

---

SCOTTISH STATUTORY INSTRUMENTS

---

**2012 No. 303**

**The Council Tax Reduction (Scotland) Regulations 2012**

**PART 1**

General

**Citation and commencement**

1. These Regulations may be cited as the Council Tax Reduction (Scotland) Regulations 2012 and come into force on 28th January 2013.

**Interpretation**

2.—(1) In these Regulations, unless the context otherwise requires—

“the 1973 Act” means the Employment and Training Act 1973 <sup>M1</sup>;

“the 1992 Act” means the Social Security Contributions and Benefits Act 1992 <sup>M2</sup>;

“Abbeyfield Home” means an establishment run by the Abbeyfield Society including all bodies corporate or unincorporated which are affiliated to that Society;

“academic year” means the period of 12 months beginning on 1st January, 1st April, 1st July or 1st September according to whether the course in question begins in the winter, the spring, the summer or the autumn respectively but if students are required to begin attending the course during August or September and to continue attending through the autumn, the academic year of the course is to be considered to begin in the autumn rather than the summer;

“the Act” means the Local Government Finance Act 1992;

F1  
...

“adoption leave” means a period of absence from work on ordinary or additional adoption leave by virtue of section 75A or 75B of the Employment Rights Act 1996 <sup>M3</sup>;

“alternative maximum council tax reduction” means the amount calculated in accordance with regulation 78 (alternative maximum council tax reduction) and Schedule 2;

“applicable amount” means the amount calculated in accordance with Part 5 and Schedule 1;

“applicant” means a person applying for council tax reduction or, as the case may be, a person who is entitled to council tax reduction whose entitlement is or may be subject to re-assessment by the relevant authority;

“application” means an application for council tax reduction;

“appropriate maximum council tax reduction” means the maximum council tax reduction applicable to a person calculated in accordance with regulation 66;

[<sup>F2</sup>“armed forces independence payment” means armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011;]

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

“assessment period” means a period described in regulations 29 (average weekly earnings of employed earners), 30 (average weekly earnings of self-employed earners) and 31 (average weekly income other than earnings) over which income falls to be calculated;

“attendance allowance” means—

- (a) an attendance allowance under Part 3 <sup>M4</sup> of the 1992 Act;
- (b) an increase of disablement pension under section 104 or 105 of the 1992 Act;
- (c) <sup>F3</sup> ...
- (d) <sup>F3</sup> ...
- (e) a payment by virtue of article 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983 <sup>M5</sup> or any analogous payment; or
- (f) any payment based on need for attendance which is paid as part of a war disablement pension;

“basic rate” has the meaning given by section 989 of Income Tax Act 2007 <sup>M6</sup>;

“the benefit Acts” means the 1992 Act, [<sup>F4</sup>the Armed Forces (Pensions and Compensation) Act 2004 insofar as it relates to armed forces independence payment, Part 4 (personal independence payment) of the Welfare Reform Act 2012,] the Jobseekers Act<sup>F5</sup>, the Welfare Reform Act and the Pensions Act 2014];

“the Board of the Pension Protection Fund” means the body corporate established under section 107 of the Pensions Act 2004 <sup>M7</sup>;

“care home” in Scotland means a care home service within the meaning given by paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010 <sup>M8</sup> and in England and Wales has the meaning given by section 3 of the Care Standards Act 2000 <sup>M9</sup>;

“carer's allowance” means an allowance under section 70 <sup>M10</sup> of the 1992 Act;

“the Caxton Foundation” means the charitable trust of that name established on 28th March 2011 out of funds provided by the Secretary of State for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with its provisions;

“child” means a person under the age of 16 [<sup>F6</sup>and where section 145A of the 1992 Act (entitlement after death of a child or qualifying young person) applies, then during the period prescribed under subsection (1) of that section (and only during that period)—

- (a) references in these Regulations to a child include the child in respect of whom there is entitlement under that section; and
- (b) for the purposes of these Regulations the circumstances pertaining to the child at the date of their death are deemed to continue throughout that period];

“child benefit” means child benefit under section 141 of the 1992 Act <sup>M11</sup>;

<sup>F7</sup> ...

“child tax credit” means a child tax credit under section 8 of the Tax Credits Act 2002 <sup>M12</sup>;

“civil partnership” means a civil partnership which exists under or by virtue of the Civil Partnership Act 2004 <sup>M13</sup>, and “civil partner” is to be construed accordingly;

“close relative” means a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, sister or, if any of the preceding persons is one member of a couple, the other member of that couple;

“concessionary payment” means a payment made under arrangements made by the Secretary of State with the consent of the Treasury which is charged either to the National Insurance

Fund or to a Departmental Expenditure Vote to which payments of benefit or tax credits under the benefit Acts or the Tax Credits Act 2002 are charged;

“contributory employment and support allowance” means a contributory allowance under Part 1 of the Welfare Reform Act <sup>M14</sup>;

“converted employment and support allowance” means an employment and support allowance which is not income-related and to which a person is entitled as a result of a conversion decision within the meaning of the Employment and Support Allowance (Existing Awards) Regulations;

“council tax benefit” means council tax benefit under the Council Tax Benefit Regulations 2006 <sup>M15</sup>;

“council tax reduction” means a reduction in liability for council tax calculated in accordance with these Regulations;

[<sup>F8</sup>“couple” means—

- (a) two people who are married to each other and are members of the same household, but not if the marriage is a polygamous marriage;
- (b) two people who are civil partners of each other and are members of the same household; or
- (c) two people who are neither married to each other nor civil partners of each other but who are living together as if they were married to each other;]

“course of study” means any course of study, whether or not it is a sandwich course and whether or not a grant is made for attending or undertaking it;

“date of application” means the date on which the application is made, or treated as made, for the purposes of regulation 5(9) (occupation of a dwelling as a home) and regulation 85 (date on which an application is made);

“designated office” means the office designated by the relevant authority as the office to which applications should be sent;

“disability living allowance” means a disability living allowance under section 71 of the 1992 Act <sup>M16</sup>;

“discount” means discount under section 79 of the Act (discount of the amount of council tax payable);

“earnings” has the meaning given by regulation 34 (earnings of employed earners) or, as the case may be, regulation 36 (earnings of self-employed earners);

“educational establishment” has the meaning given by section 135(1) of the Education (Scotland) Act 1980 <sup>M17</sup>;

“the Eileen Trust” means the charitable trust of that name established on 29th March 1993 out of funds provided by the Secretary of State for the benefit of persons eligible for payment in accordance with its provisions;

“employed earner” is to be construed in accordance with section 2(1)(a) of the 1992 Act <sup>M18</sup> and also includes a person who is in receipt of a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay or statutory maternity pay;

“employment and support allowance” means employment and support allowance under Part 1 of the Welfare Reform Act <sup>M19</sup>;

“Employment and Support Allowance Regulations” means the Employment and Support Allowance Regulations 2008 <sup>M20</sup>;

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

“Employment and Support Allowance (Existing Awards) Regulations” means the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 <sup>M21</sup>;

“the Employment, Skills and Enterprise Scheme” means a scheme under section 17A of the Jobseekers Act 1995 <sup>M22</sup> (schemes for assisting persons to obtain employment: “work for your benefit” schemes etc.) known by that name and provided pursuant to arrangements made by the Secretary of State that is designed to assist applicants to obtain employment, including self-employment, and which may include for any individual work-related activity (including work experience or job search);

“employment zone” means an area within Great Britain designated for the purposes of section 60 of the Welfare Reform and Pensions Act 1999 <sup>M23</sup> and an “employment zone programme” means a programme established for such an area or areas designed to assist applicants for a jobseeker's allowance to obtain sustainable employment;

“employment zone contractor” means a person who is undertaking the provision of facilities in respect of an employment zone programme on behalf of the Secretary of State;

“enactment” includes an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament;

“extended council tax reduction” means an extension of a period of entitlement to council tax reduction under regulation 68 (extended council tax reduction);

“extended council tax reduction (qualifying contributory benefits)” means an extension of a period of entitlement to council tax reduction under regulation 73 (extended council tax reduction (qualifying contributory benefits));

“family” means—

- (a) a couple;
- (b) a couple and a member of the same household for whom one of them is, or both are, responsible and who is a child or young person; or
- (c) subject to regulation 25 (circumstances in which the income and capital of a non-dependant is to be treated as the applicant's), a person who is not a member of a couple and a member of the same household for whom the person is responsible and who is a child or young person.

“first authority” means the relevant authority to which a mover was liable to pay council tax for the dwelling that person resided in immediately before moving to the dwelling in the area of the second authority;

“full-time course of study” means a full-time course of study which—

- (a) is not funded in whole or in part by the Scottish Ministers at a college of further education or by the Young People's Learning Agency for England, the Chief Executive of Skills Funding or by the Welsh Ministers;
- (b) is a course of higher education and is funded in whole or in part by the Scottish Ministers;
- (c) is not higher education and is funded in whole or in part by the Scottish Ministers at a college of further education and involves—
  - (i) more than 16 hours per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff according to the number of hours set out in a document signed on behalf of the college; or
  - (ii) 16 hours or less per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff and it involves additional hours using structured learning packages supported by the teaching staff where the

- combined total of hours exceeds 21 hours per week, according to the number of hours set out in a document signed on behalf of the college; or
- (d) is funded in whole or in part by the Young People's Learning Agency for England, the Chief Executive of Skills Funding or by the Welsh Ministers if it involves more than 16 guided learning hours per week for the student in question, according to the number of guided learning hours per week for that student set out—
- (i) in the case of a course funded by the Young People's Learning Agency for England or the Chief Executive of Skills Funding, in the student's learning agreement signed on behalf of the establishment which is funded by either of those bodies for the delivery of that course; or
- (ii) in the case of a course funded by the Welsh Ministers, in a document signed on behalf of the establishment which is funded by the Welsh Ministers for the delivery of that course;

“full-time student” means a person attending or undertaking a full-time course of study <sup>M24</sup>;

“the Fund” means moneys made available from time to time by the Secretary of State for the benefit of persons eligible for payment in accordance with the provisions of a scheme established by the Secretary of State on 10th or 24th April 1992, as the case may be;

“guaranteed income payment” means a payment made under article 15(1)(c) or 29(1)(a) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011 <sup>M25</sup>;

“higher education” means higher education within the meaning of Part 2 of the Further and Higher Education (Scotland) Act 1992 <sup>M26</sup>;

“housing benefit” means housing benefit under section 130 of the 1992 Act <sup>M27</sup>;

“the Housing Benefit Regulations” means the Housing Benefit Regulations 2006 <sup>M28</sup>;

F7  
...

[<sup>F9</sup>“ILF Scotland” means the company limited by guarantee under the name ILF Scotland, registered under number SC 500075;]

“Immigration and Asylum Act” means the Immigration and Asylum Act 1999 <sup>M29</sup>;

“incapacity benefit” means incapacity benefit under section 30A, 40 or 41 of the 1992 Act <sup>M30</sup>;

“an income-based jobseeker's allowance” and “a joint-claim jobseeker's allowance” have the same meaning as they have in the Jobseekers Act by virtue of section 1(4) of that Act <sup>M31</sup>;

“income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act <sup>M32</sup>;

“income support” means income support under section 124 of the 1992 Act;

“Income Support Regulations” means the Income Support (General) Regulations 1987 <sup>M33</sup>;

“independent hospital”—

- (a) in Scotland, means an independent health care service as defined in section 10F(1)(a) and (b) of the National Health Service (Scotland) Act 1978 <sup>M34</sup>;
- (b) in England, means a hospital as defined by section 275 of the National Health Service Act 2006 <sup>M35</sup> that is not a health service hospital as defined by that section; and
- (c) in Wales, has the meaning assigned to it by section 2 of the Care Standards Act 2000 <sup>M36</sup>;

F10  
...

“invalid carriage or other vehicle” means a vehicle propelled by a petrol engine or by electric power supplied for use on the road and to be controlled by the occupant;

---

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

---

“Jobseekers Act” means the Jobseekers Act 1995 <sup>M37</sup>;

“Jobseeker's Allowance Regulations” means the Jobseeker's Allowance Regulations 1996 <sup>M38</sup>;

“limited capability for work” has the meaning given in section 1(4) of the Welfare Reform Act;

“limited capability for work-related activity” has the meaning given in section 2(5) of the Welfare Reform Act;

“local authority” in Scotland means a council constituted by section 2 of the Local Government etc. (Scotland) Act 1994 <sup>M39</sup>;

“the London Bombings Relief Charitable Fund” means the company limited by guarantee (number 5505072) and registered charity of that name established on 11th July 2005 for the purpose of (amongst other things) relieving sickness, disability or financial need of victims (including families or dependants of victims) of the terrorist attacks carried out in London on 7th July 2005;

“lone parent” means a person who has no partner and who is responsible for and a member of the same household as a child or young person;

“the Macfarlane (Special Payments) Trust” means the trust of that name, established on 29th January 1990 partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from haemophilia;

“the Macfarlane (Special Payments) (No. 2) Trust” means the trust of that name, established on 3rd May 1991 partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from haemophilia and other beneficiaries;

“the Macfarlane Trust” means the charitable trust, established partly out of funds provided by the Secretary of State to the Haemophilia Society, for the relief of poverty or distress among those suffering from haemophilia;

“the Mandatory Work Activity Scheme” means a scheme within section 17A (schemes for assisting persons to obtain employment: “work for your benefit” schemes etc.) of the Jobseekers Act 1995 known by that name and provided pursuant to arrangements made by the Secretary of State that is designed to provide work or work-related activity for up to 30 hours per week over a period of 4 consecutive weeks with a view to assisting applicants to improve their prospects of obtaining employment;

“maternity leave” means a period during which a woman is absent from work because she is pregnant or has given birth to a child, and at the end of which she has a right to return to work either under the terms of her contract of employment or under Part 8 of the Employment Rights Act 1996 <sup>M40</sup>;

“medically approved” means certified by a medical practitioner;

“MFET Limited” means the company limited by guarantee (number 7121661) of that name, established for the purpose in particular of making payments in accordance with arrangements made with the Secretary of State to persons who have acquired HIV as a result of treatment by the NHS with blood or blood products;

“mobility supplement” means a supplement to which paragraph 12 of Schedule 4 refers;

“mover” means a person who moves from a dwelling in which the person is resident, and in respect of which the person is liable to pay council tax to the first authority, to reside in a dwelling in the area of the second authority and any reference to a mover is to be construed as including a reference to the mover's partner;

“net earnings” means earnings calculated in accordance with regulation 35 (calculation of net earnings of employed earners);

“new dwelling” means, for the purposes of the definition of “second authority” and regulations 71 (extended council tax reduction: movers) and 76 (extended council tax reduction

(qualifying contributory benefits): movers) the dwelling to which an applicant has moved, or is about to move, in which the applicant is or will be resident;

“non-dependant” has the meaning given by regulation 3 (non-dependants);

“occupational pension” means any pension or other periodical payment under an occupational pension scheme but does not include any discretionary payment out of a fund established for relieving hardship in particular cases;

“ordinary clothing or footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities;

F11 ...

“partner” means—

- (a) where a person is a member of a couple, the other member of that couple; or
- (b) where a person is polygamously married to two or more members of the person's household, any such member to whom the person is married;

“paternity leave” means a period of absence from work on <sup>F12</sup>...paternity leave by virtue of section 80A or 80B of the Employment Rights Act 1996 <sup>M41F13</sup>...;

“patient” means a person who is undergoing medical or other treatment as an in-patient in any hospital or similar institution;

“payment” includes part of a payment;

“personal independence payment” has the meaning given by Part 4 of the Welfare Reform Act 2012 <sup>M42</sup>;

“personal pension scheme” means—

- (a) a personal pension scheme as defined by section 1 of the Pension Schemes Act 1993 <sup>M43</sup>;
- (b) an annuity contract or trust scheme approved under section 620 or 621 of the Income and Corporation Taxes Act 1988 <sup>M44</sup> or a substituted contract within the meaning of section 622(3) of that Act <sup>M45</sup> which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(f) of Schedule 36 to the Finance Act 2004 <sup>M46</sup>; or
- (c) a personal pension scheme approved under chapter 4 of Part 14 of the Income and Corporation Taxes Act 1988 <sup>M47</sup> which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(g) of Schedule 36 to the Finance Act 2004;

“polygamous marriage” means any marriage during the subsistence of which a party to it is married to more than one person and the ceremony of marriage took place under the law of a country which permits polygamy, and cognate expressions are to be construed accordingly;

“qualifying age for state pension credit” means (in accordance with section 1(2)(b) and (6) of the State Pension Credit Act 2002 <sup>M48</sup>)—

- (a) in the case of a woman, pensionable age; or
- (b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man;

“qualifying contributory benefit” means—

- (a) severe disablement allowance under section 68 of the 1992 Act <sup>M49</sup>;
- (b) incapacity benefit; or
- (c) contributory employment and support allowance;

“qualifying course” has the same meaning as it has in regulation 17A of the Jobseeker's Allowance Regulations <sup>M50</sup>;

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

“qualifying income-related benefit” means—

- (a) income support;
- (b) income-based jobseeker's allowance; or
- (c) income-related employment and support allowance;

“qualifying person” means a person in respect of whom payment has been made from the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the London Bombings Relief Charitable Fund;

“reduction week” means a period of 7 consecutive days commencing on a Monday and ending on a Sunday;

“relative” means a close relative, grandparent, grandchild, uncle, aunt, nephew or niece;

“relevant authority” means a local authority administering council tax reduction;

“relevant child care charges” has the meaning given by regulation 28(5) (treatment of child care charges);

“remunerative work” has the meaning given by regulation 6 (remunerative work);

“rent” means “eligible rent” to which regulation 12B of the Housing Benefit Regulations <sup>M51</sup> refers less any deductions in respect of non-dependants to be made under regulation 74 (non-dependant deductions) of those Regulations;

“residential accommodation” means accommodation which is provided in—

- (a) a care home;
- (b) an independent hospital;
- (c) an Abbeyfield home; or
- (d) an establishment managed or provided by a body incorporated by Royal charter or constituted by Act of Parliament or by Act of the Scottish Parliament other than a local social services authority;

“sandwich course” has the meaning prescribed in regulation 4(2) of the Education (Student Loans) (Scotland) Regulations 2007 <sup>M52</sup>, regulation 2(10) of the Education (Student Support) Regulations 2011 <sup>M53</sup> or regulation 2(10) of the Education (Student Support) (No. 2) Regulations (Northern Ireland) 2009 <sup>M54</sup>, as the case may be;

“second adult” has the meaning given to it in Schedule 2 (amount of alternative maximum council tax reduction);

“second authority” means the local authority to which a mover is liable to pay council tax for the new dwelling;

“self-employed earner” has the meaning given by section 2(1)(b) of the 1992 Act (categories of earners);

“self-employment route” means assistance in pursuing self-employed earner's employment whilst participating in—

- (a) an employment zone programme;
- (b) a programme provided or other arrangements made pursuant to section 2 of the Enterprise and New Towns (Scotland) Act 1990 <sup>M55</sup> (functions in relation to training for employment, etc.) or section 2 of the 1973 Act <sup>M56</sup> (functions of the Secretary of State); or
- (c) the Employment, Skills and Enterprise Scheme;

“service user group” means a group of individuals consulted by or on behalf of—



- (a) a Health Board, Special Health Board or the Common Services Agency for the Scottish Health Service in consequence of a function under section 2B of the National Health Service (Scotland) Act 1978 <sup>M57</sup>;
- (b) a landlord authority in consequence of a function under section 105 of the Housing Act 1985 <sup>M58</sup>;
- (c) a public authority in consequence of a function under section 149 of the Equality Act 2010 <sup>M59</sup> or section 49A of the Disability Discrimination Act 1995 <sup>M60</sup>;
- (d) a best value authority in consequence of a function under section 3 of the Local Government Act 1999 <sup>M61</sup>;
- (e) a local authority landlord or registered social landlord in consequence of a function under section 53 of the Housing (Scotland) Act 2001 <sup>M62</sup>;
- (f) a relevant English body or a relevant Welsh body in consequence of a function under section 242 of the National Health Service Act 2006 <sup>M63</sup>;
- (g) a Local Health Board in consequence of a function under section 183 of the National Health Service (Wales) Act 2006 <sup>M64</sup>;
- (h) the Commission in consequence of a function under sections 4 or 5 of the Health and Social Care Act 2008 <sup>M65</sup>;
- (i) the regulator or a private registered provider of social housing in consequence of a function under sections 98, 193 or 196 of the Housing and Regeneration Act 2008 <sup>M66</sup>; or
- (j) a public or local authority in Great Britain in consequence of a function conferred under any other enactment,

for the purposes of monitoring and advising on a policy of that body or authority which affects or may affect persons in the group, or of monitoring or advising on services provided by that body or authority which are used (or may potentially be used) by those persons;

[<sup>F14</sup>“shared parental leave” means leave by virtue of section 75E or 75G of the Employment Rights Act 1996;]

“the Skipton Fund” means the ex-gratia payment scheme administered by the Skipton Fund Limited, incorporated on 25th March 2004, for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with the scheme's provisions;

“special account” means an account as defined for the purposes of chapter 4A of Part 8 of the Jobseeker's Allowance Regulations or chapter 5 of Part 10 of the Employment and Support Allowance Regulations;

“sports award” means an award made by one of the Sports Councils named in section 23(2) of the National Lottery etc Act 1993 <sup>M67</sup> out of sums allocated to it for distribution under that section;

[<sup>F15</sup>“state pension credit” means state pension credit under the State Pension Credit Act 2002;]

“statutory adoption pay” means statutory adoption pay under section 171ZL of the 1992 Act <sup>M68</sup>.

“statutory maternity pay” means statutory maternity pay under section 164 of the 1992 Act <sup>M69</sup>;

“statutory paternity pay” means statutory paternity pay payable under Part 12ZA of the 1992 Act <sup>M70</sup>;

[<sup>F14</sup>“statutory shared parental pay” means statutory shared parental pay under section 171ZU or 171ZV of the 1992 Act;]

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

“statutory sick pay” means statutory sick pay under section 151 of the 1992 Act <sup>M71</sup>;

“student” means a person, other than a person in receipt of a training allowance, who is attending or undertaking—

- (a) a course of study at an educational establishment; or
- (b) a qualifying course;

“student loan” means a loan towards a student's maintenance pursuant to section 73 of the Education (Scotland) Act 1980 <sup>M72</sup>, any regulations made under section 22 of the Teaching and Higher Education Act 1998 <sup>M73</sup> or article 3 of the Education (Student Support) (Northern Ireland) Order 1998 <sup>M74</sup> and includes a young student's bursary paid under regulation 4(1)(c) of the Students' Allowances (Scotland) Regulations 2007 <sup>M75</sup>;

“subsistence allowance” means an allowance which an employment zone contractor has agreed to pay to a person who is participating in an employment zone programme;

“training allowance” means an allowance (whether by way of periodical grants or otherwise) payable—

- (a) out of public funds by a Government department or by or on behalf of Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise, the Secretary of State, the Young People's Learning Agency for England, the Chief Executive of Skills Funding or the Welsh Ministers;
- (b) to a person for that person's maintenance or in respect of a member of the person's family; and
- (c) for the period, or part of the period, during which the person is following a course of training or instruction provided by, or in pursuance of arrangements made with, that department or approved by that department in relation to the person or so provided or approved by or on behalf of the Secretary of State, Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise or the Welsh Ministers,

but it does not include an allowance paid by any Government department to or in respect of a person by reason of the fact that that person is following a course of full-time education, other than under arrangements made under section 2 of the 1973 Act <sup>M76</sup>, or is training as a teacher;

“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, Skills Development Scotland, Scottish Enterprise, Highlands and Islands Enterprise, a government department or the Secretary of State;

“the Trusts” means the Macfarlane Trust, the Macfarlane (Special Payments) Trust and the Macfarlane (Special Payments) (No. 2) Trust;

“universal credit” has the meaning given by section 1 of the Welfare Reform Act 2012;

“voluntary organisation” means a body, other than a public or local authority, the activities of which are carried on otherwise than for profit;

“war disablement pension” means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 <sup>M77</sup>;

“war widow's pension” means any pension or allowance payable to a woman as a widow or surviving civil partner under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;

“war widower's pension” means any pension or allowance payable to a man as a widower or surviving civil partner under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;

“water charges” means—

- (a) as respects Scotland, any water and sewerage charges established by Scottish Water under a charges scheme made under section 29A of the Water Industry (Scotland) Act 2002<sup>M78</sup>, in so far as such charges are in respect of the dwelling which a person occupies as a home; and
- (b) as respects England and Wales, any water and sewerage charges under chapter 1 of Part 5 of the Water Industry Act 1991<sup>M79</sup>;

[<sup>F16</sup>“welfare fund” means any fund maintained by a local authority in terms of section 1 of the Welfare Funds (Scotland) Act 2015;]

“Welfare Reform Act” means the Welfare Reform Act 2007<sup>M80</sup>;

“working tax credit” means a working tax credit under section 10 of the Tax Credits Act 2002<sup>M81</sup>,

“Working Tax Credit Regulations” means the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002<sup>M82</sup>; and

“young person” has the meaning given by regulation 4 (young persons).

(2) For the purposes of the definition of “full-time student” in paragraph (1), a person is to be regarded as attending or, as the case may be, undertaking a full-time course of study—

- (a) subject to paragraph (3), in the case of a person attending or undertaking a part of a modular course which would be a full-time course of study for the purposes of this Part, for the period beginning on the day on which that part of the course starts and ending—
  - (i) on the last day on which that person is registered with the educational establishment as attending or undertaking that part as a full-time course of study; or
  - (ii) on such earlier date (if any) as the person finally abandons the course or is dismissed from it; and
- (b) in any other case, throughout the period beginning on the date on which that person starts attending or undertaking the course and ending on the last day of the course or on such earlier date, if any, as the person finally abandons the course or is dismissed from it.

(3) The period referred to in paragraph (2)(a) includes—

- (a) where a person has failed examinations or has failed to successfully complete a module relating to a period when the person was attending or undertaking a part of the course as a full-time course of study, any period in respect of which the person attends or undertakes the course for the purpose of retaking those examinations or that module; and
- (b) any period of vacation within the period specified in that paragraph or immediately following that period except where the person has registered with the educational establishment to attend or undertake the final module in the course and the vacation immediately follows the last day on which the person is required to attend or undertake the course.

(4) In paragraph (2), “modular course” means a course of study which consists of two or more modules, the successful completion of a specified number of which is required before a person is considered by the educational establishment to have completed the course.

(5) For the purposes of these Regulations, a person is on an income-based jobseeker's allowance on any day in respect of which an income-based jobseeker's allowance is payable to that person and on any day—

- (a) in respect of which the person satisfies the conditions for entitlement to an income-based jobseeker's allowance but where the allowance is not paid as a consequence of section 19

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

- or 19A or regulations made under section 17A of the Jobseekers Act <sup>M83</sup> (circumstances in which a jobseeker's allowance is not payable);
- (b) which is a waiting day for the purposes of paragraph 4 of Schedule 1 to that Act and which falls immediately before a day in respect of which an income-based jobseeker's allowance is payable to the person or would be payable to the person but for section 19 or 19A or regulations made under section 17A of that Act;
- (c) in respect of which the person is a member of a joint-claim couple for the purposes of the Jobseekers Act and no joint-claim jobseeker's allowance is payable in respect of that couple as a consequence of either member of the couple being subject to sanctions for the purposes of section 19 or 19A of that Act; or
- (d) in respect of which an income-based jobseeker's allowance or a joint-claim jobseeker's allowance would be payable but for a restriction imposed pursuant to section 6B, 7, 8 or 9 of the Social Security Fraud Act 2001 <sup>M84</sup> (loss of benefit provisions).
- (6) For the purposes of these Regulations, a person is on an income-related employment and support allowance on any day in respect of which an income-related employment and support allowance is payable to the person and on any day—
- (a) in respect of which the person satisfies the conditions for entitlement to an income-related employment and support allowance but where the allowance is not paid as a consequence of section 18 of the Welfare Reform Act (disqualification); or
- (b) which is a waiting day for the purposes of paragraph 2 of Schedule 2 to that Act and which falls immediately before a day in respect of which an income-related employment and support allowance is payable to the person or would be payable to the person but for section 18 of that Act.
- (7) In these Regulations, where an amount is to be rounded to the nearest penny, a fraction of a penny is to be disregarded if it is less than half a penny and is if it is a half penny or more to be treated as a whole penny.
- (8) For the purposes of these Regulations, two persons are to be taken to be estranged only if their estrangement constitutes a breakdown of the relationship between them.
- (9) In these Regulations, references to any person in receipt of state pension credit includes a person who would be in receipt of state pension credit but for regulation 13 of the State Pension Credit Regulations 2002 <sup>M85</sup> (small amounts of state pension credit).

