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To Local Authorities in England

FOR THE ATTENTION OF THE COUNCIL TAX SECTION

Council Tax Information Letter – 21 January 2021

Dear Colleague,

Every year, the Government amends legislation to ensure that pension-age Local Council Tax Support (LCTS) schemes are updated in line with the wider benefits system. Each annual update also provides an opportunity to ensure that the residency requirements for accessing both pension-age and working-age LCTS remain consistent with the UK's immigration policy. This letter sets out the impact on the design of 2021/22 LCTS schemes of this year's updating legislation, which was laid before Parliament on 13 January 2021.

This letter also highlights the guidance for creditors recently published by the Insolvency Service ahead of the commencement of the statutory Breathing Space scheme on 4 May 2021.

The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2021

On 13 January 2021, the Councils Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2021 were laid before Parliament. The Regulations come into force on 11 February 2021 and amend the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 to reflect wider policy changes.

The Regulations can be found online at:

<https://www.legislation.gov.uk/ukxi/2021/29/contents/made>

The amendments made by these Regulations are set out below.

Uprating

The Regulations uprate figures which must be included in pension-age schemes relating to:

- Non-dependant deductions (adjustments made to the maximum amount of reduction an applicant can receive to take account of non-dependant adults living in a dwelling).

- The calculating of an applicant's income.
- Applicable amounts (the amount against which an applicant's income is compared to determine the amount of reduction to which they are entitled).

Please note that the Regulations introduce new, separate personal allowance rates for LCTS applicants who reach the qualifying age for State Pension Credit on or after 1 April 2021. This reflects a change being made by the Department for Work and Pensions in respect of pension-age Housing Benefit.

Unlike in previous years, these Regulations do not uprate figures relating to the calculation of an applicant's alternative maximum council tax reduction or to non-dependant deduction income band thresholds. This mirrors the approach taken by the Department for Work and Pensions in respect of Housing Benefit and reflects the fact that the Office for National Statistics reported no increase in Average Weekly Earnings between May and July 2020, the period which the Government considers when uprating benefits.

Income and Capital Disregards

The Regulations require pension-age schemes to make provision for the treatment of the following payments:

- Payments of Universal Credit. These payments are to be disregarded when calculating an applicant's income.
- Payments made by the Child Migrants Trust. These payments are to be disregarded when calculating an applicant's capital.
- Payments made to rectify, or compensate for, errors made by the Department for Work and Pensions in relation to the way claims for new-style Employment and Support Allowance were initially handled. These payments are to be disregarded when calculating an applicant's capital.
- Payments made by the National Emergencies Trust. These payments are to be disregarded when calculating an applicant's capital, and when determining the income of any non-dependents living with the applicant.
- Any victims' payments made to persons permanently disabled as a consequence of an injury caused by an incident relating to the Troubles in Northern Ireland. These payments are to be disregarded when calculating an applicant's income and capital.
- Any payments made under new social security schemes established by the Scottish Government. These schemes are: Winter Heating Assistance, Short-Term Assistance, Young Carer Grant, and Scottish Child Payment Assistance. Payments made under these four schemes are to be disregarded when calculating an applicant's income and capital.

The Regulations also make minor amendments to already-existing disregards to ensure consistency with the treatment of payments within the Housing Benefit regime. The two amended disregards are for the payments listed below:

- Payments relating to the Grenfell Tower Fire.
- Payments of occasional assistance.

Treatment of Universal Credit 'Run-on' Payments

The Regulations make amendments to ensure that the basis of whether an applicant is considered a 'pensioner' for the purposes of assessing eligibility for LCTS is not affected by recent changes that the Department for Work and Pensions has made to the Universal Credit regime.

Entitlement to Universal Credit ends when a single person, or the younger member of a mixed-age couple, reaches State Pension Credit qualifying age. At this point, the person (or couple) can make a claim for pension-age benefits. The Department for Work and Pensions has made a legislative change to allow for additional Universal Credit payments ('run-on payments') to be made once a claimant or couple reaches this age. This has been done to avoid any gaps in benefit entitlement where a claimant of Universal Credit transitions to pension-age benefits.

The Regulations make amendments to ensure that receipt of these Universal Credit run-on payments has no impact on an applicant's ability to be considered a pensioner, rather than working-age, for the purposes of assessing LCTS eligibility.

Habitual Residence Test

The Regulations make changes relating to the requirement that persons treated as not being habitually resident in Great Britain must not be able to access an authority's scheme.

The Regulations prescribe that family members of persons of Northern Ireland granted limited leave to enter or remain in the UK are to be able to access LCTS schemes on broadly the same terms as family members of citizens of the Republic of Ireland.

The Regulations also make amendments to ensure that current rights to access LCTS are not – in practice – affected by recent changes to the UK's immigration policy. In particular, amendments are made in relation to the following matters:

- Currently citizens of the EU as well as Iceland, Liechtenstein, Norway, and Switzerland and their family members must have a right to reside and be habitually resident in the UK to claim LCTS. These Regulations make an amendment to maintain this status quo, and to ensure that there are no changes to these eligibility rights resulting from an applicant's limited leave to enter the UK where this is derived from an entry clearance granted under [Appendix EU to the Immigration Rules](#).
- The Regulations also make amendments to continue to ensure access to LCTS for frontier workers protected under the EU Withdrawal Agreement.

Finally, the Regulations make minor amendments to require schemes to remove references to EU legislation which no longer has effect in the UK.

Breathing Space Guidance

[Council Tax Information Letter 5/2020](#) reminded billing authorities of the new statutory Breathing Space scheme that will commence on 4 May 2021. The letter also provided details of how to contact the Insolvency Service to discuss the options available for billing authorities to receive Breathing Space notifications through their central electronic system.

The Insolvency Service has published Guidance for creditors to assist them in understanding how the [Breathing Space Regulations](#) will be applied. The guidance can be accessed [here](#). The link also guides the user to separate guidance which has been published for the debt advice sector.

Should you have any further queries about any of the matters set out in this letter, please contact the Department at: council.tax@communities.gov.uk.