

Explanatory Memorandum to the Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) (Amendment) Regulations 2016.

This Explanatory Memorandum has been prepared by Local Government Finance Policy Division and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) (Amendment) Regulations 2016. I am satisfied that the benefits outweigh any costs.

Leighton Andrews
Minister for Public Services
1 December 2015

Description

1. Council Tax Reduction Schemes (CTRS) are the mechanism through which Local Authorities provide support to low income households in meeting their Council Tax liability.
2. This Statutory Instrument makes amendments to both the Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2013 and the Council Tax Reduction Schemes (Default Scheme) (Wales) Regulations 2013 (referred to collectively in this Explanatory Memorandum as “the 2013 CTRS Regulations”) and updates certain figures used to calculate an applicant’s entitlement to a reduction under a Council Tax Reduction Scheme, and the subsequent level of reduction.
3. This instrument also makes consequential amendments as a result of changes to the wider welfare system.

Matters of special interest to the Constitutional and Legislative Affairs Committee

4. None.

Legislative background

5. Section 10 of, and Schedule 4 to, the Local Government Finance Act 2012 inserted a new Section 13A and new Schedule 1B into the Local Government Finance Act 1992 (“the 1992 Act”). These provisions enabled the Welsh Ministers to introduce Council Tax Reduction Schemes (“CTRS”) in Wales via regulations.
6. The relevant provisions in the Local Government Finance Act 2012 were subject to a Legislative Consent Motion which was approved by the National Assembly for Wales on 26 June 2012. The Local Government Finance Act 2012 received Royal Assent on 1 November 2012.
7. This statutory instrument is laid and made under the new section 13A of, and the new Schedule 1B to, the Local Government Finance Act 1992. The instrument is subject to approval of the Assembly (the affirmative procedure).

Purpose and intended effect of the legislation

8. This Statutory Instrument amends the 2013 CTRS Regulations to update certain figures used within those Regulations to calculate entitlement to a Council Tax Reduction, and the amount of any reduction awarded to applicants in the 2016-17 financial year. It also makes a number of consequential and technical amendments to the 2013 CTRS Regulations to take account of interrelated benefits and ensure they remain fit for purpose.

Background

9. The Welfare Reform Act 2012 contained provisions to abolish Council Tax Benefit from 31 March 2013. From 1 April 2013, responsibility for providing support for Council Tax devolved to Local Authorities in England. Fixed funding, reduced by 10% compared to 2012-13 costs, was passed to the Scottish Government and to the Welsh Government to allow the Devolved Administrations to develop replacement schemes.
10. Following the UK Government's decision to abolish Council Tax Benefit, the Welsh Government sought provisions in the Local Government Finance Act 2012 which amended the Local Government Finance Act 1992 ("the 1992 Act"), to provide the Welsh Ministers with executive powers to introduce Council Tax Reduction Schemes in Wales via regulations.
11. The 2013 CTRS Regulations were approved by the National Assembly for Wales on 26 November 2013.
12. The Welsh Government provided £244m in the Local Government Settlement for CTRS for 2013-14. This was partly funded through the fixed budget of £222m which was transferred from the UK Government. However, in order to enable Local Authorities to continue to provide all eligible applicants with their full entitlement to support, an additional £22m was provided by the Welsh Government. The Welsh Government matched this funding in 2014-15 and committed to continue to maintain these arrangements for a further two years.

2013 CTRS Regulations

13. Aligned with the provisions in the 1992 Act, the 2013 CTRS Regulations govern the operation of CTRS in Wales. These regulations were closely based on the previous Council Tax Benefit rules and all eligible applicants were automatically transferred from Council Tax Benefit onto Council Tax Reduction Schemes from 1 April 2013.
14. Entitlement is currently calculated in much the same way as it was under the previous Council Tax Benefit system. If an applicant receives Income Support, Income Based JSA, Income Based ESA, Pension Credit, or Pension Credit Guarantee, they are entitled to the maximum reduction in their Council Tax liability. This currently means a reduction to zero (less any deductions for non-dependants). Approximately 70% of CTRS applicants in Wales receive the passported benefits.

15. If an applicant does not receive any of the passported benefits, the weekly amount of money which they are judged to need to live on is calculated. This is known as the applicable amount, and consists of two components:
- The first is the personal allowance – the basic amount a person needs to live, which varies according to the household's circumstances. For example, the allowance for a couple with children is higher than for a single person without children. These allowances are also set at higher rates for those who have reached State Pension Age.
 - The second component is the premium – additional amounts added to reflect any personal circumstances which increase the cost of living, such as a disability or carer's responsibilities. Once the applicable amount has been determined, the applicant's level of income is calculated.
16. The level of income is then assessed. This takes account of any disregards which apply when calculating a person's income (for example earnings disregard and capital allowances).
17. If the applicable amount is higher than an applicant's calculated income, they are entitled to the maximum reduction in their Council Tax liability. If income exceeds the applicable amount, the weekly entitlement is reduced by 20p for each £1 of excess weekly income, until entitlement is withdrawn – this is known as the taper.
18. Adjustments can be 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 and who are therefore assumed to make a financial contribution to the household.

