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Changes to legislation: The Council Tax Reduction (Scotland) Regulations 2021, Paragraph 12 is up to date with all changes known to be in force on or before 19 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)

SCHEDULE 1

Applicable amount

PART 4

Disability premiums

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 ^[^{F1}], adult 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⁽¹⁾, 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⁽²⁾ and the applicant remained continuously entitled to council tax benefit under the Council Tax Benefit (General) Regulations 1992⁽³⁾ or the Council Tax Benefit Regulations 2006⁽⁴⁾ 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⁽⁵⁾,
 - (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⁽⁶⁾ (“the 1978 Act”), paragraph 9(1) of schedule 1 of the National Health Service Act 2006⁽⁷⁾ (“the 2006 Act”) or article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972⁽⁸⁾ or receives payments by way of grant from the Scottish Ministers

(1) Regulation 20(1)(f) was amended by S.I. 2012/848.

(2) 2014 c.19.

(3) S.I. 1992/1814.

(4) S.I. 2006/215.

(5) S.I. 2005/3360.

(6) 1978 c.29.

(7) 2006 c.41. Paragraph 9(1) was substituted by section 17(10) of the Health and Social Care Act 2012 (c.7).

(8) S.I. 1972/1265.

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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⁽⁹⁾, 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⁽¹⁰⁾ 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),

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”—

⁽⁹⁾ Section 30B was inserted by [S.I. 1994/2926](#).

⁽¹⁰⁾ [S.I. 1995/311](#). Regulation 13A was inserted by [S.I. 1998/2231](#). Regulation 13A(1) was amended by [S.I. 2006/2378](#).

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- (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⁽¹¹⁾,
- (b) in all other cases, has the meaning given to it in section 1(4) of the 2007 Act.

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Textual Amendments

F1 Words in sch. 1 para. 12(1)(a)(i) inserted (31.3.2022) by [The Council Tax Reduction \(Scotland\) Amendment Regulations 2022 \(S.S.I. 2022/52\)](#), regs. 1(2), **18(c)**

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Commencement Information

I1 [Sch. 1 para. 12](#) in force at 1.4.2022, see [reg. 1](#)

(11) Regulation 39 was amended by [S.I. 2014/597](#).

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