

SL(6)105 - The Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) (Amendment) Regulations 2022

Background and Purpose

Council Tax Reduction Schemes (“CTRS”) are the mechanism by which local authorities provide support to low-income households in meeting their council tax liability.

These [Regulations](#) amend the Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2013 and the Council Tax Reduction Schemes (Default Scheme) (Wales) Regulations 2013 by:

- uprating certain figures used to calculate an applicant’s entitlement to a reduction under a CTRS, and the subsequent level of reduction to reflect increases in the cost of living;
- making changes which ensure that Afghan Nationals and UK Nationals from Afghanistan are eligible to be included in a local authority’s CTRS (and are eligible for a discount if they meet the other requirements of the CTRS);
- making changes which ensure that no one living in Wales that is an applicant of the redress scheme for survivors of historical child abuse in care in Scotland is negatively affected in terms of CTRS (any payments received by a person under that scheme, and/or any ex gratia payments made by the Scottish Ministers are disregarded for the purpose of calculating a person’s eligibility for CTRS); and
- making certain technical, presentational and consequential amendments.

Procedure

Draft Affirmative

The Welsh Ministers have laid a draft of the Regulations before the Senedd. The Welsh Ministers cannot make the Regulations unless the Senedd approves the draft Regulations.

Technical Scrutiny

The following points are identified for reporting under Standing Order 21.2 in respect of this instrument:

1. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements.



Regulation 12(1) provides that paragraph 19(5) of the Council Tax Reduction Schemes (Default Scheme) (Wales) Regulations 2013 (“the Default Scheme Regulations”) is amended in accordance with paragraphs (2) to (5) (of regulation 12). This is incorrect.

As currently drafted, regulation 12(2) attempts to amend sub-paragraphs in paragraph 19(5)(e) of the Default Scheme Regulations. However, paragraph 19(5)(e) does not contain any sub-paragraphs. It appears that paragraph 12(2) should amend paragraph 19(4)(e) (which does contain sub-paragraphs).

Paragraphs (3) to (5) of regulation 12 do amend paragraph 19(5) of the Default Scheme Regulations, and this should be expressly stated.

2. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements.

Regulation 12(2)(b) substitutes “;” with “,” in paragraph 19(4)(e) of the Default Scheme Regulations. This is incorrect - it should be a substitution of “.” with “;”.

3. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements.

There are two errors in regulation 12(5) that are linked to the error raised in the first technical reporting point (which highlighted that not all of the paragraphs in regulation 12 amend paragraph 19(5) of the Default Scheme Regulations).

Regulation 12(5) inserts a new paragraph (m) into regulation 19(5) of the Default Scheme Regulations. In the wording being inserted, there is a reference to “paragraph (e)”. This should be a reference to “sub-paragraph (4)(e)”, as it is not referring to paragraph (e) of the sub-paragraph into which it is being inserted (it is referring to sub-paragraph (4)(e) not sub-paragraph(5)(e)).

Similarly, regulation 12(5) inserts a new paragraph (n) into regulation 19(5). In the wording being inserted, there is a reference to “paragraph (e)(iv) or (m)”. This should be a reference to “sub-paragraph (e)(iv) or paragraph (m)”, for the same reason as outlined above (i.e. the former is located in a different sub-paragraph, whereas the latter is located in the same sub-paragraph).

Merits Scrutiny

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument:

1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

No consultation has been undertaken in respect of these Regulations. The Explanatory Memorandum notes that:



"The 2013 CTRS Regulations were consulted upon and details are provided in the Regulatory Impact Assessments accompanying those Regulations."

Welsh Government response

Technical Scrutiny point: Defective Drafting

The drafting is correct and contains no defects.

Point 1:

Paragraph 19(5)(e) of the Council Tax Reduction Schemes (Default Scheme) (Wales) Regulations 2013 ("the Default Scheme") was substituted by regulation 16 of the Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) (Amendment) Regulations 2014. Paragraph 19(5)(e) is intended to be amended and does consist of sub-paragraphs (i) to (iii). It mirrors regulation 28(5)(e) of the Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2013.

Point 2:

Accordingly, the punctuation inserted by regulation 12(2)(b) to paragraph 19(5)(e) of the Default Scheme, is correct.

Point 3:

The references to paragraphs are correct, in accordance with Statutory Instrument Practice. Regulation 12(5) amends paragraph 19 of the Schedule to the Default Scheme, not regulation 19 of the Default Scheme.

Merit Scrutiny point: Consultation

There is no statutory requirement to consult in relation to these amendment regulations. However, the 2013 CTRS Regulations were consulted upon. A dialogue is maintained between Welsh Government officials and local authorities to continue to ensure that all changes made are to benefit applicants and that the content of the regulations is brought to their attention.

Legal Advisers

Legislation, Justice and Constitution Committee

17 December 2021



Senedd Cymru
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Welsh Parliament
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