Status: *Point in time view as at 17/05/2023. This version of this provision has been superseded.*
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SCOTTISH STATUTORY INSTRUMENTS

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 **M1**; 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 **M2**

(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 **M3** 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 **M4**, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967 **M5**;

[**F1**(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 **F2**...;]

(f) a person who has humanitarian protection granted under the rules referred to in sub-paragraph (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 **M6** and who is in the United

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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; **F5**...

(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);**]**

[F6(j) a person granted leave in accordance with the rules referred to in sub-paragraph (e), where such leave is granted by virtue of—

(i) the Afghan Relocations and Assistance Policy; or

(ii) the previous scheme for locally-employed staff in Afghanistan (sometimes referred to as the ex-gratia scheme);

(k) a person in Great Britain not coming within sub-paragraph **[F7**(e)**]** or (j) who left Afghanistan in connection with the collapse of the Afghan government that took place on 15 August 2021**]**; **[F8F9**...

(l) a person in Great Britain who was residing in Ukraine immediately before 1 January 2022, left Ukraine in connection with the Russian invasion which took place on 24 February 2022 and—

(i) has been granted leave in accordance with the rules referred to in sub-paragraph (e), or

(ii) has a right of abode in the United Kingdom, within the meaning of section 2 of the Immigration Act 1971**][F10**or, in accordance with section 3ZA of that Act, does not require a right of abode**][F11**, or

(m) a person in Great Britain who was residing in Sudan before 15 April 2023, left Sudan in connection with the violence which rapidly escalated on 15 April 2023 in Khartoum and across Sudan and—

(i) has been granted leave in accordance with the rules referred to in sub-paragraph (e), or

(ii) has a right of abode in the United Kingdom within the meaning of section 2 of the Immigration Act 1971 or does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act**]**

(6) In this regulation "the 2006 Regulations" means the Immigration (European Economic Area) Regulations 2006 **M7**.

Textual Amendments

F1 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)**

F2 Words in reg. 16(5)(e) omitted (22.3.2022 at 5.40 p.m.) by virtue of The Social Security (Residence Requirements) (Ukraine) (Scotland) Regulations 2022 (S.S.I. 2022/108), regs. 1(1), **10(2)(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)**

F5 Word in reg. 16(5)(h) omitted (22.3.2022 at 5.40 p.m.) by virtue of The Social Security (Residence Requirements) (Ukraine) (Scotland) Regulations 2022 (S.S.I. 2022/108), regs. 1(1), **10(2)(b)**

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F6 Reg. 16(5)(j)(k) inserted (24.9.2021) by The Council Tax Reduction (Scotland) Amendment (No. 4) Regulations 2021 (S.S.I. 2021/337), regs. 1, **3(3)**

F7 Word in reg. 16(5)(k) substituted (22.3.2022 at 5.40 p.m.) by The Social Security (Residence Requirements) (Ukraine) (Scotland) Regulations 2022 (S.S.I. 2022/108), regs. 1(1), **10(2)(c)**

F8 Reg. 16(5)(l) and word inserted (22.3.2022 at 5.40 p.m.) by The Social Security (Residence Requirements) (Ukraine) (Scotland) Regulations 2022 (S.S.I. 2022/108), regs. 1(1), **10(2)(d)**

F9 Word in reg. 16(5)(k) omitted (17.5.2023 at 5.54 p.m.) by virtue of The Social Security (Residence Requirements) (Sudan) (Scotland) Regulations 2023 (S.S.I. 2023/149), regs. 1(1), **10(2)(a)**

F10 Words in reg. 16(5)(l)(ii) inserted (1.4.2023) by The Council Tax Reduction and Council Tax (Discounts) (Miscellaneous Amendment) (Scotland) Regulations 2023 (S.S.I. 2023/38), regs. 1, **24**

F11 Reg. 16(5)(m) and word inserted (17.5.2023 at 5.54 p.m.) by The Social Security (Residence Requirements) (Sudan) (Scotland) Regulations 2023 (S.S.I. 2023/149), regs. 1(1), **10(2)(b)**

Modifications etc. (not altering text)

C1 Reg. 16 applied (with modifications) (31.12.2020) by The Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020 (S.I. 2020/1209), regs. 1(1), **3(3)**, 4(4), 11(s)

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 1999 c.33.

M7 S.I. 2006/1003.