

# **SL(6)231 - The Council Tax (Amendments Relating to Discount Disregards and Exempt Dwellings) (Wales) Regulations 2022**

## **Background and Purpose**

The Homes for Ukraine Sponsorship Scheme (the “HFU Scheme”) provides a route for those affected by the conflict in Ukraine to enter the UK if they have a named sponsor who can provide them with accommodation.

The purpose of *The Council Tax (Amendments Relating to Discount Disregards and Exempt Dwellings) (Wales) Regulations 2022* (the “Regulations”) is to ensure that households who host individuals under the HFU Scheme (a “relevant Ukrainian person”) will not lose out on council tax discounts or exemptions as a result of housing additional persons.

For the purposes of calculating council tax, certain classes of people are ‘disregarded’. This means they’re not counted when calculating how many people live in a property. This is relevant in determining whether homes are eligible for a discount on their council tax bills. To negate a relevant Ukrainian person from affecting the council tax status of their sponsors, Regulation 2 of the Regulations amends the *Council Tax (Additional Provisions for Discount Disregards) Regulations 1992* to disregard such individuals.

In addition, certain dwellings (such as homes occupied exclusively by students) are exempt from paying council tax. Such dwellings are listed in the *Council Tax (Exempt Dwellings) Order 1992* (the “Exempt Dwellings Order”). Regulation 3 of these Regulations amends the Exempt Dwellings Order to ensure that there is no loss of an existing exemption where a household hosts a relevant Ukrainian person.

A Regulatory Impact Assessment (“RIA”), outlined in the Explanatory Memorandum, has been undertaken in respect of these Regulations.

## **Procedure**

Negative

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

## **Technical Scrutiny**

The following point is identified for reporting under Standing Order 21.2 in respect of this instrument.



## 1. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation.

The Explanatory Note states that these Regulations amend the Exempt Dwellings Order to:

*"[...] provide that exemptions relating to occupied dwellings where individuals admitted to the United Kingdom under the Homes for Ukraine Scheme reside in such dwellings in England, also apply to dwellings in Wales".*

It is unclear why Regulation 3(4) of these Regulations inserts the words "*in England*" into Article 2(3A) of the Exempt Dwellings Order in respect of Wales.

Article 2(3A) provides that occupation by a relevant Ukrainian person is to be disregarded in considering whether a dwelling is 'occupied' in respect of eleven classes of dwellings (B, D, E, F, H, I, J, K, L, Q and T) in article 3 of the Exempt Dwellings Order.

The rationale for expressly limiting article 2(3A) to England is not explained and seems contrary to the apparent policy aim in the Explanatory Note and Memorandum. A Welsh Government response is required.

## Merits Scrutiny

The following two points are identified for reporting under Standing Order 21.3 in respect of this instrument.

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

The Explanatory Memorandum states that these Regulations ensure that:

*"[...] host households who offer accommodation to people from Ukraine under the 'Homes for Ukraine Scheme' do not incur any additional council tax costs". (emphasis added)*

The rationale for limiting these Regulations to individuals sponsored under the HFU Scheme is not explained in the Explanatory Memorandum.

Under the '[Appendix Ukraine Scheme](#)' to the Immigration Rules, persons affected by the conflict in Ukraine may qualify for permission to enter the UK under the following schemes:

- The **HFU Scheme** - allowing Ukrainian nationals and their family members to come to the UK if they have a named sponsor who can provide them with accommodation for a minimum of six months; and the
- **Ukraine Family Scheme** (the "UFS") – allowing Ukrainian nationals to join UK-based family members, or extend their stay in the UK.

At a UK level as at 28 June 2022, a [total](#) of 98,400 visas had been issued under the HFU Scheme, and 44,100 under the the UFS.



As drafted, these Regulations extend to households who host people under the HFU Scheme, but not to those hosted under the UFS. In practice, this means that households who host additional family members under the UFS may lose existing exemptions and discounts for council tax.

The Welsh Government is asked to explain why these Regulations do not extend to those who have permission to enter the UK under the Ukraine Family Scheme.

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

The final paragraph of the Explanatory Note to these Regulations states that after considering the Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments:

*"[...] it was not considered necessary to carry out a regulatory impact assessment [...]"*

However, an RIA has been undertaken in respect of these Regulations. It is set out in paragraph 6 (and subsequent sub-paragraphs) of the Explanatory Memorandum.

Whilst the Explanatory Note is not part of the Regulations, this discrepancy could be misleading.

## **Welsh Government response**

### **Technical Scrutiny point 1:**

Article 2(3A) of the Council Tax (Exempt Dwellings) Order 1992, which was inserted by The Council Tax (Discount Disregards and Exempt Dwellings) (Amendment) (England) Regulations 2022, relates to unoccupied properties. As stated in the explanatory notes, the policy intent is to provide that exemptions relating to occupied properties extend to Wales. The insertion of the words "in England" into Article 2(3A) was necessary to ensure that it was clear that this article relating to unoccupied properties does not apply to Wales.

### **Merit Scrutiny point 1:**

This approach is the same as that taken in England and Scotland. The criteria for entry under the Ukraine Family Scheme differ from those for the Homes for Ukraine Scheme. Under the Ukraine Family Scheme, there is an expectation that people from Ukraine will join their family members in the UK and that their relatives will be able to provide accommodation.

The intention of these regulations is to encourage take-up of the 'Homes for Ukraine' scheme by ensuring people who provide accommodation to a person or family from Ukraine are not dissuaded from doing so by the prospect of losing any discounts or exemptions they are currently entitled to.

### **Merit Scrutiny point 2:**



This was an oversight. The Welsh Government will explore whether this may be corrected with a correction slip.

## **Committee Consideration**

The Committee considered the instrument and Welsh Government response at its meeting on 11 July 2022 and reports to the Senedd in line with the reporting point above.



Senedd Cymru

**Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad**

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Welsh Parliament

**Legislation, Justice and Constitution Committee**