
SCOTTISH STATUTORY INSTRUMENTS

2012 No. 319

The Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012

PART 7

Amount of reduction

Maximum council tax reduction

47.—(1) Subject to paragraphs (2) and (3), the amount of a person's maximum council tax reduction in respect of a day for which the person is liable to pay council tax is 100 per cent of the amount A/B where—

- (a) A is the amount set by the relevant authority as the council tax for the relevant financial year in respect of the dwelling in which the person is a resident and for which the person is liable, subject to—
 - (i) any discount which may be appropriate to that dwelling; and
 - (ii) any reduction in liability for council tax under regulations made under section 80 of the Act or under a scheme established under section 80A of the Act ^{M1}, other than a reduction under these Regulations; 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 48 (non-dependant deductions).

(2) Subject to paragraph (3), where an applicant is jointly and severally liable for council tax in respect of a dwelling in which the person is resident with one or more other persons, but excepting any person residing with the applicant who is a student to whom regulation 20(2) of the Council Tax Reduction Regulations (persons not entitled to council tax reduction: students) applies, in determining the maximum council tax reduction in the person's case in accordance with paragraph (1) the amount A is to be divided by the number of persons who are jointly and severally liable for that tax.

(3) Where an applicant is jointly and severally liable for council tax in respect of a dwelling with only the applicant's partner, paragraph (2) does not apply.

Marginal Citations

- M1** Section 80 was amended by paragraph 176 of Schedule 13 to the [Local Government etc. \(Scotland\) Act 1994 \(c.39\)](#). Section 80A was inserted by section 65 of the [Climate Change \(Scotland\) Act 2009 \(asp 12\)](#).

Status: Point in time view as at 01/04/2015.

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Non-dependant deductions

48.—(1) Subject to the following provisions of this regulation, the non-dependant deductions in respect of a day referred to in regulation 47 (maximum council tax reduction) are—

- (a) in respect of a non-dependant aged 18 or over in remunerative work, [^{F1}£11.70] x 1/7; and
- (b) in respect of a non-dependant aged 18 or over to whom sub-paragraph (a) does not apply, [^{F2}£3.85] x 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 relevant authority that the [^{F3}person's] normal gross weekly income is—

- (a) less than [^{F4}£189.00], the deduction to be made is that specified in paragraph (1)(b);
- (b) not less than [^{F5}£189.00] but less than [^{F6}£328.00], the deduction to be made is [^{F7}£7.70] x 1/7; and
- (c) not less than [^{F8}£328.00] but less than [^{F9}£408.00], the deduction to be made is [^{F10}£9.80] x 1/7.

(3) Only one deduction is to be made under this regulation in respect of a 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 must be deducted.

(4) In applying the provisions of paragraph (2) in the case of a couple or, as the case may be, a polygamous marriage, regard must 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 liable for council tax in respect of that dwelling on that day;
- (b) other residents in that dwelling (the liable persons) have joint and several liability for council tax in respect of that dwelling on that day otherwise than by virtue of section 77 or 77A of the Act ^{M2} (liability of spouses and civil partners); 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 must be apportioned equally between those liable persons.

(6) No deduction is to be made in respect of any non-dependants occupying an applicant's dwelling if the applicant or the applicant's partner is—

- (a) blind or treated as blind by virtue of paragraph 7 of Schedule 1 (severe disability premium); or
- (b) receiving—
 - (i) attendance allowance;
 - (ii) the care component of the disability living allowance; or
 - [^{F11}(ia) armed forces independence payment;]
 - (iii) the daily living component of personal independence payment.

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

- (a) although the non-dependant resides with the applicant, it appears to the relevant authority that the non-dependant's normal home is elsewhere;

