

2016 No. 1262

COUNCIL TAX, ENGLAND

**The Council Tax Reduction Schemes (Prescribed Requirements)
(England) (Amendment) Regulations 2016**

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| <i>Made</i> | - - - - | <i>21st December 2016</i> |
| <i>Laid before Parliament</i> | | <i>22nd December 2016</i> |
| <i>Coming into force</i> | - - | <i>15th January 2017</i> |

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 113(1) and (2) of, and paragraph 2 of Schedule 1A to, the Local Government Finance Act 1992(a):

Citation, commencement and application

1.—(1) These Regulations may be cited as the Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2016 and come into force on 15th January 2017.

(2) These Regulations apply in relation to council tax reduction schemes(b) made by billing authorities(c) for financial years beginning on or after 1st April 2017.

Amendment of the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

2.—(1) The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012(d) are amended as follows.

(2) In regulation 2(1) (interpretation) after the definition of “savings credit” insert—

““Scottish basic rate” means the rate of income tax of that name calculated in accordance with section 6A of the Income Tax Act 2007(e);

“Scottish taxpayer” has the same meaning as in Chapter 2 of Part 4A of the Scotland Act 1998(f);”.

(3) In Schedule 1 (pensioners: matters that must be included in an authority’s scheme)—

(a) in paragraph 5 (periods of absence from a dwelling)—

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- (a) 1992 c.14. Section 113(1) and (2) were amended by paragraphs 2 and 9(a) of Schedule 1 to the Local Government Act 1999 (c.27); paragraphs 40 and 52 of Schedule 7 to the Local Government Act 2003 (c.26); section 80 of the Localism Act 2011 (c.20), and S.I. 2013/2597. Schedule 1A was inserted by Schedule 4 to the Local Government Finance Act 2012 (c.17).
- (b) See section 13A(9) of the Local Government Finance Act 1992 for the definition of “council tax reduction scheme”. Section 13A was amended by section 10 of the Local Government Finance Act 2012.
- (c) See section 1(2) of the Local Government Finance Act 1992 for the definition of “billing authority”.
- (d) S.I. 2012/2885; relevant amending instruments are S.I. 2012/3085, 2013/3181, 2014/107, 2014/448, 2014/3312, 2015/2041.
- (e) 2007 c. 3. Section 6A was inserted by the Finance Act 2014 (c. 26), section 296 and Schedule 38. It has been repealed by the Scotland Act 2016 (c. 11), section 14 from a date to be appointed.
- (f) 1998 c. 46. Part 4A was inserted by the Scotland Act 2012 (c. 11) section 25.

- (i) in sub-paragraph (2)(a) after “residential accommodation” insert “in Great Britain”;
- (ii) in sub-paragraph (2)(b) for “a period of absence” substitute “subject to sub-paragraph (2B), a period of absence within Great Britain”;
- (iii) at the end of sub-paragraph (2)(b) omit “and”;
- (iv) in sub-paragraph (2)(c) for “a period of absence” substitute “subject to sub-paragraph (2D), a period of absence within Great Britain”;
- (v) at the end of sub-paragraph (2)(c) for the full stop substitute “; and”;
- (vi) after sub-paragraph (2)(c) insert—

“(d) subject to sub-paragraphs (2F), (3C), (3E) and (3G) and where sub-paragraph (2E) applies, a period of absence outside Great Britain not exceeding 4 weeks, beginning with the first day of that absence from Great Britain 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 resides is not let or sub-let; and
- (iii) the period of absence from Great Britain is unlikely to exceed 4 weeks.”;

- (vii) after sub-paragraph (2) insert—

“(2A) The period of 13 weeks referred to in sub-paragraph (2)(b) shall run or continue to run during any period of absence from Great Britain.

(2B) Where—

- (a) a person returns to Great Britain after a period of absence from Great Britain (period A);
- (b) that person has been absent from the dwelling, including any absence within Great Britain, for less than 13 weeks beginning with the first day of absence from that dwelling; and
- (c) at the outset of, or during, period A, period A ceased to be treated as a period of temporary absence,

then any day that follows period A and precedes the person’s return to the dwelling, shall not be treated as a period of temporary absence under sub-paragraph (2)(b).

