
SCOTTISH STATUTORY INSTRUMENTS

2012 No. 319

The Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012

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 58 (date on which entitlement begins);

(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 [^{F1}as their sole or main residence];
- (b) is not a person to whom regulation 15 (persons not entitled to council tax reduction: absentees), regulation 16 (persons not entitled to council tax reduction: persons treated as not being in Great Britain) or 19 (persons not entitled to council tax reduction: persons subject to immigration control) applies; and
- (c) makes an application for council tax reduction in accordance with Part 9 (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—

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- (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 ^{M1}; or
 - (b) is a person described in regulation 57 (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

- F1** 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, **10**

Marginal Citations

- M1** 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](#).

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

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- (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
 - (iii) that period is unlikely to exceed 13 weeks; or
 - (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 ^{M2}; 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 left the dwelling the person resides in through fear of violence in that dwelling or by a former 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

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- Health Act 1983 ^{M3}, the Criminal Procedure (Scotland) Act 1995 ^{M4} or the Mental Health (Care and Treatment) (Scotland) Act 2003 ^{M5}; or
- (b) on temporary release from detention in accordance with Rules made under the provisions of the Prisons (Scotland) Act 1989 ^{M6} or the Prison Act 1952 ^{M7}.
- (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

M2 2007 c.21.

M3 1983 c.20.

M4 1995 c.46.

M5 2003 asp 13.

M6 1989 c.45.

M7 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 ^{M8}; 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 ^{M9}

(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 ^{M10} 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;

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- (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^{M11}, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967^{M12};
- [^{F2}(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
 - (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);^{F3}...

(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 1999^{M13} 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^{F4};

(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^{M14}.

Textual Amendments

- F2** Reg. 16(5)(e) substituted (1.4.2015) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2015 \(S.S.I. 2015/46\)](#), regs. 1, **16(a)**
- F3** Word in reg. 16(5) omitted (1.4.2015) by virtue of [The Council Tax Reduction \(Scotland\) Amendment Regulations 2015 \(S.S.I. 2015/46\)](#), regs. 1, **16(b)**
- F4** 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, **16(c)**

Marginal Citations

- M8** Regulation 13 was amended by [S.I. 2012/1547](#).
- M9** OJ L 158, 30.4.2004, p.77.
- M10** Regulation 6 was amended by [S.I. 2011/544](#).
- M11** Cmnd 3906
- M12** Cmnd 9171.
- M13** [1999 c.33](#).
- M14** [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—
- (a) an aircraft worker;

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- (b) a continental shelf worker who is in a designated area or a prescribed area;
 - (c) a Crown servant;
 - (d) a mariner; or
 - (e) a member of Her Majesty's forces.
- (3) This paragraph applies to a person if—
- (a) 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 ^{M15};
 - (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 ^{M16} 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

M15 1998 c.17.

M16 1964 c.29.

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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 2 occasions in the previous 52 weeks, starting from the first day of the current period of temporary absence.
- (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.—^{F5}(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 ^{F6}....

^{F7}(2) In paragraph (1) “a person subject to immigration control” has the meaning given in section 115(9) of the Immigration and Asylum Act 1999, but does not include a person who—

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- (a) is 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) is lawfully present in the United Kingdom.]

Textual Amendments

- F5** 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, **17(a)**
- F6** 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, **17(b)**
- F7** Reg. 19(2) inserted (1.4.2015) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2015 \(S.S.I. 2015/46\)](#), regs. 1, **17(c)**

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