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SCOTTISH STATUTORY INSTRUMENTS

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**2021 No. 249**

**The Council Tax Reduction (Scotland) Regulations 2021**

**PART 10**

Transitional, savings and consequential provisions, and revocations

**Transitional provision: applications**

**97.**—(1) Any person described in paragraph (2) is deemed to have made an application under these Regulations on 1 April 2022.

(2) For the purpose of paragraph (1) the persons are any person—

- (a) who is entitled to council tax reduction on 31 March 2022,
- (b) who made, or is deemed to have made, an application under the 2012 Regulations before 1 April 2022 which is not determined on or before 31 March 2022,
- (c) other than a person described in sub-paragraph (a), who has served a written notice on a relevant authority requesting that it review its determination under regulation 90A(2) (review of determination on an application)<sup>(1)</sup> of the 2012 Regulations and whose review request is pending immediately before 1 April 2022,
- (d) other than a person described in sub-paragraphs (a), who has made a request for further review of a determination on an application under regulation 90B (request for further review) of the 2012 Regulations and whose request is pending immediately before 1 April 2022.

(3) For the purposes of paragraph (2)(c) a review request is pending if a written notice has been served on a relevant authority requesting that it review its determination but the relevant authority has not notified the applicant in writing of its decision in accordance with regulation 90A(4)(c) of the 2012 Regulations.

(4) For the purpose of paragraph (2)(d) a request is pending if a request for further review of a determination on an application has been made but the procedure for conducting further reviews under regulations 90B to 90D of the 2012 Regulations has not been completed.

(5) Where a person is deemed to have made an application under paragraph (1)—

- (a) any entitlement to council tax reduction as a result of that application takes effect from Monday 4 April 2022, unless the relevant authority determines that, although the person has no entitlement on that date, the person is entitled to council tax reduction from a later date, and
- (b) except to the extent that the relevant authority has been or is notified that there has been a change of circumstances, it may continue to use information it has used to calculate entitlement under the 2012 Regulations, and its calculation of that entitlement, to calculate entitlement under these Regulations.

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<sup>(1)</sup> Regulations 90A to 90D were inserted by [S.S.I. 2013/218](#). Regulations 90C and 90D were amended by [S.S.I. 2015/46](#) and regulation 90C was further amended by [S.S.I. 2021/51](#).

### **Transitional family premium**

**98.**—(1) Where on 31 March 2022 a person is entitled to an amount by virtue of regulation 2 (transitional provision) of the Council Tax Reduction (Scotland) Amendment Regulations 2016(2) (“a transitional family premium”), the person is entitled to a transitional family premium under these Regulations.

(2) The amount of a transitional family premium is—

- (a) £22.20 per week if that is the amount the applicant was entitled to on 31 March 2022, and
- (b) in all other cases, £17.65 per week.

(3) A transitional family premium is to be included in determining the person’s weekly applicable amount (see regulation 35).

(4) The person ceases to have any further entitlement to a transitional family premium under these Regulations when the person—

- (a) ceases to be a member of a family which includes at least one child or young person, or
- (b) makes a new application for council tax reduction, but for the purposes of this regulation the following are not to be regarded as a new application—
  - (i) any application that relates to re-assessment of an existing award,
  - (ii) any deemed application under regulation 97.

### **Transitional entitlement to the disability premium, etc.**

**99.**—(1) Where on 31 March 2022 a person is entitled to disability premium under paragraph 10(1)(b) of schedule 1 to the 2012 Regulations by virtue of paragraph 1(1) or (2) (savings provision – persons incapable of work prior to 13 April 1995) of schedule 6 of those Regulations, the person is to be treated as entitled to a disability premium under paragraph 11 of schedule 1 of these Regulations for so long as the person is incapable of work in accordance with the provisions of, and Regulations made under, Part 12A of the 1992 Act (incapacity for work).

(2) Paragraph (1) does not apply to a person who ceases to be incapable of work or ceases to be treated as incapable of work in accordance with the provisions of, and Regulations made under Part 12A of the 1992 Act (incapacity for work) for a period of more than 56 continuous days that ends after 31 March 2022.

(3) Where, in any period immediately preceding 13th April 1995, the circumstances mentioned in paragraph 13(6) of schedule 1 of the Council Tax Benefit (General) Regulations 1992(3), as in force on 12th April 1995, applied to a person to whom the disability premium was not applicable, that person is to be treated for the purposes of regulations 20(3)(e) (persons not entitled to council tax reduction: students) and 77(12)(g) (treatment of childcare charges) and paragraph 12(1)(b) (additional condition for the disability premium) of schedule 1 as if the person had been incapable of work in accordance with the provisions of, and Regulations made under, Part 12A of the 1992 Act (incapacity for work) throughout that period.