Uprating for 2016-17

19. This statutory instrument amends the 2013 CTRS Regulations to uprate certain financial figures for 2016-17 used to calculate entitlement to a reduction for non-passported applicants.
20. The policy intention is to increase the rates for working age, disability or carer by the Consumer Price Index (CPI). However, as the UK is currently in a low inflationary period, the practical effect of this measure is that there will be a 0% increase in these rates in 2016-17. Therefore this Statutory Instrument does not contain provisions to uprate the financial figures in relation to these rates.
21. The statutory instrument seeks to uprate a number of other figures included in the 2013 CTRS Regulations. These include:
- Personal allowances in relation to pensioners
The financial figures in respect of pensioner rates have been amended and are aligned with Housing Benefit. These have been calculated with assistance from the Department of Work and Pensions following the Chancellor's Autumn Statement 2015 and have been uprated by different

mechanisms. For example, the Pension Credit standard minimum guarantee is uprated by earnings, whereas the Additional Pension and increments are uprated by prices.

- Non-dependant deductions

The financial figures in relation to both the income bands and deductions made in relation to 'non-dependents' will be uprated. If amendments are not made, appropriate deductions would not be made from CTRS awards as the income thresholds would no longer reflect average earnings and the deduction would no longer reflect the overall cost of council tax.

Additional Amendments

22. In addition to the uprating, this statutory instrument makes a number of consequential amendments to the 2013 CTRS Regulations to incorporate a number of changes which have been necessary due to changes to legislation which governs interrelated benefits.

Social Services and Well-being (Wales) Act 2014 and the Care Act 2014 ("the 2014 Acts")

23. A number of amendments are necessary to reflect the new arrangements in relation to care and support needs which have been introduced in England by the Care Act 2014 and which will be introduced in Wales by the Social Services and Well-being (Wales) Act 2014 which is due to come fully into force by April 2016.

24. The majority of these amendments are required to replace the current method by which a person is determined to be blind with the condition that a person must either be blind or severely sight-impaired. This is because the definition of "blind" will be repealed by the Care Act 2014 and orders under the Social Services and Well-being (Wales) Act 2014 with one for "severely sight-impaired" (this definition broadly replicates the previous definition of blind).

25. Other amendments are required to ensure that a range of payments which have previously been disregarded for the purposes of calculating CTRS remain so that they are provided under the 2014 Acts. These include:

- a. an amendment to ensure that those receiving payments from Local Authorities under the 2014 Acts for their care and support will continue to have these disregarded; and
- b. an amendment ensuring that those receiving bursaries under the Social Services and Well-being (Wales) Act 2014 will have this disregarded.

26. All the above amendments are necessary to ensure the affected applicants are still entitled to the disability premium.

National Insurance Contributions Act 2015

27. Consequential changes have been made to take into account terminology changes used in legislation as a consequence of the National Insurance

Contributions Act 2015. All references to “small earnings exception” have been replaced with references to “small profits threshold”.

Pensions Act 2014

28. Consequential changes are also required to take account of the new arrangements and terminology introduced via the Pensions Act 2014. Amendments to the 2013 Regulations are required to insert references to ‘a state pension’ where there are references to ‘retirement pension’. This is because from April 2016, there will be two types of state pension. These amendments are necessary to ensure the affected applicants are still entitled to the relevant premiums and reliefs.

29. In addition amendments are required to take into account a new section of the Social Security Contributions and Benefits Act 1992 (section 55A) which concerns the ‘new state pension credit’

Consultation

30. No consultation has been undertaken in respect of this statutory instrument. However, the 2013 CTRS Regulations were consulted upon and details are provided in the Regulatory Impact Assessments accompanying those Regulations.

Regulatory Impact Assessment (RIA)

Options

Option 1 – Do nothing

31. As the UK is currently in a low inflationary period, working age applicants would not be worse off if rates were not increased in 2016-17, compared to 2015-16. This means that prices (as measured by CPI) are close to 0% (-0.1% in October). However, not uprating those components which are not increased by CPI, in line with Housing Benefit would result in:

- Pensioners who automatically receive a full Council Tax Reduction (ie. those who receive pension credit) being treated more favourably than pensioners who do not;
- The financial figures used to assess eligibility of households with non-dependants being out-of-date. The income thresholds would no longer reflect average earnings and the adjustment made to the final Council Tax Reduction would no longer reflect overall cost of council tax.

32. It would also mean that consequential amendments would not be made to the 2013 CTRS Regulations to take account of interrelated changes to the welfare system made by the UK Government. This could disadvantage some applicants by reducing their entitlement to support and could also create confusion for applicants and increase the administrative burden for Local Authorities and advice providers.

