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SCOTTISH STATUTORY INSTRUMENTS

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**2021 No. 249**

**The Council Tax Reduction (Scotland) Regulations 2021**

**PART 6**

**Assessment of household income and capital**

**CHAPTER 5**

**Capital**

**Capital limit**

**66.** No person is entitled to council tax reduction if that person's capital exceeds £16,000.

**What is included in capital?**

**67.**—(1) The whole of an applicant's capital is to be taken into account unless—

- (a) it is to be treated as income (see paragraphs (3) and (4)), or
- (b) it is to be disregarded (see regulation 69).

(2) An applicant's personal possessions are not to be treated as capital.

(3) Subject to paragraph (4), any sums that are paid regularly and by reference to a period, for example payments under an annuity, are to be treated as income even if they would, apart from this provision, be regarded as capital or as having a capital element.

(4) Where capital is payable by instalments, each payment of an instalment is to be treated as income if the amount outstanding, combined with any other capital of the applicant exceeds £16,000, but otherwise such payments are to be treated as capital.

**Jointly held capital**

**68.** Where an applicant and one or more other persons have a beneficial interest in a capital asset, the applicant and those other persons are to be treated, in the absence of evidence to the contrary, as if they were each entitled to an equal share of the whole of that beneficial interest.

**Capital disregarded**

**69.**—(1) Any capital specified in schedule 4 is to be disregarded from the calculation of an applicant's capital (see also regulations 74 to 76).

(2) Where a period of 6 months is specified in that schedule, that period may be extended by a relevant authority where it is reasonable to do so in the circumstances of the case.

(3) For the purposes of paragraph (2), notwithstanding the circumstances of the case, it is reasonable for the relevant authority to extend a period of 6 months where—

- (a) an applicant has an award of universal credit, and

- (b) the Secretary of State has extended a period of 6 months specified in an equivalent provision in schedule 10 of the 2013 Regulations (in accordance with regulation 48 of those Regulations).

### **Valuation of capital**

- 70.**—(1) Capital is to be calculated at its current market value or surrender value less—
- (a) where there would be expenses attributable to sale, 10 per cent, and
  - (b) the amount of any encumbrances secured on it.
- (2) The market value of a capital asset possessed by an applicant in a country outside the United Kingdom is—
- (a) if there is no prohibition in that country against the transfer of an amount equal to the value of that asset to the United Kingdom, the market value in that country, or
  - (b) if there is such a prohibition, the amount it would raise if sold in the United Kingdom to a willing buyer.
- (3) Where capital is held in currency other than sterling, it is to be calculated after the deduction of any banking charge or commission payable in converting that capital into sterling.

### **Notional capital**

**71.**—(1) An applicant is to be treated as possessing capital (and is assumed to have a yield from that capital as described in regulation 63) where the applicant has, in the opinion of a relevant authority, deprived themselves of that capital for the purpose of securing entitlement to council tax reduction or an increased amount of council tax reduction.

- (2) Where an applicant—
- (a) deprived themselves of capital for the purpose of securing entitlement to universal credit or to an increased amount of universal credit, and
  - (b) was treated as possessing that capital under regulation 50 of the 2013 Regulations for the purposes of calculating the applicant’s award of universal credit,
- the applicant is to be treated as possessing that capital under paragraph (1) for the purposes of calculating an applicant’s capital under these Regulations.

- (3) An applicant is not to be treated as depriving themselves of capital under paragraph (1) if the applicant disposes of it for the purposes of—
- (a) reducing or paying a debt owed by the applicant, or
  - (b) purchasing goods or services if the expenditure was reasonable in the circumstances of the applicant’s case.
- (4) For the purposes of this regulation, “deprived” includes a failure to make an application for capital that would have been acquired by the applicant had it been sought.

