person's income or capital, and to ensure that persons arriving from Ukraine in connection with the Russian invasion are not prevented from claiming support:

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<sup>1</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/237224/Up-rating\\_pensioners.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/237224/Up-rating_pensioners.pdf)

<sup>2</sup> <https://www.gov.uk/government/publications/benefit-and-pension-rates-2023-to-2024/benefit-and-pension-rates-2023-to-2024>

- The new Adult Disability Payment established by the Scottish Government is not to be treated as the income of a pension age person claiming LCTS when moving to England.
- The £350 monthly thank you payments made to “Homes for Ukraine” sponsors must be disregarded when assessing the income or capital of both working age and pension age applicants.
- A person arriving from Ukraine in connection with the Russian invasion will not need to demonstrate “habitual residence” in Great Britain in order to receive LCTS.

7.5 In addition, the instrument provides that individuals granted leave to enter or remain in the UK outside the Immigration Rules with recourse to public funds will not need to demonstrate “habitual residence” in Great Britain in order to receive LCTS. This measure reflects changes to the wider benefits system and will be available to deal with other future humanitarian crises or exceptional circumstances where the Home Secretary believes it is important for leave to be granted and support to be made available.

7.6 The instrument also adds two references to the Armed Forces Independence Payment (AFIP) to the Prescribed Requirements Regulations. These additions increase the amount of income a pension age applicant can have before their entitlement to LCTS is affected by an AFIP being made to – or in respect of – a child or young person who is part of their household or family. These references, which were first added to other benefits legislation in 2013, were inadvertently omitted from these parts of the Prescribed Requirements Regulations. The Department is not aware of any applicant’s entitlement to LCTS having been affected by this omission and it has always been open to billing authorities to mitigate any impacts through use of discretionary council tax discount powers in s13A(1)(c) of the 1992 Act.

## **8. European Union Withdrawal and Future Relationship**

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 The Department does not plan to undertake a consolidation of the Prescribed Requirements Regulations.

## **10. Consultation outcome**

10.1 This instrument maintains the consistency of LCTS schemes with the wider benefits system and has not been subject to specific consultation. Billing authorities are familiar with the Government’s policy to maintain this consistency.

## **11. Guidance**

11.1 Billing authorities are familiar with the Prescribed Requirements Regulations and the annual updating process. The Department will write to billing authorities to set out the provisions of this instrument as part of its regular communications.

## **12. Impact**

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

12.2 The impact on the public sector is minimal. Billing authorities will take account of the instrument while undertaking their annual review and updating of their LCTS scheme.

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

### **13. Regulating small business**

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

### **14. Monitoring & review**

14.1 The approach to monitoring of this legislation is that the Government has undertaken to review the Prescribed Requirements Regulations on an annual basis and to update them as necessary.

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 Nick Littlewood at the Department for Levelling Up, Housing and Communities, Telephone: 0303 44 42096 or email: [nick.littlewood@levellingup.gov.uk](mailto:nick.littlewood@levellingup.gov.uk) can be contacted with any queries regarding the instrument.

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

15.3 Lee Rowley, Parliamentary Under Secretary of State at the Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.