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- (b) the non-dependant is in receipt of a training allowance paid in connection with youth training established under section 2 of the 1973 Act ^{M3} or section 2 of the Enterprise and New Towns (Scotland) Act 1990 ^{M4};
 - (c) the non-dependant is a full-time student;^{F12}...
 - (d) the non-dependant is not residing with the applicant because the non-dependant has been a patient for a period in excess of 52 weeks, and for these purposes where a person has been a patient for two or more distinct periods separated by one or more intervals, each not exceeding 28 days, the non-dependant is to be treated as having been a patient continuously for a period equal in duration to the total of those distinct periods^{F13}; or
 - (e) the non-dependant is not residing with the applicant because the non-dependant is a member of the regular forces or the reserve forces (within the meaning of section 374 of the Armed Forces Act 2006) who is absent, while on operations, from the dwelling usually occupied as that person's home.]
- (8) No deduction is to be made in respect of a non-dependant—
- (a) who is on income support, state pension credit, an income-based jobseeker's allowance or an income-related employment and support allowance; or
 - (b) to whom Schedule 1 to the Act ^{M5} applies (persons disregarded for purposes of discount) but this sub-paragraph does 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 is to be disregarded from the [^{F14}person's] weekly gross income—
- (a) any attendance allowance, disability living allowance^{F15}, armed forces independence payment] or personal independence payment received by the [^{F16}person];
 - (b) any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, the Independent Living Fund (2006) or the London Bombings Relief Charitable Fund which, had the [^{F14}person's] income fallen to be calculated under regulation 39 of the Council Tax Reduction Regulations (calculation of income other than earnings), would have been disregarded under paragraph 27 of Schedule 4 to those Regulations (income in kind); and
 - (c) any payment which, had the [^{F14}person's] income fallen to be calculated under regulation 39 of the Council Tax Reduction Regulations, would have been disregarded under paragraph 41 of Schedule 4 to those Regulations (payments made under certain trusts and certain other payments).

Textual Amendments

- F1** Sum in reg. 48(1)(a) substituted (1.4.2015) by The Council Tax Reduction (Scotland) Amendment Regulations 2015 (S.S.I. 2015/46), regs. 1, **18(a)(i)**
- F2** Sum in reg. 48(1)(b) substituted (1.4.2015) by The Council Tax Reduction (Scotland) Amendment Regulations 2015 (S.S.I. 2015/46), regs. 1, **18(a)(ii)**
- F3** Word in reg. 48(2) substituted (18.3.2013) by The Council Tax Reduction (State Pension Credit) (Scotland) Amendment Regulations 2013 (S.S.I. 2013/49), regs. 1, **7(b)(i)**
- F4** Sum in reg. 48(2)(a) substituted (1.4.2015) by The Council Tax Reduction (Scotland) Amendment Regulations 2015 (S.S.I. 2015/46), regs. 1, **18(b)(i)**
- F5** Sum in reg. 48(2)(b) substituted (1.4.2015) by The Council Tax Reduction (Scotland) Amendment Regulations 2015 (S.S.I. 2015/46), regs. 1, **18(b)(ii)(aa)**
- F6** Sum in reg. 48(2)(b) substituted (1.4.2015) by The Council Tax Reduction (Scotland) Amendment Regulations 2015 (S.S.I. 2015/46), regs. 1, **18(b)(ii)(bb)**

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- F7** Sum in reg. 48(2)(b) substituted (1.4.2015) by The Council Tax Reduction (Scotland) Amendment Regulations 2015 (S.S.I. 2015/46), regs. 1, 18(b)(ii)(cc)
- F8** Sum in reg. 48(2)(c) substituted (1.4.2015) by The Council Tax Reduction (Scotland) Amendment Regulations 2015 (S.S.I. 2015/46), regs. 1, 18(b)(iii)(aa)
- F9** Sum in reg. 48(2)(c) substituted (1.4.2015) by The Council Tax Reduction (Scotland) Amendment Regulations 2015 (S.S.I. 2015/46), regs. 1, 18(b)(iii)(bb)
- F10** Sum in reg. 48(2)(c) substituted (1.4.2015) by The Council Tax Reduction (Scotland) Amendment Regulations 2015 (S.S.I. 2015/46), regs. 1, 18(b)(iii)(cc)
- F11** Reg. 48(6)(b)(ia) inserted (11.6.2013) by The Welfare Reform (Consequential Amendments) (Scotland) (No. 3) Regulations 2013 (S.S.I. 2013/142), regs. 1, 12(5)(a)
- F12** Word in reg. 48(7) omitted (1.4.2015) by virtue of The Council Tax Reduction (Scotland) Amendment Regulations 2015 (S.S.I. 2015/46), regs. 1, 18(c)(i)
- F13** Reg. 48(7)(e) and word inserted (1.4.2015) by The Council Tax Reduction (Scotland) Amendment Regulations 2015 (S.S.I. 2015/46), regs. 1, 18(c)(ii)
- F14** Word in reg. 48(9) substituted (18.3.2013) by The Council Tax Reduction (State Pension Credit) (Scotland) Amendment Regulations 2013 (S.S.I. 2013/49), regs. 1, 7(c)(i)
- F15** Words in reg. 48(9)(a) inserted (11.6.2013) by The Welfare Reform (Consequential Amendments) (Scotland) (No. 3) Regulations 2013 (S.S.I. 2013/142), regs. 1, 12(5)(b)
- F16** Word in reg. 48(9)(a) substituted (18.3.2013) by The Council Tax Reduction (State Pension Credit) (Scotland) Amendment Regulations 2013 (S.S.I. 2013/49), regs. 1, 7(c)(ii)

