

SCOTTISH STATUTORY INSTRUMENTS

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**2012 No. 319**

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

**PART 6**

Income and capital

CHAPTER 2

Income and capital

**Meaning of “income”**

**27.—(1)** For the purposes of these Regulations “income” means income of any of the following descriptions

- (a) earnings;
- (b) working tax credit;
- (c) retirement pension income;
- (d) income from annuity contracts (other than retirement pension income);
- (e) a war disablement pension, war widow's pension or war widower's pension;
- (f) a foreign war disablement pension, foreign war widow's pension or foreign widower's pension within the meaning of section 17 of the State Pension Credit Act 2002 <sup>M1</sup> (other interpretation provisions);
- (g) a guaranteed income payment;
- (h) a payment made under article 29(1)(c) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011 <sup>M2</sup> in any case where article 31(2)(c) of that Order applies;
- (i) income from capital other than capital disregarded under Part 1 of Schedule 4;
- (j) social security benefits other than—
  - (i) retirement pension income,
  - (ii) disability living allowance;
  - [<sup>F1</sup>(ia) armed forces independence payment;]
  - (iii) personal independence payment;
  - (iv) attendance allowance payable under section 64 of the 1992 Act <sup>M3</sup>;
  - (v) an increase of disablement pension under section 104 or 105 of the 1992 Act;
  - (vi) an increase of an allowance payable in respect of constant attendance under paragraph 4 of Part 1 of Schedule 8 to the 1992 Act;
  - (vii) child benefit;

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- (viii) any guardian's allowance payable under section 77 of the 1992 Act <sup>M4</sup>;
- (ix) any increase for a dependant, other than the applicant's partner, payable in accordance with Part 4 of the 1992 Act;
- (x) any social fund payment made under Part 8 of the 1992 Act;
- (xi) any crisis payment made for the purpose of meeting an immediate short term need or a payment made for the purpose of meeting a need for community care—
  - (aa) by a local authority, in exercise of the power in section 20 of the Local Government in Scotland Act 2003 <sup>M5</sup> (power to advance well-being) and using funds provided by the Scottish Ministers from the Scottish Welfare Fund;
  - (bb) by a local authority in exercise of the power in section 1 of the Localism Act 2011 <sup>M6</sup> (local authority's general power of competence) and using funds provided by the Secretary of State, and in this sub-paragraph local authority means a local authority within the meaning of section 8 of that Act; or
  - (cc) by, or on behalf of, the Welsh Ministers in exercise of the power in section 60 of the Government of Wales Act 2006 <sup>M7</sup> (promotion etc. of well-being);
- (xii) Christmas bonus payable under Part 10 of the 1992 Act;
- (xiii) housing benefit;
- (xiv) council tax benefit;
- (xv) bereavement payment under section 36 of the 1992 <sup>M8</sup> Act;
- (xvi) statutory sick pay;
- (xvii) statutory maternity pay;
- (xviii) ordinary statutory paternity pay or additional statutory paternity pay;
- (xix) statutory adoption pay; and
- (xx) any benefit similar to those mentioned in the preceding provisions of this paragraph payable under legislation having effect in Northern Ireland;
- (k) all foreign social security benefits which are similar to the social security benefits described above;
- (l) a payment made under—
  - (i) article 30 of the 2006 Order in any case where article 30(1)(b) of that Order applies; or
  - (ii) article 12(8) of the 2006 Order <sup>M9</sup> in any case where article 12(8)(b) of that Order applies;
- (m) a pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria;
- (n) payments under a scheme made under the Pneumoconiosis etc. (Worker's Compensation) Act 1979 <sup>M10</sup>;
- (o) payments made towards the maintenance of the applicant by the applicant's spouse, civil partner, former spouse or former civil partner or towards the maintenance of the applicant's partner by the applicant's partner's spouse, civil partner, former spouse or former civil partner, including payments made—
  - (i) under a court order;
  - (ii) under an agreement for aliment or maintenance; or

- (iii) voluntarily;
- (p) payments due from any person in respect of board and lodging accommodation provided by the applicant;
- (q) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark;
- (r) any payment in respect of any—
  - (i) book registered under the Public Lending Right Scheme 1982 <sup>M11</sup>; or
  - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982;
- (s) any payment, other than a payment ordered by a court or made in settlement of a claim, made by or on behalf of a former employer of a person on account of the early retirement of that person on grounds of ill-health or disability;
- (t) any sum payable by way of pension out of money provided under the Civil List Act 1837 <sup>M12</sup>, the Civil List Act 1937 <sup>M13</sup>, the Civil List Act 1952 <sup>M14</sup>, the Civil List Act 1972 <sup>M15</sup> or the Civil List Act 1975 <sup>M16</sup>;
- (u) any income in lieu of that specified in sub-paragraphs (a) to (r);
- (v) any payment of rent made to an applicant who—
  - [<sup>F2</sup>(i) owns, owns the freehold or leasehold interest in or is a tenant of the property in respect of which the rent is paid;]
  - (ii) occupies part of the property; and
  - (iii) has an agreement with another person allowing that other person to occupy the property on payment of rent;
- (w) any payment made at regular intervals under an equity release scheme; and
- (x) PPF periodic payments within the meaning of section 17 of the State Pension Credit Act 2002 <sup>M17</sup>.

