EXPLANATORY MEMORANDUM TO

THE COUNCIL TAX REDUCTION SCHEMES (PRESCRIBED REQUIREMENTS) (ENGLAND) (AMENDMENT) REGULATIONS 2020

2020 No. 23

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 in calculating whether pensioners are entitled to a reduction in council tax and the amount of that reduction. Other changes are being made to maintain consistency with the housing benefit regime; to provide for how payments made in connection with the Grenfell Tower fire and under the Windrush Compensation Scheme are to be treated; and to prepare for the introduction of parental bereavement leave and pay.

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 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 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 The Regulations 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 dwelling).
- Applicable amounts (the amount against which an applicant's income is compared to determine the amount of reduction to which they are entitled).
- The calculation of an applicant's alternative maximum council tax reduction.

7.3 The Regulations also mirror changes made to the housing benefit regime by introducing amendments to make provision for the treatment of three types of payments:

- Payments of early years assistance. These payments will be disregarded when calculating an applicant's income and capital. The policy background to this change is set out in the explanatory memorandum accompanying the Social Security (Scotland) Act 2018 (Best Start Grants) (Consequential Modifications and Saving) Order 2018[1] which provides for the disregarding of early years assistance in the calculating of a person's income and capital when determining eligibility for housing benefit.
- Payments of funeral expense assistance. These payments will be disregarded when calculating an applicant's income and capital. The policy background to this change is set out in the explanatory memorandum accompanying the Social Security (Scotland) Act 2018 (Funeral Expense Assistance and Early Years Assistance) (Consequential Modifications and Savings) Order 2019[2] which provides for the disregarding of funeral expense assistance in the calculating of a person's income and capital when determining eligibility for housing benefit.
- Payments of arrears of maternity allowance or payments made as compensation for non-payment of maternity allowance. These payments 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 (Capital Disregards) (Amendment) Regulations 2019[3] which provides for back-payments of maternity allowance to be disregarded when determining eligibility for housing benefit.

[1] Available online at: http://www.legislation.gov.uk/uksi/2019/872/made.
[2] Available online at: http://www.legislation.gov.uk/uksi/2019/1060/made.
[3] Available online at: http://www.legislation.gov.uk/uksi/2019/1314/made.

7.4 The Regulations make further provision for the treatment of two other types of payments:

- Payments relating to the Grenfell Tower fire. These include payments made out of certain charitable funds, support payments made by the council of the Royal Borough of Kensington and Chelsea, and payments made under the Grenfell Tower Residents' Discretionary Fund. These payments will be disregarded when calculating an applicant's income and capital..
- Payments made under the Windrush Compensation Scheme (including urgent and exceptional payments made in advance of the scheme becoming operational). These payments will be disregarded when calculating an applicant's income and capital.

7.5 The Regulations also amend the meaning of "couple" following the introduction of opposite-sex civil partnerships. Opposite-sex civil partnerships were introduced by the Civil Partnership (Opposite-sex Couples) Regulations 2019[4].

7.6 The Regulations make changes ahead of the planned introduction of parental bereavement leave and pay, which is provided for by the Parental Bereavement (Leave and Pay) Act 2018[5]. Parental bereavement pay will be disregarded when calculating an applicant's income. The Regulations also provide that a person must not be treated as being engaged in remunerative work when they are on parental bereavement leave.

7.7 Finally, the Regulations make 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:

- References to the Immigration (European Economic Area) Regulations 2006 are replaced with references to the Immigration (European Economic Area) Regulations 2016 as the latter revokes and replaces the former.
- References to transitional measures relating to Croatian nationals are revoked as Croatia's accession to the EU is now complete.
- The Regulations provide that certain changes to UK immigration law do not establish habitual residency for persons who have not previously had this right. In particular, provision is made that certain rights created for European Economic Area and Swiss nationals and for 'Zambrano' carers are not relevant rights to reside for the purposes of establishing habitual residency. The amendment clarifies that these rights have not changed the conditions on eligibility for local council tax support, and that a person must also be exercising a qualifying right to reside in the UK in order to receive a reduction under an authority's scheme.

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.

[4] Available online at: http://www.legislation.gov.uk/uksi/2019/1458/contents/made.
[5] Available online at: http://www.legislation.gov.uk/ukpga/2018/24/contents/enacted.

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 uprating process. Billing authorities will be notified of this instrument as part of the Department's 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.

12.3 An Impact Assessment has not been prepared for this instrument because there will be no, or no significant 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 Government has undertaken to review the Prescribed Requirements Regulations on an annual basis to ensure that any necessary uprating is 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 any regulatory provision in relation to a qualifying activity carried out by business, 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.