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SCOTTISH STATUTORY INSTRUMENTS

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**2021 No. 249**

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

**PART 4**

Procedural Matters

CHAPTER 1

Applications

**Who may apply**

**22.** In the case of a couple an application is to be made by whichever one of them they agree should apply or, in default of agreement, by whichever one of them the relevant authority determines is to make the application.

**Written applications**

**23.—**(1) Subject to regulation 24 (applications: universal credit claimants) and regulation 25 (telephone applications) an application must be sent in writing to the office designated by the relevant authority as the office to which applications should be sent and—

- (a) made on a properly completed form approved for the purposes by the relevant authority, or
- (b) in such written form as the relevant authority accepts as sufficient in the circumstances of any particular case or class of cases having regard to the sufficiency of the written information and evidence.

(2) Where an application is not made in the form described in paragraph (1)(a) or (b) it is defective.

(3) Where an application is defective because—

- (a) it was made on the form approved for the purpose but that form is not accepted by the relevant authority as being properly completed, the relevant authority may request the applicant to complete the defective application, or
- (b) it was made in writing but not on the form approved for the purpose and the relevant authority does not accept the application as being in a written form which is sufficient in the circumstances of the case, having regard to the sufficiency of the written information and evidence, the relevant authority may supply the applicant with the approved form or request further information or evidence.

(4) A defective application is to be treated as if it had been validly made in the first instance if, in any particular case, one of the conditions specified in paragraph (5) is satisfied.

(5) The conditions are that—

- (a) where paragraph (3)(a) (incomplete form) applies, the relevant authority receives the properly completed application or the information requested to complete it within one month of the authority's request, or any longer period the relevant authority considers reasonable, or

- (b) where paragraph (3)(b) (application not on approved form or further information requested by relevant authority) applies—
- (i) the approved form sent to the applicant is received by the relevant authority properly completed within one month of it having been sent to the applicant, or any longer period the relevant authority considers reasonable, or
  - (ii) the applicant supplies whatever information or evidence was requested under that paragraph within one month of the request, or any longer period the relevant authority considers reasonable.

(6) An application made on an approved form is for the purposes of these Regulations properly completed if completed in accordance with the instructions on the form, including any instructions to provide information and evidence in connection with the application.

### **Applications: universal credit claimants**

**24.**—(1) An application may be treated as made where—

- (a) a person has made a claim for universal credit,
- (b) the Secretary of State has supplied relevant information in relation to that person to a relevant authority in accordance with section 131 of the 2012 Act (information-sharing in relation to welfare services etc.)(**1**), and
- (c) that person is liable to pay council tax to the relevant authority.

(2) Paragraph (1) is not to be construed as creating a duty, obligation, or right which is contrary to any duty, obligation or right created by—

- (a) the data protection legislation listed in section 3(9) of the Data Protection Act 2018(**2**), or
- (b) any other rule of law which relates to data protection.

### **Telephone applications**

**25.**—(1) Where the relevant authority has published a telephone number for the purpose of receiving applications for council tax reduction, an application may be made by telephone to that telephone number.

(2) The relevant authority may determine that an application made by telephone is not a valid application unless the applicant approves a written statement of the person's circumstances, provided by the relevant authority.

(3) An application made by telephone in accordance with paragraph (1) is defective unless the relevant authority is provided with all the information requested by it during the telephone call.

(4) Where an application made by telephone in accordance with paragraph (1) is defective, the applicant must be given an opportunity to correct the defect.

(5) If the applicant corrects the defect referred to in paragraph (4) within one month, or any longer period the relevant authority considers reasonable, of the date the authority last drew attention to the defect, the application is to be treated as if it had been validly made in the first instance.

(6) If the person does not correct the defect within one month, or any longer period the relevant authority considers reasonable, of the date the authority last drew attention to the defect, the application may be treated as if it had not been defective if the relevant authority considers that it has sufficient information to determine the application.

(1) Section 131 was amended by section 4 of the Wales Act 2014 (c.29) and section 20 of the Welfare Reform and Work Act 2016 (c.7).

(2) 2018 c.12. Section 3 was amended by S.I. 2019/419.

