

Explanatory Memorandum to the Council Tax (Additional Provisions for Discount Disregards) (Amendment) (Wales) Regulations 2023

This Explanatory Memorandum has been prepared by the Local Government Finance Reform Division of the Welsh Government and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Council Tax (Additional Provisions for Discount Disregards) (Amendment) (Wales) Regulations 2023. I am satisfied the benefits justify the likely costs.

Rebecca Evans MS
Minister for Finance and Local Government
16 February 2023

PART 1

1. Description

- 1.1 The Council Tax (Additional Provisions for Discount Disregards) (Amendment) (Wales) Regulations 2023 (the Regulations) make amendments to ensure that people from Ukraine who move on from residing with or do not reside with a sponsor under the 'Homes for Ukraine Sponsorship Scheme' are not disregarded for the purposes of a discount.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

- 2.1 None.

3. Legislative background

- 3.1 Section 11 of the Local Government Finance Act 1992 (the 1992 Act) makes provision for a discount to be applied to the amount of council tax payable equal to the appropriate percentage when there is only one resident of a dwelling or where there are two or more residents and all but one are to be disregarded. Where there is no resident of the dwelling or where there are one or more residents of the dwelling and each of them falls to be disregarded for the purposes of discount, the amount of council tax payable is subject to a discount of twice the appropriate percentage. The appropriate percentage is set out in section 11(3) of the 1992 Act and is 25%.
- 3.2 Schedule 1 to the 1992 Act makes provision for persons who are to be disregarded for the purpose of calculating entitlement to a council tax discount. Paragraph 11 of Schedule 1 provides a power to the Welsh Ministers to prescribe further persons who may be disregarded. Regulations 4 and 5 of the Council Tax (Additional Provisions for Discount Disregards) Regulations 1992 (SI 1992/552) (the Discount Disregards Regulations) prescribes additional classes of person who are to be disregarded for the purpose of calculating entitlement to a council tax discount in Wales.
- 3.3 Regulation 2 of the Council Tax (Amendments Relating to Discount Disregards and Exempt Dwellings) (Wales) Regulations 2022 amended the Discount Disregards Regulations to prescribe persons sponsored under the Homes for Ukraine Sponsorship Scheme as a class of persons to be disregarded.
- 3.4 Regulation 2 of the Regulations amends Class H of the Discount Disregards Regulations to provide that the existing disregard only applies where a person who holds permission to enter or to stay in the United Kingdom under the UK Government's Homes for Ukraine Scheme resides with a sponsor under that scheme.

3.5 These Regulations are being made under the negative procedure.

4. Purpose and intended effect of the legislation

4.1 The Welsh Government has committed to ensure that the council tax bills of households who sponsor people under the Homes for Ukraine scheme are not affected by their offer to provide support to people seeking safety from the war. There was no policy intention to confer a benefit on Ukraine nationals who were liable to pay council tax other than by ensuring that they were eligible to apply for council tax support under the Council Tax Reduction Scheme (CTRS).

4.2 The Discount Disregards Regulations were amended in 2022 so that a person who has secured a visa under the Homes for Ukraine Sponsorship Scheme is disregarded for the purpose of calculating a council tax discount. This was to protect the sponsor's single adult discount, where relevant, and the 50% discount received by a sponsor household where all the occupants are already disregarded.

4.3 The legislation has led to an inadvertent benefit to some Ukraine individuals or families. This is because the definition in the legislation is reliant solely on the immigration status of the person without any requirement that they continue to reside with a sponsor. The effect is that any person who has been granted leave to stay under the Homes for Ukraine Sponsorship Scheme, and who is now living independently, would be entitled to be disregarded for the purpose of a discount. Where there are one or more adults residing in a property with the same immigration status, they would receive a 50% discount.