(2) For the purposes of these Regulations and subject to regulations 31(11)(b) (calculation of weekly income: capital disregards) and 41(2) (calculation of capital: capital to be disregarded), an applicant's capital is to be treated as if it was a weekly income of—

- (a) £1 for each £500 in excess of £10,000; and
- (b) £1 for any part of that excess which is not a complete £500.

(3) Where the payment of any social security benefit referred to paragraph (1) is subject to any deduction (other than an adjustment specified in paragraph (5)) the amount to be taken into account under paragraph (1) is the amount before the deduction is made.

(4) Where an award of any working tax credit or child tax credit is subject to a deduction by way of recovery of an overpayment of working tax credit or child tax credit made 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.

(5) The adjustments specified in this paragraph are those made in accordance with—

- (a) the Social Security (Overlapping Benefits) Regulations 1979 <sup>M18</sup>;
- (b) the Social Security (Hospital In-Patients) Regulations 2005 <sup>M19</sup>;
- (c) section 30DD or section 30E of the 1992 Act <sup>M20</sup> (reductions in incapacity benefit in respect of pensions and councillor's allowances); or

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- (d) section 3 of the Welfare Reform Act 2007 <sup>M21</sup> (deductions from contributory employment and support allowance in respect of pensions and councillor's allowances) and regulations made under it.
- (6) In this regulation “equity release scheme” means a loan—
- (a) made between a person (“the lender”) and the applicant;
  - (b) by means of which a sum of money is advanced by the lender to the applicant by way of payments at regular intervals; and
  - (c) which is secured on a dwelling in which the applicant owns an interest and occupies as a home.

#### Textual Amendments

- F1** Reg. 27(1)(j)(iia) inserted (11.6.2013) by [The Welfare Reform \(Consequential Amendments\) \(Scotland\) \(No. 3\) Regulations 2013 \(S.S.I. 2013/142\)](#), regs. 1, **12(3)**
- F2** Reg. 27(1)(v)(i) substituted (18.3.2013) by [The Council Tax Reduction \(State Pension Credit\) \(Scotland\) Amendment Regulations 2013 \(S.S.I. 2013/49\)](#), regs. 1, **5**

#### Marginal Citations

- M1** Section 17 was amended by paragraph 263 of Schedule 6 to the [Income Tax \(Earnings and Pensions\) Act 2003 \(c.1\)](#) and paragraph 142 of Schedule 24 and paragraph 1 of Schedule 30 to the [Civil Partnership Act 2004 \(c.33\)](#).
- M2** [S.I. 2011/517](#).
- M3** Section 64 was amended by section 66 of the [Welfare Reform and Pensions Act 1999 \(c.30\)](#).
- M4** Section 77 was amended by paragraph 1 of Schedule 6 to the [Tax Credits Act 2002 \(c.21\)](#), **paragraph 4** of Schedule 1 to the [Child Benefit Act 2005 \(c.6\)](#) and paragraph 34 of Schedule 24 to the [Civil Partnership Act 2004 \(c.33\)](#).
- M5** [2003 asp 1](#).
- M6** [2011 c.20](#).
- M7** [2006 c.32](#).
- M8** Section 36 was amended by section 54 of the [Welfare Reform and Pensions Act 1999 \(c.30\)](#) and paragraph 16 of Schedule 24 to the [Civil Partnership Act 2004 \(c.33\)](#).
- M9** Article 12 was amended by [S.I. 2007/909](#) and [2012/359](#).
- M10** [1979 c.41](#).
- M11** 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](#) and [2103](#), [1987/1908](#), [1988/2070](#), [1989/2188](#), [1990/2360](#), [1991/2618](#), [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](#).
- M12** [1837 c.2](#).
- M13** [1937 c.32](#).
- M14** [1952 c.37](#).
- M15** [1972 c.7](#).
- M16** [1975 c.82](#).
- M17** Section 17 was relevantly amended by [S.I. 2006/343](#).
- M18** [S.I. 1979/597](#).
- M19** [S.I. 2005/3360](#).
- M20** Section 30DD was inserted by section 63 of the [Welfare Reform and Pensions Act 1999 \(c.30\)](#) and amended by [S.I. 2006/343](#) and [745](#). Section 30E was inserted by section 3 of the [Social Security \(Incapacity for Work\) Act 1994 \(c.18\)](#).
- M21** [2007 c.5](#).

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