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

**26.**—(1) Subject to paragraph (3) and regulation 9(9) (occupation of a dwelling as a home) the date on which an application is made is—

- (a) where an award of a qualifying income-related benefit or universal credit has been made to the applicant or the applicant’s partner and the application for council tax reduction is made, or is treated as made, within one month of the date on which the claim for that qualifying income-related benefit or universal credit was received at the appropriate DWP office, the first day of entitlement to that qualifying income-related benefit or universal credit arising from that claim,
- (b) where an applicant or the applicant’s partner is a person on qualifying income-related benefit or universal credit and the applicant becomes liable for the first time to pay council tax in respect of the dwelling which the applicant occupies as a home, where the application is received by the relevant authority within one month of the date on which the applicant first became liable to pay council tax, the date on which the applicant first became so liable,
- (c) where an applicant separates from a partner who was entitled to council tax reduction at the time of the separation, and where the applicant makes an application for council tax reduction within one month of the separation, the date of the separation,
- (d) where the applicant (“A”) was the partner of a person (“B”) at the date of B’s death and—
  - (i) B was entitled to council tax reduction at that date,
  - (ii) immediately before B’s death, A and B jointly had an award of universal credit, and
  - (iii) where A makes an application for council tax reduction within one month of the last day on which B is treated as if B had not died for the purpose of entitlement to universal credit in accordance with regulation 37(a) of the 2013 Regulations, the last day on which B is treated as if B had not died for the purpose of entitlement to universal credit in accordance with regulation 37(a) of the 2013 Regulations (run-on after a death),
- (e) where the applicant (“A”) was the partner of a person (“B”) at the date of B’s death and—
  - (i) B was entitled to council tax reduction at that date,
  - (ii) immediately before B’s death, neither A nor B had any award of universal credit, or either A or B had an award of universal credit, but it was not awarded to A and B jointly, and
  - (iii) A makes an application for council tax reduction within one month of the date of B’s death,that date,
- (f) except where sub-paragraph (a), (b), (c), (d) or (e) is satisfied, in a case where a properly completed application is received within one month, or any longer period the relevant authority considers reasonable, of the date on which—
  - (i) an application form was issued to the applicant following the applicant first notifying, by whatever means, the relevant authority of an intention to make an application, or
  - (ii) the applicant notifies, by whatever means, the relevant authority of an intention to make an application by telephone in accordance with regulation 25 (telephone applications),the date of first notification,
- (g) in any other case, the date on which the application is received by the relevant authority.

(2) For the purpose of paragraph (1)(a), 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 of that award and on which the person would, but for Regulations made under—

- (a) in the case of income-based jobseeker's allowance, paragraph 4 of schedule 1 of the Jobseekers Act (waiting days), or
- (b) in the case of income-related employment and support allowance, paragraph 2 of schedule 2 of the 2007 Act (waiting days),

have been entitled to that allowance.

(3) Except in the case of an application made by a person living abroad, where a person has not become liable for council tax to a relevant authority but it is anticipated that the person will become liable within the period of 8 weeks, the person may apply for council tax reduction at any time in that period and, provided that liability arises within that 8 week period, the relevant authority is to treat the application as having been made on the day on which the liability for council tax arises.

(4) Where a relevant authority has not set or imposed its council tax by the beginning of the financial year, if an application for council tax reduction is properly made or treated as made and—

- (a) the date on which the application is made or treated as made is in the period from 1 April of the current year and ending one month after the date on which the authority sets or imposes the tax, and
- (b) if the tax had been determined, the applicant would have been entitled to council tax reduction either from—
  - (i) the reduction week in which 1 April of the current year fell, or
  - (ii) a reduction week falling after the date specified in head (i) but before the application was made,

the relevant authority must treat the application as made in the reduction week immediately preceding the reduction week in which such entitlement would have commenced.

(5) Except in the case of an application made by a person living abroad, where the applicant is not entitled to council tax reduction in the reduction week immediately following the date of the application but the relevant authority is of the opinion that unless there is a change of circumstances the applicant will be entitled to council tax reduction for a period beginning not later than the thirteenth reduction week following the date on which the application is made, the relevant 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 grant entitlement to council tax reduction accordingly.

(6) In the case of a person who has attained, or whose partner has attained, the age which is 17 weeks younger than pensionable age, paragraph (5) applies as if for the reference to the thirteenth reduction week, there was substituted a reference to the seventeenth reduction week.

(7) Where an applicant ("C")—

- (a) makes an application which includes (or which C subsequently requests should include) a period before the application is made, and
- (b) from a day in that period, up to the date when C made the application (or subsequently requested that the application should include a past period), C 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 paragraph (8).

