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STATUTORY INSTRUMENTS

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**2006 No. 215**

**The Council Tax Benefit Regulations 2006**

**PART 6**

Amount of benefit

**Maximum council tax benefit**

**57.**—(1) Subject to paragraphs (2) to (5), the amount of a person's maximum council tax benefit in respect of a day for which he is liable to pay council tax, shall be 100 per cent. of the amount A/B where—

- (a) A is the amount set by the appropriate authority as the council tax for the relevant financial year in respect of the dwelling in which he is a resident and for which he is liable, subject to any discount which may be appropriate to that dwelling under the 1992 Act; and
- (b) B is the number of days in that financial year,

less any deductions in respect of non-dependants which fall to be made under regulation 58 (non-dependant deductions).

(2) In calculating a person's maximum council tax benefit any reduction in the amount that person is liable to pay in respect of council tax, which is made in consequence of any enactment in, or made under, the 1992 Act, shall be taken into account.

(3) Subject to paragraph (4), where a claimant is jointly and severally liable for council tax in respect of a dwelling in which he is resident with one or more other persons but excepting any person so residing with the claimant who is a student to whom regulation 45(2) (students who are excluded from entitlement to council tax benefit) applies, in determining the maximum council tax benefit in his case in accordance with paragraph (1), the amount A shall be divided by the number of persons who are jointly and severally liable for that tax.

(4) Where a claimant is jointly and severally liable for council tax in respect of a dwelling with only his partner, paragraph (3) shall not apply in his case.

(5) In any case where an extended payment or an extended payment (severe disablement allowance and incapacity benefit) has been allowed to a claimant, his entitlement shall be adjusted in such circumstances and by such amount as are prescribed in Part 3 of Schedule 6 or paragraph 6 of Schedule 7, as the case may be.

**Non-dependant deductions**

**58.**—(1) Subject to the following provisions of this regulation, the non-dependant deductions in respect of a day referred to in regulation 57 (maximum council tax benefit) shall be—

- (a) in respect of a non-dependant aged 18 or over in remunerative work,  $£6.95 \times 1/7$ ;
- (b) in respect of a non-dependant aged 18 or over to whom sub-paragraph (a) does not apply,  $£2.30 \times 1/7$ .

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(2) In the case of a non-dependant aged 18 or over to whom paragraph (1)(a) applies, where it is shown to the appropriate authority that his normal gross weekly income is—

- (a) less than [<sup>F1</sup>£164.00], the deduction to be made under this regulation shall be that specified in paragraph (1)(b);
- (b) not less than [<sup>F2</sup>£164.00] but less than [<sup>F3</sup>£283.00], the deduction to be made under this regulation shall be £4.60;
- (c) not less than [<sup>F4</sup>£283.00] but less than [<sup>F5</sup>£353.00], the deduction to be made under this regulation shall be £5.80.

(3) Only one deduction shall be made under this regulation in respect of a couple or, as the case may be, members of a polygamous marriage and, where, but for this paragraph, the amount that would fall to be deducted in respect of one member of a couple or polygamous marriage is higher than the amount (if any) that would fall to be deducted in respect of the other, or any other, member, the higher amount shall be deducted.

(4) In applying the provisions of paragraph (2) in the case of a couple or, as the case may be, a polygamous marriage, regard shall be had, for the purpose of that paragraph, to the couple's or, as the case may be, all members of the polygamous marriage's joint weekly gross income.

(5) Where in respect of a day—

- (a) a person is a resident in a dwelling but is not himself liable for council tax in respect of that dwelling and that day;
- (b) other residents in that dwelling (the liable persons) have joint and several liability for council tax in respect of that dwelling and that day otherwise than by virtue of section 9 or 77 or 77A of the 1992 Act <sup>M1</sup> (liability of spouses and civil partners); and
- (c) the person to whom sub-paragraph (a) refers is a non-dependant of two or more of the liable persons,

the deduction in respect of that non-dependant shall be apportioned equally between those liable persons.

(6) No deduction shall be made in respect of any non-dependants occupying a claimant's dwelling if the claimant or his partner is—

- (a) blind or treated as blind by virtue of paragraph 13 of Schedule 1 (additional condition of the higher pensioner and disability premiums); or
- (b) receiving in respect of himself either—
  - (i) attendance allowance; or
  - (ii) the care component of the disability living allowance.

(7) No deduction shall be made in respect of a non-dependant if—

- (a) although he resides with the claimant, it appears to the relevant authority that his normal home is elsewhere; or
- (b) he is in receipt of a training allowance paid in connection with a Youth Training Scheme established under section 2 of the 1973 Act <sup>M2</sup> or section 2 of the Enterprise and New Towns (Scotland) Act 1990 <sup>M3</sup>; or
- (c) he is a full-time student within the meaning of Part 5 (Students); or
- (d) he is not residing with the claimant because he has been a patient for a period in excess of 52 weeks, and for these purposes—
  - (i) “patient” [<sup>F6</sup>has the meaning given in paragraph (6) of regulation 4C]; and
  - <sup>F6</sup>(ii) where a person has been a patient for two or more distinct periods separated by one or more intervals each not exceeding 28 days, he shall be treated as having been

a patient continuously for a period equal in duration to the total of those distinct periods.]

