

# Delegated Powers and Law Reform Committee

28th Meeting, 2023 (Session 6), Tuesday, 24  
October 2023

## Instrument Responses

### **Council Tax Reduction (Scotland) Amendment (No. 3) Regulations 2023 (SSI 2023/268)**

On 22 September 2023, the Committee asked the Scottish Government:

Regulation 3(5)(a) inserts a new paragraph 46 into Part 5 of Schedule 4 of the Council Tax Reduction (Scotland) Regulations 2021 to provide that the whole capital of a person who is liable to pay council tax is disregarded when determining their entitlement to second adult rebate. Part 5 of Schedule 4 is headed “Payments”. However, it appears as though this amendment does not concern a payment. Please explain whether you consider it appropriate to insert the new paragraph 46 under the heading of “Payments”.

Please confirm whether any corrective action is proposed, and if so, what action and when.

On 10 October 2023, the Scottish Government responded:

Schedule 4 of the Council Tax Reduction (Scotland) Regulations 2021 (“the 2021 Regulations”), into which paragraph 46 is to be inserted, is entitled “Capital to be disregarded”. The schedule is effectively a list for the purposes of regulation 69. However, we also recognise that it includes descriptive part headings and that the new paragraph 46 does not concern a “payment” but rather the whole of a person’s capital (where certain conditions are met). For this reason, the Scottish Government accepts that the current position may not be helpful to the reader.

We do not consider that the lack of a bespoke heading has any impact on the legal effect of regulation 3(5)(a) as it currently stands, nor on the legal effect of the 2021 Regulations as amended by regulation 3(5)(a). No immediate corrective action is therefore proposed.

We do, however, recognise that it would be helpful to the reader to insert a new Part number and heading into schedule 4 of the 2021 Regulations. For this reason, we will take this action at the next available opportunity when other substantive amendments to the 2021 Regulations are being made. We anticipate that amending Regulations will be laid in February 2024, and come into force on 1 April 2024.