#### Textual Amendments

- F1** Words in reg. 2(1) omitted (5.4.2015) by virtue of [The Shared Parental Leave and Statutory Shared Parental Pay \(Consequential Amendments to Subordinate Legislation\) Order 2014 \(S.I. 2014/3255\)](#), arts. 1(3), **23(2)(a)** (with art. 35(1))
- F2** Words in reg. 2(1) inserted (11.6.2013) by [The Welfare Reform \(Consequential Amendments\) \(Scotland\) \(No. 3\) Regulations 2013 \(S.S.I. 2013/142\)](#), regs. 1, **11(2)(a)**
- F3** Words in reg. 2 omitted (18.3.2013) by virtue of [The Council Tax Reduction \(Scotland\) Amendment Regulations 2013 \(S.S.I. 2013/48\)](#), regs. 1, **3(b)**
- F4** Words in reg. 2(1) inserted (11.6.2013) by [The Welfare Reform \(Consequential Amendments\) \(Scotland\) \(No. 3\) Regulations 2013 \(S.S.I. 2013/142\)](#), regs. 1, **11(2)(b)**
- F5** Words in reg. 2(1) substituted (1.4.2016) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/81\)](#), regs. 1(2), **9**
- F6** Words in reg. 2(1) inserted (25.11.2013) by [The Council Tax Reduction \(Scotland\) Amendment \(No. 4\) Regulations 2013 \(S.S.I. 2013/287\)](#), regs. 1, **3(a)**
- F7** Words in reg. 2(1) omitted (25.11.2013) by virtue of [The Council Tax Reduction \(Scotland\) Amendment \(No. 4\) Regulations 2013 \(S.S.I. 2013/287\)](#), regs. 1, **3(b)**

- F8** Words in reg. 2(1) substituted (1.4.2015) by The Council Tax Reduction (Scotland) Amendment Regulations 2015 (S.S.I. 2015/46), regs. 1, **3**
- F9** Words in reg. 2(1) inserted (1.4.2016) by The Council Tax Reduction (Scotland) Amendment Regulations 2016 (S.S.I. 2016/81), regs. 1(2), **4(1)(a)**
- F10** Words in reg. 2(1) omitted (1.4.2016) by virtue of The Council Tax Reduction (Scotland) Amendment Regulations 2016 (S.S.I. 2016/81), regs. 1(2), **4(1)(b)**
- F11** Words in reg. 2(1) omitted (5.4.2015) by virtue of The Shared Parental Leave and Statutory Shared Parental Pay (Consequential Amendments to Subordinate Legislation) Order 2014 (S.I. 2014/3255), arts. 1(3), **23(2)(b)** (with art. 35(1))
- F12** Word in reg. 2(1) omitted (5.4.2015) by virtue of The Shared Parental Leave and Statutory Shared Parental Pay (Consequential Amendments to Subordinate Legislation) Order 2014 (S.I. 2014/3255), arts. 1(3), **23(2)(c)(i)** (with art. 35(1))
- F13** Words in reg. 2(1) omitted (5.4.2015) by virtue of The Shared Parental Leave and Statutory Shared Parental Pay (Consequential Amendments to Subordinate Legislation) Order 2014 (S.I. 2014/3255), arts. 1(3), **23(2)(c)(ii)** (with art. 35(1))
- F14** Words in reg. 2(1) inserted (31.12.2014) by The Shared Parental Leave and Statutory Shared Parental Pay (Consequential Amendments to Subordinate Legislation) Order 2014 (S.I. 2014/3255), arts. 1(2), **23(2)(d)**
- F15** Words in reg. 2 inserted (18.3.2013) by The Council Tax Reduction (Scotland) Amendment Regulations 2013 (S.S.I. 2013/48), regs. 1, **3(d)**
- F16** Words in reg. 2(1) inserted (1.4.2016) by The Council Tax Reduction (Scotland) Amendment Regulations 2016 (S.S.I. 2016/81), regs. 1(2), **4(1)(c)**

#### Marginal Citations

- M1** 1973 c.50.
- M2** 1992 c.4.
- M3** 1996 c.18. Sections 75A and 75B were inserted by section 3 of the Employment Act 2002 (c.22) and amended by paragraphs 33 and 34, respectively, of Schedule 1 to the Work and Families Act 2006 (c.18).
- M4** Part 3 was relevantly amended by section 66 of the Welfare Reform and Pensions Act 1999 (c.30), section 60 of the Welfare Reform Act 2007 (c.5) and S.I. 2011/2426.
- M5** S.I. 1983/686 as relevantly amended by S.I. 1984/1675 and 2001/420.
- M6** 2007 c.3. Section 989 was relevantly amended by section 26 of the Scotland Act 2012 (c.11).
- M7** 2004 c.35.
- M8** 2010 asp 8.
- M9** 2000 c.14. Section 3 was amended by paragraph 4 of Schedule 5 to the Health and Social Care Act 2008 (c.14).
- M10** Section 70 was amended by S.I. 1994/2556, 2002/1457 and 2011/2426.
- M11** Section 141 was amended by section 1 of the Child Benefit Act 2005 (c.6).
- M12** 2002 c.21.
- M13** 2004 c.33.
- M14** Part 1 was relevantly amended by section 52 of the Welfare Reform Act 2012 (c.5).
- M15** S.I. 2006/215.
- M16** Section 71 was amended by section 67 of the Welfare Reform and Pensions Act 1999 (c.30).
- M17** 1980 c.44. Section 135 was relevantly amended by section 82(2) of, and Schedule 11 to, the Self-Governing Schools etc. (Scotland) Act 1989 (c.3) and paragraph 7(7) of Schedule 9, and Schedule 10, to the Further and Higher Education (Scotland) Act 1992 (c.37).
- M18** Section 2(1)(a) was amended by paragraph 171 of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c.1).
- M19** Part 1 was relevantly amended by sections 50, 52 and 53 of the Welfare Reform Act 2012.
- M20** S.I. 2008/794.
- M21** S.I. 2010/1907.

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

- M22** 1995 c.18. Section 17A was inserted by section 1(2) of the [Welfare Reform Act 2009 \(c.24\)](#) and amended by Part 3 of Schedule 14 to the Welfare Reform Act 2012.
- M23** 1999 c.30.
- M24** See paragraph (2) to (4).
- M25** S.I. 2011/517.
- M26** 1992 c.37. Section 38 was relevantly amended by paragraph 9 of Schedule 5 to the [Education \(Scotland\) Act 1996 \(c.48\)](#).
- M27** Section 130 was relevantly amended by paragraph 3 of Schedule 9 to the [Local Government Finance Act 1992 \(c.14\)](#), Part 6 of Schedule 19 to the [Housing Act 1996 \(c.52\)](#) and paragraph 1(3) of Schedule 5, and Schedule 8, to the [Welfare Reform Act 2007 \(c.5\)](#).
- M28** S.I. 2006/213.
- M29** 1999 c.33.
- M30** Section 30A was inserted by section 1 of the [Social Security \(Incapacity for Work\) Act 1994 \(c.18\)](#) (“the 1994 Act”) and amended by section 64 of the [Welfare Reform and Pensions Act 1999 \(c.30\)](#) and paragraph 14 of Schedule 24 to the [Civil Partnership Act 2004 \(c.33\)](#). Section 40 was substituted by paragraph 8 of Schedule 1 to the 1994 Act. Section 41 was substituted by paragraph 9 of Schedule 1 to the 1994 Act and amended by paragraph 21 of Schedule 4 to the [Pensions Act 1995 \(c.26\)](#).
- M31** Section 1(4) was relevantly amended by paragraph 2 of Schedule 7 to the [Welfare Reform and Pensions Act 1999 \(c.30\)](#). Paragraph (5) of this regulation makes further provision in relation to these allowances.
- M32** Paragraph (6) of this regulation makes further provision in relation to this allowance.
- M33** S.I. 1987/1967.
- M34** 1978 c.29. Section 10F was inserted by section 108 of the Public Services Reform (Scotland) Act 2010 (asp 8).
- M35** 2006 c.41.
- M36** 2000 c.14. Section 2 was relevantly amended by section 106 of the [Health and Social Care \(Community Health and Standards\) Act 2003 \(c.43\)](#), [paragraph 199](#) of Schedule 1 to the [National Health Service \(Consequential Provisions\) Act 2006 \(c.43\)](#), [paragraph 3](#) of Schedule 5 to the [Health and Social Care Act 2008 \(c.14\)](#) and S.I. 2002/325.
- M37** 1995 c.18.
- M38** S.I. 1996/207.
- M39** 1994 c.39. Section 2 was amended by paragraph 232(1) of Schedule 22 to the [Environment Act 1995 \(c.25\)](#).
- M40** 1996 c.18. Part 8 was substituted by Part 1 of Schedule 4 to the [Employment Relations Act 1999 \(c.26\)](#).
- M41** Sections 80A and 80B were inserted by section 1 of the [Employment Act 2002 \(c.22\)](#) and amended, respectively, by paragraphs 35 and 36 of Schedule 1 to the [Work and Families Act 2006 \(c.18\)](#).
- M42** 2012 c.5.
- M43** 1993 c.48. Section 1 was amended by section 239 of the [Pensions Act 2004 \(c.35\)](#), [paragraph 1](#) of Schedule 27 to the [Finance Act 2007 \(c.11\)](#) and S.I. 2007/3014.
- M44** 1988 c.1. Sections 620 and 621 were repealed by Part 3 of Schedule 42 to the [Finance Act 2004 \(c.12\)](#).
- M45** Section 622 was repealed by Part 3 of Schedule 42 to the [Finance Act 2004 \(c.12\)](#).
- M46** 2004 c.12.
- M47** Chapter 4 was repealed by Part 3 of Schedule 42 to the [Finance Act 2004 \(c.12\)](#).
- M48** 2002 c.16.
- M49** Section 68 was repealed by Part 4 of Schedule 13 to the [Welfare Reform and Pensions Act 1999 \(c.30\)](#) but continues to have effect by virtue of S.I. 2000/2958.
- M50** Regulation 17A was inserted by S.I. 1998/1274.
- M51** Regulation 12B was inserted by S.I. 2007/2868.
- M52** S.I. 2007/154.
- M53** S.I. 2011/1986.
- M54** S.I. 2009/373 as relevantly amended by S.I. 2010/383.

- M55** 1990 c.35. Section 2 was relevantly amended by section 47 of, and paragraph 1 of Schedule 10 to, the [Trade Union Reform and Employment Rights Act 1993 \(c.19\)](#).
- M56** Section 2 was substituted by section 25 of the [Employment Act 1988 \(c.19\)](#) and amended by Part 1 of Schedule 7 to the [Employment Act 1989 \(c.38\)](#) and section 47(1) of the [Trade Union Reform and Employment Rights Act 1993 \(c.19\)](#).
- M57** 1978 c.29. Section 2B was inserted by section 7 of the [National Health Service Reform \(Scotland\) Act 2004 \(asp 7\)](#).
- M58** 1985 c.68. Section 105 was amended by paragraph 5 of Schedule 8 to the [Local Government \(Wales\) Act 1994 \(c.19\)](#), [paragraph 5](#) of Schedule 16 to the [Government of Wales Act 1998 \(c.38\)](#), [paragraph 2\(2\)](#) of Schedule 1 to the [Anti-Social Behaviour Act 2003 \(c.38\)](#) and S.I. 1996/2325 and 2010/866.
- M59** 2010 c.15.
- M60** 1995 c.50. Section 49A was inserted by section 3 of the [Disability Discrimination Act 2005 \(c.13\)](#) and S.I. 2006/312 (N.I. 1) and amended by S.I. 2010/2279. Section 49A was repealed for England and Wales and Scotland by Schedule 27 to the [Equality Act 2010 \(c.15\)](#) but continues to have effect in Northern Ireland.
- M61** 1999 c.27. Section 3 was amended by section 137 of the [Local Government and Public Involvement in Health Act 2007 \(c.28\)](#).
- M62** 2001 asp 10.
- M63** 2006 c.41. Section 242 was amended by section 233 of the [Local Government and Public Involvement in Health Act 2007 \(c.28\)](#) and section 18(7) of the [Health Act 2009 \(c.21\)](#).
- M64** 2006 c.42.
- M65** 2008 c.14. Section 4 was amended by section 189 of the [Health and Social Care Act 2012 \(c.7\)](#).
- M66** 2008 c.17. Section 193 was amended by section 176(1) of, and paragraph 4 of Schedule 17 and Part 27 of Schedule 25 to, the [Localism Act 2011 \(c.20\)](#). Section 196 was amended by section 26 of the [Local Democracy, Economic Development and Construction Act 2009 \(c.20\)](#) and paragraph 55 of Schedule 19 and Part 26 of Schedule 25 to the [Localism Act 2011 \(c.20\)](#).
- M67** 1993 c.39. Section 23(2) was amended by S.I. 1996/3095, 1999/1563 and 2006/654.
- M68** Section 171ZL was inserted by section 4 of the [Employment Act 2002 \(c.22\)](#) and amended by S.I. 2006/2012 and 2011/1740.
- M69** Section 164 was amended by paragraph 12 of Schedule 1 to the [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c.2\)](#) and section 20 of, and paragraph 6 of Schedule 7 and Part 1 of Schedule 8 to, the [Employment Act 2002 \(c.22\)](#).
- M70** Part 12ZA was inserted by section 2 of the [Employment Act 2002](#) and amended by paragraph 183 of Schedule 6 to the [Income Tax \(Earnings and Pensions\) Act 2003 \(c.1\)](#), sections 6 to 10 of, and paragraphs 10 to 20 of Schedule 1 to, the [Work and Families Act 2006 \(c.18\)](#), paragraph 149 of Schedule 1 to the [National Health Service \(Consequential Provisions\) Act 2006 \(c.43\)](#), section 63 of the [Welfare Reform Act 2012 \(c.5\)](#), paragraph 61 of Schedule 14 to the [Health and Social Care Act 2012 \(c.7\)](#) and S.I. 2006/1031.
- M71** Section 151 was amended by paragraph 34 of Schedule 1 to the [Social Security \(Incapacity for Work\) Act 1994 \(c.18\)](#) and paragraph 9 of Schedule 1 to the [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c.2\)](#).
- M72** 1980 c.44. Section 73 was amended by section 73 of the [Self-Governing Schools etc. \(Scotland\) Act 1989 \(c.39\)](#) and section 3(2) of the [Education \(Graduate Endowment and Student Support\) \(Scotland\) Act 2001 \(asp 6\)](#).
- M73** 1998 c.30. Section 22 was amended by section 146(2) of, and Schedule 11 to, the [Learning and Skills Act 2000 \(c.21\)](#), [paragraph 236](#) of Schedule 6 to the [Income Tax \(Earnings and Pensions\) Act 2003 \(c.1\)](#), [section 147](#) of the [Finance Act 2003 \(c.14\)](#), [sections 42](#) and 43 of, and Schedule 7 to, the [Higher Education Act 2004 \(c.8\)](#), [section 257](#) of the [Apprenticeships, Skills, Children and Learning Act 2009 \(c.22\)](#) and section 76 of the [Education Act 2011 \(c.21\)](#).
- M74** S.I. 1998/1760 (N.I. 14), to which there are amendments not relevant to these Regulations.
- M75** S.S.I. 2007/153.

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

- M76** Section 2 was substituted by section 25 of the [Employment Act 1988 \(c.19\)](#) and amended by section 29 of, and Schedule 7 to, the [Employment Act 1989 \(c.38\)](#) and section 47 of the [Trade Union Reform and Employment Rights Act 1993 \(c.19\)](#).
- M77** [2003 c.1](#). Section 639(2) was inserted by section 19 of the [Finance Act 2005 \(c.7\)](#).
- M78** [2002 asp 3](#). Section 29A was substituted by section 21 of the [Water Services etc. \(Scotland\) Act 2005 \(asp 3\)](#).
- M79** [1991 c.56](#).
- M80** [2007 c.5](#).
- M81** [2002 c.21](#).
- M82** S.I. 2002/2005.
- M83** Sections 19 and 19A were substituted by section 46 of the [Welfare Reform Act 2012 \(c.5\)](#). Section 17A was inserted by section 1 of the [Welfare Reform Act 1999 \(c.24\)](#).
- M84** [2001 c.11](#). Section 6B was inserted by section 24 of the [Welfare Reform Act 2009 \(c.24\)](#) and amended by section 113 of the [Welfare Reform Act 2012 \(c.5\)](#). Section 7 was amended by paragraph 45(2) of Schedule 2 to the [State Pension Credit Act 2002 \(c.16\)](#), [section 49\(1\)](#) of, and paragraph 23(2) of Schedule 3 to, the [Welfare Reform Act 2007 \(c.5\)](#), paragraph 2 of Schedule 4, and Schedule 7, to the [Welfare Reform Act 2009 \(c.24\)](#) and S.S.I. 2011/2298. Section 8 was amended by paragraph 3 of Schedule 4, and Schedule 7, to the [Welfare Reform Act 2009 \(c.24\)](#) and section 113 of the Welfare Reform Act 2012. Section 9 was amended by paragraph 46 of Schedule 2 to the [State Pension Credit Act 2002 \(c.16\)](#), [paragraph 23](#) of Schedule 3 to the [Welfare Reform Act 2007 \(c.5\)](#), [paragraph 4](#) of Schedule 4 to the [Welfare Reform Act 2009 \(c.24\)](#) and section 113 of the Welfare Reform Act 2012.
- M85** S.I. 2002/1792.

### Non-dependants

**3.—(1)** In these Regulations, “non-dependant” means any person, except someone to whom paragraph (2) applies, who normally resides with an applicant or with whom an applicant normally resides.

(2) This paragraph applies to—

- (a) any member of the applicant's family;
- (b) if the applicant is polygamously married, any partner of the applicant and any child or young person who is a member of the applicant's household and for whom the applicant or one of the applicant's partners is responsible;
- (c) a child or young person who is living with the applicant but who is not a member of the applicant's household by virtue of regulation 11 (membership of a household);
- (d) subject to paragraph (3), any person who, with the applicant, is jointly and severally liable to pay council tax in respect of a dwelling for any day under section 75 of the Act <sup>M86</sup> (persons liable to pay council tax);
- (e) subject to paragraph (3), any person who is liable to make payments on a commercial basis to the applicant or any partner of the applicant in respect of the occupation of the dwelling; or
- (f) any person who lives with the applicant in order to care for the applicant or any partner of the applicant, or both of them, and who is engaged by a charitable or voluntary organisation which makes a charge to the applicant or the applicant's partner or both of them, for the services provided by that person.

(3) Excepting persons to whom paragraph (2)(a) to (c) and (f) refer, a person to whom any of the following sub-paragraphs applies is a non-dependant for the purpose of these Regulations—

- (a) a person who resides with another person to whom the first mentioned person is liable to make payments in respect of the dwelling and either—



- (i) that another person is a close relative of the first mentioned person or of the first mentioned person's partner; or
- (ii) the tenancy or other agreement between them is other than on a commercial basis;
- (b) a person whose liability to make payments in respect of the dwelling appears to the relevant authority to have been created to take advantage of the council tax reduction scheme, except someone who was, for any period within the 8 weeks prior to the creation of the agreement giving rise to the liability to make the payments, otherwise liable to make payments of rent in respect of the same dwelling; or
- (c) a person who becomes jointly and severally liable with the applicant for council tax in respect of a dwelling and who was, at any time during the period of 8 weeks prior to becoming liable, a non-dependant of one or more of the other residents in that dwelling who are liable for the council tax, unless the relevant authority is satisfied that the change giving rise to the new liability was not made to take advantage of the council tax reduction scheme.

#### Marginal Citations

**M86** Section 75 was amended by section 4 of the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp 6) and paragraph 19 of schedule 10 to the Housing (Scotland) Act 2001 (asp 10).

#### Young persons

4.—(1) In these Regulations “young person” means a person who falls within the definition of “qualifying young person” in section 142 of the 1992 Act <sup>M87</sup> (child and qualifying young person).

(2) Paragraph (1) does not apply to a person who—

- (a) is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance or has an award of universal credit; or
- (b) is a person to whom section 6 of the Children (Leaving Care) Act 2000 <sup>M88</sup> (exclusion from benefits) applies.

[<sup>F17</sup>(3) Where section 145A of the 1992 Act (entitlement after death of a child or qualifying young person) applies, then during the period prescribed under subsection (1) of that section (and only during that period)—

- (a) references in these Regulations to a young person include the young person in respect of whom there is entitlement under that section; and
- (b) for the purposes of these Regulations the circumstances pertaining to the young person at the date of their death are deemed to continue throughout that period.]

#### Textual Amendments

**F17** Reg. 4(3) inserted (25.11.2013) by [The Council Tax Reduction \(Scotland\) Amendment \(No. 4\) Regulations 2013 \(S.S.I. 2013/287\)](#), regs. 1, 4

#### Marginal Citations

**M87** Section 142 was substituted by section 1(2) of the [Child Benefit Act 2005 \(c.6\)](#).

**M88** [2000 c.35](#).

**Occupation of a dwelling as a home**

5.—(1) Subject to the following provisions of this regulation, a person is to be treated as occupying as a home the dwelling normally occupied as a home—

- (a) by that person or, if the person is a member of a family, by the person and that family; or
- (b) if the person is polygamously married, by the person, the person's partners and any child or young person for whom the person or any of the partners is responsible and who is a member of that same household,

and is not to be treated as occupying any other dwelling as a home.

(2) In determining whether a dwelling is the dwelling normally occupied as a person's home for the purpose of paragraph (1) regard must be had to any other dwelling occupied by the person or any other person referred to in that paragraph whether or not that dwelling is in Scotland.

(3) Where a lone parent or a person who does not have a partner and is not a lone parent is a student, other than a full-time student to whom regulation 20 applies (persons not entitled to council tax reduction: students), or is on a training course, and is liable to make payments in respect of either—

- (a) the dwelling which that person occupies for the purpose of attending a course of study or a training course; or
- (b) the dwelling which the person occupies when not attending the course,

the person is to be treated as occupying as a home the dwelling in respect of which the person is liable to make those payments.

(4) Where a person has required to move into temporary accommodation because of the carrying out of essential repairs to the dwelling normally occupied as that person's home, and the person is liable to make payments in respect of either the dwelling which the person normally occupies as a home or the temporary accommodation, the person is to be treated as occupying as a home the dwelling in respect of which the person is liable to make payments.

(5) Where a person is required to reside in a dwelling which is a bail hostel or probation hostel approved by the Secretary of State under section 13 of the Offender Management Act 2007<sup>M89</sup>, that person is not to be treated as occupying that dwelling as a home.

(6) Where a person is liable to make payments in respect of two (but not more than two) dwellings, that person is to be treated as occupying both dwellings as a home—

- (a) for a period not exceeding 52 weeks, where the person left and remains absent from the former dwelling occupied as a home and for which the person is liable to make payments through fear of violence in that dwelling or by a former member of the person's family and—
  - (i) the relevant authority is satisfied that it is reasonable that the person should be entitled to council tax reduction in respect of the former dwelling and the present dwelling occupied as a home; and
  - (ii) the person intends to return to occupy the former dwelling as a home;
- (b) in the case of a person who is a member of a couple or a member of a polygamous marriage, where the person or one partner is a student, other than a full-time student to whom regulation 20(1) (persons not entitled to council tax reduction: students) applies, or is on a training course, and—
  - (i) it is unavoidable that the partners should occupy two separate dwellings; and
  - (ii) the local authority is satisfied that it is reasonable that the person should be entitled to council tax reduction in respect of both dwellings;

- (c) where, because of the number of persons in a family referred to in paragraph (1)(a) or (b), those persons have been housed by a housing authority in two separate dwellings;
  - (d) where a person has moved into a new dwelling occupied as a home, except where paragraph (4) applies, for a period not exceeding 4 reduction weeks from the date on which that person moved if the person could not reasonably have avoided liability in respect of two dwellings; or
  - (e) where a person—
    - (i) is treated by virtue of paragraph (8) as occupying a dwelling as that person's home and paragraph 8(c)(i) applies; and
    - (ii) the person has occupied another dwelling as a home on any day within the period of 4 weeks immediately preceding the date the person moved to the new dwelling, for a period not exceeding 4 reduction weeks immediately preceding the date on which the person moved.
- (7) Where—
- (a) a person has moved into a dwelling for which that person is not liable to make payments (“the new dwelling”);
  - (b) immediately before that move, the person was liable to make payments for the dwelling previously occupied as a home (“the former dwelling”); and
  - (c) that liability continues after the person has moved into the new dwelling,
- the person is to be treated as occupying the former dwelling as a home for a period not exceeding 4 reduction weeks if the person could not reasonably have avoided liability in respect of the former dwelling.
- (8) Where—
- (a) a person moved into a dwelling and was liable to make payments in respect of that dwelling before moving in; and
  - (b) either—
    - (i) that person applied for council tax reduction before moving in and no decision has been made or it was refused but a further application was made or treated as made within 4 weeks of the date on which the person moved into the new dwelling to occupy it as a home; or
    - (ii) the person notified the move to the new dwelling as a change of circumstances under regulation 89 (duty to notify changes of circumstances) before the move; and
  - (c) the delay in moving into the dwelling was reasonable and—
    - (i) that delay was necessary in order to adapt the dwelling to meet the disability needs of the person or any member of the person's family;
    - (ii) the move was delayed pending the outcome of an application—
      - (aa) under Part 8 of the 1992 Act <sup>M90</sup> for a social fund payment;
      - [<sup>F18</sup>(bb) to a welfare fund for a payment;]
      - (cc) to a local authority in exercise of the power in section 1 of the Localism Act 2011 <sup>M91</sup> (local authority's general power of competence) using funds provided by the Secretary of State, and in this sub-head local authority means a local authority within the meaning of section 8 of that Act; or
      - (dd) to the Welsh Ministers, or to a person acting on their behalf, for a payment made in exercise of the power in section 60 of the Government of Wales Act 2006 <sup>M92</sup> (promotion etc. of well-being),

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

to meet a need arising out of the move or in connection with setting up the home in the dwelling and either a member of the applicant's family is aged 5 or under or the applicant's applicable amount includes a premium under paragraph 9 (disability premium), paragraph 11 (severe disability premium) or 13 (disabled child premium) of Schedule 1 (applicable amounts) or a component under paragraph 21 (work-related activity component) or 22 (support component) of that Schedule; or

- (iii) the applicant became liable to make payments in respect of the dwelling while a patient or in residential accommodation,

the person is to be treated as occupying the dwelling as a home for any period not exceeding 4 weeks immediately prior to the date on which the person moved into the dwelling.

(9) Where a person is treated by virtue of paragraph (8) as occupying a dwelling as a home in respect of the period before moving in, the person's application for council tax reduction in respect of that dwelling is to be treated as having been made on the latest of—

- (a) in the case of an application in respect of which a decision has not yet been made, the date that application is or is treated as made in accordance with regulation 85 (date on which an application is made);
- (b) in the case of an application which was refused and a further application was or was treated as made in accordance with regulation 85 within 4 weeks of the date on which the person moved into the dwelling, the date on which the claim was refused or was treated as made; or
- (c) the date from which the person is treated as occupying the dwelling as a home by virtue of paragraph (8).

(10) Where a person to whom neither paragraph (6)(a) or (16)(c)(x) applies—

- (a) formerly occupied a dwelling but left and remains absent from it through fear of violence in the dwelling or by a person who was formerly a member of the family of that person; and
- (b) has an unavoidable liability to make payments in respect of that dwelling,

the person is to be treated as occupying the dwelling as a home for a period not exceeding 4 reduction weeks.

(11) This paragraph applies to a person who enters residential accommodation—

- (a) for the purpose of ascertaining whether the accommodation suits that person's needs;
- (b) with the intention of returning to the dwelling which is normally occupied by the person as a home should the residential accommodation prove not to suit the person's needs; and
- (c) while the part of the dwelling which is normally occupied by the person as a home is not let, or as the case may be, sublet.

(12) A person to whom paragraph (11) applies is to be treated as occupying the dwelling normally occupied as the person's home for a period not exceeding 13 weeks beginning from the first day the person enters residential accommodation, but a person is not to be treated as occupying that dwelling as a home if the total of all periods in residential accommodation exceeds 52 weeks.

(13) Subject to paragraph (17), a person is to be treated as occupying a dwelling as a home while that person is temporarily absent from the dwelling for a period not exceeding 13 weeks beginning from the first day of that absence from the home if—

- (a) the person intends to return to occupy the dwelling as a home;
- (b) the part of the dwelling normally occupied by the person has not been let or, as the case may be, sublet; and
- (c) the period of absence is unlikely to exceed 13 weeks.

(14) 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 (Care and Treatment) (Scotland) Act 2003 <sup>M93</sup>, the Criminal Procedure (Scotland) Act 1995 <sup>M94</sup>, the Mental Health Act 1983 <sup>M95</sup> or the Mental Health (Northern Ireland) Order 1986 <sup>M96</sup>; and
  - (b) on temporary release from a detention referred to in sub-paragraph (a) in accordance with rules made under the provisions of the Prisons (Scotland) Act 1989 <sup>M97</sup>, the Prison Act 1952 <sup>M98</sup> or the Prison Act (Northern Ireland) 1953 <sup>M99</sup>.
- (15) Where paragraph (14) applies to a person, for any day when that person is on temporary release—
- (a) if the temporary release was immediately preceded by a period of temporary absence under paragraph (13) or (16), the person is to be treated as if continuing to be absent from the dwelling, despite any occupation of the dwelling;
  - (b) for the purposes of paragraph (16)(c)(i), the person is to be treated as if remaining in detention; and
  - (c) if the person does not fall within sub-paragraph (a), the person is to be treated as if not occupying a dwelling as a home despite any occupation of the dwelling.
- (16) This paragraph applies to a person who is temporarily absent from the dwelling normally occupied by that person as a home and—
- (a) that person intends to return to occupy the dwelling as a home;
  - (b) the part of the dwelling which is normally occupied by the person has not been let or, as the case may be, sublet;
  - (c) the person is—
    - (i) detained in custody on remand pending trial or, as a condition of bail, required to reside—
      - (aa) in a dwelling other than the dwelling the person occupies as a home;
      - (bb) in premises approved under section 13 of the Offender Management Act 2007 <sup>M100</sup>; or
      - (cc) detained pending sentence upon conviction;
    - (ii) resident in a hospital or similar institution as a patient;
    - (iii) undergoing, or as the case may be, any partner of the person or dependant child of the person is undergoing, in the United Kingdom or elsewhere, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation;
    - (iv) following, in the United Kingdom or elsewhere, a training course;
    - (v) undertaking medically approved care of a person residing in the United Kingdom or elsewhere;
    - (vi) 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;
    - (vii) in the United Kingdom or elsewhere, receiving medically approved care provided in accommodation other than residential accommodation;
    - (viii) a student to whom paragraph (3) or (6)(b) does not apply;
    - (ix) receiving care provided in residential accommodation other than a person to whom paragraph (11) applies; or

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

(x) a person to whom paragraph (6)(a) does not apply and who left the dwelling occupied as that person's home through fear of violence in that dwelling or by a former member of the person's family; and

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

(17) A person to whom paragraph (16) applies is to be treated as occupying the dwelling normally occupied as a home during any period of temporary absence, but the period during which the person is treated as occupying the dwelling must not exceed 52 weeks beginning from the first day of temporary absence.

#### Textual Amendments

**F18** Reg. 5(8)(c)(ii)(bb) substituted (1.4.2016) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/81\)](#), regs. 1(2), **4(3)**

#### Marginal Citations

**M89** 2007 c.21.

**M90** Part 8 was amended by sections 70 and 71 of, and paragraphs 72 and 73 of Schedule 7 and Schedule 8 to, the [Social Security Act 1998 \(c.14\)](#) and section 54 of, paragraph 2 of Schedule 7 and Schedule 8 to, the [Welfare Reform Act 2007 \(c.5\)](#) and sections 71 and 72 of the [Welfare Reform Act 2012 \(c.5\)](#).

