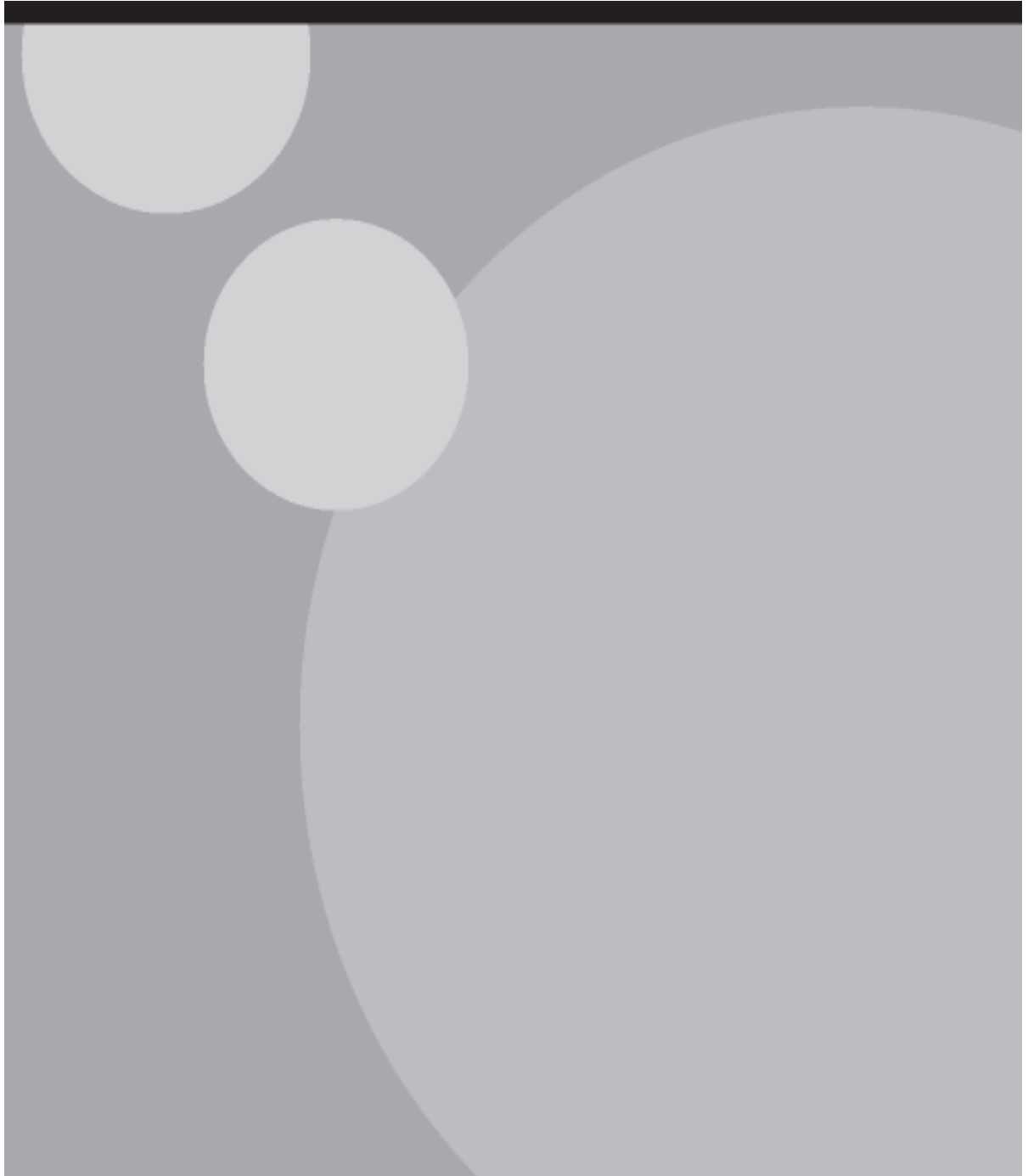




Localising Support for Council Tax

A Statement of Intent





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May 2012
Department for Communities and Local Government

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Chapter 1

Introduction

- 1.1 At Spending Review 2010 the Government announced that it would localise support for council tax from 2013-14, reducing expenditure by 10 per cent.
- 1.2 The Government is committed to retaining council tax support for the most vulnerable in society and taking forward plans for councils to develop local council tax reduction schemes. The Welfare Reform Act 2012 contains provisions for the abolition of council tax benefit, paving the way for new localised schemes.
- 1.3 This reform is part of a wider policy of decentralisation, giving councils increased financial autonomy and a greater stake in the economic future of their local area.
- 1.4 Lifting the poorest off benefits, by supporting them into work is a key Government objective. Local authorities will have a strengthened financial stake in ensuring local schemes support this aim and help to deliver the positive incentives to work that will reduce poverty and reliance on support for council tax in the long term.
- 1.5 The Government believes that it is right to protect council tax support for vulnerable pensioners and that this should not be affected as a result of the introduction of this reform. The elderly cannot go back to work – they have saved and worked hard all their lives: they deserve dignity and security in retirement.
- 1.6 The Local Government Finance Bill (hereafter ‘the Bill’) was introduced to Parliament on 19 December 2011. The Bill makes provision for the localisation of council tax support in England by imposing a duty on billing authorities to make a localised council tax reduction scheme by 31 January 2013 and to consult with major precepting authorities and such other persons as it considers likely to have an interest in the scheme about the scheme.
- 1.7 The Government has also taken powers in the Bill to prescribe certain *classes* or groups who must receive reductions (see new Schedule 1A paragraph (2)(8) and (9)(b)). This will include classes of eligible pensioners, based on the same factors that have determined pensioner eligibility and award under the council tax benefit system.
- 1.8 Further powers in the Bill allow the Government to prescribe a *default scheme* which will take effect if a billing authority has not made a

scheme by 31 January 2013, so that they can still administer council tax reductions (new Schedule 1A paragraph 4).

- 1.9 The Government will allocate funding to billing and major precepting authorities to support the provision of the localised schemes. A consultation on funding distribution, published in parallel with this document, sets out more detail on the Government's proposals¹.
- 1.10 The Bill states that the Government may make regulations about: prescribed requirements for schemes (new Schedule 1A, paragraph 2(8)); the procedure for preparing a scheme (new Schedule 1A, paragraph 3(4)); the *default* scheme (new Schedule 1A, paragraph 4(1)); transitional arrangements (new Schedule 1A, paragraph 9).
- 1.11 This document sets out policy statements of intent for the regulations to be provided under the Bill in relation to England only. These policy statements of intent explain the policy intent of the regulations and how they will enable the delivery of local council tax support. Their purpose is inform debate and discussion of the Bill in Parliament, and it is also anticipated that they will help billing authorities by providing further detail to inform their preparation of local schemes, ahead of the publication of regulations.
- 1.12 This is intended to provide local authorities with the certainty over the Government's proposals they need to be able to consider how to construct their scheme and begin detailed discussions with interested parties in their area.
- 1.13 The Government, in developing these statements of intent has consulted with representatives of local government, the Local Government Association, the Chartered Institute of Public Finance and Accountancy and the Institute of Revenues Rating and Valuation.
- 1.14 This document sets out five policy statements of intent. They are:
 - **Requirements for preparing a scheme**
 - This statement explains how we expect a billing authority to prepare a local council tax reduction scheme.
 - **Transitional arrangements**
 - This statement sets out how the transition from council tax benefit to a local council tax reduction scheme will be implemented.
 - **Prescribed requirements**
 - (i) **All local council tax support schemes;**
 - (ii) **Prescribed pensioner credit age schemes;**
 - (iii) **The *default* scheme**

¹ Localising Support for Council Tax - Funding arrangements consultation

- This statement sets out those matters that will be prescribed by Government: a small number of administrative requirements prescribed requirements in relation to those who have attained the eligible age for state pension credit, and the *default* scheme.
 - **Council tax base**
 - This statement sets out the proposed policy for enabling billing authorities to adjust the council tax base to take account of local council tax reductions when calculating council tax bills.
 - **Risk sharing of financial pressures**
 - This statement sets out the proposed policy to enable risk sharing of financial pressures on billing authorities as a result of increases in demand for local council tax reductions.
- 1.15 The policy statement of intents provided in this document relate to existing provisions and powers with the Bill.
- 1.16 The Government is tabling amendments to the Bill to provide additional powers which may be used for the investigation and prosecution of fraud, and to enable Her Majesty's Revenue and Customs to share data with billing authorities for the purposes of administering local schemes.
- 1.17 The Government will therefore bring forward an addendum to this document with additional policy statements of intent in regard to these powers, whilst the Bill is still before Parliament.

Chapter 2

Requirements for preparing a scheme

- 2.1 This Statement of Intent has been prepared by the Department for Communities and Local Government to set out our expectations for how billing authorities will comply with those provisions in the Bill relating to the processes for preparing a local scheme.
- 2.2 It also indicates our intention to seek a related minor amendment to the Bill, intended to provide greater certainty for billing authorities over when they are able to start consultations to prepare a local scheme.

Purpose of the statement

- 2.3 To provide clarity for the proposed policy on how a billing authority will prepare to implement a local council tax reduction scheme.

Legislative context and territorial application

- 2.4 Under section 13A(2) of the Local Government Act 1992, substituted by clause 8 of the Bill a billing authority must make a council tax reduction scheme. Schedule 1A to the 1992 Act, inserted by Schedule 4 to the Bill, makes further provision about council tax reduction schemes.
- 2.5 Paragraph 3 of new Schedule 1A provides regulation-making powers for the Secretary of State in regard to *Preparation of a Scheme*. This section of the Bill applies to England.

Policy

- 2.6 At present the Government is not proposing to make regulations to prescribe the approach to preparing scheme, provided for in paragraph 3 of new Schedule 1A of the Bill
- 2.7 The Bill already specifies that, before adopting a scheme, the billing authority must in the following order:

- a. consult any major precepting authority which has power to issue a precept to it,
- b. publish a draft scheme in such manner as it thinks fit, and
- c. consult such other persons as it considers are likely to have an interest in the operation of the scheme.

Consultation

- 2.8 Local authorities were given Best Value Statutory Guidance published in September 2011². This short statutory guidance on the Best Value Duty sets out some reasonable expectations of the way authorities should work with voluntary and community groups and small businesses when facing difficult funding decisions.
- 2.9 When consulting on reduction schemes billing authorities should ensure all interested parties are able to give their view and influence the design of the reduction scheme.
- 2.10 The consultation feedback should help identify where there may be any adverse impacts to any particular group. Billing authorities must also understand whether there are any groups or individuals that are adversely impacted by any changes when making their final decisions on a local scheme.

Timing of consultations

- 2.11 The Bill clearly sets out that the billing authority must consult in the order set out in the Bill, and in paragraph 2.7 above. Therefore when the public consultation is carried out, the major precepting authority will have been consulted and should have been involved in shaping the initial proposals.
- 2.12 The public consultation should be carried out as early as possible to ensure feedback can influence the scheme and allow sufficient time for the feedback to be gathered, impacts to be understood, and a scheme to be shaped.
- 2.13 To enable billing authorities to bring forward consultations as early as possible, we propose to amend paragraph 3(2) of new Schedule 1A (in Schedule 4 to the Bill). The amendment provides certainty that in addition to consultation with major precepting authorities, publishing a draft scheme and consultation with such other persons likely to have an interest in the operation of the scheme is not rendered invalid, simply because it takes place before the provisions in the Bill come into force.
- 2.14 A billing authority will need to take account, in developing a local scheme, that a realistic time frame must be put in place to ensure feedback can be sought from all appropriate individuals and groups in

² <http://www.communities.gov.uk/documents/localgovernment/pdf/1976926.pdf>

the community. The length of any consultation should also reflect the changes proposed.

