

2022 No. 161

COUNCIL TAX

**The Council Tax Reduction (Scotland) Amendment (No. 3)
Regulations 2022**

<i>Made</i> - - - -	<i>9th May 2022</i>
<i>Laid before the Scottish Parliament</i>	<i>11th May 2022</i>
<i>Coming into force</i> - -	<i>20th June 2022</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 80, 113(1) and paragraph 1 of schedule 2 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 Reduction (Scotland) Amendment (No. 3) Regulations 2022 and come into force on 20 June 2022.

Amendment of the Council Tax Reduction (Scotland) Regulations 2021

2. The Council Tax Reduction (Scotland) Regulations 2021(b) are amended in accordance with regulations 3 and 4.

General amendments

3.—(1) In regulation 34A(c) (changes of circumstances in cases involving an award of universal credit)—

- (a) in paragraph (10), for “(10)” substitute “(11)”,
- (b) for paragraph 11(a) substitute—

“(a) the disabled child premium and the enhanced disability premium payable in accordance with paragraph 4, 4A, 4C or 4D of schedule 1,”.

(2) In regulation 35(c) (applicable amount), for “3 or 4” substitute “3, 4, 4A, 4C or 4D”.

(3) In regulation 101(2)(d) (savings provisions), for “which, takes” substitute “which takes”.

(4) In schedule 1 (applicable amount)—

- (a) in the table in paragraph 1(1)(amount of personal allowance), in the entry for a single applicant who is entitled to main phase employment and support allowance, after the

(a) 1992 c. 14. Section 80 and paragraph 1 of schedule 2 were amended by paragraph 176 of schedule 13 of the Local Government etc. (Scotland) Act 1994 (c. 39). There are other amendments to section 80 and amendments to section 113(1) that are not relevant to these Regulations. The functions of the Secretary of State, in so far as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(b) S.S.I. 2021/249, amended by S.S.I. 2022/52 and S.S.I. 2022/125.

(c) Regulation 34A was inserted by S.S.I. 2022/52.

word “allowance” insert “or who has an award of universal credit and has limited capability for work under regulation 39(1) of the 2013 Regulations or limited capability for work and work-related activity under regulation 40(1) of the 2013 Regulations(a)”,

(b) after paragraph 3(b)(iii) insert—

“(iia) a young person who is entitled to the daily living component of adult disability payment at the enhanced rate,”,

(c) in paragraphs 4 and 4A(b) (additional amounts in respect of children), for “Where”, as it appears in the first line, substitute “Subject to paragraphs 4C and 4D, where”,

(d) in paragraph 4B(c) (additional amount for certain kinship carers in respect of a child or young person who is disabled)—

(i) in sub-paragraph (a)(i), after “child disability payment” insert “, adult disability payment”,

(ii) after sub-paragraph (b)(iii) insert—

“(iia) a young person who is entitled to the daily living component of adult disability payment at the enhanced rate,”,

(e) after paragraph 4B insert—

“(4C) Where the applicant or the applicant’s partner (or the couple jointly) has an award of universal credit that would include an amount under regulation 24(2)(d) of the 2013 Regulations (additional amount of universal credit in respect of a child or qualifying young person who is disabled), or would include an amount at the higher rate, but for the fact that the child or young person is entitled to short-term assistance under paragraph 1(1) of the schedule of the Disability Assistance for Children and Young People (Scotland) Regulations 2021(e) (“the 2021 Regulations”)—

(a) the disabled child premium of £68.04, where the assistance that was payable under the earlier determination, referred to in paragraph 1(1)(a) of the schedule of the 2021 Regulations, was—

(i) the care component of child disability payment at the lowest or middle rate, under regulation 11(5)(b) or (c) of the 2021 Regulations,

(ii) the mobility component of child disability payment at the higher or lower rate, under regulation 12 or regulation 13(f) of the 2021 Regulations,

(b) the disabled child premium of £68.04 and the enhanced disability premium of £27.44, where the assistance that was payable under the earlier determination included the care component of child disability payment at the highest rate, under regulation 11(5)(a) of the 2021 Regulations.

(4D) Where the applicant or the applicant’s partner (or the couple jointly) has an award of universal credit that would include an amount under regulation 24(2) of the 2013 Regulations, or would include an amount at the higher rate, but for the fact that the young person is entitled to short-term assistance under paragraph 1(1) of schedule 2 of the Disability Assistance for Working Age People (Scotland) Regulations 2022(g) (“the 2022 Regulations”)—

(a) the disabled child premium of £68.04, where the assistance that was payable under the earlier determination, referred to in paragraph 1(1)(a) of schedule 2 of the 2022 Regulations, was—

(i) the daily living component of adult disability payment at the standard rate, under regulation 5(2) of the 2022 Regulations,

(a) Regulations 39(1) and 40(1) were amended by S.S.I. 2014/597.

