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**Changes to legislation:** There are currently no known outstanding effects for the Local Government Finance Act 2012, SCHEDULE 4. (See end of Document for details)

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## SCHEDULES

### SCHEDULE 4

Section 10

#### AMENDMENTS RELATING TO COUNCIL TAX REDUCTION SCHEMES

#### PART 1

##### SCHEDULES TO BE INSERTED INTO THE LGFA 1992

1 After Schedule 1 to the LGFA 1992 insert—

##### “SCHEDULE 1A

Section 13A

##### COUNCIL TAX REDUCTION SCHEMES: ENGLAND

##### *Interpretation*

- 1 In this Schedule—
- (a) “scheme” means council tax reduction scheme under section 13A(2), and
  - (b) in relation to a scheme, “the authority” means the billing authority which made the scheme or is under a duty to make it.

##### *Matters to be included in schemes*

- 2 (1) A scheme must state the classes of person who are to be entitled to a reduction under the scheme.
- (2) The classes may be determined by reference to, in particular—
- (a) the income of any person liable to pay council tax to the authority in respect of a dwelling;
  - (b) the capital of any such person;
  - (c) the income and capital of any other person who is a resident of the dwelling;
  - (d) the number of dependants of any person within paragraph (a) or (c);
  - (e) whether the person has made an application for the reduction.
- (3) A scheme must set out the reduction to which persons in each class are to be entitled; and different reductions may be set out for different classes.
- (4) A reduction may be—
- (a) a discount calculated as a percentage of the amount which would be payable apart from the scheme,
  - (b) a discount of an amount set out in the scheme or to be calculated in accordance with the scheme,

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- (c) expressed as an amount of council tax to be paid (lower than the amount which would be payable apart from the scheme) which is set out in the scheme or is to be calculated in accordance with it, or
  - (d) the whole amount of council tax (so that the amount payable is nil).
- (5) A scheme must state the procedure by which a person may apply for a reduction under the scheme.
- (6) A scheme must state the procedure by which a person can make an appeal under section 16 against any decision of the authority which affects—
- (a) the person's entitlement to a reduction under the scheme, or
  - (b) the amount of any reduction to which the person is entitled.
- (7) A scheme must state the procedure by which a person can apply to the authority for a reduction under section 13A(1)(c).
- (8) The Secretary of State may by regulations prescribe other requirements for schemes.
- (9) Regulations under sub-paragraph (8) may in particular—
- (a) require other matters to be included in a scheme;
  - (b) prescribe classes of person which must or must not be included in a scheme;
  - (c) prescribe reductions, including minimum or maximum reductions, which must be applicable to persons in prescribed classes;
  - (d) prescribe requirements which must be met by the procedure mentioned in sub-paragraph (5).
- (10) Regulations under sub-paragraph (8) may in particular set out provision to be included in a scheme that is equivalent to—
- (a) provision made by a relevant enactment, or
  - (b) provision that is capable of being made under a relevant enactment, with such modifications as the Secretary of State thinks fit.
- (11) Subject to compliance with regulations under sub-paragraph (8), a scheme may make provision that is equivalent to—
- (a) provision made by a relevant enactment, or
  - (b) provision that is capable of being made under a relevant enactment, with such modifications as the authority thinks fit.
- (12) For the purposes of sub-paragraphs (10) and (11), each of the following enactments as it had effect on the day on which the Local Government Finance Act 2012 was passed is a “relevant enactment”—
- (a) sections 131 to 133 of the Social Security Contributions and Benefits Act 1992 (council tax benefit);
  - (b) sections 134 to 137 of that Act (general provisions about income-related benefits) so far as applying in relation to council tax benefit;
  - (c) section 1 of the Social Security Administration Act 1992 (entitlement to benefit dependent on claim) so far as applying in relation to council tax benefit;
  - (d) section 6 of that Act (regulations about council tax benefit administration);

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- (e) sections 32 to 34 of the Welfare Reform Act 2007 (benefit for persons taking up employment) so far as applying in relation to council tax benefit.