- 2.15 Although Government's code of practice on consultation³ states that normally 12 weeks is appropriate, billing authorities may wish to consider the appropriate length of their consultation depending on the impact of their proposals and the ability to complete the consultation exercise within budgetary timetables.
- 2.16 The code of practice indicates that where timing is restricted, for example, due to having to meet a fixed timetable such as a budget cycle, there may be good reason for a shorter consultation, and any documentation should be clear for the reasons for the shorter timetable.
- 2.17 In considering their timetable a billing authority will also need to consider that if effective consultation is carried out it also takes time to gather the feedback, understand the key themes and impacts and take it through any internal governance processes to get agreement on any final changes.
- 2.18 The Bill states that a reduction scheme must be adopted no later than 31 January in the preceding financial year to the introduction of the scheme (see clause 8(4) in relation to the first year of operation and paragraph 5(2) in new Schedule 1A, inserted by Schedule 4 to the Bill, in relation to subsequent years).

Extent of consultation

- 2.19 The content of any consultation will depend on the complexity of the reduction scheme that is proposed to be introduced. Billing authorities will need to consider administrative processes that they may require – such as whether an application is needed, or how existing working age claimants can transition to the new local schemes.
- 2.20 A billing authority will be under a duty to adopt a local council tax reduction scheme. Where the reduction scheme they adopt fundamentally changes all aspects of any existing scheme they may need to provide greater detail of its impacts than a reduction scheme that simply amends the level of awards but not the qualifying criteria.
- 2.21 Nonetheless, to be an effective consultation, a billing authority will need to ensure that all interested parties are able to give their view and influence the design of the scheme.

³ <http://www.bis.gov.uk/files/file47158.pdf>

Consultation and the default scheme

- 2.22 Paragraph 4 of new Schedule 1A of the Local Government Finance Act 1992 (the 1992 Act) inserted by Schedule 4 to the Bill provides that the Secretary of State must prescribe a *default* scheme which will take effect in relation to an authority's area if it fails to make a council tax reduction scheme on or before 31 January 2013.
- 2.23 If a billing authority actively intends to adopt a reduction scheme, (as it should, in order to comply with the duty in section 13A(2) of the Local Government Act 1992, substituted by clause 8), no matter what the content of that scheme is (and even if it is the same or substantially similar to the *default* scheme) then it is a local scheme. The billing authority is therefore obliged to consult with major precepting authorities, publish a draft scheme and consult with such other persons it considers are likely to have an interest.
- 2.24 However, if the *default* scheme is imposed on a billing authority because it has failed to comply with its statutory obligations to make a scheme by 31 January 2013, then there is not a duty to consult on the default scheme that comes into force, because it has not been adopted.

Adoption of a local scheme

- 2.25 It will be up to the billing authority to adopt a scheme formally through their internal decision-making processes.

Challenges to schemes

- 2.26 A billing authority that does not consult in accordance with the requirements of the Bill prior to adopting a local scheme may be vulnerable to a judicial review of any decision to implement their local scheme. A challenge could come from major precepting authorities if they have not been consulted fully, or local tax payers.

Regulatory proposals

- 2.27 The Government does not propose to bring forward regulations that prescribe the approach to preparing a scheme, provided for in paragraph 3 of new Schedule 1A to the 1992 Act.
- 2.28 Prescribing in regulations how schemes are prepared will not enhance the existing requirements and duties on billing authorities.

Impact of the proposals

Billing authorities

- 2.29 Billing authorities will be required to consult on the introduction of local reductions schemes with major precepting authorities and others with an interest. They will have the flexibility, within wider local budgetary timetables, to undertake consultation in line with local circumstances.

Major precepting authorities

- 2.30 Major precepting authorities will be able to engage with billing authorities on how local reduction schemes will be enacted within their area and influence their design though the requirement for the billing authority to consult with them.

Other interested parties – tax payers – recipients of reductions

- 2.31 Other interested parties will be consulted upon how local schemes will be enacted within their area. Billing authorities will continue to be subject to their existing equalities duties, and will need to consider whether any groups or individuals will be disproportionately affected by any changes when making their final decisions on a local scheme.
- 2.32 Both major precepting authorities and other interested parties will be able to challenge a local reduction scheme if the billing authority has not undertaken a meaningful consultation.

Chapter 3

Transitional arrangements

- 3.1 This Statement of Intent has been prepared by the Department for Communities and Local Government to set out its intention for regulations to be made under the transitional power in new Schedule 1A to the 1992 Act, inserted by Schedule 4 to the Bill, and its expectations in relation to general transitional arrangements.
- 3.2 It also indicates our intention to seek a related minor amendment to the Bill, to enable persons with outstanding applications for council tax benefit to benefit from the transitional arrangements.

Purpose of the statement

- 3.3 To provide clarity for the proposed policy for how the transition from council tax benefit to a local council tax reduction scheme will be implemented.

Legislative context and territorial application

- 3.4 Paragraph 9 of Schedule 1A to the Local Government Finance Act 1992 (inserted by Schedule 4 to the Bill) provides regulation-making powers for the Secretary of State in relation to *Transitional Provisions*. This power relates to England.

Policy

- 3.5 This Statement of Intent explains what the Government intends to include in the regulations under paragraph 9 of new Schedule 1A of the Bill, as well its expectations in relation to general transitional arrangements.

Transitional regulations

- 3.6 The policy intention is to avoid the need for applicants already in receipt of, or who have already applied for, council tax benefit to have to apply for a local council tax reduction.

- 3.7 The underlying rationale for this is to minimise the administrative burden on both claimants and local authorities, and help meet the principle of *tell us once* by facilitating billing authority use of existing council tax benefit applications and information to calculate reductions for council tax bills for 2013-14, under the successor local council tax reduction schemes.
- 3.8 A billing authority's council tax reduction scheme will be required to set out the classes of person entitled to a reduction in their council tax liability. The scheme may provide that to be within an eligible class an individual must have made an application for a reduction.
- 3.9 That requirement will always apply where the applicant is protected under requirements applying to those of pension credit age or is in any class of person under the *default* scheme (by virtue of requirements prescribed by the Secretary of State⁴).
- 3.10 Therefore, where a local reduction scheme requires an application in order for a person to fall within a class of person entitled to a reduction, regulations will provide that a person who is in receipt of council tax benefit immediately before 1 April 2013 is to be treated as having made an application for a reduction under the local scheme.
- 3.11 Where an individual has, prior to 1 April 2013, made an application for council tax benefit which has not been determined by 1 April 2013, the regulations will provide that the individual is to be treated as having made an application for a reduction under the local scheme.
- 3.12 To enable this transitional proposal we propose to amend paragraph 9(1) of new Schedule 1A. The purpose of the amendment is to ensure that regulations may provide that an application for council tax benefit which has not been determined by 1 April 2013 can be treated as an application for a local reduction scheme.
- 3.13 Although we will not explicitly regulate for deeming an appeal for council tax benefit being an application for a local council tax reduction, the person will be treated as having made an application under the local scheme where the outcome of an appeal entitles the claimant to council tax benefit immediately before 1 April 2013.
- 3.14 Where an application relates to a local council tax reduction only, i.e. to a period of time starting on or after 1 April 2013, then this application should be dealt with under the processes for local council tax reduction schemes. Such an application should not have an impact on transitional arrangements.

⁴ See Chapter 4 – Prescribed Requirements.

Summary of regulatory proposals

- 3.15 The Government will bring forward transitional regulations to the House provided under Paragraph 9, of new Schedule 1A. The regulations will state that an application is deemed to have been made where:
- a. Someone is in receipt of council tax benefit in relation to 31 March 2013; and
 - b. Where an application for council tax benefit has been made and yet to be determined by 31 March 2013.
- 3.16 In regard to information to calculate actual reductions, local authorities will be able to use existing information to calculate reductions for 2013-14 bills, based upon the levels of council tax benefit granted. Where this information is not sufficient for them to do so an authority will need to seek supplementary information from the applicant.

Wider transitional arrangements

- 3.17 The wider transitional arrangements set out in this section of the statement are to provide information in relation to the transition from council tax benefit to the local council tax support schemes, and are not matters to be regulated.

Application forms

- 3.18 It will be for the billing authority to determine how they wish to design the application forms required for their local schemes, and to consider any requirements on how these should be completed (including, for example, whether an application can be filled in on-line).
- 3.19 A billing authority may be able to make efficiency savings by providing on-line applications. However, not all individuals may have access to the internet and billing authorities should also ensure that applications, where needed, can be provided to such persons that do not have on-line access.
- 3.20 It is anticipated that billing authorities may wish to use council tax benefit application forms as a starting point, but will need to remove any references or logos which are no longer relevant.
- 3.21 Prior to 1 April 2013 billing authorities will need to consider how to communicate new arrangements for applying for local council tax reductions.

Administration processes

- 3.22 Council tax reduction schemes will be given legislative effect by amendments to the Local Government Finance Act 1992. The Government intends that, as set out in the Statement of Intent on prescribed requirements, where possible, existing administrative council tax regulations will also apply to the administration of local council tax reduction schemes, for example, to deal with over- and under-calculation of reductions.
- 3.23 In relation to any residual outstanding claims relating to council tax benefit the Department for Work and Pensions is proposing to save the council tax benefit regulations. The Department for Work and Pensions will be providing further details in due course on this issue. For a limited period, there may be a limited number of claims beyond 1 April 2013 that would need to be assessed wholly or partly in relation to the Council Tax Benefit system.

Transition to a replacement local scheme

- 3.24 Billing authorities will be required each financial year to consider whether it wants to revise or replace its scheme.
- 3.25 Paragraph 5(1) of new Schedule 1A requires a billing authority to consider whether to revise or replace its local council tax reduction scheme each financial year.
- 3.26 Under such circumstances it will be for each billing authority to consider what transitional arrangements may be required to move from an existing local scheme to a replacement scheme.
- 3.27 Paragraph 5(4) of new Schedule 1A states that any replacement scheme which reduces or removes a reduction to which any class of persons is entitled must include such transitional provision relating to that reduction or removal as the authority thinks fit.

Impact of the proposals

Billing authorities

- 3.28 Regulations will provide that billing authorities will not require an application for the local council tax support schemes, where a person is already in receipt of, has applied for, council tax benefit.

Major precepting authorities

- 3.29 The transitional arrangements will not have a direct impact on major precepting authorities.

Other interested parties – tax payers – recipients of reductions

- 3.30 A person who is in receipt of council tax benefit immediately before 1 April 2013, or who has made an application for council tax benefit which has not been determined, will not be required to submit a further application (by virtue of regulations).

Chapter 4

Prescribed requirements

- 4.1 Localising council tax support: regulations prescribing requirements for: (i) all council tax reduction schemes; (ii) the scheme for those who have attained the qualifying age for state pension credit; and (iii) the *default* council tax reduction scheme.

Introduction

- 4.2 This Statement of Intent has been prepared by the Department for Communities and Local Government to set out our intention for two sets of regulations to be made under the new Schedule 1A to the Local Government Finance Act 1992 (inserted by Schedule 4 to the Local Government Finance Bill).
- 4.3 The sets of regulations covered by this policy statement are:
- (i) regulations under paragraph 2(8) and (9) of new Schedule 1A, prescribing requirements for local schemes; and
 - (ii) regulations under paragraph 4(1) of that Schedule, prescribing the default council tax reduction scheme.
- 4.4 The prescribed requirements regulations are concerned with ensuring that each billing authority's scheme will contain any requirements prescribed by the Secretary of State under Schedule 1A paragraph 2(8) and (9), including provision of support for vulnerable pensioners.
- 4.5 The default scheme will take effect in relation to a billing authority's area if the authority fails to make a scheme on or before 31 January 2013 (or such other date as is specified in Section 8(4) of the Local Government Finance Act 2012).
- 4.6 The regulations will apply to England only.

