
SCOTTISH STATUTORY INSTRUMENTS

2021 No. 249

The Council Tax Reduction (Scotland) Regulations 2021

PART 6

Assessment of household income and capital

CHAPTER 3

Earned income

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)(**1**),

(1) 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.

Changes to legislation: The Council Tax Reduction (Scotland) Regulations 2021, Section 50 is up to date with all changes known to be in force on or before 17 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (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)(2),
 - (i) any such sum as is referred to in section 112 of the 1992 Act (certain sums to be earnings for social security purposes)(3),
 - (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,
 - (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(4).
- (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

(2) 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.

(3) 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).

(4) 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.

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- (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)⁽⁵⁾,
 - (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.

Commencement Information

II [Reg. 50](#) in force at 1.4.2022, see [reg. 1](#)

⁽⁵⁾ 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](#)).

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 1 para. 12(1)(a)(iii**b**) inserted by [S.S.I. 2024/141 reg. 11\(5\)\(b\)\(ii\)](#)
- reg. 77(12)(f)(xii) and word inserted by [S.S.I. 2024/141 reg. 11\(3\)\(b\)](#)
- reg. 90(6)(b)(vii) and word inserted by [S.S.I. 2024/141 reg. 11\(4\)\(a\)\(ii\)](#)