*Preparation of a scheme*

- 3 (1) Before making a scheme, the 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.
- (2) The fact that this paragraph was not in force when any step described in sub-paragraph (1) was taken is to be disregarded in determining whether there has been compliance with that sub-paragraph.
- (3) Having made a scheme, the authority must publish it in such manner as the authority thinks fit.
- (4) The Secretary of State may make regulations about the procedure for preparing a scheme.
- (5) Regulations under sub-paragraph (4) may in particular—
  - (a) require the authority to produce documents of a particular description in connection with the preparation of a scheme;
  - (b) include requirements as to the form and content of documents produced in connection with the preparation of a scheme;
  - (c) include requirements (in addition to sub-paragraphs (1)(b) and (3)) about the manner in which such documents must be published;
  - (d) require the authority to make copies of such documents available for inspection by members of the public, or to supply copies of such documents to them;
  - (e) include provision about the making of reasonable charges for the supply of copies of such documents to members of the public.

*Default scheme*

- 4 (1) The Secretary of State must by regulations prescribe a scheme (“the default scheme”) for the purposes of this paragraph.
- (2) The first financial year to which the default scheme relates must be the year beginning with 1 April 2013 (or such other year as is specified in section 10(4) of the Local Government Finance Act 2012).
- (3) The default scheme must comply with the requirements of—
  - (a) paragraph 2(1) to (7), and
  - (b) any regulations under paragraph 2(8).
- (4) The default scheme may in particular make provision that is equivalent to—
  - (a) provision made by a relevant enactment, or
  - (b) provision that is capable of being made under a relevant enactment, with such modifications as the Secretary of State thinks fit.

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- (5) For the purposes of sub-paragraph (4), each of the following enactments as it had effect on the day on which the Local Government Finance Act 2012 was passed is a “relevant enactment”—
- (a) sections 131 to 133 of the Social Security Contributions and Benefits Act 1992 (council tax benefit);
  - (b) sections 134 to 137 of that Act (general provisions about income-related benefits) so far as applying in relation to council tax benefit;
  - (c) section 1 of the Social Security Administration Act 1992 (entitlement to benefit dependent on claim) so far as applying in relation to council tax benefit;
  - (d) section 6 of that Act (regulations about council tax benefit administration);
  - (e) sections 32 to 34 of the Welfare Reform Act 2007 (benefit for persons taking up employment) so far as applying in relation to council tax benefit.
- (6) The default scheme is to take effect, in respect of dwellings situated in the area of a billing authority, if the authority fails to make a scheme on or before 31 January 2013 (or such other date as is specified in section 10(4) of the Local Government Finance Act 2012).
- (7) If the default scheme takes effect in the area of a billing authority, this Part applies to the default scheme as if it had been made by the authority.

*Revisions to and replacement of scheme*

- 5 (1) For each financial year, each billing authority must consider whether to revise its scheme or to replace it with another scheme.
- (2) The authority must make any revision to its scheme, or any replacement scheme, no later than 31 January in the financial year preceding that for which the revision or replacement scheme is to have effect.
- (3) The Secretary of State may by order amend sub-paragraph (2) by substituting a different date.
- (4) If any revision to a scheme, or any replacement scheme, has the effect of reducing or removing a reduction to which any class of persons is entitled, the revision or replacement must include such transitional provision relating to that reduction or removal as the authority thinks fit.
- (5) Paragraph 3 applies to an authority when revising a scheme as it applies to an authority when making a scheme.
- (6) References in this Part to a scheme include a replacement scheme.

*Arrangements to deal with shortfall in council tax receipts*

- 6 (1) In this paragraph “scheme authority” means, in relation to a scheme and a year—
- (a) the billing authority which made the scheme, and
  - (b) any major precepting authority with power to issue a precept to that billing authority in relation to that year.

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- (2) Two or more scheme authorities may make arrangements which are to have effect if, as a result of the operation of the scheme—
  - (a) there is a deficit in the billing authority's collection fund for that year, or
  - (b) the billing authority estimates that there will be such a deficit.
- (3) Arrangements under this paragraph may include—
  - (a) the making of payments by one scheme authority to another scheme authority;
  - (b) the variation of any payment or instalment of a payment which is required to be made under regulations under section 99 of the 1988 Act (regulations about funds) that make provision in relation to council tax.