Prescribed requirements – all schemes

- 4.7 There are a small number of prescribed requirements that will apply to all schemes: local schemes, the prescribed scheme for persons of state pension credit eligible age and the default scheme.

People from abroad

- 4.8 The Government intends to apply the same restrictions as exist under the council tax benefit system to exclude foreign nationals with limited immigration status and non-economically active EEA individuals who are not exercising EU treaty rights from receiving council tax reductions. The prescribed requirements relating to immigration status will mean that individuals subject to immigration control under Section 115 of the Immigration and Asylum Act 1999 and non-economically active EEA nationals who fall into various categories to be set out in regulations, will not benefit from council tax reductions. New provisions will replicate those in existing council tax benefit regulation 7 in SI 2006/215 and 2006/216.

Refugees

- 4.9 In continuing the policy of restricting access to council tax support for foreign nationals with limited immigration status however, the Government does wish to continue the practise already established of allowing those who have recognised refugee status, humanitarian protection, discretionary leave or exceptional leave to remain granted outside the immigration rules and who are exempt from the *Habitual Residence Test* are to be entitled to apply for council tax reduction support as long as their status has not been revoked.

Permitting a person to act for another person

- 4.10 Regulations will allow current arrangements for a person to act on behalf of another, to continue⁵. For example, where a person has been granted a power of attorney over a liable council tax-payer or in cases where a couple wishes to make an application.

Extended payments for people who have just reached eligible age for state pension credit

- 4.11 Prescribed regulations for all schemes will set out that an individual who is:
- (i) approaching pension credit eligible age, and who is
 - (ii) in receipt of a local council tax reduction and not in receipt of working age benefits (income support, income-related jobseeker's allowance, income related employment and support allowance), or
 - (iii) whose partner has claimed state pension credit, will continue to receive an *extended payment* of their localised council tax reduction for a prescribed period of four weeks, whilst they or their partner apply for

⁵ See SI 2006/216, regulation 52 and SI 2006/215, regulation 68

the state pension credit eligible age scheme (See SI 2006/215 regulations 5 and 60).

Prescribed requirements – scheme for persons who have reached the qualifying age for state pension credit and default scheme

Introduction

- 4.12 The Government is committed to protecting pensioners on low incomes, who it does not want to see disadvantaged as a result of the introduction of this reform. To deliver this protection, the regulations will contain provisions that must be included in a billing authority's council tax reduction scheme in relation to *pensioners*. The provisions will replicate as far as possible the existing provisions under which pensioner eligibility for council tax benefit is assessed.
- 4.13 Under the existing council tax benefit system a person becomes eligible for *pensioner-related* council tax benefit at the age at which they can qualify for state pension credit (the pensionable age for a woman). The new pensioner regulations will, equally, apply to individuals who have reached the qualifying age for state pension credit. Further details on this are set out from paragraph 4.17.
- 4.14 The default scheme is being put in place to make sure that, should a billing authority fail to make a scheme on or before 31 January 2013 (or such other date as is specified in section 8(4) of the Local Government Finance Act 2012), a scheme will be in place to reduce the council tax liability of eligible people in the authority's area. Paragraph 4(4) of new Schedule 1A makes provision for the default scheme to take effect in respect of dwellings situated in the area of a billing authority if the authority fails to make a scheme.
- 4.15 It is the Government's intention that the default scheme will operate in as close a way as possible to the existing council tax benefit scheme. This is so billing authorities who find themselves in this position will be able to administer their default arrangements without significant changes to local systems. As well as incorporating the prescribed requirements for pensioners (see above) the default scheme will need to re-create existing rules for the assessment of working-age persons' eligibility and entitlement.

Elements applicable to all schemes

- 4.16 The requirements set out in paragraphs 4.7 to 4.11 above as applicable to all schemes will have effect for both the pension credit age scheme and the default scheme. Policy proposals specific to the pension credit

age and default schemes are set out in detail below, with the scheme for people of pension credit age being covered first.

Prescribed pension credit age scheme

Introduction – pension credit age scheme

- 4.17 The main function of the regulations prescribing the requirements in relation to individuals of state pension credit age will be to prescribe the classes of person which must, or must not, be included in a billing authority's council tax reduction scheme (see paragraph 2(9)(b) of new Schedule 1A) and to prescribe the reductions applicable to individuals who are within a class included in the scheme (see paragraph 2(9)(c) of new Schedule 1A).
- 4.18 The Government intends to introduce regulations to determine who will be in a class and the reduction to which they will be entitled. The regulations will be as similar as possible to the existing regulations providing for means-testing, and should mean that council tax support for those of state pension credit age should not be reduced as a result of the introduction of this reform. Details on the classes are set out from paragraph 4.20 and information on how the reductions will be calculated are set out from paragraph 4.24.
- 4.19 The amount of support will continue to be based on individual circumstances and changes of circumstances will also be taken into account. People attaining pension credit age in future (subject to the wider welfare reform changes outlined at paragraphs 4.45 – 4.47 below) will also be able to apply. The amounts prescribed in relation to the detailed calculations determining reductions (for example, the premia or income disregards taken into account) will be kept under review and updated in future as appropriate.

Classes – prescribed pension credit age scheme

- 4.20 There will be three main classes under the prescribed pension credit age scheme, for each of which there will be a number of qualifying criteria. In all cases individuals must not be of a prescribed class exempted from support, such as a person from abroad with limited leave to remain (see under *prescribed requirements for all schemes* paragraphs 4.8 – 4.9).

Class 1

- 4.21 The individual must:

- have attained the qualifying age for state pension credit;⁶

⁶ For the purposes of the regulations, a person is a *pensioner* if they have attained the

- not be somebody with a partner of working age in receipt of income support, income-based jobseeker's allowance or income-based employment and support allowance;⁷
- be liable to pay council tax in respect of a dwelling in which they are resident;
- be somebody in respect of whom a maximum council tax reduction amount can be calculated;⁸
- not have capital savings above £16,000;
- be a person in respect of whom a day in which s/he is liable to pay council tax falls within a week in respect of which the person's *income* is less than their *applicable amount* (as defined in regulations);
- have applied for the scheme.

Class 2

4.22 The individual must:

- have attained the qualifying age for state pension credit;
- not be somebody with a partner of working age in receipt of income support, income-based jobseeker's allowance or income-based employment and support allowance.⁹
- be liable to pay council tax in respect of a dwelling in which they are resident;
- be somebody in respect of whom a maximum council tax reduction amount can be calculated;
- not have capital savings above £16,0000;
- have applied for the scheme;

qualifying age for state pension credit. This is defined by the State Pension Credit Act 2002 as: '*in the case of a woman, pensionable age, and in the case of a man, the age which is pensionable age in the case of a woman born on the same day as a man*'. Womens' pensionable age, as set out in the Pensions Act 1995 (S126 and Schedule 4), is gradually changing over a 10-year period to equalise with that of men. It currently stands at just over 61. Both men and women will continue to qualify for council tax support when they reach state pension credit eligible age.

⁷ The working age partner would have to apply. See SI 2006/216, regulation 5.

⁸ A similar requirement is set out in the existing system under the Social Security Contributions and Benefits Act (SI 1992/C4) S131.

⁹ The working age partner would have to apply. See SI 2006/216, regulation 5.

- be a person for whom Class 1 is not fulfilled, but amount A exceeds amount B, where amount A is the appropriate maximum council tax liability in his case and amount B is a prescribed percentage (20%) of the difference between his/ her *income* in respect of the week in which the day falls and the appropriate *applicable amount* in his/ her case (both as defined in regulations).¹⁰

Class 3

4.23 The individual must:

- have attained the qualifying age for state pension credit;
- not be somebody with a partner of working age in receipt of income support, income-based jobseeker's allowance or income-based employment and support allowance.¹¹
- be liable to pay council tax in respect of a dwelling in which they are resident;
- be somebody in respect of whom a maximum council tax reduction amount can be calculated;
- have applied for a scheme;
- be somebody who has at least one second adult living with them who is not his/ her partner, not somebody who pays rent, and who is on a prescribed low wage and/or prescribed benefit, as set out in regulations.¹²

Reductions attracted by classes: protection of pensioner-related awards

Class 1 Reduction

4.24 If an individual matches the criteria in Class 1, including that *income* is less than their *applicable amount* (as set out in regulations) in their case, that person qualifies for 100% reduction on their council tax liability.

Class 1 – special provisions for state pension credit

4.25 Regulations will set out that an individual in receipt of state pension credit guarantee credit from the Department for Work and Pensions (Pensions Service) will have both his income and capital counted as

¹⁰ This is known as *the taper*. The council tax benefit calculation is the same. See SI 2006/216, regulation 43.

¹¹ The working age partner would have to apply. See SI 2006/216, regulation 5.

¹² See SI 2006/216, Schedule 6.

zero. This means that the individual's income will automatically be less than their applicable amount, and they will qualify for 100% reduction of their council tax liability.¹³

- 4.26 The Department for Work and Pensions' Pensions Service determines eligibility and awards for state pension credit. As is currently the case, it is intended that local authorities will be able to access information about any pension credit award and means test from the Pension Service. The Pension Service intends to pass this to the relevant authority if a state pension credit applicant confirms they wish to apply for localised council tax support. Where an individual applies to the local authority without reference to the pension service, it is intended the local authority will be able to request such information from the Pension Service.
- 4.27 Where a person has been awarded only the *savings credit* element of state pension credit, billing authorities in receipt of the relevant Pension Service means-test will need to adjust this as necessary as part of the council tax reduction means test. The way in which this should be done will be set out in regulations.¹⁴

Class 2 Reduction

- 4.28 If an individual matches the criteria in Class 2,¹⁵ it will mean the individual's *income* is greater than his/her living allowance/ *applicable amount* (both as defined in regulations). Twenty per cent of the difference between the two will be subtracted from this individual's council tax liability.

Class 3 Reduction

- 4.29 Under council tax benefit, the Class 3 reduction is known as the *second adult rebate*. This may be awarded in respect of a second adult sharing the household who would normally be expected to contribute towards the council tax bill, but who cannot afford to do so, based on their low income as indicated by prescribed low wages bands or prescribed working-age benefit indicators.
- 4.30 This reduction will equate to the existing *second adult rebate* and may be awarded at 25%, 15% or 7.5% of the council tax liability, depending on individual circumstances.¹⁶ A summary of who is covered by the different classes and reductions in the scheme for people of pension credit age is at **Annex A**.

¹³ See SI 2006/216, regulation 16.

¹⁴ See SI 2006/216, regulation 17.

¹⁵ That A exceeds amount B, where amount A is the appropriate maximum council tax liability in his/her case and amount B is a prescribed percentage (20%) of the difference between his/her *income* in respect of the week in which the day falls and the appropriate *applicable amount* in his case (both as defined in regulations).

¹⁶ See SI 2006/216, regulation 46 and Schedule 6.

Non-dependent deductions

- 4.31 Once the reduction award is calculated, it will continue to be subject to a downwards adjustment to take into account non-dependent adults that normally reside in the dwelling who would be expected to contribute to council tax. Deductions for such non-dependent adults will be calculated in the same way as under SI 2006/216 regulation 42, with differing prescribed amounts being deducted according to individual circumstances, and with the same exceptions applying.¹⁷

Determination of class and award

- 4.32 Determination of the class the individual is put into, and the reduction they will receive, will continue to be determined in two ways:
- (i) in respect of Class 1 and Class 2 through means-testing, which will continue according to the same rules and criteria; and
 - (ii) through application of rules for calculation of Class 3 – currently known under council tax benefit as the *alternative maximum council tax benefit* calculation under SI 2006/216 regulation 46.

Definitions

- 4.33 In dealing with the means-test and *alternative maximum council tax benefit* test, it is intended that the intent and effect of definitions (in SI 2006/216), including in respect of regulations 1-11¹⁸ will be replicated.

