
STATUTORY INSTRUMENTS

2006 No. 216

The Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006

PART 5

Amount of benefit

Maximum council tax benefit

40.—(1) Subject to [^{F1}paragraphs (2) to (4)], 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 42 (non-dependant deductions).

(2) In calculating a person's maximum council tax benefit any reduction in the amount that a 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) of the Council Tax Benefit Regulations 2006 (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.

^{F2}(5)

Textual Amendments

- F1** Words in [reg. 40\(1\)](#) substituted (6.10.2008) by [The Housing Benefit and Council Tax Benefit \(Extended Payments\) Amendment Regulations 2008 \(S.I. 2008/959\)](#), regs. 1(1), **11(3)(a)**
- F2** [Reg. 40\(5\)](#) omitted (6.10.2008) by virtue of [The Housing Benefit and Council Tax Benefit \(Extended Payments\) Amendment Regulations 2008 \(S.I. 2008/959\)](#), regs. 1(1), **11(3)(b)**

Status: Point in time view as at 05/04/2010.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

[^{F3}Amount payable during extended payment period when an extended payment is payable pursuant to regulation 60 or 61 of the Council Tax Benefit Regulations]

[^{F3}41.—(1) This regulation applies where—

- (a) a claimant became entitled to an extended payment pursuant to regulation 60 of the Council Tax Benefit Regulations 2006 or an extended payment (qualifying contributory benefits) pursuant to regulation 61 of those Regulations; and
- (b) during the extended payment period, these Regulations become applicable to the claimant or the claimant's partner in accordance with regulation 5 (persons who have attained the qualifying age for state pension credit).

(2) Where this regulation applies, the amount of the extended payment payable to a claimant for any week during the extended payment period shall be the higher of—

- (a) the amount of the extended payment payable in accordance with regulation 60B(1) (a) of the Council Tax Benefit Regulations 2006 or the extended payment (qualifying contributory benefits) payable in accordance with regulation 61B(1)(a) of those Regulations, as the case may be;
- (b) the amount of council tax benefit to which a claimant would be entitled under the general conditions of entitlement of these Regulations, if regulation 60 (extended payments) or regulation 61 (extended payments (qualifying contributory benefits)) of the Council Tax Benefit Regulations 2006 did not apply to the claimant; or
- (c) the amount of council tax which the claimant's partner would be entitled to under the general conditions of entitlement of these Regulations, if regulation 60 or regulation 61 of the Council Tax Benefit Regulations 2006 did not apply to the claimant.

(3) Where this regulation applies, no amount of council tax benefit shall be payable by the appropriate authority during the extended payment period to a claimant's partner under these Regulations for any week in the extended payment period.]

Textual Amendments

F3 Reg. 41 substituted (6.10.2008) by [The Housing Benefit and Council Tax Benefit \(Extended Payments\) Amendment Regulations 2008 \(S.I. 2008/959\)](#), regs. 1(1), **11(4)**

Non-dependant deductions

42.—(1) Subject to the following provisions of this regulation, the non-dependant deductions in respect of a day referred to in regulation 40 (maximum council tax benefit) shall be—

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

(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 [^{F4}£178.00], the deduction to be made under this regulation shall be that specified in paragraph (1)(b);
- (b) not less than [^{F5}£178.00] but less than [^{F5}£306.00], the deduction to be made under this regulation shall be £4.60;
- (c) not less than [^{F6}£306.00] but less than [^{F6}£382.00], the deduction to be made under this regulation shall be £5.80.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

(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, 77 or 77A of the 1992 Act ^{M1} (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) to the Council Tax Benefit Regulations 2006; 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 [^{F7}youth training] established under section 2 of the 1973 Act ^{M2} or section 2 of the Enterprise and New Towns (Scotland) Act 1990 ^{M3}; or
- (c) he is a full-time student within the meaning of Part 5 (Students) of the Council Tax Benefit Regulations 2006; 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—
 - [^{F8}(i) “patient” has the meaning given in paragraph (6) of regulation 4C, and
 - (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, on state pension credit [^{F9}, an income-based jobseeker's allowance or an income-related employment and support allowance]; or