*Provision of information to the Secretary of State*

- 7 (1) The Secretary of State may serve on a billing authority in England a notice requiring it to supply to the Secretary of State such information as is specified in the notice and required by the Secretary of State for the purpose of exercising, or of deciding whether to exercise, any function relating to schemes.
- (2) The authority must supply the information required if it is in its possession or control, and must do so in such form and manner and at such time as the Secretary of State specifies in the notice.
- (3) If an authority fails to comply with sub-paragraph (2), the Secretary of State may exercise the function on the basis of such assumptions and estimates as the Secretary of State thinks fit.
- (4) In exercising, or deciding whether to exercise, any function relating to schemes, the Secretary of State may also take into account any other available information, whatever its source and whether or not obtained under a provision contained in or made under this or any other Act.

*Guidance*

- 8 In exercising any function relating to schemes, a billing authority must have regard to any guidance issued by the Secretary of State.

*Transitional provision*

- 9 (1) The Secretary of State may by regulations make such transitional provision regarding the commencement of schemes as the Secretary of State thinks fit.
- (2) Such provision may include, in particular, provision for and in connection with treating a person who is or was in receipt of council tax benefit, or who makes or has made a claim for that benefit, as having made an application for a reduction under a scheme.

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## SCHEDULE 1A

Section 13A

### COUNCIL TAX REDUCTION SCHEMES: WALES

#### *Interpretation*

- 1 In this Schedule—
- (a) “the regulations” means regulations under section 13A(4);
  - (b) “scheme” means council tax reduction scheme under the regulations;
  - (c) “specified” means specified in the regulations;
  - (d) “specified authority” means a person or body required by the regulations to make a scheme (and, in relation to a particular scheme, means the authority which made the scheme or is under a duty to make it).

#### *Application of schemes*

- 2 (1) The regulations may—
- (a) prescribe, for each scheme that is to be made, the dwellings to which that scheme is to apply;
  - (b) require each scheme to state the dwellings to which it is to apply.
- (2) The regulations may prescribe—
- (a) the date by which each scheme is to be made, and
  - (b) the first financial year to which it must relate.

#### *Persons entitled to reductions*

- 3 (1) The regulations may prescribe—
- (a) classes of person who are to be entitled to a reduction under schemes;
  - (b) classes of person who must not be entitled to a reduction under schemes.
- (2) The regulations may—
- (a) allow specified authorities to determine (subject to regulations under sub-paragraph (1)) classes of person who are to be entitled to a reduction under schemes, or
  - (b) provide that specified authorities may not determine such classes.
- (3) The regulations may require each scheme to state the classes of person (prescribed under sub-paragraph (1)(a) or determined under sub-paragraph (2)(a)) who are to be entitled to a reduction under the scheme.
- (4) Any class of person prescribed under sub-paragraph (1)(a) may be determined by reference to, in particular, the matters listed in sub-paragraph (7).

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- (5) The regulations may require any class of person determined under sub-paragraph (2)(a) to be determined by reference to specified matters (which may include those listed in sub-paragraph (7)).
- (6) If the regulations do not require a class of person to be determined as mentioned in sub-paragraph (5), the specified authority may determine that class by reference to, in particular, the matters listed in sub-paragraph (7).
- (7) Those matters are—
  - (a) whether the Welsh Ministers consider, or the specified authority considers, any person to be in financial need;
  - (b) the income of any person liable to pay council tax in respect of any dwelling to which a scheme is to apply;
  - (c) the capital of any such person;
  - (d) whether any such person is in receipt of any specified benefit;
  - (e) the income and capital of any other person who is a resident of the dwelling, or whether any such person is in receipt of any specified benefit;
  - (f) the number of dependants of any person within paragraph (b) or (e);
  - (g) whether the person has made an application for the reduction.

