

2021 No. 489

COUNCIL TAX

**The Council Tax (Dwellings and Part Residential Subjects)
(Scotland) Amendment Regulations 2021**

Made - - - - 20th December 2021

Laid before the Scottish Parliament 22nd December 2021

Coming into force - - 1st April 2022

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 72(4) and (4A), 73(5), 113(1) and (2) and 116(1) of the Local Government Finance Act 1992(a) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Council Tax (Dwellings and Part Residential Subjects) (Scotland) Amendment Regulations 2021 and come into force on 1 April 2022.

Amendment of the Council Tax (Dwellings and Part Residential Subjects) (Scotland) Regulations 1992

2.—(1) The Council Tax (Dwellings and Part Residential Subjects) (Scotland) Regulations 1992(b) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 2 (interpretation)—

(a) after the definition of “the Act” insert—

““assessor” means an assessor or a depute assessor appointed under section 27(2) of the Local Government etc. (Scotland) Act 1994(c);”

(b) after the definition of “student” insert—

““valuation roll” means a valuation roll made up under section 1(1) of the Local Government (Scotland) Act 1975(d);”

(a) 1992 c. 14. Subsection (4A) was inserted by section 6 of the Non-Domestic Rates (Scotland) Act 2020 (asp 4). Section 113(1) was amended by paragraph 9 of schedule 1 of the Local Government Act 1999 (c. 27), paragraph 52(2) of schedule 7 of the Local Government Act 2003 (c. 26), section 80(4) of the Localism Act 2011 (c. 20), S.I. 2013/2597, S.I. 2016/997 and S.I. 2021/1265. Section 113(2) was amended by paragraph 52(2) of schedule 7 of the Local Government Act 2003, section 80(4) and (5) of the Localism Act 2011, S.I. 2013/2597, S.I. 2016/997 and S.I. 2021/1265. Section 72(4) and (4A) contains a power of prescription; section 116(1) contains a definition of “prescribed” relevant to the exercise of the statutory powers under which these Regulations are made. 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).

(b) S.I. 1992/2955, amended by S.S.I. 2002/102.

(c) 1994 c. 39.

(d) 1975 c. 30.

(3) After regulation 5 (variation of definition of dwelling) insert—

“Self-catering holiday accommodation: provision of evidence

5A.—(1) Evidence of letting or intention to let in accordance with paragraph 2(b) of schedule 2 must be supplied to the assessor in whose area the lands and heritages are situated, on the request of that assessor.

(2) It is for the assessor to decide whether evidence supplied under paragraph (1) confirms that either or both of the requirements in heads (i) and (ii) of paragraph 2(b) of schedule 2 are met.

Self-catering holiday accommodation: determinations where 70 day requirement is not met

5B.—(1) A local authority may determine lands and heritages in all or part of the local authority area which would fall within the class of self-catering holiday accommodation but for the requirement in paragraph 2(b)(ii) of schedule 2, to fall within the class of self-catering holiday accommodation where it is satisfied that—

- (a) there are exceptional circumstances which have prevented the requirement in paragraph 2(b)(ii) of schedule 2 being met in the financial year, and
- (b) it is reasonable to do so, having regard to the interests of persons liable to pay council tax.

(2) Where lands and heritages are determined in accordance with paragraph (1) to fall into the class of self-catering holiday accommodation, the relevant local authority must inform the assessor for its area of that determination.

Self-catering holiday accommodation: continuation of properties on the valuation roll pending assessment

5C. Any lands and heritages which were on the valuation roll at the end of a financial year on the basis that they fell into the class of self-catering holiday accommodation are to remain on the valuation roll from the beginning of the following financial year, pending an assessment by the assessor as to whether they continue to fall into that class.

Self-catering holiday accommodation: entries in and deletions from the valuation roll

5D.—(1) Where lands and heritages cease to be a dwelling because they are considered to be self-catering holiday accommodation, the entry in the valuation roll has effect from whichever is the later of—

- (a) the date on which the lands and heritages were first let, or
- (b) 1 April in the financial year in which the entry is made.

(2) Where lands and heritages become a dwelling because they are considered not to be self-catering holiday accommodation, the deletion of the entry has effect as follows, according to whichever requirement is first not met—

- (a) where lands and heritages become a dwelling because the requirement in paragraph 2(a) of schedule 2 is not met, from the date on which the lands and heritages become the sole or main residence of any person,
- (b) where lands and heritages become a dwelling because the requirement in paragraph 2(b)(i) of schedule 2 is not met, from the date on which the requirement in paragraph 2(b)(i) ceases to be met,
- (c) where lands and heritages become a dwelling because the requirement in paragraph 2(b)(ii) of schedule 2 is not met, from 1 April in the financial year in which the requirement in paragraph 2(b)(ii) has not been met.”.

(4) In schedule 2 (definition of dwelling: exclusions) for paragraph 2(b) substitute—

“(b) which—

- (i) are intended by a relevant person to be made available for letting, on a commercial basis and with a view to the making of profit, as self-catering accommodation for short periods amounting in the aggregate to 140 days or more in the financial year, where the interest of the relevant person in the lands and heritages enables them to be let for such periods, and
- (ii) have in practice been so let in the financial year for a total of 70 days or more of the period of 140 days described in head (i).”.

TOM ARTHUR

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
20th December 2021

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to the Council Tax (Dwellings and Part Residential Subjects) (Scotland) Regulations 1992 (“the 1992 Regulations”).

Regulation 2(4) replaces the existing text of paragraph 2(b) of schedule 2 of the 1992 Regulations. The effect is to impose a requirement that a property is in fact let for a minimum of 70 days in any financial year, in order for it to be classed as self-catering holiday accommodation. This classification means that the property is not a “dwelling”, with the result that no council tax is payable in respect of it. The 70 days of actual letting must be accompanied by at least a further 70 days of actual letting, or intention to let, or a combination of both.

Regulation 2(3) inserts new regulations 5A to D into the 1992 Regulations.

New regulation 5A enables an assessor to request that evidence of 70 days of actual letting, or intention to let, or both, be supplied. Where such evidence is supplied, it is for the assessor to decide whether the evidence confirms that either or both of the requirements in paragraph 2(b) of schedule 2 are met, as appropriate.

New regulation 5B enables local authorities to treat properties as self-catering holiday accommodation in certain circumstances, where they would fall within that class, but for the requirement to evidence 70 days of actual letting.

New regulation 5C provides that any property included in the valuation roll by reason of being considered to be self-catering holiday accommodation, immediately before a financial year comes to an end, is to remain on the valuation roll in the financial year immediately following, until an assessment is carried out by the assessor as to whether the relevant requirements are met.

New regulation 5D makes provision as to when an entry in and deletion from the valuation roll in relation to self-catering holiday accommodation takes effect.

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