Status: Point in time view as at 05/04/2010.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (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 [^{F10}or by] the Trusts, the Fund, the Eileen Trust^{F11}, MFET Limited] or the Independent Living [^{F12}Fund (2006)] which had his income fallen to be calculated under regulation 30 of the Council Tax Benefit Regulations 2006 (calculation of income other than earnings) would have been disregarded under paragraph 24 of Schedule 4 to those Regulations (income in kind); and
 - (c) any payment which had his income fallen to be calculated under regulation 30 of those Regulations would have been disregarded under paragraph 36 of Schedule 4 to those Regulations (payments made under certain trusts and certain other payments).

Textual Amendments

- F4** Word in reg. 42(2)(a) substituted (with effect in accordance with art. 1(3)(a) 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2009 \(S.I. 2009/497\)](#), arts. 1(2)(a), **22(3)(c)**
- F5** Word in reg. 42(2)(b) substituted (with effect in accordance with art. 1(3)(a) 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2009 \(S.I. 2009/497\)](#), arts. 1(2)(a), **22(3)(d)**
- F6** Word in reg. 42(2)(c) substituted (with effect in accordance with art. 1(3)(a) 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2009 \(S.I. 2009/497\)](#), arts. 1(2)(a), **22(3)(e)**
- F7** Words in reg. 42(7)(b) substituted (17.11.2008) by [The Social Security \(Miscellaneous Amendments\) \(No.6\) Regulations 2008 \(S.I. 2008/2767\)](#), regs. 1(2), **9(4)(a)**
- F8** Words in reg. 42(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)
- F9** Words in reg. 42(8)(a) substituted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) Regulations 2008 \(S.I. 2008/1082\)](#), regs. 1, **73**
- F10** Words in reg. 42(9)(b) inserted (1.4.2010 for specified purposes, 5.4.2010 in so far as not already in force) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2010 \(S.I. 2010/641\)](#), regs. 1(3)(d), **11(5)(a)**
- F11** Words in reg. 42(9)(b) inserted (1.4.2010 for specified purposes, 5.4.2010 in so far as not already in force) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2010 \(S.I. 2010/641\)](#), regs. 1(3)(d), **11(3)(b)**
- F12** Words in reg. 42(9)(b) substituted (17.11.2008) by [The Social Security \(Miscellaneous Amendments\) \(No.6\) Regulations 2008 \(S.I. 2008/2767\)](#), regs. 1(2), **9(4)(b)**

Modifications etc. (not altering text)

- C1** Reg. 42(1)(a) sum confirmed (1.4.2007) by [The Social Security Benefits Up-rating Order 2007 \(S.I. 2007/688\)](#), arts. 1(2)(a), **22(3)(a)**
- C2** Reg. 42(1)(a) sum confirmed (1.4.2008) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(a), **22(3)(a)**
- C3** Reg. 42(1)(a) sum confirmed (with effect in accordance with art. 1(3)(a) 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2009 \(S.I. 2009/497\)](#), arts. 1(2)(a), **22(3)(a)**
- C4** Reg. 42(1)(a) sum confirmed (1.4.2010) by [The Social Security Benefits Up-rating Order 2010 \(S.I. 2010/793\)](#), arts. 1(2)(a), **22(3)(a)**
- C5** Reg. 42(1)(b) sum confirmed (1.4.2007) by [The Social Security Benefits Up-rating Order 2007 \(S.I. 2007/688\)](#), arts. 1(2)(a), **22(3)(b)**
- C6** Reg. 42(1)(b) sum confirmed (1.4.2008) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(a), **22(3)(b)**