- (8) No deduction shall be made in respect of a non-dependant—
- (a) who is on income support, state pension credit or an income-based jobseeker's allowance; or
  - (b) to whom Schedule 1 of the 1992 Act applies (persons disregarded for purposes of discount) but this sub-paragraph shall not apply to a non-dependant who is a student to whom paragraph 4 of that Schedule refers.
- (9) In the application of paragraph (2) there shall be disregarded from his weekly gross income—
- (a) any attendance allowance or disability living allowance received by him;
  - (b) any payment made under the Trusts, the Fund, the Eileen Trust or the Independent Living Funds which had his income fallen to be calculated under regulation 30 (calculation of income other than earnings) would have been disregarded under paragraph 24 of Schedule 4 (income in kind); and
  - (c) any payment which had his income fallen to be calculated under regulation 30 would have been disregarded under paragraph 36 of Schedule 4 (payments made under certain trusts and certain other payments).

#### Textual Amendments

- F1** Word in reg. 58(2)(a) substituted (1.4.2007) by [The Social Security Benefits Up-rating Order 2007 \(S.I. 2007/688\)](#), arts. 1(2)(a), **21(3)(c)**
- F2** Word in reg. 58(2)(b) substituted (1.4.2007) by [The Social Security Benefits Up-rating Order 2007 \(S.I. 2007/688\)](#), arts. 1(2)(a), **21(3)(d)(i)**
- F3** Word in reg. 58(2)(b) substituted (1.4.2007) by [The Social Security Benefits Up-rating Order 2007 \(S.I. 2007/688\)](#), arts. 1(2)(a), **21(3)(d)(ii)**
- F4** Word in reg. 58(2)(c) substituted (1.4.2007) by [The Social Security Benefits Up-rating Order 2007 \(S.I. 2007/688\)](#), arts. 1(2)(a), **21(3)(e)(i)**
- F5** Word in reg. 58(2)(c) substituted (1.4.2007) by [The Social Security Benefits Up-rating Order 2007 \(S.I. 2007/688\)](#), arts. 1(2)(a), **21(3)(e)(ii)**
- F6** Words in reg. 58(7)(d) substituted by SI 2005/2502 reg. 3(7) (as amended) (6.3.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 2 para. 27(24)** (with regs. 2, 3, Sch. 3, Sch. 4)

#### Modifications etc. (not altering text)

- C1** Reg. 58(1)(a) sum confirmed (1.4.2007) by [The Social Security Benefits Up-rating Order 2007 \(S.I. 2007/688\)](#), arts. 1(2)(a), **21(3)(a)**
- C2** Reg. 58(1)(b) sum confirmed (1.4.2007) by [The Social Security Benefits Up-rating Order 2007 \(S.I. 2007/688\)](#), arts. 1(2)(a), **21(3)(b)**
- C3** Reg. 58(2)(b) sum confirmed (1.4.2007) by [The Social Security Benefits Up-rating Order 2007 \(S.I. 2007/688\)](#), arts. 1(2)(a), **21(3)(d)(iii)**
- C4** Reg. 58(2)(c) sum confirmed (1.4.2007) by [The Social Security Benefits Up-rating Order 2007 \(S.I. 2007/688\)](#), arts. 1(2)(a), **21(3)(e)(iii)**

#### Marginal Citations

- M1** Section 77A was inserted by the [Civil Partnership Act 2004 \(c. 33\)](#); section 77 was amended by the Education (Graduate Endowment and Student Support) (Scotland) Act 2001, asp 6, section 4(3); section 9 amended by the Civil Partnership Act 2004, section 261(1) and Schedule 27, paragraph 140 (1) and (2) and by the [Local Government Act 2003 \(c. 26\)](#), **section 24(2)**.

*Status: Point in time view as at 01/04/2007.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Benefit Regulations 2006, PART 6. (See end of Document for details)*

- M2** Section 2 was substituted by s. 25 of the [Employment Act 1988 \(c. 19\)](#); the [Employment Act 1989 \(c. 38\)](#), Part I, [Schedule 7](#); and the [Trade Union Reform and Employment Rights Act 1993 \(c. 19\)](#), section 47(1).
- M3** 1990 c. 35.

### Council tax benefit taper

**59.** The prescribed percentage for the purpose of sub-section (5)(c)(ii) of section 131 of the Act as it applies to council tax benefit, (percentage of excess of income over the applicable amount which is deducted from maximum council tax benefit), shall be  $2\frac{6}{7}$  per cent.