Means test for Class 1 and Class 2

- 4.34 The means test will be defined in regulations, aligned with existing regulations for council tax benefit for those of state pension credit age (SI 2006/216.) The means test is based on a comparison of *income* (as defined in regulations) and a deemed *living allowance* (currently known as the *applicable amount*) – also defined in regulations. The way in which these elements will be defined and evaluated for the pension-credit age scheme is explained in greater detail below.

Living allowance – the *applicable amount*

- 4.35 The individual's *living allowance*, or *applicable amount*, will be made up of four elements. These will be:
- (i) a personal allowance in respect of the applicant;

¹⁷ See SI 2006/216, regulation 42.

¹⁸ In particular, this includes detailed regulations on non-dependents, remunerative work, periods of absence from the home, definitions of the family, circumstances in which one person is responsible for another and membership of the household (SI 2006/216, regulations 3, 6, 8, 9, 10 & 11).

- (ii) an amount in respect of any child or young person who is part of his family;
- (iii) a *family premium* element (where the applicant is part of a family of which at least one member is a child or young person); and
- (iv) any *premium* amount, set out in regulations, which is applicable to the individual.

4.36 The elements and calculation methodology for the *applicable amount* will be as set out in SI 2006/216, regulation 12 and Schedule 1. Where wider welfare reforms necessitate the adjustment of Schedule 1 to recognise new benefits,¹⁹ any necessary technical amendments will be made by Department for Communities and Local Government, working closely with the Department for Work and Pensions.

Refugees

4.37 As is currently the case (see paragraph 4.9), individuals with recognised refugee status, humanitarian protection, discretionary leave or exceptional leave to remain granted outside the immigration rules and who are exempt from the Habitual Residence Test are to be entitled to apply for council tax reduction support as long as their status has been revoked. (See SI 2006/216, regulation 7A and Schedule 1A.)

Calculation of income and capital - introduction

4.38 Income and capital will be calculated for a person who has attained the qualifying age for state pension credit in line with current provisions under SI 2006/216 regulations 13 – 39. The income and capital of an applicant's partner (or, to mitigate the risk of over-claiming in a polygamous marriage, partners) will continue to be treated as income of the applicant.

4.39 Income or capital of any child or young person will also continue *not* to be treated as income or capital of the applicant.²⁰ The regulations will also allow for a billing authority to treat the income or capital of a non-dependent as if it were the income or capital of the applicant in a case where it appears to the billing authority that the two have entered into arrangements to take advantage of the system with the same exception to this rule for those on income-related jobseekers allowance and income-related employment and support allowance.

Income and capital for those on state pension credit

4.40 There will be special treatment of income and capital for those in receipt of state pension credit:

¹⁹ For example, the introduction of the Personal Independence Payment which replaces Disability Living Allowance for new claimants in April 2013.

²⁰ See SI 2006/216, regulation 13 (3).

- For those in receipt of the *guarantee credit* element of state pension credit, the whole of their income and capital will be disregarded (see paragraph 4.25). This will mean that they automatically qualify, under Class 1, for 100% council tax reduction.
- For those in receipt of the *savings credit* element of state pension credit, the billing authority will be able to use the Department for Work and Pensions' Pension Service's assessment of the income and capital of the individual, and adjust this to take into account income from this benefit and any other relevant requirements (as set out currently in SI 2006/216, regulation 17).

Calculation of income where a person is not in receipt of state pension credit

- 4.41 For those who have reached the qualifying age for state pension credit, but are not in receipt of this benefit themselves, provisions relating to income, its calculation on a weekly basis, what is to be regarded as income and what is to be disregarded as income will replicate the operation of council tax benefit under SI 2006/216 regulations 19 – 39. In particular, earnings of employed earners²¹ and earnings of self-employed earners²² will be taken into account as set out in SI 2006/216.
- 4.42 The council tax benefit regulations also list a number of elements and amounts which *should not* be taken into account in the calculation of earnings.
- 4.43 Amounts to be disregarded in this way from an applicant's weekly earnings are set out in SI 2006/216 Schedule 2 of the council tax benefit regulations, and such provision will also be included in the new prescribed regulations for those who have attained the eligible age for state pension credit.
- 4.44 Amounts to be disregarded in terms of income other than earnings under council tax benefit for those who have reached eligible age for state pension-credit are set out in SI 2006/216 Schedule 3, and these disregards of income will also be recreated under the new regulations. Treatment of other income (in relation to which the applicant has a right),²³ will be calculated according to the same rules as under SI 2006/216 regulations 31-32.

²¹ See SI 2006/216, regulations 25 – 26.

²² See SI 2006/216, regulations 27-30.

²³ See SI 2006/216, regulations 31-32.

Income and wider welfare changes

- 4.45 Finally, in relation to income, wider welfare changes mean new working age benefits will be introduced to replace some of the existing working age benefits mentioned in SI 2006/216.
- 4.46 Despite these changes being mainly to working-age benefits, they may have relevance for individuals with whom the person of pension-credit age is living and who may be taken into consideration in their assessment.
- 4.47 New applicants will be migrated onto these benefits over time, so both benefits will co-exist for a number of years (for example, the Universal Credit migration will take place over five years). Where such benefits are mentioned in these regulations, an equivalent approach for an individual on the new benefit will be identified and agreed with the Department for Work and Pensions. Draft regulations will mark the points where such arrangements will need to be set out. These changes will be formalised in regulations to be laid before Parliament.

Calculation of capital

Calculation of capital where a person is not in receipt of state pension credit

- 4.48 Provisions relating to capital – for example, the capital savings limit of £16,000 (after which individuals will not be eligible for council tax reductions);²⁴ what is to be regarded as capital;²⁵ what is to be disregarded as capital²⁶ and other capital calculations, will operate in the same way as existing SI 2006/216 regulations 33 – 39. Amounts to be disregarded as capital will be set out under provisions replicating existing SI 2006/216 Schedule 4.

Notional capital

- 4.49 The regulations will continue to stipulate that individuals will be treated as possessing capital of which they have deprived themselves for the purposes of securing council tax reductions.²⁷
- 4.50 The *notional* capital will continue on the same basis, for example, disregarding the value of any holding in a company where the applicant is the sole owner or partner (or where he holds an analogous position), but will include an amount of capital equal to the value (or his share of the value of) the capital of such a company.²⁸ This notional capital (which the individual is treated as in possession of) will be reduced

²⁴ See SI 2006/216, regulation 33.

²⁵ See SI 2006/216, regulation 34.

²⁶ See SI 2006/216, Schedule 4.

²⁷ See SI 2006/216, regulation 37.

²⁸ See SI 2006/216, regulation 37 (3).

over time as set out in regulations, to reflect payment of additional council tax liabilities incurred.²⁹

Tariff income on capital

- 4.51 Once an amount of capital is calculated, net of any amounts to be disregarded, this will be treated as if it is income of £1 for every £500 (or part of £500) in excess of £10,000. This amount of *tariff income* will be added to the initial income calculation to give a *total income amount*. (See SI 2006/216, regulation 19 paragraph (2)).

Calculation of Reduction

- 4.52 Once the total income amount has been calculated, it will be compared with the living allowance/ applicable amount, to determine whether the individual falls into Class 1 (income less than applicable amount) or Class 2 (income greater than applicable amount).
- 4.53 Persons in Class 1 will receive 100% council tax reduction against their council tax liability. (This liability will be net of any council tax discounts under the Local Government Finance Act 1992 and non-dependent deductions under the regulations for persons of pension credit eligible age).
- 4.54 Persons in Class 2 will receive a reduction equivalent to 20% of the difference between their income and applicable amount on their net council tax liability. An illustrative high level example of how the calculation of the reduction will work (that is, how the benefit calculation works as a council tax reduction calculation) is at **Annex B**.
- 4.55 Where a person of pension credit age is jointly liable for council tax with a second adult who is not their partner and does not pay rent in respect of the dwelling, they may fall under Class 3, where conditions to be set out in regulations (corresponding to SI 2006/216 Schedule 6) are met.
- 4.56 The table below sets out the possible reductions for this class on maximum daily council tax liability (after discounts, and with reductions varying according to individual circumstances). Note that the *alternative maximum council tax reduction* is calculated in relation to the income and circumstances of the second adult – the applicant's income and capital is not taken into account.³⁰

²⁹ See SI 2006/216, regulation 38.

³⁰ See SI 2006/216, regulations 46 and 47 and Schedule 6.

Second adult	Alternative maximum council tax reduction (net of discounts) due in respect of a day.
a) The second adult (or all second adults) are in receipt of income support, income-related employment and support allowance, state pension credit or income-based jobseeker's allowance.	a) 25%
b) Where the gross income or aggregate gross income of any second adult(s) – disregarding any income support - is: b)(i) less than £177.00 per week; b)(ii) not less than £177.00 but less than £231.00 per week.	b)(i) 15% b)(ii) 7.5%
c) If the dwelling is occupied by a second adult/adults on state pension-credit, income-related jobseeker's allowance, income-related employment and support allowance or income support, living with a full-time student(s).	c) 100%

4.57 If it appears to the billing authority that the applicant is entitled to both a means-tested council tax reduction and a *second adult rebate* or *alternative maximum council tax reduction*, a comparison of the two reductions will be made. The applicant will be awarded the greater reduction of the two.

Extended payments

4.58 Prescribed regulations for all schemes will set out that an individual who is:

(i) approaching pension credit eligible age, *and* who is

(ii) in receipt of a local council tax reduction and not in receipt of working age benefits (income support, income-related jobseeker's allowance, income related employment and support allowance), *or*

(iii) whose partner has claimed state pension credit, will continue to receive an *extended payment* of their localised council tax reduction for a prescribed period of four weeks, whilst they or their partner apply for the state pension credit eligible age scheme (See SI 2006/215 regulations 5 and 60 and SI 2006/216 regulation 41).

4.59 The pension-credit eligible age regulations will state that from the point at which the person already in receipt of a council tax reduction reaches the eligible age for pension credit they will, for the prescribed *extended payment* period of four weeks, be entitled to whatever award

is greater – the local *working age* scheme award or the award under the scheme for those of state pension credit eligible age.³¹

**Extended payments – *qualifying contributory benefits* –
i.e. (i) severe disablement allowance; (ii) incapacity benefit;
(iii) contributory employment and support allowance**

- 4.60 Regulations will set out that a person in receipt of one of the above benefits, who ceases to receive that benefit because they have returned to work, increased their earnings or increased their hours (and where that improvement in their situation is expected to last five weeks or more), will continue to receive a council tax reduction calculated as if they were still in receipt of these benefits for four weeks (where the resulting reduction amount is greater than the reduction amount taking into account their loss of these benefits).³²
- 4.61 If a pension credit age person moves to the area of a new billing authority, in the period from the Monday following the move to the point where entitlement to the qualifying benefit ceases (when the extended payment rule applies), the first billing authority will pay the second billing authority or the individual their reduction amount for the extended payment period.
- 4.62 If the person applies for a council tax reduction in the second billing authority the second billing authority will net off the reduction amount received from the first authority. Any balance of reduction award will be paid to the applicant (and the full amount will be paid to the applicant if there is no council tax liability in the second billing authority). After the extended payment period ends, the first billing authority's liability in relation to extended payments will cease and the new billing authority's reduction will apply.

Applications

- 4.63 Prescribed requirements for those of pension credit age will continue to provide that the date of the original application will apply where individuals need to amend a properly completed application. If a billing authority chooses to accept amendments over the phone, it will have to confirm these with the applicant.³³
- 4.64 Billing authorities will also be able to accept withdrawal of applications (where the billing authority has not yet made a decision). This will have effect on the same day any notice of withdrawal is received by the billing authority.³⁴

³¹ See SI 2006/216, regulation 41.

³² See SI 2006/216, regulation 44 (A-D).

³³ See SI 2006/216, regulations 53(4CA following) and 58.