#### *Reductions*

- 4 (1) The regulations may prescribe reductions, including minimum and maximum reductions, to which persons in each class (whether prescribed under paragraph 3(1)(a) or determined under paragraph 3(2)(a)) are to be entitled under schemes.
- (2) The regulations may—
  - (a) allow specified authorities to determine (subject to regulations under sub-paragraph (1)) reductions to which persons in each class set out in the scheme are to be entitled, or
  - (b) provide that specified authorities may not determine such reductions.
- (3) The regulations may require each scheme to set out the reductions (whether prescribed under sub-paragraph (1) or determined under sub-paragraph (2) (a)) to which persons in each class set out in the scheme are to be entitled.
- (4) Different reductions may be set out for different classes.
- (5) A reduction under a scheme may be—
  - (a) a discount calculated as a percentage of the amount which would be payable apart from the scheme,
  - (b) a discount of an amount set out in the scheme or to be calculated in accordance with the scheme,
  - (c) expressed as an amount of council tax to be paid (lower than the amount which would be payable apart from the scheme) which is set out in the scheme or is to be calculated in accordance with it, or
  - (d) the whole amount of council tax (so that the amount payable is nil).

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*Other matters*

- 5 (1) The regulations may require each scheme to state—
- (a) the procedure by which a person may apply for a reduction under the scheme;
  - (b) the procedure by which a person can make an appeal under section 16 against any decision which affects the person's entitlement to a reduction under the scheme or the amount of any reduction to which the person is entitled;
  - (c) the procedure by which a person can apply to the relevant billing authority for a reduction under section 13A(1)(c).
- (2) In sub-paragraph (1)(c), the relevant billing authority for any dwelling to which the scheme applies is the billing authority in whose area the dwelling is situated.
- (3) The regulations may prescribe requirements which must be met by the procedure mentioned in sub-paragraph (1)(a) or (b).
- 6 (1) The regulations may—
- (a) require other matters to be included in schemes;
  - (b) allow schemes to make provision that is equivalent to provision made by a relevant enactment, or provision that is capable of being made under a relevant enactment, with such modifications as specified authorities think fit;
  - (c) prescribe the procedure which a specified authority must follow when making a scheme (including requirements regarding consultation and other steps to be taken before and after making the scheme);
  - (d) require or allow functions conferred by the regulations to be exercised by specified authorities jointly with other authorities;
  - (e) prescribe a default scheme which is to take effect, if a specified authority fails to make a scheme in accordance with the regulations, in respect of dwellings to which that scheme would have applied;
  - (f) impose requirements on specified authorities relating to the review, revision or replacement of schemes;
  - (g) enable specified authorities to make reasonable charges for the supply of copies of documents relating to schemes;
  - (h) require specified authorities to provide to the Welsh Ministers information about schemes.
- (2) In particular, the regulations may under sub-paragraph (1)(a) set out provision to be included in schemes, and a default scheme prescribed under sub-paragraph (1)(e) may make provision, that is equivalent to—
- (a) provision made by a relevant enactment, or
  - (b) provision that is capable of being made under a relevant enactment, with such modifications as the Welsh Ministers think fit.
- (3) For the purposes of sub-paragraphs (1)(b) and (2), each of the following enactments as it had effect on the day on which the Local Government Finance Act 2012 was passed is a “relevant enactment”—



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- (a) sections 131 to 133 of the Social Security Contributions and Benefits Act 1992 (council tax benefit);
- (b) sections 134 to 137 of that Act (general provisions about income-related benefits) so far as applying in relation to council tax benefit;
- (c) section 1 of the Social Security Administration Act 1992 (entitlement to benefit dependent on claim) so far as applying in relation to council tax benefit;
- (d) section 6 of that Act (regulations about council tax benefit administration);
- (e) sections 32 to 34 of the Welfare Reform Act 2007 (benefit for persons taking up employment) so far as applying in relation to council tax benefit.

*Transitional provision*

- 7 (1) The regulations may make such transitional provision regarding the commencement of schemes as the Welsh Ministers think fit.
- (2) Such provision may include, in particular, provision for and in connection with treating a person who is or was in receipt of council tax benefit, or who makes or has made a claim for that benefit, as having made an application for a reduction under a scheme.

