

**2021 No. 249**

**COUNCIL TAX**

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

<i>Made</i> - - - -	<i>23rd June 2021</i>
<i>Laid before the Scottish Parliament</i>	<i>25th June 2021</i>
<i>Coming into force</i> - -	<i>1st April 2022</i>

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

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<sup>(a)</sup> 1992 c.14. Section 80 was amended by paragraph 176 of schedule 13 of the Local Government etc. (Scotland) Act 1994 (c.39) and paragraph 7(3) of the schedule of S.I. 2013/388. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

## PART 1

### General

#### CHAPTER 1

##### General

#### **Citation and commencement**

1. These Regulations may be cited as the Council Tax Reduction (Scotland) Regulations 2021 and come into force on 1 April 2022.

#### CHAPTER 2

##### Application

#### **Years to which these Regulations apply**

2. Subject to regulation 97 (transitional provision) and regulation 101 (savings provision), the financial year commencing 1 April 2022 and each subsequent financial year are prescribed as the years for which these Regulations apply.

#### **Application**

3.—(1) These Regulations apply to a person who—

- (a) has not attained pensionable age, or
- (b) has attained pensionable age if that person, or any partner of that person, is a person on a qualifying income-related benefit or universal credit, except as provided for by paragraphs (2) and (3).

(2) 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 pensionable age 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(a), or
- (b) the person awarded universal credit was not entitled to that award.

(3) These Regulations do not apply to a couple, only one of whom has reached pensionable age, if that person is in receipt of an award of state pension credit and their entitlement to state pension credit is not precluded by 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).

(4) Other than as provided for by paragraph (1)(b), these Regulations do not apply in relation to a person whose partner has attained pensionable age.

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

(b) S.I. 2014/1230. Sub-paragraph (b) was amended and head (iv) was inserted by S.I. 2020/655. There is another amendment to regulation 5 that is not relevant to these Regulations.

## CHAPTER 3

### Interpretation

#### Interpretation

- 4.**—(1) In these Regulations, unless the context requires otherwise—
- “the 1973 Act” means the Employment and Training Act 1973(**a**),
- “the 1992 Act” means the Social Security Contributions and Benefits Act 1992(**b**),
- “the 2007 Act” means the Welfare Reform Act 2007(**c**),
- “the 2012 Act” means the Welfare Reform Act 2012(**d**),
- “the 2018 Act” means the Social Security (Scotland) Act 2018(**e**),
- “the 2012 Regulations” means the Council Tax Reduction (Scotland) Regulations 2012(**f**),
- “the 2013 Regulations” means the Universal Credit Regulations 2013(**g**),
- “the Act” means the Local Government Finance Act 1992,
- “adoption leave” means a period of absence from work on ordinary or additional adoption leave by virtue of section 75A or 75B of the Employment Rights Act 1996(**h**),
- “applicable amount” means the amount calculated in accordance with Part 5 and schedule 1,
- “applicant” means a person applying for council tax reduction or, as the case may be, a person who is entitled to council tax reduction whose entitlement is or may be subject to re-assessment by the relevant authority,
- “application” means an application for council tax reduction,
- “appropriate maximum council tax reduction” means the maximum council tax reduction applicable to a person calculated in accordance with regulation 79,
- “armed forces independence payment” means armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011(**i**),
- “assessment period” has the meaning given by regulation 44,
- “attendance allowance” means—
- (a) an attendance allowance under Part 3 of the 1992 Act(**j**),
- (b) an increase of disablement pension under section 104 or 105 of the 1992 Act,
- (c) a payment by virtue of article 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983(**k**) or any analogous payment, or
- (d) any payment based on need for attendance which is paid as part of a war disablement pension,

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(a) 1973 c.50.

(b) 1992 c.4.

(c) 2007 c.5.

(d) 2012 c.5.

(e) 2018 asp 9.

(f) S.S.I. 2012/303, which were amended by S.S.I. 2013/48, S.S.I. 2013/142, S.S.I. 2013/218, S.S.I. 2013/287, S.S.I. 2014/35, S.S.I. 2014/90, S.S.I. 2015/46, S.S.I. 2016/81, S.S.I. 2016/253, S.S.I. 2017/41, S.S.I. 2017/326, S.S.I. 2018/69, S.S.I. 2018/211, S.S.I. 2018/295, S.S.I. 2019/29, S.S.I. 2019/133, S.S.I. 2019/325, S.S.I. 2020/25, S.S.I. 2020/64, S.S.I. 2020/108, S.S.I. 2020/413, S.S.I. 2021/12, S.S.I. 2021/51, S.S.I. 2021/73, S.S.I. 2021/122, S.S.I. 2021/137 and S.I. 2014/3255, S.I. 2015/971, S.I. 2015/1985 and S.I. 2020/354.

(g) S.I. 2013/376.

(h) 1996 c.18. Sections 75A and 75B were inserted by section 3 of the Employment Act 2002 (c.22) and amended by paragraphs 33 and 34, respectively, of schedule 1 of the Work and Families Act 2006 (c.18), regulation 145 of the Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016/413 (W. 131), sections 118 and 121 of the Children and Families Act 2014 (c.6) and S.I. 2018/1413.

(i) S.I. 2011/517.

(j) Part 3 was relevantly amended by section 66 of the Welfare Reform and Pensions Act 1999 (c.30), section 60 of the 2007 Act and S.I. 2011/2426.

(k) S.I. 1983/686, which was relevantly amended by S.I. 1984/1675 and 2001/420.

“the benefit Acts” means the 1992 Act, the Armed Forces (Pensions and Compensation) Act 2004(a) insofar as it relates to armed forces independence payment, Part 4 (personal independence payment) of the 2012 Act(b), the Jobseekers Act, the 2007 Act and the Pensions Act 2014(c),

“blind” means certified as severely sight impaired or blind by a consultant ophthalmologist or consultant paediatrician,

“carer’s allowance” means an allowance under section 70 of the 1992 Act(d),

“child” means a person under the age of 16 and where section 145A of the 1992 Act (entitlement to child benefit after death of a child or qualifying young person)(e) or regulation 37 of the 2013 Regulations (run-on after a death)(f) applies, then during (and only during) the period prescribed under subsection (1) of that section or the periods set out in that regulation—

- (a) references in these Regulations to a child include the child in respect of whom there is entitlement under that section or regulation, and
- (b) for the purposes of these Regulations the circumstances pertaining to the child at the date of their death are deemed to continue,

“child benefit” means child benefit under section 141 of the 1992 Act(g),

“child disability payment” means—

- (a) disability assistance for children and young people given in accordance with the Disability Assistance for Children and Young People (Scotland) Regulations 2021 (and references to the care component of that payment are to be construed in accordance with regulation 2 of those Regulations)(h), and
- (b) where short-term assistance is being given under Part 1 of the schedule of those Regulations (short-term assistance) the “earlier determination” referred to in paragraph 1(1)(a) of that schedule is deemed to continue in payment for the purposes of these Regulations,

“child tax credit” means a child tax credit under section 8 of the Tax Credits Act 2002(i),

“civil partnership” means a civil partnership which exists under or by virtue of the Civil Partnership Act 2004(j), and “civil partner” is to be construed accordingly,

“close relative” means a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, sister or, if any of the preceding persons is one member of a couple, the other member of that couple,

“concessionary payment” means a payment made under arrangements made by the Secretary of State with the consent of the Treasury which is charged either to the National Insurance Fund or to a Departmental Expenditure Vote to which payments of benefit or tax credits under the benefit Acts or the Tax Credits Act 2002 are charged,

“contributory employment and support allowance” means a contributory allowance under Part 1 of the 2007 Act(k),

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- (a) 2004 c.32.
  - (b) Part 4 was relevantly amended by S.I. 2018/1084.
  - (c) 2014 c.19.
  - (d) Section 70 was amended by S.I. 1994/2556, S.I. 2002/1457, S.I. 2011/2426, S.I. 2013/388, S.I. 2013/796 and S.I. 2015/1754.
  - (e) Section 145A was inserted by section 55 of the Tax Credits Act 2002 (c.21) and amended by paragraph 48 of schedule 24 of the Civil Partnership Act 2004 (c.33), paragraph 12 of schedule 1 of the Child Benefit Act 2005 (c.6) and S.I. 2019/1458.
  - (f) Regulation 37 was amended by S.I. 2014/597.
  - (g) Section 141 was amended by section 1 of the Child Benefit Act 2005.
  - (h) S.S.I. 2021/174.
  - (i) 2002 c.21. Section 8 was repealed by paragraph 1 of schedule 14 of the 2012 Act, subject to savings provisions in article 3 of S.I. 2019/167.
  - (j) 2004 c.33.
  - (k) Part 1 was relevantly amended by section 52 of the 2012 Act.



“council tax reduction” means a reduction in liability for council tax calculated in accordance with these Regulations and includes, where appropriate, a reduction awarded under earlier Regulations making analogous provision,

“course of study” means any course of study, whether or not a grant is made for attending or undertaking it, and includes a sandwich course within the meaning prescribed in regulation 4(2) of the Education (Student Loans) (Scotland) Regulations 2007(a), regulation 2(10) of the Education (Student Support) Regulations 2011(b) or regulation 2(10) of the Education (Student Support) (No. 2) Regulations (Northern Ireland) 2009(c), as the case may be,

“date of application” means the date on which the application is made, or treated as made, for the purposes of regulations 9(9) (occupation of a dwelling as a home), 24 (applications: universal credit claimants), 25 (telephone applications) and 26 (date on which an application is made),

“disability living allowance” means a disability living allowance under section 71 of the 1992 Act(d),

“discount” means discount under section 79 of the Act (discount of the amount of council tax payable)(e),

“earned income” has the meaning given by regulation 45 (meaning of “earned income”),

“earnings” has the meaning given by regulations 49 (employed earnings (applicants with an award of universal credit)), 50 (employed earnings (applicants with no award of universal credit)) or, as the case may be, regulation 51 (self-employed earnings),

“educational establishment” has the meaning given by section 135(1) of the Education (Scotland) Act 1980(f),

“employed earner” means a person who has employed earnings,

“employed earnings” has the meaning given by regulations 49 (employed earnings (applicants with an award of universal credit)) and 50 (employed earnings (applicants with no award of universal credit)),

“employment and support allowance” means employment and support allowance under Part 1 of the 2007 Act(g),

“Employment and Support Allowance Regulations” means the Employment and Support Allowance Regulations 2008(h),

“Employment and Support Allowance (Existing Awards) Regulations” means the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010(i),

“enactment” includes an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament,

“extended council tax reduction” means an extension of a period of entitlement to council tax reduction under regulation 80 (extended council tax reduction),

“extended council tax reduction (qualifying contributory benefits)” means an extension of a period of entitlement to council tax reduction under regulation 85 (extended council tax reduction (qualifying contributory benefits)),

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(a) S.S.I 2007/154.

(b) S.I. 2011/1986.

(c) S.I. 2009/373, which was relevantly amended by S.I. 2010/383.

(d) Section 71 was amended by section 67 of the Welfare Reform and Pensions Act 1999 (c.30).

(e) Section 79 was amended by S.S.I. 2005/51.

(f) 1980 c.44. Section 135 was relevantly amended by section 82(2) of, and schedule 11 of the Self-Governing Schools etc. (Scotland) Act 1989 (c.3) and paragraph 7(7) of schedule 9 and schedule 10 of the Further and Higher Education (Scotland) Act 1992 (c.37).

(g) Part 1 was relevantly amended by sections 50, 52 and 53 of the 2012 Act.

(h) S.I. 2008/794.

(i) S.I. 2010/1907.

“family” means—

- (a) a couple,
- (b) a couple and a child or young person who is a member of the same household and for whom one or both of the members of the couple is responsible, or
- (c) subject to regulation 37 (circumstances in which income and capital of a non-dependant is to be treated as applicant’s), a person who is not a member of a couple and a child or young person who is a member of the same household for whom the person is responsible,

“first authority” means the relevant authority to which a mover was liable to pay council tax for the dwelling that person resided in immediately before moving to the dwelling in the area of the second authority,

“full-time course of study” means a full-time course of study which—

- (a) is not funded in whole or in part by the Scottish Ministers at a college of further education or by the Young People’s Learning Agency for England, the Secretary of State or by the Welsh Ministers,
- (b) is a course of higher education and is funded in whole or in part by the Scottish Ministers,
- (c) is not higher education and is funded in whole or in part by the Scottish Ministers at a college of further education and involves—
  - (i) more than 16 hours per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff according to the number of hours set out in a document signed on behalf of the college, or
  - (ii) 16 hours or less per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff and it involves additional hours using structured learning packages supported by the teaching staff where the combined total of hours exceeds 21 hours per week, according to the number of hours set out in a document signed on behalf of the college, or
- (d) is funded in whole or in part by the Young People’s Learning Agency for England, the Secretary of State or by the Welsh Ministers if it involves more than 16 guided learning hours per week for the student in question, according to the number of guided learning hours per week for that student set out—
  - (i) in the case of a course funded by the Young People’s Learning Agency for England or the Secretary of State, in the student’s learning agreement signed on behalf of the establishment which is funded by either of those bodies for the delivery of that course, or
  - (ii) in the case of a course funded by the Welsh Ministers, in a document signed on behalf of the establishment which is funded by the Welsh Ministers for the delivery of that course,

“full-time student” means a person attending or undertaking a full-time course of study(a),

“higher education” means higher education within the meaning of Part 2 of the Further and Higher Education (Scotland) Act 1992(b),

“housing association” means a housing association as defined in section 1(1) of the Housing Associations Act 1985(c) or section 338(1) of the Housing (Scotland) Act 1987(d),

“housing benefit” means housing benefit under section 130 of the 1992 Act(e),

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(a) See paragraph (2) to (4).

(b) 1992 c.37. See section 38 of that Act, which was amended by paragraph 9 of schedule 5 of the Education (Scotland) Act 1996 (c.48).

(c) 1985 c.69. Section 1(1) was amended by sections 1 and 3 of, and paragraph 6 of schedule 2 of, the Housing (Scotland) Act 1988 (c.43), paragraph 11 of schedule 10 of the Housing (Scotland) Act 2001 (asp 10), paragraph 36 of schedule 4 of the Co-operative and Community Benefit Societies Act 2014 (c.14) and S.I. 1996/2325.

(d) 1987 c.26. There are amendments to section 338 which are not relevant to these Regulations.

(e) 1992 c.4.

“ILF Scotland” means the company limited by guarantee under the name ILF Scotland, registered under number SC 500075,

“incapacity benefit” means incapacity benefit under section 30A, 40 or 41 of the 1992 Act(a),

“an income-based jobseeker’s allowance” and “a joint-claim jobseeker’s allowance” have the same meaning as they have in the Jobseekers Act by virtue of section 1(4) of that Act(b) (as it applies apart from the amendments made by Part 1 of schedule 14 of the 2012 Act that remove references to an income-based jobseeker’s allowance),

“income-related employment and support allowance” means an income-related allowance under Part 1 of the 2007 Act(c),

“income support” means income support under section 124 of the 1992 Act,

“Income Support Regulations” means the Income Support (General) Regulations 1987(d),

“ITEPA” means the Income Tax (Earnings and Pensions) Act 2003(e),

“Jobseekers Act” means the Jobseekers Act 1995(f),

“jobseeker’s allowance” means an allowance under the Jobseekers Act as amended by Part 1 of schedule 14 of the 2012 Act (removing references to an income-based allowance),

“Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations 1996(g),

“limited capability for work” has the meaning given in section 1(4) of the 2007 Act,

“limited capability for work-related activity” has the meaning given in section 2(5) of the 2007 Act,

“local authority” means—

- (a) in relation to England, a county council, a district council, a parish council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly,
- (b) in relation to Wales, a county council, a county borough council or a community council,
- (c) in relation to Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(h),

“lone parent” means a person who has no partner and who is responsible for and a member of the same household as a child or young person,

“maternity leave” means a period during which a woman is absent from work because she is pregnant or has given birth to a child, and at the end of which she has a right to return to work either under the terms of her contract of employment or under Part 8 of the Employment Rights Act 1996(i),

“medically approved” means certified by a medical practitioner,

“mover” means a person who moves from a dwelling in which the person is resident, and in respect of which the person is liable to pay council tax to the first authority, to reside in a dwelling in the area of the second authority and any reference to a mover is to be construed as including a reference to the mover’s partner,

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- (a) Section 30A was inserted by section 1 of the Social Security (Incapacity for Work) Act 1994 (c.18) (“the 1994 Act”) and amended by section 64 of the Welfare Reform and Pensions Act 1999 (c.30) and paragraph 14 of schedule 24 of the Civil Partnership Act 2004 (c.33). Section 40 was substituted by paragraph 8 of schedule 1 of the 1994 Act. Section 41 was substituted by paragraph 9 of schedule 1 of the 1994 Act and amended by paragraph 21 of schedule 4 of the Pensions Act 1995 (c.26).
  - (b) Section 1(4) was relevantly amended by paragraph 2 of schedule 7 of the Welfare Reform and Pensions Act 1999 (c.30). Paragraph (5) of this regulation makes further provision in relation to these allowances.
  - (c) Paragraph (6) of this regulation makes further provision in relation to this allowance.
  - (d) S.I. 1987/1967.
  - (e) 2003 c.1.
  - (f) 1995 c.18.
  - (g) S.I. 1996/207.
  - (h) 1994 c.39.
  - (i) 1996 c.18. Part 8 was substituted by Part 1 of schedule 4 of the Employment Relations Act 1999 (c.26) and relevantly amended by S.I. 2002/2866, paragraphs 31, 32 and 33 of schedule 1 of the Work and Families Act 2006 (c.18), sections 117, 118, 121 and 122 of the Children and Families Act 2014, S.I. 2016/413 and S.I. 2018/1413.

“new dwelling” means, for the purposes of the definition of “second authority” and regulations 83 (extended council tax reduction: movers) and 88 (extended council tax reduction (qualifying contributory benefits): movers) the dwelling to which an applicant has moved, or is about to move, in which the applicant is or will be resident,

“non-dependant” has the meaning given by regulation 8,

“paid work” means work done for payment or in expectation of payment and does not include being engaged by a charitable or voluntary organisation, or as a volunteer, in circumstances in which the payment received by or due to be paid to the person is in respect of expenses,

“parental bereavement leave” means leave under section 80EA of the Employment Rights Act 1996(a),

“partner”, except in regulation 76, where a person is a member of a couple, means the other member of that couple,

“paternity leave” means a period of absence from work on paternity leave by virtue of section 80A or 80B of the Employment Rights Act 1996(b),

“patient” means a person who is undergoing medical or other treatment as an in-patient in any hospital or similar institution,

“payment” includes part of a payment,

“pensionable age” is to be determined in accordance with the rules in paragraph 1 of schedule 4 of the Pensions Act 1995(c),

“personal independence payment” has the meaning given by Part 4 of the 2012 Act,

“personal pension scheme” means—

- (a) a personal pension scheme as defined by section 1 of the Pension Schemes Act 1993(d),
- (b) an annuity contract or trust scheme approved under section 620 or 621 of the Income and Corporation Taxes Act 1988(e) or a substituted contract within the meaning of section 622(3) of that Act(f) which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(f) of schedule 36 of the Finance Act 2004(g), or
- (c) a personal pension scheme approved under Chapter 4 of Part 14 of the Income and Corporation Taxes Act 1988(h) which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(g) of schedule 36 of the Finance Act 2004,

“qualifying contributory benefit” means—

- (a) severe disablement allowance under section 68 of the 1992 Act(i),
- (b) incapacity benefit, or
- (c) contributory employment and support allowance,

“qualifying income-related benefit” means—

- (a) income support,

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- (a) 1996 c.18. Section 80EA is inserted by paragraph 2 of the schedule of the Parental Bereavement Leave and Pay Act 2018 (c.24).
  - (b) Sections 80A and 80B were inserted by sections 1 and 3 of the Employment Act 2002 (c.22) and amended, respectively, by paragraphs 35 and 36 of schedule 1 of the Work and Families Act 2006 (c.18), sections 118, 121, 128 and paragraphs 32 and 33 of schedule 7 of the Children and Families Act 2014 and S.I. 2016/413.
  - (c) 1995 c.26. Paragraph 1 was amended by paragraph 39 of schedule 2 of the State Pension Credit Act 2002 (c.16), paragraph 13 of schedule 3 of the 2007 Act, paragraph 4 of schedule 3 of the Pensions Act 2007 (c.22), section 1 of the Pensions Act 2011 (c.19), and section 26 and paragraph 30 of schedule 12 of the Pensions Act 2014 (c.19).
  - (d) 1993 c.48. Section 1 was amended by section 239 of the Pensions Act 2004 (c.35), paragraph 1 of schedule 27 of the Finance Act 2007 (c.11), S.I. 2007/3014 and S.I. 2019/192.
  - (e) 1988 c.1. Sections 620 and 621 were repealed by Part 3 of schedule 42 of the Finance Act 2004 (c.12) subject to transitional and savings provisions in schedule 36 of the Finance Act 2004.
  - (f) Section 622 was repealed by Part 3 of schedule 42 of the Finance Act 2004 (c.12) subject to transitional and savings provisions in schedule 36 of the Finance Act 2004.
  - (g) 2004 c.12.
  - (h) Chapter 4 was repealed by Part 3 of schedule 42 of the Finance Act 2004 (c.12) subject to transitional and savings provisions in schedule 36 of the Finance Act 2004.
  - (i) Section 68 was repealed by Part 4 of schedule 13 of the Welfare Reform and Pensions Act 1999 (c.30) subject to savings provisions in regulation 4 of S.I. 2000/2958.

- (b) income-based jobseeker’s allowance, or
  - (c) income-related employment and support allowance,
- “qualifying income-related benefit claimant” means an applicant who is, or who has a partner who is, on one or more qualifying income-related benefits and is not on universal credit,
- “reduction week” means a period of 7 consecutive days commencing on a Monday and ending on a Sunday,
- “relevant authority” means a local authority administering council tax reduction,
- “relevant childcare charges” has the meaning given by regulation 77(6) (treatment of childcare charges) or, as the case may be, regulation 78(2) and (3) (treatment of childcare charges (applicants with an award of universal credit)),
- “relevant information” has the meaning given by section 131(12) of the 2012 Act,
- “remunerative work” has the meaning given by regulation 10 (remunerative work),
- “residential accommodation” means accommodation which is provided in—
- (a) a care home, which in Scotland means a care home service within the meaning given by paragraph 2 of schedule 12 of the Public Services Reform (Scotland) Act 2010(a) and in England and Wales has the meaning given by section 3 of the Care Standards Act 2000(b),
  - (b) an independent hospital, which—
    - (i) in Scotland, means an independent health care service as defined in section 10F(1)(a) and (b) of the National Health Service (Scotland) Act 1978(c),
    - (ii) in England, means a hospital as defined by section 275 of the National Health Service Act 2006(d) that is not a health service hospital as defined by that section, and
    - (iii) in Wales, has the meaning assigned to it by section 2 of the Care Standards Act 2000(e),
  - (c) an establishment run by the Abbeyfield Society or a body, whether corporate or unincorporated, which is affiliated to that Society, or
  - (d) an establishment managed or provided by a body incorporated by Royal Charter, or constituted by Act of Parliament or by Act of the Scottish Parliament, other than a local social services authority,
- “second adult” has the meaning given to it in schedule 2 (amount of second adult rebate) and “second adult rebate” means the amount calculated in accordance with regulation 91 (second adult rebate) and schedule 2,
- “second authority” means the local authority to which a mover is liable to pay council tax for the new dwelling,
- “self-employed earner” means a person who has self-employed earnings,
- “self-employed earnings” has the meaning given by regulation 51 (self-employed earnings),
- “shared parental leave” means leave by virtue of section 75E or 75G of the Employment Rights Act 1996(f),
- “state pension credit” means state pension credit under the State Pension Credit Act 2002(g),

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(a) 2010 asp 8.

(b) 2000 c.14. Section 3 was amended by paragraph 4 of schedule 5 of the Health and Social Care Act 2008 (c.14) and paragraph 3 of schedule 3 of the Regulation and Inspection of Social Care (Wales) Act 2016.

(c) 1978 c.29. Section 10F was inserted by section 108 of the Public Services Reform (Scotland) Act 2010 (asp 8).

(d) 2006 c.41.

(e) 2000 c.14. Section 2 was relevantly amended by section 106 of the Health and Social Care (Community Health and Standards) Act 2003 (c.43), paragraph 199 of schedule 1 of the National Health Service (Consequential Provisions) Act 2006 (c.43), paragraph 3 of schedule 5 of the Health and Social Care Act 2008 (c.14) and S.I. 2002/325.

(f) Section 75G was amended by section 117 of the Children and Families Act 2014 and S.I. 2016/413.

(g) 2002 c.16.

“statutory adoption pay” means statutory adoption pay under section 171ZL of the 1992 Act(a),

“statutory maternity pay” means statutory maternity pay under section 164 of the 1992 Act(b),

“statutory parental bereavement pay” means statutory parental bereavement pay under section 171ZZ6 of the 1992 Act(c),

“statutory paternity pay” means statutory paternity pay payable under Part 12ZA of the 1992 Act(d),

“statutory shared parental pay” means statutory shared parental pay under section 171ZU or 171ZV of the 1992 Act(e),

“statutory sick pay” means statutory sick pay under section 151 of the 1992 Act(f),

“student” means a person, other than a person in receipt of a training allowance, who is attending or undertaking—

(a) a course of study at an educational establishment, or

(b) a qualifying course, within the meaning of regulation 17A of the Jobseeker’s Allowance Regulations(g),

“student income” is a type of unearned income, and has the meaning given by regulation 59,

“student loan” means a loan towards a student’s maintenance pursuant to section 73 of the Education (Scotland) Act 1980(h), any Regulations made under section 22 of the Teaching and Higher Education Act 1998(i) or article 3 of the Education (Student Support) (Northern Ireland) Order 1998(j) and includes a young student’s bursary paid under regulation 4(1)(c) of the Students’ Allowances (Scotland) Regulations 2007(k),

“the Thalidomide Trust” means the registered charity of that name (number 266220) established for the purpose of giving relief and assistance to disabled persons whose disabilities were caused by the fact that their mother had taken a preparation containing the drug known as Thalidomide during pregnancy,

“training allowance” means an allowance (whether by way of periodical grants or otherwise) payable—

(a) out of public funds by a Government department or by or on behalf of Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise, the Secretary of State, the Young People’s Learning Agency for England, or the Welsh Ministers,

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(a) Section 171ZL was inserted by section 4 of the Employment Act 2002 (c.22) and amended by section 121 Children and Families Act 2014, S.I. 2006/2012, S.I. 2011/1740, S.I. 2016/413 and S.I. 2019/1514.

(b) Section 164 was amended by paragraph 12 of schedule 1 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2) and section 20 of, and paragraph 6 of schedule 7 and Part 1 of schedule 8 of the Employment Act 2002 (c.22).

(c) Section 171ZZ6 was inserted by paragraph 5 of the schedule of the Parental Bereavement Leave and Pay Act 2018.

(d) Part 12ZA was inserted by section 2 of the Employment Act 2002 and amended by paragraph 183 of schedule 6 of the Income Tax (Earnings and Pensions) Act 2003 (c.1), sections 6 to 10 of, and paragraphs 10 to 20 of schedule 1 of, the Work and Families Act 2006 (c.18), paragraph 149 of schedule 1 of the National Health Service (Consequential Provisions) Act 2006 (c.43), section 63 of the 2012 Act, paragraph 61 of schedule 14 of the Health and Social Care Act 2012 (c.7), sections 123, 125 and paragraphs 10, 11, 13, 16, 17, 18, 19, 20 and 21 of schedule 7 of the Children and Families Act 2014, S.I. 2006/1031 and S.I. 2016/413.

(e) Sections 171ZU and 171ZV were inserted by section 119(1) of the Children and Families Act 2014 and amended by S.I. 2016/413.

(f) Section 151 was amended by paragraph 34 of schedule 1 of the Social Security (Incapacity for Work) Act 1994 (c.18), paragraph 9 of schedule 1 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2) and section 41(1) of the Coronavirus Act 2020 (c.7).

(g) Regulation 17A was inserted by S.I. 1998/1274 and amended by S.I. 1999/3083, S.I. 2008/1826 and S.I. 2012/2568.

(h) 1980 c.44. Section 73 was amended by section 73 of the Self-Governing Schools etc. (Scotland) Act 1989 (c.39) and section 3(2) of the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp 6).

(i) 1998 c.30. Section 22 was amended by section 146(2) of, and schedule 11 of the Learning and Skills Act 2000 (c.21), paragraph 236 of schedule 6 of the Income Tax (Earnings and Pensions) Act 2003 (c.1), section 147 of the Finance Act 2003 (c.14), sections 42 and 43 of, and schedule 7 of, the Higher Education Act 2004 (c.8), section 257 of the Apprenticeships, Skills, Children and Learning Act 2009 (c.22), section 76 of the Education Act 2011 (c.21), section 88 of the Higher Education and Research Act 2017 (c.29) and S.I. 2013/1881.

(j) S.I. 1998/1760 (N.I. 14), to which there are amendments not relevant to these Regulations.

(k) S.S.I. 2007/153.

- (b) to a person for that person's maintenance or in respect of a member of the person's family, and
- (c) for the period, or part of the period, during which the person is following a course of training or instruction provided by, or in pursuance of arrangements made with, that department or approved by that department in relation to the person or so provided or approved by or on behalf of the Secretary of State, Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise or the Welsh Ministers,

but it does not include an allowance paid by any Government department to or in respect of a person by reason of the fact that that person is following a course of full-time education, other than under arrangements made under section 2 of the 1973 Act, or is training as a teacher,

“training course” means a course of training or instruction provided wholly or partly by or on behalf of or in pursuance of arrangements made with, or approved by or on behalf of, Skills Development Scotland, Scottish Enterprise, Highlands and Islands Enterprise, a government department or the Secretary of State,

“unearned income” has the meaning given by regulation 57 (meaning of “unearned income”),

“universal credit” has the meaning given by section 1 of the 2012 Act,

“voluntary organisation” means a body, other than a public or local authority, the activities of which are carried on otherwise than for profit,

“war disablement pension” means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of ITEPA(a),

“welfare fund” means any fund maintained by a local authority in terms of section 1 of the Welfare Funds (Scotland) Act 2015(b),

“working tax credit” means a working tax credit under section 10 of the Tax Credits Act 2002(c),

“Working Tax Credit Regulations” means the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002(d), and

“young person” has the meaning given in regulation 6.

(2) For the purposes of the definition of “full-time student” in paragraph (1), a person is to be regarded as attending or, as the case may be, undertaking a full-time course of study—

- (a) subject to paragraph (3), in the case of a person attending or undertaking a part of a modular course which would be a full-time course of study for the purposes of this Part, for the period beginning on the day on which that part of the course starts and ending—
  - (i) on the last day on which that person is registered with the educational establishment as attending or undertaking that part as a full-time course of study, or
  - (ii) on such earlier date (if any) as the person finally abandons the course or is dismissed from it, and
- (b) in any other case, throughout the period beginning on the date on which that person starts attending or undertaking the course and ending on the last day of the course or on such earlier date, if any, as the person finally abandons the course or is dismissed from it.

(3) The period referred to in paragraph (2)(a) includes—

- (a) where a person has failed examinations or has failed to successfully complete a module relating to a period when the person was attending or undertaking a part of the course as a full-time course of study, any period in respect of which the person attends or undertakes the course for the purpose of retaking those examinations or that module, and
- (b) any period of vacation within the period specified in that paragraph or immediately following that period except where the person has registered with the educational

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(a) Section 639(2) was inserted by section 19 of the Finance Act 2005 (c.7).

(b) 2015 asp 5.

(c) 2002 c.21.

(d) S.I. 2002/2005.

establishment to attend or undertake the final module in the course and the vacation immediately follows the last day on which the person is required to attend or undertake the course.

(4) In paragraph (2), “modular course” means a course of study which consists of two or more modules, the successful completion of a specified number of which is required before a person is considered by the educational establishment to have completed the course.

(5) For the purposes of these Regulations, a person is on an income-based jobseeker’s allowance on any day in respect of which an income-based jobseeker’s allowance is payable to that person and on any day—

- (a) which is a waiting day for the purposes of paragraph 4 of schedule 1 of the Jobseeker’s Act and which falls immediately before a day in respect of which an income-based jobseeker’s allowance is payable to the person, or
- (b) in respect of which an income-based jobseeker’s allowance or a joint-claim jobseeker’s allowance would be payable but for a restriction imposed pursuant to section 6B, 7, 8 or 9 of the Social Security Fraud Act 2001 (loss of benefit provisions)(a).

(6) For the purposes of these Regulations, a person is on an income-related employment and support allowance on any day in respect of which an income-related employment and support allowance is payable to the person and on any day—

- (a) in respect of which the person satisfies the conditions for entitlement to an income-related employment and support allowance but where the allowance is not paid as a consequence of section 18 of the 2007 Act (disqualification)(b), or
- (b) which is a waiting day for the purposes of paragraph 2 of schedule 2 of that Act and which falls immediately before a day in respect of which an income-related employment and support allowance is payable to the person or would be payable to the person but for section 18 of that Act.

(7) In these Regulations, where an amount is to be rounded to the nearest penny, a fraction of a penny is to be disregarded if it is less than half a penny and, if it is a half penny or more, is to be treated as a whole penny.

(8) For the purposes of these Regulations, two persons are to be taken to be estranged only if their estrangement constitutes a breakdown of the relationship between them.

(9) In these Regulations, references to any person in receipt of state pension credit includes a person who would be in receipt of state pension credit but for regulation 13 of the State Pension Credit Regulations 2002 (small amounts of state pension credit)(c).

## Couples

**5.—**(1) Subject to paragraphs (2) and (3), in these Regulations “couple” means two people who—

- (a) are members of the same household and—
  - (i) are married to each other,
  - (ii) are civil partners of each other, or

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(a) 2001 c.11. Section 6B was inserted by section 24 of the Welfare Reform Act 2009 (c.24) and amended by sections 113, 118 and 119, and paragraph 58 of schedule 2, paragraph 16 of schedule 3, paragraph 1 of schedule 14 and paragraph 117 of schedule 24, of the 2012 Act and schedule 24 of the Sentencing Act 2020 (c.17). Section 7 was amended by paragraph 45(2) of schedule 2 of the State Pension Credit Act 2002 (c.16), section 49(1) of, and paragraph 23(2) of schedule 3 of, the 2007 Act, paragraph 2 of schedule 4 and paragraph 1 of schedule 7, of the Welfare Reform Act 2009 (c.24) sections 118 and 119, paragraph 59 of schedule 2, paragraph 17 of schedule 3 and paragraph 1 of schedule 14 of the 2012 Act and S.I. 2011/2298. Section 8 was amended by paragraph 3 of schedule 4 and paragraph 1 of schedule 7 of the Welfare Reform Act 2009 (c.24) and section 113 and paragraph 12 of schedule 7 of the 2012 Act. Section 9 was amended by paragraph 46 of schedule 2 of the State Pension Credit Act 2002 (c.16), paragraph 23 of schedule 3 of the 2007 Act, paragraph 4 of schedule 4 of the Welfare Reform Act 2009 (c.24) and section 113, paragraph 61 of schedule 2 and paragraph 1 of schedule 14 of the 2012 Act.

(b) Section 18 was amended by paragraph 26 of schedule 3 of the 2012 Act.

(c) S.I. 2002/1792.



(b) are not married to each other but who are living together as if they were married to each other.

(2) Where two people (A and B) are parties to a polygamous marriage, the fact that they are married to each other is to be disregarded if—

(a) one of them (A) is a party to an earlier marriage that still subsists, and

(b) the other party to that earlier marriage (C) is a member of the same household,

and, accordingly, A and B are not to be treated as a couple for the purposes of these Regulations.

(3) In paragraph (2) “polygamous marriage” means a marriage during which a party to it is married to more than one person and which took place under the laws of a country which permits polygamy.

### **Meaning of “young person”**

**6.**—(1) In these Regulations “young person” means a person who falls within the definition of “qualifying young person” in regulation 5 of the 2013 Regulations (meaning of qualifying young person).

(2) Where section 145A of the 1992 Act (entitlement to child benefit after death of a child or qualifying young person)(a) applies in respect of a qualifying young person, within the meaning of Part 9 of that Act, and paragraph (3) does not apply, then during (and only during) the period prescribed under subsection (1) of that section—

(a) references in these Regulations to a young person include the qualifying young person who has died, and

(b) for the purposes of these Regulations the circumstances pertaining to the qualifying young person at the date of their death are deemed to continue.

