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SCOTTISH STATUTORY INSTRUMENTS

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**2012 No. 303**

**The Council Tax Reduction (Scotland) Regulations 2012**

**PART 6**

**Income and capital**

**CHAPTER 4**

**Employed earners**

**Earnings of employed earners**

**34.**—(1) Subject to paragraph (2), “earnings” means in the case of employment as an employed earner any remuneration or profit derived from that employment and includes—

- (a) any bonus or commission;
- (b) any payment in lieu of remuneration except any periodic sum paid to an applicant on account of the termination of the applicant’s employment by reason of redundancy;
- (c) any payment in lieu of notice or any lump sum payment intended as compensation for the loss of employment but only in so far as it represents loss of income;
- (d) any holiday pay except any payable more than 4 weeks after termination or interruption of the employment;
- (e) any payment by way of a retainer;
- (f) any payment made by an applicant’s employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the applicant’s employer in respect of—
  - (i) travelling expenses incurred by the applicant between the applicant’s home and place of employment; or
  - (ii) expenses incurred by the applicant under arrangements made for the care of a member of the applicant’s family owing to the applicant’s absence from home;
- (g) any award of compensation made under section 112(4) or 117(3)(a) of the Employment Rights Act 1996<sup>(1)</sup> (remedies and compensation for unfair dismissal);
- (h) any payment or remuneration made under section 28, 34, 64, 68 or 70 of the Employment Rights Act 1996<sup>(2)</sup> (right to guarantee payments, remuneration on suspension on medical or maternity grounds, complaints to employment tribunals);

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(1) Section 112(4) was amended by paragraph 36 of Schedule 7 to the Employment Act 2002 (c.22) and Schedule 9 to the Employment Relations Act 1999 (c.26). Section 117(3)(a) was amended by paragraph 37 of Schedule 7 to the Employment Act 2002.

(2) Sections 34 and 70 were amended by section 1 of the Employment Rights (Dispute Resolution) Act 1998 (c.8) and S.I. 2011/1133. Section 64 was amended by S.I. 1999/3232.

- (i) any such sum as is referred to in section 112 of the 1992 Act<sup>(3)</sup> (certain sums to be earnings for social security purposes);
  - (j) any statutory sick pay, statutory maternity pay, ordinary or additional statutory paternity pay or statutory adoption pay, or a corresponding payment under any enactment having effect in Northern Ireland;
  - (k) any remuneration paid by or on behalf of an employer to an applicant who for the time being is on maternity leave, paternity leave or adoption leave or is absent from work because the applicant is ill; and
  - (l) the amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person's earnings in accordance with Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001<sup>(4)</sup>.
- (2) Earnings do not include—
- (a) subject to paragraph (3), any payment in kind;
  - (b) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;
  - (c) any occupational pension; or
  - (d) any payment in respect of expenses arising out of the applicant's participation in a service user group.
- (3) Paragraph (2)(a) does not apply in respect of any non-cash voucher referred to in paragraph (1)(l).

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<sup>(3)</sup> Section 112 was amended by paragraph 21 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2) and paragraph 51 of Schedule 1 to the Employment Rights Act 1996 (c.18).

<sup>(4)</sup> S.I. 2001/1004. Part 5 of Schedule 3 was amended by section 46 of the Finance Act 1988 (c.39), section 89 of the Finance Act 1994 (c.9), Schedule 13 to the Finance Act 2004 (c.12), sections 60 and 62 of the Finance Act 2006 (c.25), S.I. 2001/2412, 2002/307, 2003/2958, 2004/770, 2005/778, 2006/883 and 2003, 2007/2091, 2008/607, 2009/600, and 2011/1000.