(8) The date referred to in paragraph (7) is the latest of—

- (a) the first day from which C had continuous good cause for failing to make the application,

- (b) the day 6 months before the date the application was made, or
  - (c) the day 6 months before the date when C requested that the application should include a past period.
- (9) In this regulation “appropriate DWP office” means—
- (a) an office of the Department for Work and Pensions or any other place designated by the Secretary of State as a place to, or at which, any claim, notice, document, evidence or other information may be sent, delivered or received for the purposes of a claim for a qualifying income-related benefit or universal credit and includes a postal address specified by the Secretary of State for that purpose, or
  - (b) an address approved by means of a direction given by the Secretary of State for the purposes of receiving any claim, notice, document, evidence or other information sent by electronic communications for the purposes of a claim for a qualifying income-related benefit or universal credit.

### **Evidence and information**

27.—(1) Subject to paragraphs (2) to (4) an applicant must furnish any certificates, documents, information and evidence in connection with an application for council tax reduction or existing entitlement to council tax reduction as may reasonably be required by the relevant authority in order to determine that person’s entitlement to, or continuing entitlement to, council tax reduction and must do so within one month of the authority requiring the applicant to do so, or any longer period the authority considers reasonable.

(2) Nothing in this regulation requires a person to furnish any certificates, documents, information or evidence relating to a payment to which paragraph (3) applies.

- (3) This paragraph applies to—
- (a) a payment which is disregarded under regulation 75 (special schemes for compensation etc.), other than a payment by ILF Scotland, and
  - (b) a payment which is disregarded under regulation 90(9)(b) (non-dependant deductions) or paragraph 2(b) of schedule 2 (amount of second adult rebate: second adult’s gross income), other than a payment by ILF Scotland.

- (4) Where a request is made under paragraph (1) the relevant authority must—
- (a) inform the applicant of the duty under regulation 31 to notify the authority of any change of circumstances, and
  - (b) without prejudice to the extent of the duty owed under regulation 31, indicate to the applicant, either orally or by notice or by reference to some other document available to that applicant, on application and without charge, the kind of changes of circumstances which are to be notified.

(5) Where an applicant or any partner of that applicant has attained pensionable age and is a member of, or a person deriving entitlement to a pension under, a personal pension scheme, the applicant must, where the relevant authority so requires, furnish the following information—

- (a) the name and address of the pension fund holder, and
- (b) any other information including any reference or policy number as is needed to enable the personal pension scheme to be identified.

(6) In this regulation “pension fund holder” means the trustees, managers or scheme administrators, as the case may be, of the scheme concerned.

### **Amendment of applications**

**28.**—(1) Subject to paragraph (2), at any time before a relevant authority has made a determination on an application the applicant may amend the application by notice in writing sent to the office designated by the relevant authority as the office to which applications should be sent.

(2) Where an application is made by telephone in accordance with regulation 25 (telephone applications) an amendment may be made by telephone to the telephone number specified by the relevant authority for the purpose of that regulation.

(3) Any application amended in accordance with paragraph (1) or (2) is to be treated as if it had been in its amended state when it was first made.

### **Withdrawal of applications**

**29.**—(1) An applicant may withdraw the application at any time by notice in writing delivered or sent to the office designated by the relevant authority as the office to which applications should be sent before the relevant authority has determined the application.

(2) Where the application was made by telephone in accordance with regulation 25, the withdrawal may be made by telephone to the telephone number specified by the relevant authority for the purpose of that regulation.

(3) Any notice of withdrawal given in accordance with paragraph (1) or (2) has effect when it is received by the relevant authority.

### **Sending documents by electronic communication**

**30.**—(1) For the purpose of these Regulations, an applicant may send a document by electronic communication—

- (a) in a form approved by the relevant authority for the purposes of this regulation,
- (b) to an address notified by the relevant authority for the purpose of this regulation, and
- (c) by the method set out in paragraph (4).

(2) An applicant sending a document to a relevant authority by electronic communications is taken to have agreed—

- (a) to the use of electronic communications for all purposes relating to the application which are capable of being carried out electronically, and
- (b) that the address for the purpose of such communications is the address incorporated into, or otherwise logically associated with, that communication.

(3) Deemed agreement referred to in paragraph (2) subsists until the applicant gives notice to revoke the agreement, and the notice takes effect from the date specified in it, being a date not less than 7 working days after the date on which the notice is given.

(4) An electronic communication must be—

- (a) capable of being accessed by the recipient,
- (b) legible in all other material respects, and
- (c) sufficiently permanent to be used for subsequent reference.