### Extended payments

**60.**—(1) Subject to paragraphs (7), paragraph (2) shall apply where—

- (a) a person ceases to be entitled to council tax benefit—
  - (i) in accordance with regulation 65 (date on which council tax benefit is to end); and
  - (ii) the conditions in paragraphs 1 and 2 of Schedule 6 are satisfied in his case; or
- (b) a person ceases to be entitled to council tax benefit because he has vacated the dwelling of which he was a resident and the day on which he did so was either in the week in which he took up employment as an employed or self-employed earner, or in the preceding week, and—
  - (i) he ceased to be entitled to income support or an income-based jobseeker's allowance by reason of taking up employment as an employed or self-employed earner; and
  - (ii) the conditions in paragraphs 1 and 2 of Schedule 6 are satisfied in his case.

(2) A person to whom paragraph (1) applies shall be treated as having made a claim under this regulation and his council tax benefit shall be determined in accordance with Part 2 of Schedule 6 and any award so determined shall be referred to in these Regulations as an “extended payment”.

(3) For the purposes of any payment pursuant to this regulation—

- (a) except in a case to which paragraph 4 of Schedule 6 applies, the maximum council tax benefit of any person mentioned in paragraph (1) shall be determined in accordance with paragraph 3 of Schedule 6;
- (b) the maximum council tax benefit of any person to whom paragraph 4 of Schedule 6 applies shall be determined in accordance with paragraph 5(a) of Schedule 6; and
- (c) any person who meets the requirements of paragraph (1) shall be treated as possessing no income and no capital.

(4) Regulations 68, 69 and 72 (claims, evidence and information) shall not apply to a claim pursuant to this regulation and, subject to regulation 57(5) (maximum council tax benefit), Part 7 (changes of circumstances and increases for exceptional circumstances) shall not apply to any payment under it.

(5) In paragraph (1)(a) and (b), references to a “person” include references to a person's partner.

(6) In a case where a payment has been made under this regulation—

- (a) the beneficiary shall be treated for the purposes of these Regulations as though he were entitled to and in receipt of council tax benefit—
  - (i) during the 4 weeks immediately following the last day of his entitlement to council tax benefit; or
  - (ii) until the date on which his liability for council tax ends, whichever occurs first; and

- (b) any claim for council tax benefit made by the beneficiary within the period which under sub-paragraph (a) applies in his case or the 4 weeks thereafter shall be treated as having been made in respect of a period beginning immediately after the end of his previous award of council tax benefit.

(7) This regulation shall not apply to a claimant where, on the day before his entitlement to income support ceased, regulation 6(5) of the Income Support Regulations (remunerative work: housing costs) applied to him.

**Extended payments (severe disablement allowance and incapacity benefit)**

**61.**—(1) Paragraph (2) shall apply where—

- (a) a person ceases to be entitled to council tax benefit—
  - (i) in accordance with regulation 66 (date on which entitlement to council tax benefit is to end where entitlement to severe disablement allowance or incapacity benefit ceases); and
  - (ii) the condition referred to in paragraph 1 of Schedule 7 is satisfied in his case; or
- (b) a person ceases to be entitled to council tax benefit because he has vacated the dwelling of which he was a resident and the day on which he did so was either in the week in which he took up employment as an employed or self-employed earner, or in the preceding week, and—
  - (i) he ceased to be entitled to severe disablement allowance or incapacity benefit by reason of taking up employment as an employed or self-employed earner;
  - (ii) he had been entitled to and in receipt of severe disablement allowance, incapacity benefit or a combination of severe disablement allowance and incapacity benefit for a continuous period of at least 26 weeks;
  - (iii) he was not entitled to and in receipt of income support; and
  - (iv) the condition referred to in paragraph 1 of Schedule 7 is satisfied in his case.

(2) A person to whom paragraph (1) applies shall be treated as having made a claim under this regulation and his council tax benefit shall be determined in accordance with Schedule 7 and any award so determined shall be referred to in these Regulations as an “extended payment (severe disablement allowance and incapacity benefit)”.

(3) For the purposes of any payment pursuant to this regulation—

- (a) except in a case to which paragraph 4(a) of Schedule 7 applies, the maximum council tax benefit of any person mentioned in paragraph (1) shall be determined in accordance with paragraph 3 of Schedule 7;
- (b) the maximum council tax benefit of any person to whom paragraph 4(a) of Schedule 7 applies shall be determined in accordance with paragraph 5 of that Schedule;
- (c) except in a case to which paragraph (d) applies, any person who meets the requirements of paragraph (1) shall be treated as possessing the amount of income and the amount of capital that they possessed in the last week of the award of council tax benefit which has ceased as mentioned in paragraph (1); and
- (d) any person whose maximum council tax benefit is determined in accordance with paragraph 5 of Schedule 7 shall be treated as possessing no income or capital.