Option 2 – Make amending Regulations

33. This option would mean that amendments would be made to uprate the financial figures in the 2013 CTRS Regulations according to Welsh Government policy.

34. The financial figures in relation to working age, disability or carer rates would continue to increase with the cost of living for 2016-17. However, as the UK is currently in a low inflationary period, and there has been no increase in the cost of living, no adjustments are required.

35. The personal allowances for pensioners will be uprated to align with those for Housing Benefit and the wider benefit system.

36. The financial figures used to calculate the adjustment for non-dependant deductions would be uprated. The income thresholds in relation to non-dependants would be uprated to reflect average earnings and the non-dependant deduction from CTRS would reflect overall cost of council tax.

37. In addition, consequential and technical amendments will be made to reflect wider welfare changes made by the UK Government. This ensures Council Tax Reduction Schemes reflect changes to interrelated social security benefits which often determine entitlement to a reduction.

Costs and Benefits

Option 1 – Do nothing

Costs

38. As the UK is currently in a low inflationary period, the vast majority of applicants would not be worse off if rates did not change as prices (as measured by CPI) are close to 0%.
39. However, if personal allowances in relation to pensioners are not increased in line with Housing Benefit, the system would be 'out-of-sync' with the overall benefit system. It would result in pensioners who automatically receive a full Council Tax Reduction (ie. those who receive pension credit) being treated more favourably than those who do not.
40. For example, the personal allowance for a single person aged over 65 in relation to Pension Credit will be increased from £166.05pw to £168.70pw in 2016-17. This will mean those pensioners receiving Pension Credit will have an extra £2.65pw to live on and will still be entitled to the maximum Council Tax Reduction. If however the same increases were not made to the personal allowances in relation to the 2013 CTRS Regulations, a pensioner with the same income, who is not receiving Pension Credit, and not automatically entitled to a maximum award would be expected to pay at least some of their Council Tax liability.
41. The financial figures used to assess eligibility of households with non-dependents would also be out-of-date. The calculation would no longer make a fair assessment of the income of 'non-dependents' or the overall cost of Council Tax. There is a risk that this aspect of the scheme would be viewed as unfair or inequitable.
42. If the technical and consequential amendments to the 2013 CTRS Regulations are not made, they would no longer align with Housing Benefit provisions or other interrelated benefits. It would lead to references being 'out of sync' with the overall benefits system and could disadvantage certain applicants by reducing their entitlement to support. This could potentially lead to additional administrative burden on Local Authorities and advice providers. It may also lead to confusion for some applicants who, as a result, could be treated significantly differently under other benefit schemes.

Benefits

43. Not uprating pensioner figures would help to limit any increases in total reductions under Council Tax Reduction Schemes. However not uprating figures in relation to Non-Dependant Deductions, would result in Council Tax reductions in relation to relevant households being higher than they otherwise would be.

Option 2 – Make amending Regulations

Costs

44. Uprating the financial figures in respect of pensioners would slightly increase total reductions under Council Tax Reduction Schemes. However, if the financial figures in relation to Non-Dependant Deductions were also uprated, this would mitigate some of the increase in total reductions. Consequently, total Council Tax Reductions are not expected to rise significantly as a result of the uprating.

Benefits

45. Uprating the financial figures in the 2013 CTRS Regulations will ensure that the personal allowance for pensioners continues to increase in line with the standard minimum guarantee and savings credit. This will ensure all pensioners are treated equally.

46. If the financial figures in relation to non-dependant deduction rates are 'uprated', this will ensure the calculation used to assess eligibility of non-dependant households remains up to date. The calculation would continue to make a fair assessment of the income of 'non-dependants' and the cost of Council Tax. This will ensure the system remains fair and equitable.

47. As part of these Regulations, consequential and technical amendments are made that are associated with wider welfare changes made by the UK government. This will ensure Council Tax Reduction Schemes reflect changes made to interrelated social security benefits which often determine entitlement to a reduction. It will also avoid any additional administrative burden for Local Authorities or advice providers.

Sectors

48. Local Government and the Voluntary Sector were consulted during the development of proposals to introduce Council Tax Reduction Schemes in Wales.

49. This legislation will not affect the Business Sector.

Duties

50. In drafting these Regulations consideration has been given to Welsh Minister's duty to promote equality and eliminate discrimination. An Equality Impact Assessment was completed for the introduction of the 2013 CTRS Regulations.

51. Council Tax Reduction Schemes are implemented and operated by Local Authorities who are under general duties to comply with Welsh Language and Sustainable Development duties.

Competition Assessment

52. This has been scored against the competition filter test which indicated that there will be no detrimental effect on competition.

Post implementation review

53. Amendments are required on an annual basis to update the financial figures used to calculate entitlement to a reduction. This provides an opportunity to review the legislation.