(5) Unless the contrary is proved a document sent by the method specified in paragraph (4) is, for the purposes of any legal proceedings, to be regarded as having been—

- (a) delivered where the document has been delivered to or by the relevant authority and the delivery of the document has been recorded on an official computer system, and
- (b) received at the time and date of receipt recorded in an official computer system.

(6) In this regulation—

“address” includes any number or address used for the purpose of electronic communications or storage,

“document” includes an application, notice, certificate, information and evidence,

“electronic communication” has the same meaning as in section 15(1) of the Electronic Communications Act 2000(3),

“legible in all material respects” means that the information contained in the document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form, and

“official computer system” means a computer system maintained by or on behalf of the relevant authority for the sending, receiving, processing or storing of an application.

## CHAPTER 2

### Notification of change of circumstances

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

**31.**—(1) Subject to paragraphs (3) and (4) and regulation 32 (alternative means of notifying changes of circumstances), if at any time between the making of an application and it being determined or during a period of entitlement to council tax reduction, there is a change of circumstances which an applicant might reasonably be expected to know might affect entitlement to council tax reduction that applicant must notify that change of circumstances by giving notice to the relevant authority—

(a) in writing, or

(b) by telephone—

(i) where the relevant authority has published a telephone number for that purpose or for the purposes of regulation 25 (telephone applications), unless the authority determines that in any particular case, or class of case, notification of a change of circumstances may not be given by telephone, or

(ii) in any case, or class of case, where the relevant authority determines that notice of a change of circumstances may be given by telephone, or

(c) by any other means the relevant authority agrees to in any particular case.

(2) Subject to paragraph (3), the duty imposed by paragraph (1) does not extend to notifying changes—

(a) in the amount of council tax payable to the relevant authority,

(b) in the age of the applicant or of any member of the applicant’s family,

(c) to these Regulations,

(d) in the case of an applicant who has an award of a qualifying income-related benefit, in circumstances which affect the amount of the award but not the amount of council tax reduction to which the applicant is or would be entitled, or

(e) in the case of an applicant who has an award of universal credit, in circumstances where the relevant authority will be made aware of the change of circumstances by the Secretary of State.

(3) Notwithstanding paragraph (2)(b), (d) or (e) an applicant is required by paragraph (1) to notify the relevant authority of—

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(3) 2000 c.7. Section 15(1) was amended by paragraph 158 of schedule 17 of the Communications Act 2003 (c.21).

- (a) any change in the composition of the applicant's family arising from the fact that a person who was a member of the family is now no longer a member of the family because that person ceased to be a child or young person, or
  - (b) the cessation of entitlement to universal credit or a qualifying income-related benefit.
- (4) Where the amount of council tax reduction is the second adult rebate applicable to the applicant calculated in accordance with regulation 91 (second adult rebate), the applicant is under a duty to give written notice to the relevant authority of—
- (a) changes which occur—
    - (i) in the number of adults in the dwelling, or
    - (ii) in those adults' total gross incomes,
 which might reasonably be expected to change the applicant's entitlement to council tax reduction,
  - (b) where any of the adults in the dwelling ceases to be in receipt of—
    - (i) state pension credit,
    - (ii) universal credit, or
    - (iii) a qualifying income-related benefit,
 the date when this occurs.

#### **Alternative means of notifying changes of circumstances**

**32.** Where a change of circumstances described in regulation 31(1) (duty to notify changes of circumstances) is a birth or death the relevant authority may determine for a particular class of case that the duty in that regulation to notify a change of circumstances may be discharged by personal attendance at an office specified by that authority.

### CHAPTER 3

#### Effective Date

#### **Date on which entitlement is to begin**

- 33.**—(1) Subject to paragraph (2), where a person—
- (a) makes, or is treated as making, an application, and
  - (b) fulfils the conditions of entitlement to council tax reduction in regulation 13 or 14,
- that person is entitled to council tax reduction from the first Monday after the date on which the application is made or treated as made.
- (2) Where, a person—
- (a) becomes liable for the first time for council tax in respect of a dwelling in which the person resides,
  - (b) makes, or is treated as making, an application in the reduction week in which the person first becomes liable for council tax in respect of that dwelling, and
  - (c) fulfils the conditions of entitlement to council tax reduction in regulation 13 or 14,
- that person is entitled to council tax reduction from the day on which the person first becomes liable for council tax.