(4) Regulations 68, 69 and 72 (claims, evidence and information) shall not apply to a claim pursuant to this regulation and, subject to regulation 57(5) (maximum council tax benefit), Part 7 (changes of circumstances and increases for exceptional circumstances) shall not apply to any payment under it.

*Status: Point in time view as at 01/04/2007.*

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(5) In paragraph (1), references to a “person” include references to a person's partner and references to taking up employment include receiving remuneration for employment or an increased amount of remuneration for employment or engaging in employment for an increased number of hours.

(6) In a case where payment has been made under this regulation—

(a) the beneficiary shall be treated for the purpose of these Regulations as though he were entitled to and in receipt of council tax benefit—

(i) during the 4 weeks immediately following the last day of his entitlement to council tax benefit; or

(ii) until the date on which his liability for council tax ends,

whichever occurs first; and

(b) any claim for council tax benefit made by the beneficiary within the period which under sub-paragraph (a) applies in his case or the 4 weeks thereafter shall be treated as having been made in respect of a period beginning immediately after the end of his previous award of council tax benefit.

#### **Alternative maximum council tax benefit**

**62.**—(1) Subject to paragraphs (2) and (3), the alternative maximum council tax benefit where the conditions set out in section 131(3) and (6) of the Act are fulfilled, shall be the amount determined in accordance with Schedule 2.

(2) Subject to paragraph (3), where a claimant is jointly and severally liable for council tax in respect of a dwelling in which he is resident with one or more other persons, in determining the alternative maximum council tax benefit in his case, the amount determined in accordance with Schedule 2 shall be divided by the number of persons who are jointly and severally liable for that tax.

(3) Where a claimant is jointly and severally liable for council tax in respect of a dwelling with only his partner, solely by virtue of section 9, 77 or 77A of the 1992 Act<sup>M4</sup> (liability of spouses and civil partners), paragraph (2) shall not apply in his case.

#### **Marginal Citations**

**M4** Section 77A was inserted by the [Civil Partnership Act 2004 \(c. 33\)](#); section 77 was amended by the Education (Graduate Endowment and Student Support) (Scotland) Act 2001, section 4(3); section 9 amended by the Civil Partnership Act 2004, section 261(1) and Schedule 27, paragraph 140 (1) and (2) and by the [Local Government Act 2003 \(c. 26\)](#), [section 24\(2\)](#).

#### **Residents of a dwelling to whom section 131(6) of the Act does not apply**

**63.** Subsection (6) of section 131 of the Act (residents of a dwelling in respect of whom entitlement to an alternative maximum council tax benefit may arise) shall not apply in respect of any person referred to in the following paragraphs namely—

(a) a person who is liable for council tax solely in consequence of the provisions of sections 9, 77 or 77A of the 1992 Act (spouse's or civil partner's joint and several liability for tax);

(b) a person who is residing with a couple or with the members of a polygamous marriage where the claimant for council tax benefit is a member of that couple or of that marriage and—

- (i) in the case of a couple, neither member of that couple is a person who, in accordance with Schedule 1 to the 1992 Act <sup>M5</sup>, falls to be disregarded for the purposes of discount; or
- (ii) in the case of a polygamous marriage, two or more members of that marriage are not persons who, in accordance with Schedule 1 to the 1992 Act, fall to be disregarded for the purposes of discount;
- (c) a person who jointly with the claimant for benefit falls within the same paragraph of sections 6(2)(a) to (e) or 75(2)(a) to (e) of the 1992 Act <sup>M6</sup> (persons liable to pay council tax) as applies in the case of the claimant;
- (d) a person who is residing with two or more persons both or all of whom fall within the same paragraph of sections 6(2)(a) to (e) or 75(2)(a) to (e) of the 1992 Act and two or more of those persons are not persons who, in accordance with Schedule 1 to the 1992 Act, fall to be disregarded for the purposes of discount.

#### **Marginal Citations**

- M5** [Schedule 1](#) amended by the [Care Standards Act 2000 \(c. 14\)](#), [section 116](#), [Schedule 4](#), paragraph 20; the Criminal Justice and Court Services Act 2000, section 75 and Schedule 8, the Powers of Criminal Courts (Sentencing) Act 2000, section 155(1) and Schedule 9, paragraph 152; and the Regulation of Care (Scotland) Act 2001, asp 8, section 79, and Schedule 3, paragraph 18.
- M6** [Section 6\(2\)\(c\)](#) amended by [S.I. 1997/74](#), [art. 2](#) and the Schedule, paragraph 8(a); [section 75\(2\)\(c\)](#) amended by the Housing (Scotland) Act 2001 [asp 10](#), [section 112](#) and Schedule 10, paragraph 19(1) (a).

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