

Social Justice and Social Security Committee

12th Meeting, 2023 (Session 6), Thursday, 11 May 2023

Subordinate Legislation Cover Note

Title of Instrument: Council Tax Reduction (Scotland) Amendment Regulations 2023

SSI Number: SSI 2023/113

Laid Date: 30 March 2023

Reporting deadline: 22 May 2023

Coming into force: 15 May 2023

Type of instrument: Negative

Purpose of the regulations

1. As outlined in the [Policy Note](#) and [Explanatory Note](#), the instrument amends the Council Tax Reduction (Scotland) Regulations 2021 ('the Working Age Regulations') and the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012 ('the Pension Age Regulations').
2. The Bereavement Benefits (Remedial) Order 2023, which came into force on 9 February 2023, "allows for cohabiting parents with dependent children who need support following the death of their partner to qualify for DWP bereavement benefits, in the form of Bereavement Support Payment and Widowed Parent's Allowance" rather than only bereaved parents who were married or in a civil partnership qualifying.
3. The Bereavement Benefits (Remedial) Order 2023 also allows retrospective claims in some circumstances and these will be paid as a lump sum.
4. This instrument will prevent such a payment from affecting entitlement or eligibility to a Council Tax Reduction which would normally be dependent on a person's capital.

Parliamentary procedure

5. 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 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. If that is also agreed to, Scottish Ministers must revoke the instrument.
6. 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.
7. Members should not think that it is not always possible to continue an instrument to the following week. For this reason, if any Member has significant concerns about a negative instrument, they are encouraged to make this known to the clerks in advance of the meeting.

Delegated Powers and Law Reform Committee consideration

8. The Delegated Powers and Law Reform (DPLR) Committee considered the instrument at its [meeting on 25 April 2023](#) and made no recommendations in relation to this instrument. The Official Report for the meeting is available [here](#).

For decision

9. **The Committee is invited to consider any issues it wishes to raise regarding this instrument.**

ANNEXE A

POLICY NOTE

THE COUNCIL TAX REDUCTION (SCOTLAND) AMENDMENT REGULATIONS 2023

SSI 2023/113

1. The above instrument is made in exercise of the powers conferred by sections 80 and 113(1) and (2), 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 amend:

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

To fully disregard the retrospective payments of widowed parent's allowance and bereavement support payment made to the survivors of cohabiting partnerships when calculating an applicant's capital for the purposes of entitlement to a council tax reduction.

Policy Objectives

2. This instrument amends the Council Tax Reduction (Scotland) Regulations 2021 ("the Working Age Regulations"), and the Council Tax Reduction (State Pension Credit (Scotland) Regulations 2012 ("the Pension Age Regulations").
3. The Bereavement Benefits (Remedial) Order 2023 came into force 9 February 2023. This allows for cohabiting parents with dependent children who need support following the death of their partner to qualify for DWP bereavement benefits, in the form of Bereavement Support Payment and Widowed Parent's Allowance. Previously these were only available to eligible bereaved parents who were married or in a civil partnership.
4. As the Order allows for retrospective payments (paid in relation to deaths before the Order comes into force) the DWP has opened a special 12-month application window for bereaved parents with dependent children whose partner died before 9 February 2023. The bereavement benefit and amount they are entitled to will depend on when their partner died. To qualify, claimants must have met the

eligibility criteria for either Bereavement Support Payment or Widowed Parent's Allowance on or after 30 August 2018.

5. Those who qualify for retrospective entitlement will receive a lump sum payment. This instrument has the effect of preventing such payments from affecting entitlement or eligibility to a Council Tax Reduction which is otherwise dependent on the amount of capital a person has. For the same reasons, DWP has made similar amendments to their means-tested benefits (including Housing Benefit).
6. Specifically, schedule 4 (capital to be disregarded) of the Working Age Regulations is amended to ensure that any retrospective payments are not regarded as capital in the calculation of entitlement to CTR and will be disregarded for a period of 52 weeks. This period will run from the date the payment is received or, where it is received before these Regulations come into force, from the date of the coming into force of the Regulations.
7. Schedule 4 (capital disregards) of the Pension Age Regulations is similarly amended to ensure that any retrospective payments are not regarded as capital in the calculation of entitlement to CTR and will be disregarded for a period of 52 weeks. This period will run from the date the payment is received or, where it is received before these Regulations come into force, from the date of the coming into force of the Regulations.

Consultation

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

Impact Assessments and Financial Effects

9. This instrument amends existing Working Age Regulations and Pension Age Regulations. There are no specific impact assessments. The amendments will not have a material impact on the cost of the scheme.

Local Government and Housing
Scottish Government
28 March 2023

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012 (“the 2012 Regulations”) and the Council Tax Reduction (Scotland) Regulations 2021 (“the 2021 Regulations”) in consequence of the Bereavement Benefits (Remedial) Order 2023 (S.I. 2023/134) (“the Remedial Order”) which came into force on 9 February 2023. By virtue of the Remedial Order, entitlement to bereavement benefits is extended to survivors of cohabiting partnerships who have dependent children. Previously these payments were only available to eligible bereaved parents who were married or in a civil partnership.

Regulation 2 amends the 2012 Regulations so that certain lump sum payments of Bereavement Support Payment and Widowed Parent’s Allowance made to the survivors of cohabiting partnerships are disregarded when calculating an applicant’s capital for the purposes of entitlement to a council tax reduction. Any lump sum payment of Bereavement Support Payment at the higher rate as set out in regulation 3(1) of the Bereavement Support Regulations 2017, or lump sum payment of Widowed Parent’s Allowance, made to the surviving partner of a cohabiting relationship as a result of a death occurring before the coming into force of the Remedial Order, will be disregarded for a period of 52 weeks. This period will run from the date the payment is received or, where it is received before these Regulations come into force, from the date of the coming into force of these Regulations, namely 15 May 2023.

Regulation 3 makes similar amendments to the 2021 Regulations.