### **Date on which a change of circumstances is to take effect**

**34.**—(1) Subject to the provisions of this regulation, for the purpose of calculating entitlement to council tax reduction a change of circumstances which affects entitlement to council tax reduction is to take effect from the first day of the reduction week starting immediately after the date on which the change actually occurs, and where that change is cessation of entitlement to any benefit under the benefit Acts, the date on which the change actually occurs is the day immediately following the last day of entitlement to that benefit.

(2) Where the change of circumstances is a change in the amount—

(a) of any benefit a person receives under the benefit Acts and the rate of that benefit is altered with effect from a date on or after 1 April in a year, but not later than 15 April in a year, the relevant authority may treat the person as possessing that benefit at the altered rate from 1 April or from the first Monday in April in that year,

(b) of universal credit a person receives, it takes effect—

(i) where the change is a cessation of entitlement to universal credit, from the first day immediately following the day in which entitlement ceased, and

(ii) in any other case, from the first Monday of the assessment period in which the change actually occurred.

(3) Subject to paragraph (4), where the change of circumstances is a change in the amount of council tax payable, it takes effect from the day on which it actually occurs.

(4) Where the change of circumstances is a change in the amount a person is liable to pay in respect of council tax in consequence of Regulations under section 80 of the Act (reduced amounts of council tax)(4) or changes in the discount to which a dwelling may be subject under section 79 of that Act(5), it takes effect from the day on which the change in amount has effect.

(5) Where the change of circumstances is an amendment to these Regulations, it takes effect from the date on which the amendment to these Regulations comes into force.

(6) Where the change of circumstances is the applicant's acquisition of a partner, it takes effect on the day on which the acquisition takes place.

(7) Where the change of circumstances is the applicant's separation from a partner, it takes effect on the day on which the separation takes place.

(8) Where the change of circumstances is the death of an applicant's partner and at the date of that death neither the applicant nor the applicant's partner had any award of universal credit, or either had an award of universal credit but it was not to the partners jointly, the change of circumstances takes effect on the date of that death.

(9) Where the change of circumstances is the death of an applicant's partner and at the date of that death the partners jointly had an award of universal credit, it takes effect on the last day on which the applicant's partner is treated as if they had not died for the purpose of entitlement to universal credit in accordance with regulation 37(a) of the 2013 Regulations (run-on after a death),

(10) If two or more changes of circumstances occurring in the same reduction week would, but for this paragraph, take effect in different reduction weeks in accordance with paragraphs (1) to (9) they take effect from the day to which the appropriate paragraph from (2) to (9) refers, or, where more than one day is concerned, from the earlier day.

(11) Where the change of circumstances is that income, or an increase in the amount of income, other than a benefit or an increase in the amount of a benefit under the 1992 Act, Part 4 of the 2012

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(4) Section 80 was amended by paragraph 176 of schedule 13 of the Local Government etc. (Scotland) Act 1994 (c.39) and S.I. 2013/388.

(5) Section 79 was amended by S.I. 2005/51.

Act or article 24A of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011<sup>(6)</sup>, is paid in respect of a past period and there was no entitlement to income of that amount during that period, it takes effect from the first day on which the income, had it been paid in that period at intervals appropriate to that income, would have been taken into account for the purposes of these Regulations.

(12) Without prejudice to paragraph (8), where the change of circumstances is the payment of income or arrears of income in respect of a past period, it takes effect from the first day on which the income, had it been timeously paid in that period at intervals appropriate to that income, would have been taken into account for the purposes of these Regulations.

(13) Where the change of circumstances is that—

- (a) a conversion decision within the meaning of regulation 5(2)(a) of the Employment and Support Allowance (Existing Awards) Regulations has been made in relation to the applicant or the applicant's partner, or
- (b) the applicant or the applicant's partner is appealing a conversion decision within the meaning of regulation 5(2)(b) of the Employment and Support Allowance (Existing Awards) Regulations and is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations<sup>(7)</sup> as modified by the Employment and Support Allowance (Existing Awards) Regulations,

it takes effect, where the conversion decision takes effect on or after 1 April in any year but before 16 April of that year, from 1 April and in any other case from the day the conversion decision takes effect.

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<sup>(6)</sup> S.I. 2011/517. Article 24A was added by S.I. 2013/436 and amended by S.I. 2017/247 and S.I. 2019/440.

<sup>(7)</sup> Regulation 30 was amended by S.I. 2013/2536 and S.I. 2015/437.