

## SCHEDULE

### Council Tax Reduction Schemes (Default Scheme) (Wales)

## PART 13

### Applications

#### Who may make an application

107.—(1) In the case of—

- (a) a couple or (subject to paragraph (b)) members of a polygamous marriage an application is to be made by whichever one of them they agree should so apply or, in default of agreement, by such one of them as the authority determines; or
- (b) members of a polygamous marriage to whom paragraph 34 (calculation of income and capital: persons who are not pensioners who have an award of universal credit) applies, an application is to be made by whichever one of the parties to the earliest marriage that still subsists they agree should so apply or, in default of agreement, by such one of them as the authority determines.

(2) Where a person who is liable to pay council tax in respect of a dwelling is unable for the time being to act, and—

- (a) a deputy has been appointed by the Court of Protection with power to claim, or as the case may be, receive benefit on that person's behalf; or
- (b) in Scotland, that person's estate is being administered by a judicial factor or any guardian acting or appointed under the Adults with Incapacity (Scotland) Act 2000(1) who has power to apply or, as the case may be, receive benefit on that person's behalf; or
- (c) an attorney with a general power or a power to apply or, as the case may be, receive benefit, has been appointed by that person under the Powers of Attorney Act 1971(2), the Enduring Powers of Attorney Act 1985(3) or the Mental Capacity Act 2005 or otherwise,

that deputy, judicial factor, guardian or attorney, as the case may be, may make an application on behalf of that person.

(3) Where a person who is liable to pay council tax in respect of a dwelling is unable for the time being to act and sub-paragraph (2) does not apply to that person, the authority may, upon written application made to it by a person who, if a natural person, is over the age of 18, appoint that person to exercise on behalf of the person who is unable to act, any right to which the person who is unable to act might be entitled under this scheme, and to receive and deal on that person's behalf with any sums payable to that person.

(4) Where a person who is liable to pay council tax in respect of a dwelling is for the time being unable to act and the Secretary of State has appointed a person to act on that person's behalf under regulation 33 of the Social Security (Claims and Payments) Regulations 1987 (persons unable to act), the authority may if the person so appointed agrees, treat that person as if that person had been appointed by it under sub-paragraph (3).

(5) Where the authority has made an appointment under sub-paragraph (3) or treated a person as an appointee under sub-paragraph (4)—

- (a) it may at any time revoke the appointment;

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(1) 2000 asp 4.

(2) 1971 c. 27.

(3) 1985 c. 29.

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- (b) the person appointed may resign that person's office after having given 4 weeks notice in writing to the authority of that person's intention to do so;
  - (c) any such appointment must terminate when the authority is notified of the appointment of a person mentioned in sub-paragraph (2).
- (6) Anything required by this scheme to be done by or to any person who is for the time being unable to act may be done by or to the persons mentioned in sub-paragraph (2) above or by or to the person appointed or treated as appointed under this paragraph and the receipt of any such person so appointed is to be a good discharge to the authority for any sum paid.
- (7) The authority must—
- (a) inform any person making an application of the duty imposed by paragraph 113(1)(a) of this scheme (duty to notify change of circumstances);
  - (b) explain the possible consequences (including prosecution) of failing to comply with that duty; and
  - (c) set out the circumstances a change in which might affect entitlement to a reduction or its amount.

#### **Date on which an application is made**

**108.**—(1) Subject to sub-paragraph (7), the date on which an application is made is—

- (a) in a case where—
  - (i) an award of state pension credit which comprises a guarantee credit has been made to the applicant or the applicant's partner, and
  - (ii) the application for a reduction under an this scheme is made within one month of the date on which the claim for that state pension credit which comprises a guarantee credit was received at the appropriate DWP office,  
the first day of entitlement to state pension credit which comprises guarantee credit arising from that claim;
- (b) in a case where—
  - (i) an applicant or the applicant's partner is a person in receipt of guarantee credit,
  - (ii) the applicant becomes liable for the first time to pay council tax in respect of the dwelling which the applicant occupies as the applicant's home, and
  - (iii) the application to the authority is received at the designated office within one month of the date of the change,  
the date on which the change takes place;
- (c) in a case where—
  - (i) an award of income support, an income-based jobseeker's allowance or an income-related employment and support allowance or an award of universal credit has been made to the applicant or the applicant's partner, and
  - (ii) the application for a reduction under this scheme is made within one month of the date on which the claim for that income support, jobseeker's allowance, employment and support allowance or universal credit was received,  
the first day of entitlement to income support, an income-based jobseeker's allowance, an income-related employment and support allowance or universal credit arising from that claim;
- (d) in a case where—

