

**Explanatory Memorandum to the Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) (Amendment) Regulations 2017.**

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 2017. I am satisfied that the benefits outweigh any costs.

**Mark Drakeford  
Cabinet Secretary for Finance and Local Government  
December 2016**

## **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”). It 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 and tax system.

## **Matters of special interest to the Constitutional and Legislative Affairs Committee**

4. Some of the figures within the English language versions of the Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) (Amendment) Regulations 2016 (“the 2016 Regulations”) and inserted into the 2013 CTRS Regulations were inconsistent with the correct figures used in the Welsh language version. The Welsh Government liaised with local government to ensure that they used the correct figures within their council tax reduction schemes. These inconsistencies will be corrected via these Regulations (this is further outlined below).

## **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 uprate 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 2017-18 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 has been provided annually by the Welsh Government. The Welsh Government has committed to continue to maintain these arrangements until the end of 2017-18.

## **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 2017-18

19. This statutory instrument amends the 2013 CTRS Regulations to uprate certain financial figures for 2017-18 used to calculate entitlement to a reduction for non-passported applicants.
20. The statutory instrument seeks to uprate a number of other figures included in the 2013 CTRS Regulations. These include:
  - Personal allowances in relation to working age, carer and disabled applicants  
The financial figures in respect of these allowances have been amended and have increased in line with the cost of living rises. The convention is to uprate in line with the Consumer Price Index September figure from the previous year (which is 1.0% for 2017-18). As the Welfare Reform and Work Act has frozen the uprating of working age allowances in social security benefits, the effect of increasing these allowances within CTRS is

that they will no longer be aligned with similar components in Housing Benefit.

- Personal allowances in relation to pensioner applicants  
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 2016 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-dependants' 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

21. 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:

- Amendments are made in relation to how a local authority should calculate an applicant's weekly income to ensure that when calculating this, the authority considers income that the applicant expects to receive as well as income that has been received. This ensures that the method to calculate weekly income is fair and more accurately reflects the applicants' current circumstances;
- Currently an applicant receiving a carer's allowance will not be eligible to receive the severe disability premium when determining their applicable amount. On the other hand, a person receiving Universal Credit with a carer's element can be eligible to receive the severe disability premium. As such, amendments are required to ensure applicants receiving Universal Credit with a carer's element will no longer be eligible for the severe disability premium. This is consistent with other inter-related social security legislation; and
- When determining the net earnings of employed earners, deductions are made in relation to any tax reliefs the applicant may receive. Amendments are made to ensure that all tax reliefs are taken into account when determining net earnings. This is consistent with other inter-related social security legislation.

### Correcting inconsistencies

22. In updating the figures outlined in paragraphs 19 and 20, these Regulations will also ensure that the inconsistencies between the English and Welsh language versions created by the 2016 Regulations (and described in paragraph 4) are corrected.

## **Regulatory Impact Assessment (RIA)**

### **Options**

#### Option 1 – Do nothing

23. If the financial figures used to assess eligibility of households' allowances within the Council Tax Reduction means test remained static the criteria used will be slightly less generous for non-passported applicants and lead to a slight decrease in support in 'real terms'.
24. The financial figures used to assess eligibility of households with non-dependants would be 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.
25. The inconsistencies in the financial figures between the English Language and Welsh Language versions of the 2013 CTRS Regulations would remain.
26. 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 or stopping 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

27. This option would mean that amendments would be made to uprate the financial figures in the 2013 CTRS Regulations according to Welsh Government policy.
28. The financial figures in relation to working age, disability or carer rates will continue to increase with the cost of living (1.0%, as measured by CPI) for 2017-18. The figures would also rectify inconsistencies between the English language and the Welsh language version of the 2013 CTRS Regulations
29. The personal allowances for pensioners will be uprated to align with those for Housing Benefit and the wider benefit system. The increase would be aligned to the UK Government's Standard Minimum Guarantee and Savings Credit.
30. 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 the average increase in council tax.
31. 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**

32. If the financial figures for working age and pensioner allowances do not increase with the cost of living (as measured by CPI) the CTRS recipients affected would be slightly worse off in 'real terms'. For example, the personal allowance for a single working age person would remain at the 2016-17 rate (£73.10).
33. The financial figures used to assess eligibility of households with non-dependants would also be out-of-date. The calculation would no longer make a fair assessment of the income of 'non-dependants' or the overall cost of Council Tax. There is a risk that this aspect of the scheme would be viewed as unfair or inequitable.
34. 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**

35. Not uprating pensioner and working age 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.
36. Not uprating the working age figures would also ensure that Housing Benefit and CTRS remain aligned which can assist the administration of the schemes by local authorities.

## Option 2 – Make amending Regulations

### **Costs**

37. 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**

38. Uprating the financial figures in the 2013 CTRS Regulations will ensure that the personal allowance for working age applicants continues to increase in line with the CPI (which is set at 1.0%). For example in 2017-18 the single person allowance would increase from £73.10 to £73.83 (an increase of 73p).

39. Uprating the financial figures in respect of the personal allowance for pensioners continues to increase in line with the standard minimum guarantee and savings credit. For example in 2017-18 the single person allowance would increase from £168.70 to £172.55 (an increase of £3.85).

40. 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.

41. 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**

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

43. This legislation will not affect the Business Sector.

### **Duties**

44. 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.

45. 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.

46. The policy supports the principles within the Well-being of Future Generations (Wales) Act 2015. Maintaining full entitlement to CTRS will continue to help low income households in meeting their council tax liability and as such will help to contribute to the well-being objectives of: a prosperous Wales; and a more equal Wales.

### **Competition Assessment**

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

### **Consultation**

48. 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.

### **Post implementation review**

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