Marginal Citations

- M2** Section 77 was amended by section 4 of the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp 6) and S.S.I. 2005/623. Section 77A was inserted by section 133 of the Civil Partnership Act 2004 (c.33).
- M3** Section 2 was substituted by section 25 of the Employment Act 1988 (c.19) and amended by section 29 of and Schedule 7 to the Employment Act 1989 (c.38) and section 47 of the Trade Union Reform and Employment Rights Act 1993 (c.19).
- M4** 1990 c.35. Section 2 was amended by section 47 of and Schedule 10 to the Trade Union Reform and Employment Rights Act 1993 (c.19), **paragraph 20** of Schedule 26 to the Equality Act 2010 (c.15) and S.I. 1999/1820.
- M5** Schedule 1 was amended by paragraph 152 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (c.6), **paragraph 18** of schedule 3 to the Regulation of Care (Scotland) Act 2001 (asp 8), **paragraph 152** of Schedule 1 to the National Health Service (Consequential Provisions) Act 2006 (c.43), **paragraph 123** of Schedule 16, and Schedule 17, to the Armed Forces Act 2006 (c.52) and S.S.I. 2005/465.

Extended council tax reduction (qualifying contributory benefits)

49.—(1) Except in the case of a person who is in receipt of state pension credit, a person who is entitled to council tax reduction by virtue of the general conditions of entitlement is entitled to extended council tax reduction (qualifying contributory benefits) where—

- (a) the person or the person's partner was entitled to a qualifying contributory benefit;
- (b) entitlement to a qualifying contributory benefit ceased because the person or the person's partner—
 - (i) commenced employment as an employed or self-employed earner;
 - (ii) increased their earnings from employment as an employed or self-employed earner;
 - or
 - (iii) increased the number of hours worked in employment as an employed or self-employed earner,

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and that employment, is or the increased earnings or increased number of hours are, expected to last 5 weeks or more;

- (c) the person or the person's partner had been entitled to and in receipt of a qualifying contributory benefit or a combination of qualifying contributory benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying contributory benefit ceased; and
- (d) the person or the person's partner was not entitled to and not in receipt of a qualifying income-related benefit in the last reduction week in which the person or the person's partner was entitled to a qualifying contributory benefit.

(2) For the purposes of paragraph (1), a person is entitled to council tax reduction by virtue of the general conditions of entitlement where—

- (a) the person ceased to be entitled to council tax reduction on vacating the dwelling in which the person was resident;
- (b) the first day on which the person vacated the dwelling was in the week in which entitlement to a qualifying contributory benefit ceased or in the preceding week; and
- (c) entitlement to the qualifying contributory benefit ceased in any of the circumstances listed in paragraph (1)(b).

Duration of period of entitlement to extended council tax reduction (qualifying contributory benefits)

50.—(1) Where a person is entitled to extended council tax reduction (qualifying contributory benefits) the period of entitlement starts on the first day of the reduction week immediately following the reduction week in which the person or the person's partner ceased to be entitled to a qualifying contributory benefit.

(2) For the purposes of paragraph (1), a person or a person's partner ceases to be entitled to a qualifying contributory benefit on the day immediately following the last day of entitlement to that benefit.

(3) The period of entitlement to extended council tax reduction (qualifying contributory benefits) ends on the earliest of—

- (a) the end of a period of 4 weeks of that entitlement; or
- (b) the first day on which the person who is entitled to extended council tax reduction (qualifying contributory benefits) has no liability for council tax.

Amount of extended council tax reduction (qualifying contributory benefits)

51.—(1) For any week during the period of entitlement to extended council tax reduction (qualifying contributory benefits) the amount of reduction to which the person is entitled is the higher of—

- (a) the amount of council tax reduction to which the person was entitled in the last reduction week before the person or the person's partner ceased to be entitled to a qualifying contributory benefit;
- (b) the amount of council tax reduction to which the person would be entitled for any reduction week during the period of entitlement to extended council tax reduction (qualifying contributory benefits), if regulation 49 did not apply to the person; or
- (c) the amount of council tax reduction to which the person's partner would be entitled if regulation 49 did not apply to the person.