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to *The Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- C7** Reg. 42(1)(b) sum confirmed (with effect in accordance with art. 1(3)(a) 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2009 \(S.I. 2009/497\)](#), arts. 1(2)(a), **22(3)(b)**
- C8** Reg. 42(1)(b) sum confirmed (1.4.2010) by [The Social Security Benefits Up-rating Order 2010 \(S.I. 2010/793\)](#), arts. 1(2)(a), **22(3)(b)**
- C9** Reg. 42(2)(a) sum confirmed (1.4.2010) by [The Social Security Benefits Up-rating Order 2010 \(S.I. 2010/793\)](#), arts. 1(2)(a), **22(3)(c)**
- C10** Reg. 42(2)(b) sum confirmed (1.4.2007) by [The Social Security Benefits Up-rating Order 2007 \(S.I. 2007/688\)](#), arts. 1(2)(a), **22(3)(d)(iii)**
- C11** Reg. 42(2)(b) sum confirmed (1.4.2008) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(a), **22(3)(d)(iii)**
- C12** Reg. 42(2)(b) sum confirmed (with effect in accordance with art. 1(3)(a) 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2009 \(S.I. 2009/497\)](#), arts. 1(2)(a), **22(3)(d)**
- C13** Reg. 42(2)(b) sum confirmed (1.4.2010) by [The Social Security Benefits Up-rating Order 2010 \(S.I. 2010/793\)](#), arts. 1(2)(a), **22(3)(d)**
- C14** Reg. 42(2)(c) sum confirmed (1.4.2007) by [The Social Security Benefits Up-rating Order 2007 \(S.I. 2007/688\)](#), arts. 1(2)(a), **22(3)(e)(iii)**
- C15** Reg. 42(2)(c) sum confirmed (1.4.2008) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(a), **22(3)(e)(iii)**
- C16** Reg. 42(2)(c) sum confirmed (with effect in accordance with art. 1(3)(a) 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2009 \(S.I. 2009/497\)](#), arts. 1(2)(a), **22(3)(e)**
- C17** Reg. 42(2)(c) sum confirmed (1.4.2010) by [The Social Security Benefits Up-rating Order 2010 \(S.I. 2010/793\)](#), arts. 1(2)(a), **22(3)(e)**

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](#), section 4(2)
- M2** Section 2 was substituted by s.25 of the [Employment Act 1988 \(c. 19\)](#); subsections (3A) and (3B) inserted by the [Trade Union Reform and Employment Rights Act 1993 \(c. 19\)](#), [section 47\(1\)](#).
- M3** 1990 c. 35.

Council tax benefit taper

43. 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)(a), shall be $2 \frac{6}{7}$ per cent.

[^{F13}Extended Payments (qualifying contributory benefits)]

[^{F13}44.—(1) Except in the case of a claimant who is in receipt of state pension credit, a claimant who is entitled to council tax benefit (by virtue of the general conditions of entitlement) shall be entitled to an extended payment (qualifying contributory benefits) where—

- (a) the claimant or the claimant's partner was entitled to a qualifying contributory benefit;
- (b) entitlement to a qualifying contributory benefit ceased because the claimant or the claimant's partner—
 - (i) commenced employment as an employed or self-employed earner;
 - (ii) increased their earnings from such employment; or
 - (iii) increased the number of hours worked in such employment,
 and that employment is or, as the case may be, increased earnings or increased number of hours are expected to last five weeks or more;

Status: Point in time view as at 05/04/2010.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (c) the claimant or the claimant's partner had been entitled to and in receipt of a qualifying contributory benefit or a combination of qualifying contributory benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying contributory benefit ceased; and
 - (d) the claimant or the claimant's partner was not entitled to and not in receipt of a qualifying income-related benefit in the last benefit week in which the claimant, or the claimant's partner, was entitled to a qualifying contributory benefit.
- (2) A claimant must be treated as entitled to council tax benefit by virtue of the general conditions of entitlement where—
- (a) the claimant ceased to be entitled to council tax benefit because the claimant vacated the dwelling in which the claimant was resident;
 - (b) the day on which the claimant vacated the dwelling was either in the week in which entitlement to a qualifying contributory benefit ceased, or in the preceding week; and
 - (c) entitlement to the qualifying contributory benefit ceased in any of the circumstances listed in paragraph (1)(b).]