³⁴ See SI 2006/216, regulation 58.

- 4.65 Provision will also be made for the use of electronic forms, should billing authorities wish to use these.³⁵

Entitlement

- 4.66 Entitlement to pension-credit eligible age council tax reduction will begin on the first day of the first week after the application is made.³⁶ In terms of back-dating, regulations will set out that people of pension-credit eligible age will be able to back-date their applications by three months, provided they were entitled to pension-credit age reduction at the start of the three month back-dated period.³⁷
- 4.67 Applicants will be able to notify the relevant billing authority of their intent to apply for a reduction, which can then be treated as the date of the application or, where appropriate, the basis for determining the date of entitlement, provided the applicant submits a completed application in the manner prescribed. These arrangements will include any advance applications made for council tax reduction support.³⁸

Decisions

- 4.68 The regulations for the scheme for persons who have attained the qualifying age for state pension credit will require a billing authority to notify the applicant in writing of its decision within 14 days from the date that all relevant information and evidence relating to the application has been received by the billing authority, and will include information on how an appeal to the council tax bill can be made by the applicant.³⁹

Changes of circumstance

- 4.69 Matters relating to the duty for an applicant to notify the billing authority of a change of circumstances may not need to be regulated for specifically. Existing council tax regulations (as amended, if necessary) could be used to cover this.⁴⁰ We are also considering how this interacts with the proposed amendment to the Bill to provide additional regulatory powers for the investigation and prosecution of fraud.
- 4.70 However, the regulations will set out the dates from which various prescribed changes of circumstance are to take effect. In particular, regulations will set out the dates from which changes of circumstance in relation to awards of state pension credit will be taken into account, replicating SI 2006/216 regulations 48 - 51.

³⁵ See SI 2006/216, Schedule 8.

³⁶ See SI 2006/216, regulation 48.

³⁷ See SI 2006/216, regulation 53 (1ZA) and (1ZB).

³⁸ See SI 2006/216, regulation 53 and SI2006/215, regulation 69 (12).

³⁹ See SI 2006/216, regulations 60, 61 and Schedule 7.

⁴⁰ See SI 1992/613, regulation 16.

- 4.71 Regulations will prescribe that applicants will have one month to provide additional information and evidence when requested by the relevant billing authority. The billing authority, under local discretion, may allow more time if it sees fit.⁴¹

Time and manner of granting relief and recoveries / over-payments

- 4.72 Matters relating to the time and manner of granting relief, persons paid and dealing with over- and under-payments⁴² will, for clarity, be regulated for in the prescribed scheme for those of pension credit age and the default scheme in the same way they currently are under council tax benefit to allow for consistency of treatment. Existing council tax powers already in place under the Local Government Finance Act 1992 are adequate to deal with these matters.

- 4.73 This will include payments to next of kin where a person in receipt of a council tax reduction dies, allowing the billing authority to make payment of the reduction amount to his personal representative or next of kin.⁴³

- 4.74 Where the taxpayer is entitled to an increase or decrease in their reductions following a reported change of circumstance, the billing authority can issue a substitute demand notice taking into account the increase or decrease in liability.

- 4.75 The local authority already has the scope of authority to:

- a. recover over-entitlement of council tax support – this effectively becomes underpayment of council tax;
- b. take recovery action according to the circumstances of the applicant; and
- c. provide a refund of under payment of reductions including as a cash payment.

Prescribed default scheme

Introduction – default scheme

- 4.76 The new Schedule 1A to be inserted by the Local Government Finance Bill sets out that the Secretary of State will prescribe a *default scheme* which will take effect if the authority fails to make a scheme on or before 31 January 2013. In relation to how an award is calculated, is

⁴¹ See SI 2006/216, regulation 53(4F).

⁴² See SI 2006/216, regulations 62 – 75.

⁴³ See SI 2006/216 regulation 65.

intended that the default scheme will operate in as close a way as possible to the council tax benefit system SI 2006/215.

- 4.77 Whatever the content of a local authority scheme (and even if it is very close or identical to the default scheme), if the authority makes a scheme in advance, this is not the default scheme since it has been decided by the local authority, rather than triggered as a result of the authority's failure to meet its requirement to make a scheme by the specified date.
- 4.78 The default scheme is intended to enable the ongoing administration of council tax reductions if an authority does not have its scheme in place on or before 31 January 2013.
- 4.79 As it reflects the existing council tax benefit scheme, it is important to note that it will not deliver the 10 per cent saving. As mentioned in the introduction to this section, at paragraphs 4.14 - 4.15, the default scheme will also incorporate/ cross reference prescribed arrangements for those of pension credit age, and any prescribed requirements for all schemes, such as exclusion of certain people from abroad (as set out at paragraph 4.8).
- 4.80 Once the default scheme has taken effect in the area of a billing authority, the Bill (new Schedule 1A, paragraph 4(5)) says Part 2 of the Local Government Finance Act 1992 applies to the scheme *as if it had been made* by the local authority. The new scheme will therefore operate as if it is a local scheme from the time it takes effect. Each year, the Bill provides that authorities will need to consider whether to revise or replace their local scheme, and the same considerations will apply for a local authority where the default scheme is in place.
- 4.81 The regulations for the default scheme will incorporate (by reproducing the regulations) the prescribed requirements for all schemes, as well as prescribed requirements for those of pension credit age, as set out above (paragraph 4.79).
- 4.82 Aside from this, the main function of the regulations prescribing the requirements in relation to individuals on the default scheme will be to prescribe the classes of persons *below* state pension credit age which must, or must not, be included in a billing authority's council tax reduction scheme under the default arrangements and to prescribe the reductions applicable to individuals who are within a class included in the default scheme (see paragraph (4) of new Schedule 1A, particularly (4)(3)).
- 4.83 The Government intends to introduce regulations to determine the reductions to which people in these classes will be entitled. The intended effect of the regulations will be almost identical to those governing council tax benefit means-testing, and should mean that council tax support for those of state pension credit age and working

age will not be reduced under the default scheme. Details of the working-age classes are set out at paragraphs 4.88 – 4.90 and information on how the reductions will be calculated is at paragraphs 4.91 – 4.95.

- 4.84 The amount of support will continue to be based on individual circumstances and changes of circumstances will also be taken into account.
- 4.85 Once the scheme is in place for a local authority future updates for those of working age will be determined under provisions in the Bill which state that each year billing authorities will need to consider whether to retain or revise/ replace their local scheme (see new Schedule 1A, paragraph (5)).

Classes – default scheme

- 4.86 As well as the three classes under the prescribed pension-credit age scheme, there will be three main working age classes under the default scheme, for each of which there will be a number of qualifying criteria.
- 4.87 In all cases individuals must not be of a prescribed class exempted from support, such as a person from abroad with limited leave to remain (see under *prescribed requirements for all schemes* paragraph 4.8).

Class 1

- 4.88 The applicant must:
- be a person who has not yet attained the qualifying age for state pension credit;⁴⁴
 - be a person whose partner has not yet attained the qualifying age for state pension credit, except where the applicant is in receipt of income support, income-based jobseeker's allowance or income-based employment and support allowance;⁴⁵
 - be liable to pay council tax in respect of a dwelling in which they are resident;
 - be somebody in respect of whom a maximum council tax

⁴⁴ For the purposes of the regulations, a person is a *pensioner* if they have attained the qualifying age for state pension credit. This is defined by the State Pension Credit Act 2002 as: '*in the case of a woman, pensionable age, and in the case of a man, the age which is pensionable age in the case of a woman born on the same day as a man*'. Womens' pensionable age, as set out in the Pensions Act 1995 (S126 and Schedule 4), is gradually changing over a 10-year period to equalise with that of men. It currently stands at just over 61. Both men and women will continue to qualify for council tax support when they reach state pension credit eligible age.

⁴⁵ The working age partner would have to apply. See SI 2006/215, regulation 5.

reduction amount can be calculated;⁴⁶

- not have capital savings above £16,000;
- have applied for the scheme;
- be a person in respect of whom a day in which s/he is liable to pay council tax falls within a week in respect of which the person's *income* is less than their *applicable amount* (as defined in regulations).

Class 2

4.89 The applicant must:

- be a person who has not yet attained the qualifying age for state pension credit;⁴⁷
- be a person whose partner has not yet attained the qualifying age for state pension credit, except where the applicant is in receipt of income support, income-based jobseeker's allowance or income-based employment and support allowance;⁴⁸
- be liable to pay council tax in respect of a dwelling in which they are resident;
- be somebody in respect of whom a maximum council tax reduction amount can be calculated;⁴⁹
- not have capital savings above £16,000;
- have applied for the scheme;
- be a person for whom Class 1 is not fulfilled, but amount A exceeds amount B, where amount A is the appropriate maximum council tax liability in his case and amount B is a prescribed percentage (20%) of the difference between his *income* in respect of the week in which the day falls and the

⁴⁶ A similar requirement is set out in the existing system under the Social Security Contributions and Benefits Act (SI 1992/C4) S131.

⁴⁷ For the purposes of the regulations, a person is a *pensioner* if they have attained the qualifying age for state pension credit. This is defined by the State Pension Credit Act 2002 as: '*in the case of a woman, pensionable age, and in the case of a man, the age which is pensionable age in the case of a woman born on the same day as a man*'. Women's pensionable age, as set out in the Pensions Act 1995 (S126 and Schedule 4), is gradually changing over a 10-year period to equalise with that of men. It currently stands at just over 61. Both men and women will continue to qualify for council tax support when they reach state pension credit eligible age.

⁴⁸ The working age partner would have to apply. See SI 2006/215, regulation 5.

⁴⁹ A similar requirement is set out in the existing system under the Social Security Contributions and Benefits Act (SI 1992/C4) S131.

appropriate *applicable amount* in his case (both as defined in regulations).⁵⁰

Class 3

4.90 The individual must:

- be a person who has not yet attained the qualifying age for state pension credit;⁵¹
- be a person whose partner has not yet attained the qualifying age for state pension credit, except where the applicant is in receipt of income support, income-based jobseeker's allowance or income-based employment and support allowance;⁵²
- be liable to pay council tax in respect of a dwelling in which they are resident;
- be somebody in respect of whom a maximum council tax reduction amount can be calculated;⁵³
- have applied for a scheme;
- be somebody who has at least one second adult living with them who is not his partner and not paying rent, and who is either on a prescribed low wage and/or benefit, as set out in regulations.⁵⁴

Reductions attracted by classes: working age awards

Class 1 Reduction

4.91 If an individual matches the criteria in Class 1, including that *income* is less than their *applicable amount* (as set out in regulations) in their case, that person qualifies for 100% reduction on their council tax liability.

⁵⁰ This is known as *the taper*. The council tax benefit calculation is the same. See SI 2006/215, regulation 59.

⁵¹ For the purposes of the regulations, a person is a *pensioner* if they have attained the qualifying age for state pension credit. This is defined by the State Pension Credit Act 2002 as: '*in the case of a woman, pensionable age, and in the case of a man, the age which is pensionable age in the case of a woman born on the same day as a man*'. Women's pensionable age, as set out in the Pensions Act 1995 (S126 and Schedule 4), is gradually changing over a 10-year period to equalise with that of men. It currently stands at just over 61. Both men and women will continue to qualify for council tax support when they reach state pension credit eligible age.

⁵² The working age partner would have to apply. See SI 2006/215, regulation 5.

⁵³ A similar requirement is set out in the existing system under the Social Security Contributions and Benefits Act (SI 1992/C4) S131.

⁵⁴ See SI 2006/215, regulation 62 and Schedule 2.