*Guidance*

- 8 In exercising any function relating to schemes, a specified authority must have regard to any guidance issued by the Welsh Ministers.”

**PART 2**

OTHER AMENDMENTS

*LGFA 1988*

- 2 In Part 1 of Schedule 11 to the LGFA 1988 (the Valuation Tribunal for England), after paragraph A18 insert—

*“Power for member of First-tier Tribunal to act as member of the Tribunal*

- A18A (1) A member of the First-tier Tribunal (an “FTT member”) may act as a member of the Valuation Tribunal for England.
- (2) An FTT member may only act as a member of the Tribunal—
- (a) at the request of the President and with the approval of the Senior President of Tribunals,
  - (b) in relation to an appeal that relates, in whole or in part, to a council tax reduction scheme made or having effect as if made by a billing authority in England, and
  - (c) if the FTT member is not disqualified from being, or acting as, a member of the Tribunal.

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- (3) A request under sub-paragraph (2)(a)—
  - (a) may relate to a particular appeal or to appeals of a particular kind,
  - (b) may be made only if the President thinks that FTT members are likely to have particular expertise that is relevant to the determination of the appeal, or to appeals of the kind, to which it relates.
- (4) An approval under sub-paragraph (2)(a) may relate to a particular appeal or to appeals of a particular kind.
- (5) The President may withdraw a request at any time; and an FTT member acting as a Tribunal member in response to a request must cease to do so if it is withdrawn.
- (6) References in this Schedule and in regulations made under paragraph A19 to a member of the Tribunal include an FTT member acting as a member of the Tribunal.
- (7) But sub-paragraph (6) does not apply—
  - (a) to paragraph A7, A8, A9, A10 or A12 (which make provision about the appointment and removal of, numbers of, and payments to, members of the Tribunal);
  - (b) to regulations under paragraph A19, if and to extent that the regulations provide that it does not apply.
- (8) The Valuation Tribunal Service may make payments to the Lord Chancellor in respect of the expenditure incurred by the Lord Chancellor in paying remuneration, allowances or expenses to an FTT member whilst acting as a member of the Tribunal.
- (9) In this paragraph—
  - (a) references to an appeal include a review by the Tribunal of a decision made by it on an appeal,
  - (b) “council tax reduction scheme” has the same meaning as in Part 1 of the Local Government Finance Act 1992 (see section 13A(9) of that Act).”

*LGFA 1992*

- 3           The LGFA 1992 is amended as follows.
- 4           In section 10(1) (basic amount payable), for “13” substitute “ 13A ”.
- 5           (1) Section 66 (matters to be questioned only by judicial review) is amended as follows.
  - (2) After subsection (2)(b) insert—
    - “(ba) a council tax reduction scheme, or any revision of such a scheme;”.
  - (3) In subsection (3), for “(b) to (e)” substitute “ (b) or (c) to (e) ”.
- 6           In section 67 (functions to be discharged only by authority), after subsection (2) (a) insert—
  - “(aa) making or revising a council tax reduction scheme under section 13A(2);”.

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- 7 (1) In Schedule 2 (administration), paragraph 21 (application of Schedule to cases where section 13A applies) is amended as follows.
- (2) For sub-paragraph (1) substitute—
- “(1) This paragraph applies where—
- (a) a billing authority in England or a specified authority (within the meaning of Schedule 1B) in Wales makes a council tax reduction scheme, or
- (b) a billing authority exercises the power under section 13A(1)(c) by determining a class of case in which liability is to be reduced.”
- (3) In sub-paragraphs (2) and (3), after “Where” insert “ the scheme or ”.

*Local Government Act 2003 (c. 26)*

- 8 The Local Government Act 2003 is amended as follows.
- 9 Omit section 76 (insertion of section 13A of the LGFA 1992).
- 10 In section 105(2)(aa) (functions of the Valuation Tribunal Service: payments to members of the Valuation Tribunal for England), after “A14” insert “ or A18A(8) ”.

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