**M91** 2011 c.20.

**M92** 2006 c.32.

**M93** 2003 asp 13.

**M94** 1995 c.46.

**M95** 1983 c.20.

**M96** S.I. 1986/595.

**M97** 1989 c.45.

**M98** 1952 c.52.

**M99** 1953 c.18.

**M100** 2007 c.21.

#### Remunerative work

6.—(1) Subject to the following provisions of this regulation, a person is to be treated for the purposes of these Regulations as engaged in remunerative work if that person is engaged, or, where hours of work fluctuate, is engaged on average, for not less than 16 hours a week, in work for which payment is made or which is done in expectation of payment.

(2) Subject to paragraph (3), in determining the number of hours for which a person is engaged in work where that person's hours of work fluctuate, regard is to be had to the average of hours worked over—

(a) if there is a recognisable cycle of work, the period of one complete cycle (including, where the cycle involves periods in which the person does no work, those periods but disregarding any other absences); and

(b) in any other case, the period of 5 weeks immediately prior to the date of application, or any other length of time as may, in the particular case, enable the person's weekly average hours of work to be determined more accurately.

(3) Where, for the purposes of paragraph (2)(a), a person's recognisable cycle of work at a school, other educational establishment or other place of employment is one year and includes periods of school holidays or similar vacations during which that person does not work, those periods and any other periods not forming part of such holidays or vacations during which the person is not required

to work are to be disregarded in establishing the average hours for which the person is engaged in work.

(4) Where no recognisable cycle has been established in respect of a person's work, regard must be had to the number of hours or, where those hours will fluctuate, the average of the hours which the person is expected to work in a week.

(5) A person is to be treated as engaged in remunerative work during any period for which the person is absent from work referred to in paragraph (1) if the absence is either without good cause or by reason of a recognised, customary or other holiday.

(6) A person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance for more than 3 days in any reduction week is to be treated as not being in remunerative work in that week.

(7) A person is not to be treated as engaged in remunerative work on any day on which that person is on maternity leave, paternity leave<sup>F19</sup>, shared parental leave] or adoption leave or is absent from work because the person is ill.

(8) A person is not to be treated as engaged in remunerative work on any day on which the person is engaged in an activity in respect of which—

- (a) a sports award has been made, or is to be made, to the person; and
- (b) no other payment is made or is expected to be made to the person.

#### Textual Amendments

- F19** Words in [reg. 6\(7\)](#) inserted (31.12.2014) by [The Shared Parental Leave and Statutory Shared Parental Pay \(Consequential Amendments to Subordinate Legislation\) Order 2014 \(S.I. 2014/3255\)](#), arts. 1(2), [23\(3\)](#)

## PART 2

### Families

#### Entitlement of only one member of a family

7. The entitlement of one member of a family to council tax reduction in respect of a dwelling excludes entitlement to that reduction in respect of that dwelling for any other member of the family for the same period.

#### Couples: polygamous marriages

8. Where a person is a party to a polygamous marriage no party to the marriage is to be taken to be a member of a couple for the purposes of these Regulations.

#### Applicant in receipt of income-related benefit

9. Where an applicant in receipt of an income-related benefit is a member of a family, the income and capital of any member of that family is to be treated as the income and capital of the applicant.

#### Responsibility for another person

10.—(1) Subject to the following provisions of this regulation a person is to be treated as responsible for a child or a young person who normally lives with that person.

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

(2) Where a child or young person spends equal amounts of time in different households, or where there is a question as to which household the child or young person is living in, the child or young person is to be treated for the purposes of paragraph (1) as normally living with—

- (a) the person who is receiving child benefit in respect of the child or young person; or
- (b) if there is no such person—
  - (i) where only one claim for child benefit has been made in respect of the child or young person, the person who made that claim; or
  - (ii) in any other case the person who has the primary responsibility for the child or young person.

(3) For the purposes of these Regulations a child or young person can be the responsibility of only one person in any reduction week and any person other than the one treated as responsible for the child or young person under this regulation is to be treated as not responsible for the child or young person.

### **Membership of a household**

**11.**—(1) Subject to paragraphs (2) and (3), the applicant and any partner of the applicant and, where the applicant or the applicant's partner is treated as responsible for a child or young person by virtue of regulation 10 (responsibility for another person) that child or young person and any child of that child or young person, are to be treated as members of the same household even if temporarily absent from that household.

(2) A child or young person is not to be treated as a member of the applicant's household where that child or young person is—

- (a) boarded out with the applicant or any partner of the applicant under a relevant enactment or placed with the applicant or any partner of the applicant by a local authority under section 22C(5) and (6)(a) or (b) or section 23(2)(a) of the Children Act 1989 <sup>M101</sup> or by a voluntary organisation under section 59(1)(a) of that Act <sup>M102</sup>;
- (b) boarded out or placed with the applicant or any partner of the applicant prior to adoption; or
- (c) placed for adoption with the applicant or any partner of the applicant in accordance with the Adoption and Children Act 2002 <sup>M103</sup> or the Adoption Agencies (Scotland) Regulations 2009 <sup>M104</sup>.

(3) Subject to paragraph (4), paragraph (1) does not apply to a child or young person who is not living with the applicant and the child or young person—

- (a) is in the care of, or is being looked after by, a local authority under a relevant enactment;
- (b) has been boarded out or placed with a person other than the applicant prior to adoption; or
- (c) has been placed for adoption in accordance with the Adoption and Children Act 2002 or the Adoption Agencies (Scotland) Regulations 2009.

(4) A child or young person to whom paragraph (3)(a) applies is to be treated as being a member of the applicant's household in any reduction week where—

- (a) that child or young person lives with the applicant for part or all of that reduction week; and
- (b) the relevant authority considers that it is reasonable to do so taking into account the nature and frequency of that child's or young person's visits.

(5) In this regulation “relevant enactment” means the Social Work (Scotland) Act 1968 <sup>M105</sup>, the Family Law Reform Act 1969 <sup>M106</sup>, the Children and Young Persons Act 1969 <sup>M107</sup>, the Children Act 1975 <sup>M108</sup>, the Domestic Proceedings and Magistrates' Courts Act 1978 <sup>M109</sup>, the Family Law Act



1986<sup>M110</sup>, the Children Act 1989<sup>M111</sup>, the Armed Forces Act 1991<sup>M112</sup> and the Children (Scotland) Act 1995<sup>M113</sup>.

#### Marginal Citations

**M101** 1989 c.41. In relation to England, sections 22A to 22F were substituted for section 23 by section 8 of the [Children and Young Persons Act 2008 \(c.23\)](#). Section 23(2)(a) remains in force in relation to Wales and was amended by section 49 of the [Children Act 2004 \(c.31\)](#) and paragraph 7 of Schedule 3 to the [Children and Young Persons Act 2008 \(c.23\)](#).

**M102** Section 59(1)(a) was amended by paragraph 14 of Schedule 4 to the [Care Standards Act 2000 \(c.14\)](#), section 49 of the [Children Act 2004 \(c.31\)](#) and paragraphs 2 and 23 of Schedule 1 to the [Children and Young Persons Act 2008 \(c.23\)](#).

**M103** 2002 c.38.

**M104** S.S.I. 2009/154 as amended by S.S.I. 2010/172 and 2011/211.

**M105** 1968 c.49.

**M106** 1969 c.46.

**M107** 1969 c.54.

**M108** 1975 c.52.

**M109** 1978 c.22.

**M110** 1986 c.55.

**M111** 1989 c.41.

**M112** 1991 c.62.

**M113** 1995 c.36.

## PART 3

### Application of the Regulations

#### Application

12.—(1) These Regulations apply to a person who—

- (a) has not attained the qualifying age for state pension credit; or
- (b) has attained the qualifying age for state pension credit if that person, or any partner of that person, is a person on income support, [<sup>F20</sup>universal credit,] an income-based jobseeker's allowance or an income-related employment and support allowance.

(2) Except as provided in paragraph (1)(b), these Regulations do not apply in relation to a person whose partner has attained the qualifying age for state pension credit.

#### Textual Amendments

**F20** Words in reg. 12(1)(b) inserted (25.11.2013) by [The Council Tax Reduction \(Scotland\) Amendment \(No. 4\) Regulations 2013 \(S.S.I. 2013/287\)](#), regs. 1, 5

#### Prescribed years

13. The financial year commencing 1st April 2013 and each subsequent financial year are prescribed as the years for which these Regulations apply.

## PART 4

### Entitlement to council tax reduction

#### Conditions of entitlement to council tax reduction

**14.**—(1) A person who is liable to pay council tax under section 75 of the Act (“relevant person”) is entitled to council tax reduction in respect of a day if the conditions set out in paragraph (3) are satisfied and—

- (a) each of the conditions set out in paragraphs (4) and (5) is satisfied; or
- (b) the condition set out in paragraph (6) is satisfied.

(2) A relevant person is not entitled to council tax reduction in respect of any day before the day on which that person's entitlement to council tax reduction commences in accordance with regulation 80 (date on which entitlement is to begin).

(3) The conditions referred to in paragraph (1) are that the relevant person—

- (a) is for the day liable to pay council tax in respect of a dwelling in which that person resides [<sup>F21</sup>as their sole or main residence];
- (b) is not a person to whom regulation 15 (persons not entitled to council tax reduction: absentees), 16 (persons not entitled to council tax reduction: persons treated as not being in Great Britain, 19 (persons not entitled to council tax reduction: persons subject to immigration control) or 20 (persons not entitled to council tax reduction: students) applies; and
- (c) makes an application for council tax reduction in accordance with Part 10 (applications).

(4) The condition referred to in paragraph (1)(a) is that there is an appropriate maximum council tax reduction in the case of the relevant person.

(5) The condition referred to in paragraph (1)(a) is that—

- (a) the day falls within a week in respect of which—
  - (i) the relevant person has no income; or
  - (ii) the relevant person's income does not exceed the applicable amount; or
- (b) neither paragraph (a)(i) or (ii) applies to the relevant person but amount A exceeds amount B where—
  - (i) amount A is the appropriate maximum council tax reduction in the relevant person's case; and
  - (ii) amount B is 2 6/7 per cent of the difference between the person's income in respect of the week in which the day falls and the applicable amount.

(6) The condition referred to in paragraph (1)(b) is that—

- (a) no other resident of the dwelling is liable to pay rent to the relevant person in respect of the dwelling; and
- (b) the relevant person is entitled to alternative maximum council tax reduction because of the income or aggregate incomes of one or more residents of the dwelling.

(7) For the purpose of paragraph (6) a resident of the dwelling other than the relevant person does not include a resident who—

- (a) falls to be disregarded for the purposes of discount in accordance with Schedule 1 to the Act <sup>M114</sup>; or
- (b) is a person described in regulation 79 (residents of a dwelling to whom regulation 14(6) does not apply).

(8) Subject to paragraph (9) below, where a relevant person is entitled to council tax reduction in respect of a day, the amount to which the person is entitled is—

- (a) if paragraph (5)(a) applies, the amount which is the appropriate maximum council tax reduction in that person's case;
- (b) if paragraph (5)(b) applies, the amount found by deducting amount B from amount A, where “amount A” and “amount B” have the meanings given by that paragraph; and
- (c) if paragraph (6) applies, the amount which is the appropriate alternative maximum council tax reduction in that person's case.

(9) Where a relevant person is entitled to council tax reduction in respect of a day and paragraphs (5) and (6) apply, the amount to which the person is entitled is whichever is the greater of—

- (a) the amount referred to in paragraph (8)(a) or, as the case may be, paragraph (8)(b); or
- (b) the amount referred to in paragraph (8)(c).

#### Textual Amendments

**F21** Words in [reg. 14\(3\)\(a\)](#) inserted (1.10.2013) by [The Council Tax Reduction \(Scotland\) Amendment \(No. 2\) Regulations 2013 \(S.S.I. 2013/218\)](#), [regs. 1, 3](#)

#### Marginal Citations

**M114** Schedule 1 was amended by paragraph 152 of Schedule 9 to the [Powers of Criminal Courts \(Sentencing\) Act 2000 \(c.6\)](#), paragraph 18 of schedule 3 to the [Regulation of Care \(Scotland\) Act 2011 \(asp 8\)](#), paragraph 152 of Schedule 1 to the [National Health Service \(Consequential Provisions\) Act 2006 \(c.43\)](#), paragraph 123 of Schedule 16 and Schedule 17 to the [Armed Forces Act 2006 \(c.52\)](#) and [S.S.I. 2005/465](#).

### Persons not entitled to council tax reduction: absentees

**15.**—(1) Subject to paragraph (2), a person is not entitled to council tax reduction in respect of a day and a dwelling of which the person is a resident if the person is throughout that day absent from the dwelling.

(2) Paragraph (1) does not include a person whose absence from the dwelling is part of a period of temporary absence.

(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 and for so long as—
  - (i) the person resides in that accommodation;
  - (ii) the part of the dwelling in which the person usually resides 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 the person has entered the accommodation for the purpose of ascertaining whether it suits the person's needs and with the intention of returning to the dwelling if it proves not to suit the person's needs;

- (b) a period of absence not exceeding 13 weeks, beginning with the first whole day of absence from the dwelling and for so long as—
  - (i) the person intends to return to the dwelling;
  - (ii) the part of the dwelling in which the person usually resides is not let or sub-let; and

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

- (iii) that period is unlikely to exceed 13 weeks;
- (c) a period of absence not exceeding 52 weeks, beginning with the first whole day of that absence and for so long as—
  - (i) the person intends to return to the dwelling;
  - (ii) the part of the dwelling in which the person usually resides 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 52 weeks.
- (4) This paragraph applies to a person who is—
  - (a) (i) detained in custody on remand pending trial or required, as a condition of bail, to reside—
    - (aa) in a dwelling other than the dwelling referred to in paragraph (1); or
    - (bb) in premises approved under section 13 of the Offender Management Act 2007 <sup>M115</sup>; or
  - (ii) detained in custody pending sentence upon conviction;
  - (b) resident in a hospital or similar institution as a patient;
  - (c) undergoing, or who has a partner or dependent child who 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) receiving medically approved care, in the United Kingdom or elsewhere, provided in accommodation other than residential accommodation;
  - (h) a student;
  - (i) 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 the person resides in through fear of violence in that dwelling or by a person who was formerly a member of the person's family.
- (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>M116</sup>, the Criminal Procedure (Scotland) Act 1995 <sup>M117</sup> or the Mental Health (Care and Treatment) (Scotland) Act 2003 <sup>M118</sup>); and
  - (b) on temporary release from detention in accordance with Rules made under the provisions of the Prisons (Scotland) Act 1989 <sup>M119</sup> or the Prison Act 1952 <sup>M120</sup>.
- (6) Where paragraph (5) applies to a person, for any day when the person is on temporary release—
  - (a) if that temporary release was immediately preceded by a period of temporary absence under paragraph (3)(b) or (c)—

- (i) for the purposes of paragraph (1), the person is to be treated as if still absent from the dwelling; and
  - (ii) for the purposes of paragraph (4)(a), the person is to be treated as if still in detention;
- (b) if sub-paragraph (a) does not apply the person is to be treated as absent from the dwelling for the purpose of paragraph (1).

#### Marginal Citations

M115 2007 c.21.

M116 1983 c.20.

M117 1995 c.46.

M118 2003 asp 13.

M119 1989 c.45.

M120 1952 c.52.

#### Persons not entitled to council tax reduction: persons treated as not being in Great Britain

16.—(1) Subject to paragraph (5), a person is not entitled to council tax reduction in respect of a day and a dwelling of which the person is a resident if the person is throughout that day treated as not being in Great Britain in accordance with this regulation.

(2) Subject to paragraph (5), a person is to be treated as not being in Great Britain if that person is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.

(3) A person is not to be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland unless the person has a right to reside in one of those places.

(4) For the purposes of paragraph (3), a right to reside does not include a right which exists by virtue of, or in accordance with,—

- (a) regulation 13 of the 2006 Regulations<sup>M121</sup>; or
- (b) Article 6 of Directive 2004/38/EC of the European Parliament and of the Council on the rights of citizens of the Union and their family members to move and reside within the territory of the Member States<sup>M122</sup>.

(5) A person is not to be treated as not being in Great Britain if that person is—

- (a) a qualified person for the purposes of regulation 6 of the 2006 Regulations as a worker or a self-employed person;
- (b) a family member of a person referred to in paragraph (a) within the meaning of regulation 7 of the 2006 Regulations;
- (c) a person who has a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of the 2006 Regulations;
- (d) a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951<sup>M123</sup>, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967<sup>M124</sup>;
- <sup>F22</sup>(e) a person who has been granted, or who is deemed to have been granted, leave outside the rules made under section 3(2) of the Immigration Act 1971 where that leave is—
  - (i) discretionary leave to enter or remain in the United Kingdom;
  - (ii) leave to remain under the Destitution Domestic Violence concession; or

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

- (iii) leave deemed to have been granted by virtue of regulation 3 of the Displaced Persons (Temporary Protection) Regulations 2005;]
- (f) a person who has humanitarian protection granted under the rules referred to in subparagraph (e); <sup>F23</sup> ...
- (g) a person who is not a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act <sup>M125</sup> and who is in the United Kingdom as a result of that person's deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom [<sup>F24</sup>;
- (h) in receipt of income support, an income-based jobseeker's allowance or on an income-related employment and support allowance; or
- (i) a person who is treated as a worker for the purpose of the definition of "qualified person" in regulation 6(1) of the 2006 Regulations pursuant to regulation 5 of the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013 (right of residence of a Croatian who is an accession State national subject to worker authorisation).]
- (6) In this regulation "the 2006 Regulations" means the Immigration (European Economic Area) Regulations 2006 <sup>M126</sup>.

#### Textual Amendments

- F22** Reg. 16(5)(e) substituted (1.4.2015) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2015 \(S.S.I. 2015/46\)](#), regs. 1, **4(a)**
- F23** Word in reg. 16 omitted (1.4.2015) by virtue of [The Council Tax Reduction \(Scotland\) Amendment Regulations 2015 \(S.S.I. 2015/46\)](#), regs. 1, **4(b)**
- F24** Reg. 16(5)(h)(i) inserted (1.4.2015) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2015 \(S.S.I. 2015/46\)](#), regs. 1, **4(c)**

#### Marginal Citations

- M121** Regulation 13 was amended by S.I. 2012/1547.
- M122** OJ L 158, 30.4.2004, p.77.
- M123** Cmnd 9171.
- M124** Cmnd 3906.
- M125** 1999 c.33.
- M126** S.I. 2006/1003.

#### Persons treated as being in Great Britain

17.—(1) A person to whom paragraph (2) or (3) applies is to be treated as being in Great Britain, unless the person is to be treated as not in Great Britain under regulation 16.

- (2) This paragraph applies to a person who is outside Great Britain in that person's capacity as—
- an aircraft worker;
  - a continental shelf worker who is in a designated area or a prescribed area;
  - a Crown servant;
  - a mariner; or
  - a member of her Majesty's forces.
- (3) This paragraph applies to a person if—
- that person is a member of a couple and the other member of the couple is a person to whom paragraph (2) applies; and

- (b) the person is outside Great Britain by reason only of the fact that the person is living with the other member of the couple.
- (4) In this regulation—
  - (a) “aircraft worker” means a person who is employed under a contract of service as a pilot, commander, navigator or other member of the crew of any aircraft or in any other capacity on board any aircraft where—
    - (i) the employment in that other capacity is for the purposes of the aircraft or its crew or of any passengers or cargo or mail carried on that aircraft; and
    - (ii) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the aircraft is in flight;
  - (b) “continental shelf worker” means a person who is employed, whether under a contract of service or not, in a designated area or a prescribed area in connection with any activity mentioned in section 11(2) of Petroleum Act 1998 <sup>M127</sup>;
  - (c) “Crown servant” means a person employed by or under the Crown;
  - (d) “designated area” means any area which may from time to time be designated by Order in Council under the Continental Shelf Act 1964 <sup>M128</sup> as an area within which the rights of the United Kingdom with respect to the seabed and subsoil and their natural resources may be exercised;
  - (e) “mariner” means a person who is employed under a contract of service as a master or member of the crew of any ship or vessel or in any other capacity on board any ship or vessel where—
    - (i) the employment in that other capacity is for the purposes of that ship or vessel or its crew or any passengers or cargo or mails carried by the ship or vessel; and
    - (ii) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on its voyage; and
  - (f) “prescribed area” means any area over which Norway or any member State of the European Union (other than the United Kingdom) exercises sovereign rights for the purpose of exploring the seabed and subsoil and exploiting their natural resources, being an area outside the territorial seas of Norway or that member State, or any other area which is from time to time specified under section 10(8) of the Petroleum Act 1998.

**Marginal Citations**

M127 1998 c.17.

M128 1964 c.29.

**Temporary absence from Great Britain**

18.—(1) For the purposes of determining whether a person is in Great Britain, a person's temporary absence from Great Britain is disregarded—

- (a) for the first month of the temporary absence if paragraph (2) applies; or
  - (b) for the first 6 months of the temporary absence if paragraph (3) applies.
- (2) This paragraph applies where—
- (a) the person was entitled to council tax reduction immediately before the beginning of the period of temporary absence; and
  - (b) the person has not been absent on more than two occasions in the previous 52 weeks, starting from the first day of the current period of temporary absence.

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

- (3) This paragraph applies where—
- (a) the person was entitled to council tax reduction immediately before the beginning of the period of temporary absence; and
  - (b) the absence is solely in connection with—
    - (i) the treatment of the person for an illness or physical or mental disability by, or under the supervision of, a person appropriately qualified to carry out that treatment;
    - (ii) the person accompanying a person described in paragraph (5) for the treatment of the person so described for an illness or physical or mental disability by, or under the supervision of, a person appropriately qualified to carry out that treatment; or
    - (iii) the person undergoing medically approved convalescence or care as a result of treatment for an illness or physical or mental disability, where the person had that illness or disability before leaving Great Britain.
- (4) The period in paragraph (1)(a) may be extended by up to a one month if—
- (a) the temporary absence is in connection with the death of—
    - (i) a person described in paragraph (5); or
    - (ii) a close relative of the person or a close relative of a person described in paragraph (5); and
  - (b) the relevant authority is satisfied that it would be unreasonable to expect the person to return to Great Britain within the first month.
- (5) A person described by this paragraph is—
- (a) where the person is a member of a couple, the other member of the couple; or
  - (b) a child or young person for whom the person, or where the person is a member of a couple, the other member of the couple, is responsible.
- (6) In this regulation “appropriately qualified” means qualified to provide medical treatment or physiotherapy or a form of treatment which is similar to, or related to, either of those forms of treatment.

### **Persons not entitled to council tax reduction: persons subject to immigration control**

**19.**—<sup>[F25]</sup>(1) A person is not entitled to council tax reduction in respect of a day and a dwelling of which the person is a resident if the person is throughout that day a person subject to immigration control <sup>F26</sup> ....

<sup>[F27]</sup>(2) In paragraph (1) “a person subject to immigration control” has the meaning given in section 115(9) of the Immigration and Asylum Act, but does not include a person who is—

- (a) a national of a state which has ratified the European Convention on Social and Medical Assistance (done in Paris on 11th December 1953) or a state which has ratified the Council of Europe Social Charter (signed in Turin on 18th October 1961); and
- (b) lawfully present in the United Kingdom.]

#### **Textual Amendments**

**F25** Reg. 19(1); reg. 19 renumbered as reg. 19(1) (1.4.2015) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2015 \(S.S.I. 2015/46\)](#), regs. 1, **5(a)**

**F26** Words in reg. 19(1) omitted (1.4.2015) by virtue of [The Council Tax Reduction \(Scotland\) Amendment Regulations 2015 \(S.S.I. 2015/46\)](#), regs. 1, **5(b)**



**F27** Reg. 19(2) inserted (1.4.2015) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2015 \(S.S.I. 2015/46\)](#), regs. 1, **5(c)**

### Persons not entitled to council tax reduction: students

**20.**—(1) Except to the extent that a student may be entitled to an alternative maximum council tax reduction by virtue of regulation 14 (conditions of entitlement to council tax reduction), a student to whom paragraph (2) applies is not entitled to council tax reduction in respect of a day and a dwelling of which that student is resident.

(2) Subject to paragraphs (3) and (7), this paragraph applies to a full-time student and students who are treated as not being in Great Britain in accordance with regulation 16 (persons not entitled to council tax reduction: persons treated as not being in Great Britain).

(3) Paragraph (2) does not apply to a student—

- (a) who is a person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance or who has an award of universal credit;
- (b) who is a lone parent;
- (c) whose applicable amount would, but for this regulation, include disability premium under paragraph 9 of Schedule 1 or severe disability premium under paragraph 11 of that Schedule;
- (d) whose applicable amount would include the disability premium but for the student being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the 1992 Act;
- (e) who is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part 12A of the 1992 Act (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days is to be treated as one continuous period;
- (f) who has, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations for a continuous period of not less than 196 days, and for this purpose any two or more separate periods separated by a break of not more than 84 days are to be treated as one continuous period;
- (g) who has a partner who is also a full-time student, if the student or that partner is treated as responsible for a child or young person;
- (h) who is a single applicant with whom a child is placed by a local authority or voluntary organisation within the meaning of the Children Act 1989 or, in Scotland, boarded out within the meaning of the Social Work (Scotland) Act 1968;
- (i) who is—
  - (i) aged under 21 and whose course of study is not a course of higher education; or
  - [<sup>F28</sup>(ia) aged 21 and attained that age during a course of study which is not a course of higher education;]
  - (ii) a qualifying young person or child within the meaning of section 142 of the 1992 Act (child and qualifying young person);
- (j) in respect of whom—
  - (i) a supplementary requirement has been determined under paragraph 9 of Part 2 of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 <sup>M129</sup>;

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

- (ii) an allowance, or as the case may be, bursary has been granted which includes a sum under regulation 4(1)(d) of the Students' Allowances (Scotland) Regulations 2007<sup>M130</sup> in respect of expenses incurred;
- (iii) a payment has been made under section 2 of the Education Act 1962 or under or by virtue of regulations made under the Teaching and Higher Education Act 1998;
- (iv) a grant has been made under regulation 38 of the Education (Student Support) Regulations 2011<sup>M131</sup>, regulation 25 of the Assembly Learning Grants and Loans (Higher Education) (Wales) (No. 2) Regulations 2011<sup>M132</sup>[<sup>F29</sup>or] regulation 5 of the Education (Student Support) (No. 2) Regulations (Northern Ireland) 2009<sup>M133</sup>; or
- (v) a supplementary requirement has been determined under paragraph 9 of Schedule 6 to the Students Awards Regulations (Northern Ireland) 2003<sup>M134</sup> or a payment has been made under Article 50(3) of the Education and Libraries (Northern Ireland) Order 1986<sup>M135</sup> on account of the student's disability by reason of deafness.

(4) Where paragraph (3)(e) applies to a full-time student and the student ceases, for a period of 56 days or less, to be incapable or to be treated as incapable of work, on the student again becoming incapable or treated as incapable of work, paragraph (3)(e) applies for so long as the student remains incapable or is treated as remaining incapable of work.

(5) [<sup>F30</sup>In paragraph (3)(i)]—

[<sup>F31</sup>(a) head (ia) only applies to an applicant until the end of the course during which the applicant attained the age of 21;]

(b) [<sup>F32</sup>a reference] to a course of higher education is a reference to a course of any description mentioned in Schedule 6 to the Education Reform Act 1988<sup>M136</sup>.

(6) A full-time student to whom paragraph (3)(j) applies, is to be treated as satisfying that subparagraph from the date on which the student made a request for the supplementary requirement, allowance, bursary or payment as the case may be.

(7) Paragraph (2) does not apply to a full-time student for the period specified in paragraph (8) if—

(a) at any time during an academic year, with the consent of the relevant educational establishment, the student ceases to attend or undertake a course of study because the student is—

- (i) engaged in caring for another person; or
- (ii) ill;

(b) the student has subsequently ceased to be engaged in caring for the person or, as the case may be, has subsequently recovered from that illness; and

(c) the student is not eligible for a grant or a student loan in respect of the period specified in paragraph (8).

(8) The period specified for the purposes of paragraph (7) is the period, not exceeding one year, beginning on the day on which the student ceased to be engaged in caring for the person or, as the case may be, the day on which the student recovered from that illness and ending on the day before the earliest of—

- (a) the day on which the student resumes attending or undertaking the course of study; or
- (b) the day from which the relevant educational establishment agrees that the student may resume attending or undertaking the course of study.

### Textual Amendments

- F28** Reg. 20(3)(i)(ia) inserted (1.10.2013) by The Council Tax Reduction (Scotland) Amendment (No. 2) Regulations 2013 (S.S.I. 2013/218), regs. 1, **4(a)**
- F29** Word in reg. 20(3)(j)(iv) substituted (18.3.2013) by The Council Tax Reduction (Scotland) Amendment Regulations 2013 (S.S.I. 2013/48), regs. 1, **5**
- F30** Words in reg. 20(5) substituted (1.10.2013) by The Council Tax Reduction (Scotland) Amendment (No. 2) Regulations 2013 (S.S.I. 2013/218), regs. 1, **4(b)(i)**
- F31** Reg. 20(5)(a) substituted (1.10.2013) by The Council Tax Reduction (Scotland) Amendment (No. 2) Regulations 2013 (S.S.I. 2013/218), regs. 1, **4(b)(ii)**
- F32** Words in reg. 20(5)(b) substituted (1.10.2013) by The Council Tax Reduction (Scotland) Amendment (No. 2) Regulations 2013 (S.S.I. 2013/218), regs. 1, **4(b)(iii)**

### Marginal Citations

- M129** Paragraph 9 of Schedule 2 was amended by S.I. 2008/1477.
- M130** 2007/153 to which there are amendments not relevant to this instrument.
- M131** S.I. 2011/1986.
- M132** S.I. 2011/886, as amended by S.I. 2012/14 and 2012/1156.
- M133** S.I. 2009/373, as amended by S.I. 2010/383.
- M134** S.I. 2003/459, as amended by S.I. 2008/254.
- M135** S.I. 1986/594 (N.I. 3).
- M136** 1988 c.40.