(3) Where regulation 37 of the 2013 Regulations (run-on after a death)(b) applies in respect of a young person, then during each assessment period for which the universal credit award is calculated as if that person had not died—

(a) references in these Regulations to a young person include the young person who has died, and

(b) for the purposes of these Regulations the circumstances pertaining to the young person at the date of their death are deemed to continue.

### **When a person is responsible for a child or young person**

**7.**—(1) Whether a person is responsible for a child or young person for the purposes of these Regulations is determined as follows.

(2) A person is responsible for a child or young person who normally lives with them.

(3) But a person is not responsible for a young person if the two of them are living as a couple.

(4) Where a child or young person normally lives with two or more persons who are not a couple, only one of them is to be treated as responsible and that is the person who has the main responsibility.

(5) The persons mentioned in paragraph (4) may jointly nominate which of them has the main responsibility but the relevant authority may determine which person has the main responsibility—

(a) in default of agreement,

(b) if a nomination does not, in the opinion of the relevant authority, reflect the arrangements between those persons, or

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(a) Section 145A was inserted by section 55 of the Tax Credits Act 2002 (c.21) and amended by paragraph 48 of schedule 24 of the Civil Partnership Act 2004 (c.33), paragraph 12 of schedule 1 of the Child Benefit Act 2005 (c.6) and S.I. 2019/1458.

(b) Regulation 37 was amended by S.I. 2014/597.

(c) in a case to which paragraph (6) applies, if a nomination does not reflect the determination made by the Secretary of State.

(6) Where a person has an award of universal credit and the Secretary of State has made a determination under regulation 4(5) of the 2013 Regulations, the local authority may determine which person has the main responsibility in accordance with the Secretary of State's determination.

(7) A child or young person is to be treated as not being the responsibility of any person during any period when the child or young person is a prisoner.

(8) A child or young person is to be treated as not being the responsibility of any person during any period when the child or young person is being looked after by a local authority, unless the child or young person is placed with, or (ignoring any planned short breaks for respite purposes) continues to live with—

- (a) their parent,
- (b) a person with parental responsibility for them, or
- (c) a kinship carer approved under the Looked After Children (Scotland) Regulations 2009(a).

(9) Where a child or young person is temporarily absent from a person's household the person ceases to be responsible for the child or young person if—

- (a) the absence is expected to exceed, or does exceed, 6 months, or
- (b) the absence is from Great Britain and is expected to exceed, or does exceed, one month unless it is in circumstances where an absence of a person for longer than one month would be disregarded for the purpose of regulation 17(3) (persons treated as being in Great Britain) or regulation 18(3) or (4) (temporary absence from Great Britain).

### **Meaning of "non-dependant"**

**8.—**(1) In these Regulations, "non-dependant" means any person, except someone to whom paragraph (2) applies, who normally resides with an applicant or with whom an applicant normally resides.

(2) This paragraph applies to—

- (a) any member of the applicant's family,
- (b) a child or young person who is living with the applicant but for whom neither the applicant nor the applicant's partner is responsible by virtue of regulation 7 (when a person is responsible for a child or young person),
- (c) subject to paragraph (3), any person who, with the applicant, is jointly and severally liable to pay council tax in respect of a dwelling for any day under section 75 of the Act (persons liable to pay council tax)(b),
- (d) subject to paragraph (3), any person who is liable to make payments on a commercial basis to the applicant or any partner of the applicant in respect of the occupation of the dwelling, or
- (e) any person who lives with the applicant in order to care for the applicant or any partner of the applicant, or both of them, and who is engaged by a charitable or voluntary organisation which makes a charge to the applicant or the applicant's partner or both of them, for the services provided by that person.

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(a) S.S.I. 2009/210.

(b) Section 75 was amended by section 4 of the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp 6) and paragraph 19 of schedule 10 of the Housing (Scotland) Act 2001 (asp 10).

(3) Excepting persons to whom paragraph (2)(a), (b) and (e) refer, a person to whom any of the following sub-paragraphs applies is a non-dependant for the purpose of these Regulations—

- (a) a person who resides with another person to whom the first mentioned person is liable to make payments in respect of the dwelling and either—
  - (i) that other person is a close relative of the first mentioned person or of the first mentioned person's partner, or
  - (ii) the tenancy or other agreement between them is other than on a commercial basis,
- (b) a person whose liability to make payments in respect of the dwelling appears to the relevant authority to have been created to take advantage of the council tax reduction scheme, except someone who was, for any period within the 8 weeks prior to the creation of the agreement giving rise to the liability to make the payments, otherwise liable to make payments of rent in respect of the same dwelling, or
- (c) a person who becomes jointly and severally liable with the applicant for council tax in respect of a dwelling and who was, at any time during the period of 8 weeks prior to becoming liable, a non-dependant of one or more of the other residents in that dwelling who are liable for the council tax, unless the relevant authority is satisfied that the change giving rise to the new liability was not made to take advantage of the council tax reduction scheme.

### **Occupation of a dwelling as a home**

9.—(1) Subject to the following provisions of this regulation, a person is to be treated as occupying as a home the dwelling normally occupied as a home by that person or, if the person is a member of a family, by the person and that family, and is not to be treated as occupying any other dwelling as a home.

(2) In determining whether a dwelling is the dwelling normally occupied as a person's home for the purpose of paragraph (1) regard must be had to any other dwelling occupied by the person or any other person referred to in that paragraph whether or not that dwelling is in Scotland.

(3) Where a single applicant or a lone parent is a student, other than a full-time student to whom regulation 20(2) applies (persons not entitled to council tax reduction: students), or is on a training course, and is liable to make payments in respect of either—

- (a) the dwelling which that person occupies for the purpose of attending a course of study or a training course, or
- (b) the dwelling which the person occupies when not attending the course,

the person is to be treated as occupying as a home the dwelling in respect of which the person is liable to make those payments.

(4) Where a person has required to move into temporary accommodation because of the carrying out of essential repairs to the dwelling normally occupied as that person's home, and the person is liable to make payments in respect of either the dwelling which the person normally occupies as a home or the temporary accommodation, the person is to be treated as occupying as a home the dwelling in respect of which the person is liable to make payments.

(5) Where a person is required to reside in a dwelling which is a bail hostel or probation hostel approved by the Secretary of State under section 13 of the Offender Management Act 2007(a), that person is not to be treated as occupying that dwelling as a home.

(6) Where a person is liable to make payments in respect of two (but not more than two) dwellings, that person is to be treated as occupying both dwellings as a home—

- (a) for a period not exceeding 52 weeks, where the person left and remains absent from the former dwelling occupied as a home and for which the person is liable to make payments

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(a) 2007 c.21.

through fear of violence in that dwelling or by a former member of the person's family and—

- (i) the relevant authority is satisfied that it is reasonable that the person should be entitled to council tax reduction in respect of the former dwelling and the present dwelling occupied as a home, and
  - (ii) the person intends to return to occupy the former dwelling as a home,
- (b) in the case of a person who is a member of a couple, where the person or their partner is a student, other than a full-time student to whom regulation 20(2) (persons not entitled to council tax reduction: students) applies, or is on a training course, and—
- (i) it is unavoidable that the partners should occupy two separate dwellings, and
  - (ii) the local authority is satisfied that it is reasonable that the person should be entitled to council tax reduction in respect of both dwellings,
- (c) where, because of the number of persons in a family referred to in paragraph (1), those persons have been housed by a housing authority in two separate dwellings,
- (d) where a person has moved into a new dwelling occupied as a home, except where paragraph (4) applies, for a period not exceeding 4 reduction weeks from the date on which that person moved if the person could not reasonably have avoided liability in respect of two dwellings, or
- (e) where a person—
- (i) is treated by virtue of paragraph (8) as occupying a dwelling as that person's home and paragraph 8(c)(i) applies, and
  - (ii) the person has occupied another dwelling as a home on any day within the period of 4 weeks immediately preceding the date the person moved to the new dwelling,
- for a period not exceeding 4 reduction weeks immediately preceding the date on which the person moved.

(7) Where—

- (a) a person has moved into a dwelling for which that person is not liable to make payments ("the new dwelling"),
- (b) immediately before that move, the person was liable to make payments for the dwelling previously occupied as a home ("the former dwelling"), and
- (c) that liability continues after the person has moved into the new dwelling,

the person is to be treated as occupying the former dwelling as a home for a period not exceeding 4 reduction weeks if the person could not reasonably have avoided liability in respect of the former dwelling.

(8) Where—

- (a) a person moved into a dwelling and was liable to make payments in respect of that dwelling before moving in, and
- (b) either—
  - (i) that person applied for council tax reduction before moving in and no decision has been made or it was refused but a further application was made or treated as made within 4 weeks of the date on which the person moved into the new dwelling to occupy it as a home, or
  - (ii) the person notified the move to the new dwelling as a change of circumstances under regulation 31 (duty to notify changes of circumstances) before the move, and
- (c) the delay in moving into the dwelling was reasonable and—
  - (i) that delay was necessary in order to adapt the dwelling to meet the disability needs of the person or any member of the person's family,

- (ii) the move was delayed pending the outcome of an application—
  - (aa) under section 138 of the 1992 Act<sup>(a)</sup> for a social fund payment,
  - (bb) for a discretionary payment from a local authority, including in Scotland an application for a payment from a welfare fund,
  - (cc) to a local authority in exercise of the power in section 1 of the Localism Act 2011 (local authority’s general power of competence)<sup>(b)</sup> using funds provided by the Secretary of State, and in this sub-head local authority means a local authority within the meaning of section 8 of that Act, or
  - (dd) to the Welsh Ministers, or to a person acting on their behalf, for a payment made in exercise of the power in section 60 of the Government of Wales Act 2006 (promotion etc. of well-being)<sup>(c)</sup>,

to meet a need arising out of the move or in connection with setting up the home in the dwelling and either a member of the applicant’s family is aged 5 or under or the applicant’s applicable amount includes (or, where an applicant is a qualifying income-related benefit claimant, the applicant’s applicable amount would include, but for the application of regulation 13(11)) a premium under paragraph 3 (disabled child premium: applicants with no award of universal credit), 4 (disabled child premium: applicants with an award of universal credit), 11 (disability premium) or 13 (severe disability premium) of schedule 1 (applicable amounts) or a component under paragraph 21 (work-related activity component) or 22 (support component) of that schedule), or

- (iii) the applicant became liable to make payments in respect of the dwelling while a patient or in residential accommodation,

the person is to be treated as occupying the dwelling as a home for any period not exceeding 4 weeks immediately prior to the date on which the person moved into the dwelling.

(9) Where a person is treated by virtue of paragraph (8) as occupying a dwelling as a home in respect of the period before moving in, the person’s application for council tax reduction in respect of that dwelling is to be treated as having been made on the latest of—

- (a) in the case of an application in respect of which a decision has not yet been made, the date that application is or is treated as made in accordance with regulation 26 (date on which an application is made),
- (b) in the case of an application which was refused and a further application was or was treated as made in accordance with regulation 26 within 4 weeks of the date on which the person moved into the dwelling, the date on which the claim was refused or was treated as made, or
- (c) the date from which the person is treated as occupying the dwelling as a home by virtue of paragraph (8).

(10) Where a person to whom neither paragraph (6)(a) or (16)(c)(x) applies—

- (a) formerly occupied a dwelling but left and remains absent from it through fear of violence in the dwelling or by a person who was formerly a member of the family of that person, and
- (b) has an unavoidable liability to make payments in respect of that dwelling,

the person is to be treated as occupying the dwelling as a home for a period not exceeding 4 reduction weeks.

(11) This paragraph applies to a person who enters residential accommodation—

- (a) for the purpose of ascertaining whether the accommodation suits that person’s needs,

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(a) Section 138 was relevantly amended by section 70 of the Social Security Act 1998 (c.14), section 71 of the 2012 Act and section 23 of the Scotland Act 2016 (c.11).

(b) 2011 c.20.

(c) 2006 c.32.

- (b) with the intention of returning to the dwelling which is normally occupied by the person as a home should the residential accommodation prove not to suit the person's needs, and
- (c) while the part of the dwelling which is normally occupied by the person as a home is not let, or as the case may be, sublet.

(12) A person to whom paragraph (11) applies is to be treated as occupying the dwelling normally occupied as the person's home for a period not exceeding 13 weeks beginning from the first day the person enters residential accommodation, but a person is not to be treated as occupying that dwelling as a home if the total of all periods in residential accommodation exceeds 52 weeks.

(13) Subject to paragraph (17), a person is to be treated as occupying a dwelling as a home while that person is temporarily absent from the dwelling for a period not exceeding 13 weeks beginning from the first day of that absence from the home if—

- (a) the person intends to return to occupy the dwelling as a home,
- (b) the part of the dwelling normally occupied by the person has not been let or, as the case may be, sublet, and
- (c) the period of absence is unlikely to exceed 13 weeks.

(14) This paragraph applies to a person who is—

- (a) detained in custody pending sentence upon conviction or under a sentence imposed by a court, other than a person who is detained in hospital under the provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003(a), the Criminal Procedure (Scotland) Act 1995(b), the Mental Health Act 1983(c) or the Mental Health (Northern Ireland) Order 1986(d), and
- (b) on temporary release from a detention referred to in sub-paragraph (a) in accordance with rules made under the provisions of the Prisons (Scotland) Act 1989(e), the Prison Act 1952(f) or the Prison Act (Northern Ireland) 1953(g).

(15) Where paragraph (14) applies to a person, for any day when that person is on temporary release—

- (a) if the temporary release was immediately preceded by a period of temporary absence under paragraph (13) or (16), the person is to be treated as if continuing to be absent from the dwelling, despite any occupation of the dwelling,
- (b) for the purposes of paragraph (16)(c)(i), the person is to be treated as if remaining in detention, and
- (c) if the person does not fall within sub-paragraph (a), the person is to be treated as if not occupying a dwelling as a home despite any occupation of the dwelling.

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(a) 2003 asp 13.  
(b) 1995 c.46.  
(c) 1983 c.20.  
(d) S.I. 1986/595.  
(e) 1989 c.45.  
(f) 1952 c.52.  
(g) 1953 c.18.

(16) This paragraph applies to a person who is temporarily absent from the dwelling normally occupied by that person as a home and—

- (a) that person intends to return to occupy the dwelling as a home,
- (b) the part of the dwelling which is normally occupied by the person has not been let or, as the case may be, sublet,
- (c) the person is—
  - (i) detained in custody on remand pending trial or, as a condition of bail, required to reside—
    - (aa) in a dwelling other than the dwelling the person occupies as a home,
    - (bb) in premises approved under section 13 of the Offender Management Act 2007<sup>(a)</sup>, or
    - (cc) detained pending sentence upon conviction,
  - (ii) resident in a hospital or similar institution as a patient,
  - (iii) undergoing, or as the case may be, any partner of the person or dependant child of the person is undergoing, in the United Kingdom or elsewhere, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation,
  - (iv) following, in the United Kingdom or elsewhere, a training course,
  - (v) undertaking medically approved care of a person residing in the United Kingdom or elsewhere,
  - (vi) undertaking the care of a child whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care or medical treatment,
  - (vii) in the United Kingdom or elsewhere, receiving medically approved care provided in accommodation other than residential accommodation,
  - (viii) a student to whom paragraph (3) or (6)(b) does not apply,
  - (ix) receiving care provided in residential accommodation other than a person to whom paragraph (11) applies, or
  - (x) a person to whom paragraph (6)(a) does not apply and who left the dwelling occupied as that person's home through fear of violence in that dwelling or by a former member of the person's family, and
- (d) the period of absence is unlikely to exceed 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period.

(17) A person to whom paragraph (16) applies is to be treated as occupying the dwelling normally occupied as a home during any period of temporary absence, but the period during which the person is treated as occupying the dwelling must not exceed 52 weeks beginning from the first day of temporary absence.

### **Remunerative work**

**10.—**(1) Subject to the following provisions of this regulation, a person is to be treated for the purposes of these Regulations as engaged in remunerative work if that person is engaged, or, where hours of work fluctuate, is engaged on average, for not less than 16 hours a week, in work for which payment is made or which is done in expectation of payment.

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(a) 2007 c.21.

(2) Subject to paragraph (3), in determining the number of hours for which a person is engaged in work where that person's hours of work fluctuate, regard is to be had to the average of hours worked over—

- (a) if there is a recognisable cycle of work, the period of one complete cycle (including, where the cycle involves periods in which the person does no work, those periods but disregarding any other absences),
- (b) in any other case, the period of 5 weeks immediately prior to the date of application, or any other length of time as may, in the particular case, enable the person's weekly average hours of work to be determined more accurately.

(3) Where, for the purposes of paragraph (2)(a), a person's recognisable cycle of work at a school, other educational establishment or other place of employment is one year and includes periods of school holidays or similar vacations during which that person does not work, those periods and any other periods not forming part of such holidays or vacations during which the person is not required to work are to be disregarded in establishing the average hours for which the person is engaged in work.

(4) Where no recognisable cycle has been established in respect of a person's work, regard must be had to the number of hours or, where those hours will fluctuate, the average of the hours which the person is expected to work in a week.

(5) A person is to be treated as engaged in remunerative work during any period for which the person is absent from work referred to in paragraph (1) if the absence is either without good cause or by reason of a recognised, customary or other holiday.

(6) A person who is a qualifying income-related benefit claimant for more than 3 days in any reduction week is to be treated as not being in remunerative work in that week.

(7) A person is not to be treated as engaged in remunerative work on any day on which that person is on maternity leave, paternity leave, shared parental leave, parental bereavement leave or adoption leave or is absent from work because the person is ill.

(8) A person is not to be treated as engaged in remunerative work on any day on which the person is engaged in an activity in respect of which—

- (a) a sports award has been made, or is to be made, to the person, and
- (b) no other payment is made or is expected to be made to the person.

(9) In this regulation, "sports award" means an award made by one of the Sports Councils named in section 23(2) of the National Lottery etc. Act 1993(a) out of sums allocated to it for distribution under that section.

## PART 2

### Families and households

#### **Entitlement of only one member of a family**

**11.** The entitlement of one member of a family to council tax reduction in respect of a dwelling excludes entitlement to that reduction in respect of that dwelling for any other member of the family for the same period.

#### **Membership of a household**

**12.** The applicant and any partner of the applicant and, where the applicant or the applicant's partner is responsible for a child or young person that child or young person and any child of that

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(a) 1993 c.39. Section 23(2) was amended by S.I. 1996/3095, S.I. 1999/1563 and S.I. 2006/654.



child or young person, are to be treated as members of the same household even if temporarily absent from that household.

## PART 3

### Conditions of Entitlement to Council Tax Reduction

#### CHAPTER 1

##### Entitlement to Council Tax Reduction

###### Conditions of entitlement to council tax reduction

**13.**—(1) A person who is liable to pay council tax under section 75 of the Act<sup>(a)</sup> (a “relevant person”) is entitled to council tax reduction under this regulation in respect of a day if the conditions set out in paragraphs (3) and (4) are satisfied, the relevant person’s capital does not exceed the limit set by regulation 66 and—

- (a) each of the conditions set out in paragraphs (5) and (6) is satisfied, or
- (b) the condition set out in paragraph (7) is satisfied.

(2) A relevant person is not entitled to council tax reduction in respect of any day before the day on which that person’s entitlement to council tax reduction commences in accordance with regulation 33 (date on which entitlement is to begin).

(3) The conditions referred to in paragraph (1) are that the relevant person—

- (a) is for the day liable to pay council tax in respect of a dwelling in which that person resides as their sole or main residence,
- (b) is not a person to whom regulation 15 (persons not entitled to council tax reduction: absentees), 16 (persons not entitled to council tax reduction: persons treated as not being in Great Britain), 19 (persons not entitled to council tax reduction: persons subject to immigration control) or 20 (persons not entitled to council tax reduction: students) applies, and
- (c) makes an application for council tax reduction in accordance with Chapter 1 of Part 4 (applications).

(4) The condition referred to in paragraph (1) is that the amount of council tax reduction calculated under this regulation is not less than the amount of council tax reduction calculated under regulation 14 (conditions of entitlement to council tax reduction – dwellings in bands E to H).

(5) The condition referred to in paragraph (1)(a) is that there is an appropriate maximum council tax reduction in the case of the relevant person.

(6) The condition referred to in paragraph (1)(a) is that—

- (a) the day falls within a week in respect of which—
  - (i) the relevant person has no income, or
  - (ii) the relevant person’s income does not exceed the applicable amount, or
- (b) neither sub-paragraph (a)(i) or (ii) applies to the relevant person but amount A exceeds amount B where—
  - (i) amount A is the appropriate maximum council tax reduction in the relevant person’s case, and
  - (ii) amount B is  $2\frac{6}{7}$  per cent of the difference between the person’s income in respect of the week in which the day falls and the applicable amount.

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<sup>(a)</sup> Section 75 was amended by paragraph 19 of schedule 10 of the Housing (Scotland) Act 2001 (asp 10) and S.S.I. 2001/191.

- (7) The condition referred to in paragraph (1)(b) is that—
- (a) no other resident of the dwelling is liable to pay rent to the relevant person in respect of the dwelling, and
  - (b) the relevant person is entitled to second adult rebate because of the income or aggregate incomes of one or more residents of the dwelling.
- (8) For the purpose of paragraph (7) a resident of the dwelling other than the relevant person does not include a resident who—
- (a) falls to be disregarded for the purposes of discount in accordance with schedule 1 of the Act(a), or
  - (b) is a person described in regulation 92 (residents of a dwelling to whom regulation 13(7) does not apply).
- (9) Subject to paragraph (10), where a relevant person is entitled to council tax reduction in respect of a day, the amount to which the person is entitled is—
- (a) if paragraph (6)(a) applies, the amount which is the appropriate maximum council tax reduction in that person’s case,
  - (b) if paragraph (6)(b) applies, the amount found by deducting amount B from amount A, where “amount A” and “amount B” have the meanings given by that paragraph, and
  - (c) if paragraph (7) applies, the amount which is the appropriate second adult rebate in that person’s case.
- (10) Where a relevant person is entitled to council tax reduction in respect of a day and paragraphs (6) and (7) apply, the amount to which the person is entitled is whichever is the greater of—
- (a) the amount referred to in paragraph (9)(a) or, as the case may be, paragraph (9)(b), or
  - (b) the amount referred to in paragraph (9)(c).
- (11) Where a relevant person is a qualifying income-related benefit claimant—
- (a) for the purposes of paragraph (1)(a), the condition in paragraph (6) is deemed to be satisfied,
  - (b) for the purposes of paragraph (1)(b), the condition in paragraph (7) is deemed to be satisfied,
  - (c) paragraphs (9) and (10) do not apply, and
  - (d) the amount to which the relevant person is entitled is the amount which is the appropriate maximum council tax reduction in that person’s case.

#### **Conditions of entitlement to council tax reduction – dwellings in bands E to H**

**14.—**(1) A person who is liable to pay council tax under section 75 of the Act (a “relevant person”) is entitled to council tax reduction under this regulation in respect of a day if—

- (a) the conditions set out in paragraphs (3) to (5) are satisfied,
- (b) the amount of council tax reduction calculated under this regulation is greater than the amount of council tax reduction calculated under regulation 13, and
- (c) the relevant person’s capital does not exceed the limit set by regulation 66.

(2) A relevant person is not entitled to council tax reduction in respect of any day before the day on which that person’s entitlement to council tax reduction commences in accordance with regulation 33 (date on which entitlement is to begin).

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(a) Schedule 1 was amended by paragraph 152 of schedule 9 of the Powers of Criminal Courts (Sentencing) Act 2000 (c.6), paragraph 18 of schedule 3 of the Regulation of Care (Scotland) Act 2011 (asp 8), paragraph 152 of schedule 1 of the National Health Service (Consequential Provisions) Act 2006 (c.43), paragraph 123 of schedule 16 and schedule 17 of the Armed Forces Act 2006 (c.52), S.S.I. 2005/465, S.S.I. 2016/413 and S.S.I. 2018/195.

- (3) The conditions referred to in paragraph (1)(a) are that the relevant person—
- (a) is for the day liable to pay council tax in respect of a dwelling in valuation band E, F, G or H in which that person resides as their sole or main residence,
  - (b) is not a person to whom regulation 15 (persons not entitled to council tax reduction: absentees), 16 (persons not entitled to council tax reduction: persons treated as not being in Great Britain), 19 (persons not entitled to council tax reduction: persons subject to immigration control) or 20 (persons not entitled to council tax reduction: students) applies, and
  - (c) makes an application for council tax reduction in accordance with Chapter 1 of Part 4 (applications).
- (4) The condition referred to in paragraph (1)(a) is that there is an appropriate maximum council tax reduction in the case of the relevant person.
- (5) The condition referred to in paragraph (1)(a) is that—
- (a) the day falls within a week in respect of which—
    - (i) the relevant person has no income, or
    - (ii) the relevant person’s income does not exceed—
      - (aa) £321, in the case of a person to whom paragraph (6) applies,
      - (bb) £479, in any other case, or
  - (b) neither sub-paragraph (a)(i) or (ii) applies to the relevant person but amount A exceeds amount B where—
    - (i) amount A is the appropriate maximum council tax reduction in the relevant person’s case, and
    - (ii) amount B is  $2\frac{6}{7}$  per cent of the difference between the person’s income in respect of the week in which the day falls and the amount stated in sub-paragraph (a)(ii)(aa) or (bb) (as the case may be).
- (6) For the purpose of paragraph (5)(a)(ii), this paragraph applies to a person who—
- (a) is not a member of a couple, and
  - (b) is not responsible for a child or young person.
- (7) Where a relevant person is entitled to council tax reduction in respect of a day, the amount to which the person is entitled is—
- (a) if paragraph (5)(a) applies, the amount which is the appropriate maximum council tax reduction in that person’s case,
  - (b) if paragraph (5)(b) applies, the amount found by deducting amount B from amount A, where “amount A” and “amount B” have the meanings given by that paragraph.

## CHAPTER 2

### Persons Not Entitled to Council Tax Reduction

#### **Persons not entitled to council tax reduction: absentees**

**15.—**(1) Subject to paragraph (2), 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 absent from the dwelling.

(2) Paragraph (1) does not include a person whose absence from the dwelling is part of a period of temporary absence.

(3) In paragraph (2) a “period of temporary absence” means—

- (a) a period of absence not exceeding 13 weeks, beginning with the first whole day on which a person resides in residential accommodation and for so long as—
  - (i) the person resides in that accommodation,

- (ii) the part of the dwelling in which the person usually resides is not let or sub-let, and
  - (iii) that period of absence does not form part of a longer period of absence from the dwelling of more than 52 weeks,
- where the person has entered the accommodation for the purpose of ascertaining whether it suits the person's needs and with the intention of returning to the dwelling if it proves not to suit the person's needs,
- (b) a period of absence not exceeding 13 weeks, beginning with the first whole day of absence from the dwelling and for so long as—
    - (i) the person intends to return to the dwelling,
    - (ii) the part of the dwelling in which the person usually resides is not let or sub-let, and
    - (iii) that period is unlikely to exceed 13 weeks,
  - (c) a period of absence not exceeding 52 weeks, beginning with the first whole day of that absence and for so long as—
    - (i) the person intends to return to the dwelling,
    - (ii) the part of the dwelling in which the person usually resides is not let or sub-let,
    - (iii) the person is a person to whom paragraph (4) applies, and
    - (iv) the period of absence is unlikely to exceed 52 weeks or, in exceptional circumstances, is unlikely to exceed substantially 52 weeks.
- (4) This paragraph applies to a person who is—
- (a) detained in custody—
    - (i) on remand pending trial or required, as a condition of bail, to reside—
      - (aa) in a dwelling other than the dwelling referred to in paragraph (1), or
      - (bb) in premises approved under section 13 of the Offender Management Act 2007(a), or
    - (ii) pending sentence upon conviction,
  - (b) resident in a hospital or similar institution as a patient,
  - (c) undergoing, or who has a partner or a child (other than a child who is a non-dependant child) who is undergoing, in the United Kingdom or elsewhere, medical treatment or medically approved convalescence in accommodation other than residential accommodation,
  - (d) following, in the United Kingdom or elsewhere, a training course,
  - (e) undertaking medically approved care of a person residing in the United Kingdom or elsewhere,
  - (f) undertaking the care of a child whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care or medical treatment,
  - (g) receiving medically approved care, in the United Kingdom or elsewhere, provided in accommodation other than residential accommodation,
  - (h) a student,
  - (i) receiving care provided in residential accommodation other than a person to whom paragraph (3)(a) applies, or
  - (j) a person who has left the dwelling the person resides in through fear of violence in that dwelling or by a person who was formerly a member of the person's family.

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(a) 2007 c.21.

- (5) This paragraph applies to a person who is—
- (a) detained in custody pending sentence upon conviction or under a sentence imposed by a court (other than a person who is detained in hospital under the provisions of the Mental Health Act 1983(a), the Criminal Procedure (Scotland) Act 1995(b) or the Mental Health (Care and Treatment) (Scotland) Act 2003(c)), and
  - (b) on temporary release from detention in accordance with Rules made under the provisions of the Prisons (Scotland) Act 1989(d) or the Prison Act 1952(e).
- (6) Where paragraph (5) applies to a person, for any day when the person is on temporary release—
- (a) if that temporary release was immediately preceded by a period of temporary absence under paragraph (3)(b) or (c)—
    - (i) for the purposes of paragraph (1), the person is to be treated as if still absent from the dwelling, and
    - (ii) for the purposes of paragraph (4)(a), the person is to be treated as if still in detention,
  - (b) if sub-paragraph (a) does not apply the person is to be treated as absent from the dwelling for the purpose of paragraph (1).

### **Persons not entitled to council tax reduction: persons treated as not being in Great Britain**

**16.**—(1) Subject to paragraph (6), 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 (6), 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 EEA Regulations (initial right of residence)(f),
- (b) regulation 14 of the EEA Regulations (extended right of residence)(g), but only where the right exists under that regulation because the person is—
  - (i) a jobseeker for the purpose of the definition of “qualified person” in regulation 6(1) of the EEA Regulations, or
  - (ii) a family member within the meaning of regulation 7 of the EEA Regulations of such a jobseeker,
- (c) regulation 16 of the EEA Regulations (derivative right to reside)(h), but only where the right exists because the applicant satisfies the criteria in paragraph (5) of that regulation,

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(a) 1983 c.20.

(b) 1995 c.46.

(c) 2003 asp 13.

(d) 1989 c.45.

(e) 1952 c.52.

(f) S.I. 2016/1052, which were revoked by paragraph 2(2) of schedule 1 of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (c.20), but are subject to saving provisions in S.I. 2020/1210 and S.I. 2020/1309. Regulation 13 was amended by S.I. 2018/801.

(g) Regulation 14 was amended by S.I. 2018/801. There is an amendment to regulation 6(1) that is not relevant to this paragraph. Regulation 7 was amended by S.I. 2019/468 and S.I. 2019/1155.

(h) Regulation 16 was amended by S.I. 2018/801 and S.I. 2019/468.

- (d) a person having been granted limited leave to enter, or remain in, the United Kingdom under the Immigration Act 1971(a) by virtue of—
  - (i) Appendix EU to the immigration rules, unless paragraph (5) applies to the person,
  - (ii) being a person with a Zambrano right to reside as defined in Annex 1 of Appendix EU to the immigration rules, or
  - (iii) having arrived in the United Kingdom with an entry clearance that was granted under Appendix EU (Family Permit) to the immigration rules.

(5) This paragraph applies to a person who has a right to reside granted by virtue of being a family member of a relevant person of Northern Ireland who would have a right to reside under the EEA Regulations if the relevant person of Northern Ireland were an EEA national, provided that the right to reside does not fall within paragraph (4)(a) or (c).

- (6) 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 EEA Regulations(b) as a worker or a self-employed person,
  - (b) a family member of—
    - (i) a person referred to in sub-paragraph (a), or
    - (ii) a relevant person of Northern Ireland with a right to reside which falls within paragraph (4)(d)(i), provided that the relevant person of Northern Ireland falls within sub-paragraph (a) or would do so but for the fact that they are not an EEA national within the meaning of regulation 2(1) of the EEA Regulations (general interpretation)(c),
  - (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 EEA Regulations (right of permanent residence)(d),
  - (d) a frontier worker within the meaning of regulation 3 of the Citizens’ Rights (Frontier Workers) (EU Exit) Regulations 2020(e), or a family member of such a worker where that family member has been granted limited leave to enter or remain in the United Kingdom by virtue of Appendix EU of the immigration rules,
  - (e) a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28 July 1951(f), as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31 January 1967(g),
  - (f) a person who has been granted, or is deemed to have been granted, leave outside the immigration rules where that leave is—
    - (i) discretionary leave to enter or remain in the United Kingdom,
    - (ii) leave to remain under the Destitution Domestic Violence concession(h) which came into effect on 1 April 2012, or
    - (iii) leave deemed to have been granted by virtue of regulation 3 of the Displaced Persons (Temporary Protection) Regulations 2005(i),
  - (g) a person who has humanitarian protection granted under the immigration rules,
  - (h) a person who is in the United Kingdom as a result of their deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom and is not a

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(a) 1971 c.77.

(b) Regulation 6 was amended by S.I. 2018/801.

(c) The definition of “EEA national” was substituted by S.I. 2018/801.

(d) There was an amendment to regulation 15(4) by S.I. 2018/801 that is relevant to this provision.

(e) S.I. 2020/1213.

(f) Cmnd 9171.

(g) Cmnd 3906.

(h) The Destitution Domestic Violence concession is published by the Home Office at <http://www.gov.uk>.

(i) S.I. 2005/1379, which was revoked by S.I. 2019/745.

person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999(a),

- (i) a person in receipt of a qualifying income-related benefit, but in the case of a person in receipt of an income-based jobseeker's allowance only where that person has a right to reside other than the rights to reside described in paragraph (4)(a) to (c), or
- (j) a person described in regulation 17(2)(c) or (e) who is posted overseas to perform duties and immediately before the person was so posted, or was first so posted in the case of a series of consecutive postings, the person was habitually resident in the United Kingdom.

(7) In this regulation—

- (a) “the EEA Regulations” means the Immigration (European Economic Area) Regulations 2016(b) and references to those Regulations are to be read with schedule 4 of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020(c),
- (b) “EEA national” has the meaning given by regulation 2(1) of the EEA Regulations,
- (c) “family member” has the meaning given in regulation 7(1)(a), (b) or (c) of the EEA Regulations, except that regulation 7(4) of those Regulations does not apply for the purposes of paragraph (5) and (6)(b)(ii),
- (d) “immigration rules” means the immigration rules made under section 3(2) of the Immigration Act 1971(d), and
- (e) “relevant person of Northern Ireland” has the meaning given in Annex 1 of Appendix EU to the immigration rules.

### **Persons treated as being in Great Britain**

**17.**—(1) A person to whom paragraph (2) or (3) applies is to be treated as being in Great Britain, unless the person is to be treated as not in Great Britain under regulation 16.

(2) This paragraph applies to a person who is outside Great Britain in that person's capacity as—

- (a) an aircraft worker,
- (b) a continental shelf worker who is in a designated area or a prescribed area,
- (c) a Crown servant,
- (d) a mariner, or
- (e) a member of the regular forces or the reserve forces (within the meaning of section 374 of the Armed Forces Act 2006(e)).

(3) This paragraph applies to a person if—

- (a) that person is a member of a couple and the other member of the couple is a person to whom paragraph (2) applies, and
- (b) the person is outside Great Britain by reason only of the fact that the person is living with the other member of the couple.

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(a) 1999 c.33. Section 115(9) was amended by S.I. 2020/1309.

(b) S.I. 2016/1052.

(c) S.I. 2020/1309.

(d) 1971 c.77.

(e) 2006 c.52. Section 374 was relevantly amended by section 44 of the Defence Reform Act 2014 (c.20).

(4) In this regulation—

- (a) “aircraft worker” means a person who is employed under a contract of service as a pilot, commander, navigator or other member of the crew of any aircraft or in any other capacity on board any aircraft where—
  - (i) the employment in that other capacity is for the purposes of the aircraft or its crew or of any passengers or cargo or mail carried on that aircraft, and
  - (ii) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the aircraft is in flight,
- (b) “continental shelf worker” means a person who is employed, whether under a contract of service or not, in a designated area or a prescribed area in connection with any activity mentioned in section 11(2) of Petroleum Act 1998(a),
- (c) “Crown servant” means a person employed by or under the Crown,
- (d) “designated area” means any area which may from time to time be designated by Order in Council under the Continental Shelf Act 1964(b) as an area within which the rights of the United Kingdom with respect to the seabed and subsoil and their natural resources may be exercised,
- (e) “mariner” means a person who is employed under a contract of service as a master or member of the crew of any ship or vessel or in any other capacity on board any ship or vessel where—
  - (i) the employment in that other capacity is for the purposes of that ship or vessel or its crew or any passengers or cargo or mails carried by the ship or vessel, and
  - (ii) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on its voyage, and
- (f) “prescribed area” means any area over which Norway or any member State of the European Union exercises sovereign rights for the purpose of exploring the seabed and subsoil and exploiting their natural resources, being an area outside the territorial seas of Norway or that member State, or any other area which is from time to time specified under section 10(8) of the Petroleum Act 1998.

