

## SCHEDULE 1

Pensioners: matters that must be included in an authority's scheme

### PART 1

#### **Classes of persons entitled to a reduction under an authority's scheme**

1.—(1) The classes of pensioners described in paragraphs 2 to 4 are entitled to a reduction under an authority's scheme.

(2) In those paragraphs, references to an applicant's income or capital include, in a case where that income or capital cannot accurately be determined, references to the applicant's estimated income or capital.

#### **Class A: pensioners whose income is less than the applicable amount**

2. On any day class A consists of any person who is a pensioner—
- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident<sup>(1)</sup>;
  - (b) who, subject to paragraph 5 (periods of absence from a dwelling), is not absent from the dwelling throughout the day;
  - (c) in respect of whom a maximum council tax reduction amount can be calculated;
  - (d) who does not fall within a class of persons prescribed for the purposes of paragraph 2(9) of Schedule 1A to the 1992 Act as a class of person which must not be included in an authority's scheme;
  - (e) whose income (if any) for the relevant week does not exceed his applicable amount; and
  - (f) who has made an application.

#### **Class B: pensioners whose income is greater than the applicable amount**

3. On any day class B consists of any person who is a pensioner—
- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
  - (b) who, subject to paragraph 5, is not absent from the dwelling throughout the day;
  - (c) in respect of whom a maximum council tax reduction amount can be calculated;
  - (d) who does not fall within a class of person prescribed for the purposes of paragraph 2(9) of Schedule 1A to the 1992 Act as a class of person which must not be included in an authority's scheme;
  - (e) whose income for the relevant week is greater than his applicable amount;
  - (f) in respect of whom amount A exceeds amount B where—
    - (i) amount A is the maximum council tax reduction in respect of the day in the applicant's case; and
    - (ii) amount B is  $2\frac{6}{7}$  per cent of the difference between his income for the relevant week and his applicable amount; and
  - (g) who has made an application.

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(1) "Resident" in relation to a dwelling is defined in section 6(5) of the 1992 Act.

*Status: This is the original version (as it was originally made).*

### **Class C: alternative maximum council tax reduction**

- 4.—(1) On any day class C consists of any person who is a pensioner—
- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
  - (b) who, subject to paragraph 5, is not absent from the dwelling throughout the day;
  - (c) in respect of whom a maximum council tax reduction amount can be calculated;
  - (d) who does not fall within a class of person prescribed for the purposes of paragraph 2(9) of Schedule 1A to the 1992 Act as a class of person which must not be included in an authority's scheme;
  - (e) who has made an application; and
  - (f) in relation to whom the condition in sub-paragraph (2) is met.

(2) The condition referred to in sub-paragraph (1)(f) is that no other resident of the dwelling is liable to pay rent to the applicant in respect of the dwelling and there is an alternative maximum council tax reduction in respect of the day in the case of that person which is derived from the income, or aggregate incomes, of one or more residents to whom this sub-paragraph applies.

- (3) Sub-paragraph (2) applies to any other resident of the dwelling who—
- (a) is not a person who, in accordance with Schedule 1 to the 1992 Act, falls to be disregarded for the purposes of discount;
  - (b) is not a person who is liable for council tax solely in consequence of the provisions of section 9 of the 1992 Act<sup>(2)</sup> (spouse's or civil partner's joint and several liability for tax);
  - (c) is not 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 1992 Act, 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 1992 Act, fall to be disregarded for the purposes of discount;
  - (d) is not a person who jointly with the applicant falls within the same paragraph of section 6(2)(a) to (e) of the 1992 Act (persons liable to pay council tax) as applies in the case of the applicant; or
  - (e) is not a person who is residing with two or more persons both or all of whom fall within the same paragraph of section 6(2)(a) to (e) of the 1992 Act where two or more of those persons are not persons who, in accordance with Schedule 1 to the 1992 Act, fall to be disregarded for the purposes of discount.

### **Periods of absence from a dwelling**

5.—(1) A person is not absent from a dwelling in relation to any day which falls within a period of temporary absence from that dwelling.

- (2) In sub-paragraph (1), a “period of temporary absence” means—
- (a) a period of absence not exceeding 13 weeks, beginning with the first whole day on which a person resides in residential accommodation where and for so long as—
    - (i) the person resides in that accommodation;

(2) 1992 c. 14; section 9 was amended by section 74 of the Local Government Act 2003 (c. 26) and paragraph 140 of Schedule 27 to the Civil Partnership Act 2004 (c. 33).