Class 1 and working age benefits

- 4.92 Regulations will set out that an individual in receipt of income support, income-related jobseeker's allowance or income-related employment and support allowance will have both income, earnings and capital counted as zero.⁵⁵ This means that the individual's income will automatically be less than their applicable amount, and they will qualify for 100% reduction of their council tax liability.⁵⁶
- 4.93 With the introduction of Universal Credit, which will start to replace these benefits for new applicants over a period of five years from September 2013, an equivalent consideration will be identified and introduced into regulations, taking into account requirements for the Department for Work and Pensions to supply data to local authorities.

Class 2 Reduction

- 4.94 If an individual matches the criteria in Class 2,⁵⁷ it will mean that the individual's income is greater than his living allowance (both as defined in regulations). Twenty per cent of the difference between the two will then be subtracted from this individual's maximum council tax liability.

Class 3 Reduction

- 4.95 The second adult rebate may be awarded in respect of a second adult sharing the household who would normally be expected to contribute towards the council tax bill, but who cannot afford to do so, based on low wages or prescribed working age benefit indicators. This reduction equates to the existing *second adult rebate* and may be awarded at 25%, 15% or 7.5% of the council tax liability, depending on individual circumstances.⁵⁸ See **Annex A** for a summary of the different default scheme classes and reductions applicable to them.

Non-dependent deductions

- 4.96 Once the reduction award is calculated, it will continue to be subject to a downwards adjustment to take into account non-dependent adults that normally reside in the dwelling who would be expected to contribute to council tax.

⁵⁵ See SI/2006 215, regulation 26(2) and Schedule 3 paragraph (12); regulation 30(2) and Schedule 4 paragraph(4), (5), (6) and (8) and regulation 34(2) and Schedule 5 (5) and (6).

⁵⁶ See SI 2006/215, regulation 16 and the Social Security Contributions and Benefits Act 1992 (C4) S131 (5).

⁵⁷ That is, if amount A exceeds amount B, where amount A is the appropriate maximum council tax liability in his case and amount B is a prescribed percentage (20%) of the difference between his *income* in respect of the week in which the day falls and the appropriate *applicable amount* in his case (both as defined in regulations).

⁵⁸ See SI 2006/215, regulation 62 and Schedule 2.

- 4.97 Deductions for such non-dependent adults will be calculated in the same way as under SI 2006/215 regulation 58, with differing prescribed amounts being deducted according to individual circumstances and the same exceptions applying.⁵⁹

Determination of class and award

- 4.98 Determination of the class the individual is put into, and the reduction they will receive, will continue to be determined in two ways: (i) in respect of Class 1 and Class 2 through means-testing, which will continue according to the same rules and criteria in SI 2006/215; and (ii) through application of rules for calculation of Class 3 – currently known under council tax benefit as the *alternative maximum council tax benefit* calculation.

Definitions

- 4.99 In dealing with the means test and *alternative maximum council tax benefit* test, it is intended that the intent and effect of definitions (in SI 2006/215), including in respect of regulations 1-11,⁶⁰ will be replicated.

Means-test for Class 1 and Class 2

- 4.100 The means-test will be defined in regulations, aligned with existing regulations for council tax benefit (SI 2006/215). The means-test is based on a comparison of income (as defined in regulations) and a deemed *living allowance* (currently known as the *applicable amount*). The way in which these elements will be defined and evaluated for the default scheme is explained in greater detail below.

Living allowance – the *applicable amount*

- 4.101 The individual's *living allowance* or *applicable amount* will be made up four elements. These will be:
- (i) a personal allowance in respect of the applicant (and partner, where relevant);
 - (ii) an amount in respect of any child or young person who is part of his family;
 - (iii) a *family premium* element (where the applicant is part of a family of which at least one member is a child or young person); and
 - (iv) any *premium* amount, set out in regulations, which is applicable to the individual. See SI 2006/215 regulations 12, Schedule 1.

⁵⁹ See SI 2006/215, regulation 58.

⁶⁰ In particular, for example, definitions of non-dependents, remunerative work, membership of a family, circumstances in which a person is to be treated as responsible for another, circumstances in which a person is treated as being or not being a part of the household – regulations 2, 3, 6, 9, 10 & 11.

4.102 Where wider welfare reforms necessitate the adjustment of Schedule 1 to recognise new benefits,⁶¹ any necessary technical amendments will be made by Department for Communities and Local Government, working closely with the Department for Work and Pensions.

Calculation of Income and capital

4.103 Income and capital will be calculated for a person who has *not* attained the qualifying age for state pension credit in line with current provisions under SI 2006/215 regulations 15 – 56. The income and capital of a applicant's partner (or, to mitigate the risk of over-claiming in a polygamous marriage, partners) will continue to be treated as income of the applicant. Income or capital of any child or young person will also continue not to be treated as income or capital of the applicant.⁶² The regulations will also allow for a billing authority to treat the income or capital of a non-dependent as if it were the income or capital of the applicant in a case where it appears to the billing authority that the two have entered into arrangements to take advantage of the system.⁶³ The same exception to this rule under regulation 16 will apply for those on income-related jobseekers allowance and income-related employment and support allowance.

Income and capital for those on prescribed working age benefits (income support, income-related jobseekers' allowance, income-related employment and support allowance)

4.104 There will be special treatment of income and capital for those in receipt of income support, income-related jobseekers' allowance and income-related employment and support allowance, to make sure this dovetails appropriately with a billing authority's existing system if the default scheme takes effect.

- For those in receipt of these benefits, the whole of their income and capital will be disregarded (see paragraph 4.92). This will mean that they automatically qualify, under Class 1, for 100% council tax reduction.⁶⁴
- An equivalent consideration will be identified for individuals who are in future in receipt of Universal Credit. The nature of this consideration will be set out in draft regulations being placed before Parliament.

⁶¹ For example, the introduction of Universal Credit which will replace a number of working-age benefits over the next five years and the Personal Independence Payment which replaces Disability Living Allowance for new claimants in April 2013.

⁶² See SI 2006/215, regulation 15.

⁶³ See SI 2006/215, regulation 16.

⁶⁴ See SI/2006 215, regulation 26(2) and Schedule 3 paragraph (12); regulation 30(2) and Schedule 4 paragraph(4), (5), (6) and (8) and regulation 34(2) and Schedule 5 (5) and (6)..

Calculation of income where not in receipt of a prescribed working-age benefit

- 4.105 Other provisions relating to income, its calculation on a weekly basis, what is to be regarded as income and what is to be disregarded as income will operate in the same way as existing SI 2006/215 regulations 15 – 56. In particular, earnings of employed earners⁶⁵ and earnings of self-employed earners⁶⁶ (both net of tax and contributions) will be taken into account as set out in SI 2006/215.
- 4.106 The council tax benefit regulations also list a number of elements and amounts which *should not* be taken into account in the calculation of earnings. Amounts to be disregarded in this way from an applicant's weekly earnings are set out in SI 2006/215 Schedule 3 and will be included in the new prescribed regulations for the default scheme. Amounts to be disregarded in terms of income other than earnings are set out in SI 2006/215 Schedule 4, and these will also be recreated under the new regulations. Treatment of other income (in relation to which the applicant has deprived himself)⁶⁷ will be calculated according to the same rules as under SI 2006/215 regulations 32.

Students

- 4.107 Regulations will also set out how income is to be calculated for some students who are – under the existing system - liable to pay council tax (and are not therefore excluded from council tax reduction schemes). Such categories of student include, for example, some sandwich students. Regulations will set out these categories of students and how their income will be calculated, taking into account grants, access funds and relevant student income and capital disregards, and some elements of income which will be treated as if they are capital (for example, certain lump sums or tax refunds). The provisions will replicate council tax benefit regulations SI 2006/215 regulations 44 – 56.
- 4.108 Finally, in relation to income, wider welfare changes mean new working age benefits will be introduced to replace some of the existing working age benefits mentioned in SI 2006/215. New applicants will be migrated onto Universal Credit and other new benefits over time, so both benefits will co-exist for a number of years (for example, the Universal Credit migration will take place over five years). Where such benefits are mentioned in these regulations, an equivalent approach for an individual on the new benefit will be identified in draft regulations to be laid before Parliament.

⁶⁵ See SI 2006/215, regulations 25 and 26.

⁶⁶ See SI 2006/215, regulations 27-29.

⁶⁷ See SI 2006/215, regulation 32.

Calculation of capital where this is not disregarded

- 4.109 Provisions relating to capital – for example, the capital savings limit of £16,000 (after which individuals will not be eligible for council tax reductions);⁶⁸ what is to be regarded as capital⁶⁹ and what is to be disregarded as capital;⁷⁰ will operate in the same way as existing SI 2006/215 regulations 33 – 42. Amounts to be disregarded as capital will be set out under provisions replicating existing SI 2006/215 Regulation 35 and Schedule 5.
- 4.110 There will be provision for certain elements of income to be treated as capital (for example, in relation to certain lump sum payments or tax arrears).⁷¹

Notional income

- 4.111 The regulations will also continue to stipulate that individuals may be treated as possessing capital of which they have deprived themselves for the purposes of securing council tax reductions (and exceptions to this rule).⁷² This notional capital (of which the individual is treated as in possession) will be reduced over time to reflect payment of additional council tax liabilities incurred.⁷³

Tariff income

- 4.112 Once an amount of capital is calculated, net of any amounts to be disregarded, this will be treated as if it is income of £1 for every £250 (or part of £250) in excess of £6,000. This amount of *tariff income* will be added to the initial income calculation to give a *total income amount*. (See SI 2005/215, regulation 42.)

Calculation of Reductions

Calculation of Class 1 and Class 2

- 4.113 Once the total income amount has been calculated, it will be compared with the living allowance/ *applicable amount*, to determine whether the individual falls into Class 1 (income less than applicable amount) or Class 2 (income greater than applicable amount).
- 4.114 Persons in Class 1 will receive 100% council tax reduction against their liability (net of any council tax discounts under the Local Government Finance Act 1992 and non-dependent deductions under the default scheme regulations).

⁶⁸ See SI 2006/215, regulation 33.

⁶⁹ See SI 2006/215, regulations 34 & 36.

⁷⁰ See SI 2006/215, regulations 34 & 35 and Schedule 5.

⁷¹ See SI 2006/215, regulation 36.

⁷² See SI 2006/215, regulation 39.

⁷³ See SI 2006/215, regulation 40.

4.115 Persons in Class 2 will receive a reduction equivalent to 20% of the difference between their income and *applicable amount*. This amount is deducted from their net council tax liability (the way the council tax reduction is calculated will be based on SI 2006/215 regulations 57-58 & 59 and the Social Security Contributions and Benefits Act 1992 (C4) S131 (5)).

Calculation of Class 3

4.116 Where a person of working age is jointly liable for council tax with a second adult who is not their partner and does not pay rent in respect of a dwelling the person may fall into Class 3, where conditions to be set out in regulations (corresponding to SI 2006/215 Regulation 62 and Schedule 2) are fulfilled. The table below sets out the possible reductions on maximum daily council tax liability (after council tax discounts).

4.117 Note that the *alternative maximum council tax reduction* is calculated in relation to the income and circumstances of the second adult – the applicant’s income and capital is not taken into account.

Second adult	Alternative maximum council tax reduction (net of discounts) due in respect of a day.
a) The second adult (or all second adults) are on income support, income-related employment and support allowance, state pension credit or income-based jobseeker’s allowance.	a) 25%
b) If the gross income of the second adult (or aggregate gross income of all second adults, disregarding working-age benefits) is: (i) less than £177.00 per week; (ii) greater than £177.00 but less than £231.00 per week.	b)(i) 15% b)(ii) 7.5%
c) c) If the dwelling is occupied by a second adult/adults on state pension-credit, income-related jobseeker’s allowance, income-related employment and support allowance or income support, living with a full-time student(s).	c) 100%

4.118 If it transpires that the applicant is entitled to both a means-tested council tax reduction and alternative maximum council tax reduction, a comparison of the two reductions will be made. The applicant will be awarded the greater reduction of the two, as under the existing provisions.