(2C) The period of 52 weeks referred to in sub-paragraph (2)(c) shall run or continue to run during any period of absence from Great Britain.

(2D) Where —

- (a) a person returns to Great Britain after a period of absence from Great Britain (period A);
- (b) that person has been absent from the dwelling, including any absence within Great Britain, for less than 52 weeks beginning with the first day of absence from that dwelling; and
- (c) at the outset of, or during, period A, period A ceased to be treated as a period of temporary absence,

then, any day that follows period A and precedes the person’s return to the dwelling, shall not be treated as a period of temporary absence under sub-paragraph (2)(c).

(2E) This sub-paragraph applies where—

- (a) a person is temporarily absent from Great Britain;
- (b) immediately before that period of absence from Great Britain, the person was not absent from the dwelling.

(2F) If the temporary absence referred to in sub-paragraph (2)(d) is in connection with the death of—

- (a) the person’s partner or a child or young person for whom the person or the person’s partner is responsible;

- (b) the person's close relative;
- (c) the close relative of the person's partner; or
- (d) the close relative of a child or young person for whom the person or the person's partner is responsible,

then the period of 4 weeks in the opening words of sub-paragraph (2)(d) may be extended by up to 4 further weeks if the relevant authority considers it unreasonable to expect the person to return to Great Britain within the first 4 weeks (and the reference in sub-paragraph (iii) of that paragraph to a period of 4 weeks shall, where the period is extended, be taken as referring to the period as so extended).";

(viii) in sub-paragraph (3)—

(aa) for paragraph (a) substitute—

“(a) is a person to whom sub-paragraph (3A) applies;”

(bb) in paragraph (c) omit “, in the United Kingdom or elsewhere;”;

(cc) in paragraph (d) omit “, in the United Kingdom or elsewhere;”;

(dd) in paragraph (e) omit “residing in the United Kingdom or elsewhere”;

(ee) in paragraph (g) omit “, in the United Kingdom or elsewhere;”;

(ix) after sub-paragraph (3) insert—

“(3A) This sub-paragraph applies to a person (“P”) who is—

(a) detained in custody on remand pending trial;

(b) detained pending sentence upon conviction; or

(c) as a condition of bail required to reside—

(i) in a dwelling, other than a dwelling P occupies as P's home; or

(ii) in premises approved under section 13 of the Offender Management Act 2007(a),

and who is not also detained in custody following sentence upon conviction.

(3B) This sub-paragraph applies where—

(a) a person is temporarily absent from Great Britain;

(b) the person is a member of Her Majesty's forces posted overseas, a mariner or a continental shelf worker;

(c) immediately before that period of absence from Great Britain, the person was not absent from the dwelling.

(3C) Where sub-paragraph (3B) applies, a period of absence from Great Britain not exceeding 26 weeks, beginning with the first day of absence from Great Britain, shall be treated as a period of temporary absence where and for so long as—

(a) the person intends to return to the dwelling;

(b) the part of the dwelling in which he usually resided is not let or sub-let;

(c) the period of absence from Great Britain is unlikely to exceed 26 weeks.

(3D) This sub-paragraph applies where—

(a) a person is temporarily absent from Great Britain;

(b) the person is a person described in any of paragraphs (b), (c), (g) or (j) of sub-paragraph (3);

(c) immediately before that period of absence from Great Britain, the person was not absent from the dwelling.

(a) 2007 c. 21.

(3E) Where sub-paragraph (3D) applies, a period of absence from Great Britain not exceeding 26 weeks, beginning with the first day of absence from Great Britain, shall be treated as a period of temporary absence where and for so long as—

- (a) the person intends to return to the dwelling;
- (b) the part of the dwelling in which he usually resided is not let or sub-let;
- (c) the period of absence is unlikely to exceed 26 weeks, or in exceptional circumstances, is unlikely substantially to exceed that period.