- (i) an applicant or the applicant's partner is a person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance or has an award of universal credit,
  - (ii) the applicant becomes liable for the first time to pay council tax in respect of the dwelling which the applicant occupies as the applicant's home, and
  - (iii) the application to the authority is received at the designated office within one month of the date of the change,  
the date on which the change takes place;
- (e) in a case where—
- (i) the applicant is the former partner of a person who was, at the date of that person's death or the separation of the applicant and that person, entitled to a reduction under this scheme, and
  - (ii) where the applicant makes an application for a reduction under this scheme within one month of the date of the death or the separation,  
the date of the death or the separation;
- (f) except where paragraph (a), (b) or (e) is satisfied, in a case where a properly completed application is received at the designated office within one month (or such longer period as the authority considers reasonable) of the date on which an application form was issued to the applicant following the applicant first notifying, by whatever means, the authority of an intention to make an application, the date of first notification;
- (g) in any other case, the date on which the application is received at the designated office.
- (2) For the purposes only of sub-paragraph (1)(c), a person who has been awarded an income-based jobseeker's allowance or an income-related employment and support allowance is to be treated as entitled to that allowance for any days which immediately precede the first day in that award and on which the person would, but for the regulations made under—
- (a) in the case of income-based jobseeker's allowance, paragraph 4 of Schedule 1 to the Jobseekers Act 1996 (waiting days); or
  - (b) in the case of income-related employment and support allowance, paragraph 2 of Schedule 2 to the Welfare Reform Act 2007 (waiting days),
- have been entitled to that allowance.
- (3) Where the defect referred to in paragraph 7 of Schedule 1 to this scheme (telephone application)—
- (a) is corrected within one month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority is to treat the application as if it had been duly made in the first instance;
  - (b) is not corrected within one month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority is to treat the application as if it had been duly made in the first instance where it considers it has sufficient information to decide on the application.
- (4) The authority is to treat a defective application as if it had been validly made in the first instance if, in any particular case, the conditions specified in sub-paragraph (5)(a), (b) or (c) are satisfied.
- (5) The conditions are that—
- (a) where paragraph 4(a) of Schedule 1 (incomplete form) applies, the authority receives at the designated offices the properly completed application or the information requested to

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complete it or the evidence within one month of the request, or such longer period as the authority considers reasonable; or

(b) where paragraph 4(b) of Schedule 1 (application not on approved form or further information requested by authority) applies—

(i) the approved form sent to the applicant is received at the designated office properly completed within one month of it having been sent to the applicant; or, as the case may be,

(ii) the applicant supplies whatever information or evidence was requested under paragraph 4 of that Schedule within one month of the request,

or, in either case, within such longer period as the authority considers reasonable; or

(c) where the authority has requested further information, the authority receives at its designated office the properly completed application or the information requested within one month of the request or within such longer period as the authority considers reasonable.

(6) Except in the case of an application made by a person treated as not being in Great Britain, where a person has not become liable for council tax to the authority but it is anticipated that the person will become so liable within the period of 13 weeks (the relevant period), the person may apply for a reduction under this scheme at any time in that period in respect of that tax and, provided that liability arises within the relevant period, the authority is to treat the application as having been made on the day on which the liability for the tax arises.

(7) Except in the case of an application made by a person treated as not being in Great Britain, where the applicant is not entitled to a reduction under this scheme at the time that the application is received by the authority but the authority is of the opinion that, unless there is a change of circumstances, the applicant will be entitled to a reduction under this scheme for a period beginning not later than the thirteenth reduction week following the date on which the application is made (or such other period as the authority considers reasonable), the authority may treat the application as made on a date in the reduction week immediately preceding the first reduction week of that period of entitlement and award a reduction accordingly.

(8) In this paragraph “appropriate DWP office” means an office of the Department of Work and Pensions dealing with state pension credit or an office which is normally open to the public for the receipt of claims for income support, a jobseeker’s allowance or an employment and support allowance.

#### **Back-dating of applications: pensioners**

**109.**—(1) Subject to sub-paragraph (2), the time for the making of an application under this scheme by a pensioner is as regards any day on which, apart from satisfying the condition of making an application, the applicant is entitled to such a reduction, that day and the period of three months immediately following it.