### **Temporary absence from Great Britain**

**18.—**(1) For the purposes of determining whether a person is in Great Britain, a person’s temporary absence from Great Britain is disregarded—

- (a) for the first month of the temporary absence if paragraph (2) applies, or
- (b) for the first 6 months of the temporary absence if paragraph (3) applies.

(2) This paragraph applies where the person was entitled to council tax reduction immediately before the beginning of the period of temporary absence.

(3) This paragraph applies where—

- (a) the person was entitled to council tax reduction immediately before the beginning of the period of temporary absence, and
- (b) the absence is solely in connection with—
  - (i) the treatment of the person for an illness or physical or mental disability by, or under the supervision of, a person appropriately qualified to carry out that treatment,
  - (ii) the person accompanying a person described in paragraph (5) for the treatment of the person so described for an illness or physical or mental disability by, or under the supervision of, a person appropriately qualified to carry out that treatment, or

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(a) 1998 c.17.

(b) 1964 c.29.



- (iii) the person undergoing medically approved convalescence or care as a result of treatment for an illness or physical or mental disability, where the person had that illness or disability before leaving Great Britain.
- (4) The period in paragraph (1)(a) may be extended by up to one month if—
  - (a) the temporary absence is in connection with the death of—
    - (i) a person described in paragraph (5), or
    - (ii) a close relative of the person or a close relative of a person described in paragraph (5), and
  - (b) the relevant authority is satisfied that it would be unreasonable to expect the person to return to Great Britain within the first month.
- (5) A person described by this paragraph is—
  - (a) where the person is a member of a couple, the other member of the couple, or
  - (b) a child or young person for whom the person, or where the person is a member of a couple, the other member of the couple, is responsible.
- (6) In this regulation “appropriately qualified” means qualified to provide medical treatment or physiotherapy or a form of treatment which is similar to, or related to, either of those forms of treatment.

**Persons not entitled to council tax reduction: persons subject to immigration control**

**19.**—(1) 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 a person subject to immigration control.

(2) In paragraph (1) “a person subject to immigration control” has the meaning given in section 115(9) of the Immigration and Asylum Act 1999<sup>(a)</sup>, but does not include a person who is—

- (a) a national of a state which has ratified the European Convention on Social and Medical Assistance (done in Paris on 11 December 1953) or a state which has ratified the Council of Europe Social Charter (signed in Turin on 18 October 1961), and
- (b) lawfully present in the United Kingdom.

**Persons not entitled to council tax reduction: students**

**20.**—(1) Except to the extent that a student may be entitled to second adult rebate by virtue of regulation 13 (conditions of entitlement to council tax reduction), a student to whom paragraph (2) applies is not entitled to council tax reduction in respect of a day and a dwelling of which that student is resident.

(2) This paragraph applies—

- (a) subject to paragraphs (3) and (7), to a full-time student, and
- (b) to a student who is treated as not being in Great Britain in accordance with regulation 16 (persons not entitled to council tax reduction: persons treated as not being in Great Britain).

(3) Paragraph (2)(a) does not apply to a student—

- (a) who is a person on a qualifying income-related benefit or who has an award of universal credit,
- (b) who is a lone parent,
- (c) whose applicable amount would, but for this regulation, include disability premium under paragraph 11 of schedule 1 or severe disability premium under paragraph 13 of that schedule,

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(a) 1999 c.33.

- (d) whose applicable amount would include the disability premium but for the student being treated as capable of work by virtue of a determination made in accordance with Regulations made under section 171E of the 1992 Act(a),
- (e) who is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and Regulations made under, Part 12A of the 1992 Act (incapacity for work) for a continuous period of not less than 196 days, and for this purpose any two or more separate periods separated by a break of not more than 56 days is to be treated as one continuous period,
- (f) who has, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations for a continuous period of not less than 196 days, and for this purpose any two or more separate periods separated by a break of not more than 84 days are to be treated as one continuous period,
- (g) who has a partner who is also a full-time student, if the student or that partner is responsible for a child or young person,
- (h) who is a single applicant with whom a child is placed by a local authority or voluntary organisation within the meaning of the Children Act 1989(b) or boarded out within the meaning of the Social Work (Scotland) Act 1968(c),
- (i) who is—
  - (i) aged under 21 and whose course of study is not a course of higher education,
  - (ii) aged 21 and attained that age during a course of study which is not a course of higher education, or
  - (iii) a young person or child within the meaning of section 142 of the 1992 Act (child and qualifying young person)(d),
- (j) in respect of whom—
  - (i) a supplementary requirement has been determined under paragraph 9 of Part 2 of schedule 2 of the Education (Mandatory Awards) Regulations 2003(e),
  - (ii) an allowance, or as the case may be, bursary has been granted which includes a sum under regulation 4(1)(d) of the Students' Allowances (Scotland) Regulations 2007(f) in respect of expenses incurred,
  - (iii) a payment has been made under section 2 of the Education Act 1962(g) or under or by virtue of Regulations made under the Teaching and Higher Education Act 1998(h),
  - (iv) a grant has been made under regulation 38 of the Education (Student Support) Regulations 2011(i), regulation 25 of the Assembly Learning Grants and Loans (Higher Education) (Wales) (No. 2) Regulations 2011(j) or regulation 5 of the Education (Student Support) (No. 2) Regulations (Northern Ireland) 2009(k), or

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(a) Section 171E was added by section 6 of the Social Security (Incapacity for Work) Act 1994 (c.18) and amended by paragraph 76 of schedule 7 of the Social Security Act 1998 (c.14).

(b) 1989 c.41.

(c) 1968 c.49.

(d) Section 142 was substituted by section 1 of the Child Benefit Act 2005 (c.6).

(e) S.I. 2003/1994. Paragraph 9 of schedule 2 was amended by S.I. 2008/1477.

(f) 2007/153.

(g) 1962 c.12. Section 2 was repealed by paragraph 1 of schedule 4 of the Teaching and Higher Education Act 1998 subject to transitional provisions and savings in S.I. 1998/3237.

(h) 1998 c.30.

(i) S.I. 2011/1986. Regulation 38 was amended by S.I. 2012/1653, S.I. 2013/235, S.I. 2013/1728, S.I. 2014/2765, S.I. 2015/1951, S.I. 2016/270 and S.I. 2021/127.

(j) S.I. 2011/886. Regulation 25 was revoked by regulation 3 of S.I. 2012/3097 subject to savings and transitional provisions in regulation 3 of S.I. 2012/3097.

(k) S.R. 2009/373. Regulation 5 was amended by S.R. 2010/383, S.R. 2013/128, S.R. 2017/7, S.R. 2019/35 and S.R. 2021/50.

- (v) a supplementary requirement has been determined under paragraph 9 of schedule 6 of the Students Awards Regulations (Northern Ireland) 2003<sup>(a)</sup> or a payment has been made under article 50(3) of the Education and Libraries (Northern Ireland) Order 1986<sup>(b)</sup> on account of the student's disability by reason of deafness.

(4) Where paragraph (3)(e) applies to a full-time student and the student ceases, for a period of 56 days or less, to be incapable or to be treated as incapable of work, on the student again becoming incapable or treated as incapable of work, paragraph (3)(e) applies for so long as the student remains incapable or is treated as remaining incapable of work.

(5) In paragraph 3(i)—

- (a) head (ii) only applies to an applicant until the end of the course during which the applicant attained the age of 21, and
- (b) a reference to a course of higher education is a reference to a course of any description mentioned in schedule 6 of the Education Reform Act 1988<sup>(c)</sup>.

(6) A full-time student to whom paragraph (3)(j) applies, is to be treated as satisfying that sub-paragraph from the date on which the student made a request for the supplementary requirement, allowance, bursary or payment as the case may be.

(7) Paragraph (2) does not apply to a full-time student for the period specified in paragraph (8) if—

- (a) at any time during an academic year, with the consent of the relevant educational establishment, the student ceases to attend or undertake a course of study because the student is—
  - (i) engaged in caring for another person, or
  - (ii) ill,
- (b) the student has subsequently ceased to be engaged in caring for the person or, as the case may be, has subsequently recovered from that illness, and
- (c) the student is not eligible for a grant or a student loan in respect of the period specified in paragraph (8).

(8) The period specified for the purposes of paragraph (7) is the period, not exceeding one year, beginning on the day on which the student ceased to be engaged in caring for the person or, as the case may be, the day on which the student recovered from that illness and ending on the day before the earliest of—

- (a) the day on which the student resumes attending or undertaking the course of study, or
- (b) the day from which the relevant educational establishment agrees that the student may resume attending or undertaking the course of study.

(9) In paragraph (7) “academic year” means the period of 12 months beginning on 1 January, 1 April, 1 July or 1 September according to whether the course in question begins in the winter, the spring, the summer or the autumn respectively but if students are required to begin attending the course during August or September and to continue attending through the autumn, the academic year of the course is to be considered to begin in the autumn rather than the summer.

## CHAPTER 3

### Over-entitlement

#### **Non-recovery of council tax arrears caused by official error**

**21.**—(1) Arrears of council tax are not recoverable if they arise in consequence of an over-entitlement to council tax reduction as described in paragraph (2).

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(a) S.R. 2003/459. Paragraph 9 of schedule 6 was amended by S.R. 2008/254.

(b) S.I. 1986/594 (N.I. 3).

(c) 1988 c.40.

(2) This paragraph applies to an over-entitlement which arises in consequence of an official error where the applicant or a person acting on their behalf or any other person to whom the council tax reduction is awarded could not have reasonably been expected to realise that it was an over-entitlement at the time it arose or upon any subsequent notification of entitlement.

(3) In this regulation, “over-entitlement” means an amount of council tax reduction which was awarded and to which there was no entitlement (whether on the initial decision or as subsequently reviewed or superseded or further reviewed or superseded).

(4) In this regulation, “official error” means a mistake, whether in the form of an act or omission, by—

- (a) the relevant authority,
- (b) an officer or person acting for the relevant authority, or
- (c) a person providing services to the relevant authority,

where the applicant, a person acting on their behalf or any other person to whom the council tax reduction is awarded, did not cause or materially contribute to that mistake.

## PART 4

### Procedural Matters

#### CHAPTER 1

##### Applications

#### **Who may apply**

**22.** In the case of a couple an application is to be made by whichever one of them they agree should apply or, in default of agreement, by whichever one of them the relevant authority determines is to make the application.

#### **Written applications**

**23.—**(1) Subject to regulation 24 (applications: universal credit claimants) and regulation 25 (telephone applications) an application must be sent in writing to the office designated by the relevant authority as the office to which applications should be sent and—

- (a) made on a properly completed form approved for the purposes by the relevant authority, or
- (b) in such written form as the relevant authority accepts as sufficient in the circumstances of any particular case or class of cases having regard to the sufficiency of the written information and evidence.

(2) Where an application is not made in the form described in paragraph (1)(a) or (b) it is defective.

(3) Where an application is defective because—

- (a) it was made on the form approved for the purpose but that form is not accepted by the relevant authority as being properly completed, the relevant authority may request the applicant to complete the defective application, or
- (b) it was made in writing but not on the form approved for the purpose and the relevant authority does not accept the application as being in a written form which is sufficient in the circumstances of the case, having regard to the sufficiency of the written information and evidence, the relevant authority may supply the applicant with the approved form or request further information or evidence.

(4) A defective application is to be treated as if it had been validly made in the first instance if, in any particular case, one of the conditions specified in paragraph (5) is satisfied.

- (5) The conditions are that—
- (a) where paragraph (3)(a) (incomplete form) applies, the relevant authority receives the properly completed application or the information requested to complete it within one month of the authority’s request, or any longer period the relevant authority considers reasonable, or
  - (b) where paragraph (3)(b) (application not on approved form or further information requested by relevant authority) applies—
    - (i) the approved form sent to the applicant is received by the relevant authority properly completed within one month of it having been sent to the applicant, or any longer period the relevant authority considers reasonable, or
    - (ii) the applicant supplies whatever information or evidence was requested under that paragraph within one month of the request, or any longer period the relevant authority considers reasonable.
- (6) An application made on an approved form is for the purposes of these Regulations properly completed if completed in accordance with the instructions on the form, including any instructions to provide information and evidence in connection with the application.

### **Applications: universal credit claimants**

- 24.**—(1) An application may be treated as made where—
- (a) a person has made a claim for universal credit,
  - (b) the Secretary of State has supplied relevant information in relation to that person to a relevant authority in accordance with section 131 of the 2012 Act (information-sharing in relation to welfare services etc.)**(a)**, and
  - (c) that person is liable to pay council tax to the relevant authority.
- (2) Paragraph (1) is not to be construed as creating a duty, obligation, or right which is contrary to any duty, obligation or right created by—
- (a) the data protection legislation listed in section 3(9) of the Data Protection Act 2018**(b)**, or
  - (b) any other rule of law which relates to data protection.

### **Telephone applications**

- 25.**—(1) Where the relevant authority has published a telephone number for the purpose of receiving applications for council tax reduction, an application may be made by telephone to that telephone number.
- (2) The relevant authority may determine that an application made by telephone is not a valid application unless the applicant approves a written statement of the person’s circumstances, provided by the relevant authority.
- (3) An application made by telephone in accordance with paragraph (1) is defective unless the relevant authority is provided with all the information requested by it during the telephone call.
- (4) Where an application made by telephone in accordance with paragraph (1) is defective, the applicant must be given an opportunity to correct the defect.
- (5) If the applicant corrects the defect referred to in paragraph (4) within one month, or any longer period the relevant authority considers reasonable, of the date the authority last drew attention to the defect, the application is to be treated as if it had been validly made in the first instance.

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**(a)** Section 131 was amended by section 4 of the Wales Act 2014 (c.29) and section 20 of the Welfare Reform and Work Act 2016 (c.7).  
**(b)** 2018 c.12. Section 3 was amended by S.I. 2019/419.

(6) If the person does not correct the defect within one month, or any longer period the relevant authority considers reasonable, of the date the authority last drew attention to the defect, the application may be treated as if it had not been defective if the relevant authority considers that it has sufficient information to determine the application.

#### **Date on which an application is made**

**26.**—(1) Subject to paragraph (3) and regulation 9(9) (occupation of a dwelling as a home) the date on which an application is made is—

- (a) where an award of a qualifying income-related benefit or universal credit has been made to the applicant or the applicant's partner and the application for council tax reduction is made, or is treated as made, within one month of the date on which the claim for that qualifying income-related benefit or universal credit was received at the appropriate DWP office, the first day of entitlement to that qualifying income-related benefit or universal credit arising from that claim,
- (b) where an applicant or the applicant's partner is a person on qualifying income-related benefit or universal credit and the applicant becomes liable for the first time to pay council tax in respect of the dwelling which the applicant occupies as a home, where the application is received by the relevant authority within one month of the date on which the applicant first became liable to pay council tax, the date on which the applicant first became so liable,
- (c) where an applicant separates from a partner who was entitled to council tax reduction at the time of the separation, and where the applicant makes an application for council tax reduction within one month of the separation, the date of the separation,
- (d) where the applicant ("A") was the partner of a person ("B") at the date of B's death and—
  - (i) B was entitled to council tax reduction at that date,
  - (ii) immediately before B's death, A and B jointly had an award of universal credit, and
  - (iii) where A makes an application for council tax reduction within one month of the last day on which B is treated as if B had not died for the purpose of entitlement to universal credit in accordance with regulation 37(a) of the 2013 Regulations, the last day on which B is treated as if B had not died for the purpose of entitlement to universal credit in accordance with regulation 37(a) of the 2013 Regulations (run-on after a death),
- (e) where the applicant ("A") was the partner of a person ("B") at the date of B's death and—
  - (i) B was entitled to council tax reduction at that date,
  - (ii) immediately before B's death, neither A nor B had any award of universal credit, or either A or B had an award of universal credit, but it was not awarded to A and B jointly, and
  - (iii) A makes an application for council tax reduction within one month of the date of B's death, that date,
- (f) except where sub-paragraph (a), (b), (c), (d) or (e) is satisfied, in a case where a properly completed application is received within one month, or any longer period the relevant authority considers reasonable, of the date on which—
  - (i) an application form was issued to the applicant following the applicant first notifying, by whatever means, the relevant authority of an intention to make an application, or
  - (ii) the applicant notifies, by whatever means, the relevant authority of an intention to make an application by telephone in accordance with regulation 25 (telephone applications), the date of first notification,

(g) in any other case, the date on which the application is received by the relevant authority.

(2) For the purpose of paragraph (1)(a), a person who has been awarded an income-based jobseeker's allowance or an income-related employment and support allowance is to be treated as entitled to that allowance for any days which immediately precede the first day of that award and on which the person would, but for Regulations made under—

- (a) in the case of income-based jobseeker's allowance, paragraph 4 of schedule 1 of the Jobseekers Act (waiting days), or
- (b) in the case of income-related employment and support allowance, paragraph 2 of schedule 2 of the 2007 Act (waiting days),

have been entitled to that allowance.

(3) Except in the case of an application made by a person living abroad, where a person has not become liable for council tax to a relevant authority but it is anticipated that the person will become liable within the period of 8 weeks, the person may apply for council tax reduction at any time in that period and, provided that liability arises within that 8 week period, the relevant authority is to treat the application as having been made on the day on which the liability for council tax arises.

(4) Where a relevant authority has not set or imposed its council tax by the beginning of the financial year, if an application for council tax reduction is properly made or treated as made and—

- (a) the date on which the application is made or treated as made is in the period from 1 April of the current year and ending one month after the date on which the authority sets or imposes the tax, and
- (b) if the tax had been determined, the applicant would have been entitled to council tax reduction either from—
  - (i) the reduction week in which 1 April of the current year fell, or
  - (ii) a reduction week falling after the date specified in head (i) but before the application was made,

the relevant authority must treat the application as made in the reduction week immediately preceding the reduction week in which such entitlement would have commenced.

(5) Except in the case of an application made by a person living abroad, where the applicant is not entitled to council tax reduction in the reduction week immediately following the date of the application but the relevant authority is of the opinion that unless there is a change of circumstances the applicant will be entitled to council tax reduction for a period beginning not later than the thirteenth reduction week following the date on which the application is made, the relevant authority may treat the application as made on a date in the reduction week immediately preceding the first reduction week of that period of entitlement and grant entitlement to council tax reduction accordingly.

(6) In the case of a person who has attained, or whose partner has attained, the age which is 17 weeks younger than pensionable age, paragraph (5) applies as if for the reference to the thirteenth reduction week, there was substituted a reference to the seventeenth reduction week.

(7) Where an applicant ("C")—

- (a) makes an application which includes (or which C subsequently requests should include) a period before the application is made, and
- (b) from a day in that period, up to the date when C made the application (or subsequently requested that the application should include a past period), C had continuous good cause for failing to make an application (or request that the application should include that period),

the application is to be treated as made on the date determined in accordance with paragraph (8).

(8) The date referred to in paragraph (7) is the latest of—

- (a) the first day from which C had continuous good cause for failing to make the application,
- (b) the day 6 months before the date the application was made, or

(c) the day 6 months before the date when C requested that the application should include a past period.

(9) In this regulation “appropriate DWP office” means—

- (a) an office of the Department for Work and Pensions or any other place designated by the Secretary of State as a place to, or at which, any claim, notice, document, evidence or other information may be sent, delivered or received for the purposes of a claim for a qualifying income-related benefit or universal credit and includes a postal address specified by the Secretary of State for that purpose, or
- (b) an address approved by means of a direction given by the Secretary of State for the purposes of receiving any claim, notice, document, evidence or other information sent by electronic communications for the purposes of a claim for a qualifying income-related benefit or universal credit.

### **Evidence and information**

27.—(1) Subject to paragraphs (2) to (4) an applicant must furnish any certificates, documents, information and evidence in connection with an application for council tax reduction or existing entitlement to council tax reduction as may reasonably be required by the relevant authority in order to determine that person’s entitlement to, or continuing entitlement to, council tax reduction and must do so within one month of the authority requiring the applicant to do so, or any longer period the authority considers reasonable.

(2) Nothing in this regulation requires a person to furnish any certificates, documents, information or evidence relating to a payment to which paragraph (3) applies.

(3) This paragraph applies to—

- (a) a payment which is disregarded under regulation 75 (special schemes for compensation etc.), other than a payment by ILF Scotland, and
- (b) a payment which is disregarded under regulation 90(9)(b) (non-dependant deductions) or paragraph 2(b) of schedule 2 (amount of second adult rebate: second adult’s gross income), other than a payment by ILF Scotland.

(4) Where a request is made under paragraph (1) the relevant authority must—

- (a) inform the applicant of the duty under regulation 31 to notify the authority of any change of circumstances, and
- (b) without prejudice to the extent of the duty owed under regulation 31, indicate to the applicant, either orally or by notice or by reference to some other document available to that applicant, on application and without charge, the kind of changes of circumstances which are to be notified.

(5) Where an applicant or any partner of that applicant has attained pensionable age and is a member of, or a person deriving entitlement to a pension under, a personal pension scheme, the applicant must, where the relevant authority so requires, furnish the following information—

- (a) the name and address of the pension fund holder, and
- (b) any other information including any reference or policy number as is needed to enable the personal pension scheme to be identified.

(6) In this regulation “pension fund holder” means the trustees, managers or scheme administrators, as the case may be, of the scheme concerned.

### **Amendment of applications**

28.—(1) Subject to paragraph (2), at any time before a relevant authority has made a determination on an application the applicant may amend the application by notice in writing sent to the office designated by the relevant authority as the office to which applications should be sent.



(2) Where an application is made by telephone in accordance with regulation 25 (telephone applications) an amendment may be made by telephone to the telephone number specified by the relevant authority for the purpose of that regulation.

(3) Any application amended in accordance with paragraph (1) or (2) is to be treated as if it had been in its amended state when it was first made.

### **Withdrawal of applications**

**29.**—(1) An applicant may withdraw the application at any time by notice in writing delivered or sent to the office designated by the relevant authority as the office to which applications should be sent before the relevant authority has determined the application.

(2) Where the application was made by telephone in accordance with regulation 25, the withdrawal may be made by telephone to the telephone number specified by the relevant authority for the purpose of that regulation.

(3) Any notice of withdrawal given in accordance with paragraph (1) or (2) has effect when it is received by the relevant authority.

### **Sending documents by electronic communication**

**30.**—(1) For the purpose of these Regulations, an applicant may send a document by electronic communication—

- (a) in a form approved by the relevant authority for the purposes of this regulation,
- (b) to an address notified by the relevant authority for the purpose of this regulation, and
- (c) by the method set out in paragraph (4).

(2) An applicant sending a document to a relevant authority by electronic communications is taken to have agreed—

- (a) to the use of electronic communications for all purposes relating to the application which are capable of being carried out electronically, and
- (b) that the address for the purpose of such communications is the address incorporated into, or otherwise logically associated with, that communication.

(3) Deemed agreement referred to in paragraph (2) subsists until the applicant gives notice to revoke the agreement, and the notice takes effect from the date specified in it, being a date not less than 7 working days after the date on which the notice is given.

(4) An electronic communication must be—

- (a) capable of being accessed by the recipient,
- (b) legible in all other material respects, and
- (c) sufficiently permanent to be used for subsequent reference.

(5) Unless the contrary is proved a document sent by the method specified in paragraph (4) is, for the purposes of any legal proceedings, to be regarded as having been—

- (a) delivered where the document has been delivered to or by the relevant authority and the delivery of the document has been recorded on an official computer system, and
- (b) received at the time and date of receipt recorded in an official computer system.

(6) In this regulation—

“address” includes any number or address used for the purpose of electronic communications or storage,

“document” includes an application, notice, certificate, information and evidence,

“electronic communication” has the same meaning as in section 15(1) of the Electronic Communications Act 2000(a),

“legible in all material respects” means that the information contained in the document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form, and

“official computer system” means a computer system maintained by or on behalf of the relevant authority for the sending, receiving, processing or storing of an application.

## CHAPTER 2

### Notification of change of circumstances

#### **Duty to notify changes of circumstances**

**31.**—(1) Subject to paragraphs (3) and (4) and regulation 32 (alternative means of notifying changes of circumstances), if at any time between the making of an application and it being determined or during a period of entitlement to council tax reduction, there is a change of circumstances which an applicant might reasonably be expected to know might affect entitlement to council tax reduction that applicant must notify that change of circumstances by giving notice to the relevant authority—

- (a) in writing, or
- (b) by telephone—
  - (i) where the relevant authority has published a telephone number for that purpose or for the purposes of regulation 25 (telephone applications), unless the authority determines that in any particular case, or class of case, notification of a change of circumstances may not be given by telephone, or
  - (ii) in any case, or class of case, where the relevant authority determines that notice of a change of circumstances may be given by telephone, or
- (c) by any other means the relevant authority agrees to in any particular case.

(2) Subject to paragraph (3), the duty imposed by paragraph (1) does not extend to notifying changes—

- (a) in the amount of council tax payable to the relevant authority,
- (b) in the age of the applicant or of any member of the applicant’s family,
- (c) to these Regulations,
- (d) in the case of an applicant who has an award of a qualifying income-related benefit, in circumstances which affect the amount of the award but not the amount of council tax reduction to which the applicant is or would be entitled, or
- (e) in the case of an applicant who has an award of universal credit, in circumstances where the relevant authority will be made aware of the change of circumstances by the Secretary of State.

(3) Notwithstanding paragraph (2)(b), (d) or (e) an applicant is required by paragraph (1) to notify the relevant authority of—

- (a) any change in the composition of the applicant’s family arising from the fact that a person who was a member of the family is now no longer a member of the family because that person ceased to be a child or young person, or
- (b) the cessation of entitlement to universal credit or a qualifying income-related benefit.

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(a) 2000 c.7. Section 15(1) was amended by paragraph 158 of schedule 17 of the Communications Act 2003 (c.21).

(4) Where the amount of council tax reduction is the second adult rebate applicable to the applicant calculated in accordance with regulation 91 (second adult rebate), the applicant is under a duty to give written notice to the relevant authority of—

- (a) changes which occur—
  - (i) in the number of adults in the dwelling, or
  - (ii) in those adults' total gross incomes,which might reasonably be expected to change the applicant's entitlement to council tax reduction,
- (b) where any of the adults in the dwelling ceases to be in receipt of—
  - (i) state pension credit,
  - (ii) universal credit, or
  - (iii) a qualifying income-related benefit,the date when this occurs.

### **Alternative means of notifying changes of circumstances**

**32.** Where a change of circumstances described in regulation 31(1) (duty to notify changes of circumstances) is a birth or death the relevant authority may determine for a particular class of case that the duty in that regulation to notify a change of circumstances may be discharged by personal attendance at an office specified by that authority.

## **CHAPTER 3**

### **Effective Date**

#### **Date on which entitlement is to begin**

**33.—**(1) Subject to paragraph (2), where a person—

- (a) makes, or is treated as making, an application, and
- (b) fulfils the conditions of entitlement to council tax reduction in regulation 13 or 14,

that person is entitled to council tax reduction from the first Monday after the date on which the application is made or treated as made.

(2) Where, a person—

- (a) becomes liable for the first time for council tax in respect of a dwelling in which the person resides,
- (b) makes, or is treated as making, an application in the reduction week in which the person first becomes liable for council tax in respect of that dwelling, and
- (c) fulfils the conditions of entitlement to council tax reduction in regulation 13 or 14,

that person is entitled to council tax reduction from the day on which the person first becomes liable for council tax.

#### **Date on which a change of circumstances is to take effect**

**34.—**(1) Subject to the provisions of this regulation, for the purpose of calculating entitlement to council tax reduction a change of circumstances which affects entitlement to council tax reduction is to take effect from the first day of the reduction week starting immediately after the date on which the change actually occurs, and where that change is cessation of entitlement to any benefit under the benefit Acts, the date on which the change actually occurs is the day immediately following the last day of entitlement to that benefit.

- (2) Where the change of circumstances is a change in the amount—
- (a) of any benefit a person receives under the benefit Acts and the rate of that benefit is altered with effect from a date on or after 1 April in a year, but not later than 15 April in a year, the relevant authority may treat the person as possessing that benefit at the altered rate from 1 April or from the first Monday in April in that year,
  - (b) of universal credit a person receives, it takes effect—
    - (i) where the change is a cessation of entitlement to universal credit, from the first day immediately following the day in which entitlement ceased, and
    - (ii) in any other case, from the first Monday of the assessment period in which the change actually occurred.
- (3) Subject to paragraph (4), where the change of circumstances is a change in the amount of council tax payable, it takes effect from the day on which it actually occurs.
- (4) Where the change of circumstances is a change in the amount a person is liable to pay in respect of council tax in consequence of Regulations under section 80 of the Act (reduced amounts of council tax)(a) or changes in the discount to which a dwelling may be subject under section 79 of that Act(b), it takes effect from the day on which the change in amount has effect.
- (5) Where the change of circumstances is an amendment to these Regulations, it takes effect from the date on which the amendment to these Regulations comes into force.
- (6) Where the change of circumstances is the applicant's acquisition of a partner, it takes effect on the day on which the acquisition takes place.
- (7) Where the change of circumstances is the applicant's separation from a partner, it takes effect on the day on which the separation takes place.
- (8) Where the change of circumstances is the death of an applicant's partner and at the date of that death neither the applicant nor the applicant's partner had any award of universal credit, or either had an award of universal credit but it was not to the partners jointly, the change of circumstances takes effect on the date of that death.
- (9) Where the change of circumstances is the death of an applicant's partner and at the date of that death the partners jointly had an award of universal credit, it takes effect on the last day on which the applicant's partner is treated as if they had not died for the purpose of entitlement to universal credit in accordance with regulation 37(a) of the 2013 Regulations (run-on after a death),
- (10) If two or more changes of circumstances occurring in the same reduction week would, but for this paragraph, take effect in different reduction weeks in accordance with paragraphs (1) to (9) they take effect from the day to which the appropriate paragraph from (2) to (9) refers, or, where more than one day is concerned, from the earlier day.
- (11) Where the change of circumstances is that income, or an increase in the amount of income, other than a benefit or an increase in the amount of a benefit under the 1992 Act, Part 4 of the 2012 Act or article 24A of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011(c), is paid in respect of a past period and there was no entitlement to income of that amount during that period, it takes effect from the first day on which the income, had it been paid in that period at intervals appropriate to that income, would have been taken into account for the purposes of these Regulations.
- (12) Without prejudice to paragraph (8), where the change of circumstances is the payment of income or arrears of income in respect of a past period, it takes effect from the first day on which the income, had it been timeously paid in that period at intervals appropriate to that income, would have been taken into account for the purposes of these Regulations.

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(a) Section 80 was amended by paragraph 176 of schedule 13 of the Local Government etc. (Scotland) Act 1994 (c.39) and S.I. 2013/388.

(b) Section 79 was amended by S.I. 2005/51.

(c) S.I. 2011/517. Article 24A was added by S.I. 2013/436 and amended by S.I. 2017/247 and S.I. 2019/440.

(13) Where the change of circumstances is that—

- (a) a conversion decision within the meaning of regulation 5(2)(a) of the Employment and Support Allowance (Existing Awards) Regulations has been made in relation to the applicant or the applicant's partner, or
- (b) the applicant or the applicant's partner is appealing a conversion decision within the meaning of regulation 5(2)(b) of the Employment and Support Allowance (Existing Awards) Regulations and is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations<sup>(a)</sup> as modified by the Employment and Support Allowance (Existing Awards) Regulations,

it takes effect, where the conversion decision takes effect on or after 1 April in any year but before 16 April of that year, from 1 April and in any other case from the day the conversion decision takes effect.

## PART 5

### Applicable amount

#### **Applicable amount**

**35.** An applicant's weekly applicable amount is the aggregate of each of the following amounts which apply in the applicant's case—

- (a) an amount in respect of the applicant or, if the applicant is a member of a couple, an amount in respect of both of them, determined in accordance with paragraph 1 (personal allowances) of schedule 1 (the "personal allowance"),
- (b) an amount determined in accordance with paragraph 2 of schedule 1 in respect of any child or young person who is a member of the applicant's family (the "child premium"),
- (c) an additional amount determined in accordance with paragraph 3 or 4 of schedule 1 in respect of any child or young person who is disabled (the "disabled child premium" and "enhanced disability premium"),
- (d) an amount determined in accordance with paragraph 5 of schedule 1 in respect of any regular and substantial caring responsibilities for a severely disabled person (the "carer premium"),
- (e) the amount of any premiums which are applicable, determined in accordance with Parts 4 and 5 of schedule 1 ("disability premiums"),
- (f) the amount of either the—
  - (i) work-related activity component, or
  - (ii) support component,if applicable in accordance with Part 6 of schedule 1 (components).

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(a) Regulation 30 was amended by S.I. 2013/2536 and S.I. 2015/437.

## PART 6

### Assessment of household income and capital

#### CHAPTER 1

##### General

#### **Calculation of income and capital of members of applicant's family**

**36.**—(1) The income and capital of an applicant's partner is to be treated as income and capital of the applicant and is to be calculated or estimated in accordance with the provisions of this Part in the same way the applicant's income and capital is calculated or estimated and any reference to the "applicant" in this Part and in schedule 4 is, except where the context otherwise requires, to be construed for the purposes of this Part as if it included a reference to the applicant's partner.

(2) The income and capital of a child or young person is not to be treated as the income and capital of the applicant.

#### **Circumstances in which income and capital of a non-dependant is to be treated as applicant's**

**37.**—(1) Where it appears to the relevant authority that a non-dependant and the applicant have entered into arrangements in order to take advantage of the council tax reduction scheme set out in these Regulations and the non-dependant has more capital and income than the applicant, the authority must, except where the applicant is on a qualifying income-related benefit, treat the applicant as possessing the capital and income of the non-dependant and must disregard any capital and income which the applicant does possess.

(2) Where an applicant is treated as possessing the capital and income of a non-dependant under paragraph (1) the capital and income of that non-dependant is to be calculated or estimated in accordance with the provisions of this Part as if it was the capital and income of the applicant and any reference to the "applicant" is, except where the context otherwise requires, to be construed for the purposes of this Part as if it were a reference to that non-dependant.

#### CHAPTER 2

##### Calculation of weekly income

#### **Calculation of income on a weekly basis (applicants with no award of universal credit)**

**38.**—(1) This regulation and regulations 39 to 41 apply where neither the applicant nor the applicant's partner, nor the partners jointly, have an award of universal credit.

(2) For the purposes of regulation 13(6) or regulation 14(5) (conditions of entitlement to council tax reduction) the income of an applicant is to be calculated on a weekly basis—

- (a) by estimating the amount which is likely to be the applicant's average weekly earned income in accordance with this Chapter and Chapter 3 of this Part and regulations 59 to 62 (student income),
- (b) by adding to that amount the average weekly unearned income calculated in accordance with this Chapter and Chapter 4 of this Part,
- (c) by deducting any relevant childcare charges calculated in accordance with regulation 77, and
- (d) in a case where the conditions in paragraph (3) are met, from that sum plus whichever credit specified in paragraph (3)(b) is appropriate, up to the maximum deduction specified in paragraph (4).

- (3) The conditions referred to in paragraph (2)(d) are that—
  - (a) the applicant’s average weekly earned income is less than the lower of the relevant childcare charges or whichever of the deductions specified in paragraph (2)(c) otherwise applies, and
  - (b) the applicant, or if the applicant is a member of a couple, either the applicant or the other member of the couple, is in receipt of working tax credit or child tax credit.
- (4) The maximum deduction to which paragraph (2)(d) refers is—
  - (a) where the applicant’s family includes only one child in respect of whom relevant childcare charges are paid, £175.00 per week, and
  - (b) where the applicant’s family includes more than one child in respect of whom relevant childcare charges are paid, £300.00 per week.

### **Average weekly employed earnings**

**39.**—(1) For the purpose of regulation 38(2)(a), where an applicant’s income consists of employed earnings, the applicant’s average weekly earnings are to be estimated by reference to the earnings from that employment—

- (a) over a period immediately preceding the reduction week in which the application is made or treated as made and being a period of—
  - (i) 5 weeks, if the applicant is paid weekly, or
  - (ii) 2 months, if the applicant is paid monthly, or
- (b) whether or not sub-paragraph (a)(i) or (ii) applies, where an applicant’s earnings fluctuate, over such other period preceding the reduction week in which the application is made or treated as made as may, in any particular case, enable the applicant’s average weekly earnings to be estimated more accurately.