### **Diminishing notional capital (applicants with no award of universal credit)**

**72.**—(1) Where an applicant is treated as possessing capital under regulation 71(1) (notional capital), and neither the applicant nor the applicant’s partner, nor the partners jointly, have an award of universal credit, the amount which the applicant is treated as possessing—

- (a) in the case of a week that is subsequent to—
  - (i) the relevant week in respect of which the conditions set out in paragraph (2) are satisfied, or
  - (ii) a week which follows that relevant week and which satisfies those conditions,

- is to be reduced by the amount determined under paragraph (3),
- (b) in the case of a week in respect of which paragraph (1)(a) does not apply but where—
- (i) that week is a week subsequent to the relevant week, and
  - (ii) that relevant week is a week in which the condition in paragraph (4) is satisfied,
- is to be reduced by the amount determined under paragraph (4).
- (2) This paragraph applies to a reduction week or part-week where the applicant satisfies the conditions that—
- (a) the applicant is in receipt of council tax reduction, and
  - (b) but for regulation 71(1), the applicant would have received an additional amount of council tax reduction in that week.
- (3) In a case to which paragraph (2) applies, the amount of the reduction for the purposes of paragraph (1)(a) is equal to the aggregate of—
- (a) the additional amount to which paragraph (2)(b) refers,
  - (b) where the applicant has also claimed housing benefit, the amount of any housing benefit or any additional amount of that benefit to which the applicant would have been entitled in respect of the whole or part of the reduction week to which paragraph (2) refers but for the application of regulation 49(1) of the Housing Benefit Regulations 2006 (notional capital)(1),
  - (c) where the applicant has also claimed income support, the amount of income support to which the applicant would have been entitled in respect of the whole or part of the reduction week to which paragraph (2) refers but for the application of regulation 51(1) of the Income Support Regulations (notional capital)(2),
  - (d) where the applicant has also claimed a jobseeker's allowance, the amount of an income-based jobseeker's allowance to which the applicant would have been entitled in respect of the whole or part of the reduction week to which paragraph (2) refers but for the application of regulation 113 of the Jobseeker's Allowance Regulations (notional capital) (3), and
  - (e) where the applicant has also claimed an employment and support allowance, the amount of an income-related employment and support allowance to which the applicant would have been entitled in respect of the whole of part of the reduction week to which paragraph (2) refers but for the application of regulation 115 of the Employment and Support Allowance Regulations (notional capital)(4).
- (4) Subject to paragraph (5), for the purposes of paragraph (1)(b) the condition is that the applicant would have been entitled to council tax reduction in the relevant week but for regulation 71(1) (notional capital), and in such a case the amount of the reduction is to be equal to the aggregate of the following amounts—
- (a) the amount of council tax reduction to which the applicant would have been entitled in the relevant week but for regulation 71(1), and for the purposes of this sub-paragraph if the amount is in respect of a part-week, that amount is to be determined by dividing the amount of council tax reduction to which the applicant would have been entitled by the number equal to the number of days in the part-week and multiplying the quotient by 7,

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(1) [S.I. 2006/213](#).

(2) Regulation 51(1) was inserted by [S.I. 1990/1776](#) and amended by [S.I. 1997/2197](#) and [S.I. 2007/719](#).

(3) Regulation 113 was amended by [S.I. 1996/207](#), [S.I. 1997/2197](#), [S.I. 1998/2117](#), [S.I. 1999/2640](#), [S.I. 1999/3156](#), [S.I. 2000/1978](#), [S.I. 2000/3134](#), [S.I. 2001/1029](#), [S.I. 2001/3767](#), [S.I. 2003/455](#), [S.I. 2004/2308](#), [S.I. 2005/2465](#), [S.I. 2005/3391](#), [S.I. 2006/588](#), [S.I. 2007/719](#), [S.I. 2008/698](#), [S.I. 2008/2767](#), [S.I. 2008/3157](#), [S.I. 2009/480](#), [S.I. 2010/641](#), [S.I. 2010/1222](#), [S.I. 2011/688](#), [S.I. 2011/917](#), [S.I. 2011/2425](#), [S.I. 2013/276](#), [S.I. 2014/1913](#), [S.I. 20014/3117](#), [S.I. 2017/329](#), [S.I. 2017/689](#), [S.I. 2017/870](#) and [S.I. 2020/618](#).

(4) Regulation 115 was amended by [S.I. 2008/2428](#), [S.I. 2010/641](#), [S.I. 2011/1707](#), [S.I. 2011/2425](#), [S.I. 2013/276](#), [S.I. 2017/329](#), [S.I. 2017/689](#), [S.I. 2017/870](#) and [S.I. 2020/618](#).