## PART 5

### Applicable amount

#### Applicable amount

**21.** Subject to regulations 22 (applicable amount: polygamous marriages) and 23 (applicable amount: persons who have an award of universal credit) an applicant's weekly applicable amount is the aggregate of each of the following amounts which apply in the applicant's case—

- (a) an amount in respect of the applicant or, if the applicant is a member of a couple, an amount in respect of both of them, determined in accordance with paragraph 1 of Schedule 1 (personal allowances);
- (b) an amount determined in accordance with paragraph 3 of Schedule 1 in respect of any child or young person who is a member of the applicant's family;
- (c) if the applicant is a member of a family of which at least one member is a child or young person, an amount determined in accordance with Part 2 of Schedule 1 (family premium);
- (d) the amount of any premiums which may be applicable to the applicant, determined in accordance with Parts 3 and 4 of Schedule 1 (disability premiums);
- (e) the amount of either the—
  - (i) work-related activity component; or
  - (ii) support component,which may be applicable to the applicant in accordance with Part 5 of Schedule 1 (components); and
- (f) the amount of any transitional addition which may be applicable to the applicant in accordance with Part 6 of Schedule 1 (transitional addition).

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

**Applicable amount: polygamous marriages.**

22. Where an applicant is a member of a polygamous marriage, the applicant's weekly applicable amount is the aggregate of each of the following amounts which apply in the applicant's case—

- (a) the amount applicable to the applicant and one of the applicant's partners determined in accordance with paragraph 1(3) of Schedule 1 (personal allowances) as if the applicant and that partner were a couple;
- (b) an amount equal to the difference between the amounts specified in paragraph 1(1)(b) and (3) of Schedule 1 (personal allowances) in respect of each of the applicant's other partners;
- (c) an amount determined in accordance with paragraph 3 of Schedule 1 (personal allowances) in respect of any child or young person for whom the applicant or a partner of the applicant is responsible and who is a member of the same household;
- (d) if the applicant or another partner of the polygamous marriage is responsible for a child or young person who is a member of the same household, the amount specified in Part 2 of Schedule 1 (family premium);
- (e) the amount of any premium which may be applicable to the applicant determined in accordance with Parts 3 and 4 of Schedule 1 (disability premiums);
- (f) the amount of either the—
  - (i) work-related activity component; or
  - (ii) support component,
 which may be applicable to the applicant in accordance with Part 5 of Schedule 1 (components); and
- (g) the amount of any transitional addition which may be applicable to the applicant in accordance with Part 6 of Schedule 1 (transitional addition).

**Applicable amount: persons who have an award of universal credit**

23.—(1) Where an applicant or an applicant's partner has, or the partners jointly have, an award of universal credit, in determining the weekly applicable amount for the applicant the relevant authority must use the calculation or estimate of the maximum amount of the applicant, or the applicant's partner, or partners jointly (as the case may be), subject to the [<sup>F33</sup>[<sup>F34</sup>adjustment described in paragraph] (2A)].

<sup>F35</sup>(2) .....

[<sup>F36</sup>(2A) The adjustment referred to in paragraph (1) is to multiply the maximum amount by 12 and divide the product by 52.]

(3) In paragraph (1) “maximum amount” means the maximum amount calculated by the Secretary of State in accordance with section 8(2) of the Welfare Reform Act 2012 <sup>M137</sup>.

**Textual Amendments**

**F33** Words in reg. 23(1) substituted (18.3.2013) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2013 \(S.S.I. 2013/48\)](#), regs. 1, **6(a)**

**F34** Words in reg. 23(1) substituted (25.11.2013) by [The Council Tax Reduction \(Scotland\) Amendment \(No. 4\) Regulations 2013 \(S.S.I. 2013/287\)](#), regs. 1, **6(a)**

**F35** Reg. 23(2) omitted (25.11.2013) by virtue of [The Council Tax Reduction \(Scotland\) Amendment \(No. 4\) Regulations 2013 \(S.S.I. 2013/287\)](#), regs. 1, **6(b)**

**F36** Reg. 23(2A) inserted (18.3.2013) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2013 \(S.S.I. 2013/48\)](#), regs. 1, **6(b)**

**Marginal Citations**

M137 2012 c.5.

## **PART 6**

### **Income and capital**

#### **CHAPTER 1**

##### **General**

#### **Calculation of income and capital of members of applicant's family and of a polygamous marriage**

**24.**—(1) The income and capital of an applicant's partner is to be treated as income and capital of the applicant and is to be calculated or estimated in accordance with the provisions of this Part in the same way the applicant's income and capital is calculated or estimated and any reference to the “applicant” is, except where the context otherwise requires, to be construed for the purposes of this Part as if it included a reference to the applicant's partner.

(2) Where an applicant or the partner of an applicant is polygamously married to two or more members of their household—

- (a) the applicant is to be treated as possessing capital and income belonging to each of those members; and
- (b) the income and capital of each of those members is to be calculated in accordance with the provisions of this Part as if the member was the applicant.

(3) The income and capital of a child or young person is not to be treated as the income and capital of the applicant.

#### **Circumstances in which capital and income of non-dependant is to be treated as applicant's**

**25.**—(1) Where it appears to the relevant authority that a non-dependant and the applicant have entered into arrangements in order to take advantage of the council tax reduction scheme set out in these Regulations and the non-dependant has more capital and income than the applicant, the authority must, except where the applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, treat the applicant as possessing the capital and income of the non-dependant and must disregard any capital and income which the applicant does possess.

(2) Where an applicant is treated as possessing the capital and income of a non-dependant under paragraph (1) the capital and income of that non-dependant is to be calculated or estimated in accordance with the provisions of this Part as if it was the capital and income of the applicant and any reference to the “applicant” is, except where the context otherwise requires, to be construed for the purposes of this Part as if it were a reference to that non-dependant.

#### **CHAPTER 2**

##### **Income and capital where there is an award of universal credit**

#### **Calculation of income and capital: persons who have an award of universal credit**

**26.**—(1) Where an applicant or an applicant's partner has, or the partners jointly have, an award of universal credit, in determining the income of the applicant the relevant authority must use the

calculation or estimate of the income of the applicant, the applicant's partner or the partners jointly (as the case may be), made by the Secretary of State for the purpose of determining that award.

[<sup>F37</sup>(1A) For the purposes of paragraph (1), any deduction made from an award of universal credit for payment to a third party must be regarded as income of the person or persons awarded universal credit.]

(2) The authority must modify the figure for income provided by the Secretary of State [<sup>F38</sup>to convert it into a weekly amount using the adjustment set out in regulation 23(2A) and must then further modify the weekly amount] to take into account—

- [<sup>F39</sup>(a) as income, the amount of any universal credit payable converted into a weekly amount using the adjustment set out in regulation 23(2A);]
- <sup>F40</sup>(b) .....
- <sup>F41</sup>(c) .....
- <sup>F42</sup>(d) .....
- (e) regulation 25 (circumstances in which capital and income of non-dependant is to be treated as applicant's) if the relevant authority determines that the provision applies in the applicant's case;
- <sup>F43</sup>(3) .....

(4) Where an applicant or an applicant's partner has, or the partners jointly have, an award of universal credit, in determining the capital of the applicant, the applicant's partner or the partners jointly (as the case may be) the relevant authority must use the calculation or estimate of the capital of the applicant, the applicant's partner, or the partners jointly (as the case may be) made by the Secretary of State for the purpose of determining that award.

<b>Textual Amendments</b>	
<b>F37</b>	Reg. 26(1A) inserted (1.4.2016) by The Council Tax Reduction (Scotland) Amendment Regulations 2016 (S.S.I. 2016/81), regs. 1(2), <b>10</b>
<b>F38</b>	Words in reg. 26(2) inserted (25.11.2013) by The Council Tax Reduction (Scotland) Amendment (No. 4) Regulations 2013 (S.S.I. 2013/287), regs. 1, <b>7(a)</b>
<b>F39</b>	Reg. 26(2)(a) substituted (25.11.2013) by The Council Tax Reduction (Scotland) Amendment (No. 4) Regulations 2013 (S.S.I. 2013/287), regs. 1, <b>7(b)</b>
<b>F40</b>	Reg. 26(2)(b) omitted (25.11.2013) by virtue of The Council Tax Reduction (Scotland) Amendment (No. 4) Regulations 2013 (S.S.I. 2013/287), regs. 1, <b>7(c)</b>
<b>F41</b>	Reg. 26(2)(c) omitted (25.11.2013) by virtue of The Council Tax Reduction (Scotland) Amendment (No. 4) Regulations 2013 (S.S.I. 2013/287), regs. 1, <b>7(c)</b>
<b>F42</b>	Reg. 26(2)(d) omitted (25.11.2013) by virtue of The Council Tax Reduction (Scotland) Amendment (No. 4) Regulations 2013 (S.S.I. 2013/287), regs. 1, <b>7(c)</b>
<b>F43</b>	Reg. 26(3) omitted (25.11.2013) by virtue of The Council Tax Reduction (Scotland) Amendment (No. 4) Regulations 2013 (S.S.I. 2013/287), regs. 1, <b>7(d)</b>

## CHAPTER 3

### Income

#### Calculation of income on a weekly basis

**27.—**(1) For the purposes of regulation 14(5) (conditions of entitlement to council tax reduction) the income of an applicant is to be calculated on a weekly basis—

- (a) by estimating the amount which is likely to be the applicant's average weekly income in accordance with this chapter and chapters 4 to 6 of this Part and Part 5;
  - (b) by adding to that amount the weekly income calculated under regulation 51 (calculation of tariff income from capital); and
  - (c) by then deducting any relevant child care charges to which regulation 28 (treatment of child care charges) applies from any earnings which form part of the average weekly income or, in a case where the conditions in paragraph (2) are met, from those earnings plus whichever credit specified in paragraph (2)(b) is appropriate, up to a maximum deduction in respect of the applicant's family of whichever of the sums specified in paragraph (3) applies in the applicant's case.
- (2) The conditions referred in paragraph (1)(c) are that—
- (a) the applicant's earnings which form part of the applicant's average weekly income are less than the lower of the relevant child care charges or whichever of the deductions specified in paragraph (3) otherwise applies; and
  - (b) the applicant or, if the applicant is a member of a couple, either the applicant or the other member of the couple, is in receipt of working tax credit or child tax credit.
- (3) The maximum deduction to which paragraph (1)(c) refers is—
- (a) where the applicant's family includes only one child in respect of whom relevant child care charges are paid, £175.00 per week; and
  - (b) where the applicant's family includes more than one child in respect of whom relevant child care charges are paid, £300 per week.
- (4) For the purposes of paragraph (1), “income” includes capital treated as income under regulation 40 (capital treated as income) and income which an applicant is treated as possessing under regulation 41 (notional income).

### **Treatment of child care charges**

**28.**—(1) [<sup>F44</sup>Subject to paragraph (1A),] this regulation applies where an applicant is incurring relevant child care charges and—

- (a) is a lone parent and is engaged in remunerative work;
- (b) is a member of a couple where both are engaged in remunerative work; or
- (c) is a member of a couple where one member is engaged in remunerative work and the other—
  - (i) is incapacitated as described in paragraph (11);
  - (ii) is a patient; or
  - (iii) is in prison (whether serving a custodial sentence or remanded in custody awaiting trial or sentence).

[<sup>F45</sup>(1A) This regulation does not apply where an applicant or an applicant's partner has, or the partners jointly have, an award of universal credit.]

(2) For the purposes of paragraph (1) and subject to paragraph (4), a person to whom paragraph (3) applies is to be treated as engaged in remunerative work for a period not exceeding 28 weeks during which the person—

- (a) is paid statutory sick pay;
- (b) is paid short-term incapacity benefit at the lower rate under section 30A of the 1992 Act <sup>M138</sup>;
- (c) is paid an employment and support allowance;

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

- (d) is paid income support on the grounds of incapacity for work under regulation 4ZA of, and paragraph 7 or 14 of Schedule 1B to, the Income Support Regulations <sup>M139</sup>; or
  - (e) is credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975 <sup>M140</sup>.
- (3) This paragraph applies to a person who was engaged in remunerative work immediately before as the case may be—
- (a) the first day of the period in respect of which the person was first paid statutory sick pay, short-term incapacity benefit, an employment and support allowance or income support on the grounds of incapacity for work; or
  - (b) the first day of the period in respect of which earnings are credited.
- (4) In a case to which paragraph (2)(d) or (e) applies, the period of 28 weeks begins on the day on which the person is first paid income support or on the first day of the period in respect of which earnings are credited, as the case may be.
- (5) Relevant child care charges are the charges for care referred to in paragraphs (6) and (7) and they must be calculated on a weekly basis in accordance with paragraph (10).
- (6) The charges referred to in paragraph (5) are charges for care which is provided—
- (a) in the case of any child of the applicant's family who is not disabled, in respect of the period beginning on that child's date of birth and ending on the day preceding the first Monday in September following that child's fifteenth birthday; or
  - (b) in the case of any child of the applicant's family who is disabled, in respect of the period beginning on that child's date of birth and ending on the day preceding the first Monday in September following their sixteenth birthday.
- (7) The charges referred to in paragraph (5) are charges for care which is provided by one or more of the care providers listed in paragraph (8) and not paid—
- (a) in respect of the child's compulsory education;
  - (b) by an applicant to a partner or by a partner to an applicant in respect of any child for whom either or any of them is responsible in accordance with regulation 10 (responsibility for another person); or
  - (c) in respect of care provided by a relative of the child wholly or mainly in the child's home.
- (8) The care to which paragraph (7) refers may be provided—
- (a) out of school hours, by a school on school premises or by a local authority—
    - (i) for a child who is not disabled, in respect of the period beginning on the child's eighth birthday and ending on the day preceding the first Monday in September following the child's fifteenth birthday; or
    - (ii) for a child who is disabled, in respect of the period beginning on the child's eighth birthday and ending on the day preceding the first Monday in September following their sixteenth birthday;
  - (b) by a child care provider approved in accordance with the Tax Credit (New Category of Child Care Provider) Regulations 1999 <sup>M141</sup>;
  - (c) by persons registered under Part 2 of the Children and Families (Wales) Measure 2010 <sup>M142</sup>;
  - (d) by a person who is excepted from registration under Part 2 of the Children and Families (Wales) Measure 2010 because the child care the person provides is in a school or establishment referred to in article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010 <sup>M143</sup>;
  - (e) by—



- (i) persons registered under section 59(1) of the Public Services Reform (Scotland) Act 2010;
  - (ii) local authorities registered under section 83(1) of that Act, where the care provided is child minding or day care of children within the meaning of that Act;
  - (f) by a person prescribed in regulations made pursuant to section 12(4) of the Tax Credits Act 2002 <sup>M144</sup>;
  - (g) by a person who is registered under chapter 2 or 3 of Part 3 of the Childcare Act 2006 <sup>M145</sup>;
  - (h) by any of the schools mentioned in section 34(2) of the Childcare Act 2006 in circumstances where the requirement to register under chapter 2 of Part 3 of that Act does not apply by virtue of that subsection;
  - (i) by any of the schools mentioned in section 53(2) of the Childcare Act 2006 <sup>M146</sup> in circumstances where the requirement to register under chapter 3 of Part 3 of that Act does not apply by virtue of that subsection;
  - (j) by any of the establishments mentioned in section 18(5) of the Childcare Act 2006 <sup>M147</sup> in circumstances where the care is not included in the meaning of “childcare” for the purposes of Parts 1 and 3 of that Act by virtue of that subsection;
  - (k) by a foster carer or kinship carer approved under the Looked After Children (Scotland) Regulations 2009 <sup>M148</sup> in relation to a child other than a child who has been placed with that carer—
    - (i) by virtue of a requirement of the children's hearing under section 70(3)(a) of the Children (Scotland) Act 1995 <sup>M149</sup>;
    - (ii) by a local authority exercising the right to determine the residence of a child in respect of whom a permanence order has been granted under section 81 of the Adoption and Children (Scotland) Act 2007 <sup>M150</sup>; or
    - (iii) in accordance with the Looked After Children (Scotland) Regulations 2009;
  - (l) by a foster parent under the Fostering Services (England) Regulations 2011 <sup>M151</sup> or the Fostering Services (Wales) Regulations 2003 <sup>M152</sup> in relation to a child other than one whom the foster parent is fostering;
  - (m) by a carer under the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010 <sup>M153</sup> or the Domiciliary Care Agencies (Wales) Regulations 2004 <sup>M154</sup>; or
  - (n) by a person who is not a relative of the child wholly or mainly in the child's home.
- (9) In paragraphs (6) and (8)(a) “the first Monday in September” means the Monday which first occurs in the month of September in any year.
- (10) Relevant child care charges must be estimated over a period, not exceeding a year, that is appropriate to allow the average weekly charge to be estimated accurately having regard to information about the amount of that charge provided by the person providing the care.
- (11) For the purposes of paragraph (1)(c), the other member of a couple is incapacitated where—
- (a) the applicant's applicable amount includes a disability premium under paragraph 9 of Schedule 1 on account of the other member's incapacity or the work-related activity component under paragraph 21 of that Schedule or the support component under paragraph 22 of that Schedule on account of that other member having limited capability for work;
  - (b) the applicant's applicable amount would include a disability premium under paragraph 9 of Schedule 1 on account of the other member's incapacity but for that other member being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the 1992 Act <sup>M155</sup>;

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

- (c) the applicant's applicable amount would include the support component under paragraph 22 of Schedule 1 or the work-related activity component under paragraph 21 of Schedule 1 on account of the other member having limited capability for work but for that other member being treated as not having limited capability for work by virtue of a determination made in accordance with the Employment and Support Allowance Regulations;
- (d) the applicant is, or is treated as, incapable of work and has been incapable, or treated as incapable, of work in accordance with the provisions of, and regulations made under, Part 12A <sup>M156</sup> of the 1992 Act (incapacity for work) for a continuous period of not less than 196 days, and for this purpose any two or more separate periods separated by a break of not more than 56 days are to be treated as one continuous period;
- (e) the applicant has, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations for a continuous period of not less than 196 days, and for this purpose any two or more separate periods separated by a break of not more than 84 days are to be treated as one continuous period;
- (f) there is payable in respect of the other member one or more of the following pensions or allowances—
- (i) long-term incapacity benefit or short-term incapacity benefit at the higher rate under Schedule 4 to the 1992 Act <sup>M157</sup>;
  - (ii) attendance allowance under section 64 of the 1992 Act <sup>M158</sup>;
  - (iii) severe disablement allowance under section 68 of the 1992 Act <sup>M159</sup>;
  - (iv) disability living allowance;
  - <sup>F46</sup>(iva) armed forces independence payment;
  - (v) personal independence payment;
  - (vi) increase of disablement pension under section 104 of the 1992 Act;
  - (vii) a pension increase paid as part of a war disablement pension or under an industrial injuries scheme which is analogous to an allowance or increase of disablement pension under head (ii), (iv), (v) or (vi) above; or
  - (viii) main phase employment and support allowance;
- (g) a pension or allowance to which sub-paragraph (f)(ii), (iv), (v) <sup>F47</sup>, (vi) or (vii)] refers was payable on account of the other member's incapacity but has ceased to be payable in consequence of the other member becoming a patient, which in this regulation means a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005 <sup>M160</sup>;
- (h) sub-paragraph (f) or (g) would apply to the other member if the legislative provisions referred to in those sub-paragraphs were provisions under any corresponding enactment having effect in Northern Ireland; or
- (i) the other member has an invalid carriage or other vehicle provided under section 46 of the National Health Service (Scotland) Act 1978 <sup>M161</sup>, paragraph 9(1) of Schedule 1 to the National Health Service Act 2006 <sup>M162</sup> or article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972 <sup>M163</sup>.
- (12) Where paragraph (11)(d) applies and the applicant ceases to be, or to be treated as, incapable of work but within a period of 56 days or less of that cessation the applicant is, or is treated as,

incapable of work, paragraph 11(d) applies from the time the applicant is again, or is again treated as, incapable of work for so long as the applicant is, or is treated as, incapable of work.

(13) Where paragraph (11)(e) applies and the applicant ceases, to have, or to be treated as having, limited capability for work but within a period of 84 days or less of that cessation the applicant has, or is treated as having, limited capability for work, paragraph 11(e) applies from the time the applicant has again, or is again treated as having, limited capability for work for so long as that situation continues.

(14) For the purposes of paragraphs (6) and (8)(a), a person is disabled if the person is a person—

- (a) in respect of whom disability living allowance or personal independence payment is payable, or has ceased to be payable solely because the person is a patient<sup>[F48]</sup>, or in respect of whom armed forces independence payment is payable];
- (b) who has been certified as blind and in consequence is registered as blind in a register maintained by or on behalf of a local authority in Scotland or is registered as blind in a register compiled under section 29 of the National Assistance Act 1948<sup>M164</sup> (welfare services)<sup>M165</sup><sup>[F49]</sup> or is registered as severely sight impaired in a register kept by a local authority in Wales under section 18(1)(a) of the Social Services and Well-being (Wales) Act 2014]; or
- (c) who ceased to be registered as blind in such a register within the period beginning 28 weeks before the first Monday in September following the person's fifteenth birthday and ending on the day preceding the person's sixteenth birthday.

(15) For the purposes of paragraph (1) a person on maternity leave, paternity leave<sup>[F50]</sup>, shared parental leave] or adoption leave is to be treated as if engaged in remunerative work for the period specified in paragraph (16) (“the relevant period”) provided that—

- (a) in the week before the period of maternity leave, paternity leave<sup>[F50]</sup>, shared parental leave] or adoption leave began the person was in remunerative work;
- (b) the person is incurring relevant child care charges; and
- (c) the person is entitled to either statutory maternity pay under section 164 of the 1992 Act<sup>M166</sup>, [statutory paternity pay] by virtue of section 171ZA or 171ZB of the 1992 Act<sup>F52</sup>..., [statutory shared parental pay, statutory adoption pay] by virtue of section 171ZL of the 1992 Act<sup>M167</sup>, maternity allowance under section 35 of the 1992 Act<sup>M168</sup> or qualifying support.

(16) For the purposes of paragraph (15) the relevant period begins on the day on which the person's maternity leave, paternity leave<sup>[F54]</sup>, shared parental leave] or adoption leave commences and ends on the earliest of the following dates—

- (a) the date that leave ends;
- (b) if no child care element of working tax credit is in payment on the date that entitlement to maternity allowance, qualifying support, statutory maternity pay, <sup>F55</sup>... statutory paternity pay<sup>[F56]</sup>, statutory shared parental pay or statutory adoption pay ends], the date that entitlement ends; or
- (c) if a child care element of working tax credit is in payment on the date that entitlement to maternity allowance or qualifying support, statutory maternity pay, <sup>F55</sup>... statutory paternity pay<sup>[F56]</sup>, statutory shared parental pay or statutory adoption pay ends], the date that entitlement to that award of the child care element of the working tax credit ends.

(17) In this regulation—

- (a) “qualifying support” means income support to which the person is entitled by virtue of paragraph 14B of Schedule 1B to the Income Support Regulations; and

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

- (b) “child care element of working tax credit” means the element of working tax credit prescribed under section 12 of the Tax Credits Act 2002 (child care element).

#### Textual Amendments

- F44** Words in reg. 28(1) inserted (25.11.2013) by [The Council Tax Reduction \(Scotland\) Amendment \(No. 4\) Regulations 2013 \(S.S.I. 2013/287\)](#), regs. 1, **8(a)**
- F45** Reg. 28(1A) inserted (25.11.2013) by [The Council Tax Reduction \(Scotland\) Amendment \(No. 4\) Regulations 2013 \(S.S.I. 2013/287\)](#), regs. 1, **8(b)**
- F46** Reg. 28(11)(f)(iva) inserted (11.6.2013) by [The Welfare Reform \(Consequential Amendments\) \(Scotland\) \(No. 3\) Regulations 2013 \(S.S.I. 2013/142\)](#), regs. 1, **11(3)(a)**
- F47** Words in reg. 28(11)(g) substituted (1.10.2013) by [The Council Tax Reduction \(Scotland\) Amendment \(No. 2\) Regulations 2013 \(S.S.I. 2013/218\)](#), regs. 1, **5**
- F48** Words in reg. 28(14)(a) inserted (11.6.2013) by [The Welfare Reform \(Consequential Amendments\) \(Scotland\) \(No. 3\) Regulations 2013 \(S.S.I. 2013/142\)](#), regs. 1, **11(3)(b)**
- F49** Words in reg. 28(14)(b) inserted (6.4.2016) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/81\)](#), regs. 1(4), **6(1)**
- F50** Words in reg. 28(15) inserted (31.12.2014) by [The Shared Parental Leave and Statutory Shared Parental Pay \(Consequential Amendments to Subordinate Legislation\) Order 2014 \(S.I. 2014/3255\)](#), arts. 1(2), **23(4)(a)(i)**
- F51** Words in reg. 28(15) substituted (5.4.2015) by [The Shared Parental Leave and Statutory Shared Parental Pay \(Consequential Amendments to Subordinate Legislation\) Order 2014 \(S.I. 2014/3255\)](#), arts. 1(3), **23(4)(a)(ii)** (with art. 35(1))
- F52** Words in reg. 28(15) omitted (5.4.2015) by virtue of [The Shared Parental Leave and Statutory Shared Parental Pay \(Consequential Amendments to Subordinate Legislation\) Order 2014 \(S.I. 2014/3255\)](#), arts. 1(3), **23(4)(a)(iii)** (with art. 35(1))
- F53** Words in reg. 28(15) substituted (31.12.2014) by [The Shared Parental Leave and Statutory Shared Parental Pay \(Consequential Amendments to Subordinate Legislation\) Order 2014 \(S.I. 2014/3255\)](#), arts. 1(2), **23(4)(a)(iv)**
- F54** Words in reg. 28(16) inserted (31.12.2014) by [The Shared Parental Leave and Statutory Shared Parental Pay \(Consequential Amendments to Subordinate Legislation\) Order 2014 \(S.I. 2014/3255\)](#), arts. 1(2), **23(4)(b)(i)**
- F55** Words in reg. 28(16) omitted (5.4.2015) by virtue of [The Shared Parental Leave and Statutory Shared Parental Pay \(Consequential Amendments to Subordinate Legislation\) Order 2014 \(S.I. 2014/3255\)](#), arts. 1(3), **23(4)(b)(ii)** (with art. 35(1))
- F56** Words in reg. 28(16) substituted (31.12.2014) by [The Shared Parental Leave and Statutory Shared Parental Pay \(Consequential Amendments to Subordinate Legislation\) Order 2014 \(S.I. 2014/3255\)](#), arts. 1(2), **23(4)(b)(iii)**

#### Marginal Citations

- M138** Section 30A was inserted by section 1 of the [Social Security \(Incapacity for Work\) Act 1994 \(c.18\)](#) and amended by section 64 of the [Welfare Reform and Pensions Act 1999 \(c.30\)](#) and paragraph 14 of Schedule 24 to the [Civil Partnership Act 2004 \(c.33\)](#).
- M139** Regulation 4ZA was inserted by [S.I. 1996/206](#) and amended by [S.I. 1996/206](#), [1997/2197](#), [2000/636](#) and [1981](#), [2001/3070](#), [2008/1826](#), [2009/2655](#) and [3152](#). Paragraph 7 of Schedule 1B was inserted by [S.I. 1996/206](#) and amended by [S.I. 2009/3152](#) and [2010/2429](#). Paragraph 14 of Schedule 1B was inserted by [S.I. 1996/206](#) and amended by [S.I. 2002/2689](#) and [2010/2429](#).
- M140** [S.I. 1975/556](#). Regulation 8B was inserted by [S.I. 1996/2367](#) and amended by [S.I. 2000/3120](#), [2003/521](#), [2008/1554](#), [2010/385](#).
- M141** [S.I. 1999/3110](#).
- M142** 2010 nawm 1.
- M143** [S.I. 2010/2839](#) (W. 233).

- M144** 2002 c.21.
- M145** 2006 c.21.
- M146** Section 53(2) was amended by S.I. 2012/976.
- M147** Section 18(5) was amended by paragraph 19 of Schedule 1 to the [Children and Young Persons Act 2008 \(c.23\)](#) and S.I. 2010/183.
- M148** S.S.I. 2009/210.
- M149** 1995 c.36.
- M150** 2007 asp 4.
- M151** S.I. 2011/581.
- M152** S.I. 2003/237 (W.35).
- M153** S.I. 2010/781.
- M154** S.I. 2004/219 (W.23).
- M155** Section 171E was inserted by section 6(1) of the [Social Security \(Incapacity for Work\) Act 1994 \(c.18\)](#) and amended by paragraph 76 of Schedule 7 to the [Social Security Act 1998 \(c.14\)](#).
- M156** Part 12A was inserted by sections 5 and 6 of the [Social Security \(Incapacity for Work\) Act 1994 \(c.18\)](#) and amended by paragraph 76 of Schedule 7 to the [Social Security Act 1998 \(c.14\)](#), section 61 of, and paragraphs 23 and 24 of Schedule 8 to, the [Welfare Reform and Pensions Act 1999 \(c.30\)](#) and S.I. 1996/525.
- M157** Schedule 4 was substituted by a new schedule 4 by S.I. 1993/349 and amended by section 2 of the [Social Security \(Incapacity for Work\) Act 1994 \(c.18\)](#), [section 54](#) of, and paragraph 14 of Schedule 8 to, the [Welfare Reform and Pensions Act 1999 \(c.30\)](#), [section 54](#) of the [Welfare Reform and Pensions Act 1999 \(c.30\)](#), [paragraph 15](#) of Schedule 1 to the [Child Benefit Act 2005 \(c.6\)](#) S.I. 2002/1457, 2003/938, 2008/3270 and 2012/780 and 834.
- M158** Section 64 was amended by section 66 of the [Welfare Reform and Pensions Act 1999 \(c.30\)](#).
- M159** Section 68 was repealed by Schedule 13 to the [Welfare Reform and Pensions Act 1999 \(c.30\)](#), subject to savings provisions in S.I. 2000/2958.
- M160** S.I. 2005/3360.
- M161** 1978 c.29.
- M162** 2006 c.41. Paragraph 9(1) was substituted by section 17(10) of the [Health and Social Care Act 2012 \(c.7\)](#).
- M163** S.I. 1972/1265.
- M164** 1948 c.29.
- M165** Section 29 was amended by section 1 of the [National Assistance \(Amendment\) Act 1959 \(c.30\)](#), [Schedule 4](#) to the [Mental Health \(Scotland\) Act 1960 \(c.61\)](#), [Part 1](#) of Schedule 9 to the [Social Work \(Scotland\) Act 1968 \(c.49\)](#), [section 195](#) of, and paragraph 2 of Schedule 23 and Schedule 30 to, the [Local Government Act 1972 \(c.70\)](#), [paragraph 3](#) of Schedule 3 to the [Employment and Training Act 1973 \(c.50\)](#), [section 30](#) and Schedule 10 to the [Health and Social Services and Social Security Adjudications Act 1983 \(c.41\)](#), [section 44](#) of the [National Health Service and Community Care Act 1990 \(c.19\)](#), [paragraph 8](#) of Schedule 1 to the [National Health Service \(Consequential Provisions\) Act 2006 \(c.43\)](#) and section 147 of the [Health and Social Care Act 2008 \(c.14\)](#).
- M166** Section 164 was amended by paragraph 12 of Schedule 1 to the [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c.2\)](#) and paragraph 6 of Schedule 7 and Schedule 8 to the [Employment Act 2002 \(c.22\)](#).
- M167** Section 171ZL was inserted by section 4 of the [Employment Act 2002 \(c.22\)](#) and amended by S.I. 2006/2012 and 2011/1740.
- M168** Section 35 was amended by section 2(1)(a) of the [Still-Birth \(Definition\) Act 1992 \(c.29\)](#), [section 67](#) of the [Social Security Act 1998 \(c.14\)](#), [section 53](#) of the [Welfare Reform and Pensions Act 1999 \(c.30\)](#), [paragraph 4](#) of Schedule 7 to the [Employment Act 2002 \(c.22\)](#), [paragraph 6](#) of Schedule 1 to the [Work and Families Act 2006 \(c.18\)](#), [section 53\(2\)\(a\)](#) of the [Welfare Reform and Pensions Act 1999 \(c.30\)](#) and S.I. 1994/1230.