(2) Paragraph (1) does not apply in the case of a mover to whom regulation 52 applies.

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(3) Where a person is entitled to extended council tax reduction (qualifying contributory benefits) and the person's partner makes an application for council tax reduction, the person's partner is not entitled to council tax reduction during the existing period of entitlement to extended council tax reduction (qualifying contributory benefits).

Extended council tax reduction (qualifying contributory benefits): movers

52.—(1) Where a mover who is entitled to extended council tax reduction (qualifying contributory benefits) for council tax to the first authority moves to reside in a dwelling in the area of the second authority that mover is entitled to extended council tax reduction in respect of any liability to pay council tax to the second authority of an amount calculated in accordance with paragraph (2).

(2) The amount of extended council tax reduction (qualifying contributory benefit) to which the mover is entitled is the amount of council tax reduction to which the mover was entitled for the last reduction week before the mover ceased to be entitled to a qualifying contributory benefit.

(3) The period of entitlement to extended council tax reduction (qualifying contributory benefit) in respect of liability to pay council tax to the first authority ends on the day on the earliest of—

- (a) the first Sunday after the move; or
- (b) the day on which the mover's liability to pay council tax to the first authority ends.

(4) The period of entitlement to extended council tax reduction (qualifying contributory benefits) granted by virtue of paragraph (1)—

- (a) starts on the Monday following the day of the move; and
- (b) ends on the expiry of the period of extended council tax reduction (qualifying contributory benefits) which would have applied had the mover not moved from the area of the first authority.

Relationship between council tax reduction and extended council tax reduction (qualifying contributory benefits)

53.—(1) Where a person's entitlement to council tax reduction would have ended when the person ceased to be entitled to a qualifying contributory benefit in the circumstances listed in regulation 49(1)(b), that entitlement does not cease until the end of the period of entitlement to extended council tax reduction.

(2) Part 8 (effective date) does not apply to any extended council tax reduction (qualifying contributory benefits) calculated in accordance with regulation 51(1)(a) or 52(2).

Entitlement to extended council tax reduction or extended council tax reduction (qualifying contributory benefits) under the Council Tax Reduction Regulations

54.—(1) This regulation applies where—

- (a) a person became entitled to extended council tax reduction under regulation 68 of the Council Tax Reduction Regulations or to extended council tax reduction (qualifying contributory benefits) under regulation 73 of those Regulations; and
- (b) during that period of entitlement to extended council tax reduction or extended council tax reduction (qualifying contributory benefits) these Regulations become applicable to that person or that person's partner in accordance with regulation 12 (application).

(2) Where this regulation applies, for any week during the period of entitlement to extended council tax reduction or extended council tax reduction (qualifying contributory benefits) referred to in paragraph (1)(a) the amount of council tax reduction to which the person is entitled is the higher of—

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- (a) the amount of council tax reduction to which the person is entitled under regulation 70(1) (a) of the Council Tax Reduction Regulations or the amount of council tax reduction (qualifying contributory benefits) to which the person is entitled under regulation 75(1) (a) of those Regulations, as the case may be;
 - (b) the amount of council tax reduction to which the person would be entitled under the general conditions of entitlement of these Regulations, if regulation 68 (extended council tax reduction) or regulation 73 (extended council tax reduction (qualifying contributory benefits)) of the Council Tax Reduction Regulations did not apply to the person; or
 - (c) the amount of council tax reduction to which the person's partner would be entitled under these Regulations if regulation 68 or regulation 73 of the Council Tax Reduction Regulations did not apply to the person.
- (3) No partner of a person to whom this regulation applies is entitled to council tax reduction.

Continuing payments where state pension credit claimed

55.—(1) This regulation applies where—

- (a) a person is entitled to council tax reduction;
- (b) paragraph (2) is satisfied; and
- (c) either—
 - (i) the person has attained the qualifying age for state pension credit or, if the person's entitlement to income-based jobseeker's allowance or income-related employment and support allowance continued beyond that age, has attained the age of 65; or
 - (ii) the person's partner has claimed state pension credit.

(2) This paragraph is satisfied if the Secretary of State has certified that the person's partner has claimed state pension credit or that—

- (a) the person's award of—
 - (i) income support has terminated because the person has attained the qualifying age for state pension credit; or
 - (ii) income-based jobseeker's allowance or income-related employment and support allowance has terminated because the person has attained the qualifying age for state pension credit or the age of 65; and
- (b) the person has claimed or is treated as having claimed or is required to make a claim for state pension credit.

