Social Justice and Social Security Committee
Thursday 6 March 2025
7th Meeting, 2025 (Session 6)

Note by the Clerk on the Council Tax Reduction (Miscellaneous Amendment) (Scotland) Regulations 2025 (SSI 2025/24)

Overview

1. At this meeting, the Committee will consider the following Scottish Statutory Instrument (SSI), which is subject to annulment by resolution of the Parliament until 23 March 2025. The Committee is invited to consider the instrument and decide what, if any, recommendations to make.

2. More information about the instrument is summarised below:

   Title of instrument: Council Tax Reduction (Miscellaneous Amendment) (Scotland) Regulations 2025

   Laid under: Local Government Finance Act 1992

   Laid on: 3 February 2025

   Procedure: Negative

   Deadline for committee consideration: 17 March 2025

   Deadline for Chamber consideration: 23 March 2025

   Commencement: 1 April 2025

Procedure

3. Under the negative procedure, an instrument is laid after it is made, and is subject to annulment by resolution of the Parliament for a period of 40 days beginning on the day it is laid.

4. Once laid, the instrument is referred to:

   - the Delegated Powers and Law Reform (DPLR) Committee, for scrutiny on various technical grounds, and

   - a lead committee, whose remit includes the subject-matter of the instrument, for scrutiny on policy grounds.

5. Any MSP may propose, by motion, that the lead committee recommend annulment of the instrument. If such a motion is lodged, it must be debated at a meeting of the Committee, and the Committee must then report to the Parliament (by the advisory deadline referred to above).

6. If there is no motion recommending annulment, the lead committee is not required to report on the instrument.

Delegated Powers and Law Reform Committee consideration

7. The DPLR Committee considered the instrument on 18 February 2025 and reported on it in its 11th Report, 2025.

8. The Committee made no recommendations in relation to the instrument.

Purpose of the instrument

9. The aim of the Regulations is to amend The Council Tax Reduction (Scotland) Regulations 2021 and The Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012.

10. The Policy Note explains that the instrument will uprate premiums and allowances used in the Council Tax Reduction Scheme when the level of council tax reduction a household should receive is calculated. The relevant figures have been uprated by 1.7%, the rate of Consumer Prices Index (CPI) in September 2024.

11. The amendments will allow Working Tax Credit claimants who migrate from Tax Credits to Universal Credit a grace period of twelve months before any deferred retirement income is counted as notional income.

12. The Policy Note accompanying the instrument is included in Annexe A. No formal consultation was required to be carried out in relation to these Regulations.

Committee consideration

13. So far, no motion recommending annulment has been lodged.

14. Members are invited to consider the instrument and decide whether there are any points they wish to raise. If there are, options include:

- seeking further information from the Scottish Government (and/or other stakeholders) through correspondence, and/or

- inviting the Minister (and/or other stakeholders) to attend the next meeting to give evidence on the instrument.

15. It would then be for the Committee, at the next meeting, to consider the additional information gathered and decide whether to make recommendations in relation to the instrument.

16. If members have no points to raise, the Committee should note the instrument (that is, agree that it has no recommendations to make).

17. However, should a motion recommending annulment be lodged later in the 40-day period, it may be necessary for the Committee to consider the instrument again.

Clerks to the Committee
March 2025

Annexe

POLICY NOTE

THE COUNCIL TAX REDUCTION (MISCELLANEOUS AMENDMENT) (SCOTLAND) REGULATIONS 2025

SSI 2025/24

The above instrument is made in exercise of the powers conferred by sections 80 and 113(1) and (2) and paragraph 1 of schedule 2 of the Local Government Finance Act 1992. It is subject to the negative procedure.

The purpose of these Regulations is to amend:

- **The Council Tax Reduction (Scotland) Regulations 2021; and**
- **The Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012.**

The amendments will uprate the various allowances, premiums, and deductions for the purposes of calculating entitlement to a council tax reduction.

The amendments will clarify what is meant by an award of Universal Credit for the purposes of the Council Tax Reduction (Scotland) Regulations 2021.

The amendments will allow Working Tax Credit claimants who migrate from Tax Credits to Universal Credit a grace period of twelve months before any deferred retirement income is counted as notional income.

The amendments correct a minor error.

Policy Objectives

This instrument amends the Council Tax Reduction (Scotland) Regulations 2021 (the Working Age Regulations), the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012 (the Pension Age Regulations).

Annual Uprating

When Council Tax Benefit (CTB) was abolished by the UK Government the Scottish Government introduced the Council Tax Reduction (CTR) scheme. CTR reduces a household’s council tax liability by considering their circumstances, capital, and income. When CTR was introduced in 2013, the Scottish Government made a commitment that no one would be worse off under CTR than they would have been had CTB continued. These Regulations keep that policy objective by uprating various allowances and premiums on the same basis as has been taken in relation to Housing Benefit (as the existing benefit that most closely reflects the abolished CTB).

