

Social Justice and Social Security Committee

6th Meeting, 2023 (Session 6), Thursday, 9 March 2023

Subordinate Legislation Cover Note

Title of Instrument: [The Council Tax Reduction and Council Tax Discount \(Miscellaneous Amendment\) \(Scotland\) Regulations 2023](#)

Laid Date: 13 February 2023

Reporting deadline: 27 March 2023

Coming into force: 01 April 2023

Type of instrument: Negative

Parliamentary procedure

1. Under Rule 10.4 of Standing Orders, the Parliament has 40 days to consider a motion to annul a negative instrument from the date the instrument was laid. No motion to annul has been laid, so the Committee is asked to agree on whether it has concluded its consideration of this instrument. Further information on the negative procedure can be found on the Parliament's [website](#). The Committee is asked to consider and agree on whether it has concluded its consideration of this instrument.

Background

2. According to the [Policy Note](#) and [Explanatory Note](#) (both available in Annexe A), the instrument is an annual update and it amends three existing principal Council Tax Regulations.
3. The Scottish Government says that the amendments will uprate allowances, premiums and deductions in the Council Tax Reduction schemes used to calculate a person's entitlement to a reduction.

4. The Scottish Government adds that some amendments are in relation to Council Tax single person discount for people providing accommodation to certain persons coming to the UK from Ukraine, and under certain other resettlement schemes.

Delegated Powers and Law Reform Committee consideration

5. The Delegated Powers and Law Reform (DPLR) Committee considered the instrument at its meeting on [28 February 2023](#) and made no recommendations in relation to this instrument. The Official Report for the meeting is available [here](#).

For decision

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

Annexe A

POLICY NOTE

THE COUNCIL TAX REDUCTION AND COUNCIL TAX (DISCOUNTS) (MISCELLANEOUS AMENDMENT) (SCOTLAND) REGULATIONS 2023 SSI 2023/38

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 (Discounts) Regulations 1992,
- 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 in the Council Tax Reduction schemes used to calculate a person's entitlement to a reduction and make minor amendments to ensure that the policy intention is fully carried out; they will also make provision in relation to entitlement to the Council Tax Reduction schemes and council tax single person discount for people providing accommodation to certain persons coming to the UK from Ukraine, and under certain other resettlement schemes.

Policy Objectives

2. 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") and the Council Tax (Discounts) Regulations 1992 ("the Discount Regulations").

Council Tax Reduction and Uprating

3. 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 taking account of individual circumstances, namely capital and income. When CTR was introduced, 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).

4. This instrument uprates the allowances and premiums which are used in the CTR scheme when determining what level of reduction that a household should receive. The relevant figures have been uprated by 10.1%, the rate of Consumer Prices Index September 2022.

5. The CTR scheme also has income thresholds that are used to determine the rate of nondependent 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 (a relief that is 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 5.2% (average earnings growth July 2022) in both the Working Age Regulations and Pension Age Regulations.

6. This instrument also makes adjustments to ensure that the three sets of Regulations properly reflect policy intent in certain areas. It provides that the entitlement of full-time students to council tax reduction on account of receiving a grant, allowance or similar listed in regulation 20(3)(j) is limited to the scenario where a student is in receipt of such a payment as a result of a disability caused by deafness. This reflects the original policy intent of CTR entitlement being tied to circumstances where such a payment is made because a student has additional needs.

7. The changes in this instrument also rectify some minor errors and omissions in the working age scheme, again to ensure that the policy intention is fully carried out.

Homes for Ukraine and Displaced persons under other specified schemes

8. The instrument also amends the category of people coming from Ukraine who are excluded from being classed as non-dependents in the Council Tax Reduction schemes. This will only apply to people who are in the United Kingdom under the Homes for Ukraine Sponsorship Scheme, where they are being provided with accommodation by an approved sponsor under that scheme. It also provides that the same treatment applies to displaced persons coming to the UK under other specified schemes (the UK Resettlement Scheme, the Community Sponsorship Scheme, the Afghan Relocations and Assistance Policy, the Afghan Citizens Resettlement Scheme, the Vulnerable Persons Resettlement Scheme, the Vulnerable Children's Resettlement Scheme), and hosted in accommodation for which they make no payment.