Textual Amendments

F13 Regs. 44-44D substituted for reg. 44 (6.10.2008) by [The Housing Benefit and Council Tax Benefit \(Extended Payments\) Amendment Regulations 2008 \(S.I. 2008/959\)](#), regs. 1(1), **10(2)**

[^{F13}Duration of extended payment period (qualifying contributory benefits)]

44A.—(1) Where a claimant is entitled to an extended payment (qualifying contributory benefits), the extended payment period starts on the first day of the benefit week immediately following the benefit week in which the claimant, or the claimant's partner, ceased to be entitled to a qualifying contributory benefit.

(2) For the purpose of paragraph (1), a claimant or a claimant's partner ceases to be entitled to a qualifying contributory benefit on the day immediately following the last day of entitlement to that benefit.

- (3) The extended payment period ends—
- (a) at the end of a period of four weeks; or
 - (b) on the date on which the claimant to whom the extended payment (qualifying contributory benefits) is payable has no liability for council tax, if that occurs first.

Textual Amendments

F13 Regs. 44-44D substituted for reg. 44 (6.10.2008) by [The Housing Benefit and Council Tax Benefit \(Extended Payments\) Amendment Regulations 2008 \(S.I. 2008/959\)](#), regs. 1(1), **10(2)**

Amount of extended payment (qualifying contributory benefits)

44B.—(1) For any week during the extended payment period the amount of the extended payment (qualifying contributory benefits) payable to a claimant shall be the higher of—

- (a) the amount of council tax benefit to which the claimant was entitled under the general conditions of entitlement in the last benefit week before the claimant or the claimant's partner ceased to be entitled to a qualifying contributory benefit;

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (b) the amount of council tax benefit to which the claimant would be entitled under the general conditions of entitlement for any benefit week during the extended payment period, if regulation 44 (extended payments (qualifying contributory benefits)) did not apply to the claimant; or
 - (c) the amount of council tax benefit to which the claimant's partner would be entitled under the general conditions of entitlement, if regulation 44 did not apply to the claimant.
- (2) Paragraph (1) does not apply in the case of a mover.
- (3) Where a claimant is in receipt of an extended payment (qualifying contributory benefits) under this regulation and the claimant's partner makes a claim for council tax benefit, no amount of council tax benefit shall be payable by the appropriate authority during the extended payment period.

Textual Amendments

F13 Regs. 44-44D substituted for reg. 44 (6.10.2008) by [The Housing Benefit and Council Tax Benefit \(Extended Payments\) Amendment Regulations 2008 \(S.I. 2008/959\)](#), regs. 1(1), **10(2)**

Extended payments (qualifying contributory benefits) – movers

- 44C.**—(1) This regulation applies—
- (a) to a mover; and
 - (b) from the Monday following the day of the move.
- (2) The amount of the extended payment (qualifying contributory benefit) payable from the Monday from which this regulation applies until the end of the extended payment period shall be the amount of council tax benefit which was payable to the mover for the last benefit week before the mover, or the mover's partner, ceased to be entitled to a qualifying contributory benefit.
- (3) Where a mover's liability to pay council tax in respect of the new dwelling is to the second authority, the extended payment (qualifying contributory benefits) may take the form of a payment from the appropriate authority to—
- (a) the second authority; or
 - (b) the mover directly.
- (4) Where—
- (a) a mover, or the mover's partner, makes a claim for council tax benefit to the second authority after the mover, or the mover's partner, ceased to be entitled to a qualifying contributory benefit; and
 - (b) the mover, or the mover's partner, is in receipt of an extended payment (qualifying contributory benefits) from the appropriate authority,

the second authority shall reduce the weekly amount of council tax benefit that the mover, or the mover's partner, is entitled to by a sum equal to the amount of the extended payment (qualifying contributory benefits) until the end of the extended payment period.