(2) Where the applicant has been in that employment for less than the period specified in paragraph (1)(a)(i) or (ii)—

- (a) in a case where the applicant has received earnings for the period that the applicant has been in that employment and those earnings are likely to represent the average weekly earnings from that employment, the applicant’s average weekly earnings are to be estimated by reference to those earnings,
- (b) in any other case, the relevant authority must require the applicant’s employer to furnish an estimate of the applicant’s likely weekly earnings over such period as the relevant authority may require and the applicant’s average weekly earnings are to be estimated by reference to that estimate.

(3) Where the amount of an applicant’s earnings changes during a period of entitlement to council tax reduction, average weekly earnings are to be estimated by reference to the applicant’s likely earnings from the employment over a period that is appropriate to allow the average weekly earnings to be estimated accurately but the length of the period is not in any case to exceed 52 weeks.

(4) For the purposes of this regulation the applicant’s employed earnings are to be calculated in accordance with Chapter 3 of this Part.

### **Average weekly earnings of self-employed earners**

**40.**—(1) For the purpose of regulation 38(2)(a), where an applicant’s income consists of self-employed earnings the applicant’s average weekly earnings are to be estimated by reference to the earnings from that employment over such period as is appropriate in order that the applicant’s average weekly earnings may be estimated accurately but the length of the period is not in any case to exceed 52 weeks.

(2) For the purposes of this regulation the applicant’s self-employed earnings are to be calculated in accordance with Chapter 3 of this Part.

### **Average weekly unearned income**

**41.**—(1) For the purpose of regulation 38(2)(b), an applicant's unearned income must, except where paragraph (2) applies, be estimated over a period that is appropriate to allow the applicant's average weekly income to be estimated accurately but the length of the period is not in any case to exceed 52 weeks and nothing in this paragraph authorises a relevant authority to disregard any income other than that specified in these Regulations.

(2) The period over which any benefit under the benefit Acts is to be taken into account is the period in respect of which that benefit is payable.

(3) For the purposes of this regulation unearned income is to be calculated in accordance with Chapter 4 of this Part.

### **Calculation of income on a weekly basis (applicants with an award of universal credit)**

**42.**—(1) This regulation and regulation 43 apply where the applicant or the applicant's partner has, or the partners jointly have, an award of universal credit.

(2) For the purposes of regulation 13(6) or regulation 14(5) (conditions of entitlement to council tax reduction) the income of an applicant is to be calculated on a weekly basis—

- (a) by estimating the amount which is likely to be the applicant's average weekly earned income in accordance with this Chapter and Chapter 3 of this Part and regulations 59 to 62 (student income),
- (b) by adding to that amount the weekly unearned income calculated in accordance with this Chapter and Chapter 4 of this Part, and
- (c) by then deducting any relevant childcare charges calculated in accordance with regulation 78(3), or in a case where the conditions in paragraph (3) are met, from that sum plus whichever credit specified in paragraph (3)(b) is appropriate, up to a maximum deduction.

(3) The conditions referred to in paragraph (2)(c) are that—

- (a) the applicant's average weekly earned income is less than the lower of the relevant child care charges or whichever of the deductions specified in paragraph (b) otherwise applies, and
- (b) the applicant or, if the applicant is a member of a couple, either the applicant or the other member of the couple, is in receipt of working tax credit or child tax credit.

(4) The maximum deduction to which paragraph (2)(c) refers is—

- (a) where the applicant's family includes only one child in respect of whom relevant childcare charges are paid, £175.00 per week, and
- (b) where the applicant's family includes more than one child in respect of whom relevant childcare charges are paid, £300.00 per week.

### **Calculation of average weekly income**

**43.**—(1) For the purpose of regulation 42(2)(a) an applicant's average weekly earned income is calculated by—

- (a) multiplying the applicant's earned income for an assessment period by 12, and
- (b) dividing the product by 52.

(2) For the purpose of regulation 42(2)(b) an applicant's average weekly unearned income is calculated by—

- (a) multiplying the applicant's unearned income for an assessment period by 12, and
- (b) dividing the product by 52.



### **Meaning of “assessment period”**

**44.**—(1) Where an applicant or the applicant’s partner has, or the partners jointly have, an award of universal credit—

- (a) an “assessment period” means the assessment period based on which the monthly award of universal credit is calculated in accordance with regulation 21 of the 2013 Regulations<sup>(a)</sup>, and
- (b) an applicant’s average total weekly income is calculated in accordance with regulation 43.

(2) Where neither the applicant nor the applicant’s partner, nor the partners jointly, have an award of universal credit, an “assessment period” is a period described in regulations 39 (average weekly employed earnings), 40 (average weekly self-employed earnings) and 41 (average weekly unearned income) over which income falls to be calculated.

## **CHAPTER 3**

### **Earned income**

#### **Meaning of “earned income”**

**45.** “Earned income” means the remuneration or profits derived from—

- (a) employment under a contract of service or in an office, including elective office,
- (b) a trade, profession or vocation, or
- (c) any other paid work, or
- (d) any income treated as earned income in accordance with this Chapter.

#### **Meaning of other terms relating to earned income**

**46.**—(1) In this Chapter—

“HMRC” means Her Majesty’s Revenue and Customs,

“PAYE Regulations” means the Income Tax (Pay As You Earn) Regulations 2003<sup>(b)</sup>, and

“relievable pension contributions” has the meaning in section 188 of the Finance Act 2004<sup>(c)</sup>.

(2) References in this Chapter to an applicant participating as a service user are to—

- (a) an applicant who is being consulted by or on behalf of—
  - (i) a body which has a statutory duty to provide services in the field of health, social care or social housing, or
  - (ii) a body which conducts research or undertakes monitoring for the purpose of planning or improving such services,  
in their capacity as a user, potential user, carer of a user or person otherwise affected by the provision of those services, or
- (b) the carer of a person consulted under sub-paragraph (a).

#### **Calculation of earned income in an assessment period**

**47.**—(1) The calculation of an applicant’s earned income in respect of an assessment period is, unless otherwise provided in this Chapter, to be based on the actual amounts received in that period.

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(a) Regulation 21 was amended by S.I. 2014/2887 and S.I. 2018/65.

(b) S.I. 2003/2683.

(c) c.12. Section 188 was relevantly amended by paragraph 13 of schedule 7 of the Finance Act 2014 (c.26).

(2) Where—

- (a) an applicant has made a claim for universal credit,
- (b) the Secretary of State has made a determination, whether or not based on an estimate of the amounts received or expected to be received by the applicant in an assessment period in accordance with regulation 54(2) of the 2013 Regulations, and
- (c) the Secretary of State has shared relevant information relating to the applicant's earned income with the relevant authority in accordance with section 131 of the 2012 Act<sup>(a)</sup>,

the relevant authority may use such parts of that information as are relevant for the purposes of calculating an applicant's earned income in an assessment period.

(3) An applicant who has had employed earnings and has withdrawn their labour in furtherance of a trade dispute is, unless their contract of service has been terminated, to be assumed to have employed earnings at the same level as they would have had were it not for the trade dispute.

### **Surplus earnings**

**48.**—(1) This regulation applies where the applicant or the applicant's partner has made, or the partners jointly have made, a claim for universal credit and an amount of surplus earnings is taken into account in determining that person's universal credit award.

(2) Where this regulation applies, any surplus earnings determined in accordance with regulation 54A(3) of the 2013 Regulations<sup>(b)</sup> are to be treated as an applicant's earned income, unless the relevant authority considers it unreasonable to treat the surplus earnings in that way.

### **Employed earnings (applicants with an award of universal credit)**

**49.**—(1) This regulation applies for the purposes of calculating earned income from earnings where an applicant or an applicant's partner has, or the partners jointly have, an award of universal credit.

(2) Employed earnings comprise any amounts that are general earnings, as defined in section 7(3) of ITEPA, but excluding—

- (a) amounts that are treated as earnings under Chapters 2 to 11 of Part 3 of ITEPA (the benefits code), and
- (b) amounts that are exempt from income tax under Part 4 of ITEPA.

(3) In the calculation of employed earnings the following are to be disregarded—

- (a) expenses that are allowed to be deducted under Chapter 2 of Part 5 of ITEPA, and
- (b) expenses arising from participation as a service user (see regulation 46(2)).

(4) The following benefits are to be treated as employed earnings—

- (a) statutory sick pay,
- (b) statutory maternity pay,
- (c) statutory paternity pay,
- (d) statutory adoption pay,
- (e) statutory parental bereavement pay,
- (f) statutory shared parental pay, and
- (g) any corresponding payment under any enactment having effect in Northern Ireland.

(5) A repayment of income tax or national insurance contributions received by an applicant from HMRC in respect of a tax year in which the applicant was in paid work is to be treated as employed earnings unless it is taken into account as self-employed earnings under regulation 51.

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(a) Section 131 was amended by section 4 of the Wales Act 2014 (c.29) and section 20 of the Welfare Reform and Work Act 2016 (c.7).

(b) Regulation 54A was inserted by S.I. 2015/345.

(6) In calculating the amount of an applicant's employed earnings in respect of an assessment period, there are to be deducted from the amount of general earnings or benefits specified in paragraphs (2) to (4)—

- (a) any relievable pension contributions made by the applicant in that period,
- (b) any amounts paid by the applicant in that period in respect of the employment by way of income tax or primary Class 1 contributions under section 6(1) of the 1992 Act,
- (c) any sums withheld as donations to an approved scheme under Part 12 of ITEPA (payroll giving) by an applicant required to make deductions or repayments of income tax under the PAYE Regulations, and
- (d) any sum, where applicable, specified in schedule 3.

### **Employed earnings (applicants with no award of universal credit)**

**50.**—(1) This regulation applies for the purposes of calculating earned income from earnings where neither the applicant nor an applicant's partner, nor the partners jointly, have an award of universal credit.

(2) Subject to paragraph (3), employed earnings comprise any remuneration or profit derived from employment and include—

- (a) any bonus or commission,
- (b) any payment in lieu of remuneration except any periodic sum paid to an applicant on account of the termination of the applicant's employment by reason of redundancy,
- (c) any payment in lieu of notice or any lump sum payment intended as compensation for the loss of employment but only in so far as it represents loss of income,
- (d) any holiday pay except any payable more than 4 weeks after termination or interruption of the employment,
- (e) any payment by way of a retainer,
- (f) any payment made by an applicant's employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the applicant's employer in respect of—
  - (i) travelling expenses incurred by the applicant between the applicant's home and place of employment, or
  - (ii) expenses incurred by the applicant under arrangements made for the care of a member of the applicant's family owing to the applicant's absence from home,
- (g) any award of compensation made under section 112(4) or 117(3)(a) of the Employment Rights Act 1996 (remedies and compensation for unfair dismissal)(a),
- (h) any payment or remuneration made under section 28, 34, 64, 68 or 70 of the Employment Rights Act 1996 (right to guarantee payments, remuneration on suspension on medical or maternity grounds, complaints to employment tribunals)(b),
- (i) any such sum as is referred to in section 112 of the 1992 Act (certain sums to be earnings for social security purposes)(c),
- (j) any statutory sick pay, statutory maternity pay, statutory paternity pay, statutory shared parental pay, statutory parental bereavement pay or statutory adoption pay, or a corresponding payment under any enactment having effect in Northern Ireland,

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(a) 1996 c.18. Section 112(4) was amended by paragraph 36 of schedule 7 of the Employment Act 2002 (c.22) and schedule 9 of the Employment Relations Act 1999 (c.26). Section 117(3)(a) was amended by paragraph 37 of schedule 7 of the Employment Act 2002.

(b) Sections 34 and 70 were amended by section 1 of the Employment Rights (Dispute Resolution) Act 1998 (c.8), S.I. 2011/1133 and S.I. 2019/469. Section 70 was also amended by paragraph 29 of schedule 2 of the Enterprise and Regulatory Reform Act 2013 (c.24) and S.I. 2019/469. Section 64 was amended by S.I. 1999/3232 and S.I. 2017/1075.

(c) Section 112 was amended by paragraph 21 of schedule 3 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2) and paragraph 51 of schedule 1 of the Employment Rights Act 1996 (c.18).

- (k) any remuneration paid by or on behalf of an employer to an applicant who for the time being is on maternity leave, paternity leave, shared parental leave, parental bereavement leave or adoption leave or is absent from work because the applicant is ill, and
- (l) the amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person's earnings in accordance with Part 5 of schedule 3 of the Social Security (Contributions) Regulations 2001(a).

(3) Earnings do not include—

- (a) any amount deducted from them by way of income tax or primary Class 1 contributions under the 1992 Act,
- (b) half of any sum paid by the applicant by way of a contribution towards an occupational pension scheme,
- (c) half of the amount calculated in accordance with paragraph (4) in respect of any sum payable periodically by the applicant as a contribution towards a personal pension scheme,
- (d) where those earnings include a payment described in paragraph (2)(j) under an enactment having effect in Northern Ireland, any amount deducted from them by way of contributions under an enactment having effect there which corresponds to primary Class 1 contributions under the 1992 Act,
- (e) any payment in kind, unless it is by way of a non-cash voucher referred to in paragraph (2)(l),
- (f) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment,
- (g) any occupational pension,
- (h) any payment in respect of expenses arising out of the applicant's participation in a service user group, or
- (i) any sum, where applicable, specified in schedule 3.

(4) The amount described in paragraph (3)(c) is to be calculated by multiplying the daily amount of the contribution by the number of days in the assessment period, the daily amount being determined—

- (a) where the contribution is paid monthly, by multiplying its amount by 365 and then dividing the product by 12, or
- (b) in any other case, by dividing the amount of the contribution by the number of days in the period to which it relates.

(5) Where the earnings of an applicant are estimated for an assessment period under regulation 39(2)(b) (average weekly earnings of employed earners), then for the purposes of paragraph (3)(a) to (c) the amount deducted by way of—

- (a) income tax is to be calculated by applying to those earnings over that period the basic rate of tax applicable, less only the pro rata amount for that period of the personal relief to which the applicant is entitled under section 35(1) of the Income Tax Act 2007 (personal allowance)(b),
- (b) primary Class 1 contributions is to be the amount that would be deducted if such contributions were payable,
- (c) pension contributions is to be half of any sum that would be so payable if the estimated earnings were actual earnings.

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(a) S.I. 2001/1004. Part 5 of schedule 3 was amended by section 46 of the Finance Act 1988 (c.39), section 89 of the Finance Act 1994 (c.9), schedule 13 of the Finance Act 2004 (c.12), sections 60 and 62 of the Finance Act 2006 (c.25), S.I. 2001/2412, S.I. 2002/307, S.I. 2003/2958, S.I. 2004/770, S.I. 2005/778, S.I. 2006/883, S.I. 2006/2003, S.I. 2007/2091, S.I. 2008/607, S.I. 2009/600, S.I. 2011/1000, S.I. 2011/2700, S.I. 2013/622, S.I. 2014/3228, S.I. 2016/1027 and S.I. 2018/120.

(b) c.3. Section 35(1) was relevantly amended by section 4(1) of the Finance Act 2009 (c.10), section 5(4)(a) of the Finance Act 2015 (c.11) and section 5(2) of the Finance Act 2019 (c.1).

## **Self-employed earnings**

**51.**—(1) This regulation applies for the purpose of calculating earned income that is not employed earnings and is derived from carrying on a trade, profession or vocation (“self-employed earnings”).

(2) Where the applicant or the applicant’s partner has, or the partners jointly have, an award of universal credit, an applicant’s self-employed earnings in respect of an assessment period are to be calculated in accordance with the steps in this paragraph, and in accordance with paragraphs (3) and (4)—

### *Step 1*

Calculate the amount of the applicant’s profit or loss in respect of each trade, profession or vocation carried on by the applicant by—

- (a) taking the actual receipts in that assessment period, and
- (b) deducting any amounts allowed as expenses under regulation 53 or 54.

Where a trade, profession or vocation is carried on in a partnership, take the amount of the profit or loss attributable to the applicant’s share in the partnership.

### *Step 2*

If the applicant has carried on more than one trade, profession or vocation in the assessment period, add together the amounts resulting from step 1 in respect of each trade, profession or vocation.

### *Step 3*

Deduct from the amount resulting from step 1 or (where applicable) step 2 any payment made by the applicant to HMRC in the assessment period by way of national insurance contributions or income tax in respect of any trade, profession or vocation carried on by the applicant.

If the amount resulting from steps 1 to 3 is nil or a negative amount, the amount of the applicant’s self-employed earnings in respect of the assessment period is nil (and ignore the following steps).

### *Step 4*

If the amount resulting from step 3 is greater than nil, deduct from that amount any relievable pension contributions made by the applicant in the assessment period (unless a deduction has been made in respect of those contributions in calculating the applicant’s employed earnings).

If the amount resulting from this step is nil or a negative amount, the applicant’s self-employed earnings in respect of the assessment period are nil (and ignore the following steps).

### *Step 5*

Where the amount resulting from step 4 is greater than nil, deduct from that amount any unused losses (see regulation 52), taking the oldest first, and proceed to step 6.

If the amount resulting from this step is nil or a negative amount, the applicant’s self-employed earnings in respect of the assessment period are nil (and ignore the following step).

### *Step 6*

Deduct from the amount any sum, where applicable, specified in schedule 3.

If the amount resulting is greater than nil, that is the amount of the applicant’s self-employed earnings for the assessment period.

If the amount resulting from this step is nil or a negative amount, the amount of the applicant’s self-employed earnings in respect of the assessment period is nil.

(3) The receipts referred to in paragraph (2) include receipts in kind and any refund or repayment of income tax, value added tax or national insurance contributions relating to the trade, profession or vocation.

(4) For the purposes of paragraph (2), where the purchase of an asset has been deducted as an expense in any assessment period and, in a subsequent assessment period, the asset is sold or ceases to be used for the purposes of a trade, profession or vocation carried on by the applicant, the proceeds of sale (or, as the case may be, the amount that would be received for the asset if it

were sold at its current market value) are to be treated as a receipt in that subsequent assessment period

(5) If neither the applicant nor the applicant's partner, nor the partners jointly, have an award of universal credit, the applicant's self-employed earnings are to be calculated in accordance with paragraphs (6) to (10).

(6) For the purpose of paragraph (5) step 1 is to ascertain the gross income of the employment as a self-employed earner, but excluding—

- (a) any payment to which paragraph 30 or 31 of schedule 4 of the 2012 Regulations refers (payments in respect of a person accommodated with the applicant under arrangements made by a local authority or voluntary organisation and payments made to the applicant by a health authority, local authority or voluntary organisation in respect of persons temporarily in the applicant's care),
- (b) any sports award within the meaning of regulation 10(9).

(7) This paragraph applies to—

- (a) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark, and
- (b) any payment in respect of any—
  - (i) book registered under the Public Lending Right Scheme 1982(a), or
  - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982, where the applicant is the first owner of the copyright, design, patent or trade mark, or an original contributor to the book or work concerned.

(8) For the purpose of paragraph (6), where the applicant's earnings consist of any items to which paragraph (7) applies, those earnings are to be taken into account over a period equal to the number of weeks equal to the number obtained (and any fraction is to be treated as a corresponding fraction of a week) by dividing the earnings by the amount of council tax reduction to which the applicant would have been entitled had the payment not been made plus an amount equal to the total of the sums which would fall to be disregarded from the payment under schedule 3 (sums to be disregarded in the calculation of earnings) as appropriate in the applicant's case.

(9) For the purpose of paragraph (5), steps 2 and 3 in calculating that applicant's self-employed earnings are to ascertain the net profit of the employment as self-employed earnings, in accordance with regulations 37 and 38 (calculation of net profit, and deduction of tax and contributions) of the 2012 Regulations(b), but—

- (a) reading all references in those regulations to—
  - (i) the "applicant" as referring to the applicant under these Regulations,
  - (ii) the "assessment period" as referring to the assessment period determined under regulation 44 of these Regulations,
  - (iii) "earnings" as referring to the gross income ascertained under Step 1 of this regulation,
  - (iv) the "qualifying premium" as referring to "relievable pension contributions" within the meaning of this Chapter (see regulation 46(1)), and
- (b) reading the reference in regulation 37(2) of those Regulations to "Schedule 3" as a reference to schedule 3 of these Regulations.

(10) If the amount resulting from the steps 2 and 3 in paragraph (9) is a nil or negative amount, the amount of the applicant's self-employed earnings in respect of the assessment period is nil, otherwise those earnings as to be calculated in accordance with step 4 in paragraph (11).

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(a) The Scheme is set out in the appendix to S.I. 1982/719. There are amendments to that appendix that are not relevant to these Regulations.

(b) Regulation 38 was amended by S.S.I. 2016/81.

(11) For the purpose of paragraph (5), step 4 is to deduct from the amount obtained from steps 2 and 3 any sum, where applicable, specified in schedule 3, and if the amount resulting from that step—

- (a) is greater than nil, that is the amount of the applicant's self-employed earnings for the assessment period,
- (b) is nil or a negative amount, the amount of the applicant's self-employed earnings in respect of the assessment period is nil.

#### **Unused losses (applicants with an award of universal credit)**

**52.**—(1) For the purposes of regulation 51(2), an applicant has an unused loss if—

- (a) an applicant, or the applicant's partner has, or the partners jointly have, an award of universal credit,
- (b) in calculating the applicant's self-employed earnings for any of the previous assessment periods, the amount resulting from steps 1 to 3 in regulation 51(2) was a negative amount (a "loss"), and
- (c) the loss has not been extinguished in a subsequent assessment period.

(2) For the purposes of paragraph (1)(b) a loss is extinguished if no amount of that loss remains after it has been deducted at step 5 in regulation 51(2).

(3) Where—

- (a) an applicant or the applicant's partner has, or the partners jointly have, an award of universal credit,
- (b) the Secretary of State has treated periods of time that pre-dated the award of universal credit as assessment periods under the award of universal credit in accordance with regulation 57A(3) of the 2013 Regulations (unused losses)(a), and
- (c) the Secretary of State has shared relevant information relating to the applicant's self-employed earnings with the relevant authority in accordance with section 131 of the 2012 Act,

a relevant authority may use such parts of that information as is relevant for the purposes of calculating an applicant's self-employed earnings in an assessment period.

#### **Permitted expenses (applicants with an award of universal credit)**

**53.**—(1) The deductions allowed for the purposes of regulation 51(2) in the calculation of self-employed earnings are amounts paid in the assessment period in respect of—

- (a) expenses that have been wholly and exclusively incurred for purposes of the trade, profession or vocation, or
- (b) in the case of expenses that have been incurred for more than one purpose, an identifiable part or proportion that has been wholly and exclusively incurred for the purposes of the trade, profession or vocation,

excluding any expenses that were incurred unreasonably.

(2) Payments deducted under paragraph (1) may include value added tax.

(3) No deduction may be made for payments in respect of—

- (a) expenditure on non-depreciating assets (including property, shares or other assets held for investment purposes),
- (b) repayment of capital in relation to a loan taken out for the purposes of the trade, profession or vocation,
- (c) expenses for business entertainment.

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(a) Regulation 57A was inserted by S.I. 2015/345 and was amended by S.I. 2018/65.

(4) A deduction for a payment of interest in relation to a loan taken out for the purposes of the trade, profession or vocation may not exceed an amount equivalent to £492 per year.

(5) This regulation is subject to regulation 54.

### **Flat rate deductions for mileage and use of home and adjustment for personal use of business premises (applicants with an award of universal credit)**

**54.**—(1) This regulation provides for alternatives to the deductions that would otherwise be allowed under regulation 53.

(2) Instead of a deduction in respect of the actual expenses incurred in relation to the acquisition or use of a motor vehicle, the same deductions may be allowed as are allowed for that type of vehicle for the purposes of the 2013 Regulations<sup>(a)</sup> according to the mileage covered on journeys undertaken in the assessment period for the purposes of the trade, profession or vocation and, if the motor vehicle is a car, the only deduction allowed for the acquisition or use of that vehicle is a deduction under this paragraph.

(3) Where an applicant carrying on a trade, profession or vocation incurs expenses in relation to the use of accommodation occupied as their home, instead of a deduction in respect of the actual expenses, a deduction is allowed according to the number of hours spent in the assessment period on income generating activities related to the trade, profession or vocation as follows—

- (a) at least 25 hours but no more than 50 hours, £10,
- (b) more than 50 hours but no more than 100 hours, £18,
- (c) more than 100 hours, £26.

(4) Where premises which are used by an applicant mainly for the purposes of a trade, profession or vocation are also occupied by that applicant for their personal use, whether alone or with other persons, the deduction allowed for expenses in relation to those premises is the amount that would be allowed under regulation 53(1) if the premises were used wholly and exclusively for purposes of the trade, profession or vocation, but reduced by the following amount according to the number of persons occupying the premises for their personal use—

- (a) £350 for one person,
- (b) £500 for two persons,
- (c) £650 for three or more persons.

### **Notional earned income**

**55.**—(1) Where a relevant authority is of the opinion that an applicant has deprived themselves of earned income, or arranged for them to be so deprived, for the purpose of securing entitlement to council tax reduction or increasing the amount of that reduction, that income is to be treated as earned income of the applicant.

(2) Such a purpose is to be treated as existing if, in fact, entitlement to an increased amount of council tax reduction did result and, in the opinion of the relevant authority, this was a foreseeable and intended consequence of the deprivation.

(3) Where an applicant with an award of universal credit was treated as—

- (a) possessing earned income under regulation 60(1) of the 2013 Regulations, or
- (b) having received income under regulation 60(3) of the 2013 Regulations,

that income is to be treated as earned income under paragraph (1).

(4) For the avoidance of doubt, for the purpose of this regulation, if paragraphs (1) and (3) apply in respect of the same income, that income is to be counted as unearned income only once.

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(a) See regulation 59 of S.I. 2013/376, which was amended by S.I. 2013/1508.



- (5) If an applicant provides services for another person and—
- (a) the other person makes no payment for those services or pays less than would be paid for comparable services in the same location, and
  - (b) the means of the other person were sufficient to pay for, or pay more for, those services,
- the applicant is to be treated as having received the remuneration that would be reasonable for the provision of those services.
- (6) Paragraph (5) does not apply where—
- (a) the applicant is engaged to provide the services by a charitable or voluntary organisation and the relevant authority is satisfied that it is reasonable to provide the services free of charge or at less than the rate that would be paid for comparable services in the same location,
  - (b) the applicant is participating as a service user (see regulation 46(2)), or
  - (c) the services are provided under or in connection with the applicant’s participation in an employment or training programme approved by the Secretary of State or the Scottish Ministers.

### Minimum income floor

#### 56.—(1) Where—

- (a) an applicant has an award of universal credit and the Secretary of State has determined for the purposes of that award that the applicant is in gainful self-employment,
- (b) when calculating the applicant’s earned income for any given assessment period for the purposes of that award of universal credit—
  - (i) the applicant’s earned income was less than their individual threshold but was treated as being equal to that threshold, or
  - (ii) the applicant was a member of a couple and the couple’s combined earned income was less than the couple threshold,
 under regulation 62 of the 2013 Regulations (minimum income floor)(a), and
- (c) the Secretary of State has shared relevant information relating to the applicant’s income with the relevant authority in accordance with section 131 of the 2012 Act,

a relevant authority may use such parts of that information as is relevant for the purposes of calculating an applicant’s income in an assessment period.

(2) In paragraph (1) “couple”, “couple threshold”, “earned income”, “gainful self-employment” and “individual threshold” have the meaning given to them in the 2013 Regulations.

(3) In calculating an applicant’s income, any surplus earnings determined in accordance with regulation 54A(3) of the 2013 Regulations are to be treated as earned income, unless the relevant authority considers it unreasonable to treat the surplus earnings in that way.

(4) This regulation does not apply in respect of an assessment period that falls wholly within a start-up period or which begins or ends in a start-period, and for this purpose—

- (a) “start-up period” has the meaning given by regulation 63 of the 2013 Regulations (meaning of start-up period)(b), but
- (b) does not include a start-up period that the Secretary of State has terminated under paragraph (3) of that regulation.

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(a) Regulation 62 was amended by S.I. 2014/2888, S.I. 2015/345, S.I. 2015/1754 and S.I. 2019/1249.  
 (b) Regulation 63 was amended by S.I. 2019/1152.

CHAPTER 4  
Unearned income

**Meaning of “unearned income”**

**57.**—(1) An applicant’s unearned income is any of their income, including income the applicant is treated as having by virtue of regulation 65 (notional unearned income), falling within the following descriptions—

- (a) retirement pension income to which the applicant is entitled, subject to any adjustment to the amount payable in accordance with Regulations under section 73 of the Social Security Administration Act 1992 (overlapping benefits)(**a**),
- (b) any of the following benefits to which the applicant is entitled, subject to any adjustment to the amount payable in accordance with Regulations under section 73 of the Social Security Administration Act 1992—
  - (i) income support,
  - (ii) jobseeker’s allowance,
  - (iii) employment and support allowance,
  - (iv) carer’s allowance (but ignoring any carer’s allowance supplement under section 81 of the 2018 Act(**b**)),
  - (v) widowed mother’s allowance,
  - (vi) widowed parent’s allowance,
  - (vii) widow’s pension,
  - (viii) maternity allowance,
  - (ix) industrial injuries benefit, excluding any increase in that benefit under section 104 or 105 of the 1992 Act (increases where constant attendance needed and for exceptionally severe disablement),
  - (x) incapacity benefit,
  - (xi) severe disablement allowance under section 68 of the 1992 Act(**c**),
- (c) any benefit, allowance, or other payment which is paid under the law of a country outside the United Kingdom and is analogous to a benefit mentioned in sub-paragraph (b),
- (d) payments made towards the maintenance of the applicant by their spouse, civil partner, former spouse or former civil partner under a court order or an agreement for maintenance,
- (e) foreign state retirement pension,
- (f) student income (see regulation 59),
- (g) a payment made under section 2 of the 1973 Act(**d**) or section 2 of the Enterprise and New Towns (Scotland) Act 1990(**e**) which is a substitute for income support, a jobseeker’s allowance, incapacity benefit, severe disablement allowance, an employment and support allowance or universal credit or is for an applicant’s living expenses,

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(a) 1992 c.5. Section 73 was amended by paragraph 49 of schedule 2 of the Jobseekers Act 1995 (c.18), paragraph 59 of schedule 24 of the Civil Partnership Act 2004 (c.33), paragraph 1 of schedule 2 of the Child Benefit Act 2005 (c.6), paragraph 10 of schedule 3 and paragraph 1 of schedule 8 of the Welfare Reform Act 2007 (c.5), paragraph 11 of schedule 9 of the Welfare Reform Act 2012 (c.5), paragraph 12 of schedule 12 of the Pensions Act 2014 (c.19) and S.I. 2019/128.

(b) There are amendments to section 81 that are not relevant to these Regulations.

(c) Section 68 was repealed by Schedule 13 to the Welfare Reform and Pensions Act 1999 (c.30), subject to savings provisions in S.I. 2000/2958.

(d) Section 2 was amended by section 25 of the Employment Act 1988 (c.19), section 29 of the Employment Act 1989 (c.38) and section 47 of the Trade Union Reform and Employment Rights Act 1993 (c.19).

(e) 1990 c.35. Section 2 was amended by section 47 of the Trade Union Reform and Employment Rights Act 1993 (c.19), paragraph 20 of schedule 26 of the Equality Act 2010 (c.15) and S.I. 1999/1820.

- (h) a payment made by one of the Sports Councils named in section 23(2) of the National Lottery etc. Act 1993<sup>(a)</sup> out of sums allocated to it for distribution where the payment is for the applicant’s living expenses,
  - (i) a payment received under an insurance policy to insure against the risk of losing income due to illness, accident or redundancy,
  - (j) income from an annuity (other than retirement pension income), unless disregarded under regulation 74 (compensation for personal injury),
  - (k) income from a trust, unless disregarded under regulation 74 (compensation for personal injury) or 75 (special schemes for compensation),
  - (l) income that is treated as the yield from an applicant’s capital by virtue of regulation 63 (assumed yield from capital),
  - (m) capital that is treated as income by virtue of regulation 67(3) or (4) (capital that is treated as income),
  - (n) PPF periodic payments,
  - (o) income that does not fall within sub-paragraphs (a) to (n) and is taxable under Part 5 of the Income Tax (Trading and Other Income) Act 2005 (miscellaneous income)<sup>(b)</sup>,
  - (p) relevant universal credit payments,
  - (q) working tax credits,
  - (r) child tax credits.
- (2) In this regulation—
- (a) in paragraph (1)(e) “foreign state retirement pension” means any pension which is paid under the law of a country outside the United Kingdom and is in the nature of social security,
  - (b) in paragraph (1)(g) and (h) an applicant’s “living expenses” are the cost of—
    - (i) food,
    - (ii) ordinary clothing or footwear,
    - (iii) household fuel, rent or other housing costs (including council tax), for the applicant, their partner and any child or young person for whom the applicant is responsible,
  - (c) in paragraph (1)(n) “PPF periodic payments” has the meaning given in section 17(1) of the State Pension Credit Act 2002<sup>(c)</sup>,
  - (d) in paragraph (1)(p) “relevant universal credit payments” means in relation to an applicant with an award of universal credit—
    - (i) where the award includes an amount for each child or young person under regulation 24(1) of the 2013 Regulations<sup>(d)</sup> (“the child element”)—
      - (aa) the total amount of the child element included in the calculation of the maximum universal credit award (including any additional amount included under paragraph (2) of that regulation in respect of a child who is disabled) and, if applicable, the amount of childcare costs element (see regulation 31 of the 2013 Regulations) and the transitional element awarded in accordance with regulation 52 of the Universal Credit (Transitional Provisions) Regulations 2014<sup>(e)</sup> (“the transitional element”), or
      - (bb) the total amount of the award, as if any deduction for payment to a third party had not been made,
- whichever is lower,

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(a) 1993 c.39. Section 23(2) was amended by S.I. 1996/3095, S.I. 1999/1563 and S.I. 2006/654.

(b) 2005 c.5.

(c) 2002 c.16. Section 17(1) was relevantly amended by S.I. 2006/343.

(d) S.I. 2013/376, relevantly amended by section 14(5) of the Welfare Reform and Work Act 2016 (c.7).

(e) S.I. 2014/1230. Regulation 52 was inserted by S.I. 2019/1152.

- (ii) where the award includes a transitional element but does not include a child element, the amount of the transitional element,
- (iii) where the award does not include a transitional element or a child element, no amount of the award,
- (iv) where the award is reduced under Part 7 of the 2013 Regulations (the benefit cap), its amount after that reduction has been made.

(3) In a case where an award of income support, income-based jobseeker's allowance or income-related employment and support allowance is continuing for two weeks after the commencement of an award of universal credit by virtue of regulation 8(2A), 46(1) or 47(2) of the Universal Credit (Transitional Provisions) Regulations 2014(a), or by virtue of regulation 5 of the Universal Credit (Managed Migration Pilot and Miscellaneous Amendments) Regulations 2019(b), notwithstanding paragraph (1)(b)(i) to (iii), that award is to be disregarded from the applicant's weekly unearned income.

(4) Where an applicant is in receipt of widowed parent's allowance, notwithstanding paragraph (1)(b)(v), £15 is to be disregarded from the applicant's weekly unearned income.

(5) Except in a case which falls under paragraph 15(1) of schedule 3, there is to be disregarded where the applicant is a person who satisfies any of the conditions in paragraph 15(2) of that schedule any amount of working tax credit up to £17.10.

### **Meaning of "retirement pension income"**

**58.**—(1) Subject to paragraph (2), in regulation 57(1)(a) "retirement pension income" has the same meaning as in section 16 of the State Pension Credit Act 2002(c) as extended by regulation 16 of the State Pension Credit Regulations 2002.

(2) Retirement pension income includes any increase in a Category A or Category B retirement pension mentioned in section 16(1)(a) of the State Pension Credit Act 2002 which is payable under Part 4 of the 1992 Act in respect of an applicant's partner.

### **Person treated as having student income**

**59.**—(1) An applicant who is a student and has a student loan, a postgraduate master's degree loan or a grant in respect of the course they are undertaking, is to be treated as having student income in respect of—

- (a) an assessment period in which the course begins,
- (b) in the case of a course which lasts for two or more years, an assessment period in which the second or subsequent year begins,
- (c) any other assessment period in which, or in any part of which, the applicant is undertaking the course, excluding—
  - (i) an assessment period in which the long vacation begins or which falls within the long vacation, or
  - (ii) an assessment period in which the course ends.

