

POLICY NOTE

THE COUNCIL TAX REDUCTION (SCOTLAND) AMENDMENT (No.2) REGULATIONS 2013

SSI 2013/218

1. The above instrument is made in exercise of the powers conferred by sections 80 and 113 of, and paragraph 1 of Schedule 2 to, the Local Government Finance Act 1992. It is subject to the negative procedure.

Policy Objective

2. The UK Government's abolition of Council Tax Benefit (CTB) from April 2013 included a transfer of responsibility for the local taxation liabilities of vulnerable people to the Scottish Government. The Scottish Government provided for a Council Tax Reduction (CTR) scheme for such people.

3. The original intention was that appeals in relation to the CTR scheme would be made to local Valuation Appeals Committees (VACs), as determined by the Local Government Finance Act 1992 and consistent with other council tax appeals. It became clear in February 2013 that VACs were not willing to hear such appeals.

4. Scottish Ministers then commissioned Jim McCafferty, the immediate past president of the Institute of Revenues, Ratings and Valuation Scotland, in consultation with the Scottish Committee of the Administrative Justice & Tribunals Council, to:

“formulate a process to ensure the assessment of an individual's Council Tax Reduction may be independently reviewed, thereby ensuring individuals' rights to administrative justice are safeguarded.”

5. Mr McCafferty reported in early June. The Scottish Government has accepted all of his recommendations, including the establishment of a “new, distinct review process” with “the features and safeguards of an independent tribunal”.

6. These regulations give effect to the recommendations contained in the report requiring legislative change. In particular, they remove the right to make an appeal against a council tax reduction decision to a Valuation Appeals Committee, establish a new process for an applicant to request a further review of a local authority decision and set out criteria for individuals to be appointed to hear those reviews.

7. These regulations also address a small number of minor issues identified in relation to the Council Tax Reduction Scheme. Examples are the clarification by regulations 3 and 14 that residence for some purposes means “sole or main residence” and Regulation 4 that adds a provision concerning the entitlement rules for a small category of students. All of these amendments are consistent with the original policy intention of the Council Tax Reduction Scheme.

Consultation

8. In developing his recommended approach, Mr McCafferty engaged with a range of key stakeholders, including the Scottish Committee of the Administrative Justice and Tribunals Council, as listed in the annex to his report.

9. In preparing draft regulations to implement Mr McCafferty's recommendations, the Scottish Government sought the views of the practitioner community, COSLA and the Child Poverty Action Group, who have represented the Scottish Campaign for Welfare Reform in this matter. All were supportive of the process proposed by Mr McCafferty.

Financial Effects - Scottish Government and Local Government

10. The costs associated with the establishment and operation of the new review panel will fall wholly on the Scottish Government and can be met from existing budgets. Provisional estimates from the Scottish Tribunal Service suggest that the initial establishment or start-up costs will be £58,300 and the on-going running costs are provisionally estimated to be in the range of £93,581 - £141,760 per annum.

11. The amendments to the CTR Scheme will have no financial impact.

Financial Effects - Individuals and Households

12. There will be no impact on individuals and households as a result of these Regulations.

Impact Assessments

13. The policy will have a potential equalities impact and therefore an Equalities Impact Assessment (EQIA) has been undertaken. A summary of the results of the EQIA has been made available on the Scottish Government's website. Equalities impacts are being continually reviewed and evaluated during the implementation of the new arrangements for localised Council Tax support this year.

14. As the policy has no direct impact on business or the third sector, or on the environment or environmental issues, neither a Business and Regulatory Impact Assessment (BRIA) or a Strategic Environmental Assessment (SEA) is required.

15. Implementation of the CTR policy will involve the use and storage of personal data, such as date of birth and postcode of CTR recipients. This data will be supplied to the Scottish Government by Local Authorities. In order to ensure the risks involved in transferring, processing and storing this data are assessed, and kept to a minimum, a Privacy Impact Assessment has been carried out, including a Risk Identity checklist.