

# Social Justice and Social Security Committee

## SSI cover note

9<sup>th</sup> Meeting, (Session 6), 4 November 2021

**Title of Instrument:** [Council Tax Reduction \(Scotland\) Amendment \(No. 4\) Regulations 2021](#)

**Laid Date:** 23 September 2021

**Reporting deadline:** 15 November 2021

**Type of instrument:** Negative

### Parliamentary procedure:

Negative instruments are instruments that are “subject to annulment” by resolution of the Parliament for a period of 40 days after they are laid. This means they become law unless they are annulled by the Parliament. 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 by the lead committee, the Parliamentary Bureau must then lodge a motion to annul the instrument to be considered by the Parliament as a whole. If that motion is also agreed to, the Scottish Ministers must revoke the instrument.

If the Parliament resolves to annul an SSI then what has been done under authority of the instrument remains valid but it can have no further legal effect. Following a resolution to annul an SSI the Scottish Ministers (or other responsible authority) must revoke the SSI (make another SSI which removes the original SSI from the statute book.) Ministers are not prevented from making another instrument in the same terms and seeking to persuade the Parliament that the second instrument should not be annulled.

The Committee is asked to consider and agree on whether it has concluded its consideration of this instrument.

## Background and Purpose

1. According to the Policy Note (annexe A), the purpose of these Regulations is to amend the Council Tax Reduction Regulations to ensure that those covered by one of the Home Office resettlement schemes for those from Afghanistan, or evacuated from / fleeing Afghanistan in connection with the collapse of the Afghan

government, do not need to meet the usual residency requirements in the Council Tax Reduction scheme.

## **Delegated Powers and Law Reform Committee consideration**

2. The Delegated Powers and Law Reform (DPLR) Committee considered the instrument at its meeting on [28 October 2021](#), and agreed to bring the breach of the 28 day rule to the attention of the Parliament. The DPLR Committee noted that the instrument was laid on Thursday 23 September 2021 and came into force the following day. Section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 requires that instruments subject to the negative procedure are laid at least 28 days before they come into force (not counting recess periods of more than 4 days). This is known as the '28 day rule'.
3. The Scottish Government wrote to the Presiding Officer (copying the Committee) to acknowledge this breach. As also outlined in the Policy Note, it suggests that "this is necessary because of the sudden and unexpected nature of the situation in Afghanistan and the need to provide support to those arriving from Afghanistan. Delay in the legislation coming into force would cause potential delays in access to the Council Tax Reduction scheme".
4. The DPLR Committee highlighted that as the Regulations are intended to provide access to the Council Tax Reduction scheme on an emergency basis for those arriving from Afghanistan, the Committee is satisfied with the reasons given for the breach of the 28 day rule.

## **For decision**

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

## POLICY NOTE

### THE COUNCIL TAX REDUCTION (SCOTLAND) AMENDMENT (No. 4) REGULATIONS 2021 SSI 2021/337

1. The above instrument is made in exercise of the powers conferred by sections 80 and 113(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 Regulations to ensure that those covered by one of the Home Office resettlement schemes for those from Afghanistan, or evacuated from / fleeing Afghanistan in connection with the collapse of the Afghan government, do not need to meet the usual residency requirements in the Council Tax Reduction scheme.**

#### Policy Objectives

2. This instrument amends the Council Tax Reduction (Scotland) Regulations 2012 (“the Working Age Regulations”) and the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012 (“the Pension Age Regulations”). The Council Tax Reduction (CTR) scheme ensures that nobody has to suffer hardship because they have lost the ability to pay their council tax. The scheme assesses a household’s income and other factors, and can reduce council tax liability by up to 100% (meaning a household pays no council tax).

3. On 18 August 2021 the UK Government announced they were launching a citizens’ resettlement scheme to provide safe passage and protect the vulnerable citizens being evacuated from/fleeing Afghanistan.

4. Regulation 16 of both the Working Age Regulations and the Pension Age Regulations are being amended by extending the classes of persons who do not need to meet habitual residence criteria in the UK in order to qualify for Council Tax Reduction. For the Habitual Residence Test the additional category exempts persons who have come to the UK from Afghanistan under one of the listed Home Office resettlement schemes and those who are not covered by one of the listed schemes but who have left Afghanistan in connection with the collapse of the Afghan government on 15 August 2021.

5. This legislation will take effect from 24 September 2021.

#### Consultation

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

### **Impact Assessments and Financial Effects**

7. This instrument amends existing Working Age Regulations and Pension Age Regulations. There are no specific impact assessments. The amendments will have a minimal impact on the cost of the scheme.

### **Matters of special interest to Parliament**

8. This instrument is being made under emergency procedures and breaches the 28 day rule. This is necessary because of the sudden and unexpected nature of the situation in Afghanistan and the need to provide support to those arriving from Afghanistan. Delay in the legislation coming into force would cause potential delays in access to the Council Tax Reduction scheme.

Local Government and Communities  
Scottish Government  
23 September 2021