(2) Where an applicant has a student loan or a postgraduate master's degree loan, their student income for any assessment period referred to in paragraph (1) is to be based on the amount of that loan.

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(a) Regulation 8(2A) was inserted by S.I. 2018/65. It was amended by S.I. 2019/1152. Regulations 46 and 47 were added, and subsequently amended, by S.I. 2019/1152.

(b) S.I. 2019/1152. Regulation 5 was amended by S.I. 2020/826.

(c) Section 16 was amended by paragraph 32 of schedule 1 of the Sovereign Grant Act 2011 (c.15), paragraph 15 of schedule 11 and paragraph 44 of schedule 12 of the Pensions Act 2014 (c.19) and S.I. 2002/1792.

(3) Where paragraph (2) applies, any grant in relation to the period to which the loan applies is to be disregarded except for—

- (a) any specific amount included in the grant to cover payments which are rent payments in respect of which an amount is included in an award of universal credit for the housing costs element,
- (b) any amount intended for the maintenance of another person in respect of whom an amount is included in the award.

(4) Where paragraph (2) does not apply, the applicant's student income for any assessment period in which they are treated as having that income is to be based on the amount of their grant.

(5) For the purposes of paragraph (1), an applicant is to be treated as having a student loan or a postgraduate master's degree loan where the applicant could acquire a student loan or a postgraduate master's degree loan by taking reasonable steps to do so.

(6) Student income does not include any payment referred to in regulation 57(1)(g).

(7) In this regulation and regulations 60 to 62—

“grant” means any kind of educational grant or award, excluding a student loan or a payment made under a scheme to enable persons under the age of 21 to complete courses of education or training that are not advanced education,

“the long vacation” is a period of no less than one month which, in the opinion of the relevant authority, is the longest vacation during a course which is intended to last for two or more years,

“postgraduate master's degree loan” means a loan which a student is eligible to receive under the Education (Postgraduate Master's Degree Loans) Regulations 2016(a).

### **Calculation of student income – student loans and postgraduate master's degree loans**

**60.**—(1) Where, in accordance with regulation 59(1) or regulation 59(5), as the case may be, an applicant's student income is to be based on the amount of a student loan for a year, the amount to be taken into account is the maximum student loan (including any increases for additional weeks) that the applicant would be able to acquire in respect of that year by taking reasonable steps to do so.

(2) Where, in accordance with regulation 59(2) or 59(5), as the case may be, an applicant's student income is to be based on the amount of a postgraduate master's degree loan for a year, the amount to be taken into account is 30 per cent of the maximum postgraduate master's degree loan that the applicant would be able to acquire by taking reasonable steps to do so.

(3) For the purposes of calculating the maximum student loan in paragraph (1) or the maximum postgraduate master's degree loan in paragraph (2) it is to be assumed no reduction has been made on account of—

- (a) the applicant's means or the means of their partner, parent or any other person, or
- (b) any grant made to the applicant.

### **Calculation of student income – grants**

**61.** Where, in accordance with regulation 59(4), an applicant's student income is to be based on the amount of a grant, the amount to be taken into account is the whole of the grant excluding any payment—

- (a) intended to meet tuition fees or examination fees,
- (b) in respect of the applicant's disability,
- (c) intended to meet additional expenditure connected with term time residential study away from the applicant's educational establishment,

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(a) S.I. 2016/606.

- (d) intended to meet the cost of the applicant maintaining a home at a place other than that at which they reside during their course, except where the applicant has an award of universal credit and that award includes an amount for the housing costs element in respect of those costs,
- (e) intended for the maintenance of another person, except where the applicant has an award of universal credit and that award includes an amount in respect of that person,
- (f) intended to meet the cost of books and equipment,
- (g) intended to meet travel expenses incurred as a result of the applicant's attendance on the course, or
- (h) intended to meet childcare costs.

### **Calculation of student income for an assessment period**

**62.** The amount of an applicant's student income in relation to each assessment period in which the applicant is to be treated as having student income in accordance with regulation 59(1) is calculated as follows—

#### *Step 1*

Determine whichever of the following amounts is applicable—

- (a) in so far as regulation 59(2) applies to an applicant with a student loan, the amount of the loan (and, if applicable, the amount of any grant) in relation to the year of the course in which the assessment period falls,
- (b) in so far as regulation 59(2) applies to an applicant with a postgraduate master's degree loan, 30 per cent of the amount of the loan in relation to the year of the course in which the assessment period falls, or
- (c) if regulation 59(4) applies (applicant with a grant but no student loan or postgraduate master's degree loan) the amount of the grant in relation to the year of the course in which the assessment period falls.

But if the period of the course is less than a year determine the amount of the grant or loan in relation to the course.

#### *Step 2*

Determine in relation to—

- (a) the year of the course in which the assessment period falls, or
- (b) if the period of the course is less than a year, the period of the course,

the number of assessment periods for which the applicant is to be treated as having student income.

#### *Step 3*

Divide the amount produced by step 1 by the number of assessment periods produced by step 2.

#### *Step 4*

Deduct £27.50 for each week in the assessment period.

### **Assumed yield from capital**

**63.—**(1) An applicant's capital is to be treated as yielding—

- (a) a monthly income of £4.35 for each £250 in excess of £6,000 and £4.35 for any excess which is not a complete £250, or
- (b) a weekly income of £1 for each £250 in excess of £6,000 and £1 for any excess which is not a complete £250.

(2) Paragraph (1) does not apply where the capital is disregarded or the actual income from that capital is taken into account under regulation 57(1)(j) (income from an annuity) or 57(1)(k) (income from a trust).

(3) Where an applicant's capital is treated as yielding income, any actual income derived from that capital, for example rental, interest or dividends, is to be treated as part of the applicant's capital from the day it is due to be paid to the applicant.

### **Unearned income calculated monthly**

**64.**—(1) Where an applicant has an award of universal credit, an applicant's unearned income is to be calculated as a monthly amount.

(2) Where the period in respect of which a payment of income is made is not a month, an amount is to be calculated as the monthly equivalent, as follows—

- (a) weekly payments are multiplied by 52 and divided by 12,
- (b) four-weekly payments are multiplied by 13 and divided by 12,
- (c) three monthly payments are multiplied by 4 and divided by 12, and
- (d) annual payments are divided by 12.

(3) Where the period in respect of which unearned income is paid begins or ends (but does not begin and end) during an assessment period the amount of unearned income for that assessment period is to be calculated as follows—

$$N \times (M \times 12/365)$$

where N is the number of days in respect of which unearned income is paid that fall within the assessment period and M is the monthly amount referred to in paragraph (1) or, as the case may be, the monthly equivalent referred to in paragraph (2).

(4) Where the amount of an applicant's unearned income fluctuates, the monthly equivalent is to be calculated—

- (a) where there is an identifiable cycle, over the duration of one such cycle, or
- (b) where there is no identifiable cycle, over three months or such other period as may, in the particular case, enable the weekly equivalent of the applicant's income to be determined more accurately.

(5) This regulation does not apply to student income.

### **Notional unearned income**

**65.**—(1) If unearned income would be available to an applicant upon the making of an application for it, the applicant is to be treated as having that unearned income.

(2) Paragraph (1) does not apply to the benefits listed in regulation 57(1)(b).

(3) An applicant who has reached pensionable age is to be treated as possessing the amount of any retirement pension income for which no application has been made and to which the applicant might expect to be entitled if a claim were made.

(4) The circumstances in which an applicant is to be treated as possessing retirement pension income are the same as the circumstances set out in regulation 18 of the State Pension Credit Regulations 2002(a) in which a person is treated as receiving retirement pension income for the purposes of state pension credit.

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(a) S.I. 2002/1792, amended by S.I. 2005/2677, S.I. 2006/2378, S.I. 2007/2618, S.I. 2009/2655, S.I. 2010/641, S.I. 2014/591, S.I. 2015/1985 and S.I. 2017/1015.

## 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)(a),

- (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)(b),
- (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) (c), 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 or 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)(d).

(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,
- (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 sub-paragraph, 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.

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(a) S.I. 2006/213.

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

(c) 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.

(d) 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.

(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.

## CHAPTER 6

### Miscellaneous

#### **Compensation for personal injury**

**74.**—(1) This regulation applies where a sum has been awarded to an applicant, or has been agreed by or behalf of an applicant—

- (a) in consequence of a personal injury to that applicant, or
- (b) as compensation for the death of one or both parents where the applicant is under the age of 18.

(2) If, in accordance with an order of the court or an agreement, the applicant receives all or part of that sum by way of regular payments, those payments are to be disregarded in the calculation of the applicant's unearned income.

(3) If the sum has been used to purchase an annuity, payments under the annuity are to be disregarded in the calculation of the applicant's unearned income.

(4) If the sum is held in trust, any capital of the trust derived from that sum is to be disregarded in the calculation of the applicant's capital and any income from the trust is to be disregarded in the calculation of the applicant's unearned income.

(5) If the sum is administered by the court on behalf of the applicant or can only be disposed of by direction of the court, it is to be disregarded in the calculation of the applicant's capital and any regular payments from that amount are to be disregarded in the calculation of the applicant's unearned income.

(6) If the sum is not held in trust or has not been used to purchase an annuity or otherwise disposed of, but has been paid to the applicant within the past 12 months, that sum is to be disregarded in the calculation of the applicant's capital.

#### **Special schemes for compensation etc.**

**75.**—(1) This regulation applies where an applicant receives a payment or payment in kind from a scheme established or approved by the Secretary of State or the Scottish Ministers or from a trust established with funds provided by the Secretary of State or from ILF Scotland for the purpose of—

- (a) providing compensation or support in respect of—
  - (i) an applicant having been diagnosed with variant Creutzfeldt-Jacob disease or infected from contaminated blood products,
  - (ii) the bombings in London on 7 July 2005,
  - (iii) persons who have been interned or suffered forced labour, injury, property loss or loss of a child during the Second World War,
  - (iv) the terrorist attacks in London on 22 March 2017 or 3 June 2017,
  - (v) the bombing in Manchester on 22 May 2017, or
- (b) supporting persons with a disability to live independently in their accommodation.

(2) Any such payment, if it is capital, is to be disregarded in the calculation of the applicant's capital and, if it is income, is to be disregarded in the calculation of the applicant's income.

(3) Where an applicant is the partner, parent, son or daughter of a diagnosed or infected person referred to in paragraph (1)(a)(i) a payment received from the scheme or trust, or from the diagnosed or infected person or from their estate is to be disregarded if it would be disregarded in relation to an award of state pension credit by virtue of paragraph 13 or 15 of schedule 5 of the State Pension Credit Regulations 2002(a).

### **Company analogous to a partnership or one person business**

**76.**—(1) Where an applicant stands in a position analogous to that of a sole owner or partner in relation to a company which is carrying on a trade or a property business, the applicant is to be treated, for the purposes of this Part, as the sole owner or partner.

(2) Where paragraph (1) applies, the applicant is to be treated, subject to paragraph (3)(a), as possessing an amount of capital equal to the value, or the applicant's share of the value, of the capital of the company and the value of the applicant's holding in the company is to be disregarded.

(3) Where paragraph (1) applies in relation to a company which is carrying on a trade—

- (a) any assets of the company that are used wholly and exclusively for the purposes of the trade are to be disregarded from the applicant's capital while they are engaged in activities in the course of that trade, and
- (b) the income of the company or the applicant's share of that income is to be treated as the applicant's income and calculated in the manner set out in regulation 51 (self-employed earnings) as if it were self-employed earnings.

(4) Any self-employed earnings which the applicant is treated as having by virtue of paragraph (3)(b) are in addition to any employed earnings the applicant receives as a director or employee of the company.

(5) This regulation does not apply where the applicant derives income from the company that is employed earnings by virtue of Chapter 8 (workers under arrangements made by intermediaries), Chapter 9 (managed service companies) or Chapter 10 (workers' services provided through intermediaries) of Part 2 of ITEPA and that income is derived from activities that are the applicant's main employment.

(6) In paragraph (1) "property business" has the meaning in section 204 of the Corporation Tax Act 2009(b).

## **CHAPTER 7**

### **Childcare charges**

#### **Treatment of childcare charges (applicants with no award of universal credit)**

**77.**—(1) This regulation does not apply, and instead regulation 78 applies, where an applicant or an applicant's partner has, or the partners jointly have, an award of universal credit.

(2) This regulation applies where an applicant is incurring relevant childcare charges and—

- (a) is a lone parent and is engaged in remunerative work,
- (b) is a member of a couple where both are engaged in remunerative work, or
- (c) is a member of a couple where one member is engaged in remunerative work and the other—
  - (i) is incapacitated as described in paragraph (12),

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(a) Paragraph 13 of schedule 5 was amended by S.I. 2003/2274 and S.I. 2005/2687. Paragraph 15 of schedule 5 was amended by S.I. 2002/3197, S.I. 2004/1141, S.I. 2005/2877, S.I. 2005/3391, S.I. 2006/718, S.I. 2008/2767, S.I. 2009/583, S.I. 2010/641, S.I. 2011/2425, S.I. 2016/624, S.I. 2017/329, S.I. 2017/689, S.I. 2017/870 and S.I. 2020/618.

(b) 2009 c.4.

- (ii) is a patient, or
- (iii) is in prison (whether serving a custodial sentence or remanded in custody awaiting trial or sentence).

(3) For the purposes of paragraph (2) and subject to paragraph (5), a person to whom paragraph (4) applies is to be treated as engaged in remunerative work for a period not exceeding 28 weeks during which the person—

- (a) is paid statutory sick pay,
- (b) is paid short-term incapacity benefit at the lower rate under section 30A of the 1992 Act<sup>(a)</sup>,
- (c) is paid an employment and support allowance,
- (d) is paid income support on the grounds of incapacity for work under regulation 4ZA and paragraph 7 or 14 of schedule 1B of the Income Support Regulations<sup>(b)</sup>, or
- (e) is credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975<sup>(c)</sup>.

(4) This paragraph applies to a person who was engaged in remunerative work immediately before as the case may be—

- (a) the first day of the period in respect of which the person was first paid statutory sick pay, short-term incapacity benefit, an employment and support allowance or income support on the grounds of incapacity for work, or
- (b) the first day of the period in respect of which earnings are credited.

(5) In a case to which paragraph (3)(d) or (e) applies, the period of 28 weeks begins on the day on which the person is first paid income support or on the first day of the period in respect of which earnings are credited, as the case may be.

(6) Relevant childcare charges are the charges for care referred to in paragraphs (7) and (8) and they must be calculated on a weekly basis in accordance with paragraph (11).

(7) The charges referred to in paragraph (6) are charges for care which is provided—

- (a) in the case of any child of the applicant's family who is not disabled, in respect of the period beginning on that child's date of birth and ending on the day preceding the first Monday in September following that child's fifteenth birthday, or
- (b) in the case of any child of the applicant's family who is disabled, in respect of the period beginning on that child's date of birth and ending on the day preceding the first Monday in September following their sixteenth birthday.

(8) The charges referred to in paragraph (6) are charges for care which is provided by one or more of the care providers listed in paragraph (9) and not paid—

- (a) in respect of the child's compulsory education,
- (b) by an applicant to a partner or by a partner to an applicant in respect of any child for whom either or any of them is responsible in accordance with regulation 7 (when a person is responsible for a child or young person), or
- (c) in respect of care provided by a relative of the child wholly or mainly in the child's home.

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(a) Section 30A was inserted by section 1 of the Social Security (Incapacity for Work) Act 1994 (c.18) and amended by section 64 of the Welfare Reform and Pensions Act 1999 (c.30) and paragraph 14 of schedule 24 of the Civil Partnership Act 2004 (c.33).

(b) Regulation 4ZA was inserted by S.I. 1996/206 and amended by S.I. 1996/206, S.I. 1997/2197, S.I. 2000/636, S.I. 1997/1981, S.I. 2001/3070, S.I. 2008/1826, S.I. 2009/2655, S.I. 2009/3152 and S.I. 2013/2536. Paragraph 7 of schedule 1B was inserted by S.I. 1996/206 and amended by S.I. 2009/3152 and S.I. 2010/2429. Paragraph 14 of schedule 1B was inserted by S.I. 1996/206 and amended by S.I. 2002/2689 and S.I. 2010/2429.

(c) S.I. 1975/556. Regulation 8B was inserted by S.I. 1996/2367 and amended by S.I. 2000/3120, S.I. 2003/521, S.I. 2008/1554, S.I. 2010/385, S.I. 2012/913 and S.I. 2013/630.

- (9) The care to which paragraph (8) refers may be provided—
- (a) out of school hours, by a school on school premises or by a local authority—
    - (i) for a child who is not disabled, in respect of the period beginning on the child’s eighth birthday and ending on the day preceding the first Monday in September following the child’s fifteenth birthday, or
    - (ii) for a child who is disabled, in respect of the period beginning on the child’s eighth birthday and ending on the day preceding the first Monday in September following their sixteenth birthday,
  - (b) by a child care provider approved in accordance with the Tax Credit (New Category of Child Care Provider) Regulations 1999(a),
  - (c) by persons registered under Part 2 of the Children and Families (Wales) Measure 2010(b),
  - (d) by a person who is excepted from registration under Part 2 of the Children and Families (Wales) Measure 2010 because the childcare the person provides is in a school or establishment referred to in article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010(c),
  - (e) by—
    - (i) persons registered under section 59(1) of the Public Services Reform (Scotland) Act 2010,
    - (ii) local authorities registered under section 83(1) of that Act, where the care provided is child minding or day care of children within the meaning of that Act,
  - (f) by a person prescribed in Regulations made pursuant to section 12(4) of the Tax Credits Act 2002(d),
  - (g) by a person who is registered under Chapter 2 or 3 of Part 3 of the Childcare Act 2006(e),
  - (h) by any of the schools mentioned in section 34(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 2 of Part 3 of that Act does not apply by virtue of that subsection,
  - (i) by any of the schools mentioned in section 53(2) of the Childcare Act 2006(f) in circumstances where the requirement to register under Chapter 3 of Part 3 of that Act does not apply by virtue of that subsection,
  - (j) by any of the establishments mentioned in section 18(5) of the Childcare Act 2006(g) in circumstances where the care is not included in the meaning of “childcare” for the purposes of Parts 1 and 3 of that Act by virtue of that subsection,
  - (k) by a foster carer or kinship carer approved under the Looked After Children (Scotland) Regulations 2009(h) in relation to a child other than a child who has been placed with that carer—
    - (i) by virtue of a requirement of the children’s hearing under section 83(2)(a) of the Children’s Hearings (Scotland) Act 2011(i),

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(a) S.I. 1999/3110.

(b) 2010 nawm 1.

(c) S.I. 2010/2839 (W. 233). Articles 11 and 12 were amended by S.I. 2018/48 (W. 15).

(d) 2002 c.21.

(e) 2006 c.21.

(f) Section 53(2) was amended by paragraph 16 of schedule 4 of the Children and Families Act 2016 (c.6), paragraph 34 of schedule 1 of the Education and Skills Act 2008 (c.25), and S.I. 2012/976.

(g) Section 18 was amended by paragraph 19 of schedule 1 of the Children and Young Persons Act 2008 (c.23) paragraph 21 of the Criminal Justice and Courts Act 2015 (c.2) and S.I. 2010/183.

(h) S.S.I. 2009/210.

(i) 2011 asp 1.

- (ii) by a local authority exercising the right to determine the residence of a child in respect of whom a permanence order has been granted under section 81 of the Adoption and Children (Scotland) Act 2007(a), or
  - (iii) in accordance with the Looked After Children (Scotland) Regulations 2009,
  - (l) by a foster parent under the Fostering Services (England) Regulations 2011(b) or the Fostering Services (Wales) Regulations 2003(c) in relation to a child other than one whom the foster parent is fostering,
  - (m) by a carer under the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010(d) or the Domiciliary Care Agencies (Wales) Regulations 2004(e), or
  - (n) by a person who is not a relative of the child wholly or mainly in the child's home.
- (10) In paragraphs (7) and (9)(a) "the first Monday in September" means the Monday which first occurs in the month of September in any year.
- (11) Relevant childcare charges must be estimated over a period, not exceeding a year, that is appropriate to allow the average weekly charge to be estimated accurately having regard to information about the amount of that charge provided by the person providing the care.
- (12) For the purposes of paragraph (2)(c), the other member of a couple is incapacitated where—
- (a) the applicant's applicable amount includes a disability premium under paragraph 11 of schedule 1 on account of the other member's incapacity or the work-related activity component under paragraph 21 of that schedule or the support component under paragraph 22 of that schedule on account of that other member having limited capability for work,
  - (b) the applicant's applicable amount would include a disability premium under paragraph 11 of that schedule on account of the other member's incapacity but for that other member being treated as capable of work by virtue of a determination made in accordance with Regulations made under section 171E of the 1992 Act(f),
  - (c) the applicant's applicable amount would include the support component under paragraph 22 of that schedule or the work-related activity component under paragraph 21 of that schedule on account of the other member having limited capability for work but for that other member being treated as not having limited capability for work by virtue of a determination made in accordance with the Employment and Support Allowance Regulations,
  - (d) the applicant is, or is treated as, incapable of work and has been incapable, or treated as incapable, of work in accordance with the provisions of, and Regulations made under, Part 12A of the 1992 Act (incapacity for work)(g) for a continuous period of not less than 196 days, and for this purpose any two or more separate periods separated by a break of not more than 56 days are to be treated as one continuous period,
  - (e) the applicant has, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations for a continuous period of not less than 196 days, and for this purpose any two or more separate periods separated by a break of not more than 84 days are to be treated as one continuous period,

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(a) 2007 asp 4.  
 (b) S.I. 2011/581.  
 (c) S.I. 2003/237 (W.35).  
 (d) S.I. 2010/781.  
 (e) S.I. 2004/219 (W.23).  
 (f) Section 171E was inserted by section 6(1) of the Social Security (Incapacity for Work) Act 1994 (c.18) and amended by paragraph 76 of schedule 7 of the Social Security Act 1998 (c.14).  
 (g) Part 12A was inserted by sections 5 and 6 of the Social Security (Incapacity for Work) Act 1994 (c.18) and amended by paragraph 76 of schedule 7 of the Social Security Act 1998 (c.14), section 61 of, and paragraphs 23 and 24 of schedule 8 of, the Welfare Reform and Pensions Act 1999 (c.30) and S.I. 1996/525.



- (f) there is payable in respect of the other member one or more of the following pensions or allowances—
- (i) long-term incapacity benefit or short-term incapacity benefit at the higher rate under schedule 4 of the 1992 Act(a),
  - (ii) attendance allowance under section 64 of the 1992 Act(b),
  - (iii) severe disablement allowance under section 68 of the 1992 Act(c),
  - (iv) disability living allowance,
  - (v) child disability payment,
  - (vi) armed forces independence payment,
  - (vii) personal independence payment,
  - (viii) increase of disablement pension under section 104 of the 1992 Act,
  - (ix) a pension increase paid as part of a war disablement pension or under an industrial injuries scheme which is analogous to an allowance or increase of disablement pension under head (ii), (iv), (vii) or (viii) above, or
  - (x) main phase employment and support allowance,
- (g) a pension or allowance to which sub-paragraph (f)(ii), (iv), (vii), (viii) or (ix) refers was payable on account of the other member's incapacity but has ceased to be payable in consequence of the other member becoming a patient, which in this regulation means a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005(d),
- (h) sub-paragraph (f) or (g) would apply to the other member if the legislative provisions referred to in those sub-paragraphs were provisions under any corresponding enactment having effect in Northern Ireland, or
- (i) the other member has a vehicle supplied for use on the road and to be controlled by the occupant, provided under section 46 of the National Health Service (Scotland) Act 1978(e), paragraph 9(1) of schedule 1 of the National Health Service Act 2006(f) or article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972(g).

(13) Where paragraph (12)(d) applies and the applicant ceases to be, or to be treated as, incapable of work but within a period of 56 days or less of that cessation the applicant is, or is treated as, incapable of work, paragraph (12)(d) applies from the time the applicant is again, or is again treated as, incapable of work for so long as the applicant is, or is treated as, incapable of work.

(14) Where paragraph (12)(e) applies and the applicant ceases, to have, or to be treated as having, limited capability for work but within a period of 84 days or less of that cessation the applicant has, or is treated as having, limited capability for work, paragraph (12)(e) applies from the time the applicant has again, or is again treated as having, limited capability for work for so long as that situation continues.

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- (a) A new schedule 4 was substituted by S.I. 1993/349 and was amended by section 2 of the Social Security (Incapacity for Work) Act 1994 (c.18), section 54 and paragraph 14 of schedule 8 of the Welfare Reform and Pensions Act 1999 (c.30), section 54 and paragraph 14 of schedule 8 of the Welfare Reform and Pensions Act 1999 (c.30), schedule 6 of the Tax Credits Act 2002 (c.21), paragraph 15 of schedule 1 of the Child Benefit Act 2005 (c.6), section 2 and paragraph 81 of schedule 12, and paragraph 19 of schedule 16, of the Pensions Act 2014 (c.19), section 65 of the 2012 Act, S.S.I. 2019/102, S.S.I. 2020/116 and S.S.I. 2021/169, S.I. 2002/1457, S.I. 2003/938, S.I. 2008/3270, S.I. 2012/780, S.I. 2012/834, S.I. 2013/574, S.I. 2014/516, S.I. 2017/260, S.I. 2018/281, S.I. 2019/480, S.I. 2020/234 and S.I. 2021/162.
  - (b) Section 64 was amended by section 66 of the Welfare Reform and Pensions Act 1999 (c.30).
  - (c) Section 68 was repealed by schedule 13 of the Welfare Reform and Pensions Act 1999 (c.30), subject to savings provisions in S.I. 2000/2958.
  - (d) S.I. 2005/3360.
  - (e) 1978 c.29.
  - (f) 2006 c.41. Paragraph 9(1) was substituted by section 17(10) of the Health and Social Care Act 2012 (c.7).
  - (g) S.I. 1972/1265 (N.I. 14).

(15) For the purposes of paragraphs (7) and (9)(a), a person is disabled if the person is a person—

- (a) in respect of whom disability living allowance, child disability payment or personal independence payment is payable, or has ceased to be payable solely because the person is a patient, or in respect of whom armed forces independence payment is payable,
- (b) who is blind, or
- (c) who has ceased to be certified as blind on that person gaining eyesight, where the person ceased to be certified as blind within the period beginning 28 weeks before the first Monday in September following the person's fifteenth birthday and ending on the day preceding the person's sixteenth birthday.

(16) For the purposes of paragraph (2) a person on maternity leave, paternity leave, shared parental leave, parental bereavement leave or adoption leave is to be treated as if engaged in remunerative work for the period specified in paragraph (17) ("the relevant period") provided that—

- (a) in the week before the period of maternity leave, paternity leave, shared parental leave, parental bereavement leave or adoption leave began the person was in remunerative work,
- (b) the person is incurring relevant childcare charges, and
- (c) the person is entitled to either statutory maternity pay under section 164 of the 1992 Act(a), statutory paternity pay by virtue of section 171ZA or 171ZB of the 1992 Act(b), statutory shared parental pay, statutory adoption pay by virtue of section 171ZL of the 1992 Act(c), statutory parental bereavement pay, maternity allowance under section 35 of the 1992 Act(d) or qualifying support.

(17) For the purposes of paragraph (16) the relevant period begins on the day on which the person's maternity leave, paternity leave, shared parental leave, parental bereavement leave or adoption leave commences and ends on the earliest of the following dates—

- (a) the date that leave ends,
- (b) if no childcare element of working tax credit is in payment on the date that entitlement to maternity allowance, qualifying support, statutory maternity pay, statutory paternity pay, statutory shared parental pay, statutory parental bereavement pay or statutory adoption pay ends, the date that entitlement ends, or
- (c) if a childcare element of working tax credit is in payment on the date that entitlement to maternity allowance or qualifying support, statutory maternity pay, statutory paternity pay, statutory shared parental pay, statutory parental bereavement pay or statutory adoption pay ends, the date that entitlement to that award of the childcare element of the working tax credit ends.

(18) In this regulation—

- (a) "qualifying support" means income support to which the person is entitled by virtue of paragraph 14B of schedule 1B of the Income Support Regulations, and
- (b) "childcare element of working tax credit" means the element of working tax credit prescribed under section 12 of the Tax Credits Act 2002 (childcare element)(e).

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(a) Section 164 was amended by paragraph 12 of schedule 1 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2) and paragraph 6 of schedule 7 and schedule 8 of the Employment Act 2002 (c.22).

(b) Sections 171ZA to 171ZK were inserted by section 2 of the Employment Act 2002. Sections 171ZA and 171ZB were amended by paragraphs 12 and 13 of schedule 7 of the Children and Families Act 2014 (c.6). There are other amendments to those sections that are not relevant to these Regulations.

(c) Section 171ZL was inserted by section 4 of the Employment Act 2002 and amended by S.I. 2006/2012, S.I. 2011/1740, S.I. 2016/413 and S.I. 2019/1514.

(d) Section 35 was amended by section 2(1)(a) of the Still-Birth (Definition) Act 1992 (c.29), section 67 of the Social Security Act 1998 (c.14), section 53 of the Welfare Reform and Pensions Act 1999 (c.30), paragraph 4 of schedule 7 of the Employment Act 2002, paragraph 6 of schedule 1 of the Work and Families Act 2006 (c.18), section 120 of the Children and Families Act 2014, S.I. 1994/1230 and S.I. 2014/606.

(e) 2002 c.21. Section 12 was repealed by paragraph 1 of schedule 14 of the 2012 Act (subject to savings specified in S.I. 2019/167).

### **Treatment of childcare charges (applicants with an award of universal credit)**

**78.**—(1) This regulation applies where the applicant or the applicant’s partner has, or the partners jointly have, an award of universal credit that includes in the calculation of the maximum universal credit award a childcare costs element.

(2) An applicant is incurring relevant childcare charges in respect of an assessment period where the applicant’s award or the applicant’s partner’s award or their joint award of universal credit includes a childcare costs element for an assessment period.

(3) An applicant’s weekly relevant childcare charges for the purpose of regulation 42(2)(c) is calculated as follows—

#### *Step 1*

Divide the amount of the childcare costs element in the applicant’s award of universal credit for the assessment period in which a reduction week falls by 85.

#### *Step 2*

Multiply the amount produced by step 1 by 100.

#### *Step 3*

Multiply the amount produced by step 2 by 12.

#### *Step 4*

Divide the amount produced by step 3 by 52 and round to the nearest penny.

(4) In this regulation “childcare costs element” has the meaning given to it in regulation 31 of the 2013 Regulations.

## **PART 7**

### **Calculation of council tax reduction**

#### **Maximum council tax reduction**

**79.**—(1) Subject to paragraphs (4) and (5), for the purposes of regulation 13 (conditions of entitlement to council tax reduction) the amount of a person’s maximum council tax reduction in respect of a day for which the person is liable to pay council tax is amount A divided by the amount B where—

- (a) A is the amount set by the relevant authority as the council tax for the relevant financial year in respect of the dwelling in which the person is a resident and for which the person is liable, subject to—
  - (i) any discount which may be appropriate to that dwelling, and
  - (ii) any reduction in liability for council tax under Regulations made under section 80 of the Act or under a scheme established under section 80A of the Act<sup>(a)</sup>, other than a reduction under these Regulations, and
- (b) B is the number of days in that financial year,

less any deductions in respect of non-dependants which fall to be made under regulation 90 (non-dependant deductions).

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(a) Section 80 was amended by paragraph 176 of schedule 13 of the Local Government etc. (Scotland) Act 1994 (c.39) and S.I. 2013/388. Section 80A was inserted by section 65 of the Climate Change (Scotland) Act 2009 (asp 12).

(2) Subject to paragraphs (4) and (5), for the purposes of regulation 14 (conditions of entitlement to council tax reduction – dwellings in bands E to H) the amount of a person's maximum council tax reduction in respect of a day for which the person is liable to pay council tax is the amount—

$$\frac{A - \frac{A}{C}}{B}$$

less any deductions in respect of non-dependants which fall to be made under regulation 90.

(3) In paragraph (2)—

(a) A and B have the same meanings as in paragraph (1), and

(b) C is—

(i) 1.075 if the relevant dwelling is in valuation band E,

(ii) 1.125 if the relevant dwelling is in valuation band F,

(iii) 1.175 if the relevant dwelling is in valuation band G,

(iv) 1.225 if the relevant dwelling is in valuation band H.

(4) Subject to paragraph (5), where an applicant is jointly and severally liable for council tax in respect of a dwelling in which the person is resident with one or more other persons, but excepting any person residing with the applicant who is a student to whom regulation 20(2) (persons not entitled to council tax reduction: students) applies, in determining the maximum council tax reduction in the person's case in accordance with paragraph (1) or (2) amount A is to be divided by the number of persons who are jointly and severally liable for that tax.

(5) Where an applicant is jointly and severally liable for council tax in respect of a dwelling with only the applicant's partner, paragraph (4) does not apply.

### **Extended council tax reduction**

**80.**—(1) Subject to regulation 83 (extended council tax reduction: movers), a person who is entitled to council tax reduction by virtue of the general conditions of entitlement is entitled to extended council tax reduction where—

(a) the person or any partner of the person was entitled to a qualifying income-related benefit,

(b) entitlement to a qualifying income-related benefit ceased because the person or the person's partner—

(i) commenced employment as an employed or self-employed earner,

(ii) increased their earnings from employment as an employed or self-employed earner,  
or

(iii) increased the number of hours worked in employment as an employed or self-employed earner,

and that employment is, or the increased earnings or increased number of hours are, expected to last 5 weeks or more, and

(c) the person or the person's partner had been entitled to and in receipt of a qualifying income-related benefit, jobseeker's allowance or a combination of those benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying income-related benefit ceased.

(2) For the purposes of this regulation, where a person or any partner of the person is entitled to and in receipt of joint-claim jobseeker's allowance the person or the person's partner, as the case may be, is to be treated as being entitled to and in receipt of jobseeker's allowance.

(3) For the purposes of this regulation, a person is entitled to council tax reduction by virtue of the general conditions of entitlement where—

- (a) the person ceased to be entitled to council tax reduction on vacating the dwelling in which the person was resident,
- (b) the day on which the person vacated the dwelling was either in the week in which entitlement to a qualifying income-related benefit ceased, or in the preceding week, and
- (c) entitlement to the qualifying income-related benefit ceased in any of the circumstances listed in paragraph (1)(b).

(4) This regulation does not apply where, on the day before a person's entitlement to income support ceased, regulation 6(5) of the Income Support Regulations (remunerative work: housing costs)(a) applied to that person.

### **Duration of period of entitlement to extended council tax reduction**

**81.**—(1) Subject to regulation 83 (extended council tax reduction: movers), where a person is entitled to extended council tax reduction, the period of entitlement starts on the first day of the reduction week immediately following the reduction week in which the person, or any partner of the person, ceased to be entitled to a qualifying income-related benefit.

(2) For the purpose of paragraph (1), a person or a person's partner ceases to be entitled to a qualifying income-related benefit on the day immediately following the last day of entitlement to that benefit.

(3) The period of entitlement to extended council tax reduction ends on the earliest of—

- (a) the end of a period of 4 weeks of that entitlement, or
- (b) the first day on which the person who is entitled to extended council tax reduction has no liability for council tax.

### **Amount of extended council tax reduction**

**82.**—(1) For any week during the period of entitlement to extended council tax reduction the amount of council tax reduction to which the person is entitled is the higher of—

- (a) the amount of council tax reduction to which the person was entitled in the last reduction week before the person or the person's partner ceased to be entitled to a qualifying income-related benefit,
- (b) the amount of council tax reduction to which the person would be entitled for any reduction week during the period of entitlement to extended council tax reduction if regulation 80 (extended council tax reduction) did not apply to the person, or
- (c) the amount of council tax reduction to which the person's partner would be entitled if regulation 80 did not apply to the person.

(2) Paragraph (1) does not apply in the case of a mover.

(3) Where a person is entitled to extended council tax reduction under this regulation and the person's partner applies for council tax reduction, that partner is not entitled to council tax reduction during the other partner's period of entitlement to extended council tax reduction.

### **Extended council tax reduction: movers**

**83.**—(1) Where a mover who is entitled to extended council tax reduction in respect of liability to pay council tax to the first authority moves to reside in a dwelling in the area of the second authority that mover is entitled to extended council tax reduction in respect of any liability to pay council tax to the second authority of an amount calculated in accordance with paragraph (2).

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(a) Regulation 6(5) was added by S.I. 2001/488 and amended by S.I. 2007/3183, S.I. 2008/1554 and S.I. 2017/725.

(2) The amount of extended council tax reduction to which the mover is entitled is the amount of council tax reduction to which the mover was entitled for the last reduction week before the mover ceased to be entitled to a qualifying income-related benefit.