(3F) This sub-paragraph applies where—

- (a) a person is temporarily absent from Great Britain;
- (b) the person is a person described in any of paragraphs (a), (d), (e), (f), (h) or (i) of sub-paragraph (3);
- (c) immediately before that period of absence from Great Britain, the person was not absent from the dwelling.

(3G) Where sub-paragraph (3F) applies, a period of absence from Great Britain not exceeding 4 weeks, beginning with the first day of absence from Great Britain, shall be treated as a period of temporary absence where and for so long as—

- (a) the person intends to return to the dwelling;
- (b) the part of the dwelling in which he usually resided is not let or sub-let;
- (c) the period of absence is unlikely to exceed 4 weeks, or in exceptional circumstances, is unlikely substantially to exceed that period.”;

(x) in sub-paragraph (6)—

(aa) before the definition of “medically approved” insert—

““continental shelf worker” means a person who is employed, whether under a contract of service or not, in a designated area or a prescribed area in connection with any of the activities mentioned in section 11(2) of the Petroleum Act 1998(a);

“designated area” means any area which may from time to time be designated by Order in Council under the Continental Shelf Act 1964(b) as an area within which the rights of the United Kingdom with respect to the seabed and subsoil and their natural resources may be exercised;

“mariner” means a person who is employed under a contract of service either as a master or member of the crew of any ship or vessel, or in any other capacity on board any ship or vessel, where—

- (a) the employment in that capacity is for the purposes of that ship or vessel or its crew or any passengers or cargo or mails carried by the ship or vessel; and
- (b) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on its voyage;”;

(bb) after the definition of “medically approved” insert—

““member of Her Majesty’s forces posted overseas” means a person who is a member of the regular forces or the reserve forces (within the meaning of section 374 of the Armed Forces Act 2006(c)), who is absent from the main dwelling because the person has been posted outside of Great Britain to perform the duties of a member of Her Majesty’s regular forces or reserve forces;”;

(cc) after the definition of “patient” insert—

““prescribed area” means any area over which Norway or any member State (other than the United Kingdom) exercises sovereign rights for the purpose of exploring the seabed

(a) 1998 c. 17.
(b) 1964 c. 29.
(c) 2006 c. 52.

and subsoil and exploiting their natural resources, being an area outside the territorial seas of Norway or such member State, or any other area which is from time to time specified under section 10(8) of the Petroleum Act 1998;”;