(b) Paragraph 4A was inserted by S.S.I. 2022/52.

(c) Paragraph 4B was inserted by S.S.I. 2022/52.

(d) Regulation 24(2) was amended by S.I. 2014/2888, S.I. 2021/786 and S.I. 2022/177.

(e) S.S.I. 2021/174. Paragraph 1 of the schedule was amended by S.S.I. 2021/416, S.S.I. 2022/31 and S.S.I. 2022/41.

(f) Regulation 13 was amended by S.S.I. 2021/416.

(g) S.S.I. 2022/54.

- (ii) the mobility component of adult disability payment at the standard or enhanced rate, under regulation 6(2) or (3) of the 2022 Regulations,
- (b) the disabled child premium of £68.04 and the enhanced disability premium of £27.44, where the assistance that was payable under the earlier determination includes the care component of adult disability payment at the enhanced rate, under regulation 5(3) of the 2022 Regulations.”,
- (f) in paragraph 6(4) (treatment as continuing to be in receipt of carer’s allowance), after “child disability payment at the highest or middle rate,” insert “the daily living component of adult disability payment at the standard or enhanced rate,”,
- (g) for paragraph 11(b) (disability premium where applicant has a partner) substitute—
 - “(b) where the applicant has a partner and either the applicant or the applicant’s partner is a person who has not reached pensionable age, either—
 - (i) the applicant satisfies the additional condition specified in paragraph 12(1), or
 - (ii) the applicant’s partner satisfies the additional condition in paragraph 12(1)(a).”,
- (h) in paragraph 12 (additional condition for the disability premium), after sub-paragraph (1)(a)(iii) insert—
 - “(iiia) would be in receipt of either the daily living component or the mobility component of adult disability payment were it not for regulation 28(2) (effect of admission to hospital on ongoing entitlement to adult disability payment) of the Disability Assistance for Working Age People (Scotland) Regulations 2022,”,
- (i) in paragraph 13 (severe disability premium), in sub-paragraphs (5)(b), (6) and (7), for “carer premium” substitute “carer element described in regulation 29 of the 2013 Regulations”,
- (j) for paragraph 14(1) (enhanced disability premium) substitute—
 - “(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,
 - (c) the care component of child disability payment at the highest rate is payable in respect of the applicant or the applicant’s partner,
 - (d) the daily living component of adult disability payment at the enhanced rate is payable or would be payable were it not for regulation 28(2)(effect of admission to hospital on ongoing entitlement to adult disability payment), of the Disability Assistance for Working Age People (Scotland) Regulations 2022(a), in respect of the applicant or a member of the applicant’s family,
 - (e) armed forces independence payment is payable in respect of the applicant or the applicant’s partner, or
 - (f) 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

(a) S.S.I. 2022/54.

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.”,

- (k) in the table in paragraph 17 (amounts of disability and carer premiums), in the entry for “enhanced disability premium”, in paragraph (a) of the column headed “amount” for “ or 14” substitute “, 4A, 4C or 4D”.

(5) In schedule 3 (sums to be disregarded in the calculation of earnings)—

- (a) in paragraph 4 (disregard of £20)—
- (i) in sub-paragraph (2), in head (b), for “the qualifying age for state pension credit” substitute “pensionable age”,
 - (ii) in sub-paragraph (3)—
 - (aa) for head (a) substitute—

“(a) the applicant has an award of universal credit and has limited capability for work under regulation 39(1) of the 2013 Regulations or limited capability for work and work-related activity under regulation 40(1) of the 2013 Regulations,”
 - (bb) in head (b), for “attained the qualifying age for state pension credit” substitute “reached pensionable age”,
 - (iii) omit sub-paragraph (4),
- (b) in paragraph 12(6)(a) (meaning of “exempt work”), after “Regulations” insert “or regulation 39 of the Employment and Support Allowance Regulations 2013(a)”.