### **Average weekly earnings of employed earners**

**29.**—(1) Where an applicant's income consists of earnings from employment as an employed earner the applicant's average weekly earnings are to be estimated by reference to the earnings from that employment—

- (a) over a period immediately preceding the reduction week in which the application is made or treated as made and being a period of—
  - (i) 5 weeks, if the applicant is paid weekly; or
  - (ii) 2 months, if the applicant is paid monthly; or
- (b) whether or not sub-paragraph (a)(i) or (ii) applies, where an applicant's earnings fluctuate, over such other period preceding the reduction week in which the application is made or treated as made as may, in any particular case, enable the applicant's average weekly earnings to be estimated more accurately.

(2) Where the applicant has been in that employment for less than the period specified in paragraph (1)(a)(i) or (ii)—

- (a) and has received earnings for the period that the applicant has been in that employment and those earnings are likely to represent the average weekly earnings from that employment the applicant's average weekly earnings are to be estimated by reference to those earnings; and
- (b) in any other case, the relevant authority must require the applicant's employer to furnish an estimate of the applicant's likely weekly earnings over such period as the relevant authority may require and the applicant's average weekly earnings are to be estimated by reference to that estimate.

(3) Where the amount of an applicant's earnings changes during a period of entitlement to council tax reduction average weekly earnings are to be estimated by reference to the applicant's likely earnings from the employment over a period that is appropriate to allow the average weekly earnings to be estimated accurately but the length of the period is not in any case to exceed 52 weeks.

(4) For the purposes of this regulation the applicant's earnings are to be calculated in accordance with chapter 4 of this Part.

### **Average weekly earnings of self-employed earners**

**30.**—(1) Where an applicant's income consists of earnings from employment as a self-employed earner the applicant's average weekly earnings are to be estimated by reference to the earnings from that employment over such period as is appropriate in order that the applicant's average weekly earnings may be estimated accurately but the length of the period is not in any case to exceed 52 weeks.

(2) For the purposes of this regulation the applicant's earnings are to be calculated in accordance with chapter 5 of this Part.

### **Average weekly income other than earnings**

**31.**—(1) An applicant's income which does not consist of earnings must, except where paragraph (2) applies, be estimated over a period that is appropriate to allow the applicant's average weekly income to be estimated accurately but the length of the period is not in any case to exceed 52 weeks and nothing in this paragraph authorises a relevant authority to disregard any income other than that specified in Schedule 4.

(2) The period over which any benefit under the benefit Acts is to be taken into account is the period in respect of which that benefit is payable.

(3) For the purposes of this regulation income other than earnings is to be calculated in accordance with chapter 6 of this Part.

### Calculation of average weekly income from <sup>F57</sup>... tax credits

**32.**—(1) This regulation applies where an applicant receives a working tax credit [<sup>F58</sup>or child tax credit].

(2) <sup>F59</sup>... the period over which [<sup>F60</sup>that] tax credit is to be taken into account is the period set out in paragraph (3).

- (3) Where the instalment in respect of which payment of [<sup>F61</sup>that] tax credit is made is—
- (a) a daily instalment, the period is one day, being the day in respect of which the instalment is paid;
  - (b) a weekly instalment, the period is 7 days, ending on the day on which the instalment is due to be paid;
  - (c) a 2 weekly instalment, the period is 14 days, commencing 6 days before the day on which the instalment is due to be paid; or
  - (d) a 4 weekly instalment, the period is 28 days, ending on the day on which the instalment is due to be paid.

#### Textual Amendments

- F57** Word in reg. 32 heading omitted (25.11.2013) by virtue of [The Council Tax Reduction \(Scotland\) Amendment \(No. 4\) Regulations 2013 \(S.S.I. 2013/287\)](#), regs. 1, **9**
- F58** Words in reg. 32(1) inserted (25.11.2013) by [The Council Tax Reduction \(Scotland\) Amendment \(No. 4\) Regulations 2013 \(S.S.I. 2013/287\)](#), regs. 1, **10(a)**
- F59** Words in reg. 32(2) omitted (25.11.2013) by virtue of [The Council Tax Reduction \(Scotland\) Amendment \(No. 4\) Regulations 2013 \(S.S.I. 2013/287\)](#), regs. 1, **10(b)**
- F60** Word in reg. 32(2) substituted (25.11.2013) by [The Council Tax Reduction \(Scotland\) Amendment \(No. 4\) Regulations 2013 \(S.S.I. 2013/287\)](#), regs. 1, **10(c)**
- F61** Word in reg. 32(3) substituted (25.11.2013) by [The Council Tax Reduction \(Scotland\) Amendment \(No. 4\) Regulations 2013 \(S.S.I. 2013/287\)](#), regs. 1, **10(c)**

### Calculation of weekly income

**33.**—(1) For the purposes of regulations 29 (average weekly earnings of employed earners), 31 (average weekly income other than earnings) and 32 (calculation of average weekly income from tax credits), where the period in respect of which a payment of income is made—

- (a) does not exceed a week, the weekly amount is the amount of that payment;
- (b) exceeds a week, the weekly amount is to be determined—
  - (i) in a case where that period is a month, by multiplying the amount of the payment by 12 and dividing the product by 52;
  - (ii) in any other case, by dividing the amount of the payment by the number equal to the number of days in the period to which it relates and multiplying the quotient by 7.

(2) For the purposes of regulation 30 (average weekly earnings of self-employed earners) the weekly amount of earnings of an applicant is to be determined by dividing the applicant's earnings over the assessment period by the number equal to the number of days in that period and multiplying the quotient by 7.

## CHAPTER 4

## Employed earners

**Earnings of employed earners**

**34.**—(1) Subject to paragraph (2), “earnings” means in the case of employment as an employed earner any remuneration or profit derived from that employment and includes—

- (a) any bonus or commission;
  - (b) any payment in lieu of remuneration except any periodic sum paid to an applicant on account of the termination of the applicant's employment by reason of redundancy;
  - (c) any payment in lieu of notice or any lump sum payment intended as compensation for the loss of employment but only in so far as it represents loss of income;
  - (d) any holiday pay except any payable more than 4 weeks after termination or interruption of the employment;
  - (e) any payment by way of a retainer;
  - (f) any payment made by an applicant's employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the applicant's employer in respect of—
    - (i) travelling expenses incurred by the applicant between the applicant's home and place of employment; or
    - (ii) expenses incurred by the applicant under arrangements made for the care of a member of the applicant's family owing to the applicant's absence from home;
  - (g) any award of compensation made under section 112(4) or 117(3)(a) of the Employment Rights Act 1996 <sup>M169</sup> (remedies and compensation for unfair dismissal);
  - (h) any payment or remuneration made under section 28, 34, 64, 68 or 70 of the Employment Rights Act 1996 <sup>M170</sup> (right to guarantee payments, remuneration on suspension on medical or maternity grounds, complaints to employment tribunals);
  - (i) any such sum as is referred to in section 112 of the 1992 Act <sup>M171</sup> (certain sums to be earnings for social security purposes);
  - (j) any statutory sick pay, statutory maternity pay, <sup>F62</sup>... statutory paternity pay [<sup>F63</sup>, statutory shared parental pay or statutory adoption pay], or a corresponding payment under any enactment having effect in Northern Ireland;
  - (k) any remuneration paid by or on behalf of an employer to an applicant who for the time being is on maternity leave, paternity leave [<sup>F64</sup>, shared parental leave] or adoption leave or is absent from work because the applicant is ill; and
  - (l) the amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person's earnings in accordance with Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001 <sup>M172</sup>.
- (2) Earnings do not include—
- (a) subject to paragraph (3), any payment in kind;
  - (b) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;
  - (c) any occupational pension; or
  - (d) any payment in respect of expenses arising out of the applicant's participation in a service user group.



(3) Paragraph (2)(a) does not apply in respect of any non-cash voucher referred to in paragraph (1)(l).

#### Textual Amendments

- F62** Words in reg. 34(1)(j) omitted (5.4.2015) by virtue of [The Shared Parental Leave and Statutory Shared Parental Pay \(Consequential Amendments to Subordinate Legislation\) Order 2014 \(S.I. 2014/3255\)](#), arts. 1(3), **23(5)(a)(i)** (with art. 35(1))
- F63** Words in reg. 34(1)(j) substituted (5.4.2015) by [The Shared Parental Leave and Statutory Shared Parental Pay \(Consequential Amendments to Subordinate Legislation\) Order 2014 \(S.I. 2014/3255\)](#), arts. 1(3), **23(5)(a)(ii)** (with art. 35(1))
- F64** Words in reg. 34(1)(k) inserted (31.12.2014) by [The Shared Parental Leave and Statutory Shared Parental Pay \(Consequential Amendments to Subordinate Legislation\) Order 2014 \(S.I. 2014/3255\)](#), arts. 1(2), **23(5)(b)**

#### Marginal Citations

- M169** Section 112(4) was amended by paragraph 36 of Schedule 7 to the [Employment Act 2002 \(c.22\)](#) and Schedule 9 to the [Employment Relations Act 1999 \(c.26\)](#). Section 117(3)(a) was amended by paragraph 37 of Schedule 7 to the Employment Act 2002.
- M170** Sections 34 and 70 were amended by section 1 of the [Employment Rights \(Dispute Resolution\) Act 1998 \(c.8\)](#) and S.I. 2011/1133. Section 64 was amended by S.I. 1999/3232.
- M171** Section 112 was amended by paragraph 21 of Schedule 3 to the [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c.2\)](#) and paragraph 51 of Schedule 1 to the [Employment Rights Act 1996 \(c.18\)](#).
- M172** S.I. 2001/1004. Part 5 of Schedule 3 was amended by section 46 of the [Finance Act 1988 \(c.39\)](#), [section 89](#) of the [Finance Act 1994 \(c.9\)](#), [Schedule 13](#) to the [Finance Act 2004 \(c.12\)](#), [sections 60](#) and 62 of the [Finance Act 2006 \(c.25\)](#), S.I. 2001/2412, 2002/307, 2003/2958, 2004/770, 2005/778, 2006/883 and 2003, 2007/2091, 2008/607, 2009/600, and 2011/1000.

### Calculation of net earnings of employed earners

**35.**—(1) For the purposes of regulation 29 (average weekly earnings of employed earners), the earnings of an applicant derived or likely to be derived from employment as an employed earner to be taken into account are, subject to paragraph (2), the applicant's net earnings.

(2) Any sum, where applicable, specified in Schedule 3 is to be disregarded when calculating an applicant's net earnings.

(3) For the purposes of paragraph (1) net earnings are, except where paragraph (6) applies, to be calculated by taking into account the gross earnings of the applicant from that employment over the assessment period, less—

- (a) any amount deducted from those earnings by way of—
  - (i) income tax;
  - (ii) primary Class 1 contributions under the 1992 Act;
- (b) one-half of any sum paid by the applicant by way of a contribution towards an occupational pension scheme;
- (c) one-half of the amount calculated in accordance with paragraph (5) in respect of any qualifying contribution payable by the applicant; and
- (d) where those earnings include a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay, statutory maternity pay, <sup>F65</sup>... statutory paternity pay [<sup>F66</sup>, statutory shared parental pay or statutory adoption

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

pay], any amount deducted from those earnings by way of any contributions which are payable under any enactment having effect in Northern Ireland and which correspond to primary Class 1 contributions under the 1992 Act.

(4) In this regulation “qualifying contribution” means any sum which is payable periodically as a contribution towards a personal pension scheme.

(5) The amount in respect of any qualifying contribution is to be calculated by multiplying the daily amount of the qualifying contribution by the number equal to the number of days in the assessment period; and for the purposes of this regulation the daily amount of the qualifying contribution is to be determined—

- (a) where the qualifying contribution is payable monthly, by multiplying the amount of the qualifying contribution by 12 and dividing the product by 365; and
- (b) in any other case, by dividing the amount of the qualifying contribution by the number equal to the number of days in the period to which the qualifying contribution relates.

(6) Where the earnings of an applicant are estimated under regulation 29(2)(b) (average weekly earnings of employed earners), the applicant's net earnings are to be calculated by taking into account those earnings over the assessment period, less—

- (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under section 35(1) of the Income Tax Act 2007 <sup>M173</sup> (personal allowance for those aged under 65) as is appropriate to the applicant's circumstances but, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph are to be calculated on a pro rata basis;
- (b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by the applicant under the 1992 Act in respect of those earnings if such contributions were payable; and
- (c) one-half of any sum which would be payable by the applicant by way of a contribution towards an occupational or personal pension scheme, if the earnings so estimated were actual earnings.

#### Textual Amendments

- F65** Words in reg. 35(3)(d) omitted (5.4.2015) by virtue of [The Shared Parental Leave and Statutory Shared Parental Pay \(Consequential Amendments to Subordinate Legislation\) Order 2014 \(S.I. 2014/3255\)](#), arts. 1(3), **23(6)(a)** (with art. 35(1))
- F66** Words in reg. 35(3)(d) substituted (31.12.2014) by [The Shared Parental Leave and Statutory Shared Parental Pay \(Consequential Amendments to Subordinate Legislation\) Order 2014 \(S.I. 2014/3255\)](#), arts. 1(2), **23(6)(b)**

#### Marginal Citations

**M173** 2007 c.3 as amended by section 4(1) of the [Finance Act 2009 \(c.10\)](#) and [S.I. 2011/2926](#).

## CHAPTER 5

### Self-employed earners

#### Earnings of self-employed earners

**36.**—(1) Subject to paragraph (2), “earnings” means in the case of employment as a self-employed earner, the gross income of the employment.

(2) “Earnings” does not include any payment to which paragraph 30 or 31 of Schedule 4 refers (payments in respect of a person accommodated with the applicant under arrangements made by a local authority or voluntary organisation and payments made to the applicant by a health authority, local authority or voluntary organisation in respect of persons temporarily in the applicant's care) nor does it include any sports award.

(3) This paragraph applies to—

(a) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark; and

(b) any payment in respect of any—

(i) book registered under the Public Lending Right Scheme 1982 <sup>M174</sup>; or

(ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982,

where the applicant is the first owner of the copyright, design, patent or trade mark, or an original contributor to the book or work concerned.

(4) Where the applicant's earnings consist of any items to which paragraph (3) applies, those earnings are to be taken into account over a period equal to the number of weeks equal to the number obtained (and any fraction is to be treated as a corresponding fraction of a week) by dividing the earnings by the amount of council tax reduction to which the applicant would have been entitled had the payment not been made plus an amount equal to the total of the sums which would fall to be disregarded from the payment under Schedule 3 (sums to be disregarded in the calculation of earnings) as appropriate in the applicant's case.

#### **Marginal Citations**

**M174** The Scheme is set out in the Appendix to S.I. 1982/719. It has been amended by S.I. 1982/719, 1983/480 and 1688, 1984/1847, 1985/1581, 1986/2001, 1986/2103, 1987/1908, 1988/2070, 1989/2188, 1990/2360, 1991/1618, 1992/3044 and 3049, 1996/1338 and 3237, 1997/1576, 1999/420, 1042 and 3304, 2000/3319, 2001/3984, 2002/3123 and 3135, 2003/3045, 2004/1258 and 3218, 2005/1519 and 3351, 2006/3294, 2009/3259, 2011/54 and 2012/63.

#### **Calculation of net profit of self-employed earners**

**37.**—(1) For the purposes of regulation 30 (average weekly earnings of self-employed earners) the earnings of an applicant to be taken into account are—

(a) in the case of a self-employed earner who is engaged in employment on that earner's own account, the net profit derived from that employment;

(b) in the case of a self-employed earner whose employment is carried on in partnership or is that of a share fisherman within the meaning of the Social Security (Mariners' Benefits) Regulations 1975 <sup>M175</sup>, that earner's share of the net profit derived from that employment, less—

(i) an amount in respect of income tax and social security contributions payable under the 1992 Act calculated in accordance with regulation 38 (deduction of tax and contributions for self-employed earners); and

(ii) one-half of the amount calculated in accordance with paragraph (11) in respect of any qualifying premium.

(2) Any sum, where applicable, specified in Schedule 3 is to be disregarded when calculating a self-employed earner's net profit.

(3) For the purposes of paragraph (1)(a) the net profit of the employment is, except where paragraph (9) applies, to be calculated by taking into account the earnings of the employment over the assessment period less—

- (a) subject to paragraphs (5) to (8), any expenses wholly and exclusively incurred in that period for the purposes of that employment;
- (b) an amount in respect of—
  - (i) income tax; and
  - (ii) social security contributions payable under the 1992 Act; and
- (c) one-half of the amount calculated in accordance with paragraph (11) in respect of any qualifying premium.

(4) For the purposes of paragraph (1)(b) the net profit of the employment is to be calculated by taking into account the earnings of the employment over the assessment period less, subject to paragraphs (5) to (8), any expenses wholly and exclusively incurred in that period for the purposes of the employment.

(5) Subject to paragraph (6), no deduction is to be made under paragraph (3)(a) or (4), in respect of—

- (a) any capital expenditure;
- (b) the depreciation of any capital asset;
- (c) any sum employed or intended to be employed in the setting up or expansion of the employment;
- (d) any loss incurred before the beginning of the assessment period;
- (e) the repayment of capital on any loan taken out for the purposes of the employment;
- (f) any expenses incurred in providing business entertainment; or
- (g) any debts, except bad debts proved to be bad, but this sub-paragraph does not apply to any expenses incurred in the recovery of a debt.

(6) A deduction is to be made under paragraph (3)(a) or (4) in respect of the repayment of capital on any loan used for—

- (a) the replacement in the course of business of equipment or machinery; and
- (b) the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair.

(7) The relevant authority is to refuse to make a deduction in respect of any expenses under paragraph (3)(a) or (4) where it is not satisfied given the nature and the amount of the expense that it has been reasonably incurred.

(8) For the avoidance of doubt—

- (a) a deduction is not to be made under paragraph (3)(a) or (4) in respect of any sum unless it has been expended for the purposes of the employment;
- (b) a deduction is to be made under paragraph (3)(a) or (4) in respect of—
  - (i) the excess of any value added tax paid over value added tax received in the assessment period;
  - (ii) any income expended in the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair; and
  - (iii) any payment of interest on a loan taken out for the purposes of the employment.

(9) Where an applicant is engaged in employment as a child minder the net profit of the employment is to be one-third of the earnings of that employment, less—

- (a) an amount in respect of—
  - (i) income tax; and
  - (ii) social security contributions payable under the 1992 Act; calculated in accordance with regulation 38 (deduction of tax and contributions of self-employed earners); and
- (b) one-half of the amount calculated in accordance with paragraph (11) in respect of any qualifying premium.

(10) For the avoidance of doubt where an applicant is engaged in employment as a self-employed earner and is also engaged in one or more other employments as a self-employed or employed earner any loss incurred in any one of those employments is not to be offset against earnings in any other of the applicant's employments.

(11) The amount in respect of any qualifying premium is to be calculated by multiplying the daily amount of the qualifying premium by the number equal to the number of days in the assessment period, and for the purposes of this regulation the daily amount of the qualifying premium is to be determined—

- (a) where the qualifying premium is payable monthly, by multiplying the amount of the qualifying premium by 12 and dividing the product by 365; and
- (b) in any other case, by dividing the amount of the qualifying premium by the number equal to the number of days in the period to which the qualifying premium relates.

(12) In this regulation “qualifying premium” means any premium which is payable periodically in respect of a personal pension scheme and is payable on or after the date of the application.

#### Marginal Citations

M175 S.I. 1975/529.

### Deduction of tax and contributions of self-employed earners

**38.**—(1) The amount to be deducted in respect of income tax under regulation 37(1)(b)(i), (3)(b)(i) or (9)(a)(i) (calculation of net profit of self-employed earners) is to be calculated on the basis of the amount of chargeable income and as if that income was assessable to income tax at the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under section 35(1) of the Income Tax Act 2007 (personal allowance for those aged under 65) as is appropriate to the applicant's circumstances, but, if the assessment period is less than one year the earnings to which the basic rate of tax is to be applied and the amount of the personal reliefs deductible under this paragraph are to be calculated on a pro rata basis.

(2) The amount to be deducted in respect of social security contributions under regulation 37(1)(b)(i), (3)(b)(ii) or (9)(a)(ii) is the total of—

- (a) the amount of Class 2 contributions payable under section [F67 11(2)] or, as the case may be, [F68 11(8)] of the 1992 Act M176 at the rate applicable to the assessment period except where the applicant's chargeable income is less than the amount specified in section 11(4) of that Act M177 [F69 (small profits threshold)] for the tax year applicable to the assessment period, but if the assessment period is less than one year, the amount specified for that tax year is to be reduced pro rata; and
- (b) the amount of Class 4 contributions (if any) which would be payable under section 15 of the 1992 Act M178 (Class 4 contributions recoverable under the Income Tax Acts) at the percentage rate applicable to the assessment period on so much of the chargeable income as exceeds the lower limit but does not exceed the upper limit of profits and gains applicable

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

for the tax year applicable to the assessment period, but if the assessment period is less than one year those limits are to be reduced pro rata.

- (3) In this regulation “chargeable income” means—
- (a) except where sub-paragraph (b) applies, the earnings derived from the employment less any expenses deducted under regulation 37(3)(a) or, as the case may be, (4); and
  - (b) in the case of employment as a child minder, one-third of the earnings of that employment.

#### Textual Amendments

- F67** Word in reg. 38(2)(a) substituted (1.4.2016) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/81\)](#), regs. 1(2), **11(a)**
- F68** Word in reg. 38(2)(a) substituted (1.4.2016) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/81\)](#), regs. 1(2), **11(b)**
- F69** Words in reg. 38(2)(a) substituted (1.4.2016) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/81\)](#), regs. 1(2), **11(c)**

#### Marginal Citations

- M176** Section 11(1) was amended by [S.I. 2012/807](#). Section 11(3) was amended by paragraph 12 of Schedule 3 to the [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c.2\)](#).
- M177** Section 11(4) was amended by paragraph 12 of Schedule 3 to the [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c.2\)](#) and [S.I. 2012/807](#).
- M178** Section 15 was amended by section 13 of the [Limited Liability Partnerships Act 2000 \(c.12\)](#), **section 3(1)** of the [National Insurance Contributions Act 2002 \(c.19\)](#), **paragraph 420** of Schedule 1 and Schedule 3 to the [Income Tax \(Trading and Other Income\) Act 2005 \(c.5\)](#), **section 2(1)** of the [National Insurance Contributions Act 2011 \(c.3\)](#), and [S.I. 2011/938](#) and [2012/807](#).

## CHAPTER 6

### Other income

#### Calculation of income other than earnings

**39.**—(1) For the purposes of regulation 31 (average weekly income other than earnings), the income of an applicant which does not consist of earnings to be taken into account is, subject to paragraphs (2) to (6), the applicant's gross income and any capital treated as income under regulation 40 (capital treated as income).

[<sup>F70</sup>(1A) This regulation does not apply where an applicant or an applicant’s partner has, or the partners jointly have, an award of universal credit (see regulation 26).]

(2) Any sum, where applicable, specified in Schedule 4 is to be disregarded when calculating an applicant's gross income under paragraph (1).

(3) Where the payment of any benefit under the benefit Acts is subject to any deduction by way of recovery the amount to be taken into account under paragraph (1) is the gross amount payable.

(4) Where the applicant or any partner of the applicant is receiving a contributory employment and support allowance and that allowance has been reduced under regulation 63 of the Employment and Support Allowance Regulations <sup>M179</sup> the amount of that allowance to be taken into account is the amount as if it had not been reduced.

(5) Where an award of any working tax credit or child tax credit under the Tax Credits Act 2002 <sup>M180</sup> is subject to a deduction by way of recovery of an overpayment of working tax credit or child tax credit which arose in a previous tax year the amount to be taken into account under paragraph (1) is the amount of working tax credit or child tax credit awarded less the amount of that deduction.

(6) In paragraph (5), “tax year” means a period beginning on 6th April in one year and ending on 5th April in the next.

(7) Paragraphs (8) and (9) apply where—

- (a) a relevant payment has been made to a person in an academic year; and
- (b) the person abandons, or is dismissed from, the relevant course of study before payment is made of the final instalment of the relevant payment.

(8) Where a relevant payment is made quarterly, the amount of a relevant payment to be taken into account for the assessment period for the purposes of paragraph (1) in respect of a person to whom paragraph (7) applies, is to be calculated by applying the formula—

$$\frac{A - (B \times C)}{D}$$

where—

- a A = the total amount of the relevant payment which the person would have received had the person remained a student until the last day of the academic term in which the person abandoned, or was dismissed from, the relevant course of study, less any deduction under regulation 59(6) (treatment of student loans);
- b B = the number of reduction weeks from the reduction week immediately following that which includes the first day of that academic year to the reduction week which includes the day on which the person abandoned, or was dismissed from, the relevant course of study;
- c C = the weekly amount of the relevant payment, before the application of the £10 disregard, which would have been taken into account as income under regulation 59(2) (treatment of student loans)—
  - (i) had the person not abandoned, or been dismissed from, the relevant course of study; and
  - (ii) in the case of a person who was not entitled to council tax reduction immediately before abandonment of or dismissal from the course of study, had the person, at that time, been entitled to housing benefit; and
- d D = the number of reduction weeks in the assessment period.

(9) Where a relevant payment is made by two or more instalments in a quarter, the amount of a relevant payment to be taken into account for the assessment period for the purposes of paragraph (1) in respect of a person to whom paragraph (7) applies, is to be calculated by applying the formula in paragraph (8) but as if—

A = the total amount of relevant payments which the person received, or would have received, from the first day of the academic year to the day the person abandoned the course, or was dismissed from it, less any deduction under regulation 59(6) (treatment of student loans).

(10) In this regulation—

“assessment period” means—

- (a) in a case where a relevant payment is made quarterly, the period beginning with the reduction week which includes the day on which the person abandoned, or was dismissed from, the relevant course of study and ending with the reduction week which includes the last day of the last quarter for which an instalment of the relevant payment was payable to that person;

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

- (b) in a case where the relevant payment is made by two or more instalments in a quarter, the period beginning with the reduction week which includes the day on which the person abandoned, or was dismissed from, the relevant course of study and ending with the reduction week which includes the earlier of—
- (i) the day immediately before the day on which the next instalment of the relevant payment would have been due had the payments continued; or
  - (ii) the last day of the last quarter for which an instalment of the relevant payment was payable to the person;

“quarter” in relation to an assessment period means a period beginning on—

- (a) 1st January and ending on 31st March;
- (b) 1st April and ending on 30th June;
- (c) 1st July and ending on 31st August; or
- (d) 1st September and ending on 31st December; and

“relevant payment” means either a student loan or an amount intended for the maintenance of dependants referred to in regulation 54(7) (calculation of grant income) or both.

(11) For the avoidance of doubt the following is income to be taken into account under paragraph (1)—

- (a) any payment to which regulation 34(2) (payments which are not earnings of employed earners) applies; or
- (b) in the case of an applicant who is receiving support under section 95 or 98 of the Immigration and Asylum Act <sup>M181</sup>, including support provided by virtue of regulations made under Schedule 9 to that Act <sup>M182</sup>, the amount of support provided in respect of essential living needs of the applicant and the applicant's dependants (if any) as specified in regulations made under paragraph 3 of Schedule 8 to the Immigration and Asylum Act.

#### Textual Amendments

**F70** Reg. 39(1A) inserted (1.4.2016) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/81\)](#), regs. 1(2), 12

#### Marginal Citations

**M179** Regulation 63 was amended by [S.I. 2011/1349](#).

**M180** 2002 c.21.

**M181** Section 95 was amended by section 50 of the [Nationality, Immigration and Asylum Act 2002 \(c.41\)](#).

**M182** Schedule 9 was amended by section 45 and section 50 of the [Nationality, Immigration and Asylum Act 2002 \(c.41\)](#).

### Capital treated as income

**40.—(1)** Any capital payable by instalments which are outstanding at the date on which the application is made or treated as made, or, at the date of any subsequent revision or supersession, is, if the aggregate of the instalments outstanding and the amount of the applicant's capital otherwise calculated in accordance with chapter 7 of this Part (capital) exceeds £16,000, to be treated as income.

(2) Any payment received under an annuity is to be treated as income.

(3) Any earnings to the extent that they are not a payment of income are to be treated as income.

(4) Any Career Development Loan paid pursuant to section 2 of the 1973 Act is to be treated as income.



(5) Where an agreement or court order provides that [<sup>F71</sup>a payment] is to be made to the applicant in consequence of any personal injury to the applicant and that the [<sup>F72</sup>payment is] to be made, wholly or partly, by way of periodic payments, any periodic payment received by the applicant (but not a payment which is treated as capital by virtue of this Part) is to be treated as income.