9. This reflects the fact that the aim of these council tax measures is to support those most in need of help, and the people providing that help. The original regulations were put in place, in March 2022, to reflect the acute nature of the situation in Ukraine and the need to make urgent provision to enable people to flee that situation. The inclusion of persons coming to the UK under other specified schemes reflects a policy aim to secure parity for "hosted" persons who have been displaced from other countries.

10. The prevention of increases in council tax liability for those hosting, or being hosted, was designed to encourage property owners to offer accommodation. Where people who have come from Ukraine, or displaced from another country, reach the stage of being able to make their own arrangements for accommodation, they will become liable to pay council tax in the same way as any other person.

11. In a similar vein, this instrument amends the Council Tax (Discounts) (Scotland) Regulations 1992 such that a person coming from Ukraine as a result of the conflict is to be disregarded for the purposes of entitlement to the council tax single person discount, only where the person providing the accommodation is an Approved sponsor under the scheme. The same concessions in relation to retention of single person discount/nontreatment of the person sharing their home as a non-dependent will apply to those who provide accommodation, without charge, to persons who have entered the UK under one of the other resettlement or relocation schemes referred to at regulations 5, 23 and 29. The limitation to those who have entered under such schemes reflects the fact that they are tied to enabling people to come and set up in the UK.

12. This instrument will also enable certain persons coming from Ukraine to be classed as being in Great Britain, for the purposes of entitlement to a council tax reduction. The persons covered are those who were residing in Ukraine immediately before 1 January 2022, left in connection with the Russian invasion which took place on 24 February 2022, and have either been granted leave in accordance with the Immigration Rules, or have a right of abode in the UK, or do not require a right of abode because they are Irish citizens. This will ensure that people coming from Ukraine, as a result of the current conflict, who become liable to council tax because of the changes, will be in a position to meet the residence criteria, potentially enabling them to satisfy the conditions for a reduction in council tax liability. This aligns the arrangements for persons coming from Ukraine with those for persons from other countries affected by conflict.

Consultation

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

Impact Assessments and Financial Effects

14. The instrument is an annual update amending existing principal Regulations. Given the changes in relation to people coming to the UK under resettlement and relocation schemes, consideration will be given in due course to whether a re-visiting of the EQIA prepared in connection with the initial introduction of council tax reduction is needed.

15. As noted above, the overall purpose of these Regulations is to ensure the overall policy intentions of the Working Age Regulations and the Pension Age Regulations, along with the Discount Regulations, are maintained. The inflationary uprating changes will increase the overall cost of the CTR scheme, whilst the other elements of these regulations will not of themselves have an impact on the costs associated with the Working Age and Pension Age Regulations. These costs are increases in the level of Council Tax income foregone due to the CTR scheme, rather than a financial outlay for Councils.

Local Government and Communities
Scottish Government
9 February 2023

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend 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”) and the Council Tax (Discounts) (Scotland) Regulations 1992. (“the Discount Regulations”).

Part 2 of the Regulations makes corrections and clarifications to the Working Age Regulations and includes provision for uprating of figures in those Regulations.

Regulation 3 amends regulation 3(1)(b) to replace the reference to being “on Universal Credit”, with reference to having an award of Universal Credit, or having made a claim which is yet to be determined. This ensures that the application of the Working Age Regulations is not excluded while a claim for Universal Credit is being determined.

Regulations 4 and 14(a) make amendments to clarify whether references in various places in the Working Age Regulations to employment and support allowance are to contributory or income-based employment and support allowance, or both.

Regulation 5 amends regulation 8 of the Working Age Regulations so that the exclusion of people coming from Ukraine from treatment as a non-dependant only applies to people coming to the UK under the Homes for Ukraine Sponsorship Scheme, and where they are being provided with accommodation by an Approved sponsor under that Scheme. It also provides that the same treatment applies to displaced persons coming to the UK under other specified schemes, and hosted in accommodation for which they make no payment in return for provision of the accommodation.