Uprating

4. In schedule 1 (applicable amount)—

- (a) in paragraph 3 (additional amount in respect of a child or young person who is disabled where neither the applicant nor the applicant's partner has an award of universal credit)—
- (i) in sub-paragraph (a) for “£65.94” substitute “£68.04”,
 - (ii) in sub-paragraph (b) for—
 - (aa) “£65.94” substitute “£68.04, and
 - (bb) “£26.67” substitute “£27.44”,
- (b) in paragraph 4 (additional amount in respect of a child or young person who is disabled where the applicant or the applicant's partner has an award of universal credit)—
- (i) in sub-paragraph (a) for “£65.94” substitute “£68.04”,
 - (ii) in sub-paragraph (b) for—
 - (aa) “£65.94” substitute “£68.04”, and
 - (bb) “£26.67” substitute “£27.44”,
- (c) in paragraph 4B (additional amount for certain kinship carers in respect of a child or young person who is disabled) —
- (i) in sub-paragraph (a) for “£65.94” substitute “£68.04”, and
 - (ii) in sub-paragraph (b) for—
 - (aa) “£65.94 substitute “£68.04”, and
 - (bb) “£26.67” substitute “£27.44”, and

(a) S.I. 2013/379. Regulation 39 was amended by S.I. 2017/205.

(d) in paragraph 5(1) (carer premium) for “£37.70” substitute “£38.85”.

St Andrew’s House,
Edinburgh
9th May 2022

TOM ARTHUR
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to the Council Tax Reduction (Scotland) Regulations 2021 (“the Working Age Regulations”).

Regulations 3(1)(a) and 3(3) correct typographical errors.

Regulations 3(1)(b) and 3(2) make amendments following on the insertion by the Council Tax Reduction (Scotland) Amendment Regulations 2022 (“the 2022 Regulations”) of provision for certain kinship carers to have an additional amount added to their applicable amount where a child or young person who is entitled to or in receipt of a disability benefit is placed with them. They also make amendments to reflect the provision made by regulation 3(4)(e) of these Regulations for entitlement to a disability premium of council tax reduction on the basis of entitlement to short-term assistance.

Regulation 3(4)(a) provides that the personal allowance of a single applicant who has an award of Universal Credit and limited capability for work or limited capability for work and work-related activity, is at the same level as that of a single applicant who is entitled to main phase Employment and Support Allowance, regardless of the age of the applicant.

Regulations 3(4)(b), (d), (f) and (h) make amendments to the Working Age Regulations, additional to those made by the 2022 Regulations, to reflect fully the introduction of the new form of social security assistance known as adult disability payment, provided for by the Disability Assistance for Working Age People (Scotland) Regulations 2022.

Regulation 3(4)(e) inserts new provision into schedule 1 so that entitlement to the disabled child premium and, where appropriate, the enhanced disability premium of council tax reduction continues where there is an entitlement to short-term assistance under the Disability Assistance for Children and Young People (Scotland) Regulations 2021. The same applies where a young person is entitled to short-term assistance under the Disability Assistance for Working Age People (Scotland) Regulations 2022. Regulation 3(4)(c) makes a consequential change to paragraphs 4 and 4A of schedule 1, to reflect the provision relating to short-term assistance.

Regulation 3(4)(g) substitutes a new paragraph 11(b) of schedule 1 to broaden the circumstances in which the condition set out in paragraph 11(b) of schedule 1 for entitlement to the disability premium can potentially be met.

Regulation 3(4)(i) corrects errors in references to the carer element of Universal Credit.

Regulation 3(4)(j) substitutes a new paragraph 14(1) of schedule 1 so that, in relation to entitlement to the enhanced disability premium of council tax reduction connected with child disability payment, the paragraph applies only where child disability payment is payable in respect of the applicant or the partner of the applicant. Regulation 3(4)(k) removes reference to paragraph 14 of schedule 1 in paragraph 17 of schedule 1, to give effect to the change. The substituted paragraph 14(1) also reflects the fact that the question of whether the member of a couple who is in receipt of a benefit specified in paragraph 14 has, or has not, reached pensionable age, is no longer of significance in relation to entitlement to the enhanced disability premium.

Regulation 3(5)(a) expands paragraph 4(3)(a) of schedule 3 of the Working Age Regulations, catering for the situation where an award of universal credit is not increased to reflect the fact of having limited capability for work. It also ensures consistency in use of terminology, by replacing references to “qualifying age for state pension credit” with “pensionable age”.

Regulation 3(5)(b) expands paragraph 12(6)(a) of schedule 3 of the Working Age Regulations to include reference to the meaning of “exempt work” in the Employment and Support Allowance Regulations 2013.

Regulation 4 makes amendments to schedule 1 to ensure that the changes made by the 2022 Regulations to amounts set out in the table in paragraph 17 of schedule 1, for the purposes of

uprating, are reflected where the amounts are referred to elsewhere in the Working Age Regulations.

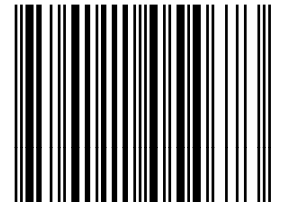
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