#### Textual Amendments

- F71** Words in reg. 40(5) substituted (18.3.2013) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2013 \(S.S.I. 2013/48\)](#), regs. 1, 7(a)
- F72** Words in reg. 40(5) substituted (18.3.2013) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2013 \(S.S.I. 2013/48\)](#), regs. 1, 7(b)

#### Notional income

**41.—**(1) Where a relevant authority is of the opinion that an applicant has been deprived of income as a result of actings by that applicant carried out for the purpose of securing entitlement to council tax reduction or increasing the amount of that reduction, that income is to be treated as income of the applicant.

(2) Except in the case of—

- (a) a discretionary trust;
- (b) a trust derived from a payment made in consequence of a personal injury;
- (c) a personal pension scheme or a payment made by the Board of the Pension Protection Fund where the applicant has not attained the qualifying age for state pension credit;
- (d) any sum to which paragraph 51(2)(a) of Schedule 5 (capital to be disregarded) applies which is administered in the way referred to in paragraph 50(1)(a) of that Schedule;
- (e) any sum to which paragraph 50(a) of Schedule 5 refers;
- (f) rehabilitation allowance under section 2 of the 1973 Act;
- (g) child tax credit;
- (h) working tax credit; or
- (i) any income, other than earnings or earnings of an employed earner, arising out of the applicant's participation in a service user group,

any income which would become available to the applicant upon application being made, but which has not been acquired by the applicant, is to be treated as possessed by the applicant from the date on which it could be expected to be acquired if application was made.

(3) Subject to paragraph (4) any payment of income made—

- (a) to a third party in respect of a single applicant or in respect of a member of the applicant's family (but not a member of the third party's family) is, where that payment is a payment of an occupational pension, a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund, to be treated as possessed by that applicant or, as the case may be, by that family member;
- (b) to a third party in respect of a single applicant or in respect of a member of the applicant's family (but not a member of the third party's family) is, where it is not a payment referred to in sub-paragraph (a), to be treated as possessed by that applicant or by that family member to the extent that it is used for the food, ordinary clothing or footwear, household fuel or rent of that single applicant or, as the case may be, of any member of that family or is used for any council tax or water charges for which that applicant or family member is liable; or

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

- (c) to a single applicant or a member of the applicant's family in respect of a third party (but not in respect of another member of that family) is to be treated as possessed by that applicant or, as the case may be, that family member to the extent that it is kept or used by that applicant or used by or on behalf of any member of the family.
- (4) Paragraph (3) does not apply in respect of a payment of income made—
- (a) under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, [<sup>F73</sup>ILF Scotland] or the London Bombings Relief Charitable Fund;
  - (b) pursuant to section 19(1)(a) of the Coal Industry Act 1994 <sup>M183</sup> (concessionary coal);
  - (c) pursuant to section 2 of the 1973 Act in respect of a person's participation in a qualifying course within the meaning given by regulation 17A(7) of [<sup>F74</sup>the Jobseeker's Allowance Regulations];
  - (d) in respect of a person's participation in the Mandatory Work Activity Scheme;
  - (e) in respect of an applicant's participation in the Employment, Skills and Enterprise Scheme; or
  - (f) under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where—
    - (i) the estate of the person in respect of whom the payment has been made is subject to sequestration, a judicial factor has been appointed on the person's estate under section 41 of the Solicitors (Scotland) Act 1980 <sup>M184</sup>, the person has entered a protected trust deed within the meaning of section 73(1) of the Bankruptcy Act 1985 <sup>M185</sup> or a bankruptcy order within the meaning of section 381(1) of the Insolvency Act 1986 has been made in respect of the person;
    - (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
    - (iii) the person referred to in head (i) and any member of the person's family does not possess, or is not treated as possessing, any other income apart from that payment.
- (5) Where an applicant is in receipt of any benefit under the benefit Acts and the rate of that benefit is altered with effect from a date on or after 1st April in any year, but not more than 14 days after that date, the applicant is to be treated as possessing that benefit at the altered rate from either 1st April or the first Monday in April in that year, whichever date the relevant authority selects to apply in its area, to the date on which the altered rate is to take effect.
- (6) Subject to paragraph (7), where—
- (a) an applicant performs a service for another person; and
  - (b) the person makes no payment of earnings or pays less than that paid for a comparable employment in the area,
- the applicant is to be treated as possessing the amount of earnings (if any) that would be reasonable for that employment unless the applicant satisfies the relevant authority that the means of the person are insufficient to pay, or to pay more, for the service.
- (7) Paragraph (6) does not apply—
- (a) to an applicant who is engaged by a charitable or voluntary organisation or who is a volunteer if the relevant authority is satisfied in any of those cases that it is reasonable for the applicant to provide those services free of charge; or
  - (b) in a case where the service is performed in connection with—
    - (i) the applicant's participation in an employment or training programme in accordance with regulation 19(1)(q) of the Jobseeker's Allowance Regulations <sup>M186</sup>; or

- (ii) the applicant's participation or the participation of any partner of the applicant in an employment or training programme as defined in regulation 19(3) of those Regulations <sup>M187</sup> for which a training allowance is not payable or, where such an allowance is payable, it is payable for the sole purpose of reimbursement of travelling or meal expenses to the person participating in that programme; or
- (c) to an applicant who is participating in a work placement approved by the Scottish Ministers or the Secretary of State (or by a person providing services to the Scottish Ministers or the Secretary of State) before the placement starts.
- (8) In paragraph (7)(c) “work placement” means practical work experience which is not undertaken in expectation of payment.
- (9) Where an applicant is treated as possessing income under any of paragraphs (1) to (5), the foregoing provisions of this Part apply for the purposes of calculating the amount of that income as if a payment had been made and as if it was income possessed by the applicant.
- (10) Where an applicant is treated as possessing any earnings under paragraph (6) the foregoing provisions of this Part apply for the purposes of calculating the amount of those earnings as if a payment had been made and as if they were earnings the applicant possessed except that regulation 35(3) (calculation of net earnings of employed earners) does not apply and the applicant's net earnings are to be calculated by taking into account the earnings which the applicant is treated as possessing, less—
- (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the starting rate or, as the case may be, the starting rate and the basic rate of tax applicable to the assessment period less the personal relief to which the applicant is entitled under section 35(1) of the Income Tax Act 2007 (personal allowance for those aged under 65) as is appropriate to the applicant's circumstances, but, if the assessment period is less than one year, the earnings to which the starting rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph are to be calculated on a pro rata basis;
- (b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by the applicant under the 1992 Act in respect of those earnings if such contributions were payable; and
- (c) one-half of any sum payable by the applicant by way of a contribution towards an occupational or personal pension scheme.
- (11) Paragraphs (1), (2), (3) and (6) do not apply in respect of any income, other than earnings or earnings of an employed earner, arising out of the applicant's participation in a service user group.

#### Textual Amendments

- F73** Words in reg. 41(4)(a) substituted (1.4.2016) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/81\)](#), regs. 1(2), **4(2)(a)**
- F74** Words in reg. 41(4)(c) substituted (18.3.2013) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2013 \(S.S.I. 2013/48\)](#), regs. 1, **8**

#### Marginal Citations

- M183** 1994 c.21.
- M184** 1980 c.46. Section 41 was amended by paragraph 13 of Schedule 1 and Schedule 2 to the [Solicitors \(Scotland\) Act 1988 \(c.42\)](#), and paragraph 19 of Schedule 1 to the [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c.73\)](#).
- M185** 1985 c.66. Section 73(1) was relevantly amended by section 20 of the [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#).

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

**M186** Regulation 19(1)(q) was amended by [S.I. 2011/789](#).

**M187** Regulation 19(3) was amended by [S.I. 2006/1402](#).

## CHAPTER 7

### Capital

#### Capital limit

**42.** No person is entitled to council tax reduction if that person's capital exceeds £16,000.

#### Calculation of capital

**43.—(1)** Subject to paragraph (2), the capital of an applicant to be taken into account when calculating entitlement to council tax reduction is the whole of the applicant's capital calculated in accordance with this Part and any income treated as capital under regulation 45 (income treated as capital).

(2) Any capital, where applicable, specified in Schedule 5 is to be disregarded when calculating an applicant's capital.

#### Disregard of capital of child and young person

**44.** The capital of a child or young person who is a member of the applicant's family is not to be treated as capital of the applicant.

#### Income treated as capital

**45.—(1)** Any earnings derived from employment to which paragraph 9 of Schedule 3 applies and paid at intervals of at least one year is to be treated as capital.

(2) Any amount by way of a refund of income tax deducted from profits or emoluments chargeable to income tax under Schedule D or E of the Income and Corporation Taxes Act 1988 is to be treated as capital.

(3) Any holiday pay which is not earnings under regulation 34(1)(d) (earnings of employed earners) is to be treated as capital.

(4) Except any income derived from capital disregarded under paragraphs 3, 4, 6, 10, 16, 30 to 33, 50 or 51 of Schedule 5, any income derived from capital is to be treated as capital, but only from the date it is normally due to be credited to the applicant's account.

(5) In the case of employment as an employed earner, any advance of earnings or any loan made by the applicant's employer is to be treated as capital.

(6) Any charitable or voluntary payment which is not made or due to be made at regular intervals, other than a payment which is made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, [<sup>F75</sup>ILF Scotland] or the London Bombings Relief Charitable Fund, is to be treated as capital.

(7) The gross receipts of any commercial activity carried on by a person in respect of which assistance is received under the self-employment route is to be treated as capital, but only in so far as those receipts were payable into a special account during the period in which the person was receiving such assistance.

(8) Any arrears of subsistence allowance paid as a lump sum is to be treated as capital.

(9) Any arrears of working tax credit or child tax credit is to be treated as capital.

### Textual Amendments

- F75** Words in [reg. 45\(6\)](#) substituted (1.4.2016) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/81\)](#), regs. 1(2), **4(2)(b)**

### Calculation of capital in the United Kingdom

**46.** Capital which an applicant possesses in the United Kingdom is to be calculated at its current market or surrender value less—

- (a) where there would be expenses attributable to the sale, 10 per cent; and
- (b) the amount of any encumbrance secured on it.

### Calculation of capital outside the United Kingdom

**47.** Capital which an applicant possesses in a country outside the United Kingdom is to be calculated—

- (a) in a case where there is no prohibition in that country against the transfer to the United Kingdom of an amount equal to its current market or surrender value in that country, at that value; and
- (b) in a case where there is a prohibition, at the price it would realise if sold in the United Kingdom to a willing buyer,

less, where there would be expenses attributable to sale, 10 per cent and the amount of any encumbrances secured on it.

### Notional capital

**48.—**(1) Where an applicant has been deprived of capital as a result of actings by that applicant carried out for the purpose of securing entitlement to council tax reduction or increasing the amount of that reduction that capital is to be treated as capital of the applicant except to the extent that it is reduced in accordance with regulation 49 (diminishing notional capital).

(2) Except in the case of—

- (a) a discretionary trust;
- (b) a trust derived from a payment made in consequence of a personal injury;
- (c) any loan which would be obtained only if secured against capital disregarded under Schedule 5;
- (d) a personal pension scheme or a payment made by the Board of the Pension Protection Fund;
- (e) any sum to which paragraph 51(2)(a) of Schedule 5 (capital to be disregarded) applies which is administered in the way referred to in paragraph 51(1)(a) of that Schedule;
- (f) any sum to which paragraph 50(a) of Schedule 5 refers;
- (g) child tax credit; or
- (h) working tax credit,

any capital which would become available to the applicant upon application being made, but which has not been acquired by the applicant, is to be treated as possessed by the applicant from the date on which it could be expected to be acquired if an application was made.

(3) Subject to paragraph (4) any payment of capital, made—

---

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

---

- (a) to a third party in respect of a single applicant or in respect of a member of the applicant's family (but not a member of the third party's family) is, where that payment is a payment of an occupational pension, a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund, to be treated as possessed by that applicant or, as the case may be, by that family member;
  - (b) to a third party in respect of a single applicant or in respect of a member of the applicant's family (but not a member of the third party's family) is, where it is not a payment referred to in sub-paragraph (a), to be treated as possessed by that applicant or by that family member to the extent that it is used for the food, ordinary clothing or footwear, household fuel or rent of that applicant or, as the case may be, of any member of that family or is used for any council tax or water charges for which that applicant or family member is liable; or
  - (c) to a single applicant or a member of the applicant's family in respect of a third party (but not in respect of another member of the family) is to be treated as possessed by that single applicant or, as the case may be, that family member to the extent that it is kept or used by the applicant or used by or on behalf of any member of the family.
- (4) Paragraph (3) does not apply in respect of a payment of capital made—
- (a) under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, [F76ILF Scotland] or the London Bombings Relief Charitable Fund;
  - (b) pursuant to section 2 of the 1973 Act in respect of a person's participation in a qualifying course within the meaning specified in regulation 17A(7) of [F77the Jobseeker's Allowance Regulations];
  - (c) in respect of a person's participation in the Mandatory Work Activity Scheme;
  - (d) in respect of an applicant's participation in the Employment, Skills and Enterprise Scheme; or
  - (e) under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where—
    - (i) the estate of the person in respect of whom the payment has been made is subject to sequestration, a judicial factor has been appointed on the person's estate under section 41 of the Solicitors (Scotland) Act 1980, the person has entered a protected trust deed within the meaning of section 73(1) of the Bankruptcy Act 1985 or a bankruptcy order within the meaning of section 381(1) of the Insolvency Act 1986 has been made in respect of the person;
    - (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
    - (iii) the person referred to in head (i) and any member of the person's family does not possess, or is not treated as possessing, any other income apart from that payment.
- (5) Where an applicant stands in relation to a company in a position analogous to that of a sole owner or partner in the business of that company, the applicant is to be treated as sole owner or partner and in such a case—
- (a) the value of the applicant's actual holding in that company must be disregarded notwithstanding regulation 43 (calculation of capital); and
  - (b) subject to paragraph (6), the applicant is to be treated as possessing an amount of capital equal to what would have been the applicant's share of the value of the capital of that company if the applicant had been sole owner or partner.
- (6) For so long as the applicant undertakes activities in the course of the business of the company, the amount which the applicant is treated as possessing under paragraph (5) is to be disregarded.

(7) Where an applicant is treated as possessing capital under any of paragraphs (1) to (3) the provisions of this chapter apply for the purposes of calculating the amount of the capital as if it were actual capital possessed by the applicant

#### Textual Amendments

- F76** Words in [reg. 48\(4\)\(a\)](#) substituted (1.4.2016) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/81\)](#), [regs. 1\(2\)](#), [4\(2\)\(c\)](#)
- F77** Words in [reg. 48\(4\)\(b\)](#) substituted (18.3.2013) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2013 \(S.S.I. 2013/48\)](#), [regs. 1](#), [9](#)

#### Diminishing notional capital

**49.**—(1) Where an applicant is treated as possessing capital under regulation 48(1) (notional capital), the amount which the applicant is treated as possessing—

- (a) in the case of a week that is subsequent to—
- (i) the relevant week in respect of which the conditions set out in paragraph (2) are satisfied; or
  - (ii) a week which follows that relevant week and which satisfies those conditions, is to be reduced by the amount determined under paragraph (3);
- (b) in the case of a week in respect of which paragraph (1)(a) does not apply but where—
- (i) that week is a week subsequent to the relevant week; and
  - (ii) that relevant week is a week in which the condition in paragraph (4) is satisfied, is to be reduced by the amount determined under paragraph (4).

(2) This paragraph applies to a reduction week or part-week where the applicant satisfies the conditions that—

- (a) the applicant is in receipt of council tax reduction; and
- (b) but for regulation 48(1), the applicant would have received an additional amount of council tax reduction in that week.

(3) In a case to which paragraph (2) applies, the amount of the reduction for the purposes of paragraph (1)(a) is equal to the aggregate of—

- (a) the additional amount to which paragraph (2)(b) refers;
- (b) where the applicant has also claimed housing benefit, the amount of any housing benefit or any additional amount of that benefit to which the applicant would have been entitled in respect of the whole or part of the reduction week to which paragraph (2) refers but for the application of regulation 49(1) of the Housing Benefit Regulations (notional capital);
- (c) where the applicant has also claimed income support, the amount of income support to which the applicant would have been entitled in respect of the whole or part of the reduction week to which paragraph (2) refers but for the application of regulation 51(1) of the Income Support Regulations<sup>M188</sup> (notional capital);
- (d) where the applicant has also claimed a jobseeker's allowance, the amount of an income-based jobseeker's allowance to which the applicant would have been entitled in respect of the whole or part of the reduction week to which paragraph (2) refers but for the application of regulation 113 of the Jobseeker's Allowance Regulations<sup>M189</sup> (notional capital); and
- (e) where the applicant has also claimed an employment and support allowance, the amount of an income-related employment and support allowance to which the applicant would

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

have been entitled in respect of the whole or part of reduction week to which paragraph (2) refers but for the application of regulation 115 of the Employment and Support Allowance Regulations<sup>M190</sup> (notional capital).

(4) Subject to paragraph (5), for the purposes of paragraph (1)(b) the condition is that the applicant would have been entitled to council tax reduction in the relevant week but for regulation 48(1) (notional capital), and in such a case the amount of the reduction is to be equal to the aggregate of—

- (a) the amount of council tax reduction to which the applicant would have been entitled in the relevant week but for regulation 48(1), and for the purposes of this sub-paragraph if the amount is in respect of a part-week, that amount is to be determined by dividing the amount of council tax reduction to which the applicant would have been entitled by the number equal to the number of days in the part-week and multiplying the quotient by 7;
- (b) if the applicant would, but for regulation 49(1) of the Housing Benefit Regulations, have been entitled to housing benefit or to an additional amount of housing benefit in respect of the reduction week which includes the last day of the relevant week, the amount which is equal to—
  - (i) in a case where no housing benefit is payable, the amount to which the applicant would have been entitled; or
  - (ii) in any other case, the amount equal to the additional amount of housing benefit to which the applicant would have been entitled, and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount is to be determined by dividing the amount of housing benefit to which the applicant would have been entitled by the number equal to the number of days in the part-week and multiplying the quotient by 7;
- (c) if the applicant would, but for regulation 51(1) of the Income Support Regulations, have been entitled to income support in respect of the benefit week (within the meaning of regulation 2(1) of those Regulations) which includes the last day of the relevant week, the amount to which the applicant would have been entitled and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount is to be determined by dividing the amount of the income support to which the applicant would have been entitled by the number equal to the number of days in the part-week and multiplying the quotient by 7;
- (d) if the applicant would, but for regulation 113 of the Jobseeker's Allowance Regulations, have been entitled to an income-based jobseeker's allowance in respect of the benefit week (within the meaning of regulation 1(3) of those Regulations) which includes the last day of the relevant week, the amount to which the applicant would have been entitled and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount is to be determined by dividing the amount of the income-based jobseeker's allowance to which the applicant would have been entitled by the number equal to the number of days in the part-week and multiplying the quotient by 7; and
- (e) if the applicant would, but for regulation 115 of the Employment and Support Allowance Regulations, have been entitled to an income-related employment and support allowance in respect of the benefit week (within the meaning of regulation 2(1) of those Regulations) which includes the last day of the relevant week, the amount to which the applicant would have been entitled and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount is to be determined by dividing the amount of the income-related employment and support allowance to which the applicant would have been entitled by the number equal to the number of days in that part-week and multiplying the quotient by 7.

(5) The amount determined under paragraph (4) is to be re-determined under that paragraph if the applicant makes a further application for council tax reduction and the conditions in paragraph (6) are satisfied, and in such a case—



- (a) paragraph (4)(a) to (e) applies as if for “relevant week” there was substituted “ relevant subsequent week ”; and
  - (b) subject to paragraph (7), the amount as re-determined has effect from the first week following the relevant subsequent week in question.
- (6) The conditions are that—
- (a) a further application is made 26 or more weeks after the latest of—
    - (i) the date on which the applicant made an application for council tax reduction in respect of which the applicant was first treated as possessing the capital in question under regulation 48(1) (notional capital);
    - (ii) in a case where there has been at least one re-determination in accordance with paragraph (5), the date on which the applicant last made an application for council tax reduction which resulted in the weekly amount being re-determined; or
    - (iii) the date on which the applicant last ceased to be entitled to council tax reduction; and
  - (b) the applicant would have been entitled to council tax reduction but for regulation 48(1).
- (7) The amount as re-determined under paragraph (5) is not to have effect if it is less than the amount which applied in that case immediately before the re-determination, and in that case the higher amount continues to have effect.
- (8) In this regulation—
- (a) “part-week”—
    - (i) in paragraph (4)(a) means a period of less than a week during which a person is entitled to council tax reduction;
    - (ii) in paragraph (4)(b) means a period of less than a week for which housing benefit is payable;
    - (iii) in paragraph (4)(c), (d) and (e) means—
      - (aa) a period of less than a week which is the whole period for which income support, an income-related employment and support allowance or, as the case may be, an income-based jobseeker's allowance is payable; and
      - (bb) any other period of less than a week for which it is payable;
  - (b) “relevant week” means the reduction week or part-week in which the capital in question of which the applicant has been deprived within the meaning of regulation 48(1)—
    - (i) was first taken into account for the purpose of determining the applicant's entitlement to council tax reduction; or
    - (ii) was taken into account on a subsequent occasion for the purpose of determining or re-determining the applicant's entitlement to council tax reduction on that subsequent occasion and that determination or re-determination resulted in the applicant beginning to receive, or ceasing to receive, council tax reduction,and where more than one reduction week or part-week is identified by reference to heads (i) and (ii) the later or latest reduction week or, as the case may be, the later or latest part-week; and
  - (c) “relevant subsequent week” means the reduction week or part-week which includes the day on which the further application or, if more than one further application has been made, the last application was made.

**Marginal Citations**

**M188 Regulation 51(1)** was inserted by [S.I. 1990/1776](#) and amended by [S.I. 1997/2197](#) and 2007/719.

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

**M189** Regulation 113 was amended by SI 1996/207, 1998/2117, 1999/2640 and 3156, 2000/1978 and 3134, 2001/1029 and 3767, 2003/455, 2004/2308, 2005/2465 and 3391, 2006/588, 2007/719, 2008/698, 2767 and 3157, 2009/480, 2010/641 and 1222, and 2011/688, 917 and 2425.

**M190** Regulation 115 was amended by S.I. 2008/2428, 2010/641 and 2011/1707.

### Capital jointly held

**50.** Except where an applicant possesses capital which is disregarded under regulation 48(5) (notional capital) where an applicant and one or more other persons are beneficially entitled in possession to any capital asset the applicant and the person or those persons are to be treated as if each of them were entitled in possession to the whole beneficial interest in an equal share and the provisions of this chapter apply for the purposes of calculating the amount of capital which the applicant is treated as possessing as if it were actual capital possessed by applicant.

### Calculation of tariff income from capital

**51.—**(1) Subject to paragraph (2), where the applicant's capital calculated in accordance with this Part exceeds £6,000 it is to be treated as equivalent to a weekly tariff income of £1 for each complete £250 [<sup>F78</sup>in excess of £6,000.]

(2) Where any part of the excess is not a complete £250 that part is to be treated as equivalent to a weekly tariff income of £1.

#### Textual Amendments

**F78** Words in reg. 51(1) substituted (1.10.2013) by The Council Tax Reduction (Scotland) Amendment (No. 2) Regulations 2013 (S.S.I. 2013/218), regs. 1, 6

## PART 7

### Students

#### CHAPTER 1

##### General

### Interpretation: students

**52.** In this Part—

“access funds” means—

- (a) grants made under section 68 of the Further and Higher Education Act 1992 <sup>M191</sup> for the purpose of providing funds on a discretionary basis to be paid to students;
- (b) grants made under sections 73(a) and (c) and 74(1) of the Education (Scotland) Act 1980 <sup>M192</sup>;
- (c) grants made under article 30 of the Education and Libraries (Northern Ireland) Order 1993 <sup>M193</sup> or grants, loans or other payments made under article 5 of the Further Education (Northern Ireland) Order 1997 <sup>M194</sup>, in each case being grants, or grants, loans or other payments as the case may be, for the purpose of assisting students in financial difficulties;
- (d) discretionary payments, known as “learner support funds”, which are made available to students in further education by institutions out of funds provided by the Young

People's Learning Agency for England under sections 61 and 62 of the Apprenticeships, Skills, Children and Learning Act 2009 or the Chief Executive of Skills Funding under sections 100 and 101 of that Act <sup>M195</sup>; or

(e) Financial Contingency Funds made available by the Welsh Ministers;

“college of further education” means a college of further education within the meaning of Part 1 of the Further and Higher Education (Scotland) Act 1992;

“contribution” means—

(a) any contribution in respect of the income of a student or any person which the Scottish Ministers, the Secretary of State or an education authority takes into account in ascertaining the amount of a student's grant or student loan; or

(b) any sums, which in determining the amount of a student's allowance or bursary in Scotland under the Education (Scotland) Act 1980, the Scottish Ministers or education authority takes into account being sums which the Scottish Ministers or education authority consider that it is reasonable for the following persons to contribute towards the holder's expenses—

(i) the holder of the allowance or bursary;

(ii) the holder's parents;

(iii) the holder's parent's spouse, civil partner or a person ordinarily living with the holder's parent as if the person was the spouse or civil partner of that parent; or

(iv) the holder's spouse or civil partner;

“covenant income” means the gross income payable to a full-time student under a deed of covenant by the student's parent;

“education authority” means a government department (including any Minister of the Crown, any part of the Scottish Administration, the National Assembly for Wales, the Northern Ireland Assembly, any Northern Ireland Minister or Northern Ireland junior Minister and any Northern Ireland department), a local education authority as defined in section 123 of the Local Government (Scotland) Act 1973 <sup>M196</sup>, a local authority as defined in section 579 of the Education Act 1996 <sup>M197</sup> (interpretation), an education and library board established under article 3 of the Education and Libraries (Northern Ireland) Order 1986, any body which is a Research Council for the purposes of the Science and Technology Act 1965 <sup>M198</sup> or any analogous government department, authority, board or body, of the Channel Islands, Isle of Man or any other country outside Great Britain;

“grant” (except in the definition of “access funds”) means any kind of educational grant or award and includes any scholarship, studentship, exhibition, allowance or bursary but does not include a payment from access funds or any payment to which paragraph 15 of Schedule 4 or paragraph 55 of Schedule 5 (disregard of financial assistance with regard to education) applies;

“grant income” means—

(a) any income by way of a grant; or

(b) any contribution whether or not it is paid;

“last day of the course” means—

(a) in the case of a qualifying course, the date on which the last day of that course falls or the date on which the final examination relating to that course is completed, whichever is the later; and

(b) in any other case, the date on which the last day of the final academic term falls in respect of the course in which the student is enrolled;

“period of study” means—

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

- (a) in the case of a course of study for one year or less, the period beginning with the start of the course and ending with the last day of the course;
- (b) in the case of a course of study for more than one year, in the first or, as the case may be, any subsequent year of the course, other than the final year of the course, the period beginning with the start of the course or, as the case may be, that year's start and ending with either—
  - (i) the day before the start of the next year of the course in a case where the student's grant or loan is assessed at a rate appropriate to studying throughout the year or, if the student does not have a grant or loan, where a loan would have been assessed at such a rate had the student had one; or
  - (ii) in any other case, the day before the start of the normal summer vacation appropriate to the student's course; and
- (c) in the final year of a course of study of more than one year, the period beginning with that year's start and ending with the last day of the course;

“periods of experience” means periods of work experience which form part of a sandwich course; and

“standard maintenance grant” means—

- (a) in the case of a student receiving an allowance or bursary under the Education (Scotland) Act 1980, the amount of money specified as “standard maintenance allowance” for the relevant year appropriate for the student set out in the Student Support in Scotland Guide issued by the Student Awards Agency for Scotland, or its nearest equivalent in the case of a bursary provided by a college of further education or a local education authority;
- (b) except where paragraph (a) or (c) applies in the case of a student attending or undertaking a course of study at the University of London or an establishment within the area comprising the City of London and the Metropolitan Police District, the amount specified for the time being in paragraph 2(2)(a) of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 <sup>M199</sup> (“the 2003 Regulations”) for that student;
- (c) except where paragraph (a) applies, in the case of a student residing at that student's parents' home, the amount specified in paragraph 3 of Schedule 2 to the 2003 <sup>M200</sup> Regulations; and
- (d) in any other case, the amount specified in paragraph 2(2) of Schedule 2 to the 2003 Regulations, other than in paragraph 2(2)(a) or (b) of that Schedule.

#### **Marginal Citations**

**M191** 1992 c.13.

**M192** 1980 c.44. Section 74(1) was amended by paragraph 8 of Schedule 10 to the [Self-Governing Schools etc. \(Scotland\) Act 1989 \(c.39\)](#).

**M193** 1993/2810.

**M194** S.I. 1997/1772.

**M195** 2009 c.22.

**M196** 1973 c.65. Section 123 was substituted by paragraph 92 of Schedule 13 to the [Local Government etc. \(Scotland\) Act 1994 \(c.39\)](#).

**M197** 1996 c.56. Section 579 was relevantly amended by [S.I. 2010/1158](#).

**M198** 1965 c.4.

**M199** S.I. 2003/1994.

**M200** [Paragraph 2](#) of Schedule 2 was amended by [S.I. 2008/1477](#).

## Treatment of students

53. These Regulations have effect in relation to students subject to the provisions of this Part.

### CHAPTER 2

#### Income

#### Calculation of grant income

54.—(1) The amount of a student's grant income to be taken into account is, subject to paragraphs (2) and (3), the whole of that student's grant income.

(2) There must be excluded from a student's grant income any payment—

- (a) intended to meet tuition fees or examination fees;
- (b) in respect of any disability of that student;
- (c) intended to meet additional expenditure connected with term time residential study away from the student's educational establishment;
- (d) on account of the student maintaining a home at a place other than that at which the student resides during the course;
- (e) on account of any other person but only if the person is residing outside of the United Kingdom and there is no applicable amount in respect of the person;
- (f) intended to meet the cost of books and equipment;
- (g) intended to meet travel expenses incurred as a result of the student's attendance on the course;
- (h) intended for the child care costs of a child dependant;<sup>F79</sup>...
- (i) of higher education bursary for care leavers made under Part III of the Children Act 1989 [<sup>F80</sup>; or
- (j) of higher education bursary for a category 3 or category 4 young person, as defined by section 104(2) of the Social Services and Well-being (Wales) Act 2014, made under section 110 or section 112 of that Act].