- (b) if the applicant would, but for a provision listed in paragraph (3)(b) to (e) have been entitled to housing benefit, income support, jobseeker's allowance or employment and support allowance or to an additional amount of housing benefit, income support, jobseeker's allowance or employment and support allowance in respect of the reduction week which includes the last day of the relevant week, the amount which is equal to—
- (i) in a case where no housing benefit, income support, jobseeker's allowance or employment and support allowance is payable, the amount to which the applicant would have been entitled, or
  - (ii) in any other case, the amount equal to the additional amount of housing benefit, income support, jobseeker's allowance or employment and support allowance to which the applicant would have been entitled, and, for the purposes of this subparagraph, if the amount is in respect of a part-week, that amount is to be determined by dividing the amount of housing benefit, income support, jobseeker's allowance or employment and support allowance to which the applicant would have been entitled by the number equal to the number of days in the part-week and multiplying the quotient by 7.
- (5) The amount determined under paragraph (4) is to be re-determined under that paragraph if the applicant makes a further application for council tax reduction and the conditions in paragraph (6) are satisfied, and in such a case—
- (a) paragraph (4)(a) and (b) applies as if for “relevant week” there was substituted “relevant subsequent week”, and
  - (b) subject to paragraph (7), the amount as re-determined has effect from the first week following the relevant subsequent week in question.
- (6) The conditions are that—
- (a) a further application is made 26 or more weeks after the latest of—
    - (i) the date on which the applicant made an application for council tax reduction in respect of which the applicant was first treated as possessing the capital in question under regulation 71(1) (notional capital),
    - (ii) in a case where there has been at least one re-determination in accordance with paragraph (5), the date on which the applicant last made an application for council tax reduction which resulted in the weekly amount being re-determined, or
    - (iii) the date on which the applicant last ceased to be entitled to council tax reduction, and
  - (b) the applicant would have been entitled to council tax reduction but for regulation 71(1).
- (7) The amount as re-determined under paragraph (5) is not to have effect if it is less than the amount which applied in that case immediately before the re-determination, and in that case the higher amount continues to have effect.
- (8) In this regulation—
- (a) “part-week”—
    - (i) in paragraph (4)(a) means a period of less than a week during which a person is entitled to council tax reduction,
    - (ii) in paragraph (4)(b) means a period of less than a week for which housing benefit is payable,
  - (b) “relevant week” means the reduction week or part-week in which the capital in question of which the applicant has been deprived within the meaning of regulation 71(1)—
    - (i) was first taken into account for the purpose of determining the applicant's entitlement to council tax reduction, or

- (ii) was taken into account on a subsequent occasion for the purpose of determining or re-determining the applicant's entitlement to council tax reduction on that subsequent occasion and that determination or re-determination resulted in the applicant beginning to receive, or ceasing to receive, council tax reduction, and where more than one reduction week or part-week is identified by reference to heads (i) and (ii) the later or latest reduction week or, as the case may be, the later or latest part-week, and
- (c) "relevant subsequent week" means the reduction week or part-week which includes the day on which the further application or, if more than one further application has been made, the last application was made.

### **Diminishing notional capital (applicants with an award of universal credit)**

73.—(1) Where an applicant with an award of universal credit is treated as possessing capital under regulation 71(2) (notional capital), then for each subsequent assessment period (or, in a case where the applicant had an award of universal credit and that award has terminated, each subsequent month) the amount of capital the applicant is treated as possessing ("the notional capital") reduces—

- (a) in a case where the notional capital exceeds £16,000, by the amount which the Secretary of State considers under regulation 50(3)(a) of the 2013 Regulations would be the amount of an award of universal credit that would be made to the applicant (assuming they met the conditions in section 4 and 5 of the 2012 Act) if it were not for the notional capital, or
- (b) in a case where the notional capital exceeds £6,000 but not £16,000 (including where the notional capital has reduced to an amount equal to or less than £16,000 in accordance with sub-paragraph (a)) by the amount of unearned income that the notional capital is treated as yielding under regulation 63 (assumed yield from capital).

(2) The weekly reduction of an applicant's notional capital is to be determined by dividing the amount by which the notional capital has reduced in an assessment period by the number equal to the number of days in that period and multiplying the quotient by 7.