This instrument uprates the allowances and premiums in the CTR scheme when deciding what level of Council Tax reduction, a household should receive. The relevant figures have been uprated by 1.7%, the rate of Consumer Prices Index September 2024. The CTR scheme also has income thresholds that are used to decide the rate of non-dependent deductions (used to calculate how much an additional adult in the household might be expected to contribute towards Council Tax) based on their earnings. Income thresholds also apply to the second adult rebate, which is a relief available to households which have a low income but in relation to which entitlement to the council tax single person discount is precluded by the presence of the second adult. This instrument increases the non-dependent deduction and alternative maximum CTR amounts by 4.9% in both the Working Age Regulations and Pension Age Regulations.

When the Working Age Regulations were brought into force in April 2022, the policy intention was to ensure that those in receipt of Universal Credit would be eligible for 100% of their relevant childcare costs to be disregarded from any earned income in the calculation of CTR, whilst the whole of their Universal Credit childcare element would count as income in the calculation of CTR. From April 2025 the maximum childcare element in Universal Credit will increase to £1031.88 for one child and £1768.94 for two or more children. To maintain the policy intent, the maximum allowable childcare costs in CTR will increase to £280 for one child and £479 for two or more children for those who receive Universal Credit. This is necessary to ensure that no one in receipt of Universal Credit will have a reduction in their level of CTR, due to them receiving an increase in their Universal Credit childcare element.

In 2017, the Scottish Government increased the child premium in CTR by an additional 25% over and above that applied for Housing Benefit. This uplift has continued annually, resulting in a higher rate of child premium in CTR compared to that in Housing Benefit.

Award of Universal Credit

When the Working Age Regulations were brought into force in April 2022, the policy intention was to ensure that in instances where a Universal Credit claimant was receiving £0.00 in Universal Credit due to excess earnings in any Universal Credit assessment period their CTR calculation would be carried out as though the person did have an award of Universal Credit. This approach was taken to prevent the local authorities having to apply the regulations that apply to council tax reduction applicants with no Universal Credit award in these instances, given that the minimum amount payable is £0.01.

The treatment as though having an award of Universal Credit should be for so long as the Secretary of State treats the Universal Credit claimant as making a claim for Universal Credit on what would be the first day of each assessment period, had the award continued. This is done in reliance on regulation 32A(2) of the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013 ("the 2013 Regulations").

To give effect to the policy intent, a new regulation 10A is inserted into the Working Age Regulations. This provides for an expansion of the circumstances in which the provisions applicable to a council tax reduction applicant with an award of Universal Credit will be taken to continue to apply - covering the scenario of a council tax reduction applicant who is a Universal Credit claimant falling within regulation 32A(2) of the 2013 Regulations, as well as, as at present, the scenario of a claimant the amount of whose award is reduced to zero. A reduction to zero will take place because of a sanction, rather than because of excess earnings. A replacement definition of "award of universal credit" is substituted into regulation 4 to clarify that this means an award of Universal Credit made under Part 1 of the Welfare Reform Act 2012.

Following on this, regulation 34A is amended to make clear that, for as long as regulation 32A(2) of the 2013 Regulations applies, non-payment of Universal Credit due to excess earnings is not to be classed as a change of circumstances, in the form of cessation of entitlement to Universal Credit. (A Universal Credit claimant who is subject to a sanction will still be classed as having entitlement to Universal Credit, hence they will not, as the Working Age Regulations already stand, be regarded as having a change of circumstances for the purposes of regulation 34A. For that reason, no change to regulation 34A is needed in relation to claimants whose awards are reduced to zero).

Notional Income

These Regulations also amend the Council Tax Reduction (Scotland) Regulations 2021 so that Working Tax Credit claimants who migrate from Tax Credits to Universal Credit have a grace period of twelve months before any retirement pension income is counted as notional income. The deferred retirement income will not be treated as notional unearned income whilst regulation 60B of the Universal Credit (Transitional Provisions) Regulations 2014 applies.

Minor Correction

These Regulations correct a minor error in paragraph 4D(a) of schedule 1 (applicable amount). Rather than refer to "the care component of adult disability payment" this should refer to "the daily living component of adult disability payment".

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

The Scottish Ministers have made the following statement regarding children's rights.

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, the Scottish Ministers certify that, in their view, the Council Tax Reduction (Miscellaneous Amendment) (Scotland) Regulations 2025 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

Consultation

No formal consultation was to be conducted in relation to these Regulations.

Impact Assessments and Financial Effects

A Child Rights and Wellbeing Impact Assessment is provided with this instrument. No other Impact Assessments have been undertaken.

The Cabinet Secretary for Public Finance and Local Government confirms that no Business Regulatory Impact Assessment is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Local Government and Communities
Scottish Government
30 January 2025