(2) In any case where paragraph 108(1)(a) applies (date on which application is made), sub-paragraph (1) does not entitle a person to apply for a reduction under this scheme in respect of any day earlier than 3 months before the date on which the claim for state pension credit is made (or treated as made by virtue of any provision of the Social Security (Claims and Payments) Regulations 1987).

#### **Back-dating of applications: persons who are not pensioners**

**110.**—(1) Where an applicant who is a person who is not a pensioner—

(a) makes an application under this scheme which includes (or which the applicant subsequently requests should include) a period before the application is made; and

- (b) from a day in that period, up to the date the applicant made the application (or subsequently requested that the application should include a past period), the applicant had continuous good cause for failing to make an application (or request that the application should include that period),

the application is to be treated as made on the date determined in accordance with sub-paragraph (2).

- (2) That date is the latest of—
  - (a) the first day from which the applicant had continuous good cause;
  - (b) the day 3 months before the date the application was made;
  - (c) the day 3 months before the date when the applicant requested that the application should include a past period.

### **Evidence and information**

**111.**—(1) Subject to sub-paragraph (3), a person who makes an application for a reduction under this scheme must satisfy sub-paragraph (2) in relation both to the person making the application and to any other person in respect of whom the person is making the application.

- (2) This sub-paragraph is satisfied in relation to a person if—
  - (a) the application is accompanied by—
    - (i) a statement of the person’s national insurance number and information or evidence establishing that that number has been allocated to the person; or
    - (ii) information or evidence enabling the authority to ascertain the national insurance number that has been allocated to the person; or
  - (b) the person has made an application for a national insurance number to be allocated to that person and the application for the reduction is accompanied by—
    - (i) evidence of the application for a national insurance number to be so allocated; and
    - (ii) the information or evidence enabling it to be so allocated.
- (3) Sub-paragraph (2) does not apply—
  - (a) in the case of a child or young person in respect of whom an application for a reduction is made;
  - (b) to a person who—
    - (i) is treated as not being in Great Britain for the purposes of this scheme;
    - (ii) is subject to immigration control within the meaning of section 115(9)(a) of the Immigration and Asylum Act 1999; and
    - (iii) has not previously been allocated a national insurance number.

(4) Subject to sub-paragraph (5), a person who makes an application, or a person to whom a reduction under this scheme has been awarded, must furnish such certificates, documents, information and evidence in connection with the application or the award, or any question arising out of the application or award, as may reasonably be required by the authority in order to determine that person’s entitlement to, or continuing entitlement to a reduction under this scheme and must do so within one month of the authority requiring the person to do so or such longer period as the authority considers reasonable.

(5) Nothing in this paragraph requires a person to furnish any certificates, documents, information or evidence relating to a payment to which sub-paragraph (7) applies.

- (6) Where a request is made under sub-paragraph (4), the authority must—

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- (a) inform the applicant or the person to whom a reduction under this scheme has been awarded of the applicant's or that other person's duty under paragraph 113 (duty to notify changes of circumstances) to notify the authority of any change of circumstances; and
  - (b) without prejudice to the extent of the duty owed under paragraph 113, indicate to the person either orally or by notice or by reference to some other document available to the person on application and without charge, the kind of change of circumstances which is to be notified.
- (7) This sub-paragraph applies to any of the following payments—
- (a) a payment which is—
    - (i) disregarded under paragraph 28 of Schedule 7 (sums disregarded in the calculation of income other than earnings: persons who are not pensioners) or paragraph 38 of Schedule 9 (capital disregards: persons who are not pensioners); or
    - (ii) made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the London Bombings Relief Charitable Fund;
  - (b) a payment which is disregarded under paragraph 16 of Schedule 8 (payments made under certain trusts and certain other payments), other than a payment under the Independent Living Fund (2006);
  - (c) a payment which is disregarded under paragraph 28(9)(b) or (c) (non-dependant deductions) other than a payment under the Independent Living Fund (2006).
- (8) Where an applicant or a person to whom a reduction under this scheme has been awarded or any partner has attained the qualifying age for state pension credit and is a member of, or a person deriving entitlement to a pension under a personal pension scheme, the person must where the authority so requires furnish the following information—
- (a) the name and address of the pension fund holder<sup>(4)</sup>;
  - (b) such other information including any reference or policy number as is needed to enable the personal pension scheme to be identified.

