

## SCOTTISH STATUTORY INSTRUMENTS

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### 2012 No. 319

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

### PART 4

#### Entitlement to council tax reduction

##### **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>M1</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>M2</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 <sup>M3</sup> 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>M4</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>M5</sup>;
- (e) a person granted limited leave to enter or remain in the United Kingdom outside the provisions of the rules made under section 3(2) of the Immigration Act 1971 <sup>M6</sup> on the rejection of their claim for asylum;
- (f) a person who has humanitarian protection granted under the rules referred to in subparagraph (e); or

*Status: Point in time view as at 28/01/2013. This version of this provision has been superseded.*

*Changes to legislation: The Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012, Section 16 is up to date with all changes known to be in force on or before 26 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(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 <sup>M7</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.

(6) In this regulation “the 2006 Regulations” means the Immigration (European Economic Area) Regulations 2006 <sup>M8</sup>.

#### **Marginal Citations**

- M1** [Regulation 13](#) was amended by [S.I. 2012/1547](#).
- M2** OJ L 158, 30.4.2004, p.77.
- M3** [Regulation 6](#) was amended by [S.I. 2011/544](#).
- M4** Cmnd 3906
- M5** Cmnd 9171.
- M6** [1971 c.77](#).
- M7** [1999 c.33](#).
- M8** [S.I. 2006/1003](#).

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