(3) Subject to paragraph (4), in a case to which this regulation applies, the person's entitlement to council tax reduction is to continue for the period of 4 weeks beginning on the day following the day the person's entitlement to income support, income-based jobseeker's allowance or income-related employment and support allowance ceased if and for so long as the applicant otherwise satisfies the conditions for entitlement to council tax reduction.

(4) Where the person continues to be entitled to council tax reduction in accordance with paragraph (3) and the last day of the 4 week period of entitlement falls on a day other than the last day of a reduction week, the person's entitlement to council tax reduction continues until the end of the reduction week in which the last day of the 4 week period falls.

(5) Throughout the period of 4 weeks specified in paragraph (3) and any further period specified in paragraph (4)—

- (a) the whole of the income and capital of the person must be disregarded; and
- (b) the appropriate maximum council tax reduction of the person is that which was applicable in the person's case immediately before that 4 week period commenced.

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(6) The appropriate maximum council tax reduction is to be calculated in accordance with regulation 47(1) if, since the date it was last calculated,—

- (a) the person's council tax liability has increased; or
- (b) a change in the deduction under regulation 48 (non-dependant deductions) falls to be made.

Alternative maximum council tax reduction

56.—(1) Subject to paragraphs (2) and (3), the alternative maximum council tax reduction where the conditions set out in regulation 14(3) and (6) (conditions of entitlement to council tax reduction) are fulfilled is the amount determined in accordance with Schedule 5.

(2) Subject to paragraph (3), where an applicant is jointly and severally liable for council tax in respect of a dwelling in which the applicant is resident with one or more other persons, in determining the alternative maximum council tax reduction in the applicant's case, the amount determined in accordance with Schedule 5 must be divided by the number of persons who are jointly and severally liable for that tax.

(3) Paragraph (2) does not apply in the case of an applicant who is jointly and severally liable for council tax in respect of a dwelling with the applicant's partner only by virtue only of section 77 or 77A of the Act (liability of spouses and civil partners).

Residents of a dwelling to whom regulation 14(6) does not apply

57. Regulation 14(6) (conditions of entitlement to council tax reduction: alternative maximum council tax reduction) does not apply in respect of—

- (a) a person who is liable for council tax solely in consequence of the provisions of section 77 or 77A of the Act ^{M6};
- (b) a person who is residing with a couple or with the members of a polygamous marriage where the applicant is a member of that couple or of that marriage and—
 - (i) in the case of a couple, neither member of that couple is a person who, in accordance with Schedule 1 to the Act ^{M7}, falls to be disregarded for the purposes of discount; or
 - (ii) in the case of a polygamous marriage, two or more members of that marriage are not persons who, in accordance with Schedule 1 to the Act, fall to be disregarded for the purposes of discount;
- (c) a person who jointly with the applicant falls within the same sub-paragraph of section 75(2) (a) to (e) of the Act ^{M8} (persons liable to pay council tax) as applies in the case of the applicant; or
- (d) a person who is residing with two or more persons both or all of whom fall within the same sub-paragraph of section 75(2)(a) to (e) of the Act and two or more of those persons are not persons who, in accordance with Schedule 1 to the Act, fall to be disregarded for the purposes of discount.

Marginal Citations

M6 Section 77 was amended by section 4 of the [Education \(Graduate Endowment and Student Support\) \(Scotland\) Act 2001 \(asp 6\)](#) and [S.S.I. 2005/623](#). Section 77A was inserted by section 133 of the [Civil Partnership Act 2004 \(c.33\)](#).

M7 Schedule 1 was amended by paragraph 152 of Schedule 9 to the [Powers of Criminal Courts \(Sentencing\) Act 2000 \(c.6\)](#), [paragraph 18](#) of schedule 3 to the [Regulation of Care \(Scotland\) Act 2001 \(asp 8\)](#), [paragraph 152](#) of Schedule 1 to the [National Health Service \(Consequential Provisions\)](#)

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Act 2006 (c.43), **paragraph 123** of Schedule 16 and paragraph 1 of Schedule 17 to the [Armed Forces Act 2006 \(c.52\)](#) and S.S.I. 2005/465.

M8 Section 75(2) was amended by paragraph 19 of schedule 10 to the [Housing \(Scotland\) Act 2001 \(asp 10\)](#).

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Changes to legislation:

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