(3) The period of entitlement to extended council tax reduction in respect of liability to pay council tax to the first authority ends on the earliest of—

- (a) the first Sunday after the move, or
- (b) the day on which the mover's liability to pay council tax to the first authority ends.

(4) The period of entitlement to extended council tax reduction granted by virtue of paragraph (1)—

- (a) starts on the Monday following the day of the move, and
- (b) ends on the expiry of the period of entitlement to extended council tax reduction which would have applied had the mover not moved from the area of the first authority.

### **Relationship between council tax reduction and extended council tax reduction**

**84.**—(1) Where a person's entitlement to council tax reduction would have ended when the applicant ceased to be entitled to a qualifying income-related benefit in the circumstances listed in regulation 80(1)(b) (extended council tax reduction), that eligibility will not cease until the end of the period of eligibility for extended council tax reduction.

(2) Part 9 (effective date) does not apply to any extended council tax reduction granted in accordance with regulation 82(1)(a) (amount of extended council tax reduction) or 83(2) (extended council tax reduction: movers).

### **Extended council tax reduction (qualifying contributory benefits)**

**85.**—(1) A person who is entitled to council tax reduction by virtue of the general conditions of entitlement is entitled to extended council tax reduction (qualifying contributory benefits) where—

- (a) the person or any partner of the person was entitled to a qualifying contributory benefit,
- (b) entitlement to a qualifying contributory benefit ceased because the person or the person's partner—
  - (i) commenced employment as an employed or self-employed earner,
  - (ii) had an increase in earnings from such employment, or
  - (iii) increased the number of hours worked in such employment,and that employment is or, as the case may be, increased earnings or increased number of hours are expected to last 5 weeks or more,
- (c) the person or the person's partner had been entitled to and in receipt of a qualifying contributory benefit or a combination of qualifying contributory benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying contributory benefit ceased, and
- (d) the person or the person's partner was not entitled to and not in receipt of a qualifying income-related benefit in the last reduction week in which the person or the person's partner was entitled to a qualifying contributory benefit.

(2) For the purposes of this regulation, a person is entitled to council tax reduction by virtue of the general conditions of entitlement where—

- (a) the person ceased to be entitled to council tax reduction because the person vacated the dwelling in which the person was resident,
- (b) the day on which the person vacated the dwelling was either in the week in which entitlement to a qualifying contributory benefit ceased, or in the preceding week, and
- (c) entitlement to the qualifying contributory benefit ceased in any of the circumstances listed in paragraph (1)(b).

### **Duration of extended council tax reduction (qualifying contributory benefits)**

**86.**—(1) Subject to regulation 88 (extended council tax reduction (qualifying contributory benefits: movers)), where a person is entitled to extended council tax reduction (qualifying contributory benefits), the period of entitlement starts on the first day of the reduction week immediately following the reduction week in which the person or the person's partner ceased to be entitled to a qualifying contributory benefit.

(2) For the purpose of paragraph (1), a person or a person's partner ceases to be entitled to a qualifying contributory benefit on the day immediately following the last day of entitlement to that benefit.

(3) The period of entitlement to council tax reduction (qualifying contributory benefits) ends on the earliest of—

- (a) the end of a period of 4 weeks of entitlement, or
- (b) the day on which the entitled person's liability for council tax ends.

### **Amount of extended council tax reduction (qualifying contributory benefits)**

**87.**—(1) For any week during the period of entitlement to council tax reduction (qualifying contributory benefits) the amount of council tax reduction (qualifying contributory benefits) is the higher of—

- (a) the amount of council tax reduction to which the person was entitled in the last reduction week before the person or the person's partner ceased to be entitled to a qualifying contributory benefit,
- (b) the amount of council tax reduction to which the person would be entitled for any reduction week during the extended payment period, if regulation 85 (extended council tax reduction (qualifying contributory benefits)) did not apply to the person, or
- (c) the amount of council tax reduction to which the person's partner would be entitled if regulation 86 (duration of extended council tax reduction (qualifying contributory benefits)) did not apply to the person.

(2) Paragraph (1) does not apply in the case of a mover.

(3) Where a person is entitled to extended council tax reduction (qualifying contributory benefits) under this regulation and the person's partner applies for council tax reduction, that partner is not entitled to council tax reduction during the person's period of entitlement to extended council tax reduction (qualifying contributory benefits).

### **Extended council tax reduction (qualifying contributory benefits: movers)**

**88.**—(1) Where a mover who is entitled to extended council tax reduction (qualifying contributory benefits) in respect of liability to pay council tax to the first authority moves to reside in a dwelling in the area of the second authority that mover is entitled to extended council tax reduction in respect of any liability to pay council tax to the second authority of an amount calculated in accordance with paragraph (2).

(2) The amount of extended council tax reduction (qualifying contributory benefit) to which the mover is entitled is the amount of council tax reduction to which the mover was entitled for the last reduction week before the mover ceased to be entitled to a qualifying contributory benefit.

(3) The period of entitlement to extended council tax reduction (qualifying contributory benefit) in respect of liability to pay council tax to the first authority ends on the earliest of—

- (a) the first Sunday after the move, or
- (b) the day on which the mover's liability to pay council tax to the first authority ends.

(4) The period of entitlement to extended council tax reduction (qualifying contributory benefits) granted by virtue of paragraph (1)—

- (a) starts on the Monday following the day of the move, and

- (b) ends on the expiry of the period of extended council tax reduction (qualifying contributory benefits) which would have applied had the mover not moved from the area of the first authority.

**Relationship between council tax reduction and extended council tax reduction (qualifying contributory benefits)**

**89.**—(1) Where a person's entitlement to council tax reduction would have ended when the person ceased to be entitled to a qualifying contributory benefit in the circumstances listed in regulation 80(1)(b), that entitlement does not cease until the end of the period of entitlement to extended council tax reduction.

(2) Part 9 (effective date) does not apply to any extended council tax reduction (qualifying contributory benefits) granted in accordance with regulation 82(1)(a) (amount of extended council tax reduction) or 83(2) (amount of extended council tax reduction: movers).

## PART 8

### Special Rules

**Non-dependant deductions**

**90.**—(1) Subject to the following provisions of this regulation, the non-dependant deductions in respect of a day referred to in regulation 79 (maximum council tax reduction) are—

- (a) in respect of a non-dependant aged 18 or over in remunerative work,  $\pounds 12.90 \times 1/7$ , and
- (b) in respect of a non-dependant aged 18 or over to whom sub-paragraph (a) does not apply,  $\pounds 4.30 \times 1/7$ .

(2) In the case of a non-dependant aged 18 or over to whom paragraph (1)(a) applies, where it is shown to the relevant authority that the person's normal gross weekly income is—

- (a) less than  $\pounds 213.00$ , the deduction to be made is that specified in paragraph (1)(b),
- (b) not less than  $\pounds 213.00$  but less than  $\pounds 370.00$ , the deduction to be made is  $\pounds 8.50 \times 1/7$ , or
- (c) not less than  $\pounds 370.00$  but less than  $\pounds 458.00$ , the deduction to be made is  $\pounds 10.80 \times 1/7$ .

(3) Only one deduction is to be made in respect of a couple and where, but for this paragraph, the amount that would fall to be deducted in respect of one member of a couple is higher than the amount (if any) that would fall to be deducted in respect of the other member, the higher amount is to be deducted.

(4) In applying the provisions of paragraph (2) in the case of a couple regard must be had, for the purpose of that paragraph, to the couple's joint weekly gross income.

(5) Where in respect of a day—

- (a) a person is a resident in a dwelling but is not liable for council tax in respect of that dwelling on that day,
- (b) other residents in that dwelling (the liable persons) have joint and several liability for council tax in respect of that dwelling on that day otherwise than by virtue of section 77 or 77A of the Act (liability of spouses and civil partners)(a), and
- (c) the person to whom sub-paragraph (a) refers is a non-dependant of two or more of the liable persons,

the deduction in respect of that non-dependant is to be apportioned equally between those liable persons.

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(a) Section 77 was amended by section 4 of the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp 6) and S.I. 2005/623. Section 77A was added by section 133 of the Civil Partnership Act 2004 (c.33).



(6) No deduction is to be made in respect of any non-dependants occupying an applicant's dwelling if the applicant or the applicant's partner is—

- (a) blind or treated as blind by virtue of paragraph 12(2) of schedule 1 (additional condition for the disability premium), or
- (b) receiving in respect of the applicant or the applicant's partner as the case may be either—
  - (i) attendance allowance,
  - (ii) the care component of the disability living allowance,
  - (iii) the care component of child disability payment,
  - (iv) armed forces independence payment, or
  - (v) the daily living component of personal independence payment.

(7) No deduction is to be made in respect of a non-dependant if—

- (a) although residing with the applicant, it appears to the relevant authority that the non-dependant's normal home is elsewhere, or
- (b) the non-dependant is in receipt of a training allowance paid in connection with youth training established under section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990, or
- (c) the non-dependant is a full-time student, or
- (d) the non-dependant is not residing with the applicant because the non-dependant has been a patient for a period in excess of 52 weeks, and for these purposes where a person has been a patient for two or more distinct periods separated by one or more intervals, each not exceeding 28 days, the person is to be treated as having been a patient continuously for a period equal in duration to the total of those distinct periods, or
- (e) the non-dependant is not residing with the applicant because the non-dependant is a member of the regular forces or the reserve forces (within the meaning of section 374 of the Armed Forces Act 2006<sup>(a)</sup>) who is absent, while on operations, from the dwelling usually occupied as that person's home.

(8) No deduction is to be made in respect of a non-dependant—

- (a) who is a qualifying income-related benefit claimant or on state pension credit,
- (b) to whom schedule 1 of the Act applies (persons disregarded for purposes of discount)<sup>(b)</sup>, but this sub-paragraph does not apply to a non-dependant who is a student to whom paragraph 4 of that schedule refers, or
- (c) who is entitled to an award of universal credit where the award is calculated on the basis that the non-dependant does not have any earned income, within the meaning given by regulation 52 of the 2013 Regulations.

(9) In the application of paragraph (2) there is to be disregarded from the person's weekly gross income—

- (a) any attendance allowance, disability living allowance, child disability payment, armed forces independence payment or personal independence payment received by the person,
- (b) any payment which, had the person's income fallen to be calculated under Part 6 (assessment of household income and capital), would have been disregarded under regulation 75, and
- (c) any payment made under or by the Thalidomide Trust.

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(a) 2006 c.52. Section 374 was relevantly amended by section 44 of the Defence Reform Act 2014 (c.20).

(b) Schedule 1 was amended by paragraph 152 of schedule 9 of the Powers of Criminal Courts (Sentencing) Act 2000 (c.6), paragraph 18 of schedule 3 of the Regulation of Care (Scotland) Act 2001 (asp 8), paragraph 152 of schedule 1 of the National Health Service (Consequential Provisions) Act 2006 (c.43), paragraph 123 of schedule 16, schedule 17 of the Armed Forces Act 2006 (c.52), paragraph 1 of schedule 4 of the Local Government Finance Act 2012 (c.17), section 156 of the Local Government and Elections (Wales) Act 2021 (asc. 1) and S.S.I. 2005/465.

## **Second adult rebate**

**91.**—(1) Subject to paragraphs (2) and (3), the second adult rebate where the conditions set out in regulation 13(3) and (7) (conditions of entitlement to council tax reduction) are fulfilled is the amount determined in accordance with schedule 2.

(2) Subject to paragraph (3), where an applicant is jointly and severally liable for council tax in respect of a dwelling in which the applicant is resident with one or more other persons, in determining the second adult rebate in the applicant's case the amount determined in accordance with schedule 2 must be divided by the number of persons who are jointly and severally liable for that tax.

(3) Where an applicant is jointly and severally liable for council tax in respect of a dwelling with only the applicant's partner paragraph (2) does not apply.

## **Residents of a dwelling to whom regulation 13(7) does not apply**

**92.** Regulation 13(7) (conditions of entitlement to council tax reduction) does not apply in respect of—

- (a) a person who is liable for council tax solely in consequence of the provisions of section 77 or 77A of the Act (spouse's or civil partner's joint and several liability for tax)(a),
- (b) a person who is residing with a couple where the applicant for council tax reduction is a member of that couple and neither member of that couple is a person who, in accordance with schedule 1 of the Act, falls to be disregarded for the purposes of discount,
- (c) a person who jointly with the applicant falls within the same sub-paragraph of section 75(2)(a) to (e) of the Act (persons liable to pay council tax)(b) as applies in the case of the applicant, or
- (d) a person who is residing with two or more persons both or all of whom fall within the same sub-paragraph of section 75(2)(a) to (e) of the Act (persons liable to pay council tax) and two or more of those persons are not persons who, in accordance with schedule 1 of the Act, fall to be disregarded for the purposes of discount.

## **PART 9**

### **Reviews**

#### **Review of determination on an application**

**93.**—(1) A determination on an application may not be appealed to a valuation appeal committee.

(2) An applicant who is aggrieved by a determination on an application may serve a written notice on the relevant authority requesting that it review its determination.

(3) The notice under paragraph (2) must be served within two months of the determination it relates to and must state the matter by which, and the grounds on which, the applicant is aggrieved.

(4) Where a notice under paragraph (2) is served on a relevant authority, that authority must—

- (a) consider the matter to which the notice relates,
- (b) within two months of receipt of the notice, redetermine the application or decide that no alteration of the determination is to be made,

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(a) Section 77 was amended by section 4 of the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp 6) and by S.S.I. 2005/623. Section 77A was added by section 133 of the Civil Partnership Act 2004 (c.33).

(b) Section 75(2) was amended by paragraph 19 of schedule 10 of the Housing (Scotland) Act 2001 (asp 10).

- (c) notify the applicant in writing of its decision and that if the applicant remains aggrieved then a request for further review may be made within 42 days of the notification, with the address to which any such a request is to be sent.

### **Request for further review**

**94.**—(1) A request for further review of a determination on an application must be made in writing within 42 days of the notification by the relevant authority under sub-paragraph (c) of regulation 93(4) and be served at the address notified under that sub-paragraph.

(2) A request for further review of a determination on an application may also be made where a relevant authority has not notified the applicant of a decision on a request for review under regulation 93(2) and more than two months have elapsed since the notice requesting review was served.

(3) A request under paragraph (2)—

- (a) must be made in writing and be served on the relevant authority, and
- (b) prevents the relevant authority from notifying a decision on the request for review under regulation 93(2).

(4) A request for further review must state the matter by which, and the grounds on which, the applicant is aggrieved.

(5) Where a relevant authority is served with a notice requesting further review it must, as soon as possible, forward it to the panel appointed by the Scottish Ministers under regulation 95.

### **Panel to conduct further reviews**

**95.**—(1) The Scottish Ministers must appoint a panel of persons (“the panel”) to conduct further review of determinations on applications and must also appoint one of the persons to act as senior reviewer.

(2) A person may only be appointed to the panel if that person—

- (a) is a solicitor or advocate in Scotland of at least 5 years’ standing,
- (b) has a five year general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990(a), or
- (c) is a member of the Bar of Northern Ireland, or a solicitor of the Court of Judicature of Northern Ireland, of at least 5 years’ standing.

(3) A person may not be appointed to the panel, and if appointed must immediately be removed from the panel, if that person—

- (a) is a member or employee of a local authority in Scotland,
- (b) is a member of Parliament or of the Scottish Parliament.

(4) The Scottish Ministers may remove a person from the panel if they consider that the person is unable to discharge the functions of a panel member or is unsuitable to serve on the panel.

(5) A member of the panel is entitled to receive payment of such allowances as the Scottish Ministers may determine in respect of performance of the functions of a panel member.

### **Conduct of further reviews**

**96.**—(1) A further review of a determination on an application is to be undertaken by one member of the panel appointed under regulation 95(1), except as set out in paragraph (6).

(2) A further review is to include an oral hearing unless the parties and the member of the panel who is undertaking the review agree that the review is to be disposed of by written representations.

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(a) 1990 c.41. Section 71 was relevantly amended by paragraph 4 of schedule 11 of the Constitutional Reform Act 2005 (c.4).

(3) A party to a further review must, if requested, advise the member of the panel who is undertaking the review—

- (a) whether that party agrees that the review may be disposed of by written representations,
- (b) whether the applicant has appealed any application for housing benefit that may be relevant to the consideration of the further review, and if so whether that appeal has been determined (insofar as these matters are within the party's knowledge).

(4) Where either party to a further review is requested by the member of the panel who is undertaking the further review to provide documents or information and fails to respond to that request within such timescale as the member considers reasonable, such inferences may be drawn from the failure as the member sees fit, including the inference that the further review should be allowed or refused.

(5) A request for further review that has been validly made in accordance with regulation 94 may not be withdrawn other than with leave of the senior reviewer.

(6) The member of the panel who is undertaking the further review—

- (a) is to decide the procedure for that review, having regard to any guidance issued by the senior reviewer,
- (b) may hold any oral hearing in public or private, as the member sees fit,
- (c) may request, but has no power to require, the production of documents or the attendance of any person as a witness,
- (d) if satisfied that there are good and sufficient reasons for doing so, may refuse to permit a particular person to represent a party at an oral hearing,
- (e) may uphold or reject the request for that review, in full or in part, but must remit any calculation of the amount of an applicant's entitlement to council tax reduction to the relevant authority, and
- (f) must give full reasons for the decision to uphold or reject the request for review, if asked to do so by a party to that review within 14 days of the date on which the decision was given.

(7) A member of the panel may set aside a decision disposing of a request for further review if satisfied that it is in the interests of justice to do so.

(8) Where a decision is set aside the further review must be undertaken again.

(9) A request to set aside a decision must—

- (a) be made within 14 days of the date on which the decision was given, and
- (b) give reasons for the request.

(10) The relevant authority must implement the decision of the member of the panel disposing of a request for further review of a determination as soon as is reasonably practicable, including any calculation of the amount of an applicant's entitlement to council tax reduction that is required.

(11) In the circumstances of a particular case the Scottish Ministers may consider it appropriate for three members of the panel appointed under regulation 95(1) to undertake the further review, and in such a case references in this regulation to anything being done or decided by a member of the panel refer to it being done or decided by all three members, or by two of them should they not be agreed.

## PART 10

### Transitional, savings and consequential provisions, and revocations

#### **Transitional provision: applications**

**97.**—(1) Any person described in paragraph (2) is deemed to have made an application under these Regulations on 1 April 2022.

(2) For the purpose of paragraph (1) the persons are any person—

- (a) who is entitled to council tax reduction on 31 March 2022,
- (b) who made, or is deemed to have made, an application under the 2012 Regulations before 1 April 2022 which is not determined on or before 31 March 2022,
- (c) other than a person described in sub-paragraph (a), who has served a written notice on a relevant authority requesting that it review its determination under regulation 90A(2) (review of determination on an application)(a) of the 2012 Regulations and whose review request is pending immediately before 1 April 2022,
- (d) other than a person described in sub-paragraphs (a), who has made a request for further review of a determination on an application under regulation 90B (request for further review) of the 2012 Regulations and whose request is pending immediately before 1 April 2022.

(3) For the purposes of paragraph (2)(c) a review request is pending if a written notice has been served on a relevant authority requesting that it review its determination but the relevant authority has not notified the applicant in writing of its decision in accordance with regulation 90A(4)(c) of the 2012 Regulations.

(4) For the purpose of paragraph (2)(d) a request is pending if a request for further review of a determination on an application has been made but the procedure for conducting further reviews under regulations 90B to 90D of the 2012 Regulations has not been completed.

(5) Where a person is deemed to have made an application under paragraph (1)—

- (a) any entitlement to council tax reduction as a result of that application takes effect from Monday 4 April 2022, unless the relevant authority determines that, although the person has no entitlement on that date, the person is entitled to council tax reduction from a later date, and
- (b) except to the extent that the relevant authority has been or is notified that there has been a change of circumstances, it may continue to use information it has used to calculate entitlement under the 2012 Regulations, and its calculation of that entitlement, to calculate entitlement under these Regulations.

#### **Transitional family premium**

**98.**—(1) Where on 31 March 2022 a person is entitled to an amount by virtue of regulation 2 (transitional provision) of the Council Tax Reduction (Scotland) Amendment Regulations 2016(b) (“a transitional family premium”), the person is entitled to a transitional family premium under these Regulations.

(2) The amount of a transitional family premium is—

- (a) £22.20 per week if that is the amount the applicant was entitled to on 31 March 2022, and
- (b) in all other cases, £17.65 per week.

(3) A transitional family premium is to be included in determining the person’s weekly applicable amount (see regulation 35).

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(a) Regulations 90A to 90D were inserted by S.S.I. 2013/218. Regulations 90C and 90D were amended by S.S.I. 2015/46 and regulation 90C was further amended by S.S.I. 2021/51.

(b) S.S.I. 2016/81.

(4) The person ceases to have any further entitlement to a transitional family premium under these Regulations when the person—

- (a) ceases to be a member of a family which includes at least one child or young person, or
- (b) makes a new application for council tax reduction, but for the purposes of this regulation the following are not to be regarded as a new application—
  - (i) any application that relates to re-assessment of an existing award,
  - (ii) any deemed application under regulation 97.

### **Transitional entitlement to the disability premium, etc.**

**99.**—(1) Where on 31 March 2022 a person is entitled to disability premium under paragraph 10(1)(b) of schedule 1 to the 2012 Regulations by virtue of paragraph 1(1) or (2) (savings provision – persons incapable of work prior to 13 April 1995) of schedule 6 of those Regulations, the person is to be treated as entitled to a disability premium under paragraph 11 of schedule 1 of these Regulations for so long as the person is incapable of work in accordance with the provisions of, and Regulations made under, Part 12A of the 1992 Act (incapacity for work).

(2) Paragraph (1) does not apply to a person who ceases to be incapable of work or ceases to be treated as incapable of work in accordance with the provisions of, and Regulations made under Part 12A of the 1992 Act (incapacity for work) for a period of more than 56 continuous days that ends after 31 March 2022.

(3) Where, in any period immediately preceding 13th April 1995, the circumstances mentioned in paragraph 13(6) of schedule 1 of the Council Tax Benefit (General) Regulations 1992(a), as in force on 12th April 1995, applied to a person to whom the disability premium was not applicable, that person is to be treated for the purposes of regulations 20(3)(e) (persons not entitled to council tax reduction: students) and 77(12)(g) (treatment of childcare charges) and paragraph 12(1)(b) (additional condition for the disability premium) of schedule 1 as if the person had been incapable of work in accordance with the provisions of, and Regulations made under, Part 12A of the 1992 Act (incapacity for work) throughout that period.

(4) Where a higher pensioner premium was applicable to a person on 12th April 1995, or at any time during the 56 days immediately preceding that date, by virtue of paragraph 13(1)(a)(ii) of schedule 1 of the Council Tax Benefit (General) Regulations 1992, as in force on that date, paragraph 12 of schedule 1 of these Regulations, in so far as it applies to the person, applies subject to the modifications in paragraph (5).

(5) The modifications are—

- (a) in paragraph 12(1)(a)(i), for the words “long-term incapacity benefit” where they first appear, substitute “an invalidity pension” and for the words “in the case of long-term incapacity benefit”, substitute “in the case of invalidity pension”,
- (b) in paragraph 12(1)(a)(ii)—
  - (i) for the words “long-term incapacity benefit when entitlement to that benefit” substitute “invalidity pension when entitlement to that pension”,
  - (ii) for the words “long-term incapacity benefit” where they second appear substitute “invalidity pension”,
- (c) for paragraph 12(1)(b), substitute—
  - “(b) the circumstances of the applicant fall, and have fallen, in respect of a continuous period of not less than 28 weeks, within sub-paragraph (6) or, if the person was in Northern Ireland for the whole or part of that period, within one or more comparable Northern Irish provisions.”,
- (d) in paragraph 12(3), for the words “or to be incapable of work”, substitute “for the purposes of the provisions specified in that provision”, and

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(a) S.I. 1992/1814. Paragraph 13 was revoked by S.I. 2006/217, subject to savings provisions.

(e) for sub-paragraphs (6) and (7), substitute—

“(6) For the purposes of sub-paragraph (1)(b) the circumstances of an applicant fall within this sub-paragraph if—

- (a) the applicant provides evidence of incapacity in accordance with regulation 2 of the Social Security (Medical Evidence) Regulations 1976 (evidence of incapacity for work)(a) in support of a claim for sickness benefit, invalidity pension or severe disablement allowance within the meaning of sections 31, 33 or 68 of the 1992 Act, provided that an adjudication officer has not determined the applicant is not incapable of work, or
- (b) the applicant is in receipt of statutory sick pay within the meaning of Part 11 of the 1992 Act.”.

### **Transitional addition in accordance with Part 6 of schedule 1 of the 2012 Regulations**

**100.**—(1) Where a person is in receipt of a transitional addition in accordance with Part 6 of schedule 1 of the 2012 Regulations (transitional addition)(b) on 31 March 2022, or is deemed to have been in receipt of a transitional addition on that date by virtue of paragraph (4), that person is entitled to have their weekly applicable amount increased by the amount of that transitional addition.

(2) The addition described in paragraph (1)—

- (a) is to be calculated in accordance with paragraphs 28 and 29 of that schedule, and
- (b) is to cease on the occurrence of any circumstance described in paragraph 25(2) of that schedule or, as the case may be, paragraph 26(3) or 27(3) of that schedule.

(3) Where a person’s entitlement to a transitional addition ceased on or before 31 March 2022, or ceases after that date as a result of paragraph (2)(b), the person’s entitlement is restored if paragraph 26 or 27 of that schedule applies to the person.

(4) A person is deemed to have been in receipt of a transitional addition on 31 March 2022, despite not having actually been in receipt of a transitional addition on that date, if the person’s entitlement to a transitional addition is restored as described in paragraph (3).

### **Savings provisions**

**101.**—(1) Where paragraph (2) applies, the 2012 Regulations continue to have effect for the purpose described in paragraph (3) on and after 1 April 2022 as they did immediately before that date.

(2) This paragraph applies—

- (a) in relation to any person described in regulation 97(2),
- (b) where regulation 26(1), (4) or (7) (backdated entitlement) grants a person entitlement to council tax reduction for a day before 4 April 2022,
- (c) where regulation 33(2) (newly liable persons) grants a person entitlement for the period between and including 1 and 3 April 2022, or
- (d) in relation to any change of circumstances which, takes effect prior to 4 April 2022, by virtue of regulation 81 of the 2012 Regulations (date on which a change of circumstances takes effect).

(3) The purpose is any purpose relating to entitlement to council tax reduction under the 2012 Regulations, in respect of any day before 4 April 2022.

(4) In relation to a person to whom paragraph (2)(b) or (c) applies, the application under these Regulations is to be treated as if it were an application validly made under the 2012 Regulations.

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(a) S.I. 1976/615. Regulation 2 was amended by S.I. 1987/409, S.I. 1994/2975, S.I. 1999/3109, S.I. 2001/2931, S.I. 2008/1554 and S.I. 2010/137.

(b) Part 6 of schedule 1 was amended by S.S.I. 2013/48, S.S.I. 2013/218 and S.S.I. 2020/64.

(5) Part 6 of schedule 1 of the 2012 Regulations continues to have effect on and after 1 April 2022, for the purposes of regulation 100, as it did immediately before that date.

**Consequential amendments**

**102.** The amendments in schedule 5 have effect.

**Revocations**

**103.** Schedule 6 (revocations) has effect.

St Andrew's House,  
Edinburgh  
23rd June 2021

*TOM ARTHUR*  
Authorised to sign by the Scottish Ministers



## SCHEDULE 1

Regulation 35

### Applicable amount

#### PART 1

##### Personal Allowances

**1.**—(1) The amount specified in column (2) below in respect of each person or couple specified in column (1) (or where a person falls within two categories in column (1), the higher of those amounts) is the amount specified for the purposes of regulation 35(a) (applicable amount)—

<i>Column (1)</i> <i>Person or couple</i>	<i>Column (2)</i> <i>Amount</i>
A single applicant aged under 25, where no child premium is included under regulation 35(b) and paragraph (2).	£59.20
A single applicant aged 25 or over, where no child premium is included under regulation 35(b) and paragraph (2).	£74.70
A lone parent.	£74.70
A single applicant who is entitled to main phase employment and support allowance.	£74.70
A couple.	£117.40

(2) For the purposes of sub-paragraph (1) an applicant is entitled to main phase employment and support allowance if either of paragraphs 18 or 19 (components) is satisfied in relation to the applicant.

#### PART 2

##### Children

**2.** The amount specified for the purposes of regulation 35(b) (the child premium) is £85.75 for each child or young person.

**3.** Where neither the applicant nor the applicant's partner, nor the partners jointly, have an award of universal credit, the following additional amount is, or additional amounts are, to be included in the applicable amount in respect of each child or young person who is disabled for whom the applicant or the applicant's partner is responsible and who is a member of the applicant's household—

- (a) the disabled child premium of £65.94 in respect of each—
- (i) child or young person who is in receipt of disability living allowance, child disability payment or personal independence payment or is no longer in receipt of such allowance or payment because the child or young person is a patient, provided that the child or young person continues to be a member of the family, or
  - (ii) child or young person who is blind or treated as blind by virtue of paragraph 12(2) (disability premium), or

- (iii) child or young person in respect of whom section 145A of the 1992 Act (entitlement after death of child or qualifying young person)(a) applies for the purposes of entitlement to child benefit, and in respect of whom a disabled child premium was included in the applicant's applicable amount immediately before the death of that child or young person, but the amount is to be included only for the period of entitlement prescribed under that section, and
- (b) the disabled child premium of £65.94 and the enhanced disability premium of £26.67 in respect of each—
  - (i) child or young person who is entitled to the care component of disability living allowance at the highest rate, or would be so entitled, but for a suspension of benefit in accordance with Regulations made under section 113(2) of the 1992 Act or an abatement as a consequence of hospitalisation,
  - (ii) child or young person who is entitled to the care component of child disability payment at the highest rate, or would be so entitled, but for regulation 17(2) (effect of admission to a care home on ongoing entitlement to care component) or regulation 20 (entitlement beginning while in alternative accommodation), of the Disability Assistance for Children and Young People (Scotland) Regulations 2021(b), where the child or young person is resident in a care home within the meaning of regulation 2 of those Regulations,
  - (iii) child or young person who is entitled to the daily living component of personal independence payment at the enhanced rate, or would be so entitled, but for a suspension of benefit in accordance with Regulations made under section 86(1) of the 2012 Act or an abatement as a consequence of hospitalisation,
  - (iv) young person who is in receipt of armed forces independence payment, or
  - (v) child or young person in respect of whom section 145A of the 1992 Act applies for the purposes of entitlement to child benefit, and in respect of whom both the disabled child premium and the enhanced disability premium were included in the applicant's applicable amount immediately before the death of that child or young person, but the amounts are to be included only for the period of entitlement prescribed under that section.

4. Where the applicant or the applicant's partner (or the couple jointly) has an award of universal credit that includes an amount under regulation 24(2) of the 2013 Regulations (additional amount in respect of a child or qualifying young person who is disabled)(c), an additional amount is to be included in the applicable amount in respect of each child or young person in respect of whom the amount under that regulation is payable and the additional amount is—

- (a) the disabled child premium of £65.94, where the amount under that regulation is paid in respect of a child or young person at the lower rate described in paragraph (2)(a) of that regulation, and
- (b) the disabled child premium of £65.94 and the enhanced disability premium of £26.67, where the amount under that regulation is paid in respect of a child or young person at the higher rate described in paragraph (2)(b) of that regulation.

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(a) Section 145A was inserted by section 55 of the Tax Credits Act 2002 (c.21) and amended by paragraph 48 of schedule 24 of the Civil Partnership Act 2004 (c.33), paragraph 12 of schedule 1 of the Child Benefit Act 2005 (c.6) and S.I. 2019/1458.  
 (b) S.S.I. 2021/174.  
 (c) Regulation 24 was amended by section 14(5)(a) of the Welfare Reform and Work Act 2016 (c.7) and S.I. 2014/2888.

## PART 3

### Carer Premium

**5.—**(1) Subject to sub-paragraphs (2) to (8), the amount specified for the purposes of regulation 35(d) (the carer premium), is £37.70.

(2) The applicable amount is to include the carer premium specified in sub-paragraph (1) where an applicant or the applicant's partner has regular and substantial caring responsibilities for a severely disabled person, but subject to sub-paragraphs (3) and (4).

(3) In the case of a couple, the carer premium is payable in respect of each partner if they both qualify for it, but only if they are not caring for the same severely disabled person.

(4) Where two or more persons have regular and substantial caring responsibilities for the same severely disabled person, the carer premium is only payable in respect of one of them and that is—

- (a) the one whose award of universal credit includes the carer element described in regulation 29 of the 2013 Regulations<sup>(a)</sup>,
- (b) the one in receipt of a carer's allowance in respect of the severely disabled person, or
- (c) the one who would be in receipt of a carer's allowance in respect of the severely disabled person were it not for the application of the Social Security (Overlapping Benefits) Regulations 1979<sup>(b)</sup>.

(5) Where a carer premium is awarded to a person whose award of universal credit includes the carer element described in regulation 29 of the 2013 Regulations, the condition for the award of the premium is to be treated as satisfied for as long as that carer element continues to be paid (for example, following the death of the severely disabled person).

(6) Where a carer premium is awarded to a person other than a person described in sub-paragraph (5), but—

- (a) the person in respect of whose care the carer's allowance has been awarded dies, or
- (b) in any other case the person in respect of whom a carer premium has been awarded ceases to be entitled to a carer's allowance,

the condition for the award of the premium is to be treated as satisfied for a period of 8 weeks from the relevant date specified in sub-paragraph (7).

(7) The relevant date for the purposes of sub-paragraph (6) is—

- (a) where sub-paragraph (6)(a) applies, and the person is at that time entitled to a carer's allowance, the Sunday following the death of the person in respect of whose care a carer's allowance has been awarded or the date of death if the death occurred on a Sunday, and
- (b) in any other case, the date on which the person who has been entitled to a carer's allowance ceases to be entitled to that allowance.

(8) Where a person who has had regular and substantial caring responsibilities for a severely disabled person ceases to have such caring responsibilities and makes an application for council tax reduction, the condition for the award of the carer premium is to be treated as satisfied for a period of 8 weeks from the date on which—

- (a) the person in respect of whom the person had such caring responsibilities dies, where that brought the caring responsibilities to an end, and
- (b) in any other case, the person ceased to have such caring responsibilities.

**6.—**(1) For the purposes of regulation 35(d) and Part 3 of this schedule, a person has regular and substantial caring responsibilities for a severely disabled person if—

- (a) they are in receipt of a carer's allowance,

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(a) Regulation 29 was amended by S.I. 2015/1754 and S.I. 2017/204.

(b) S.I. 1979/597.

- (b) they would be in receipt of a carer's allowance were it not for the application of the Social Security (Overlapping Benefits) Regulations 1979, or
- (c) they have an award of universal credit which includes the carer element described in regulation 29 of the 2013 Regulations.

(2) A person does not have regular and substantial caring responsibilities for a severely disabled person if—

- (a) the person derives earned income from those caring responsibilities, or
- (b) the severely disabled person has died (but in this case see paragraph 5(5) and (6)).

(3) Once a carer premium is to be included in the applicable amount of an applicant under this Part, a person is to be treated as being in receipt of any benefit for any period they spend undertaking a course of training or instruction provided or approved by Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise under section 2 of the Enterprise and New Towns (Scotland) Act 1990(a) or the Secretary of State under section 2 of the 1973 Act(b) for any period during which the person is in receipt of a training allowance.

(4) In the application of sub-paragraph (1)(b), a person is not to continue to be treated as being in receipt of a carer's allowance after the date at which the person in respect of whose care the allowance has been claimed ceases to be in receipt of attendance allowance, the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the 1992 Act, the care component of child disability payment at the highest or middle rate, armed forces independence payment, or the daily living component of personal independence payment.

## PART 4

### Disability premiums

**7.** Except as provided in paragraph 8, a disability premium specified in Part 5 of this schedule is, for the purposes of regulation 35(e) (disability premiums), to be included in the applicable amount of an applicant who satisfies the conditions specified in paragraphs 11 to 14 which relate to that premium.

**8.** Subject to paragraph 9, where an applicant satisfies the conditions in respect of more than one disability premium in this Part of this Schedule, only one disability premium is to be included in the applicable amount of an applicant and, if they are of different amounts, the higher or highest amount applies.

**9.** The following premiums, namely—

- (a) a severe disability premium to which paragraph 13 applies, and
- (b) an enhanced disability premium to which paragraph 14 applies,

may be included in the applicable amount of an applicant in addition to any other premium which may apply under this schedule.

