POLICY NOTE

THE COUNCIL TAX REDUCTION (SCOTLAND) AMENDMENT (No. 3) REGULATIONS 2018

SSI 2018/295

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.

Policy Objectives

2. This instrument amends The Council Tax Reduction (Scotland) Regulations 2012 and The Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012, jointly referred to in this note as "the principal Regulations". The Council Tax Reduction (CTR) scheme operates by reducing council tax liability by taking into account household circumstances, income and capital. The effect is that persons who would otherwise require assistance to pay council tax receive, instead of a social security benefit, a reduced (or no) council tax demand.

3. Regulations 4 and 7 change the CTR scheme in light of a recent consequence resulting from the 2011 migration exercise undertaken by the Department of Work and Pensions (DWP) to transfer the benefit entitlement of recipients of Incapacity Benefit to Employment Support Allowance (ESA). In 2014 a judgment of the Upper Tribunal found the DWP to have made an error in law in calculating claimants' ESA entitlement during the migration process. In July 2018, DWP announced that it would make arrears payments backdated to 2011 to those claimants affected by the error. These payments are now being made.

4. Arrears payments of Personal Independence Payment (PIP) are also now being made as a result of a court judgment which determined that the DWP had unlawfully discriminated against some claimants with mental health disabilities.

5. The Social Security (Treatment of Arrears of Benefit) Regulations 2018[1] have been made by the UK Government and came into force on 11 September 2018. They disregard arrears paid due to an error in law made when calculating entitlement to various benefits. This instrument amends the principal Regulations so that entitlement to CTR is not adversely affected by payment of these arrears.

6. Regulations 4 and 7 also amend the meaning of "error" in the principal Regulations so that it includes errors made by the Scottish Ministers, in addition to existing references to UK Government officials and bodies. This is to reflect the introduction of devolved social security assistance. It ensures that where an official acting for the Scottish Ministers make an error it will not affect a person's entitlement to CTR unless someone else materially contributed to the error. If that other person is a DWP official, again that will not affect the person's entitlement.

[1] S.I. 2018/932.

7. Regulations 3 and 6 amend the principal Regulations to ensure that when early years assistance and funeral expense assistance are introduced, as provided for by the Social Security (Scotland) Act 2018, they will not be regarded as income in calculating entitlement to CTR. These types of assistance will replace and extend forms of assistance provided by DWP that are currently disregarded for CTR purposes.

Consultation

8. As this instrument does not alter the policy intention of the principal Regulations it is not considered necessary to undertake a consultation exercise.

Financial Effects

9. These amending regulations have no impact on Council Tax receipts or liabilities; rather household entitlement to relief under the CTR scheme is maintained by this instrument.

Impact Assessments

10. An Equalities Impact Assessment (EQIA) was undertaken in development of the principal Regulations. As these amending regulations do not alter their original policy intention a further EQIA has not been produced.

11. As there is no impact on business or the third sector, and no impact on the environment or on environmental issues, no Business and Regulatory Impact Assessment or Strategic Environmental Assessment is required.

Local Government and Communities
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