

Local Government, Housing and Planning Committee

13th Meeting, 2021 (Session 6)

Tuesday 26 April 2022

SSI cover note for: SSI 2022/125: The Council Tax Reduction and Council Tax (Discounts) (Miscellaneous Amendment) (Scotland) Regulations 2022

SSI 2022/125

Title of Instrument: [The Council Tax Reduction and Council Tax \(Discounts\) \(Miscellaneous Amendment\) \(Scotland\) Regulations 2022](#)

Type of Instrument: Negative

Laid Date: 31 March 2022

Circulated to Members: 13 April 2022

Meeting Date: 26 April 2022

Minister to attend meeting: No

Motion for annulment lodged: No

Drawn to the Parliament's attention by the Delegated Powers and Law Reform Committee? Yes

Reporting deadline: 23 May 2022

Recommendation

1. The Committee is invited to consider any issues which it wishes to raise on this instrument which is subject to the negative procedure. Further information on the negative procedure can be found at paragraphs 10 and 11 below.

Background

2. The above instrument is made in exercise of the powers conferred by sections 80 and 113(1) and (2), and paragraph 11 of schedule 1 and paragraph 1 of schedule 2 of the Local Government Finance Act 1992.

Policy Objectives

3. This instrument amends the Council Tax (Discounts) (Scotland) Regulations 1992, the Council Tax Reduction (Scotland) Regulations 2021, and the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012. In the Policy Note the term 'Ukrainian refugees' means persons who were residing in Ukraine immediately before 1 January, left Ukraine in connection with the Russian invasion which took place on 24 February 2022, and have leave to enter or remain in the United Kingdom granted under or outside the Immigration Rules, or who have a right of abode in the United Kingdom. (Those 'residing' in Ukraine immediately before 1 January 2022 may include those who consider Ukraine to be their home, but who were temporarily absent immediately before 1 January 2022.)

4. An electronic copy of the instrument is available at: <https://www.legislation.gov.uk/ssi/2022/125/contents/made>

5. Copies of the Scottish Government's Explanatory and Policy Notes, along with a letter to the Presiding Officer explaining why the instrument was not laid at least 28 days before it came into force, are included in **Annexe A**.

Purpose

6. The purpose of these Regulations is to ensure that the entitlement to the Single Person discount from council tax liability, and under the Council Tax Reduction scheme, is not affected by offering accommodation to certain persons coming to the UK from Ukraine in connection with the Russian invasion which took place on 24 February 2022. These are persons who were residing in Ukraine immediately before 1 January 2022, and who have leave to enter or remain in the UK under or outside the immigration rules, or who have a right of abode in the UK.

Delegated Powers and Law Reform Committee consideration

7. At its meeting on 19 April 2022, the Delegated Powers and Law Reform Committee considered the instrument and determined that it wished to draw the attention of the Parliament to the instrument under reporting ground (j) for failure to lay

the instrument in accordance with the laying requirements in section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010.

8. However, the Delegated Powers and Law Reform Committee was content with the explanations provided by the Scottish Government for failure to comply with the laying requirements as set out in the letter to the Presiding Officer which is included in the annexe to this paper.

9. The Delegated Powers and Law Reform Committee's Report on the instrument can be accessed via the following link: <https://sp-bpr-en-prod-cdnep.azureedge.net/published/DPLR/2022/4/21/6268e8d7-aed8-445a-8c23-b64c1473771e/DPLRS062022R24.pdf>

Procedure for Negative Instruments

10. Negative instruments are instruments that are “subject to annulment” by resolution of the Parliament for a period of 40 days after they are laid. All negative instruments are considered by the Delegated Powers and Law Reform Committee (on various technical grounds) and by the relevant lead committee (on policy grounds). Under Rule 10.4, any member (whether or not a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the instrument. If the motion is agreed to, the Parliamentary Bureau must then lodge a motion to annul the instrument for consideration by the Parliament.

11. If that is also agreed to, Scottish Ministers must revoke the instrument. Each negative instrument appears on a committee agenda at the first opportunity after the Delegated Powers and Law Reform Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to allow correspondence to be entered into or a Minister or officials invited to give evidence. In other cases, the Committee may be content simply to note the instrument and agree to make no recommendation on it.

Clerks

Local Government, Housing and Planning Committee

Annexe A

Scottish Government Explanatory Note

These Regulations amend the Council Tax (Discounts) (Scotland) Regulations 1992 (“the Discount Regulations”), the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012 (“the Pension Age Regulations”) and the Council Tax Reduction (Scotland) Regulations 2021 (“the Working Age Regulations”). Regulation 2 amends the Discount Regulations to add to the list of persons who are to be disregarded in working out entitlement to a discount from liability for council tax. The

addition is any person who was residing in Ukraine immediately before 1 January 2022, left Ukraine in connection with the Russian invasion which took place on 24 February 2022 and who has either been granted leave to enter or remain in the United Kingdom, or has a right of abode in the United Kingdom. Regulation 3 amends the definition of “non-dependant” in the Pension Age Regulations so that it does not cover any person who normally resides with a council tax reduction applicant and falls within the description set out above in relation to regulation 2. It also amends the Pension Age Regulations so that a payment made in acknowledgement of providing accommodation under the United Kingdom Government Homes for Ukraine scheme is not to be counted as capital in determining entitlement to council tax reduction. Regulation 4 makes equivalent amendments to the Working Age Regulations.