Extended payments

- 4.119 Prescribed regulations for the default scheme will set out that an individual who is approaching pension credit age, and who is in receipt of a local council tax reduction and who is not in receipt of working age benefits (income support, income-related jobseeker's allowance, income related employment and support allowance), or whose partner has claimed state pension credit will continue to receive an *extended payment* of their localised council tax reduction for a prescribed period of four weeks, whilst they or their partner apply for the scheme for people who have reached the eligible age for state pension credit. (See SI 2006/215 regulations 5 and 60).
- 4.120 The regulations for people of pension-credit eligible age will state that from the point at which the person reaches pension-credit eligible age, for the prescribed *extended payment* period, they will continue to be entitled to whatever is greater – the award under the localised scheme or the award under the scheme for those of state pension credit eligible age.⁷⁴

Extended payments – *qualifying contributory benefits* – i.e. (i) severe disablement allowance; (ii) incapacity benefit; (iii) contributory employment and support allowance

- 4.121 Regulations will set out that an applicant (or their partner) in receipt of one of the above benefits for at least 26 weeks, who ceases to receive that benefit because they have returned to work, increased their earnings or increased their hours (and where that improvement in their situation is expected to last five weeks or more), will continue to receive a council tax reduction calculated as if they were still in receipt of these benefits for four weeks where the resulting reduction amount is greater than the reduction amount would be if it were re-calculated to take into account their loss of these benefits.⁷⁵
- 4.122 If a person moves from an area where the default scheme has been implemented to the area of a new billing authority during the week where entitlement to the qualifying benefit ceases (when the extended payment rule applies), the first billing authority will pay the second billing authority or the individual themselves (as appropriate) the reduction amount due to the person for the extended payment period.
- 4.123 If a person subject to such an extended payment arrangement arrives in a billing authority which has implemented the default scheme and applies for a council tax reduction and the new reduction is greater than the extended payments reduction, regulations will prescribe that the billing authority reduce the person's bill by the difference between the

⁷⁴ See SI 2005/215, regulations 5 and 60.

⁷⁵ See SI 2006/215, regulations 60, 60A - D.

two reductions for the extended payment period. If there is a balance left, or no council tax liability, the billing authority with the default scheme in place will pay the balance to the individual.

- 4.124 After the extended payment period, the first billing authority will have no liability in respect of the applicant and the new billing authority's reduction scheme will apply.

Applications

- 4.125 Prescribed requirements will continue to provide that the date of the original application will apply where individuals need to amend a properly completed application. If a billing authority chooses to accept amendments over the phone, it will have to confirm these with the applicant.⁷⁶
- 4.126 Billing authorities will also be able to accept withdrawal of applications (where the billing authority has not yet made a decision). This will have effect on the same day the notification was received by the billing authority.⁷⁷
- 4.127 Provision will also be made for the use of electronic forms, should billing authorities wish to use these.⁷⁸

Entitlement

- 4.128 Entitlement to working age council tax reduction will begin on the first day of the first week after the application is made.⁷⁹ In terms of back-dating, regulations will set out that people of working age will be able to back-date their applications by up to six months, provided they are able to prove that from a day (up to six months) in the past, they had continuous good cause for failing to make an application. Provisions will replicate SI 2006/215 regulation 69(14 and 14A).
- 4.129 Applicants will be able to notify the relevant billing authority of their intent to apply for a reduction, which can then be treated as the date of the application or, where appropriate, the basis for determining the date of entitlement, provided the applicant submits a completed application within one month. These arrangements will include any advance applications made for council tax reduction support.⁸⁰

⁷⁶ See SI 2006/215, regulations 69(4BA) and 73.

⁷⁷ See SI 2006/215, regulation 73.

⁷⁸ See SI 2006/215, Schedule 9.

⁷⁹ See SI 2006/215, regulation 64.

⁸⁰ See under SI 2006/215, regulation 69.

Decisions

4.130 The regulations for the default scheme will require a billing authority to notify the applicant in writing of its decision within 14 days from the date that all relevant information and evidence relating to the application has been received by the billing authority, and will include information on how an appeal to the council tax bill can be made by the applicant.⁸¹

Changes of circumstance

4.131 Matters relating to the duty for an applicant to notify the billing authority of a change of circumstances may not need to be regulated for specifically. Existing council tax regulations (as amended, if necessary) could be used to cover this.⁸² We are also considering how this interacts with the proposed amendment to the Bill to provide additional regulatory powers for the investigation and prosecution of fraud.

4.132 However, the regulations will set out the dates from which various prescribed changes of circumstance are to take effect, though the governing legislation under which such notifications are required will in future be the Local Government Finance Act 1992 (as amended), but in line with SI 2006/215 regulation 67.

4.133 In particular, regulations will also set out the dates from which changes of circumstance in relation to upcoming attainment of state pension credit eligible age will be taken into account, on the same basis as SI 2006/215 regulations 5 and 60.

4.134 Regulations will prescribe that applicants will have one month to provide additional information and evidence when requested by the relevant billing authority. The billing authority, under local discretion, may allow more time if it sees fit.⁸³

Time and manner of granting relief and recoveries / over-payments

4.135 Matters relating to the time and manner of granting relief, persons paid and dealing with over- and under-payments⁸⁴ will, for clarity, be regulated for in the prescribed scheme for those of pension credit age and the default scheme in the same way they currently are under council tax benefit to allow for consistency of treatment. Existing council tax powers already in place under the Local Government Finance Act 1992 are adequate to deal with these matters.

⁸¹ See SI 2006/215, regulations 75-76 and Schedules 8 and 9.

⁸² See SI 1992/613, regulation 16

⁸³ See SI 2006/215, regulation 74.

⁸⁴ See SI 2006/215, regulations 77 – 90.

- 4.136 This will include payments to next of kin where a person in receipt of a council tax reduction dies, allowing the billing authority to make payment of the reduction amount to his personal representative or next of kin.⁸⁵
- 4.137 Where the council tax payer is entitled to an increase or decrease in their reductions following a reported change of circumstance, the billing authority can issue a substitute demand notice taking into account the increase or decrease in liability. The local authority already has the scope of authority to:
- a. recover over-entitlement of council tax support – this effectively becomes underpayment of council tax;
 - b. take recovery action according to the circumstances of the applicant; and
 - c. provide a refund of under payment of reductions including as a cash payment.

Other matters – pension credit age and default schemes

Department for Work and Pensions changes to state pension credit age qualifying criteria

- 4.138 The Department for Work and Pensions is set to make changes to the way in which new applicant couples of mixed age (where one member of the couple has attained state pension credit qualifying age and one has not) are treated for new applications shortly. Currently such couples would be treated under pension credit age regulations, bar certain exceptions (set out, for example, at paragraph 4.11).
- 4.139 We expect this new measure to be implemented by the Department for Work and Pensions at some point in the next two years, and to apply to *new* pension credit applications only. It is likely to mean that in future (from the point of change and for new applicants only) it will not be possible for a couple to claim pension credit until both members have reached the qualifying age. It is expected that these couples will, though, have access to Universal Credit if they meet all the other eligibility criteria.
- 4.140 We intend to align with this change for new applicants on the same basis once it takes effect, so that local authorities do not find themselves defining an individual in a mixed age couple differently from the way they are defined by the Department for Work and Pensions, and so that any information received from the Department for Work and

⁸⁵ See SI 2006/215, regulation 80.

Pensions on assessments relating to that individual continues to make sense for means-testing purposes.

- 4.141 Government's intention is that those mixed age couples already applying for or receiving a pension-credit age council tax reduction at the point of change (whether or not they are also receiving pension credit), will retain pension-credit age council tax reduction whilst their entitlement continues.
- 4.142 Depending on when the change takes place we would either seek to incorporate this into the new draft regulations to become effective at the point of change for new applicants or (if the change takes place later) amend regulations in due course to take this into account.

Wider welfare changes to benefits – particularly Universal Credit

- 4.143 The Government intends to reflect any relevant changes to the welfare and benefits system in regulations governing the default scheme and protection for those of pension credit age, either at the outset or by amending regulations as and when necessary. In particular, it is intended that Universal Credit will be introduced for some new and existing claimants from October 2013.
- 4.144 A number of benefits and tax credits (income support, income-related jobseeker's allowance, income-related employment and support allowance, housing benefit, working tax credit and child tax credit) are expected to be incorporated within Universal Credit.
- 4.145 Where these are mentioned in the existing council tax benefit pension-credit age regulations and working-age council tax benefit regulations (SI 2006/216 and SI 2006/215) an equivalent consideration for Universal Credit will be identified. In addition, starting at the earliest in October 2014, support for eligible rent for customers over pension credit qualifying age may be provided through a new component of pension credit called *housing credit*. The Department for Communities and Local Government is working closely with the Department for Work and Pensions to determine the precise nature of such considerations and potential amendments.

Updates

- 4.146 For the pension-credit age scheme, it is acknowledged increases will be required in future to retain the value of pensioner awards. This will be kept under annual review and any changes deemed appropriate made by amending regulations.
- 4.147 It will not be necessary to apply increases to the default scheme. The Bill sets out that where local authorities fail to make a scheme by 31 January 2013 and the default scheme takes effect, the Bill will apply to the default scheme *'as if it had been made by the authority'* (Schedule

1A (4)(5)). The Bill stipulates that a local authority must, each financial year, '*consider whether to revise its scheme or replace it with another scheme*'. This means that local authorities will be able to address this issue for working age applicants after year one by making any changes they see fit to their scheme. Where the default scheme has taken effect, prescribed requirements will continue to apply to those of pension credit age, including any increases introduced in regulations.

Other prescribed requirements reflected in the pension credit age scheme and default scheme - administration

4.148 It is intended that aspects of administration that may impact on award (particularly in the pension credit age scheme) will be prescribed. For example, existing backdating arrangements for those of pension credit age (who are currently able to backdate their scheme by up to three months more easily under SI 2006/216 regulation 53 (1ZA) and (1ZB), subject to proof of eligibility), will continue.

Impact of the proposals

4.149 Taken together, these proposals mean that provisions for the calculation of reduction awards and their administration by local authorities for those of pension credit age and on the default scheme will be almost identical to existing provisions under council tax benefit. This complies with Government's commitment to protecting pensioners who it does not want to see disadvantaged as a result of the introduction of this reform, and with the Bill, Schedule 1A, paragraph 2(8) and (9) and with the requirement to prescribe a default scheme under Schedule 1A, paragraph 4.

Chapter 5

Council Tax Base

- 5.1 This Statement of Intent has been prepared by the Department for Communities and Local Government to set out the policy intention for amendments to the Local Authorities (Calculation of Council Tax Base) Regulations 1992.

Purpose of the Statement

- 5.2 To set out the policy on changes to the way the council tax base is to be calculated to take account of local council tax reduction schemes when calculating council tax.