(3) Where a student does not have a student loan and is not treated as possessing a student loan, there must be excluded from the student's grant income—

- (a) the sum of £303 per academic year in respect of travel costs; and
- (b) the sum of £390 per academic year towards the costs of books and equipment,

whether or not any costs are incurred.

(4) There must be excluded from a student's grant income the grant for dependants known as the parents' learning allowance paid pursuant to regulations made under article 3 of the Education (Student Support) (Northern Ireland) Order 1998 or section 22 of the Teaching and Higher Education Act 1998.

(5) Subject to paragraphs (6) and (7), a student's grant income is to be apportioned—

- (a) subject to paragraph (8), in a case where it is attributable to the period of study, equally between the weeks in that period beginning with the reduction week, the first day of which coincides with, or immediately follows, the first day of the period of study and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period of study; and
- (b) in any other case, equally between the weeks in the period beginning with the reduction week, the first day of which coincides with, or immediately follows, the first day of the

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

period for which it is payable and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period for which it is payable.

(6) Any grant in respect of dependants paid under section 63(6) of the Health Services and Public Health Act 1968 <sup>M201</sup> (grants in respect of the provision of instruction to officers of hospital authorities) and any amount intended for the maintenance of dependants under Part 3 of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 <sup>M202</sup> is to be apportioned equally over the period of 52 weeks or, if there are 53 reduction weeks (including part-weeks) in the year, 53.

(7) In a case where a student is in receipt of a student loan or where the student could have acquired a student loan by taking reasonable steps but had not done so, any amount intended for the maintenance of dependants to which paragraph (6) does not apply, is to be apportioned over the same period as the student's loan is apportioned or, as the case may be, would have been apportioned.

(8) In the case of a student on a sandwich course, any periods of experience within the period of study are to be excluded and the student's grant income is to be apportioned equally between the weeks in the period beginning with the reduction week, the first day of which immediately follows the last day of the period of experience and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period of study.

#### Textual Amendments

**F79** Word in reg. 54(2) omitted (6.4.2016) by virtue of [The Council Tax Reduction \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/81\)](#), regs. 1(4), **6(2)(a)**

**F80** Reg. 54(2)(j) and word inserted (6.4.2016) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/81\)](#), regs. 1(4), **6(2)(b)**

#### Marginal Citations

**M201** 1968 c.46. Section 63(6) was amended with respect to Scotland by section 20 of the [Health and Medicines Act 1988 \(c.49\)](#) and [S.I. 1968/1699](#).

**M202** Part 3 of Schedule 2 was amended by 2005/2083, 2006/930 and 2008/1477.

### Calculation of covenant income where a contribution is assessed

**55.**—(1) Where a student is in receipt of income by way of a grant during a period of study and a contribution has been assessed, the amount of the student's covenant income to be taken into account for that period and any summer vacation immediately following is the whole amount of the covenant income less, subject to paragraph (3), the amount of the contribution.

(2) The weekly amount of the student's covenant is to be determined—

- (a) by dividing the amount of income which falls to be taken into account under paragraph (1) by 52 or 53, whichever is reasonable in the circumstances; and
- (b) by disregarding £5 from the resulting amount.

(3) For the purposes of paragraph (1), the contribution is to be treated as increased by the amount (if any) by which the amount excluded under regulation 54(2)(g) (calculation of grant income) falls short of the amount specified in paragraph 7(2) of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 (travel expenditure) <sup>M203</sup>.

#### Marginal Citations

**M203** [Paragraph 7\(2\)](#) of Schedule 2 was amended by [S.I. 2008/1477](#).

### **Covenant income where no grant income or no contribution is assessed**

56.—(1) Where a student is not in receipt of income by way of a grant the amount of the student's covenant income is to be calculated as follows—

- (a) any sums intended for any expenditure specified in regulation 54(2)(a) to (e) (calculation of grant income) necessary as a result of the student's attendance on the course is to be disregarded;
- (b) any covenant income, up to the amount of the standard maintenance grant, which is not disregarded, is to be apportioned equally between the weeks of the period of study;
- (c) there is to be disregarded from the amount apportioned the amount which would have been disregarded under regulation 54(2)(f) and (3) had the student been in receipt of the standard maintenance grant; and
- (d) the balance, if any, is to be divided by 52 or 53 whichever is reasonable in the circumstances and treated as weekly income of which £5 is to be disregarded.

(2) Where a student is in receipt of income by way of a grant and no contribution has been assessed, the amount of the student's covenanted income is to be calculated in accordance with paragraph (1), except that—

- (a) the value of the standard maintenance grant is to be abated by the amount of the grant income less an amount equal to the amount of any sums disregarded under regulation 54(2)(a) to (e); and
- (b) the amount to be disregarded under paragraph (1)(c) is to be abated by an amount equal to the amount of any sums disregarded under regulation 54(2)(f) and (g) and (3).

### **Relationship with amounts to be disregarded under Schedule 4**

57. No part of a student's covenant income or grant income is to be disregarded under paragraph 18 of Schedule 4.

### **Other amounts to be disregarded**

58. For the purposes of ascertaining income other than grant income, covenant income and loans treated as income in accordance with regulation 59 (treatment of student loans), any amount intended for any expenditure specified in regulation 54(2) (calculation of grant income), necessary as a result of the student's attendance on the course is to be disregarded but only if, and to the extent that, the necessary expenditure exceeds or is likely to exceed the amount of the sums disregarded under regulation 54(2) or (3), 55(3), 56(1)(a) or (c) or 59(5) (calculation of grant income, covenant income and treatment of student loans) on like expenditure.

### **Treatment of student loans**

59.—(1) A student loan is to be treated as income in accordance with the provisions of this regulation.

(2) Subject to paragraph (3), when calculating the weekly amount of the loan to be taken into account as income—

- (a) in respect of a course that is of a single academic year's duration or less, a loan payable in respect of that period is to be apportioned equally between the weeks in the period beginning with—
  - (i) except in a case where head (ii) applies, the reduction week, the first day of which coincides with, or immediately follows, the first day of the single academic year; and

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

- (ii) where the student is required to start attending the course in August or where the course is less than an academic year's duration, the reduction week, the first day of which coincides with, or immediately follows, the first day of the course, and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the course;
- (b) in respect of an academic year of a course which starts other than on 1st September, a loan which is payable in respect of that academic year is to be apportioned equally between the weeks in the period beginning with the reduction week, the first day of which coincides with or immediately follows, the first day of that academic year and ending with the reduction week, the last day of which coincides with or immediately precedes, the last day of that academic year but excluding any reduction weeks falling entirely within the quarter during which, in the opinion of, as the case may be, the Scottish Ministers, the Secretary of State, the Welsh Ministers or the Department for Employment and Learning in Northern Ireland, the longest of any vacation is taken;
- (c) in respect of the final academic year of a course (not being a course of a single year's duration), a loan which is payable in respect of that final academic year is to be apportioned equally between the weeks in the period beginning with—
- (i) except in a case where head (ii) applies, the reduction week, the first day of which coincides with, or immediately follows, the first day of that academic year; and
- (ii) where the final academic year starts on 1st September, the reduction week, the first day of which coincides with, or immediately follows, the earlier of 1st September or the first day of the autumn term,
- and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the course; and
- (d) in any other case, the loan is to be apportioned equally between the weeks in the period beginning with the earlier of—
- (i) the first day of the first reduction week in September; or
- (ii) the reduction week, the first day of which coincides with, or immediately follows the first day of the autumn term, and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of June.
- (3) When calculating the weekly amount of the loan to be taken into account as income £10 is to be disregarded from the weekly amounts apportioned in accordance with paragraph (2).
- (4) A student is to be treated as possessing a student loan in respect of an academic year where—
- (a) a student loan has been made to the student in respect of that year; or
- (b) the student could acquire a student loan in respect of that year by taking reasonable steps to do so.
- (5) Where a student is treated as possessing a student loan under paragraph (4), the amount of the student loan to be taken into account as income is, subject to paragraph (6)—
- (a) in the case of a student to whom a student loan is made in respect of an academic year, a sum equal to—
- (i) the maximum student loan the student is able to acquire in respect of that year by taking reasonable steps to do so; and
- (ii) any contribution whether or not it has been paid to the student; and
- (b) in the case of a student to whom a student loan is not made in respect of an academic year, the maximum student loan that would be made to the student if—



- (i) the student took all reasonable steps to obtain the maximum student loan able to be acquired in respect of that year; and
  - (ii) no deduction in that loan was made by virtue of the application of a means test.
- (6) There is to be deducted from the amount of income taken into account under paragraph (5), whether or not any costs are incurred—
- (a) the sum of £303 per academic year in respect of travel costs; and
  - (b) the sum of £390 per academic year towards the cost of books and equipment.
- (7) For the purposes of this regulation “quarter” in relation to an academic year means a period in that year—
- (a) beginning on 1st January and ending on 31st March;
  - (b) beginning on 1st April and ending on 30th June;
  - (c) beginning on 1st July and ending on 31st August; or
  - (d) beginning on 1st September and ending on 31st December.

### Treatment of fee loans

**60.** A loan for fees, known as a fee loan or a fee contribution loan, made pursuant to regulations made under section 73(f) of the Education (Scotland) Act 1980 <sup>M204</sup>, section 22 of the Teaching and Higher Education Act 1998 or article 3 of the Education (Student Support) (Northern Ireland) Order 1998 is to be disregarded as income.

#### Marginal Citations

**M204** Section 73(f) was substituted by section 3 of the [Education \(Graduate Endowment and Student Support\) \(Scotland\) Act 2001 \(asp 6\)](#).

### Treatment of payments from access funds

**61.**—(1) This regulation applies to payments from access funds that are not payments to which regulation 64(2) or (3) (income treated as capital) applies.

(2) A payment from access funds, other than a payment to which paragraph (3) applies, is to be disregarded as income.

(3) Subject to paragraph (4) and paragraph 40 of Schedule 4, any payments from access funds which are intended and used for an item of food, ordinary clothing or footwear, household fuel, or rent of a single applicant or, as the case may be, of the applicant or any other member of the applicant's family and any payments from access funds which are used for any council tax or water charges for which that applicant or member is liable, are to be disregarded as income to the extent of £20 per week.

(4) Any payment from access funds is to be disregarded as income where that payment is made—

- (a) on or after 1st September or the first day of the course of study, whichever occurs first, but before receipt of any student loan in respect of that year and that payment is intended for the purpose of bridging the period until receipt of the student loan; or
- (b) before the first day of the course to a person in anticipation of the person becoming a student.

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

### **Disregard of contribution**

**62.** Where the applicant or any partner of the applicant is a student and, for the purposes of assessing a contribution to the student's grant or student loan, the other partner's income has been taken into account, an amount equal to that contribution is to be disregarded for the purposes of assessing the other partner's income.

### **Further disregard of student's income**

**63.** Where any part of a student's income has already been taken into account for the purposes of assessing the student's entitlement to a grant or student loan, the amount taken into account must be disregarded in assessing the student's income.

### **Income treated as capital**

**64.—(1)** Any amount by way of a refund of tax deducted from a student's covenant income is to be treated as capital.

(2) Any amount paid from access funds as a single lump sum is to be treated as capital.

(3) Any amount paid from access funds as a single lump sum which is intended and used for an item other than food, ordinary clothing or footwear, household fuel or rent, or which is used for an item other than any council tax or water charges for which that applicant or a member of the applicant's [<sup>F81</sup>family] is liable, is to be disregarded as capital but only for a period of 52 weeks from the date of the payment.

#### **Textual Amendments**

**F81** Word in reg. 64(3) inserted (18.3.2013) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2013 \(S.S.I. 2013/48\)](#), regs. 1, **10**

### **Disregard of changes occurring during summer vacation**

**65.** In calculating a student's income any change in the standard maintenance grant occurring in the recognised summer vacation appropriate to the student's course is to be disregarded if that vacation does not form part of the student's period of study from the date on which the change occurred to the end of that vacation.

## **PART 8**

### **Amount of reduction**

#### **Maximum council tax reduction**

**66.—(1)** Subject to paragraphs (2) and (3), the amount of a person's maximum council tax reduction in respect of a day for which the person is liable to pay council tax is 100 per cent of the amount A/B where—

- (a) A is the amount set by the relevant authority as the council tax for the relevant financial year in respect of the dwelling in which the person is a resident and for which the person is liable, subject to—
  - (i) any discount which may be appropriate to that dwelling; and

(ii) any reduction in liability for council tax under regulations made under section 80 of the Act or under a scheme established under section 80A of the Act, other than a reduction under these Regulations; 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 67 (non-dependant deductions).

(2) Subject to paragraph (3), where an applicant is jointly and severally liable for council tax in respect of a dwelling in which the person is resident with one or more other persons, but excepting any person residing with the applicant who is a student to whom regulation 20(2) (persons not entitled to council tax reduction: students) applies, in determining the maximum council tax reduction in the person's case in accordance with paragraph (1) amount A is to be divided by the number of persons who are jointly and severally liable for that tax.

(3) Where an applicant is jointly and severally liable for council tax in respect of a dwelling with only the applicant's partner, paragraph (2) does not apply.

### Non-dependant deductions

**67.**—(1) Subject to the following provisions of this regulation, the non-dependant deductions in respect of a day referred to in regulation 66 (maximum council tax reduction) are—

(a) in respect of a non-dependant aged 18 or over in remunerative work, [<sup>F82</sup>£11.80] x 1/7; and

(b) in respect of a non-dependant aged 18 or over to whom sub-paragraph (a) does not apply, [<sup>F83</sup>£3.90] x 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 relevant authority that the person's normal gross weekly income is—

(a) less than [<sup>F84</sup>£195.00], the deduction to be made is that specified in paragraph (1)(b);

(b) not less than [<sup>F85</sup>£195.00] but less than [<sup>F86</sup>£338.00], the deduction to be made is [<sup>F87</sup>£7.75] x 1/7; or

(c) not less than [<sup>F88</sup>£338.00] but less than [<sup>F89</sup>£420.00], the deduction to be made is [<sup>F90</sup>£9.85] x 1/7.

(3) Only one deduction is to be made 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 is to 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 must 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 liable for council tax in respect of that dwelling on that day;

(b) other residents in that dwelling (the liable persons) have joint and several liability for council tax in respect of that dwelling on that day otherwise than by virtue of section 77 or 77A of the Act <sup>M205</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,

---

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

---

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

(6) No deduction is to be made in respect of any non-dependants occupying an applicant's dwelling if the applicant or the applicant's partner is—

- (a) blind or treated as blind by virtue of paragraph 10 of Schedule 1 (additional condition for the disability premium); or
- (b) receiving in respect of the applicant or the applicant's partner as the case may be either—
  - (i) attendance allowance;
  - (ii) the care component of the disability living allowance; or
  - [<sup>F91</sup>(ia) armed forces independence payment;]
  - (iii) the daily living component of personal independence payment.

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

- (a) although residing with the applicant, it appears to the relevant authority that the non-dependant's normal home is elsewhere; or
- (b) the non-dependant is in receipt of a training allowance paid in connection with youth training established under section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990; or
- (c) the non-dependant is a full-time student; or
- (d) the non-dependant is not residing with the applicant because the non-dependant has been a patient for a period in excess of 52 weeks, and for these purposes where a person has been a patient for two or more distinct periods separated by one or more intervals, each not exceeding 28 days, the person is to be treated as having been a patient continuously for a period equal in duration to the total of those distinct periods[<sup>F92</sup>; or
- (e) the non-dependant is not residing with the applicant because the non-dependant is a member of the regular forces or the reserve forces (within the meaning of section 374 of the Armed Forces Act 2006) who is absent, while on operations, from the dwelling usually occupied as that person's home.]

(8) No deduction is to be made in respect of a non-dependant—

- (a) who is on income support, state pension credit, an income-based jobseeker's allowance or an income-related employment and support allowance; <sup>F93</sup> ...
- (b) to whom Schedule 1 to the Act <sup>M206</sup> applies (persons disregarded for purposes of discount) but this sub-paragraph does not apply to a non-dependant who is a student to whom paragraph 4 of that Schedule refers[<sup>F94</sup>; or
- (c) who is entitled to an award of universal credit where the award is calculated on the basis that the non-dependant does not have any earned income, within the meaning given by regulation 52 of the Universal Credit Regulations 2013].

(9) In the application of paragraph (2) there is to be disregarded from the person's weekly gross income—

- (a) any attendance allowance, disability living allowance[<sup>F95</sup>, armed forces independence payment] or personal independence payment received by the person;
- (b) any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, [<sup>F96</sup>ILF Scotland] or the London Bombings Relief Charitable Fund which, had the person's income fallen to be calculated under regulation 39 (calculation of income other than earnings), would have been disregarded under paragraph 27 of Schedule 4 (income in kind); and

- (c) any payment which, had the person's income fallen to be calculated under regulation 39, would have been disregarded under paragraph 41 of Schedule 4 (payments made under certain trusts and certain other payments).

### Textual Amendments

- F82** Sum in reg. 67(1)(a) substituted (1.4.2016) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/81\)](#), regs. 1(2), **13(a)(i)**
- F83** Sum in reg. 67(1)(b) substituted (1.4.2016) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/81\)](#), regs. 1(2), **13(a)(ii)**
- F84** Sum in reg. 67(2)(a) substituted (1.4.2016) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/81\)](#), regs. 1(2), **13(b)(i)**
- F85** Sum in reg. 67(2)(b) substituted (1.4.2016) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/81\)](#), regs. 1(2), **13(b)(ii)(aa)**
- F86** Sum in reg. 67(2)(b) substituted (1.4.2016) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/81\)](#), regs. 1(2), **13(b)(ii)(bb)**
- F87** Sum in reg. 67(2)(b) substituted (1.4.2016) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/81\)](#), regs. 1(2), **13(b)(ii)(cc)**
- F88** Sum in reg. 67(2)(c) substituted (1.4.2016) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/81\)](#), regs. 1(2), **13(b)(iii)(aa)**
- F89** Sum in reg. 67(2)(c) substituted (1.4.2016) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/81\)](#), regs. 1(2), **13(b)(iii)(bb)**
- F90** Sum in reg. 67(2)(c) substituted (1.4.2016) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/81\)](#), regs. 1(2), **13(b)(iii)(cc)**
- F91** Reg. 67(6)(b)(iia) inserted (11.6.2013) by [The Welfare Reform \(Consequential Amendments\) \(Scotland\) \(No. 3\) Regulations 2013 \(S.S.I. 2013/142\)](#), regs. 1, **11(4)(a)**
- F92** Reg. 67(7)(e) and word inserted (1.4.2015) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2015 \(S.S.I. 2015/46\)](#), regs. 1, **6(c)**
- F93** Word in reg. 67(8) omitted (1.4.2016) by virtue of [The Council Tax Reduction \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/81\)](#), regs. 1(2), **13(c)(i)**
- F94** Reg. 67(8)(c) and word inserted (1.4.2016) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/81\)](#), regs. 1(2), **13(c)(ii)**
- F95** Words in reg. 67(9)(a) inserted (11.6.2013) by [The Welfare Reform \(Consequential Amendments\) \(Scotland\) \(No. 3\) Regulations 2013 \(S.S.I. 2013/142\)](#), regs. 1, **11(4)(b)**
- F96** Words in reg. 67(9)(b) substituted (1.4.2016) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/81\)](#), regs. 1(2), **4(2)(d)**

### Marginal Citations

- M205** Section 77 was amended by section 4 of the [Education \(Graduate Endowment and Student Support\) \(Scotland\) Act 2001 \(asp 6\)](#) and S.I. 2005/623. Section 77A was added by section 133 of the [Civil Partnership Act 2004 \(c.33\)](#).
- M206** Schedule 1 was amended by paragraph 152 of Schedule 9 to the [Powers of Criminal Courts \(Sentencing\) Act 2000 \(c.6\)](#), **paragraph 18** of schedule 3 to the [Regulation of Care \(Scotland\) Act 2001 \(asp 8\)](#), **paragraph 152** of Schedule 1 to the [National Health Service \(Consequential Provisions\) Act 2006 \(c.43\)](#), **paragraph 123** of Schedule 16 and Schedule 17 to the [Armed Forces Act 2006 \(c.52\)](#) and S.S.I. 2005/465.

### Extended council tax reduction

**68.**—(1) Subject to regulation 71 (extended council tax reduction: movers), a person who is entitled to council tax reduction by virtue of the general conditions of entitlement is entitled to extended council tax reduction where—

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

- (a) the person or any partner of the person was entitled to a qualifying income-related benefit;
- (b) entitlement to a qualifying income-related benefit ceased because the person or the person's partner—
  - (i) commenced employment as an employed or self-employed earner;
  - (ii) increased their earnings from employment as an employed or self-employed earner; or
  - (iii) increased the number of hours worked in employment as an employed or self-employed earner,
 and that employment is, or the increased earnings or increased number of hours are, expected to last 5 weeks or more; and
- (c) the person or the person's partner had been entitled to and in receipt of a qualifying income-related benefit, jobseeker's allowance or a combination of those benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying income-related benefit ceased.

(2) For the purpose of paragraph (1)(c), a person or any partner of the person is to be treated as having been entitled to and in receipt of a qualifying income-related benefit or jobseeker's allowance during any period of less than 5 weeks in respect of which the person or the person's partner was not entitled to any of those benefits because the person or the person's partner was engaged in remunerative work as a consequence of their participation in an employment zone programme.

(3) For the purposes of this regulation, where a person or any partner of the person is entitled to and in receipt of joint-claim jobseeker's allowance the person or the person's partner, as the case may be, is to be treated as being entitled to and in receipt of jobseeker's allowance.

(4) For the purposes of this regulation, a person is entitled to council tax reduction by virtue of the general conditions of entitlement where—

- (a) the person ceased to be entitled to council tax reduction on vacating the dwelling in which the person was resident;
- (b) the day on which the person vacated the dwelling was either in the week in which entitlement to a qualifying income-related benefit ceased, or in the preceding week; and
- (c) entitlement to the qualifying income-related benefit ceased in any of the circumstances listed in paragraph (1)(b).

(5) This regulation does not apply where, on the day before a person's entitlement to income support ceased, regulation 6(5) of the Income Support Regulations <sup>M207</sup> (remunerative work: housing costs) applied to that person.

#### **Marginal Citations**

**M207** [Regulation 6\(5\)](#) was added by [S.I. 2001/488](#) and amended by [S.I. 2007/3183](#) and 2008/1554.

#### **Duration of period of entitlement to extended council tax reduction**

**69.**—(1) Subject to regulation 71 (extended council tax reduction: movers), where a person is entitled to extended council tax reduction, the period of entitlement starts on the first day of the reduction week immediately following the reduction week in which the person, or any partner of the person, ceased to be entitled to a qualifying income-related benefit.

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

- (3) The period of entitlement to extended council tax reduction ends on the earliest of—
- (a) the end of a period of 4 weeks of that entitlement; or
  - (b) the first day on which the person who is entitled to extended council tax reduction has no liability for council tax.

#### **Amount of extended council tax reduction**

**70.**—(1) For any week during the period of entitlement to extended council tax reduction the amount of council tax reduction to which the person is entitled is the higher of—

- (a) the amount of council tax reduction to which the person was entitled in the last reduction week before the person or the person's partner ceased to be entitled to a qualifying income-related benefit;
  - (b) the amount of council tax reduction to which the person would be entitled for any reduction week during the period of entitlement to extended council tax reduction if regulation 68 (extended council tax reduction) did not apply to the person; or
  - (c) the amount of council tax reduction to which the person's partner would be entitled if regulation 68 did not apply to the person.
- (2) Paragraph (1) does not apply in the case of a mover.

(3) Where a person is entitled to extended council tax reduction under this regulation and the person's partner applies for council tax reduction, that partner is not entitled to council tax reduction during the other partner's period of entitlement to extended council tax reduction.

#### **Extended council tax reduction: movers**

**71.**—(1) Where a mover who is entitled to extended council tax reduction in respect of liability to pay council tax to the first authority moves to reside in a dwelling in the area of the second authority that mover is entitled to extended council tax reduction in respect of any liability to pay council tax to the second authority of an amount calculated in accordance with paragraph (2).

(2) The amount of extended council tax reduction to which the mover is entitled is the amount of council tax reduction to which the mover was entitled for the last reduction week before the mover ceased to be entitled to a qualifying income-related benefit.

(3) The period of entitlement to extended council tax reduction in respect of liability to pay council tax to the first authority ends on the earliest of—

- (a) the first Sunday after the move; or
- (b) the day on which the mover's liability to pay council tax to the first authority ends.

(4) The period of entitlement to extended council tax reduction granted by virtue of paragraph (1)

—

- (a) starts on the Monday following the day of the move; and
- (b) ends on the expiry of the period of entitlement to extended council tax reduction which would have applied had the mover not moved from the area of the first authority.

#### **Relationship between council tax reduction and extended council tax reduction**

**72.**—(1) Where a person's entitlement to council tax reduction would have ended when the applicant ceased to be entitled to a qualifying income-related benefit in the circumstances listed in regulation 68(1)(b) (extended council tax reduction), that eligibility will not cease until the end of the period of eligibility for extended council tax reduction.

---

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

---

(2) Part 9 (effective date) does not apply to any extended council tax reduction granted in accordance with regulation 70(1)(a) (amount of extended council tax reduction) or 71(2) (extended council tax reduction: movers).

#### **Extended council tax reduction (qualifying contributory benefits)**

**73.**—(1) A person who is entitled to council tax reduction by virtue of the general conditions of entitlement is entitled to extended council tax reduction (qualifying contributory benefits) where—

- (a) the person or any partner of the person was entitled to a qualifying contributory benefit;
- (b) entitlement to a qualifying contributory benefit ceased because the person or the person's partner—
  - (i) commenced employment as an employed or self-employed earner;
  - (ii) had an increase in 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 5 weeks or more;
- (c) the person or the person'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 person or the person's partner was not entitled to and not in receipt of a qualifying income-related benefit in the last reduction week in which the person or the person's partner was entitled to a qualifying contributory benefit.

(2) For the purposes of this regulation, a person is entitled to council tax reduction by virtue of the general conditions of entitlement where—

- (a) the person ceased to be entitled to council tax reduction because the person vacated the dwelling in which the person was resident;
- (b) the day on which the person 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).

#### **Duration of extended council tax reduction (qualifying contributory benefits)**

**74.**—(1) Subject to regulation 76 (extended council tax reduction (qualifying contributory benefits: movers), where a person is entitled to extended council tax reduction (qualifying contributory benefits), the period of entitlement starts on the first day of the reduction week immediately following the reduction week in which the person or the person's partner ceased to be entitled to a qualifying contributory benefit.

(2) For the purpose of paragraph (1), a person or a person'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 period of entitlement to council tax reduction (qualifying contributory benefits) ends on the earliest of—

- (a) the end of a period of 4 weeks of entitlement; or
- (b) the day on which the entitled person's liability for council tax ends.



### **Amount of extended council tax reduction (qualifying contributory benefits)**

75.—(1) For any week during the period of entitlement to council tax reduction (qualifying contributory benefits) the amount of council tax reduction (qualifying contributory benefits) is the higher of—

- (a) the amount of council tax reduction to which the person was entitled in the last reduction week before the person or the person's partner ceased to be entitled to a qualifying contributory benefit;
- (b) the amount of council tax reduction to which the person would be entitled for any reduction week during the extended payment period, if regulation 73 (extended council tax reduction (qualifying contributory benefits)) did not apply to the person; or
- (c) the amount of council tax reduction to which the person's partner would be entitled if regulation 74 (duration of extended council tax reduction (qualifying contributory benefits)) did not apply to the person.

(2) Paragraph (1) does not apply in the case of a mover.

(3) Where a person is entitled to extended council tax reduction (qualifying contributory benefits) under this regulation and the person's partner applies for council tax reduction, that partner is not entitled to council tax reduction during the person's period of entitlement to extended council tax reduction (qualifying contributory benefits).

### **Extended council tax reduction (qualifying contributory benefits): movers**

76.—(1) Where a mover who is entitled to extended council tax reduction (qualifying contributory benefits) in respect of liability to pay council tax to the first authority moves to reside in a dwelling in the area of the second authority that mover is entitled to extended council tax reduction in respect of any liability to pay council tax to the second authority of an amount calculated in accordance with paragraph (2).

(2) The amount of extended council tax reduction (qualifying contributory benefit) to which the mover is entitled is the amount of council tax reduction to which the mover was entitled for the last reduction week before the mover ceased to be entitled to a qualifying contributory benefit.

(3) The period of entitlement to extended council tax reduction (qualifying contributory benefit) in respect of liability to pay council tax to the first authority ends on the earliest of—

- (a) the first Sunday after the move; or
- (b) the day on which the mover's liability to pay council tax to the first authority ends.

(4) The period of entitlement to extended council tax reduction (qualifying contributory benefits) granted by virtue of paragraph (1)—

- (a) starts on the Monday following the day of the move; and
- (b) ends on the expiry of the period of extended council tax reduction (qualifying contributory benefits) which would have applied had the mover not moved from the area of the first authority.

### **Relationship between council tax reduction and extended council tax reduction (qualifying contributory benefits)**

77.—(1) Where a person's entitlement to council tax reduction would have ended when the person ceased to be entitled to a qualifying contributory benefit in the circumstances listed in regulation 68(1)(b), that entitlement does not cease until the end of the period of entitlement to extended council tax reduction.

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

(2) Part 9 (effective date) does not apply to any extended council tax reduction (qualifying contributory benefits) granted in accordance with regulation 70(1)(a) (amount of extended council tax reduction) or 71(2) (amount of extended council tax reduction: movers).

### **Alternative maximum council tax reduction**

**78.**—(1) Subject to paragraphs (2) and (3), the alternative maximum council tax reduction where the conditions set out in regulation 14(3) and (6) (conditions of entitlement to council tax reduction) are fulfilled is the amount determined in accordance with Schedule 2.

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

(3) Where an applicant is jointly and severally liable for council tax in respect of a dwelling with only the applicant's partner paragraph (2) does not apply.

