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STATUTORY INSTRUMENTS

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**2006 No. 215**

**The Council Tax Benefit Regulations 2006**

**PART 1**

General

**Prescribed persons for the purposes of section 131(3)(b) of the Act**

**8.—**(1) Subject to paragraph (2), a person who is throughout any day referred to in section 131(3)(a) of the Act absent from the dwelling referred to in that section, shall be a prescribed person for the purposes of section 131(3)(b) of the Act in relation to that day.

(2) A person shall not, in relation to any day which falls within a period of temporary absence from that dwelling, be a prescribed person under paragraph (1).

(3) In paragraph (2), a “period of temporary absence” means—

(a) a period of absence not exceeding 13 weeks, beginning with the first whole day on which a person resides in residential accommodation where and for so long as—

(i) the person resides in that accommodation;

(ii) the part of the dwelling in which he usually resided is not let or sub-let; and

(iii) that period of absence does not form part of a longer period of absence from the dwelling of more than 52 weeks,

where he has entered the accommodation for the purpose of ascertaining whether it suits his needs and with the intention of returning to the dwelling if it proves not to suit his needs;

(b) a period of absence not exceeding 13 weeks, beginning with the first whole day of absence from the dwelling, where and for so long as—

(i) the person intends to return to the dwelling;

(ii) the part of the dwelling in which he usually resided is not let or sub-let; and

(iii) that period is unlikely to exceed 13 weeks; and

(c) a period of absence not exceeding 52 weeks, beginning with the first whole day of that absence, where and for so long as—

(i) the person intends to return to the dwelling;

(ii) the part of the dwelling in which he usually resided is not let or sub-let;

(iii) the person is a person to whom paragraph (4) applies; and

(iv) the period of absence is unlikely to exceed 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period.

(4) This paragraph applies to a person who is—

(a) detained in custody on remand pending trial or required, as a condition of bail, to reside—

(i) in a dwelling, other than the dwelling referred to in paragraph (1), or

(ii) in premises approved under [F1section 13 of the Offender Management Act 2007]<sup>M1</sup>,

*Status: Point in time view as at 06/04/2009.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Benefit Regulations 2006, Section 8. (See end of Document for details)*

- or, detained in custody pending sentence upon conviction;
- (b) resident in a hospital or similar institution as a patient;
  - (c) undergoing, or his partner or his dependent child is undergoing, in the United Kingdom or elsewhere, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation;
  - (d) following, in the United Kingdom or elsewhere, a training course;
  - (e) undertaking medically approved care of a person residing in the United Kingdom or elsewhere;
  - (f) undertaking the care of a child whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care or medical treatment;
  - (g) a person who is, in the United Kingdom or elsewhere, receiving medically approved care provided in accommodation other than residential accommodation;
  - (h) a student;
  - (i) a person who is receiving care provided in residential accommodation other than a person to whom paragraph (3)(a) applies; or
  - (j) a person who has left the dwelling he resides in through fear of violence, in that dwelling, or by a person who was formerly a member of the family of the person first mentioned.
- (5) This paragraph applies to a person who is—
- (a) detained in custody pending sentence upon conviction or under a sentence imposed by a court (other than a person who is detained in hospital under the provisions of the Mental Health Act 1983 <sup>M2</sup>, or, in Scotland, under the provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003 <sup>M3</sup> or the Criminal Procedure (Scotland) Act 1995 <sup>M4</sup>); and
  - (b) on temporary release from detention in accordance with Rules made under the provisions of the Prison Act 1952 <sup>M5</sup> or the Prisons (Scotland) Act 1989 <sup>M6</sup>.
- (6) Where paragraph (5) applies to a person, then, for any day when he is on temporary release—
- (a) if such temporary release was immediately preceded by a period of temporary absence under paragraph (3)(b) or (c), he shall be treated, for the purposes of paragraph (1), as if he continues to be absent from the dwelling, despite any return to the dwelling;
  - (b) for the purposes of paragraph (4)(a), he shall be treated as if he remains in detention;
  - (c) if he does not fall within sub-paragraph (a), he shall be a prescribed person for the purposes of section 131(3)(b) of the Act.
- (7) In this regulation—
- “medically approved” means certified by a medical practitioner;
- “patient” means a person who is undergoing medical or other treatment as an in-patient in any hospital or similar institution;
- “residential accommodation” means accommodation which is provided—
- (a) in a care home;
  - (b) in an independent hospital;
  - (c) in an Abbeyfield Home; or
  - (d) in an establishment managed or provided by a body incorporated by Royal Charter or constituted by Act of Parliament other than a local social services authority;
- “training course” means a course of training or instruction provided wholly or partly by or on behalf of or in pursuance of arrangements made with, or approved by or on behalf of, [F2Skills

Development Scotland,] Scottish Enterprise, Highlands and Islands Enterprise, a government department or the Secretary of State.

**Textual Amendments**

- F1** Words in reg. 8(4)(a)(ii) substituted (17.11.2008) by [The Social Security \(Miscellaneous Amendments\) \(No.6\) Regulations 2008 \(S.I. 2008/2767\)](#), regs. 1(2), **8(3)**
- F2** Words in reg. 8(7) inserted (6.4.2009) by [The Social Security \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/583\)](#), regs. 1(2), **8(3)(b)**

**Marginal Citations**

- M1** 2000 c. 43.
- M2** 1983 c. 72.
- M3** 2003 asp 13.
- M4** 1995 c. 46.
- M5** 1952 c. 52.
- M6** 1989 c. 45.

**Status:**

Point in time view as at 06/04/2009.

**Changes to legislation:**

There are currently no known outstanding effects for the The Council Tax Benefit Regulations 2006, Section 8.