Legislative Context and Territorial Application

- 5.3 The Local Authorities (Calculation of Council Tax Base) Regulations 1992 (the council tax base regulations), made under powers of the Local Government Finance Act 1992, specify formulae for calculating the council tax base.
- 5.4 The council tax base is the measure of the number of dwellings to which council tax is chargeable in an area or part of an area. It is used for the purposes of calculating a billing authority's and major precepting authority's band D council tax.
- 5.5 Under the regulations, the council tax base is the aggregate of the relevant amounts calculated for each valuation band multiplied by the authority's estimated collection rate for the year.
- 5.6 The relevant amounts are calculated as
- a. number of chargeable dwellings in each band shown on the valuation list on a specified day of the previous year,
 - b. adjusted for the number of discounts, and reductions for disability, that apply to those dwellings
- 5.7 The Government intends to amend the council tax base regulations to ensure that that the calculation of the tax base by billing authorities takes into account the new council tax reductions under local schemes,

in addition to existing discounts and reductions. These changes will apply to England only

Policy

- 5.8 The Government's response to the consultation on localising council tax support recognised that the proposed approach to implementing local reduction schemes would have the effect of reducing the council tax base.⁸⁶
- 5.9 It is intended that amendments to the council tax base regulations will require billing authorities to calculate the council tax base taking into account the reductions to be offered under local council tax reduction schemes.
- 5.10 The number of dwellings to which council tax is chargeable in an area or part of an area is normally calculated by the billing authority and represent the estimated number of dwellings in each valuation band to which council tax will be charged, after allowing for discounts (for example - such as single person discount).
- 5.11 The current legislation requires the existing discounts and reductions to be taken into account as percentage reductions to the council tax base. For example, if there are four dwellings each occupied by a single person in receipt of 25 per cent single person discount, they would be represented as 1 dwelling removed from the council tax base (4×0.25 (single person discount) = 1). The billing authority will, in effect, receive the equivalent of full council tax liability from 3 of the 4 dwellings.
- 5.12 Under the existing council tax benefit system, the council tax base is unaffected by changes in council tax benefit granted, because the billing authority receives payment for element of the liability eligible to be covered by council tax benefit.
- 5.13 However, under the new local council tax reduction schemes, the council tax base will be affected by whether persons living in a dwelling within an authority area are in receipt of a council tax reduction awarded under the scheme, as the billing authority will be foregoing council tax income from those dwellings.
- 5.14 These local council tax reductions will need to be reflected in the calculation of the council tax base, in order to calculate the correct amount of band D council tax for the billing or major precepting authority area.

⁸⁶ See Chapter 5 of Localising support for council tax in England.
<http://www.communities.gov.uk/documents/localgovernment/pdf/2053712.pdf>

Council tax requirement

Will be reduced as billing and major precepting authorities receive new funding, reducing the amount they need to raise through council tax

$$\text{Band D council tax} = \frac{\text{Collection rate} \times \text{Number of Band D equivalents}}{\text{Proportion of council tax which billing authority thinks it will collect}}$$

Proportion of council tax which billing authority thinks it will collect

Will be reduced because more dwellings will be eligible for reductions under the new scheme

Under the proposals for the new scheme the number of Band D equivalents will be reduced. There was no reduction in the number of band D equivalents under council tax benefit as authorities received 100% funding for council tax liable via DWP.

- 5.15 Unlike the single person discount the amounts may not be a set percentage, and local authorities will therefore need to make their own estimate of the total cash value of the reductions to be offered.

Regulatory proposals

- 5.16 Government intends to amend the calculation under regulation 5AA of the council tax base regulations to allow for an adjustment for the council tax reduction schemes (under section 13A of the Local Government Finance Act 1992, as inserted by the Local Government Finance Bill).
- 5.17 This amendment will not set out the underlying calculation and it will be up to each billing authority to estimate the impact in their area based upon the local schemes they will have adopted.
- 5.18 For example, to arrive at the total value number of dwellings to be removed from the council tax base as a result of local council tax reduction schemes a billing authority may need for the following year to:
- estimate the total amount of reductions granted in each band; and
 - divide that figure by the estimated council tax bill for the band.

For example: if the total cash value reductions for band D is estimated by the billing authority at £27,000 and the band D council tax bill is estimated to be £1,350, the estimated number of dwellings removed from the council tax base would be:

$$27000 / 1350 = 20 \text{ dwellings}$$

Impact of the proposals

Billing authorities, major precepting authorities and other interested parties – tax payers – recipients of reductions

5.19 The calculations that billing authorities will be required to undertake to calculate the council tax base will require them to take account of the new council tax reductions.

5.20 This may lead to some variation in the Band D amount, depending on:

- (i) the billing authority council tax requirement, and the degree to which that is reduced by the new funding⁸⁷ to be allocated to them;
- (ii) the impact on the tax base of the new reductions.

⁸⁷ Localising Support for Council Tax - Funding arrangements consultation

Chapter 6

Sharing of financial pressures

- 6.1 This Statement of Intent has been prepared by the Department for Communities and Local Government to set out its policy intention in relation to the sharing of possible financial pressures following the introduction of council tax reduction schemes.

Purpose of the Statement

- 6.2 To set out the intention of provisions in the Bill for the sharing of financial pressures between billing and major precepting authorities to support the sharing of risk between billing and major precepting authorities as the result of sudden or unexpected increases in demand for council tax reductions.

Legislative Context and Territorial Application

- 6.3 The Local Authorities (Funds) (England) Regulations 1992 (*the funds regulations*) set out how a billing authority may discharge its liability to pay:
- any precepts issued to it by a major precepting authority (from its collection fund);
 - a share of any surplus on the collection fund due to the relevant major precepting authority; and
 - any precepts issued by relevant local precepting authorities (from its general fund).
- 6.4 Major precepting authorities issue precepts to billing authorities under section 40 of the Local Government Finance Act 1992. In accordance with regulation 4(1) of the funds regulations, a billing authority must determine a schedule of instalments for the payment of precepts issued for each financial year. The schedule of instalments must generally be determined in accordance with Schedule 1 to the funds regulations.
- 6.5 However, a billing authority may determine a different schedule of instalments where it has the agreement of each of its major precepting authorities before 31st January in the financial year preceding that to which the schedule will relate (see regulation 4(4)).

- 6.6 Where such an agreement is reached, payments to major precepting authorities from the billing authority's collection fund must be made in at least two instalments, the total of which will discharge the billing authority's liabilities within the financial year to which it relates (see regulation 4(5)).
- 6.7 Therefore, broadly speaking, under the current funds regulations billing authorities are restricted to paying the total amount of the precept by the end of the year, regardless of how much council tax is collected.
- 6.8 If during the financial year, the billing authority collects less or more council tax than anticipated, a deficit or surplus will exist on the billing authority's collection fund and that surplus or deficit will be shared between the billing authority and its major precepting authorities in accordance with regulation 11 and Schedule 2 to the funds regulations.
- 6.9 However, a major precepting authority is not required to pay its share of a deficit or receive its share of any surplus in a billing authority's collection fund for a financial year until the end of the following financial year.
- 6.10 The funds regulations currently apply to England only.
- 6.11 New paragraph 6 of Schedule 1A to the Local Government Finance Act 1992 (inserted by Schedule 4 of the Local Government Finance Bill) provides billing and major precepting authorities with the power to make arrangements to deal with a deficit on a billing authority's collection fund. In such circumstances, authorities may make payments to each other and agree to vary the payments or instalments that are required to be made under the funds regulations.

Policy

- 6.12 The Government indicated in its response to the outcome of consultation⁸⁸ on localising support for council tax that it is minded to enable billing authorities to vary the amount of precept to be paid to the major precepting authorities, in the financial year to which a deficit relates.
- 6.13 This is to help protect billing authorities from the totality of any cash flow pressure as a result of fluctuations in the level of council tax collected, which could otherwise only be addressed in the following year through the surpluses and deficits process set out in the funds regulations.

⁸⁸ See chapter 4 of Localising support for council tax in England.
<http://www.communities.gov.uk/documents/localgovernment/pdf/2053712.pdf>

- 6.14 New paragraph 6 of Schedule 1A to the Local Government Finance Act 1992 (inserted by Schedule 4 the Local Government Finance Bill) enables billing authorities to vary the payments or instalments that are required to be made under the funds regulations enabling cash flow pressures to be shared with major precepting authorities, subject to the agreement of major precepting authorities.
- 6.15 Should billing authorities anticipate that such arrangements are likely, then billing authorities should sensibly discuss the proposals with major precepting authorities when formulating their council tax reduction schemes. This would allow authorities to come to an agreement in advance of any need to manage in-year pressures.
- 6.16 We continue to work with representatives from local government, the Local Government Association, the Chartered Institute of Public Finance and Accountancy and the Institute of Revenues Rating and Valuation to consider what, if any, further powers required to manage the pressure on billing authorities while minimising complexity and uncertainty for all authorities.

Impact of the proposals

Local authorities, major precepting authorities and other interested parties

- 6.17 Although not a regulatory requirement, discussions between billing and major precepting authorities on how any in-year pressures should be managed should sensibly take place when schemes are being formulated.

Annex A

Summary of classes and reductions in the scheme for people of pension credit age and default scheme

Class for pension credit age and default schemes	Reduction	Who is included?
A. Income less than applicable amount	100% of liability (net of any council tax discounts, such as single person discount), adjusted down for any non-dependent deductions	Pension-credit age scheme Means-tested individuals. Those on pension credit guarantee credit (whose income and capital counted as zero – they will get 100%)
		Default scheme Means-tested individuals Those on prescribed working age benefits (whose income will be counted as zero – they will get 100%).
B. Income more than applicable amount	100% of liability (net of any council tax discounts, such as single person discount), minus 20% (<i>the taper</i>) of the difference between income and applicable amount, adjusted down for any non-dependent deductions	Pension-credit age scheme Means-tested individuals who do not qualify for Class A, and who are left with some reduction amount after this calculation is performed.
		Default scheme Means-tested individuals who do not qualify for Class A, and who are left with some reduction amount after this calculation is performed.
Those entitled to <i>Second Adult Rebate</i> – due to a second adult living with the applicant on working age benefits or low wage	As set out in Schedule 6 of SI 2006/215 and 216 today, 25%, 15%, 7.5% or 100% of liability, depending on the individual's circumstances.	Pension-credit age scheme Included.
		Default scheme Second Adult Rebate will be included, as the default scheme seeks to replicate the status quo for working age applicants

Annex B

Illustration of maximum council tax reduction amount and council tax calculation methodology

Council tax reductions and non-dependant deductions are taken into account when calculating maximum council tax reduction. This allows local authorities to tell at once whether someone's maximum council tax liability, and therefore their entitlement to reduction, is extinguished by council tax discounts and non-dependant deductions alone.

NB: Figures are purely illustrative

STEPS FOR CALCULATING COUNCIL TAX REDUCTIONS – DEFAULT AND PENSION CREDIT AGE SCHEMES – ILLUSTRATIVE EXAMPLE				
A. Annual gross council tax liability – the amount set by appropriate authority as council tax for the relevant financial year, in respect of the dwelling for which applicant is liable Demo figures only	B. Subtract any appropriate discount under the LGFA 1992 Schedule 1 to give discounted CT due: for example:	C. Divide by number of days in financial year and multiply by 7 to get weekly liability.	D. Subtract any non-dependent deductions under the regulations	E. Maximum weekly net council tax liability (net of non dependent deductions) is: (Reduction may be 100% of this amount or less)
£500 for a Band B property	25% single person reduction: £500 – (£500 x 0.25 = £125) = £375.00	£375/ 366 = £2.049180 (daily amount) £2.049180 x 7 = £7.172130 per week	For example, if non dependent earns less than £306 per week but more than £178 – deduction is £1.00 per week (set amount set out in schedule – as currently).	(£7.172130 - £1.00) = £6.172130 per week maximum reduction amount.
F. Calculate applicable amount (weekly)	G. Calculate income (weekly)	H. Calculate excess income (G-F)	I. Taper excess income (20% H)	J. Weekly council tax reduction entitlement (E – I)
Applicable amount: Personal allowance £50.00 Premium £4.65 Total £54.65	Income: Earnings £80.65 Less disregard £5.00 Total £75.65	(£75.65 - £54.65) = £21.00	£21 x 20% = £4.20	£6.172130 - £4.20 = £1.972130
K. Daily CT reduction entitlement (J divided by 7)	L. Daily un-rounded reduction figure is annualised and deducted from the council tax liability net of council tax discounts (B – (K x 366)).	M. Outcome		
£1.972130 / 7 = £0.281732	£0.281732 x 366 = £103.11 £375 - £103.11 = £271.89	Annualised reduction = £103.11 Annual net council tax liability = £271.89		

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May 2012

ISBN: 978-1-4098- 3484-7