EXPLANATORY MEMORANDUM TO

THE COUNCIL TAX REDUCTION SCHEMES (PRESCRIBED REQUIREMENTS) (ENGLAND) (AMENDMENT) REGULATIONS 2025

2025 No. 39

1. Introduction

1.1 This explanatory memorandum has been prepared by The Ministry for Housing, Communities and Local Government and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

2.1 Jim McMahon OBE MP, Minister for Local Government and English Devolution at the Ministry for Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

2.2 Michelle Warbis, Deputy Director for Local Taxation and Pensions, at the Ministry for Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Nick Littlewood at the Ministry for Housing, Communities and Local Government, Email: nick.littlewood@communities.gov.uk, can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 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.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England only.

5. Policy Context

What is being done and why?

5.1 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 is to maintain the level of support in line with that provided by the wider benefits system.[1]

5.2 The Government reviews the Prescribed Requirements Regulations on an annual basis and updates them as necessary. This includes taking account of 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.

5.3 DWP published its latest annual review on 28 November 2024, which will affect the benefits regime for 2025-26.[2] The instrument reflects the outcome of the review by uprating figures in the Prescribed Requirements Regulations by the September 2024 Consumer Prices Index inflation rate (1.7%) 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 up to 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 £358.

5.4 Following the example of the wider benefits system, the instrument also makes provision so that a person's claim is not affected by particular circumstances or by the receipt of certain payments. These include:

- amending the definition of "pensioner" so that that people migrating from Working Tax Credit to Universal Credit (a mainly working age scheme) do not lose their entitlement to pension age support from 2025-26 onwards;

[1] This policy was first set out in 2013: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/237224/Up-rating_pensioners.pdf

[2] https://www.gov.uk/government/publications/benefit-and-pension-rates-2025-to-2026

- adding a new disregard so that any payment out of a deceased person's estate which derives from the Scottish Infected Blood Support Scheme does not affect entitlement to LCTS;
- adding a new disregard so that payments from the Victims of Overseas Terrorism Compensation Scheme received by non-dependants of a pension age LCTS applicant will not affect their LCTS entitlement. This will correct an oversight from the 2024-25 update of the regulations;
- adding provisions so that pensioners receiving Disability Assistance for Older People in Scotland or Scottish Carer's Support Payments for 13 weeks when first relocating to England do not lose entitlement to LCTS; and
- removing the two-child limit when considering the LCTS entitlement of pension age parents.

5.5 In addition, the instrument clarifies that certain payments to be disregarded from a non-dependant's income are payments in kind rather than cash payments. It also makes amendments to ensure that all relevant disability and other payments and allowances are to be: disregarded from the earnings of an applicant or the applicant's partner where relevant, and from the gross income of a second adult for the purposes of calculating an alternative maximum council tax reduction; and taken into account for the purposes of assessing the incapacity of the other member of a couple (the applicant's partner) in relation to the treatment of child care charges.

What was the previous policy, how is this different?

5.6 This instrument continues the longstanding policy first introduced by the previous Government. Each year amendments have been made to the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 to reflect recent changes to DWP benefit eligibility criteria and the assessment of claimants' income and capital. These amendments ensure that LCTS provides a level of support to pension age persons consistent with other benefits.

6. Legislative and Legal Context

How has the law changed?

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. This instrument continues the longstanding practice of updating the Prescribed Requirements Regulations on an annual basis to reflect changes in the wider benefits system.

Why was this approach taken to change the law?

6.2 This is the only possible approach to ensure that the LCTS provision for persons of pension age continues to reflect the support provided by the wider benefits regime.

7. Consultation

Summary of consultation outcome and methodology

7.1 This instrument maintains the consistency of pension age 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.

8. Applicable Guidance

8.1 The Ministry will write to councils setting out the detail of the changes made by the regulations.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

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

Impact on businesses, charities and voluntary bodies

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

9.3 The legislation does not impact small or micro businesses.

9.4 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.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is that the Government will continue to review the Prescribed Requirements Regulations on an annual basis and update them as necessary.

10.2 The instrument does not include a statutory review clause under section 28 of the Small Business, Enterprise and Employment Act 2015 because the Prescribed Requirements Regulations do not make regulatory provision in relation to a qualifying activity carried out by businesses, charities, or voluntary bodies.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 Regulation 5(3)(h)(i) of this instrument corrects errors in the amendments made to the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 by the Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2024, such errors having been identified by the Joint Committee on Statutory Instruments in its Twelfth Report of Session 2023-24[3]. This instrument will be issued free of charge to all known recipients of the latter statutory instrument.

12. European Convention on Human Rights

12.1 The Minister for Local Government and English Devolution has made the following statement regarding Human Rights:

"In my view the provisions of The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2025 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").

[3] S.I. 2024/29: The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2024. See the twelfth report of the 2023-24 session from the Joint Committee on Statutory Instruments: Twelfth Report of Session 2023–24.