

Social Justice and Social Security Committee

5th Meeting, 2024 (Session 6), Thursday 22 February 2024

Subordinate Legislation Cover Note

Title of Instrument:	The Council Tax Reduction (Scotland) Amendment Regulations 2024
Laid Date:	5 February 2024
Reporting deadline:	18 March 2024
Type of instrument:	Negative

Purpose of the regulations

1. According to the [Policy Note](#) and [Explanatory Note](#) (available in the Annexe), 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.
2. 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.
3. It further explains it has been uprated by 6.7%, which is the rate of the Consumer Prices Index September 2023.
4. The Policy Note also states amendments will mean any person who receives a payment from the Victims of Overseas Terrorism Compensation Scheme will be “disregarded as capital and income” when entitlement to council tax reduction is calculated.

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 note 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 DPLR Committee will consider the instrument at its meeting on [20 February 2024](#). When published, the Official Report of the meeting will be available [here](#).

Decision

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

Clerks to the Committee
19 February 2024

POLICY NOTE

THE COUNCIL TAX REDUCTION (SCOTLAND) AMENDMENT REGULATIONS 2024

SSI 2024/35

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 ensure that any beneficiary of a payment from the Victims of Overseas Terrorism Compensation Scheme will be disregarded as capital and income for the purposes of calculating entitlement to council tax

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 maintain 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 updates the allowances and premiums which are used in the CTR scheme when determining what level of Council Tax reduction a household should receive. The relevant figures have been updated by 6.7%, the rate of Consumer Prices Index September 2022.

The CTR scheme also has income thresholds that are used to determine 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 with low income where they have lost the Council Tax single person discount. These amounts have historically been updated by the average earnings growth in the July of the preceding year. This instrument therefore increases the non-dependent deduction and alternative maximum CTR amounts by 7.8% (average earnings growth July 2023) in both the Working Age Regulations and Pension Age Regulations.

When the Council Tax Reduction (Scotland) Regulations 2021 were introduced 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 2024 the maximum childcare element in Universal Credit will increase to £1014.63 for one child and £1739.37 for two or more children. To maintain the policy intent the maximum allowable childcare costs in CTR will increase to £275 for one child and £471 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 personal allowance 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 personal allowance in CTR compared to that in Housing Benefit.

Victims of Overseas Terrorism Compensation Scheme

The Victims of Overseas Terrorism Compensation Scheme is a UK Government funded scheme designed to compensate individuals who sustain a relevant injury directly attributable to being a victim of a designated act of terrorism overseas. Individuals can claim compensation if, they themselves are injured, they are a relevant family member of an individual killed, or both.

Under existing entitlement rules, payments for personal injury are already covered by an indefinite disregard. Payments to family members of those killed, however are regarded as capital and would be considered when calculating entitlement to CTR, meaning a recipient may see a reduction in their level of CTR or indeed lose

entitlement.

The legislation will add the Victims of Overseas Terrorism Compensation scheme to the list of compensation schemes for which payments made under the scheme should be disregarded as capital indefinitely when calculating entitlement to CTR.

Additionally, any payments made under the Victims of Overseas Terrorism Compensation Scheme to a non-dependant are to be disregarded when assessing the non-dependant's income. The Hamas terrorist attack on 7 October 2023 has highlighted the need to disregard Victims of Overseas Terrorism Compensation payments, it is the intention that the disregard will apply to all beneficiaries of the Victims of Overseas Terrorism Compensation scheme, regardless of where the act of terrorism took place.

Consequential amendment

The Council Tax Reduction (Scotland) Amendment (No. 3) Regulations 2023 inserted 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".

Following the Delegated Powers and Law Reform Committee asking why the new paragraph 46 was inserted under the heading of "Payments", the Scottish Government accepted that the heading of the schedule into which the new paragraph 46 has been inserted was not wholly appropriate. Although schedule 4 of the Council Tax Reduction (Scotland) Regulations 2021 ("the 2021 Regulations") is entitled "Capital to be disregarded", it was accepted that the schedule also contains part headings, and technically, the new paragraph 46 did not concern a "payment" but rather the whole of a person's capital (where certain conditions are met).

The Scottish Government agreed to address this at the next opportunity. This instrument inserts a new header above paragraph 46 into Part 5 of Schedule 4 of the Council Tax Reduction (Scotland) Regulations 2021. s paragraph 46 relates to the disregard of the whole of the capital of a person liable to pay council tax in working out their entitlement to a Second Adult Rebate, rather than disregard of a payment, a new header has been inserted – Part 6, Second Adult Rebate.

EU Alignment Consideration

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

Consultation

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

Impact Assessments and Financial Effects

The instrument is an annual update amending existing principal Regulations.

There are therefore no specific impact assessments.

As noted above, the overall purpose of these Regulations is to ensure the policy intentions of the Working Age Regulations and the Pension Age Regulations are maintained. In previous years, the inflationary uprating changes have added a marginal increase on the overall cost of the CTR scheme. The amount of council tax reduction which an applicant will receive is based on their income less their deemed living expenses. The principal Regulations are amended to take account of increases in social security benefit rates for 2024/25. This ensures that the increased income from social security benefits treated as income in the CTR scheme does not serve to increase liability to council tax for those in receipt of social security benefits.

The inflationary uprating changes will increase the overall cost of the CTR scheme. These costs are increases in the level of Council Tax income foregone due to the CTR scheme, rather than a financial outlay for Councils. Other factors beyond the scope of these Regulations, such as the wider performance of the Scottish economy, including the labour market and the Council Tax rates set by individual Councils, will be relevant.

Local Government and Communities
Scottish Government
February 2024

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”).

Part 2 of the Regulations provides for a new disregard within the 2012 Regulations and includes provision for uprating of figures in those Regulations.

Regulation 4 provides for the disregard in calculating the income of a non-dependent adult who lives with a council tax reduction applicant, for the purposes of calculating how entitlement to council tax reduction is affected by the presence of the non-dependent adult. Regulation 5 provides for the disregard of any payment made under the Victims of Overseas Terrorism Compensation Scheme in calculating an applicant’s capital for the purpose of entitlement to council tax reduction. Regulation 3 inserts the appropriate definition into the interpretation provision in regulation 2 of the 2012 Regulations in light of these changes.

Regulations 6 to 9 uprate figures used to calculate entitlement to council tax reduction in the 2012 Regulations.

Part 3 of the Regulations provides for a new disregard within the 2021 Regulations and includes provision for uprating of figures in those Regulations. It also makes a further minor amendment to the 2021 Regulations to add a heading.

Regulation 12 amends regulation 75 to provide for the disregard of any payment made under the Victims of Overseas Terrorism Compensation Scheme when calculating an applicant’s capital for the purposes of entitlement to council tax reduction under the 2021 Regulations. Regulation 11 inserts the appropriate definition of the Victims of Overseas Terrorism Compensation Scheme into the interpretation provision in regulation 4 of the 2021 Regulations in light of the changes made by regulation 12.

Regulation 13 inserts a new Part heading before paragraph 46 in schedule 4 of the Regulations. Prior to this amendment, paragraph 46 formed part of Part 5 of schedule 4, which bears the heading “Payments”, but paragraph 46 does not concern a payment. This amendment is to clarify that the disregard in paragraph 46 is not a payment but concerns the capital of applicants for the second adult rebate.

Regulations 14 to 18 uprate figures used to calculate entitlement to council tax reduction in the 2021 Regulations.