#### **Amendment and withdrawal of application**

**112.**—(1) A person who has made an application may amend it at any time before a decision has been made on it by a notice in writing delivered or sent to the designated office.

(2) Where the application was made by telephone in accordance with Part 1 of Schedule 1, the amendment may also be made by telephone.

(3) Any application amended in accordance with sub-paragraph (1) or (2) is to be treated as if it had been amended in the first instance.

(4) A person who has made an application may withdraw it by notice to the designated office at any time before a decision has been made on it.

(5) Where the application was made by telephone in accordance with Part 1 of Schedule 1, the withdrawal may also be made by telephone.

(6) Any notice of withdrawal given in accordance with sub-paragraph (4) or (5) is to have effect when it is received.

(7) Where a person, by telephone, amends or withdraws an application the person must (if required to do so by the authority) confirm the amendment or withdrawal by a notice in writing delivered or sent to the designated office.

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(4) For provisions requiring a pension fund holder to provide information to the billing authority, see regulations under section 14A of the Local Government Finance Act 1992.

### **Duty to notify changes of circumstances**

**113.**—(1) Subject to sub-paragraphs (3) and (7), the applicant (or any person acting on the applicant’s behalf) must comply with sub-paragraph (2) if there is a relevant change of circumstances at any time—

- (a) between the making of an application and a decision being made on it; or
- (b) after the decision is made (where the decision is that the applicant is entitled to a reduction under this scheme) including at any time while the applicant is in receipt of such a reduction.

(2) The applicant (or any person acting on the applicant’s behalf) must notify any change of circumstances which the applicant (or that person) might reasonably be expected to know might affect the applicant’s entitlement to, or the amount of, a reduction under this scheme (a “relevant change of circumstances”) by giving notice to the authority—

- (a) in writing; or
- (b) by telephone—
  - (i) where the authority has published a telephone number for that purpose or for the purposes of Part 1 of Schedule 1 unless the authority determines that in any particular case or class of case notification may not be given by telephone; or
  - (ii) in any case or class of case where the authority determines that notice may be given by telephone; or
- (c) by any other means which the authority agrees to accept in any particular case,

within a period of 21 days beginning with the day on which the change occurs, or as soon as reasonably practicable after the change occurs, whichever is the later.

(3) The duty imposed on a person by sub-paragraph (1) does not extend to notifying—

- (a) changes in the amount of council tax payable to the authority;
- (b) changes in the age of the applicant or that of any member of the applicant’s family;
- (c) in the case of an applicant in receipt of a relevant benefit, changes in circumstances which affect the amount of the benefit but not the amount of the reduction under this scheme to which the applicant is entitled, other than the cessation of that entitlement to the benefit.

(4) For the purposes of sub-paragraph (3)(c) “relevant benefit” means income support, an income-based jobseeker’s allowance or an income-related employment and support allowance or universal credit.

(5) Notwithstanding sub-paragraph (3)(b) or (c) an applicant is required by sub-paragraph (1) to notify the authority of any change in the composition of the applicant’s family arising from the fact that a person who was a member of the applicant’s family is now no longer such a person because that person has ceased to be a child or young person.

(6) A person who has been awarded a reduction under this scheme who is also on state pension credit must report—

- (a) changes affecting the residence or income of any non-dependant normally residing with the applicant or with whom the applicant normally resides;
- (b) any absence from the dwelling which exceeds or is likely to exceed 13 weeks.

(7) A person whose state pension credit comprises only a savings credit must also report—

- (a) changes affecting a child living with that person which may result in a change in the amount of reduction under this scheme allowed in that person’s case, but not changes in the age of the child;

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- (b) any change in the amount of the person's capital to be taken into account which does or may take the amount of that person's capital to more than £16,000;
  - (c) any change in the income or capital of—
    - (i) a non-dependant whose income and capital are treated as belonging to the applicant in accordance with paragraph 31 (circumstances in which capital and income of a non-dependant is to be treated as applicant's); or
    - (ii) a person to whom paragraph 33(2)(e) (partner treated as member of the household under paragraph 8) refers,and whether such a person or, as the case may be, non-dependant stops living or begins or resumes living with the applicant.
- (8) A person who is entitled to a reduction under this scheme and on state pension credit need only report to the authority the changes specified in sub-paragraphs (6) and (7).