
STATUTORY INSTRUMENTS

2012 No. 2885

The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

PART 2

Prescribed classes of persons

Pensioners

11.—(1) Subject to paragraph (2), the classes of pensioners described in paragraph 1 of Schedule 1 are classes of person prescribed for the purposes of paragraph 2(9)(b) of Schedule 1A to the 1992 Act⁽¹⁾ and which must be included in an authority's scheme.

(2) Pensioners whose capital exceeds £16,000 are a class of person prescribed for the purposes of that paragraph and which must not be included in an authority's scheme.

(3) Capital for the purposes of paragraph (2) is to be calculated in accordance with Part 6 of Schedule 1.

Persons treated as not being in Great Britain

12.—(1) Persons treated as not being in Great Britain are a class of person prescribed for the purposes of paragraph 2(9)(b) of Schedule 1A to the 1992 Act and which must not be included in an authority's scheme.

(2) Except where a person falls within paragraph (5) or (6), a person is to be treated as not being in Great Britain if the person is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.

(3) A person must not be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland unless the person has a right to reside in one of those places.

(4) For the purposes of paragraph (3), a right to reside does not include a right which exists by virtue of, or in accordance with—

(a) regulation 13 of the EEA Regulations⁽²⁾ or Article 6 of Council Directive [2004/38/EC](#)⁽³⁾; or

(b) regulation 15A(1) of the EEA Regulations⁽⁴⁾, but only in a case where the right exists under that regulation because the applicant satisfies the criteria in paragraph (4A) of that regulation or Article 20 of the Treaty on the Functioning of the European Union (in a case

(1) Schedule 1A was inserted by section 9 of, and Schedule 4 to, the [Local Government Finance Act 2012](#) (c.).

(2) [S.I. 2006/1003](#); regulation 13 was amended by regulation 3 of, and paragraph 6 of Schedule 1 to, [S.I. 2012/1547](#).

(3) OJ No L 158, 30.4.04, p 77.

(4) Regulation 15A was inserted by regulation 3 of, and paragraph 9 of Schedule 1 to, [S.I. 2012/1547](#); paragraph (4A) was inserted by regulation 2 of, and paragraph 3 of the Schedule to, [S.I. 2012/2560](#).

where the right to reside arises because a British citizen would otherwise be deprived of the genuine enjoyment of their rights as a European Union citizen)(5).

- (5) A person falls within this paragraph if the person is—
- (a) a qualified person for the purposes of regulation 6 of the EEA Regulations(6) as a worker or a self-employed person;
 - (b) a family member of a person referred to in sub-paragraph (a) within the meaning of regulation 7(1)(a), (b) or (c) of the EEA Regulations;
 - (c) a person who has a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of the EEA Regulations;
 - (d) a person recorded by the Secretary of State as a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967;
 - (e) a person granted limited leave to enter or remain in the United Kingdom outside the provisions of the rules made under section 3(2) of the Immigration Act 1971(7) on the rejection of their claim for asylum;
 - (f) a person who has humanitarian protection granted under those rules; or
 - (g) a person who is not a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999(8) and who is in the United Kingdom as a result of his deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom.

(6) A person falls within this paragraph if the person is a Crown servant or member of Her Majesty’s forces posted overseas.

(7) A person mentioned in sub-paragraph (6) is posted overseas if the person is performing overseas the duties of a Crown servant or member of Her Majesty’s forces and was, immediately before the posting or the first of consecutive postings, habitually resident in the United Kingdom.

(8) In this regulation—

“claim for asylum” has the same meaning as in section 94(1) of the Immigration and Asylum Act 1999(9);

“Crown servant” means a person holding an office or employment under the Crown;

“EEA Regulations” means the Immigration (European Economic Area) Regulations 2006; and

“Her Majesty’s forces” has the same meaning as in the Armed Forces Act 2006(10).

Persons subject to immigration control

13.—(1) Persons subject to immigration control are a class of person prescribed for the purposes of paragraph 2(9)(b) of Schedule 1A to the 1992 Act and which must not be included in an authority’s scheme.

(2) “Person subject to immigration control” has the same meaning as in section 115(9) of the Immigration and Asylum Act 1999.

(5) A consolidated version of this Treaty was published in the Official Journal on 30.3.2010 C 83.

(6) Regulation 6(2) was amended by regulation 5 of, and paragraph 3 of Schedule 2 to, S.I. 2011/544.

(7) 1971 c. 77.

(8) 1999 c. 33.

(9) Relevant amendments to section 94(1) have been made by section 44 of the Nationality, Immigration and Asylum Act 2002 (c. 41) but those provisions are not in force. Other amendments have been made but they are not relevant to these Regulations.

(10) 2006 c. 52.