- (ii) the part of the dwelling in which he usually resided is not let or sub-let; and
  - (iii) that period of absence does not form part of a longer period of absence from the dwelling of more than 52 weeks,where he has entered the accommodation for the purpose of ascertaining whether it suits his needs and with the intention of returning to the dwelling if it proves not to suit his needs;
- (b) a period of absence not exceeding 13 weeks, beginning with the first whole day of absence from the dwelling, where and for so long as—
  - (i) the person intends to return to the dwelling;
  - (ii) the part of the dwelling in which he usually resided is not let or sub-let; and
  - (iii) that period is unlikely to exceed 13 weeks; and
- (c) a period of absence not exceeding 52 weeks, beginning with the first whole day of that absence, where and for so long as—
  - (i) the person intends to return to the dwelling;
  - (ii) the part of the dwelling in which he usually resided is not let or sub-let;
  - (iii) the person is a person to whom sub-paragraph (3) applies; and
  - (iv) the period of absence is unlikely to exceed 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period.
- (3) This sub-paragraph applies to a person who—
  - (a) is detained in custody on remand pending trial or required, as a condition of bail, to reside—
    - (i) in a dwelling, other than the dwelling referred to in sub-paragraph (1), or
    - (ii) in premises approved under section 13 of the Offender Management Act 2007(3),or is detained in custody pending sentence upon conviction;
  - (b) is resident in a hospital or similar institution as a patient;
  - (c) is undergoing, or whose partner or dependent child is undergoing, in the United Kingdom or elsewhere, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation;
  - (d) is following, in the United Kingdom or elsewhere, a training course;
  - (e) is undertaking medically approved care of a person residing in the United Kingdom or elsewhere;
  - (f) is undertaking the care of a child whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care or medical treatment;
  - (g) is, in the United Kingdom or elsewhere, receiving medically approved care provided in accommodation other than residential accommodation;
  - (h) is a student;
  - (i) is receiving care provided in residential accommodation and is not a person to whom sub-paragraph (2)(a) applies; or
  - (j) has left the dwelling he resides in through fear of violence, in that dwelling, or by a person who was formerly a member of the family of the person first mentioned.
- (4) This sub-paragraph applies to a person who is—

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(3) 2007 c. 21.

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- (a) detained in custody pending sentence upon conviction or under a sentence imposed by a court (other than a person who is detained in hospital under the provisions of the Mental Health Act 1983<sup>(4)</sup>, or, in Scotland, under the provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003<sup>(5)</sup> or the Criminal Procedure (Scotland) Act 1995<sup>(6)</sup> or in Northern Ireland under Article 4 or 12 of the Mental Health (Northern Ireland) Order 1986<sup>(7)</sup>); and
  - (b) on temporary release from detention in accordance with Rules made under the provisions of the Prison Act 1952<sup>(8)</sup> or the Prisons (Scotland) Act 1989<sup>(9)</sup>.
- (5) Where sub-paragraph (4) applies to a person, then, for any day when he is on temporary release—
- (a) if such temporary release was immediately preceded by a period of temporary absence under sub-paragraph (2)(b) or (c), he must be treated, for the purposes of sub-paragraph (1), as if he continues to be absent from the dwelling, despite any return to the dwelling;
  - (b) for the purposes of sub-paragraph (3)(a), he must be treated as if he remains in detention;
  - (c) if he does not fall within paragraph (a), he is not to be considered to be a person who is liable to pay council tax in respect of a dwelling of which he is a resident.
- (6) In this paragraph—
- “medically approved” means certified by a medical practitioner;
- “patient” means a person who is undergoing medical or other treatment as an in-patient in any hospital or similar institution;
- “residential accommodation” means accommodation which is provided in—
- (a) a care home;
  - (b) an independent hospital;
  - (c) an Abbeyfield Home; or
  - (d) an establishment managed or provided by a body incorporated by Royal Charter or constituted by Act of Parliament other than a local social services authority;
- “training course” means a course of training or instruction provided wholly or partly by or on behalf of or in pursuance of arrangements made with, or approved by or on behalf of, Skills Development Scotland, Scottish Enterprise, Highlands and Islands Enterprise, a government department or the Secretary of State.

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(4) 1983 c. 20.  
(5) 2003 asp 13.  
(6) 1995 c. 46  
(7) S.I. 1986/595 (N.I. 4).  
(8) 1952 c. 52.  
(9) 1989 c. 45.