**10.** For the purposes of this Part of this schedule, once a disability premium is to be included in the applicable amount of an applicant under this Part, a person is to be treated as being in receipt of any benefit for—

- (a) in the case of a benefit to which the Social Security (Overlapping Benefits) Regulations 1979 applies, any period during which, apart from the provisions of those Regulations, the person would be in receipt of that benefit, and

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(a) Section 2 was amended by section 47 of, and schedule 10 of, the Trade Union Reform and Employment Rights Act 1993 (c.19), paragraph 20 of schedule 26 of the Equality Act 2010 (c.15) and S.I. 1999/1820.

(b) Section 2 was substituted by section 25 of the Employment Act 1988 (c.19) and amended by paragraph 29 of schedule 7 of the Employment Act 1989 (c.38) and section 47(1) of the Trade Union Reform and Employment Rights Act 1993 (c.19).

- (b) any period spent by a person in undertaking a course of training or instruction provided or approved by Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise under section 2 of the Enterprise and New Towns (Scotland) Act 1990(a) or the Secretary of State under section 2 of the 1973 Act for any period during which the person is in receipt of a training allowance.

### **Disability premium**

**11.** With regard to the disability premium the condition referred to in paragraph 7 is that—

- (a) where the applicant is a single applicant, the applicant has not attained pensionable age and the additional condition specified in paragraph 12(1) is satisfied, or
- (b) where the applicant has a partner, either—
  - (i) the applicant has not attained pensionable age and the additional condition specified in paragraph 12(1) is satisfied by the applicant, or
  - (ii) the applicant's partner has not attained pensionable age and the additional condition specified in paragraph 12(1)(a) is satisfied by the applicant's partner.

### **Additional condition for the disability premium**

**12.—**(1) Subject to sub-paragraph (2) and paragraph 10, the additional condition referred to in paragraph 11 is that either—

- (a) the applicant or, as the case may be, the applicant's partner—
  - (i) is in receipt of one or more of the following benefits: attendance allowance, disability living allowance, child disability payment, armed forces independence payment, personal independence payment, the disability premium or the severe disability premium of working tax credit as specified in regulation 20(1)(b) and (f) of the Working Tax Credit Regulations(b), mobility supplement, long-term incapacity benefit or severe disablement allowance under Part 3 of the 1992 Act but, in the case of long-term incapacity benefit or severe disablement allowance, only where it is paid in respect of the applicant,
  - (ii) was in receipt of long-term incapacity benefit when entitlement to that benefit ceased on account of the payment of a retirement pension under that Act or a state pension under Part 1 of the Pensions Act 2014(c) and the applicant remained continuously entitled to council tax benefit under the Council Tax Benefit (General) Regulations 1992(d) or the Council Tax Benefit Regulations 2006(e) before 1 April 2013 and to council tax reduction from that date, and, if the long-term incapacity benefit was payable to the applicant's partner, the partner is still a member of the family,
  - (iii) was in receipt of attendance allowance, disability living allowance or personal independence payment, but payment of the benefit has been suspended in accordance with Regulations made under section 113(2) of the 1992 Act or section 86(1) of the 2012 Act or otherwise abated as a consequence of the applicant or the applicant's partner becoming a patient or has ceased to be payable in consequence of the other member becoming a patient, which in this paragraph means a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005(f),

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(a) Section 2 was amended by section 47 of, and schedule 10 of, the Trade Union Reform and Employment Rights Act 1993 (c.19), paragraph 20 of schedule 26 of the Equality Act 2010 (c.15) and S.I. 1999/1820.

(b) Regulation 20(1)(f) was amended by S.I. 2012/848.

(c) 2014 c.19.

(d) S.I. 1992/1814.

(e) S.I. 2006/215.

(f) S.I. 2005/3360.

- (iv) has a vehicle supplied for use on the road and to be controlled by the occupant, under section 46 of the National Health Service (Scotland) Act 1978(a) (“the 1978 Act”), paragraph 9(1) of schedule 1 of the National Health Service Act 2006(b) (“the 2006 Act”) or article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972(c) or receives payments by way of grant from the Scottish Ministers under section 46 of the 1978 Act or the Secretary of State under paragraph 9(3) of schedule 1 of the 2006 Act, or
- (v) is blind,
- (b) the applicant—
  - (i) is, or is treated as, incapable of work in accordance with the provisions of, and Regulations made under, Part 12A of the 1992 Act (incapacity for work), and
  - (ii) has been incapable, or has been treated as incapable, of work for a continuous period of not less than—
    - (aa) in the case of an applicant who is terminally ill within the meaning of section 30B(4) of the 1992 Act(d), 196 days, and
    - (bb) in any other case, 364 days.

(2) For the purposes of sub-paragraph (1)(a)(v), and of paragraphs 3(a)(ii) and 13(3) and (4)(b), a person who has ceased to be certified as blind on that person gaining eyesight is nevertheless to be treated as blind and as satisfying the additional condition set out in that sub-paragraph for a period of 28 weeks following the date on which the person ceased to be certified as blind.

(3) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to an applicant by virtue of the applicant satisfying the additional condition specified in that provision, if the applicant then ceases, for a period of 8 weeks or less, to be treated as incapable of work or to be incapable of work, on again becoming incapable of work the applicant is immediately to be treated as satisfying the condition in that sub-paragraph.

(4) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to an applicant by virtue of the applicant satisfying the additional condition specified in that provision, the applicant is to continue to be treated as satisfying that condition for any period spent by the applicant in undertaking a course of training provided under section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990 or for any period during which the applicant is in receipt of a training allowance.

(5) For the purposes of sub-paragraph (1)(b), where any two or more periods of incapacity are separated by a break of not more than 56 days, those periods are to be treated as one continuous period.

(6) For the purposes of this paragraph, a reference to a person who is or was in receipt of long-term incapacity benefit includes a person who is or was in receipt of short-term incapacity benefit at a rate equal to the long-term rate by virtue of section 30B(4)(a) of the 1992 Act (short-term incapacity benefit for a person who is terminally ill) or who would be or would have been in receipt of short-term incapacity benefit at such a rate but for the fact that the rate of short-term incapacity benefit already payable to the person is or was equal to or greater than the long-term rate.

(7) In the case of an applicant who is a welfare to work beneficiary (a person to whom regulation 13A(1) of the Social Security (Incapacity for Work) (General) Regulations 1995(e) applies, and who again becomes incapable of work for the purposes of Part 12A of the 1992 Act)—

- (a) the reference to a period of 8 weeks in sub-paragraph (3), and
- (b) the reference to a period of 56 days in sub-paragraph (5),

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(a) 1978 c.29.

(b) 2006 c.41. Paragraph 9(1) was substituted by section 17(10) of the Health and Social Care Act 2012 (c.7).

(c) S.I. 1972/1265.

(d) Section 30B was inserted by S.I. 1994/2926.

(e) S.I. 1995/311. Regulation 13A was inserted by S.I. 1998/2231. Regulation 13A(1) was amended by S.I. 2006/2378.

is in each case to be treated as a reference to a period of 104 weeks.

(8) The applicant is not entitled to the disability premium if the applicant has, or is treated as having, limited capability for work, and for the purposes of this paragraph, “limited capability for work”—

- (a) in the case of an applicant who has an award of universal credit, has the meaning given to “limited capability for work” in regulation 39 of the 2013 Regulations(a),
- (b) in all other cases, has the meaning given to it in section 1(4) of the 2007 Act.

### **Severe disability premium**

**13.—**(1) With regard to severe disability premium the condition referred to in paragraph 7 is that the applicant is a severely disabled person.

(2) For the purposes of sub-paragraph (1), an applicant is to be treated as being a severely disabled person if—

- (a) in the case of a single applicant, or an applicant who is treated as having no partner in consequence of sub-paragraph (3)—
  - (i) the applicant is in receipt of attendance allowance, the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the 1992 Act, the care component of child disability payment at the highest or middle rate, armed forces independence payment or the daily living component of personal independence payment, and
  - (ii) subject to sub-paragraph (4), the applicant has no non-dependants aged 18 or over normally residing with the applicant or with whom the applicant normally resides, and
  - (iii) no person is in receipt of a carer’s allowance under section 70 of the 1992 Act(b), or has an award of universal credit which includes the carer element described in regulation 29 of the 2013 Regulations(c), in respect of caring for the applicant, or
- (b) in the case of an applicant who has a partner—
  - (i) the applicant is in receipt of attendance allowance or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the 1992 Act, the care component of child disability payment at the highest or middle rate, armed forces independence payment or the daily living component of personal independence payment,
  - (ii) the applicant’s partner is also in receipt of attendance allowance, the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the 1992 Act, the care component of child disability payment at the highest or middle rate, armed forces independence payment or the daily living component of personal independence payment,
  - (iii) subject to sub-paragraph (4), the applicant has no non-dependants aged 18 or over normally residing with the applicant or with whom the applicant normally resides, and either a person is entitled to and in receipt of a carer’s allowance, or has an award of universal credit which includes the carer element described in regulation 29 of the 2013 Regulations, in respect of caring for only one of the couple or as the case may be, no person is entitled to and in receipt of a carer’s allowance, or has an award of universal credit which includes that carer element, in respect of caring for either member of the couple.

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(a) Regulation 39 was amended by S.I. 2014/597.

(b) Section 70 was amended by S.I. 1994/2556, S.I. 2002/1457, S.I. 2011/2426, S.I. 2013/388, S.I. 2013/796 and S.I. 2015/1754.

(c) Regulation 29 was amended by S.I. 2015/1754 and S.I. 2017/204.

(3) Where an applicant has a partner who does not satisfy the condition in sub-paragraph (2)(b)(ii), and that partner is blind or is treated as blind by virtue of paragraph 12(2), that partner is to be treated for the purposes of sub-paragraph (2)(b)(ii) as if the partner was not a partner of the applicant.

(4) For the purposes of sub-paragraph (2)(a)(ii) and (2)(b)(iii) no account is to be taken of—

(a) a person receiving attendance allowance, disability living allowance by virtue of the care component at the highest or middle rate prescribed in accordance with section 72(3) of the 1992 Act, the care component of child disability payment at the highest or middle rate, armed forces independence payment or the daily living component of personal independence payment, or

(b) a person who is blind or is treated as blind by virtue of paragraph 12(2).

(5) For the purposes of sub-paragraph (2)(b) a person is to be treated—

(a) as being in receipt of attendance allowance, the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the 1992 Act, the care component of child disability payment at the highest or middle rate or the daily living component of personal independence payment if the person would, but for being a patient in hospital for a period exceeding 28 days, be in receipt of that allowance or payment,

(b) as being entitled to and in receipt of a carer's allowance or as having an award of universal credit which includes the carer premium if the person would, but for the person being cared for being a patient in hospital for a period exceeding 28 days, be entitled to and in receipt of a carer's allowance or would have an award of universal credit which includes the carer element described in regulation 29 of the 2013 Regulations.

(6) For the purposes of sub-paragraph (2)(a)(iii) and (2)(b), no account is to be taken of an award of carer's allowance, or of universal credit which includes the carer premium, to the extent that payment of the award is back-dated for a period before the date on which the award is first paid.

(7) In sub-paragraph (2)(a)(iii) and (b), references to a person being in receipt of a carer's allowance or as having an award of universal credit which includes the carer premium include references to a person who would have been in receipt of that allowance or award but for the application of a restriction under section 6B or 7 of the Social Security Fraud Act 2001 (loss of benefit provisions)(a).

### **Enhanced disability premium**

**14.—**(1) With regard to enhanced disability premium and subject to sub-paragraph (3) the condition referred to in paragraph 7 is that—

(a) the Secretary of State has decided that the applicant has, or is to be treated as having, limited capability for work-related activity,

(b) the care component of disability living allowance is, or would, but for a suspension of benefit in accordance with Regulations made under section 113(2) of the 1992 Act or an abatement as a consequence of hospitalisation, be payable at the highest rate prescribed under section 72(3) of the 1992 Act in respect of—

(i) the applicant, or

(ii) the applicant's partner,

who has not attained pensionable age,

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(a) 2001 c.11. Section 6B was inserted by section 24 of the Welfare Reform Act 2009 (c.24) and amended by sections 113, 118 and 119, paragraph 58 of schedule 2, paragraph 16 of schedule 3, paragraph 1 of schedule 14 and paragraph 117 of schedule 24 of the Welfare Reform Act 2012 (c.5) ("the 2012 Act") and schedule 24 of the Sentencing Act 2020 (c.17). Section 7 was amended by paragraph 45 of schedule 2 of the State Pension Credit Act 2002 (c.16), section 49 and paragraph 23 of schedule 3 of the Welfare Reform Act 2007 (c.5), paragraph 2 of schedule 4 and paragraph 1 of schedule 7 of the Welfare Reform Act 2009 (c.24), section 118, 119, paragraph 59 of schedule 2 and paragraph 1 of schedule 14 of the 2012 Act and S.I. 2011/2298.



- (c) the care component of child disability payment at the highest rate is payable, or would be payable were it not for regulation 17(2) (effect of admission to a care home on ongoing entitlement to care component) or regulation 20 (entitlement beginning while in alternative accommodation), where the child or young person is resident in a care home, of the Disability Assistance for Children and Young People (Scotland) Regulations 2021(a), in respect of a child or young person who would be considered a member of the applicant’s family were that child or young person not resident in a care home,
  - (d) armed forces independence payment is payable in respect of the applicant or the applicant’s partner who has not attained pensionable age, or
  - (e) the daily living component of personal independence payment at the enhanced rate is, or would, but for a suspension of benefit in accordance with Regulations made under section 86(1) of the 2012 Act or an abatement as a consequence of hospitalisation, be payable in respect of the applicant or the applicant’s partner who has not attained pensionable age.
- (2) The condition is not satisfied if the person to whom sub-paragraph (1) refers is—
- (a) an applicant who—
    - (i) is not a member of a couple, and
    - (ii) is a patient and has been for a period of more than 52 weeks, or
  - (b) a member of a couple where each member is a patient and has been for a period of more than 52 weeks.
- (3) For the purposes of this paragraph—
- (a) “care home” has the meaning given in regulation 2 of the Disability Assistance for Children and Young People (Scotland) Regulations 2021,
  - (b) “patient” means a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005(b), and
  - (c) “limited capability for work-related activity”—
    - (i) in the case of an applicant who has an award of universal credit, has the meaning given to “limited capability for work and work-related activity” in regulation 40 of the 2013 Regulations,
    - (ii) in all other cases, has the meaning given to it in section 2(5) of the 2007 Act.

**Persons in receipt of concessionary payments**

**15.** For the purpose of determining whether a premium is applicable to a person under paragraphs 12 to 14, any concessionary payment made to compensate that person for the non-payment of any benefit mentioned in those paragraphs is to be treated as if it were a payment of that benefit.

**Persons in receipt of benefit for another**

**16.** For the purposes of this Part of this schedule, a person is to be regarded as being in receipt of any benefit only if it is paid in respect of the person and is to be regarded as being in receipt of the benefit only for any period in respect of which that benefit is paid.

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(a) S.S.I. 2021/174.  
 (b) S.I. 2005/3360.

## PART 5

### Amounts of disability and carer premiums

17. The premiums referred to in regulation 35(e) and Parts 2 to 4 of this schedule are set out in the following table.

<i>Premium</i>	<i>Amount</i>
Disabled child premium, in respect of each child or young person who is a member of the family of an applicant in respect of whom the conditions specified in paragraph 3 or 4 are satisfied.	£65.94
Carer premium, where the conditions specified in paragraph 5 are satisfied	£37.70
Disability premium—	
(a) where the applicant satisfies the condition in paragraph 11(a),	£35.10
(b) where the applicant satisfies the condition in paragraph 11(b).	£50.05
Severe disability premium—	
(a) where the applicant satisfies the condition in paragraph 13(2)(a),	£67.30
(b) where the applicant satisfies the condition in paragraph 13(2)(b)—	
(i) in a case where there is someone in receipt of a carer's allowance, or who has an award of universal credit which includes the carer element described in regulation 29 of the 2013 Regulations, or if the applicant or the applicant's partner satisfies that condition only by virtue of paragraph 13(5),	£67.30
(ii) in a case where there is no-one in receipt of a carer's allowance or an award of universal credit which includes the carer element described in regulation 29 of the 2013 Regulations.	£134.60
Enhanced disability premium.	
	(a) £26.67 in respect of each child or young person who is a member of the family of an applicant in respect of whom the conditions specified in paragraphs 3, 4 or 14 are satisfied,
	(b) £17.20 in respect of each person who is neither—
	(i) a child or young person, nor
	(ii) a member of a couple, in respect of whom the conditions

<i>Premium</i>	<i>Amount</i>
	specified in paragraph 14 are satisfied,
	(c) £24.60 where the applicant is a member of a couple and the conditions specified in paragraph 14 are satisfied in respect of a member of that couple.

## PART 6

### Work-related activity and support components

#### Work-related activity and support components

**18.**—(1) Subject to paragraph 20 the applicant is entitled to one, but not both, of the components in paragraph 21 or 22 if—

- (a) the applicant or the applicant’s partner has made a claim for employment and support allowance,
- (b) the Secretary of State has decided that the applicant or the applicant’s partner has, or is to be treated as having, limited capability for work or limited capability for work-related activity, and
- (c) either—
  - (i) the assessment phase as defined in section 24(2) of the 2007 Act has ended, or
  - (ii) regulation 7 of the Employment and Support Allowance Regulations (circumstances where the condition that the assessment phase has ended before entitlement to the support component or the work related activity component arises does not apply)(a) applies.

(2) In this Part—

- (a) “limited capability for work”—
  - (i) in the case of an applicant who has an award of universal credit, has the meaning given to it in regulation 39 of the 2013 Regulations,
  - (ii) in all other cases, has the meaning given to it in section 1(4) of the 2007 Act,
- (b) “limited capability for work-related activity”—
  - (i) in the case of an applicant who has an award of universal credit, has the meaning given to “limited capability for work and work-related activity” in regulation 40 of the 2013 Regulations,
  - (ii) in all other cases, has the meaning given to it in section 2(5) of the 2007 Act.

**19.**—(1) Subject to paragraph 20, the applicant is entitled to one, but not both, of the components in paragraphs 21 and 22 if the applicant or the applicant’s partner is entitled to a converted employment and support allowance or would be entitled but for the application of section 1A of the 2007 Act (duration of contributory allowance)(b).

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(a) Regulation 7 was amended by S.I. 2008/3051, S.I. 2010/840, S.I. 2012/874, S.I. 2012/913, S.I. 2012/919, S.I. 2017/204 and S.I. 2017/581.  
 (b) Section 1A was inserted by section 51 of the 2012 Act and amended by paragraph 26 of schedule 3 and paragraph 1 of schedule 14 of that Act.

(2) In this paragraph, a “converted employment and support allowance” means an employment and support allowance which is not income-related and to which a person is entitled as a result of a conversion decision within the meaning of the Employment and Support Allowance (Existing Awards) Regulations.

**20.**—(1) The applicant has no entitlement under paragraph 21 or 22 if the applicant is entitled to the disability premium under paragraphs 11 and 12.

(2) Where the applicant and the applicant’s partner each satisfies paragraph 21 or 22, the component to be included in the applicant’s applicable amount is that which relates to the applicant.

#### **Work-related activity component**

**21.** The applicant is entitled to the work-related activity component if the Secretary of State has decided that the applicant or the applicant’s partner has, or is to be treated as having, limited capability for work.

#### **Support component**

**22.** The applicant is entitled to the support component if the Secretary of State has decided that the applicant or the applicant’s partner has, or is to be treated as having, limited capability for work-related activity.

#### **Amount of work-related activity component**

**23.** The amount of the work-related activity component is £29.70.

#### **Amount of support component**

**24.** The amount of the support component is £39.40.

## SCHEDULE 2

Regulation 91

### Amount of second adult rebate

1. Subject to paragraphs 2 and 3, the second adult rebate in respect of a day for the purpose of regulation 91 is to be determined in accordance with the following table.

<i>(1)</i> <i>Second adult</i>	<i>(2)</i> <i>Second adult rebate</i>
(a) Where the second adult or all second adults are in receipt of a qualifying income-related benefit or state pension credit,	25 per cent of the council tax due in respect of that day,
(b) where the gross income of the second adult or, where there is more than one second adult, their aggregate gross income disregarding any income of persons on a qualifying income-related benefit or state pension credit—	
(i) is less than £209.00 per week,	15 per cent of the council tax due in respect of that day,
(ii) is not less than £209.00 per week but is less than £273.00 per week,	7.5 per cent of the council tax due in respect of that day,
(c) where the second adult or all second adults are in receipt of universal credit and have no earned income	25 per cent of the council tax due in respect of that day,
(d) where the dwelling would be wholly occupied by one or more persons to whom regulation 20(2) (students) applies but for the presence of one or more second adults who are in receipt of a qualifying income-related benefit or state pension credit.	100 per cent of the council tax due in respect of that day.

2. In determining a second adult's gross income for the purposes of this schedule, there must be disregarded from that income—

- (a) any attendance allowance, disability living allowance, child disability payment, armed forces independence payment or personal independence payment, and
- (b) any payment which, had the second adult's income fallen to be calculated under Part 6 (assessment of household income and capital), would have been disregarded under regulation 75 (special schemes for compensation etc.).

3. Where there are two or more second adults residing with the applicant and any of those second adults falls to be disregarded for the purposes of discount in accordance with schedule 1 of the Act<sup>(a)</sup>, that second adult's income is to be disregarded in determining the amount of any

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(a) Schedule 1 was amended by paragraph 152 of schedule 9 of the Powers of Criminal Courts (Sentencing) Act 2000 (c.6), paragraph 18 of schedule 3 of the Regulation of Care (Scotland) Act 2001 (asp 8), paragraph 152 of schedule 1 of the National Health Service (Consequential Provisions) Act 2006 (c.43), paragraph 123 of schedule 16 and schedule 17 of the Armed Forces Act 2006 (c.52), section 156 of Local Government and Elections (Wales) Act 2021 (2021 asc 1), S.S.I. 2005/465, S.I. 2010/813, S.I. 2015/914, S.I. 2016/413 and S.I. 2018/195.

second adult rebate, unless that second adult is a member of a couple and the other partner does not fall to be disregarded for the purposes of discount.

**4.** In this schedule—

“council tax due in respect of that day” means the council tax payable under section 78 of the Act<sup>(a)</sup> less—

- (a) any reductions in liability for council tax under Regulations made under section 80 of the Act or under a scheme established under section 80A of the Act<sup>(b)</sup>, other than a reduction under these Regulations, and
- (b) in a case to which item (d) in column (1) of the table above applies, the amount of any discount which may be appropriate to the dwelling under the Act,

“persons to whom regulation 20(2) (students) applies” includes any person to whom that regulation would apply if that person, and any partner of that person, was below pensionable age, and

“second adult” means any person or persons residing with the applicant to whom regulation 13(7) (conditions of entitlement to council tax reduction) applies.

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<sup>(a)</sup> Section 78 was amended by paragraph 176 of schedule 13 of the Local Government etc. (Scotland) Act 1994 (c.39).

<sup>(b)</sup> Section 80 was amended by paragraph 176 of schedule 13 of the Local Government etc. (Scotland) Act 1994 (c.39) and S.I. 2013/388. Section 80A was inserted by section 65 of the Climate Change (Scotland) Act 2009 (asp 12).

## SCHEDULE 3      Regulations 49(6)(d) and 50(3)(i)

### Sums to be disregarded in the calculation of earnings

**1.** In the case of an applicant who has been engaged in remunerative work as an employed earner and whose earnings are calculated under regulation 50 (applicants with no award of universal credit)—

(a) where—

- (i) the employment has been terminated because of retirement, and
- (ii) on retirement the applicant is entitled to a retirement pension under the 1992 Act, or is not entitled solely because of the applicant's failure to satisfy the contribution conditions,

any earnings paid or due to be paid in respect of that employment, but only for a period commencing on the day immediately after the date on which the employment was terminated,

(b) where—

- (i) the employment has been terminated because of retirement, and
- (ii) on retirement the applicant is entitled to a state pension under Part 1 of the Pensions Act 2014, or is not so entitled solely because the applicant does not have the minimum number of qualifying years,

any earnings paid or due to be paid in respect of that employment, but only for a period commencing on the day immediately after the date on which the employment was terminated,

(c) where before the first day of entitlement to council tax reduction the employment has been terminated otherwise than because of retirement, any earnings paid or due to be paid in respect of that employment except—

- (i) any payment by way of retainer,
- (ii) any payment of the nature described in section 28, 64 or 68 of the Employment Rights Act 1996 (guarantee payments, suspension from work on medical or maternity grounds)(a), and
- (iii) any—
  - (aa) award of compensation made under section 112(4) or 117(3)(a) of the Employment Rights Act 1996 (remedies and compensation for unfair dismissal)(b),
  - (bb) award, sum or payment referred to in section 112 of the 1992 Act (certain sums to be earning for social security purposes)(c), or
  - (cc) section 34 or 70 of the Employment Rights Act 1996 (guarantee payments and suspension from work: complaints to employment tribunals)(d), including any payment made following the settlement of a complaint to an employment tribunal or court proceedings,

(d) where before the first day of entitlement to council tax reduction the employment has not been terminated but the applicant is not engaged in remunerative work, any earnings paid

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(a) 1996 c.18. Section 64 was amended by S.I. 2017/1075.  
(b) Section 112(4) was amended by paragraph 1 of schedule 9 of the Employment Relations Act 1999 (c.26) and paragraph 36 of schedule 7 of the Employment Act 2002 (c.22). Section 117(3)(a) was amended by paragraph 37 of schedule 7 of the Employment Act 2002.  
(c) Section 112 was amended by paragraph 21 of schedule 3 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2) and paragraph 51 of schedule 1 of the Employment Rights Act 1996.  
(d) Sections 34 and 70 were amended by section 1 of the Employment Rights (Dispute Resolution) Act 1998 (c.8), paragraph 18 and 29 of schedule 2 of the Enterprise and Regulatory Reform Act 2013 (c.24), S.I. 2011/1133 and S.I. 2019/469.

or due to be paid in respect of that employment except any payment or remuneration of the nature described in paragraph 1(c)(i), (ii), (iii)(bb) or (iii)(cc) of this schedule or regulation 50(2)(j) (disregard of specified statutory payments).

- 2.** In the case of an applicant who, before the first day of entitlement to council tax reduction—
- (a) has been engaged in employment in which the person is engaged on average for less than 16 hours a week as an employed earner,
  - (b) has ceased to be engaged in that employment, whether or not that employment has been terminated, and
  - (c) whose earnings are calculated under regulation 50 (applicants with no award of universal credit),

any employed earnings paid or due to be paid in respect of that employment except—

- (i) where that employment has been terminated, any payment of the nature described in paragraph 1(b)(i), (ii) or (iii)(cc), or
- (ii) where that employment has not been terminated, any payment or remuneration of the nature described in paragraph 1(c)(i), (ii) or (iii)(cc), regulation 50(2)(j), or any remuneration paid by or on behalf of an employer to an applicant who for the time being is on maternity leave, paternity leave, shared parental leave, parental bereavement leave or adoption leave or is absent from work because the applicant is ill.

**3.** In the case of an applicant who has been engaged as a self-employed earner in either part-time employment in which the person is engaged on average for less than 16 hours a week or in remunerative work, any earnings derived from that work from the date it ceases, except earnings to which regulation 51(7) or (8) (self-employed earnings) applies.

**4.—(1)** In a case to which this paragraph applies and paragraph 5 does not apply, £20, but notwithstanding regulation 36 (calculation of income and capital of members of an applicant's family) if this paragraph applies to an applicant it does not apply to the applicant's partner except where, and to the extent that, the earnings of the applicant which are to be disregarded under this paragraph are less than £20.

(2) This paragraph applies where—

- (a) the applicant's applicable amount includes an amount by way of disability premium, severe disability premium, work-related activity component or support component under schedule 1 (applicable amounts), and
- (b) either the applicant or the applicant's partner has not attained pensionable age and at least one of them is engaged in employment.

(3) This paragraph also applies where—

- (a) the applicant has an award of universal credit which includes the LCWRA element, and
- (b) neither the applicant nor the applicant's partner has attained pensionable age and at least one of them is engaged in employment.

(4) In this paragraph, "LCWRA element" has the meaning given to it in regulation 27 of the 2013 Regulations<sup>(a)</sup>.

**5.** In a case where the applicant is a lone parent, £25.

**6.—(1)** In a case to which neither paragraph 4 nor paragraph 5 applies to the applicant and, subject to sub-paragraph (2), where the applicant's applicable amount includes an amount by way of the carer premium under schedule 1 (applicable amounts)—

- (a) £20 of the earnings of the person who does not have an award of universal credit and is, or at any time in the preceding 8 weeks was, in receipt of carer's allowance or treated in

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(a) Regulation 27 was amended by S.I. 2017/204.



accordance with paragraph 5(5) or (6) of that schedule as being in receipt of carer's allowance, or

- (b) £20 of the earnings of the person who has an award of universal credit and that award includes the carer element described in regulation 29 of the 2013 Regulations.

(2) Where the carer premium is awarded in respect of the applicant and the applicant's partner, their earnings are for the purposes of this paragraph to be aggregated, but the amount to be disregarded in accordance with sub-paragraph (1) must not exceed £20.

**7.** Where the carer premium is awarded in respect of an applicant who is a member of a couple and whose earnings are less than £20, but is not awarded in respect of the other member of the couple, and that other member is engaged in an employment—

- (a) specified in paragraph 9(1), so much of the other member's earnings as would not when aggregated with the amount disregarded under paragraph 6 exceed £20,
- (b) other than one specified in paragraph 9(1), so much of the other member's earnings from such other employment up to £10 as would not when aggregated with the amount disregarded under paragraph 6 exceed £20.

**8.** In a case where paragraphs 4, 6, 7 and 9 do not apply to the applicant and the applicant is one of a couple and a member of that couple is in employment, £10, but, notwithstanding regulation 36 (calculation of income and capital of members of applicant's family), if this paragraph applies to an applicant it does not apply to the applicant's partner except where, and to the extent that, the earnings of the applicant which are to be disregarded under this paragraph are less than £10.

**9.—(1)** In a case where paragraphs 4, 5, 6 and 7 do not apply to the applicant, and the applicant is a person whose earnings are calculated under regulation 50 (applicants with no award of universal credit), £20 of earnings derived from one or more employments as—

- (a) a part-time fire-fighter employed by the Scottish Fire and Rescue Service established under section 1A of the Fire (Scotland) Act 2005(a),
- (b) a part-time fire-fighter employed by a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004(b) or a scheme to which section 4 of that Act(c) applies,
- (c) an auxiliary coastguard in respect of coast rescue activities,
- (d) a person engaged part-time in the manning or launching of a life boat,
- (e) a member of any territorial or reserve force prescribed in Part I of schedule 6 of the Social Security (Contributions) Regulations 2001(d),

but, notwithstanding regulation 36 (calculation of income and capital of members of applicant's family), if this paragraph applies to an applicant it does not apply to the applicant's partner except to the extent specified in sub-paragraph (2).

(2) If the applicant's partner is engaged in employment—

- (a) specified in sub-paragraph (1), so much of the partner's earnings as would not in aggregate with the amount of the applicant's earnings disregarded under this paragraph exceed £20,
- (b) other than an employment specified in sub-paragraph (1), so much of the partner's earnings from that employment up to £10 as would not in aggregate with the applicant's earnings disregarded under this paragraph exceed £20.

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(a) 2005 asp 5. Section 1A was added by the Police and Fire Reform (Scotland) Act 2012 (asp 8), section 101.

(b) 2004 c.21. Section 2 was amended by paragraph 22 of schedule 1 of the Local Government and Public Involvement in Health Act 2007 (c.28) and Part 4 of schedule 7 of the Local Democracy, Economic Development and Construction Act 2009 (c.20).

(c) Section 4 was amended by paragraph 22 of schedule 1 of the Local Government and Public Involvement in Health Act 2007 and Part 4 of schedule 7 of the Local Democracy, Economic Development and Construction Act 2009.

(d) S.I. 2001/1004.

**10.** Where the applicant is a person whose earnings are calculated under regulation 50 (applicants with no award of universal credit), and the applicant is engaged in one or more employments specified in paragraph 9(1), but the applicant's earnings derived from such employments are less than £20 in any week and the applicant is also engaged in any other employment so much of the applicant's earnings from that other employment, up to £5 if the applicant is a single applicant, or up to £10 if the applicant has a partner, as would not in aggregate with the amount of the applicant's earnings disregarded under paragraph 9 exceed £20.

**11.** In a case to which none of paragraphs 4 to 10 applies, and the applicant is a single applicant, £5.

**12.—(1)** Where—

(a) the applicant (or if the applicant is a member of a couple, at least one member of that couple) is a person to whom sub-paragraph (5) applies, and

(b) the relevant authority is satisfied that that person is undertaking exempt work,

the amount specified in sub-paragraph (7) (“the specified amount”).

(2) Where this paragraph applies, paragraphs 4 to 11 do not apply, but in any case where the applicant is a lone parent and the specified amount would be less than the amount specified in paragraph 5, paragraph 5 applies instead of this paragraph.

(3) Notwithstanding regulation 36 (calculation of income and capital of members of applicant's family), if sub-paragraph (1) applies to one member of a couple (“A”) it does not apply to the other member of that couple (“B”) except to the extent provided for in sub-paragraph (4).

(4) Where A's earnings are less than the specified amount, there must also be disregarded so much of B's earnings as would not when aggregated with A's earnings exceed the specified amount, but the amount of B's earnings which may be disregarded under this sub-paragraph is limited to a maximum of £20 unless the relevant authority is satisfied that B is also undertaking exempt work.

(5) This sub-paragraph applies to a person who is—

(a) in receipt of a contributory employment and support allowance,

(b) in receipt of incapacity benefit under sections 30A, 40 or 41 of the 1992 Act<sup>(a)</sup>,

(c) in receipt of severe disablement allowance, or

(d) being credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975<sup>(b)</sup>.

(6) In this paragraph “exempt work” means work of the kind described in—

(a) regulation 45(2), (3) or (4) of the Employment and Support Allowance Regulations<sup>(c)</sup>, or (as the case may be),

(b) regulation 17(2), (3) or (4) of the Social Security (Incapacity for Work) (General) Regulations 1995<sup>(d)</sup>,

and, in determining for the purposes of this paragraph whether an applicant or a member of a couple is undertaking any type of exempt work, it is immaterial whether that person or their partner is also undertaking other work.

(7) The specified amount is the amount of money from time to time mentioned in any provision referred to in sub-paragraph (6) by virtue of which the work referred to in sub-paragraph (1) is

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(a) Section 30A was inserted by section 1 of the Social Security (Incapacity for Work) Act 1994 (c.18) (“the 1994 Act”) and amended by section 64 of the Welfare Reform and Pensions Act 1999 (c.30) and paragraph 14 of schedule 24 of the Civil Partnership Act 2004 (c.33). Section 40 was substituted by paragraph 8 of schedule 1 of the 1994 Act. Section 41 was substituted by paragraph 9 of schedule 1 of the 1994 Act and amended by paragraph 21 of schedule 4 of the Pensions Act 1995 (c.26).

(b) S.I. 1975/556. Regulation 8B was added by S.I. 1996/2367 and amended by S.I. 2000/3120, S.I. 2003/521, S.I. 2008/1554, S.I. 2010/385, S.I. 2012/913 and S.I. 2013/630.

(c) Regulation 45(3) and (4) was amended by S.I. 2010/840, S.I. 2011/674 and S.I. 2017/205.

(d) S.I. 1995/311. Regulation 17 was substituted by S.I. 2006/757. Regulation 17(3) was amended by S.I. 2010/840 and S.I. 2011/674. Regulation 17(4) was amended by S.I. 2010/840, S.I. 2011/674 and S.I. 2017/205.

exempt (or, where more than one of those provisions is relevant and those provisions mention different amounts of money, the highest of those amounts).

**13.** Any earnings derived from employment which are payable in a country outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of those earnings.

**14.** Where a payment of earnings is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.

**15.—(1)** In a case where the applicant's earnings are calculated under regulation 50 (employed earnings (applicants with no award of universal credit)) and the applicant is a person who satisfies at least one of the conditions set out in sub-paragraph (2), and the employed earnings prior to any disregards being applied under this schedule equal or exceed the total of the amounts set out in sub-paragraph (3), the amount of the applicant's earnings to be disregarded under paragraphs 4 to 12 is to be increased by £17.10.

