SCOTTISH STATUTORY INSTRUMENTS

2018 No. 295

COUNCIL TAX

The Council Tax Reduction (Scotland) Amendment (No. 3) Regulations 2018

Made - - - -	*27th September 2018*
Laid before the Scottish Parliament	*1st October 2018*
Coming into force - -	*28th November 2018*

The Scottish Ministers make the following Regulations 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(**a**) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Council Tax Reduction (Scotland) Amendment (No. 3) Regulations 2018 and come into force on 28 November 2018.

Amendment of the Council Tax Reduction (Scotland) Regulations 2012

2. The Council Tax Reduction (Scotland) Regulations 2012(**b**) are amended in accordance with regulations 3 and 4.

3. In schedule 4 (sums to be disregarded in the calculation of income other than earnings) after paragraph 65(**c**) insert—

"**66.** Any early years assistance given under section 24, section 32 and schedule 6 of the Social Security (Scotland) Act 2018(**d**).

67. Any funeral expense assistance given under section 24, section 34 and schedule 8 of the Social Security (Scotland) Act 2018.".

4. In paragraph 11 of schedule 5 (capital to be disregarded)—

(a) for sub-paragraph (2)(a) substitute—

"(a) paid in order to rectify, or compensate for—

(i) an official error as defined in regulation 1(3) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999(**e**);

(**a**) 1992 c.14; section 80 was amended by paragraph 176 of schedule 13 of the Local Government etc. (Scotland) Act 1994 (c.39). There are other amendments to section 80 and section 113(1) that are not relevant to these Regulations. The functions of the Secretary of State, in so far as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).
(**b**) S.S.I. 2012/303; relevant amending instruments are S.S.I. 2017/326 and S.S.I. 2018/211.
(**c**) Paragraph 65 is prospectively inserted by S.S.I. 2018/211.
(**d**) 2018 asp 9.
(**e**) S.I. 1999/991; relevant amending instruments are S.I. 2002/1379, S.I. 2008/2683 and S.I. 2012/2007.

(ii) an error on a point of law made by an officer, person or body described in regulation 1(3) of those Regulations;

(iii) any error made by a member of staff of the Scottish Administration involved in the administration of social security benefits to which no person outside the Scottish Government or the Department for Work and Pensions materially contributed; and";

(b) in sub-paragraph (3) omit the definition of "official error".

Amendment of the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012

5. The Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012(**a**) are amended in accordance with regulations 6 and 7.

6. In regulation 27(1)(j) (meaning of "income")—

(a) omit "and" where it occurs after head (xx)(**b**); and

(b) after head (xxi) insert—

"(xxii) any early years assistance given under section 24, section 32 and schedule 6 of the Social Security (Scotland) Act 2018(**c**); and

(xxiii) any funeral expense assistance given under section 24, section 34 and schedule 8 of that Act;".

7. In schedule 4 (capital disregards)—

(a) in paragraph 21(1)(d), for ", an official error," substitute—

"—

(i) an official error,

(ii) an error on a point of law made by an officer of the Department of Work and Pensions, or

(iii) any error made by a member of staff of the Scottish Administration involved in the administration of social security benefits to which no person outside the Scottish Government or the Department for Work and Pensions materially contributed,";

(b) in paragraph 22(1) for "an official error" substitute "an error described in sub-paragraph (1A)"; and

(c) after paragraph 22(1) insert—

"(1A) Sub-paragraph (1) applies to—

(a) an official error,

(b) an error on a point of law made by an officer of the Department of Work and Pensions,

(**a**) S.S.I. 2012/319; relevant amending instruments are S.S.I. 2013/143, S.S.I. 2013/218, S.S.I. 2016/81, S.S.I. 2017/326, S.S.I. 2018/211 (prospectively) and S.I. 2014/3255.
(**b**) Head (xxi) is prospectively added by S.S.I. 2018/211.
(**c**) 2018 asp 9.

(c) any error made by a member of staff of the Scottish Administration involved in the administration of social security benefits to which no person outside the Scottish Government or the Department for Work and Pensions materially contributed.".

KATE FORBES
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
27th September 2018

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Council Tax Reduction (Scotland) Regulations 2012 and the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012 (together, "the 2012 Regulations").

Regulations 3 and 6 ensure that early years assistance and funeral expense assistance provided under the Social Security (Scotland) Act 2018 are not to be taken into account in the calculation of income for council tax reduction purposes.

Regulations 4 and 7 ensure that payments of arrears of benefits made to rectify an error on a point of law are not to be taken into account in the calculation of capital for council tax reduction purposes. Such errors are not an "official error" as provided for in the 2012 Regulations. Regulations 4 and 7 also amend the 2012 Regulations to disregard in that calculation such payments where they are made as a result of an error by the Scottish Ministers, in administering social security assistance, except where someone other than the Scottish Ministers or the Department for Work and Pensions has materially contributed to the error.

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£4.90

S201809281007 10/2018 19585

http://www.legislation.gov.uk/id/ssi/2018/295

ISBN 978-0-11-103990-8

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