(4) Where a higher pensioner premium was applicable to a person on 12th April 1995, or at any time during the 56 days immediately preceding that date, by virtue of paragraph 13(1)(a)(ii) of schedule 1 of the Council Tax Benefit (General) Regulations 1992, as in force on that date, paragraph 12 of schedule 1 of these Regulations, in so far as it applies to the person, applies subject to the modifications in paragraph (5).

(5) The modifications are—

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(2) [S.S.I. 2016/81](#).

(3) [S.I. 1992/1814](#). Paragraph 13 was revoked by [S.I. 2006/217](#), subject to savings provisions.

- (a) in paragraph 12(1)(a)(i), for the words “long-term incapacity benefit” where they first appear, substitute “an invalidity pension” and for the words “in the case of long-term incapacity benefit”, substitute “in the case of invalidity pension”,
- (b) in paragraph 12(1)(a)(ii)—
  - (i) for the words “long-term incapacity benefit when entitlement to that benefit” substitute “invalidity pension when entitlement to that pension”,
  - (ii) for the words “long-term incapacity benefit” where they second appear substitute “invalidity pension”,
- (c) for paragraph 12(1)(b), substitute—
  - “(b) the circumstances of the applicant fall, and have fallen, in respect of a continuous period of not less than 28 weeks, within sub-paragraph (6) or, if the person was in Northern Ireland for the whole or part of that period, within one or more comparable Northern Irish provisions.”,
- (d) in paragraph 12(3), for the words “or to be incapable of work”, substitute “for the purposes of the provisions specified in that provision”, and
- (e) for sub-paragraphs (6) and (7), substitute—
  - “(6) For the purposes of sub-paragraph (1)(b) the circumstances of an applicant fall within this sub-paragraph if—
    - (a) the applicant provides evidence of incapacity in accordance with regulation 2 of the Social Security (Medical Evidence) Regulations 1976 (evidence of incapacity for work)(4) in support of a claim for sickness benefit, invalidity pension or severe disablement allowance within the meaning of sections 31, 33 or 68 of the 1992 Act, provided that an adjudication officer has not determined the applicant is not incapable of work, or
    - (b) the applicant is in receipt of statutory sick pay within the meaning of Part 11 of the 1992 Act.”.

### **Transitional addition in accordance with Part 6 of schedule 1 of the 2012 Regulations**

**100.**—(1) Where a person is in receipt of a transitional addition in accordance with Part 6 of schedule 1 of the 2012 Regulations (transitional addition)(5) on 31 March 2022, or is deemed to have been in receipt of a transitional addition on that date by virtue of paragraph (4), that person is entitled to have their weekly applicable amount increased by the amount of that transitional addition.

(2) The addition described in paragraph (1)—

- (a) is to be calculated in accordance with paragraphs 28 and 29 of that schedule, and
- (b) is to cease on the occurrence of any circumstance described in paragraph 25(2) of that schedule or, as the case may be, paragraph 26(3) or 27(3) of that schedule.

(3) Where a person’s entitlement to a transitional addition ceased on or before 31 March 2022, or ceases after that date as a result of paragraph (2)(b), the person’s entitlement is restored if paragraph 26 or 27 of that schedule applies to the person.

(4) A person is deemed to have been in receipt of a transitional addition on 31 March 2022, despite not having actually been in receipt of a transitional addition on that date, if the person’s entitlement to a transitional addition is restored as described in paragraph (3).

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(4) S.I. 1976/615. Regulation 2 was amended by S.I. 1987/409, S.I. 1994/2975, S.I. 1999/3109, S.I. 2001/2931, S.I. 2008/1554 and S.I. 2010/137.

(5) Part 6 of schedule 1 was amended by S.S.I. 2013/48, S.S.I. 2013/218 and S.S.I. 2020/64.

### **Savings provisions**

**101.**—(1) Where paragraph (2) applies, the 2012 Regulations continue to have effect for the purpose described in paragraph (3) on and after 1 April 2022 as they did immediately before that date.

(2) This paragraph applies—

- (a) in relation to any person described in regulation 97(2),
- (b) where regulation 26(1), (4) or (7) (backdated entitlement) grants a person entitlement to council tax reduction for a day before 4 April 2022,
- (c) where regulation 33(2) (newly liable persons) grants a person entitlement for the period between and including 1 and 3 April 2022, or
- (d) in relation to any change of circumstances which, takes effect prior to 4 April 2022, by virtue of regulation 81 of the 2012 Regulations (date on which a change of circumstances takes effect).

(3) The purpose is any purpose relating to entitlement to council tax reduction under the 2012 Regulations, in respect of any day before 4 April 2022.

(4) In relation to a person to whom paragraph (2)(b) or (c) applies, the application under these Regulations is to be treated as if it were an application validly made under the 2012 Regulations.

(5) Part 6 of schedule 1 of the 2012 Regulations continues to have effect on and after 1 April 2022, for the purposes of regulation 100, as it did immediately before that date.

### **Consequential amendments**

**102.** The amendments in schedule 5 have effect.

### **Revocations**

**103.** Schedule 6 (revocations) has effect.