(2) The conditions are that—

- (a) the applicant, or if the applicant is a member of a couple, either the applicant or the other member of that couple, is a person to whom regulation 20(1)(c) of the Working Tax Credit Regulations applies, or
- (b) the applicant—
  - (i) is, or if the applicant is a member of a couple, at least one member of that couple is, aged at least 25 and is engaged in remunerative work, but in this case only where that work is engaged in for on average not less than 30 hours per week,
  - (ii) is a member of a couple and—
    - (aa) at least one member of that couple, is engaged in remunerative work, and
    - (bb) the applicant's applicable amount includes a child premium under paragraph 2 of schedule 1,
  - (iii) is a lone parent who is engaged in remunerative work, or
  - (iv) is, or if the applicant is a member of a couple, at least one member of that couple is, engaged in remunerative work and—
    - (aa) the applicant's applicable amount includes a disability premium under paragraph 11 of schedule 1, the work-related activity component under paragraph 21 of that schedule or the support component under paragraph 22 of that schedule, and
    - (bb) where the applicant is a member of a couple, at least one member of that couple satisfies the qualifying conditions for the disability premium or either of the components referred to in sub-head (aa) and is engaged in remunerative work.

(3) The following are the amounts referred to in sub-paragraph (1)—

- (a) the amount calculated as disregardable from the applicant's earnings under paragraphs 4 to 12,
- (b) the amount of relevant childcare charges deducted under regulation 38(2)(c) (calculation of income on a weekly basis), and
- (c) £17.10.

(4) The provisions of regulation 10 (remunerative work) apply in determining whether or not a person works for on average not less than 30 hours per week for the purposes of sub-paragraph (2)(b)(i), but as if the reference to 16 hours in paragraph (1) of that regulation were a reference to 30 hours.

**16.** Where the applicant is a qualifying income-related benefit claimant, the applicant's earnings.

**17.** Any earnings of a child or young person.

## SCHEDULE 4

Regulation 69(1)

### Capital to be disregarded

#### PART 1

##### Premises

**1.** The dwelling together with any garage, garden and outbuildings, normally occupied by the applicant as the applicant's home including any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular, any croft land on which the dwelling is situated, but, notwithstanding regulation 36 (calculation of income and capital of members of applicant's family), only one dwelling is to be disregarded under this paragraph.

**2.** Premises occupied by a close relative of a person as their home where that close relative has limited capability for work or has reached pensionable age.

**3.** Premises occupied by a person's former partner as their home where the person and their former partner are not estranged, but living apart by force of circumstances, for example where the person is in residential care.

**4.—**(1) Premises that a person intends to occupy as their home where—

- (a) the person has acquired the premises within the past 6 months but not yet taken up occupation,
- (b) the person is taking steps to obtain possession and has commenced those steps within the past 6 months, or
- (c) the person is carrying out essential repairs or alterations required to render the premises fit for occupation and these have been commenced within the past 6 months.

(2) A person is to be taken to have commenced steps to obtain possession of premises on the date that legal advice is first sought or proceedings are commenced, whichever is earlier.

**5.** Premises that a person has ceased to occupy as their home following an estrangement from their former partner where—

- (a) the person has ceased to occupy the premises within the past 6 months, or
- (b) the person's former partner is a lone parent and occupies the premises as their home.

**6.** Premises that a person is taking reasonable steps to dispose of where those steps have been commenced within the past 6 months.

**7.** Any future interest in property of any kind, other than land or premises in respect of which the applicant has granted a subsisting lease or tenancy, including sub-leases or sub-tenancies

#### PART 2

##### Business assets

**8.** Assets which are used wholly or mainly for the purposes of a trade, profession or vocation which the person is carrying on.

**9.** Assets which were used wholly or mainly for a trade, profession or vocation that the person has ceased to carry on within the past 6 months if—

- (a) the person is taking reasonable steps to dispose of those assets, or
- (b) the person ceased to be engaged in carrying on the trade, profession or vocation because of incapacity and can reasonably expect to be reengaged on recovery.

## PART 3

### Value of contracts and rights etc.

**10.** The value of any policy of life insurance.

**11.—(1)** The value of any right to receive a pension under an occupational or personal pension scheme or any other pension scheme registered under section 153 of the Finance Act 2004**(a)**.

**(2)** In this paragraph, “occupational pension scheme” and “personal pension scheme” have the meanings given in section 1 of the Pension Schemes Act 1993**(b)**.

**12.—(1)** The value of a funeral plan contract.

**(2)** “Funeral plan contract” means a contract under which the person makes payments to a person to secure the provision of a funeral and where the sole purpose of the plan is the provision of a funeral.

**13.** The value of the right to receive any income under a life interest or from a life rent.

**14.** The value of the right to receive any earnings which are disregarded under paragraph 13 of schedule 3.

## PART 4

### Amounts for special purposes

**15.** An amount deposited with a housing association as a condition of the person occupying premises as their home.

**16.** An amount received within the past 26 weeks which is to be used for the purchase of premises that the person intends to occupy as their home where that amount—

- (a)** is attributable to the proceeds of the sale of premises formerly occupied by the person as their home,
- (b)** has been deposited with a housing association as mentioned in paragraph 15, or
- (c)** is a grant made to the person for the sole purpose of the purchase of a home.

**17.** An amount received under an insurance policy within the past 26 weeks in connection with the loss or damage to the premises occupied by the person as their home or to their personal possessions.

**18.** An amount received within the past 26 weeks that is to be used for making essential repairs or alterations to premises occupied or intended to be occupied as the person’s home where that amount has been acquired by the person (whether by grant or loan or otherwise) on condition that it is used for that purpose.

## PART 5

### Payments

**19.** A payment made within the past 52 weeks under Part 8 of the 1992 Act (the social fund).

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**(a)** 2004 c.12. Section 153 was amended by paragraph 2 and 3 of schedule 10 of the Finance Act 2005 (c.7), paragraph 2 of schedule 7 of the Finance Act 2014 (c.26) and paragraph 1 of schedule 3 of the Finance Act 2018 (c.3).

**(b)** 1993 c.48. Section 1 was amended by section 239 of the Pensions Act 2004 (c.35), paragraph 1 of schedule 27 of the Finance Act 2007 (c.11), S.I. 2007/3014 and S.I. 2019/192.

- 20.**—(1) A payment made within the past 52 weeks by or on behalf of a local authority—
- (a) under section 17, 23B, 23C or 24A of the Children Act 1989(a), section 12 of the Social Work (Scotland) Act 1968(b), section 22, 26A, 29 or 30 of the Children (Scotland) Act 1995(c) or section 37, 38, 109, 110, 114 or 115 of the Social Services and Well-being (Wales) Act 2014(d), or
  - (b) under any other enactment in order to meet a person’s welfare needs related to old age or disability, other than living expenses.
- (2) In sub-paragraph (1) “living expenses” has the meaning in regulation 57(2)(b).

**21.**—(1) A payment received within the past 52 weeks by way of arrears of, or compensation for late payment of—

- (a) universal credit,
- (b) a benefit abolished by section 33 of the 2012 Act,
- (c) a social security benefit which is not included as unearned income under regulation 57(1)(a) or 57(1)(b).

(2) In sub-paragraph (1)(c) a “social security benefit” means a benefit under any enactment relating to social security in any part of the United Kingdom.

(3) In a case where the total of any arrears and, if appropriate, any concessionary payment referred to in sub-paragraph (1), relating to one social security benefit, amounts to £5,000 or more (“the relevant sum”) and is—

- (a) paid in order to rectify, or compensate for—
  - (i) an official error as defined in regulation 1(3) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999(e),
  - (ii) an error on a point of law made by an officer, person or body described in sub-paragraph (a) or (b) of the definition of “official error” in regulation 1(3) of those Regulations, or
  - (iii) any error made by a member of the Scottish Administration involved in the administration of social security benefits to which no person outside the Scottish Government or the Department for Work and Pensions materially contributed, and is
- (b) received by the applicant in full on or after 14th October 2001,

sub-paragraph (1) has effect in relation to the arrears or concessionary payment either for a period of 52 weeks from the date of receipt, or, if the relevant sum is received in its entirety during the period of entitlement to council tax reduction, for the remainder of that period if it is a longer period.

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(a) 1989 c.41. Section 17 was amended by paragraph 108 of schedule 2 of the Social Security (Consequential Provisions) Act 1992 (c.6), section 11(6) of the Adoption and Children Act 2002 (c.38), paragraph 6 of schedule 3 of the 2007 Act, paragraph 1 of schedule 1 and paragraph 1 of schedule 4 of the Children and Young Persons Act 2008 (c.23), paragraph 1 of schedule 2 of the 2012 Act and S.I. 2016/413. Sections 23B and 23C were inserted by section 2 of the Children (Leaving Care) Act 2000 (c.35) and amended by section 21 and paragraph 1 of schedule 4 of the Children and Young Persons Act 2008 (c.23) and S.I. 2016/413. Section 24A was inserted by section 4 of the Children (Leaving Care) Act 2000 and amended by section 116 and paragraph 61 of schedule 3 of the Adoption and Children Act 2002 (c.38) and S.I. 2016/413.

(b) 1968 c.49. Section 12 was amended by section 66 and paragraph 10 of schedule 9 of the National Health Service and Community Care Act 1990, paragraph 15 of schedule 4 of the Children (Scotland) Act 1995 (c.36), section 120 of the Immigration and Asylum Act 1999 (c.33) and section 3 of the Community Care and Health (Scotland) Act 2002 (asp 5).

(c) 1995 c.36. Section 22 was amended by paragraph 6 of schedule 1 of the Tax Credits Act 1999 (c.10), paragraph 50 of schedule 3 of the Tax Credits Act 2002 (c.21), paragraph 14 of schedule 3 of the 2007 Act and S.I. 2013/137. Section 26A was inserted by section 67 of the Children and Young People (Scotland) Act 2014 (asp 8) (“the 2014 Act”). Section 29 was amended by section 73 of the Regulation of Care (Scotland) Act 2001 (asp 8) and section 66 and 67 of the 2014 Act. Section 30 was amended by section 66 of the 2014 Act.

(d) 2014 anaw.4. Section 37 was amended by S.I. 2016/413.

(e) S.I. 1999/991, to which there are amendments not relevant to these Regulations.

(4) For the purpose of sub-paragraph (3), “the period of entitlement to council tax reduction” means—

- (a) the period of entitlement to council tax reduction in which the relevant sum is first received (or the first part of the relevant sum where it is paid in more than one instalment), and
- (b) where that period of entitlement is followed by one or more periods of entitlement which, or each of which, begins immediately after the end of the previous period, such further period provided that for that further period the applicant—
  - (i) is the person who received the relevant sum, or
  - (ii) is the partner of the person who received the relevant sum, or was that person’s partner at the date of the partner’s death.

**22.** A payment to a person by virtue of being a holder of the Victoria Cross or George Cross.

**23.** A payment made within the past 52 weeks of bereavement support payment in respect of the rate set out in regulation 3(2) or (5) of the Bereavement Support Payment Regulations 2017 (rate of bereavement support payment)(a).

**24.** Any assistance under the 2018 Act falling within the following descriptions that was given with the past 52 weeks—

- (a) young carer grants paid by virtue of Regulations under section 28(b),
- (b) early years assistance given by virtue of Regulations under section 32(c),
- (c) carer’s allowance supplement given in accordance with section 81.

**25.** Any assistance under the 2018 Act falling within the following descriptions—

- (a) winter heating assistance given by virtue of Regulations under section 30(d),
- (b) funeral expense assistance given by virtue of Regulations under section 34(e).

**26.** 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—

- (a) from a welfare fund,
- (b) by a local authority in exercise of the power at section 20 of the Local Government in Scotland Act 2003 (local authority’s power to advance well-being)(f) and using funds provided by the Scottish Ministers,
- (c) by a local authority in exercise of the power in section 1 of the Localism Act 2011 (local authority’s general power of competence)(g) 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
- (d) by, or on behalf of, the Welsh Ministers in exercise of the power in section 60 of the Government of Wales Act 2006 (promotion etc. of well-being)(h).

**27.** Any refund of tax which falls to be deducted under section 369 of the Income and Corporation Taxes Act 1988 (deduction of tax from certain loan interest)(i) on a payment of

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(a) S.I. 2017/410.

(b) See S.S.I. 2019/324, to which there are amendments not relevant to these Regulations.

(c) See S.S.I. 2018/370, S.S.I. 2019/110, S.S.I. 2019/157 and S.S.I. 2021/170.

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

(e) See S.S.I. 2019/292, to which there are amendments not relevant to these Regulations.

(f) 2003 asp 1.

(g) 2011 c.20.

(h) 2006 c.32.

(i) 1988 c.1. Section 369 was amended by section 58 of the Finance Act 1993 (c.34), section 81 of the Finance Act 1994 (c.9), paragraph 6 of schedule 18 of the Finance Act 1996 (c.8), paragraph 4 of schedule 4 of the Finance Act 1999 (c.16), section 83 of the Finance Act 2000 (c.17) and paragraph 33 of schedule 1 of the Corporation Tax Act 2010 (c.4).

relevant loan interest for the purpose of acquiring an interest in the home or carrying out repairs or improvements to the home.

**28.** Any payment in consequence of a reduction of council tax under section 13 or 80 of the Act (reduction of liability for council tax), but only for a period of 52 weeks from the date of the receipt of the payment.

**29.**—(1) Any payment or repayment made—

- (a) under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (travelling expenses and health service supplies)(a),
- (b) under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (travelling expenses and health service supplies)(b), and
- (c) under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies)(c),

but only for a period of 52 weeks from the date of receipt of the payment or repayment.

(2) Any payment or repayment made by the Scottish Ministers, the Secretary of State for Health or the Welsh Ministers which is analogous to a payment or repayment mentioned in sub-paragraph (1), but only for a period of 52 weeks from the date of receipt of the payment or repayment.

**30.** Any payment made to those persons entitled to receive benefits as determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988(d) in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins), but only for a period of 52 weeks from the date of receipt of the payment.

**31.**—(1) Any payment made by the Scottish Ministers or the Secretary of State under a scheme established to assist relatives and other persons to visit persons in custody, but only for a period of 52 weeks from the date of the receipt of the payment.

(2) “Relative” means a close relative, grandparent, grandchild, uncle, aunt, nephew or niece.

**32.** Any payment made by a local authority under section 3 of the Disabled Persons (Employment) Act 1958(e) to homeworkers assisted under the Blind Homeworkers’ Scheme.

**33.** Any sum of capital acquired by a person who is receiving, or has received, assistance whilst participating in a programme, arrangement or scheme described in sub-paragraphs (a) to (c) for the purpose of establishing or carrying on the commercial activity in respect of which the assistance is or was received, but only for a period of 52 weeks from the date on which the sum was acquired—

- (a) an employment zone programme,

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(a) S.S.I. 2003/460. Regulation 3 was amended by S.S.I. 2004/102. Regulation 5 was amended by S.S.I. 2011/55. Regulation 11 was amended by S.S.I. 2004/166, S.S.I. 2006/142, S.S.I. 2006/183, S.S.I. 2008/27 and S.S.I. 2011/55.

(b) S.I. 2003/2382. Regulation 5 was amended by S.I. 2004/663, S.I. 2004/936, S.I. 2006/562, S.I. 2008/1697, S.I. 2009/411, S.I. 2013/475, S.I. 2014/597, S.I. 2015/570, S.I. 2015/643, S.I. 2015/1776 and S.I. 2016/1045. Regulation 6 was amended by S.I. 2006/562 and S.I. 2006/675. Regulation 12 was amended by S.I. 2004/696, S.I. 2006/562, S.I. 2013/475, S.I. 2015/470 and S.I. 2019/248.

(c) S.I. 2007/1104. Regulation 5 was amended by S.I. 2008/1879, S.I. 2008/2568, S.I. 2009/709, S.I. 2016/211 and S.I. 2017/340. Regulation 11 was amended by S.I. 2009/1824.

(d) 1988 c.7. Section 13 was substituted subject to saving specified in S.I. 2005/2279 by section 185 of Social Care (Community Health and Standards) Act 2003 (c.43) and amended by section 27 of the Scotland Act 2016 (c.11).

(e) 1958 c.33. Section 3 was amended by schedule 3 of the Local Authority Social Services Act 1970 (c.42), paragraph 6 of schedule 23 of the Local Government Act 1972 (c.70), schedule 2 and paragraph 134 of schedule 27 and schedule 30 of the Local Government (Scotland) Act 1973 (c.65), paragraph 2 of schedule 15 of the National Health Service (Scotland) Act 1978 (c.29), section 102 of the Local Government Act 1985 (c.51), paragraph 49 of schedule 13 of the Local Government etc. (Scotland) Act 1994 (c.39) and S.I. 2016/413.



- (b) a programme provided or other arrangements pursuant to section 2 of the Enterprise and New Towns (Scotland) Act 1990 (functions in relation to training for employment, etc.)**(a)** or section 2 of the 1973 Act (functions of the Secretary of State)**(b)**, or
- (c) the scheme provided pursuant to arrangements made by the Secretary of State under section 17A of the Jobseekers Act (schemes for assisting persons to obtain employment: “work for your benefit” schemes etc.)**(c)** known as the Employment, Skills and Enterprise Scheme.

**34.**—(1) Any payment—

- (a) by way of an education maintenance allowance made pursuant to—
  - (i) Regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980**(d)**,
  - (ii) directions made under section 73ZA of the Education (Scotland) Act 1980**(e)** and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992**(f)**, or
  - (iii) Regulations made under section 518 of the Education Act 1996**(g)**, or
- (b) corresponding to an education maintenance allowance made pursuant to—
  - (i) section 14 or section 181 of the Education Act 2002 (power of Secretary of State and National Assembly for Wales to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training)**(h)**, or
  - (ii) Regulations made under section 181 of that Act.

(2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to—

- (a) Regulations made under section 49 of the Education (Scotland) Act 1980,
- (b) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992, or
- (c) Regulations made under section 518 of the Education Act 1996, in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance made pursuant to any provision specified in sub-paragraph (1).

**35.** Any payment made to the applicant under Regulations made under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002**(i)**.

**36.** Any payment made to the applicant under Regulations made under section 14F of the Children Act 1989 (special guardianship support services)**(j)**.

**37.** Any payment made under or by the Thalidomide Trust.

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(a) 1990 c.35. Section 2 was relevantly amended by section 47 of, and paragraph 1 of schedule 10 of, the Trade Union Reform and Employment Rights Act 1993 (c.19).

(b) Section 2 was substituted by section 25 of the Employment Act 1988 (c.19) and amended by Part 1 of schedule 7 of the Employment Act 1989 (c.38) and section 47(1) of the Trade Union Reform and Employment Rights Act 1993 (c.19).

(c) Section 17A was repealed by paragraph 1 of schedule 14(4) of the 2012 Act subject to savings provisions in article 7 of S.I. 2013/983.

(d) 1980 c.44. Section 49 was amended by paragraph 8(9) of schedule 10 of the Self-Governing Schools etc. (Scotland) Act 1989 (c.39) and section 5 of the Schools (Health Promotion and Nutrition) (Scotland) Act 2007 (asp 15). Section 73(f) was amended by section 3(2) of the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp 6).

(e) Section 73ZA was inserted by section 19(1) of the Further and Higher Education (Scotland) Act 2005 (asp 6) and amended by paragraph 1 of schedule 1 of the Post-Education (Scotland) Act 2013 (asp 12).

(f) 1992 c.37.

(g) 1996 c.56. Section 518 was substituted by section 129 of the School Standards and Framework Act 1998 (c.31) and amended by S.I. 2010/1158.

(h) 2002 c.32. Section 14 was amended by section 59 of the Children Act 2004 (c.31), paragraph 23 of schedule 14 of the Education Act 2005 (c.18), section 15 of the Education Act 2011 (c.21) and S.I. 2010/1158. Section 181 was amended by S.I. 2010/1158.

(i) 2002 c.38. Section 3 was amended by S.I. 2016/413. Section 4 was amended by paragraph 105 of schedule 5 of the Health and Social Care Act 2012 (c.7), and S.I. 2010/1158.

(j) 1989 c.41. Section 14F was inserted by section 115(1) of the Adoption and Children Act 2002 (c.38) and amended by S.I. 2016/413.

**38.** Any payment or interest on a payment made under, or in connection with the Windrush Compensation Scheme administered by the Home Office**(a)**.

**39.** Any payment made pursuant to section 2 of the Enterprise and New Towns (Scotland) Act 1990 or section 2 of the 1973 Act, but only for the period of 52 weeks beginning on the date of receipt of the payment.

**40.** Any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001**(b)** or Part 5 of the 2018 Act.

**41.** Any ex gratia payment made at the discretion of the Scottish Ministers from the Advance Payment Scheme which the Scottish Ministers set up in respect of cases of historical child abuse in care.

**42.** Any redress payment made under Part 4 of the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021**(c)**.

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**(a)** See [www.gov.uk/windrush-compensation](http://www.gov.uk/windrush-compensation) and Parliamentary Debates (Hansard), House of Commons, April 23 2018, col. 621-622.

**(b)** S.I. 2001/1167, to which there are amendments not relevant to these Regulations.

**(c)** 2021 asp 15.

## Consequential amendments

**The Council Tax (Administration and Enforcement) (Scotland) Regulations 1992**

1.—(1) The Council Tax (Administration and Enforcement) (Scotland) Regulations 1992(a) are amended as follows.

(2) In regulation 1(2) (interpretation), in the definition of “council tax reduction”, after “Council Tax Reduction (Scotland) Regulations 2012” insert “, the Council Tax Reduction (Scotland) Regulations 2021”.

**The Council Tax (Reductions for Disabilities) (Scotland) Regulations 1992**

2.—(1) The Council Tax (Reductions for Disabilities) (Scotland) Regulations 1992(b) are amended as follows.

(2) In regulation 4(2)(b) (calculation of amount payable), for “Council Tax Reduction (Scotland) Regulations 2012” substitute “Council Tax Reduction (Scotland) Regulations 2021”.

**The Council Tax (Reduction of Liability) (Scotland) Regulations 1994**

3.—(1) The Council Tax (Reduction of Liability) (Scotland) Regulations 1994(c) are amended as follows.

(2) In regulation 4(c) (calculation of amount payable), for “Council Tax Reduction (Scotland) Regulations 2012” substitute “Council Tax Reduction (Scotland) Regulations 2021”.

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

4.—(1) The Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012(d) are amended as follows.

(2) In regulation 2 (interpretation), in the definition of “the Council Tax Reduction Regulations”, for “Council Tax Reduction (Scotland) Regulations 2012” substitute “Council Tax Reduction (Scotland) Regulations 2021”.

(3) In regulation 29(11)(b)(i) (treatment of child care charges) for “paragraph 10 of Schedule 1 to the Council Tax Reduction (Scotland) Regulations 2012 (additional condition for the disability premium)” substitute “paragraph 12 of schedule 1 of the Council Tax Reduction Regulations 2021 (additional condition for the disability premium)”.

(4) In regulation 48 (non-dependant deductions)(e), in each of sub-paragraph (9)(b) and (c), for “the Council Tax Reduction Regulations” substitute “the Council Tax Reduction (Scotland) Regulations 2012”.

(5) In regulation 54 (entitlements to extended council tax reductions)—

(a) in paragraph (1), for—

(i) “regulation 68” substitute “regulation 80”,

(ii) “regulation 73” substitute “regulation 85”,

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(a) S.I. 1992/1332. The definition of “council tax reduction” was inserted by S.S.I. 2012/303.

(b) S.I. 1992/1335. Regulation 4 was relevantly amended by S.S.I. 2012/303.

(c) S.I. 1994/3170. Regulation 4 was amended by S.S.I. 2012/303.

(d) S.S.I. 2012/319. There are amendments to those Regulations that are not relevant to these Regulations.

(e) Regulation 48(9)(b) and (c) were amended by S.S.I. 2013/49, S.S.I. 2016/81, S.S.I. 2017/41, S.S.I. 2017/326 and S.S.I. 2018/69.

- (b) in paragraph (2)(a) for—
    - (i) “regulation 70(1)(a)” substitute “regulation 82(1)(a)”,
    - (ii) “regulation 75(1)(a)” substitute “regulation 87(1)(a)”,
  - (c) in paragraph (2)(b) for—
    - (i) “regulation 68” substitute “regulation 80”,
    - (ii) “regulation 73” substitute “regulation 85”, and
  - (d) in paragraph (2)(c) for “regulation 68 or regulation 73” substitute “regulation 80 or regulation 85”.
- (6) In regulation 70B(5) (request for further review)(a) for “regulation 90C” substitute “regulation 95(1)”.
- (7) In regulation 70C (conduct of further reviews)(b), in each of paragraphs (1), (5), (6)(a) and (8) for “regulation 90C(1)” substitute “regulation 95(1)”.
- (8) In paragraph 5(2) of schedule 2 (sums to be disregarded in the calculation of earnings), after “these Regulations” insert “, the Council Tax Reduction (Scotland) Regulations 2012”.
- (9) In paragraph 22 of schedule 4 (capital disregards)(c), in each of sub-paragraph (1) and in the definition of “the relevant date” in sub-paragraph (4), after “these Regulations” insert “, the Council Tax Reduction (Scotland) Regulations 2012”.
- (10) In paragraph 2 of schedule 5 (amount of second adult’s gross income)(d), in each of sub-paragraphs (b) and (c), for “the Council Tax Reduction Regulations” substitute “the Council Tax Reduction (Scotland) Regulations 2012”.

### **The Social Security (Information-sharing in relation to Welfare Services etc.) Regulations 2012**

- 5.—(1) The Social Security (Information-sharing in relation to Welfare Services etc.) Regulations 2012(e) are amended as follows.
- (2) In regulation 2 (interpretation), in the definition of “council tax reduction scheme”, at subparagraph (b), for “Council Tax Reduction (Scotland) Regulations 2012” substitute “Council Tax Reduction (Scotland) Regulations 2021”.

### **The Home Energy Assistance Scheme (Scotland) Regulations 2013**

- 6.—(1) The Home Energy Assistance Scheme (Scotland) Regulations 2013(f) are amended as follows.
- (2) In regulation 2 (interpretation), in the definition of “council tax reduction”, at subparagraph (a), for “Council Tax Reduction (Scotland) Regulations 2012” substitute “Council Tax Reduction (Scotland) Regulations 2021”.

### **The Social Security (Persons Required to Provide Information) Regulations 2013**

- 7.—(1) The Social Security (Persons Required to Provide Information) Regulations 2013(g) are amended as follows.
- (2) In regulation 2(2)(b)(ii) (persons required to provide information), for “Council Tax Reduction (Scotland) Regulations 2012” substitute “Council Tax Reduction (Scotland) Regulations 2021”.

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(a) Regulation 70B was inserted by S.S.I. 2013/218.  
 (b) Regulation 70C was inserted by S.S.I. 2013/218, and was amended by S.S.I. 2015/46.  
 (c) Paragraph 22 was amended by S.S.I. 2015/46 and S.S.I. 2018/295.  
 (d) Paragraph 2 of schedule 5 was amended by S.S.I. 2013/142, S.S.I. 2016/81, S.S.I. 2017/41 and S.S.I. 2017/326.  
 (e) S.I. 2012/1483.  
 (f) S.S.I. 2013/148. The definition of “council tax reduction” was inserted by S.S.I. 2013/253.  
 (g) S.I. 2013/1510.

### **The Council Tax Reduction (Scotland) Amendment Regulations 2016**

**8.**—(1) The Council Tax Reduction (Scotland) Amendment Regulations 2016<sup>(a)</sup> are amended as follows.

(2) In regulation 2—

- (a) in sub-paragraph (1), for “regulations 5 and 18” substitute “regulation 18”,
- (b) in sub-paragraph (3), omit “the Council Tax Reduction (Scotland) Regulations 2012 or, as the case may be,”.

### **The Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020**

**9.**—(1) The Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020<sup>(b)</sup> are amended as follows.

(2) In paragraph 3 of schedule 4 (saving provision in relation to access to benefits and services), after sub-paragraph (t) (the Council Tax Reduction (Scotland) Regulations 2012) insert—

- “(ta) regulation 16 (persons not entitled to a council tax reduction: persons treated as not being in Great Britain) of the Council Tax Reduction (Scotland) Regulations 2021;”.

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<sup>(a)</sup> S.S.I. 2016/81.  
<sup>(b)</sup> S.I. 2020/1309.

## SCHEDULE 6

Regulation 103

### Revocations

<i>Title</i>	<i>Reference</i>	<i>Extent of revocation</i>
Council Tax Reduction (Scotland) Regulations 2012	S.S.I. 2012/303	The whole Regulations, except in regulation 2 the definitions of “the 1992 Act”, “local authority”, “self-employed earner” and “voluntary organisation”, regulations 37 and 38 and, in schedule 4, paragraphs 37 and 38.
Council Tax Reduction (Scotland) Amendment Regulations 2013	S.S.I. 2013/48	Regulations 3 to 15.
Welfare Reform (Consequential Amendments) (Scotland) (No. 3) Regulations 2013	S.S.I. 2013/142	Regulation 11.
Council Tax Reduction (Scotland) Amendment (No. 2) Regulations 2013	S.S.I. 2013/218	Regulations 2 to 8 and Regulation 17.
Council Tax Reduction (Scotland) Amendment (No. 4) Regulations 2013	S.S.I. 2013/287	Regulations 2 to 11.
Council Tax Reduction (Scotland) Amendment Regulations 2014	S.S.I. 2014/35	Regulations 2 to 5.
Shared Parental Leave and Statutory Shared Parental Pay (Consequential Amendments to Subordinate Legislation) Order 2014	S.I. 2014/3255	Article 23.
Council Tax Reduction (Scotland) Amendment Regulations 2015	S.S.I. 2015/46	Regulations 2 to 13.
Council Tax Reduction (Scotland) Amendment Regulations 2016	S.S.I. 2016/81	Part 2, except for regulations 3 and 11.
Council Tax Reduction (Scotland) Amendment (No. 2) Regulations 2016	S.S.I. 2016/253	Regulations 2 to 8.
Council Tax Reduction (Scotland) Amendment Regulations 2017	S.S.I. 2017/41	The whole of Part 2.
Council Tax Reduction (Scotland) Amendment (No. 2) Regulations 2017	S.S.I. 2017/326	The whole of Part 2.
Council Tax Reduction (Scotland) Amendment (No. 2) Amendment Regulations 2017	S.S.I. 2017/357	The whole Regulations.
Council Tax Reduction (Scotland) Amendment	S.S.I. 2018/69	The whole of Part 2.

Regulations 2018		
Council Tax Reduction (Scotland) Amendment (No. 2) Regulations 2018	S.S.I. 2018/211	Regulations 2 to 4.
Council Tax Reduction (Scotland) Amendment (No. 3) Regulations 2018	S.S.I. 2018/295	Regulations 2 to 4.
Council Tax Reduction (Scotland) Amendment Regulations 2019	S.S.I. 2019/29	The whole of Part 2.
Council Tax Reduction (Scotland) Amendment (No. 2) Regulations 2019	S.S.I. 2019/133	Regulation 2.
Council Tax Reduction (Scotland) Amendment (No. 3) Regulations 2019	S.S.I. 2019/325	Regulation 2.
Council Tax Reduction (Scotland) Amendment Regulations 2020	S.S.I. 2020/25	The whole of Part 2.
Council Tax Reduction (Scotland) Amendment (No. 2) Regulations 2020	S.S.I. 2020/64	The whole Regulations.
Council Tax Reduction (Scotland) Amendment (No. 3) (Coronavirus) Regulations 2020	S.S.I. 2020/108	Regulation 2.
Council Tax Reduction (Scotland) Amendment (No. 4) Regulations 2020	S.S.I. 2020/413	Regulations 3, 4, 5(b) and 6.
Parental Bereavement Leave and Pay (Consequential Amendments to Subordinate Legislation) Regulations 2020	S.I. 2020/354	Regulation 24.
Council Tax Reduction (Scotland) Amendment (Coronavirus) Regulations 2021	S.S.I. 2021/12	Regulations 2 to 7.
Council Tax Reduction (Scotland) Amendment (No. 2) Regulations 2021	S.S.I. 2021/51	The whole of Part 2.
Disability Assistance for Children and Young People (Consequential Amendment and Transitional Provision) (Scotland) Regulations 2021	S.S.I. 2021/73	Regulation 13.
Disability Assistance for Children and Young People (Consequential Amendments) (Scotland) Regulations 2021	S.S.I. 2021/122	Regulation 4.
Council Tax Reduction (Scotland) Amendment (No. 3) (Coronavirus) Regulations 2021	S.S.I. 2021/137	Regulations 2 to 5.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision for a reduction in liability to council tax (“council tax reduction”) from 1 April 2022 for a person who has not reached pensionable age, or who has reached that age where they or their partner are in receipt of specified social security benefits (see regulation 3). Provision relating to council tax reduction for other persons who have reached pensionable age was made by the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012.

Part 1 of the Regulations makes general provision, in particular in relation to the interpretation of the Regulations. Regulation 2 provides that the Regulations come into effect from the start of the 2022/23 financial year.

Part 2 deals with families and households. Regulation 11 provides that only one member of a family can be entitled to a council tax reduction at the same point in time. Regulation 12 ensures that membership of a household is unaffected by temporary absences from it.

Part 3 sets conditions for when a person is entitled to a council tax reduction. These include financial criteria relating to income and capital. Persons who are absent from a dwelling are not entitled in respect of it, unless their absence is temporary (regulation 15). Regulations 16 to 18 describe when a person is to be treated as not being in Great Britain, and is therefore not entitled. Persons subject to immigration control are also not entitled (regulation 19), nor generally are students (regulation 20, though many students have no council tax liability).

Regulation 21 provides that if a person is awarded more council tax reduction than they are entitled to receive, as a result of official error, the resulting arrears of council tax are not to be recovered.

Procedural matters are prescribed by Part 4 of the Regulations. Chapter 1 sets out how applications are to be made, with regulation 24 permitting an application to be treated as made where a person has claimed universal credit and the Secretary of State has provided the administering local authority with information about that claim. Regulation 26 provides for dates on which applications are made and treated as made, with provision for backdating of application dates in some circumstances. Regulation 30 allows electronic submission of documents and, where documents are submitted that way, electronic responses. Chapter 2 of Part 4 describes when an applicant must notify a change of circumstances, with Chapter 3 describing the date on which entitlement begins and the date on which any change in circumstances is to take effect.

Part 5 (regulation 35) sets out the amounts that are to be included in an applicant’s “applicable amount”, which is a sum calculated to represent the needs of the applicant and their family and which is used to work out whether they need a council tax reduction. Schedule 1 makes further provision for these amounts.

Part 6 has provision for the assessment of household income and capital. Chapter 1 provides for the income and capital of persons other than the applicant for a council tax reduction to be treated as the applicant’s. Chapter 2 provides for income to be calculated on a weekly basis, according to whether the applicant or the applicant’s partner have an award of universal credit or not.

Chapter 3 of Part 6 sets out how earned income is calculated, including what is to be treated as employed earnings, with schedule 3 providing for sums that are to be disregarded. Again, different provision is made for where there is a universal credit award, compared with where there is not. Provision is made for cases where earnings are derived from self-employment (see regulations 51 to 54). Chapter 4 sets out how unearned income is to be calculated. Here different provision is made for persons who are students (see regulations 59 to 62). This Chapter also includes assumptions to be made as to income that the applicant’s capital is yielding (regulation 63) and unearned income that the applicant is to be treated as receiving in cases where the applicant has not taken steps to receive it (regulation 65).



Chapter 5 of Part 6, and schedule 4, sets out how capital is to be calculated and valued, with regulation 66 setting out that a person has no entitlement to a council tax reduction if their capital is calculated as exceeding £16,000. Provision is included to deem a person to possess capital where they have deprived themselves of it to become entitled to a council tax reduction, or a greater amount of such a reduction. In these cases regulations 72 and 73 provide for that notional capital to be diminished over time. Chapter 6 provides for some particular cases, while Chapter 7 provides for treatment of childcare charges, the latter varying according to whether or not there is a universal credit award involved.

Part 7 sets out the formula for calculating the maximum amount of council tax reduction to which a person is entitled (see regulation 79(2)). It also provides for extended periods of entitlement in specified circumstances. Part 8 comprises particular rules for specified circumstances, including along with schedule 2 describing entitlement where there is a second adult residing with an applicant for a council tax reduction.

Provision for review of decisions, and further reviews, is made by Part 9. These are undertaken by a panel of persons appointed by the Scottish Ministers.

Part 10 makes consequential, transitional and savings provision, in particular to ensure that persons with existing awards of council tax reduction are deemed to have made applications for a council tax reduction under these Regulations. Schedule 5 makes consequential amendments to other Regulations, with schedule 6 revoking provisions in other Regulations.

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