As per purpose above and including:

Scottish Government Policy Note

1. The above instrument is made in exercise of the powers conferred by sections 80 and 113(1) and (2), and paragraph 11 of schedule 1 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 ensure that the entitlement to the Single Person discount from council tax liability, and under the Council Tax Reduction scheme, is not affected by offering accommodation to certain persons coming to the UK from Ukraine in connection with the Russian invasion which took place on 24 February 2022. These are persons who were residing in Ukraine immediately before 1 January 2022, and who have leave to enter or remain in the UK under or outside the immigration rules, or who have a right of abode in the UK.

Policy Objectives

2. This instrument amends the Council Tax (Discounts) (Scotland) Regulations 1992, the Council Tax Reduction (Scotland) Regulations 2021, and the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012. In this Policy Note the term ‘Ukrainian refugees’ means persons who were residing in Ukraine immediately before 1 January, left Ukraine in connection with the Russian invasion which took place on 24 February 2022, and have leave to enter or remain in the United Kingdom granted under or outside the Immigration Rules, or who have a right of abode in the United Kingdom. (Those ‘residing’ in Ukraine immediately before 1 January 2022 may include those who consider Ukraine to be their home, but who were temporarily absent immediately before 1 January 2022.)

3. The purpose of this instrument is to ensure that entitlement under the Council Tax Reduction scheme, and to the Single Person Discount in relation to council tax liability, is not affected by providing accommodation to Ukrainian refugees. To that end the instrument makes changes to council tax legislation to meet three specific policy objectives. The first objective is to prevent a person losing their entitlement to the

Single Person Discount by reason of providing accommodation, in their own home, to a Ukrainian refugee. (The Single Person Discount gives qualifying households a 25% reduction in their council tax liability.) This instrument therefore amends the Council Tax (Discounts) (Scotland) Regulations 1992 so that Ukrainian refugees are disregarded when assessing if a household qualifies for the Single Person Discount. This will mean that a household that currently receives the Single Person Discount, or would become eligible, will receive the Single Person Discount even if a Ukrainian refugee is living in the property.

4. Households in Scotland who provide accommodation as part of the UK Government's Homes for Ukraine scheme can receive an optional 'thank you' payment of £350 per month for up to 12 months. The second policy objective is that this payment is disregarded for the purposes of assessing someone's income and capital in the Council Tax Reduction (CTR) scheme. (The CTR scheme reduces someone's council tax liability based on an assessment of their circumstances, income, and capital). Under the CTR scheme in place from 1 April 2022 these payments will be disregarded as income, but amendments are necessary to ensure that they are also disregarded when assessing a household's capital. This instrument makes the necessary changes to the Council Tax Reduction (Scotland) Regulations 2021 and the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012.

5. The third policy objective fulfilled by this instrument is to ensure that offering accommodation to a Ukrainian refugee does not cause entitlement under the Council Tax Reduction scheme to be reduced on account of there being considered to be a non-dependant adult living in the property. These regulations therefore amend the Council Tax Reduction (Scotland) Regulations 2021 and the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012 so that Ukrainian refugees are expressly excluded from being classed as non-dependant adults.

Consultation

6. No formal consultation was required to be carried out in relation to these Regulations.

Impact Assessments and Financial Effects

7. The policy measures implemented in this instrument will not increase the level of council tax householders pay, or reduce the level of council tax local authorities receive. That is because all the changes maintain the current level of council tax liability that a household has, rather than reducing or increasing it. There are no specific impact assessments in relation to the changes made by this instrument.

Letter to the Presiding Officer

Dear Presiding Officer

The Council Tax (Exempt Dwellings) (Scotland) Amendment Order 2022

The Council Tax Reduction and Council Tax (Discounts) (Miscellaneous Amendment) (Scotland) Regulations 2022

The Council Tax (Exempt Dwellings) (Scotland) Amendment Order 2022, SSI 2022/124, and the Council Tax Reduction and Council Tax (Discounts) (Miscellaneous Amendment) (Scotland) Regulations 2022, SSI 2022/125, were made by the Scottish Ministers under section 72(6) and (7) of the Local Government Finance Act 1992 in the case of the Order, and sections 80 and 113(1) and (2), and paragraph 11 of schedule 1 and paragraph 1 of schedule 2 of the Local Government Finance Act 1992 in the case of the Regulations, on 31 March 2022. Both of these instruments are subject to negative procedure. The Regulations and Order are being laid before the Scottish Parliament today, 31 March 2021 and come into force on 1 April 2022.

Section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 sets out that a negative SSI must be laid before the Scottish Parliament at least 28 days before the instrument comes into force. On this occasion, this has not been complied with and to meet the requirements of section 31(3) that Act, this letter explains why.

On the 14 March 2022 the UK Government launched its Homes for Ukraine scheme, under which sponsors can accommodate those who left Ukraine in connection with the Russian invasion which began on 24 February 2022. Under the scheme members of the public can accommodate Ukrainian refugees in their property (or properties), and receive an optional 'thank you' payment of £350 a month.

The nature of the scheme means it has the potential to increase the level of council tax liability of those who accommodate Ukrainian refugees. It was not until the scheme was launched that the Scottish Government was able to fully assess the nature of those impacts and decide how best to address them.

Given the urgent nature of the need to change the law on this occasion, and the short time frame from when the Homes for Ukraine scheme was launched and the beginning of the 2022-23 council tax year, it has not been possible to meet the 28 day requirement on this occasion.

I am copying this letter to Ariane Burgess, Convener of the Local Government, Housing and Planning Committee and Stuart McMillan, Convener of the Delegated Powers and Law Reform Committee.

Ben Haynes