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STATUTORY INSTRUMENTS

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**1992 No. 1814**

**The Council Tax Benefit (General) Regulations 1992**

**PART VI**

**Amount of Benefit**

**Maximum council tax benefit**

**51.**—(1) Subject to paragraphs (2) to (4), the amount of a person's maximum council tax benefit in respect of a day for which he is liable to pay council tax, shall be 100 per cent. of the amount

$$\frac{A}{B}$$

where—

- a A is the amount set by the appropriate authority as the council tax for the relevant financial year in respect of the dwelling in which he is a resident and for which he is liable, subject to any discount which may be appropriate to that dwelling under section 11 or 79 of the 1992 Act; 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 52 (non-dependant deductions).

(2) In calculating a person's maximum council tax benefit—

- (a) any reduction in the amount that person is liable to pay in respect of council tax in consequence of regulations made under sections 13 and 80 of the 1992 Act (reduced amounts of council tax) shall be taken into account;
- (b) any reduction in the amount that person is liable to pay in respect of council tax by virtue of Schedule 2 paragraph 6 of the 1992 Act (reductions for lump sum payments), shall be disregarded.

(3) Subject to paragraph (4), where a claimant is jointly and severally liable for council tax in respect of a dwelling in which he is resident with one or more other persons, in determining the maximum council tax benefit in his case in accordance with paragraph (1), the amount A shall be divided by the number of persons who are jointly and severally liable for that tax.

(4) Where a claimant is jointly and severally liable for council tax in respect of a dwelling with only his partner, paragraph (3) shall not apply in his case.

**Non-dependant deductions**

**52.**—(1) Subject to the following provisions of this regulation, the non-dependant deductions in respect of a day referred to in regulation 51 (maximum council tax benefit) shall be—

- (a) in respect of a non-dependant aged 18 or over in remunerative work,  $\text{£}2.00 \times 1/7$
- (b) in respect of a non-dependant aged 18 or over to whom sub-paragraph (a) does not apply,  $\text{£}1.00 \times 1/7$

(2) In the case of a non-dependant aged 18 or over to whom paragraph (1)(a) applies, where it is shown to the appropriate authority that his normal gross weekly income is less than £100.00, the deduction to be made under this regulation shall be that specified in paragraph (1)(b).

(3) Only one deduction shall be made under this regulation in respect of a married or unmarried couple or, as the case may be, members of a polygamous marriage and, where, but for this paragraph, the amount that would fall to be deducted in respect of one member of a couple or polygamous marriage is higher than the amount (if any) that would fall to be deducted in respect of the other, or any other, member, the higher amount shall be deducted.

(4) In applying the provisions of paragraph (2) in the case of a married or unmarried couple or, as the case may be, a polygamous marriage, regard shall be had, for the purpose of that paragraph, to the couple's or, as the case may be, all members of the polygamous marriage's joint weekly gross income.

(5) Where in respect of a day—

- (a) a person is a resident in a dwelling but is not himself liable for council tax in respect of that dwelling and that day;
- (b) other residents in that dwelling (the liable persons) have joint and several liability for council tax in respect of that dwelling and that day otherwise than by virtue of section 9 or 77 of the 1992 Act (liability of spouses); 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 shall be apportioned equally between those liable persons.

(6) No deduction shall be made in respect of any non-dependants occupying a claimant's dwelling if the claimant or his partner is—

- (a) blind or treated as blind by virtue of paragraph 13 of Schedule 1 (additional condition of the higher pensioner and disability premiums); or
- (b) receiving in respect of himself either—
  - (i) attendance allowance; or
  - (ii) the care component of the disability living allowance.

(7) No deduction shall be made in respect of a non-dependant if—

- (a) although he resides with the claimant, it appears to the appropriate authority that his normal home is elsewhere; or
- (b) he is in receipt of a training allowance paid in connection with a Youth Training Scheme established under section 2 of the Employment and Training Act 1973(1) or section 2 of the Enterprise and New Towns (Scotland) Act 1990(2); or
- (c) he is a full-time student within the meaning of Part V (Students); or
- (d) he is not residing with the claimant because he has been a patient for a period in excess of six weeks, and for these purposes—
  - (i) "patient" has the meaning given in regulation 10(2) (patients), and
  - (ii) the period of six weeks shall be calculated by reference to paragraph (3) of that regulation as if that paragraph applied in his case.

(8) No deduction shall be made in respect of a non-dependant—

- (a) who is on income support; or

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(1) 1973 c. 50; section 2 was substituted by section 25 Employment Act 1988 (c. 19).

(2) 1990 c. 35.

- (b) to whom Schedule 1 of the 1992 Act applies (persons disregarded for purposes of discount) but this sub-paragraph shall not apply to a non-dependant who is a student to whom paragraph 4 of that Schedule refers.

(9) In the application of paragraph (2) there shall be disregarded from his weekly gross income any attendance allowance or any disability living allowance received by him.

### **Council tax benefit taper**

**53.** The prescribed percentage for the purpose of sub-section (5)(c)(ii) of section 131 of the Contributions and Benefits Act 1992 as it applies to council tax benefit, (percentage of excess of income over the applicable amount which is deducted from maximum council tax benefit)(**3**), shall be 2##/## per cent..

### **Alternative maximum council tax benefit**

**54.**—(1) Subject to paragraphs (2) and (3), the alternative maximum council tax benefit where the conditions set out in section 131(3) and (6) of the Contributions and Benefits Act 1992 are fulfilled, shall be the amount determined in accordance with Schedule 2.

(2) Subject to paragraph (3), where a claimant is jointly and severally liable for council tax in respect of a dwelling in which he is resident with one or more other persons, in determining the alternative maximum council tax benefit in his case, the amount determined in accordance with Schedule 2 shall be divided by the number of persons who are jointly and severally liable for that tax.

(3) Where a claimant is jointly and severally liable for council tax in respect of a dwelling with only his partner, solely by virtue of section 9 or 77 of the 1992 Act (liability of spouses), paragraph (2) shall not apply in his case.

### **Residents of a dwelling to whom section 131(6) of the Contributions and Benefits Act 1992 does not apply**

**55.** Subsection (6) of section 131 of the Contributions and Benefits Act 1992 (residents of a dwelling in respect of whom entitlement to an alternative maximum council tax benefit may arise) shall not apply in respect of any person referred to in the following paragraphs namely—

- (a) a person who is liable for council tax solely in consequence of the provisions of sections 9 or 77 of the 1992 Act (spouse's joint and several liability for tax);
- (b) a person who is residing with a married or unmarried couple or with the members of a polygamous marriage where the claimant for council tax benefit is a member of that couple or of that marriage and neither member of that couple or in the case of a polygamous marriage no member or only one member of that marriage is a person who, in accordance with Schedule 1 of the 1992 Act, falls to be disregarded for the purposes of discount;
- (c) a person who jointly with the claimant for benefit falls within the same paragraph of sections 6(2)(a) to (e) or 75(2)(a) to (e) of the 1992 Act (persons liable to pay council tax) as applies in the case of the claimant;
- (d) a person who is residing with two or more persons both or all of whom fall within the same paragraph of sections 6(2)(a) to (e) or 75(2)(a) to (e) of the 1992 Act where none or only one of those persons is a person who in accordance with Schedule 1 of the 1992 Act falls to be disregarded for the purposes of discount.

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(3) Section 131 of the Contributions and Benefits Act 1992 as it applies to council tax benefit was substituted by the Local Government Finance Act 1992 (c. 14) Schedule 9 paragraph 4.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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