Regulation 6 amends regulation 16 to enable certain persons coming from Ukraine to be classed as being in Great Britain, for the purposes of entitlement to council tax reduction. The persons covered are those who were residing in Ukraine immediately before 1 January 2022, left in connection with the Russian invasion which took place on 24 February 2022, and have been granted leave under the immigration rules, or have a right of abode in the UK, or do not require a right of abode because they are Irish citizens. The effect of the change at regulation 6(a) is that the general exemption from the requirement to be in Great Britain will apply to anyone who has been granted leave, or has been deemed to have been granted leave, outside the immigration rules, not just those who have such leave under certain specified circumstances. Regulation 6(c) makes a change consequential on regulation 6(a).

Regulation 7 amends regulation 20(3)(j) so that the entitlement to council tax reduction of full time students receiving one of the payments listed in regulation 20(3)(j) is limited to those who receive the payments as a result of having a disability caused by deafness.

Regulation 8 replaces the word “claim” with “award” in regulation 34A. This reflects that where a decision is made that a person is entitled to Universal Credit, such that there may be a change of circumstances falling within regulation 34A, there is no longer a claim in existence, it is an award.

Regulation 9 omits a portion of wording in regulation 41 to reflect that nothing is counted as income unless it falls within the description of earned or unearned income in the Working Age Regulations; those Regulations do not, therefore, provide for any express disregard of income.

Regulations 10, 13 and 14(b) correct minor typographical errors.

Regulation 11 adds to the descriptions of assessment periods for calculation of income in regulation 44(2) the calculation of average weekly income from working tax credits as provided for in regulation 41A.

Regulation 12 inserts a definition of “trade dispute” in regulation 47.

Regulation 15 adds to list of situations where the other member of a couple is incapacitated for the purposes of regulation 77(2)(c) of the Working Age Regulations. It adds the scenario where a person has an award of adult disability payment but the payment has been reduced to zero on account of the person having been an in-patient in a hospital or similar institution for more than 28 days.

Regulation 16(a) and (b) amends paragraph 14(1)(d) of schedule 1 to reflect that, given paragraph 3 of that schedule, entitlement to enhanced disability premium under paragraph 14(1)(d) will only arise in practice where it is the applicant or the applicant’s partner in respect of whom the appropriate component and rate of adult disability payment is payable. This this will not include a young person for whom the applicant is responsible.

Regulation 16(c) expands paragraph 14(1) of schedule 1 to provide for entitlement to enhanced disability premium where attendance allowance is payable in respect of the applicant or the applicant’s partner.

Regulation 17 replaces references to 26 weeks in paragraphs 16 to 18 of schedule 4 with references to six months. Taken together with regulation 69(2), which provides for an extension of any period of six months specified in schedule 4, this allows the period of disregard of the amounts of capital specified in paragraphs 16 to 18 to be extended where appropriate.

Regulations 18 to 21 uprate figures used to calculate entitlement to council tax reduction in the Working Age Regulations.

Part 3 uprates figures used to calculate entitlement to council tax reduction in the Pension Age Regulations. It also amends regulation 3 so that the exclusion of people

coming from Ukraine from treatment as a non-dependant only applies to people coming to the UK under the Homes for Ukraine Sponsorship Scheme, and where they are being provided with accommodation by an Approved sponsor under that Scheme. It broadens the circumstances in which a person coming from Ukraine is to be treated as being in Great Britain. The expansion will cover 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, under section 3ZA of the Immigration Act 1971, does not require a right of abode in the United Kingdom. This captures Irish citizens. It also provides that a similar exclusion from treatment as a non-dependant applies to displaced persons coming to the UK under other specified schemes, and hosted in accommodation for which they make no payment in return for provision of the accommodation.

Part 4 amends the Discount Regulations so that a person coming to the UK from Ukraine is be disregarded, for the purposes of entitlement of the person providing then with accommodation to the council tax single person discount, only where the person has come to the UK under the Homes for Ukraine Sponsorship Scheme, and the person providing the accommodation is an Approved sponsor under that Scheme. It also provides that the same treatment applies to displaced persons coming to the UK under other specified schemes, and hosted in accommodation for which they make no payment in return for provision of the accommodation.