4.4 This creates an inconsistency with the treatment of other Ukraine nationals who have secured their visa by either the Ukraine Family Scheme or the Ukraine Extension Scheme. In the same circumstances they would be liable to pay the standard rate of council tax on a property but would be eligible to apply for a council tax discount under the CTRS if they were unable to pay. The same is true of people, including refugees and asylum seekers, from other countries.

4.5 To ensure consistent and fair treatment with other Ukraine nationals, the requirement to reside with a sponsor will mean that those who Ukraine nationals who were "hosted" in an empty or second home belonging to a sponsor (but did not reside with them) will also no longer be disregarded. In those cases the resident (the Ukraine national) was the council tax bill payer and also gained this inadvertent benefit. They will now be treated in the same manner as those Ukraine nationals who entered under the Homes for Ukraine Scheme and are now living independently and those who entered under other Schemes. This will also ensure consistent treatment in relation to refugees from other countries. Council tax discount under the CTRS will again be available if they were unable to pay.

4.6 Regulation 2 amends the Discount Disregards Regulations to introduce a requirement of residing with a sponsor in order that the sponsor's existing discount is preserved. The effect of the amendment is that people from Ukraine who do not reside or move on from residing with a sponsor under the Homes for Ukraine Sponsorship Scheme do not continue to be disregarded for the purposes of a discount in relation to their own council tax liability.

5. Consultation

5.1 As the Regulations make technical amendments and have been drafted to correct an unintended consequence of the previous amendments and to ensure that there is fair and consistent treatment, no policy consultation has been undertaken. The Regulations have been circulated in draft to practitioners for information and comment. The policy position ensures all council taxpayers in Wales are treated equally, regardless of their immigration status.

6. Regulatory Impact Assessment (RIA)

6.1 This Regulatory Impact Assessment presents two options with all costs and benefits quantified based on information and data available to the Welsh Government leading up to publication.

Option 1: Business as usual

Under this option, any Ukraine national who has secured a visa under the Homes for Ukraine Sponsorship Scheme would continue to be disregarded for the purpose of calculating a council tax discount whilst they remained in Wales. Where they were the bill payer, they would be entitled to a 50% discount.

Option 2: Legislate to ensure that a person who has secured a visa under the Homes for Ukraine Sponsorship Scheme would only be disregarded for council tax purposes while they continued to reside with a sponsor under that scheme

This option will remove the financial inequality with other migrants or refugees who have been granted with leave to stay in the UK and are liable for council tax.

Costs and benefits

Option 1: Business as usual

6.2 This is the baseline option and as such there are no additional costs or benefits associated with this option. There is a risk however that over time there will be more instances where individuals or families who currently live with hosts under the Homes for Ukraine Sponsorship Scheme will move on and inadvertently benefit from a discount to their council tax liability.

Option 2: Legislate to ensure that a person who has secured a visa under the Homes for Ukraine Sponsorship Scheme would only be disregarded for council tax purposes while they continued to reside with a sponsor under that scheme

6.3 Under this option, the amount of council tax revenue collected by local authorities in Wales could potentially be marginally higher than under the baseline scenario. However, families who become liable to pay full council tax but are unable to pay will still be able to apply for the council tax reduction scheme. Where a Ukraine national is living alone, they will also still be entitled to claim the single person's discount. The impact on council tax revenue in any given local authority therefore is expected to be neutral. Overall, council tax revenues are not expected to be any different compared to a scenario in which no people were accommodated because of the war in Ukraine.

6.4 The number of households in Wales hosting people from Ukraine as part of the scheme is approximately 1,250 as of January 2023, based on the number of unique sponsors located in Wales. There is no information

currently available on the number of Ukraine nationals who have moved on from a host under the Homes for Ukraine scheme.

6.5 This option ensures there are no financial inequalities in the operation of council tax for all council taxpayers, including refugees or asylum seekers, from other countries.

6.6 Option 2 is the preferred option.

Competition Assessment

6.7 The Regulations are not expected to impact on levels of competition in Wales or the competitiveness of Welsh firms.