### **Residents of a dwelling to whom regulation 14(6) does not apply**

**79.** Regulation 14(6) (conditions of entitlement to council tax reduction: alternative maximum council tax reduction) does not apply in respect of—

- (a) a person who is liable for council tax solely in consequence of the provisions of section 77 or 77A of the 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 applicant for council tax reduction 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 Act, 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 Act, fall to be disregarded for the purposes of discount;
- (c) a person who jointly with the applicant falls within the same sub-paragraph of section 75(2) (a) to (e) of the Act <sup>M208</sup> (persons liable to pay council tax) as applies in the case of the applicant; or
- (d) a person who is residing with two or more persons both or all of whom fall within the same sub-paragraph of section 75(2)(a) to (e) of the Act (persons liable to pay council tax) and two or more of those persons are not persons who, in accordance with Schedule 1 to the Act, fall to be disregarded for the purposes of discount.

#### **Marginal Citations**

**M208** [Section 6\(2\)](#) was amended by S.I. 1997/74. Section 75(2) was amended by paragraph 19 of schedule 10 to the [Housing \(Scotland\) Act 2001](#) ([asp 10](#)).

## PART 9

### Effective date

#### Date on which entitlement is to begin

**80.**—(1) Subject to paragraph (2), where a person—

- (a) makes, or is treated as making, an application; and
- (b) fulfils the conditions of entitlement to council tax reduction in regulation 14,

that person is entitled to council tax reduction from the first Monday after the date on which the application is made or treated as made.

(2) Where, a person—

- (a) becomes liable for the first time for council tax in respect of a dwelling in which the person resides;
- (b) makes, or is treated as making, an application in the reduction week in which the person first becomes liable for council tax in respect of that dwelling; and
- (c) fulfils the conditions of entitlement to council tax reduction in regulation 14,

that person is entitled to council tax reduction from the day on which the person first becomes liable for council tax.

#### Date on which a change of circumstances is to take effect

**81.**—(1) Subject to the provisions of this regulation, a change of circumstances which affects entitlement to council tax reduction is to take effect for the purpose of calculating entitlement to council tax reduction from the first day of the reduction week [<sup>F97</sup>starting immediately after] the date on which the change actually occurs, and where that change is cessation of entitlement to any benefit under the benefit Acts, the date on which the change actually occurs is the day immediately following the last day of entitlement to that benefit.

(2) Subject to paragraph (3), where the change of circumstances is a change in the amount of council tax payable, it takes effect for the purpose of calculating entitlement to council tax reduction from the day on which it actually occurs.

(3) Where the change of circumstances is a change in the amount a person is liable to pay in respect of council tax in consequence of regulations under section 80 of the Act <sup>M209</sup> (reduced amounts of council tax) or changes in the discount to which a dwelling may be subject under sections 79 <sup>M210</sup> of that Act, it takes effect for the purpose of calculating entitlement to council tax reduction from the day on which the change in amount has effect.

(4) Where the change of circumstances is an amendment to these Regulations, it takes effect for the purpose of calculating entitlement to council tax reduction from the date on which the amendment to these Regulations comes into force.

(5) Where the change of circumstances is the applicant's acquisition of a partner, it takes effect for the purpose of calculating entitlement to council tax reduction on the day on which the acquisition takes place.

(6) Where the change of circumstances is the death of an applicant's partner or their separation, it takes effect for the purpose of calculating entitlement to council tax reduction on the day the death or separation occurred.

(7) If two or more changes of circumstances occurring in the same reduction week would, but for this paragraph, take effect for the purpose of calculating entitlement to council tax reduction in different reduction weeks in accordance with paragraphs (1) to (6) they take effect from the day to

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

which the appropriate paragraph from (2) to (6) refers, or, where more than one day is concerned, from the earlier day.

(8) Where the change of circumstances is that income, or an increase in the amount of income, other than a benefit or an increase in the amount of a benefit under the 1992 Act [<sup>F98</sup>, Part 4 of the Welfare Reform Act 2012 or article 24A of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011], is paid in respect of a past period and there was no entitlement to income of that amount during that period, it takes effect for the purpose of calculating entitlement to council tax reduction from the first day on which the income, had it been paid in that period at intervals appropriate to that income, would have been taken into account for the purposes of these Regulations.

(9) Without prejudice to paragraph (8), where the change of circumstances is the payment of income or arrears of income in respect of a past period, it takes effect for the purpose of calculating entitlement to council tax reduction from the first day on which the income, had it been timeously paid in that period at intervals appropriate to that income, would have been taken into account for the purposes of these Regulations.

[<sup>F99</sup>(10) Where the change of circumstances is that—

- (a) a conversion decision within the meaning of regulation 5(2)(a) of the Employment and Support Allowance (Existing Awards) Regulations has been made in relation to the applicant or the applicant's partner; or
- (b) the applicant or the applicant's partner is appealing a conversion decision within the meaning of regulation 5(2)(b) of the Employment and Support Allowance (Existing Awards) Regulations and is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations as modified by the Employment and Support Allowance (Existing Awards) Regulations,

for the purpose of calculating entitlement to council tax reduction it takes effect, where the conversion decision takes effect on or after 1st April in any year but before 16th April of that year, from 1st April and in any other case from the day the conversion decision takes effect.]

#### Textual Amendments

- F97** Words in reg. 81(1) inserted (18.3.2013) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2013 \(S.S.I. 2013/48\)](#), regs. 1, **12(a)**
- F98** Words in reg. 81(8) inserted (11.6.2013) by [The Welfare Reform \(Consequential Amendments\) \(Scotland\) \(No. 3\) Regulations 2013 \(S.S.I. 2013/142\)](#), regs. 1, **11(5)**
- F99** Reg. 81(10) inserted (18.3.2013) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2013 \(S.S.I. 2013/48\)](#), regs. 1, **12(b)**

#### Marginal Citations

- M209** Section 13 was amended by paragraph 42 of Schedule 7 to the [Local Government Act 2003 \(c.26\)](#). Section 80 was amended by paragraph 176 of Schedule 13 to the [Local Government etc. \(Scotland\) Act 1994 \(c.39\)](#).
- M210** Section 11 was amended by paragraph 42 of Schedule 7 and Schedule 8 to the [Local Government Act 2003 \(c.26\)](#). Section 12 was substituted by section 75 of the [Local Government Act 2003 \(c.26\)](#). Section 79 was amended by S.I. 2005/51.

## PART 10

### Applications

#### Who may apply

**82.** In the case of a couple or members of a polygamous marriage an application is to be made by whichever one of them they agree should apply or, in default of agreement, by whichever one of them the relevant authority determines is to make the application.

#### Written applications

**83.**—(1) Subject to regulation 84 (telephone applications), an application must be sent to the designated office in writing and—

- (a) made on a properly completed form approved for the purposes by the relevant authority; or
- (b) in such written form as the relevant authority accepts as sufficient in the circumstances of any particular case or class of cases having regard to the sufficiency of the written information and evidence.

(2) Where an application is not made in the form described in paragraph (1)(a) or (b) it is defective.

(3) Where an application is defective because—

- (a) it was made on the form approved for the purpose but that form is not accepted by the relevant authority as being properly completed the relevant authority may request the applicant to complete the defective application; or
- (b) it was made in writing but not on the form approved for the purpose and the relevant authority does not accept the application as being in a written form which is sufficient in the circumstances of the case, having regard to the sufficiency of the written information and evidence, the relevant authority may supply the applicant with the approved form or request further information or evidence.

(4) A defective application is to be treated as if it had been validly made in the first instance if, in any particular case, one of the conditions specified in paragraph (5) is satisfied.

(5) The conditions are that—

- (a) where paragraph (3)(a) (incomplete form) applies, the relevant authority receives the properly completed application, the information requested to complete it or the evidence within one month of the authority's request, or any longer period the relevant authority considers reasonable; or
- (b) where paragraph (3)(b) (application not on approved form or further information requested by relevant authority) applies—
  - (i) the approved form sent to the applicant is received by the relevant authority properly completed within one month of it having been sent to the applicant, or any longer period the relevant authority considers reasonable; or
  - (ii) the applicant supplies whatever information or evidence was requested under paragraph (3) within one month of the request, or any longer period the relevant authority considers reasonable.

(6) An application made on an approved form is for the purposes of these Regulations properly completed if completed in accordance with the instructions on the form, including any instructions to provide information and evidence in connection with the application.

### Telephone applications

**84.**—(1) Where the relevant authority has published a telephone number for the purpose of receiving applications for council tax reduction, an application may be made by telephone to that telephone number.

(2) The relevant authority may determine that an application made by telephone is not a valid application unless the applicant approves a written statement of the person's circumstances, provided by the relevant authority.

(3) An application made by telephone in accordance with paragraph (1) is defective unless the relevant authority is provided with all the information requested by it during the telephone call.

(4) Where an application made by telephone in accordance with paragraph (1) is defective, the applicant must be given an opportunity to correct the defect.

(5) If the applicant corrects the defect referred to in paragraph (4) within one month, or any longer period the relevant authority considers reasonable, of the date the authority last drew attention to the defect, the application is to be treated as if it had been validly made in the first instance.

(6) If the person does not correct the defect within one month, or any longer period the relevant authority considers reasonable, of the date the authority last drew attention to the defect, the application may be treated as if it had not been defective if the relevant authority considers that it has sufficient information to determine the application.

### Date on which an application is made

**85.**—(1) Subject to paragraph (3) and regulation 5(9) (occupation of a dwelling as a home) the date on which an application is made is—

- (a) where an award of income support, universal credit, an income-based jobseeker's allowance or an income-related employment and support allowance has been made to the applicant or the applicant's partner and the application for council tax reduction is made within one month of the date on which the claim for that income support, universal credit jobseeker's allowance or employment and support allowance was received at the appropriate DWP office, the first day of entitlement to that income support, universal credit, jobseeker's allowance or employment and support allowance arising from that claim;
- (b) where an applicant or the applicant's partner is a person on income support, universal credit, an income-based jobseeker's allowance or an income-related employment and support allowance and the applicant becomes liable for the first time to pay council tax in respect of the dwelling which the applicant occupies as a home, where the application is received by the relevant authority within one month of the date on which the applicant first became liable to pay council tax, the date on which the applicant first became so liable;
- (c) where the applicant is the former partner of a person who was, at the date of that partner's death or the partners' separation, entitled to council tax reduction and where the applicant makes an application for council tax reduction within one month of the date of the death or the separation, that date;
- (d) except where sub-paragraph (a), (b) or (c) is satisfied, in a case where a properly completed application is received within one month, or any longer period the relevant authority considers reasonable, of the date on which—
  - (i) an application form was issued to the applicant following the applicant first notifying, by whatever means, the relevant authority of an intention to make an application; or

(ii) the applicant notifies, by whatever means, the relevant authority of an intention to make an application by telephone in accordance with regulation 84 (telephone applications),

the date of first notification; and

(e) in any other case, the date on which the application is received by the relevant authority.

(2) For the purpose of paragraph (1)(a), a person who has been awarded an income-based jobseeker's allowance or an income-related employment and support allowance is to be treated as entitled to that allowance for any days which immediately precede the first day of that award and on which the person would, but for regulations made under—

(a) in the case of income-based jobseeker's allowance, paragraph 4 of Schedule 1 to the Jobseekers Act (waiting days); or

(b) in the case of income-related employment and support allowance, paragraph 2 of Schedule 2 to the Welfare Reform Act (waiting days),

have been entitled to that allowance.

(3) Except in the case of an application made by a person living abroad, where a person has not become liable for council tax to a relevant authority but it is anticipated that the person will become liable within the period of 8 weeks, the person may apply for council tax reduction at any time in that period and, provided that liability arises within that 8 week period, the relevant authority is to treat the application as having been made on the day on which the liability for council tax arises.

(4) Where a relevant authority has not set or imposed its council tax by the beginning of the financial year, if an application for council tax reduction is properly made or treated as made and—

(a) the date on which the application is made or treated as made is in the period from 1st April of the current year and ending one month after the date on which the authority sets or imposes the tax; and

(b) if the tax had been determined, the applicant would have been entitled to council tax reduction either from—

(i) the reduction week in which 1st April of the current year fell; or

(ii) a reduction week falling after the date specified in head (i) but before the application was made,

the relevant authority must treat the application as made in the reduction week immediately preceding the reduction week in which such entitlement would have commenced.

(5) Except in the case of an application made by a person living abroad, where the applicant is not entitled to council tax reduction in the reduction week immediately following the date of the application but the relevant authority is of the opinion that unless there is a change of circumstances the applicant will be entitled to council tax reduction for a period beginning not later than the thirteenth reduction week following the date on which the application is made, the relevant authority may treat the application as made on a date in the reduction week immediately preceding the first reduction week of that period of entitlement and grant entitlement to council tax reduction accordingly.

(6) In the case of a person who has attained, or whose partner has attained, the age which is 17 weeks younger than the qualifying age for state pension credit, paragraph (5) applies as if for the reference to the thirteenth reduction week, there was substituted a reference to the seventeenth reduction week.

(7) Where an applicant ("C")—

(a) makes an application which includes (or which C subsequently requests should include) a period before the application is made; and

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

- (b) from a day in that period, up to the date when C made the application (or subsequently requested that the application should include a past period), C had continuous good cause for failing to make an application (or request that the application should include that period),

the application is to be treated as made on the date determined in accordance with paragraph (8).

- (8) The date referred to in paragraph (7) is the latest of—
- (a) the first day from which C had continuous good cause;
  - (b) the day [<sup>F100</sup>one month] before the date the application was made; or
  - (c) the day [<sup>F101</sup>one month] before the date when C requested that the application should include a past period.

(9) In this regulation “appropriate DWP office” means an office of the Department for Work and Pensions dealing with state pension credit or claim office which is normally open to the public for the receipt of claims for income support, a jobseeker's allowance or an employment and support allowance.

#### Textual Amendments

**F100** Words in reg. 85(8)(b) substituted (1.4.2016) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/81\)](#), regs. 1(2), 7

**F101** Words in reg. 85(8)(c) substituted (1.4.2016) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/81\)](#), regs. 1(2), 7

#### Evidence and information

**86.**—(1) Subject to paragraphs (2) and (3) an applicant must furnish any certificates, documents, information and evidence in connection with an application for council tax reduction or existing entitlement to council tax reduction as may reasonably be required by the relevant authority in order to determine that person's entitlement to, or continuing entitlement to, council tax reduction and must do so within one month of the authority requiring the applicant to do so, or any longer period the authority considers reasonable.

(2) Nothing in this regulation requires a person to furnish any certificates, documents, information or evidence relating to a payment to which paragraph (3) applies.

- (3) This paragraph applies to—
- (a) a payment which is—
    - (i) disregarded under paragraph 27 of Schedule 4 (sums to be disregarded in the calculation of income other than earnings – income in kind) or paragraph 38 of Schedule 5 (capital to be disregarded - certain payments in kind);
    - (ii) made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the London Bombings Relief Charitable Fund;
  - (b) a payment which is disregarded under paragraph 41 of Schedule 4 (sums to be disregarded in the calculation of income other than earnings: payments made under certain trusts and certain other payments) or under paragraph 29 of Schedule 5 (capital to be disregarded - payments made under certain trusts and certain other payments), other than a payment [<sup>F102</sup>by ILF Scotland]; and
  - (c) a payment which is disregarded under regulation 67(9)(b) or (c) (non-dependant deductions) or paragraph 2(b) or (c) of Schedule 2 (amount of alternative maximum



council tax reduction: second adult's gross income), other than a payment [<sup>F103</sup>by ILF Scotland].

- (4) Where a request is made under paragraph (1) the relevant authority must—
- (a) inform the applicant of the duty under regulation 89 to notify the authority of any change of circumstances; and
  - (b) without prejudice to the extent of the duty owed under regulation 89, indicate to the applicant, either orally or by notice or by reference to some other document available to that applicant, on application and without charge, the kind of changes of circumstances which are to be notified.
- (5) Where an applicant or any partner of that applicant has attained the qualifying age for state pension credit and is a member of, or a person deriving entitlement to a pension under, a personal pension scheme, the applicant must, where the relevant authority so requires, furnish the following information—
- (a) the name and address of the pension fund holder; and
  - (b) any other information including any reference or policy number as is needed to enable the personal pension scheme to be identified.
- (6) In this regulation “pension fund holder” means the trustees, managers or scheme administrators, as the case may be, of the scheme concerned.

#### Textual Amendments

- F102** Words in [reg. 86\(3\)\(b\)](#) substituted (1.4.2016) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/81\)](#), [regs. 1\(2\)](#), [4\(4\)](#)
- F103** Words in [reg. 86\(3\)\(c\)](#) substituted (1.4.2016) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/81\)](#), [regs. 1\(2\)](#), [4\(4\)](#)

#### Amendment of applications

**87.**—(1) Subject to paragraph (2), at any time before a relevant authority has made a determination on an application the applicant may amend the application by notice in writing sent to the designated office.

(2) Where an application is made by telephone in accordance with regulation 84 (telephone applications) an amendment may be made by telephone to the telephone number specified by the relevant authority for the purpose of that regulation.

(3) Any application amended in accordance with paragraph (1) or (2) is to be treated as if it had been in its amended state when it was first made.

#### Withdrawal of applications

**88.**—(1) An applicant may withdraw the application at any time by notice in writing delivered or sent to the designated office before the relevant authority has determined the application.

(2) Where the application was made by telephone in accordance with regulation 84, the withdrawal may be made by telephone to the telephone number specified by the relevant authority for the purpose of that regulation.

(3) Any notice of withdrawal given in accordance with paragraph (1) or (2) has effect when it is received by the relevant authority.

## PART 11

### Notification of changes of circumstances

#### Duty to notify changes of circumstances

**89.**—(1) Subject to paragraphs (3) and (4) and regulation 90 (alternative means of notifying changes of circumstances), if at any time between the making of an application and it being determined or during a period of entitlement to council tax reduction, there is a change of circumstances which an applicant might reasonably be expected to know might affect entitlement to council tax reduction that applicant must notify that change of circumstances by giving notice to the relevant authority—

- (a) in writing; or
- (b) by telephone—
  - (i) where the relevant authority has published a telephone number for that purpose or for the purposes of regulation 84 (telephone applications), unless the authority determines that in any particular case, or class of case, notification of a change of circumstances may not be given by telephone; or
  - (ii) in any case, or class of case, where the relevant authority determines that notice of a change of circumstances may be given by telephone; or
- (c) by any other means the relevant authority agrees to in any particular case.

(2) Subject to paragraph (3), the duty imposed by paragraph (1) does not extend to notifying changes—

- (a) in the amount of council tax payable to the relevant authority;
- (b) in the age of the applicant or of any member of the applicant's family;
- (c) to these Regulations; or
- (d) in the case of an applicant who has an award of income support, universal credit, an income-based jobseeker's allowance or an income-related employment and support allowance, in circumstances which affect the amount of the award but not the amount of council tax reduction to which the applicant is or would be entitled, other than the cessation of that entitlement to income support, universal credit, an income-based jobseeker's allowance or an income-related employment and support allowance.

(3) Notwithstanding paragraph (2)(b) or (d) an applicant is required by paragraph (1) to notify the relevant authority of any change in the composition of the applicant's family arising from the fact that a person who was a member of the family is now no longer a member of the family because that person ceased to be a child or young person.

(4) Where the amount of an council tax reduction is the alternative maximum council tax reduction applicable to the applicant calculated in accordance with regulation 78 (alternative maximum council tax reduction), the applicant is under a duty to give written notice to the relevant authority of changes which occur in the number of adults in the dwelling or in their total gross incomes which might reasonably be expected to change the applicant's entitlement to council tax reduction and where any of those adults ceases to be in receipt of state pension credit, income support, universal credit, an income-based jobseeker's allowance or an income-related employment and support allowance the date when this occurs.

#### Alternative means of notifying changes of circumstances

**90.** Where a change of circumstances described in regulation 89(1) (duty to notify changes of circumstances) is a birth or death the relevant authority may determine for a particular class of case

that the duty in that regulation to notify a change in circumstances may be discharged by personal attendance at an office specified by that authority.

## [<sup>F104</sup>PART 11A

### Reviews

#### Textual Amendments

**F104** Pt. 11A inserted (1.10.2013) by [The Council Tax Reduction \(Scotland\) Amendment \(No. 2\) Regulations 2013 \(S.S.I. 2013/218\)](#), regs. 1, 7 (with reg. 17)

#### Review of determination on an application

**90A.**—(1) A determination on an application may not be appealed to a valuation appeal committee.

(2) An applicant who is aggrieved by a determination on an application may serve a written notice on the relevant authority requesting that it review its determination.

(3) The notice under paragraph (2) must be served within two months of the determination it relates to and must state the matter by which, and the grounds on which, the applicant is aggrieved.

(4) Where a notice under paragraph (2) is served on a relevant authority, that authority must—

- (a) consider the matter to which the notice relates;
- (b) within two months of receipt of the notice, redetermine the application or decide that no alteration of the determination is to be made;
- (c) notify the applicant in writing of its decision and that if the applicant remains aggrieved then a request for further review may be made within 42 days of the notification, with the address to which any such a request is to be sent.

#### Request for further review

**90B.**—(1) A request for further review of a determination on an application must be made in writing within 42 days of the notification by the relevant authority under sub-paragraph (c) of regulation 90A(4) and be served at the address notified under that sub-paragraph.

(2) A request for further review of a determination on an application may also be made where a relevant authority has not notified the applicant of a decision on a request for review under regulation 90A(2) and more than two months have elapsed since the notice requesting review was served.

(3) A request under paragraph (2)—

- (a) must be made in writing and be served on the relevant authority; and
- (b) prevents the relevant authority from notifying a decision on the request for review under regulation 90A(2).

(4) A request for further review must state the matter by which, and the grounds on which, the applicant is aggrieved.

(5) Where a relevant authority is served with a notice requesting further review it must, as soon as possible, forward it to the panel appointed by the Scottish Ministers under regulation 90C.

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

### Panel to conduct further reviews

**90C.**—(1) The Scottish Ministers must appoint a panel of persons (“the panel”) to conduct further review of determinations on applications [<sup>F105</sup>and must also appoint one of the persons to act as senior reviewer].

(2) A person may only be appointed to the panel if that person—

- (a) is a solicitor or advocate in Scotland of at least 5 years’ standing;
- (b) has a five year general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990; or
- (c) is a member of the Bar of Northern Ireland, or a solicitor of the Court of Judicature of Northern Ireland, of at least 5 years’ standing.

(3) A person may not be appointed to the panel, and if appointed must immediately be removed from the panel, if that person—

- (a) is a member or employee of a local authority in Scotland;
- (b) is a member of Parliament, of the Scottish Parliament or of the European Parliament.

(4) The Scottish Ministers may remove a person from the panel if they consider that the person is unable to discharge the functions of a panel member or is unsuitable to serve on the panel.

(5) A member of the panel is entitled to receive payment of such allowances as the Scottish Ministers may determine in respect of performance of the functions of a panel member.

#### Textual Amendments

**F105** Words in [reg. 90C\(1\)](#) inserted (1.4.2015) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2015 \(S.S.I. 2015/46\)](#), regs. 1, 7

### Conduct of further reviews

**90D.**—(1) A further review of a determination on an application is to be undertaken by one member of the panel appointed under regulation 90C(1), except as set out in paragraph (8).

(2) A further review is to include an oral hearing unless the parties and the member of the panel who is undertaking the review agree that the review is to be disposed of by written representations.

(3) A party to a further review must, if requested, advise the member of the panel who is undertaking the review—

- (a) whether that party agrees that the review may be disposed of by written representations;
- (b) whether the applicant has appealed any application for housing benefit that may be relevant to the consideration of the further review, and if so whether that appeal has been determined (insofar as these matters are within the party’s knowledge).

(4) Where either party to a further review is requested by the member of the panel who is undertaking the further review to provide documents or information and fails to respond to that request within such timescale as the member considers reasonable, such inferences may be drawn from the failure as the member sees fit, including the inference that the further review should be allowed or refused.

(5) A request for further review that has been validly made in accordance with regulation 90B may not be withdrawn other than with leave of the [<sup>F106</sup>senior reviewer].

(6) The member of the panel who is undertaking the further review—

- (a) is to decide the procedure for that review [<sup>F106</sup>, having regard to any guidance issued by the senior reviewer];

- (b) may hold any oral hearing in public or private, as the member sees fit;
- (c) may request, but has no power to require, the production of documents or the attendance of any person as a witness;
- (d) if satisfied that there are good and sufficient reasons for doing so, may refuse to permit a particular person to represent a party at an oral hearing; <sup>F107</sup> ...
- (e) may uphold or reject the request for that review, in full or in part, but must remit any calculation of the amount of an applicant's entitlement to a council tax reduction to the relevant authority <sup>F108</sup>; and
- (f) must give full reasons for the decision to uphold or reject the request for review, if asked to do so by a party to that review within 14 days of the date on which the decision was given.]

<sup>F109</sup>(6A) A member of the panel may set aside a decision disposing of a request for further review if satisfied that it is in the interests of justice to do so.

(6B) Where a decision is set aside the further review must be undertaken again.

(6C) A request to set aside a decision must—

- (a) be made within 14 days of the date on which the decision was given, and
- (b) give reasons for the request.]

(7) The relevant authority must implement the decision of the member of the panel disposing of a request for further review of a determination as soon as is reasonably practicable, including any calculation of the amount of an applicant's entitlement to a council tax reduction that is required.

(8) In the circumstances of a particular case the Scottish Ministers may consider it appropriate for three members of the panel appointed under regulation 90C(1) to undertake the further review, and in such a case references in this regulation to anything being done or decided by a member of the panel refer to it being done or decided by all three members, or by two of them should they not be agreed.]

#### Textual Amendments

**F106** Words in reg. 90D(5) substituted (1.4.2015) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2015 \(S.S.I. 2015/46\)](#), regs. 1, **8(a)**

**F107** Word in reg. 90D(6) omitted (1.4.2015) by virtue of [The Council Tax Reduction \(Scotland\) Amendment Regulations 2015 \(S.S.I. 2015/46\)](#), regs. 1, **8(c)**

**F108** Reg. 90D(6)(f) and word inserted (1.4.2015) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2015 \(S.S.I. 2015/46\)](#), regs. 1, **8(d)**

**F109** Reg. 90D(6A)-(6C) inserted (1.4.2015) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2015 \(S.S.I. 2015/46\)](#), regs. 1, **8(e)**

## PART 12

### Electronic communications

#### Sending documents by electronic communication

**91.—(1)** For the purpose of these Regulations, an applicant may send a document by electronic communication—

- (a) in a form approved by the relevant authority for the purposes of this regulation;
- (b) to an address notified by the relevant authority for the purpose of this regulation; and

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012. (See end of Document for details)*

- (c) by the method set out in paragraph (4).
- (2) An applicant sending a document to a relevant authority by electronic communications is taken to have agreed—
- (a) to the use of electronic communications for all purposes relating to the application which are capable of being carried out electronically; and
  - (b) that the address for the purpose of such communications is the address incorporated into, or otherwise logically associated with, that communication.
- (3) Deemed agreement referred to in paragraph (2) subsists until the applicant gives notice to revoke the agreement, and the notice takes effect from the date specified in it, being a date not less than 7 working days after the date on which the notice is given.
- (4) An electronic communication must be—
- (a) capable of being accessed by the recipient;
  - (b) legible in all other material respects; and
  - (c) sufficiently permanent to be used for subsequent reference.
- (5) Unless the contrary is proved a document sent by the method specified in paragraph (3) is, for the purposes of any legal proceedings, to be regarded as having been—
- (a) delivered where the document has been delivered to or by the relevant authority and the delivery of the document has been recorded on an official computer system; and
  - (b) received at the time and date of receipt recorded in an official computer system.
- (6) In this regulation—
- “address” includes any number or address used for the purpose of electronic communications or storage;
- “document” includes an application, notice, certificate, information and evidence;
- “electronic communication” has the same meaning as in section 15(1) of the Electronic Communications Act 2000 <sup>M211</sup>;
- “legible in all material respects” means that the information contained in the document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form; and
- “official computer system” means a computer system maintained by or on behalf of the relevant authority for the sending, receiving, processing or storing of an application.

#### Marginal Citations

**M211** 2000 c.7. Section 15(1) was amended by paragraph 158 of Schedule 17 to the [Communications Act 2003 \(c.21\)](#).

## PART 13

### Consequential and transitional provisions

#### Transitional provision

**92.**—(1) A person described in paragraph (2) is deemed to have made an application for council tax reduction on 1st April 2013.

(2) A person referred to in paragraph (1) is a person—

- (a) who is entitled to council tax benefit on 31st March 2013;
- (b) who made an application for council tax benefit which is not determined before 1st April 2013;
- (c) whose entitlement to council tax benefit is wholly or partly suspended immediately before 1st April 2013;
- [<sup>F110</sup>(ca) other than a person described in sub-paragraph (a) or (c), who has applied for a revision of a decision by a relevant authority under regulation 4(1) (revision of decisions) or 5(1) (late application for a revision) of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001 and whose application is pending immediately before 1st April 2013;]
- (d) other than a person described in sub-paragraphs (a) or (c), who has appealed against a decision of the First-tier Tribunal, the Upper Tribunal or a court in relation to a claim for council tax benefit and whose appeal is pending immediately before 1st April 2013.

[<sup>F111</sup>(2A) For the purposes of sub-paragraph (2)(ca) a revision of a decision relating to a claim for council tax benefit is pending if an application for a revision has been made but not been determined.]

(3) For the purpose of paragraph (2)(d) an appeal against a decision relating to a claim for council tax benefit is pending if—

- (a) an appeal against the decision has been brought but not determined;
- (b) an application for permission to appeal against the decision has been made but not determined; or
- (c) the time within which—
  - (i) an application for permission to appeal may be made; or
  - (ii) an appeal against the decision may be brought,

has not expired and one of the circumstances prescribed in regulation 11(3) of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001 apply.

#### Textual Amendments

**F110** Reg. 92(2)(ca) inserted (18.3.2013) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2013 \(S.S.I. 2013/48\)](#), regs. 1, **13(a)**

**F111** Reg. 92(2A) inserted (18.3.2013) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2013 \(S.S.I. 2013/48\)](#), regs. 1, **13(b)**

#### Savings provision

**93.** Schedule 6 has effect.

#### Consequential amendments

**94.** The amendments in Schedule 7 have effect.

St Andrew's House,  
Edinburgh

*JOHN SWINNEY*  
A member of the Scottish Government

**Status:**

Point in time view as at 06/04/2016.

**Changes to legislation:**

There are currently no known outstanding effects for the The Council Tax Reduction (Scotland) Regulations 2012.