Textual Amendments

F13 Regs. 44-44D substituted for reg. 44 (6.10.2008) by [The Housing Benefit and Council Tax Benefit \(Extended Payments\) Amendment Regulations 2008 \(S.I. 2008/959\)](#), regs. 1(1), **10(2)**

Status: Point in time view as at 05/04/2010.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Relationship between extended payment (qualifying contributory benefits) and entitlement to council tax benefit under the general conditions of entitlement

44D.—(1) Where a claimant's council tax benefit award would have ended when the claimant ceased to be entitled to a qualifying contributory benefit in the circumstances listed in regulation 44(1)(b), that award will not cease until the end of the extended payment period.

(2) Part 6 (period of entitlement, changes of circumstances and increases for exceptional circumstances) shall not apply to any extended payment (qualifying contributory benefits) payable in accordance with regulation 44B(1)(a) or regulation 44C(2) (amount of extended payment – movers).]

Textual Amendments

F13 Regs. 44-44D substituted for reg. 44 (6.10.2008) by [The Housing Benefit and Council Tax Benefit \(Extended Payments\) Amendment Regulations 2008 \(S.I. 2008/959\)](#), regs. 1(1), **10(2)**

Continuing payments where state pension credit claimed

45.—(1) This regulation applies where—

- (a) the claimant is entitled to council tax benefit;
- (b) paragraph (2) is satisfied; and
- (c) either—
 - (i) the claimant has attained the qualifying age for state pension credit or, if his entitlement to income-based jobseeker's allowance [^{F14}or income-related employment and support allowance] continued beyond that age, has attained the age of 65; or
 - (ii) the claimant's partner has actually claimed state pension credit.

(2) This regulation is only satisfied if the Secretary of State has certified to the relevant authority that the claimant's partner has actually claimed state pension credit or that—

- (a) the claimant's award of—
 - (i) income support has terminated because the claimant has attained the qualifying age for state pension credit; or
 - (ii) income-based jobseeker's allowance [^{F15}or income-related employment and support allowance] has terminated because the claimant has attained the qualifying age for state pension credit or the age of 65; and
- (b) the claimant has claimed or is treated as having claimed or is required to make a claim for state pension credit.

(3) Subject to paragraph (4), in a case to which this regulation applies, council tax benefit shall continue to be paid for the period of 4 weeks beginning on the day following the day the claimant's entitlement to income support or, as the case may be, income-based jobseeker's allowance [^{F16}, income-related employment and support allowance], ceased, if and for so long as the claimant otherwise satisfies the conditions for entitlement to council tax benefit.

(4) Where council tax benefit is paid for the period of 4 weeks in accordance with paragraph (3) above, and the last day of that period falls on a day other than the last day of a benefit week, then council tax benefit shall continue to be paid until the end of the benefit week in which the last day of that period falls.

(5) Throughout the period of 4 weeks specified in paragraph (3) and any further period specified in paragraph (4)—

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (a) the whole of the income and capital of the claimant shall be disregarded;
 - (b) the appropriate maximum council tax benefit of the claimant shall be that which was applicable in his case immediately before that period commenced.
- (6) The appropriate maximum council tax benefit shall be calculated in accordance with regulation 40(1) if, since the date it was last calculated—
- (a) the claimant's council tax liability has increased; or
 - (b) a change in the deduction under regulation 42 falls to be made.

Textual Amendments

- F14** Words in reg. 45(1)(c)(i) inserted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) Regulations 2008 \(S.I. 2008/1082\)](#), regs. 1, **74(a)**
- F15** Words in reg. 45(2)(a)(ii) inserted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) Regulations 2008 \(S.I. 2008/1082\)](#), regs. 1, **74(b)**
- F16** Words in reg. 45(3) inserted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) Regulations 2008 \(S.I. 2008/1082\)](#), regs. 1, **74(c)**

Alternative maximum council tax benefit

46.—(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 6.

(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 6 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 ^{M4} (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(2).

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

47. 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 ^{M5}, falls to be disregarded for the purposes of discount; or

Status: Point in time view as at 05/04/2010.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (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 ^{M6} (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](#) amended by the [Housing \(Scotland\) Act 2001 asp 10](#); [section 75](#) amended by [S.I. 1997/74](#).

Status:

Point in time view as at 05/04/2010.

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations.