

2020 No. 413

COUNCIL TAX

**The Council Tax Reduction (Scotland) Amendment (No. 4)
Regulations 2020**

<i>Made</i>	- - - -	<i>2nd December 2020</i>
<i>Laid before the Scottish Parliament</i>		<i>4th December 2020</i>
<i>Coming into force</i>	- -	<i>1st February 2021</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 80 and 113(1) and paragraph 1 of schedule 2 of the Local Government Finance Act 1992(a) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Council Tax Reduction (Scotland) Amendment (No. 4) Regulations 2020 and come into force on 1 February 2021.

Amendment of the Council Tax Reduction (Scotland) Regulations 2012

2. The Council Tax Reduction (Scotland) Regulations 2012(b) are amended in accordance with regulations 3 to 6.

3. In regulation 2(1), for the definition of “qualifying age for state pension credit” substitute—
““qualifying age for state pension credit” means pensionable age (see section 1(2)(b) and (6) of the State Pension Credit Act 2002(c)),”.

4. In regulation 12 (application of the Regulations)(d)—

(a) at the end of paragraph (1)(b) insert “, except as provided for by paragraphs (1A) and (1B)”, and

(b) after paragraph (1) insert—

“(1A) These Regulations do not apply to a person who is in receipt of an award of universal credit, or who has a partner who is in receipt of an award of universal credit, if the person with that award has (or, in the case of a joint award, both persons have) attained the qualifying age for state pension credit and—

(a) 1992 c.14. Section 80 and paragraph 1 of schedule 2 were amended by paragraph 176 of schedule 13 of the Local Government etc. (Scotland) Act 1994 (c.39). There are other amendments to section 80 and amendments to section 113(1) that are not relevant to these Regulations. The functions of the Secretary of State, in so far as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) S.S.I. 2012/303.

(c) 2002 c.16.

(d) Regulation 12 was amended by S.S.I. 2013/287.

- (a) the award of universal credit is continuing pending a superseding decision taking effect at the end of a universal credit assessment period, as provided for by paragraph 26 of schedule 1 (effective dates for superseding decisions made on the ground of a change in circumstances) of the Universal Credit, Personal Independence Payment, Jobseekers Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations 2013(a), or
- (b) the person awarded universal credit was not entitled to receive that award.

(1B) These Regulations do not apply to a couple, only one of whom has reached the qualifying age for state pension credit, if that person is in receipt of an award of state pension credit and is not precluded from an award of universal credit by virtue of regulation 5(2)(b)(iv) of the Universal Credit (Transitional Provisions) Regulations 2014 (entitlement to continuing award of state pension credit during a first assessment period for universal credit where the person is a new claimant partner)(b).”.

5. In schedule 4 (sums that are to be disregarded as income)—

- (a) in paragraph 37 (crisis payments)(c), after sub-paragraph (a) insert—
 - “(aa) by a local authority in exercise of the power in section 20 of the Local Government in Scotland Act 2003 (power to advance well-being)(d) and using funds provided by the Scottish Ministers,” and
- (b) after paragraph 69 (Windrush compensation payments)(e), insert—
 - “**70.** Any Scottish child payment assistance paid by virtue of Regulations under section 79 of the Social Security (Scotland) Act 2018(f).
 - “**71.** Any payment of winter heating assistance made by virtue of Regulations under section 30 of that Act(g).”.

6. In schedule 5 (capital to be disregarded)—

- (a) in paragraph 11(1) (arrear and concessionary payments), omit the “or” before head (h) (carer’s allowance supplement)(h) and after that head insert—
 - “or
 - (i) any Scottish child payment assistance paid by virtue of Regulations under section 79 of the Social Security (Scotland) Act 2018(i),”
- (b) in paragraph 25 (crisis payments)(j), after sub-paragraph (a) insert—
 - “(aa) by a local authority in exercise of the power in section 20 of the Local Government in Scotland Act 2003 (power to advance well-being)(k) and using funds provided by the Scottish Ministers,” and
- (c) after paragraph 71 (historical child abuse payments)(l), insert—
 - “**72.** Any payment of winter heating assistance made by virtue of Regulations under section 30 of the Social Security (Scotland) Act 2018(m).”.

(a) S.I. 2013/381. Paragraph 26 of schedule 1 was substituted by S.I. 2020/655.
 (b) S.I. 2014/1230. Head (iv) was inserted by S.I. 2020/655.
 (c) Paragraph 37(a) was substituted by S.S.I. 2016/81.
 (d) 2003 asp 1.
 (e) Paragraph 69 was inserted by S.S.I. 2019/325.
 (f) See S.S.I. 2020/351.
 (g) See S.S.I. 2020/352.
 (h) Head (h) was inserted by S.S.I. 2018/295.
 (i) See S.S.I. 2020/351.
 (j) Paragraph 25(a) was substituted by S.S.I. 2016/81.
 (k) 2003 asp 1.
 (l) Paragraph 71 was inserted by S.S.I. 2020/25.
 (m) See S.S.I. 2020/352.

Amendment of the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012

7. The Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012(a) are amended in accordance with regulations 8 to 15.

8. In regulation 2(1), for the definition of “qualifying age for state pension credit” substitute—

““qualifying age for state pension credit” means pensionable age (see section 1(2)(b) and (6) of the State Pension Credit Act 2002).”.

9. In regulation 12 (application of the Regulations)(b)—

(a) at the end of paragraph (2) insert “, except as provided for by paragraphs (3) and (4)”.

(b) after paragraph (2) insert—

“(3) These Regulations apply to a person who is in receipt of an award of universal credit, or who has a partner who is in receipt of an award of universal credit, if the person with that award has (or, in the case of a joint award, both persons have) attained the qualifying age for state pension credit and—

(a) the award of universal credit is continuing pending a superseding decision taking effect at the end of a universal credit assessment period, as provided for by paragraph 26 of schedule 1 (effective dates for superseding decisions made on the ground of a change in circumstances) of the Universal Credit, Personal Independence Payment, Jobseekers Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations 2013(c), or

(b) the person awarded universal credit was not entitled to receive that award.

(4) These Regulations apply to a couple, only one of whom has reached the qualifying age for state pension credit, if that person is in receipt of an award of state pension credit and also an award of universal credit, where that award of universal credit is not precluded by virtue of regulation 5(2)(b)(iv) of the Universal Credit (Transitional Provisions) Regulations 2014 (entitlement to continuing award of state pension credit during a first assessment period for universal credit where the person is a new claimant partner)(d).”.

10. In regulation 27(1)(j) (social security benefits not to be treated as income)(e)—

(a) in head (xi) (crisis payments), after sub-head (aa), insert—

“(ab) by a local authority in exercise of the power in section 20 of the Local Government in Scotland Act 2003 (power to advance well-being)(f) and using funds provided by the Scottish Ministers.”.

(b) in head (xi), in sub-head (bb) for “sub-paragraph” substitute “sub-head”, and

(c) after head (xxiii) (social security benefits that are not to be treated as income: funeral expense assistance), insert—

“(xxiv) any Scottish child payment assistance paid by virtue of section 79 of that Act(g),

(xxv) any payment of winter heating assistance made by virtue of Regulations under section 30 of that Act(h),

(a) S.S.I. 2012/319.

(b) Regulation 12 was amended by S.S.I. 2013/287.

(c) S.I. 2013/381. Paragraph 26 of schedule 1 was substituted by S.I. 2020/655.

(d) S.I. 2014/1230. Head (iv) was inserted by S.I. 2020/655.

(e) In head (xi) of regulation 27(1)(j) sub-head (aa) was substituted by S.S.I. 2016/81. Head (xxiii) was inserted by S.S.I. 2018/295. There are other amendments to that regulation that are not relevant to these Regulations.

(f) See S.S.I. 2020/351.

(g) 2003 asp 1.

(h) See S.S.I. 2020/351.

(i) See S.S.I. 2020/352.

(xxvi) universal credit.”.

11. In regulation 55 (continuing payments where state pension credit claimed)—

- (a) in paragraph (1)(c)(i), omit from “or, if” to the end of head (i),
- (b) in paragraph (2)(a)(ii), omit “or the age of 65”.

12. In regulation 59 (date on which a change in circumstances is to take effect)(a), in paragraph (10)(a) for “age of 65” substitute “qualifying age for state pension credit”.

13. In the table at paragraph 2 of schedule 1 (applicable amount: personal allowances)(b)—

- (a) omit sub-paragraphs (1)(a), (2)(a) and (3) in column 1, and the amounts specified in column 2 in respect of these sub-paragraphs,
- (b) for sub-paragraph (1)(b) substitute “who has attained the qualifying age for state pension credit”,
- (c) for sub-paragraph (2)(b) substitute “where one or both members have attained the qualifying age for state pension credit”,
- (d) in sub-paragraph (4), for “is aged 65 or over” substitute “has attained the qualifying age for state pension credit”.

14. In paragraph 10(b) of schedule 3 (sums to be disregarded in the calculation of income other than earnings: annuities), for “age of 65” substitute “qualifying age for state pension credit”.

15. In schedule 4 (capital disregards)—

- (a) in paragraph 21(2) (benefit payments to be disregarded) omit “or” before head (q) (carer’s allowance supplement)(c) and after that head insert—

“or

- (r) any Scottish child payment assistance given in accordance with section 79 of that Act.”,

- (b) after paragraph 30F (Windrush compensation payments)(d), insert—

“**30G.** Any payment of winter heating assistance made by virtue of Regulations under section 30 of the Social Security (Scotland) Act 2018(e).”.

BEN MACPHERSON

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
2nd December 2020

(a) Regulation 59 was amended by S.S.I. 2013/142.
(b) The only relevant amending instrument is S.S.I. 2019/29.
(c) Head (q) was inserted by S.S.I. 2018/211.
(d) Paragraph 30F was inserted by S.S.I. 2019/325.
(e) See S.S.I. 2020/352.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Council Tax Reduction (Scotland) Regulations 2012 (“the 2012 Regulations”) and the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012 (“the 2012 SPC Regulations”).

Regulations 3 and 8 amend the definition of “qualifying age for state pension credit” in the 2012 Regulations and the 2012 SPC Regulations, in consequence of the equalisation of pension age for men and women.

Regulations 4 and 9 provide for two situations where a person has been awarded universal credit, but reaches, or has reached, state pension age. Where a person reaches that age universal credit eligibility rules have been amended to allow an award of universal credit to continue until the end of a universal credit assessment period, even if payment of state pension credit commences. They have also been amended to allow a person who has reached state pension age, and forms a couple with a person below that age, to continue to receive state pension credit for a period after payment of universal credit commences. The amendments made by these Regulations provide that the person’s entitlement, or a couple’s entitlement, to a council tax reduction where both benefits are being paid is to be calculated under the 2012 SPC Regulations, not the 2012 Regulations. Regulation 10(c) provides for the payment of universal credit not to be regarded as income, and therefore disregarded in calculating entitlement to a council tax reduction for the purposes of the 2012 SPC Regulations, in consequence of these situations where such a payment can be made.

Regulations 4, 9 and 10(c) also provide for situations where a person reaches state pension age with an award of universal credit, but the award is not superseded, despite the person having ceased to be entitled to it. Again, the person’s entitlement to a council tax reduction is to be calculated under the 2012 SPC Regulations, not the 2012 Regulations and the payment will be disregarded in the calculation of entitlement to a council tax reduction.

Regulations 5, 6, 10 and 15 provide that certain payments are to be disregarded in calculating a person’s income and capital, for the purposes of the 2012 Regulations and the 2012 SPC Regulations. These relate to crisis payments made by local authorities under their power to advance well-being, where funded by the Scottish Ministers, Scottish child payments and payments of Scottish winter heating assistance.

Regulations 11 to 14 remove references in the 2012 SPC Regulations to persons reaching age 65 later than the qualifying age for state pension credit. Changes to pension age mean that it is no longer possible for that to happen. Regulation 13(a) revokes provision for three allowances within the council tax reduction scheme which nobody can now qualify to receive, as a result of those changes to pension age.

© Crown copyright 2020

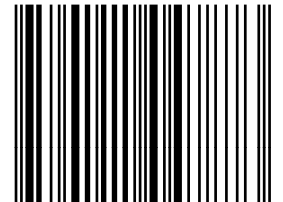
Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, the Queen’s Printer for Scotland.

£4.90

S202012021032 12/2020 19585

<http://www.legislation.gov.uk/id/ssi/2020/413>

ISBN 978-0-11-104787-3



9 780111 047873