- (b) in paragraph 8 (non-dependant deductions)—
 - (i) in sub-paragraph (1)(a) for “£11.45” substitute “£11.55”;
 - (ii) in sub-paragraph (1)(b) for “£3.77” substitute “£3.80”;
 - (iii) in sub-paragraph (2)(a) for “£195.00” substitute “£196.95”;
 - (iv) in sub-paragraph (2)(b) for “£195.00”, “£338.00” and “£7.58” substitute “£196.95”, “£341.40” and “£7.65” respectively;
 - (v) in sub-paragraph (2)(c) for “£338.00”, “£420.00” and “£9.56” substitute “£341.40”, “£424.20” and “£9.65” respectively;
 - (c) in paragraph 19(5)(a) (calculation of net earnings of employed earners)—
 - (i) after “basic rate” in the first place it appears insert “, or in the case of a Scottish taxpayer, the Scottish basic rate,”;
 - (ii) for “personal relief to which the applicant is entitled under section 35, 36 or 37 of the Income Tax Act 2007 as is” substitute “personal reliefs to which the applicant is entitled under Chapters 2, 3 and 3A of Part 3 of the Income Tax Act 2007 as are”;
 - (iii) after “basic rate” in the second place it appears insert “, or the Scottish basic rate,”;
 - (iv) for “relief” in the second place it appears substitute “reliefs”;
 - (d) in paragraph 28 (disregard of changes in tax, contributions etc.)—
 - (i) after sub-paragraph (a) insert—
 - “(aa) in the Scottish basic or other rates of income tax;”;
 - (ii) in sub-paragraph (b) for “relief” substitute “reliefs under Chapters 2, 3, and 3A of Part 3 of the Income Tax Act 2007”;
 - (e) in paragraph 30 (calculation of deduction of tax and contributions of self-employed earners)—
 - (i) in sub-paragraph (1)(b)—
 - (aa) after “basic rate” insert “, or in the case of a Scottish taxpayer, the Scottish basic rate,”;
 - (bb) for “personal relief to which the applicant is entitled under section 35, 36 or 37 of the Income Tax Act 2007 (personal allowances) as is” substitute “personal reliefs to which the applicant is entitled under Chapters 2, 3 and 3A of Part 3 of the Income Tax Act 2007 as are”;
 - (ii) in sub-paragraph (2) after “basic rate” insert “, or the Scottish basic rate”.
- (4) In Schedule 2 (applicable amounts)—
- (a) in column (2) of the Table in paragraph 1 (personal allowance)—
 - (i) in sub-paragraph (1)(a) for “£155.60” substitute “£159.35”;
 - (ii) in sub-paragraph (1)(b) for “£168.70” substitute “£172.55”;
 - (iii) in sub-paragraph (2)(a) for “£237.55” substitute “£243.25”;
 - (iv) in sub-paragraph (2)(b) for “£252.30” substitute “£258.15”;
 - (v) in sub-paragraph (3)(a) for “£237.55” substitute “£243.25”;
 - (vi) in sub-paragraph (3)(b) for “£81.95” substitute “£83.90”;
 - (vii) in sub-paragraph (4)(a) for “£252.30” substitute “£258.15”;
 - (viii) in sub-paragraph (4)(b) for “£83.60” substitute “£85.60”;
 - (b) in the second column of the Table in Part 4 (amounts of premium specified in Part 3)—
 - (i) in paragraph (1)(a) and (b)(i) for “£61.85” substitute “£62.45”;

- (ii) in paragraph (1)(b)(ii) for “£123.70” substitute “£124.90”;
- (iii) in paragraph (2) for “£24.43” substitute “£24.78”;
- (iv) in paragraph (3) for “£60.06” substitute “£60.90”;
- (v) in paragraph (4) for “£34.60” substitute “£34.95”.

(5) In column (1) of the Table in paragraph 1 of Schedule 3 (amount of alternative maximum council tax reduction)—

- (a) in paragraph (b)(i) for “£193.00” substitute “£194.95”;
- (b) in paragraph (b)(ii) for “£193.00” and “£250.00” substitute “£194.95” and “£252.50” respectively.

Transitional provision

3.—(1) Subject to paragraph (2), the amendments made by regulation 2(3)(a), shall not apply in respect of a person who is temporarily absent from Great Britain on 1st April 2017 until the day that person returns to Great Britain.

(2) Paragraph (1) does not apply to a person who, on 1st April 2017, is temporarily absent from Great Britain and is—

- (a) a member of Her Majesty’s forces posted overseas;
- (b) absent in the capacity of a continental shelf worker; or
- (c) absent in the capacity of a mariner.

(3) In this regulation—

“continental shelf worker” means a person who is employed, whether under a contract of service or not, in a designated area or a prescribed area in connection with any of the activities mentioned in section 11(2) of the Petroleum Act 1998;

“designated area” means any area which may from time to time be designated by Order in Council under the Continental Shelf Act 1964 as an area within which the rights of the United Kingdom with respect to the seabed and subsoil and their natural resources may be exercised;

“mariner” means a person who is employed under a contract of service either as a master or member of the crew of any ship or vessel, or in any other capacity on board any ship or vessel, where—

- (a) the employment in that capacity is for the purposes of that ship or vessel or its crew or any passengers or cargo or mails carried by the ship or vessel; and
- (b) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on its voyage;

“member of Her Majesty’s forces posted overseas” means a person who 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 from the dwelling that the person normally occupies as his home because the person has been posted outside of Great Britain to perform the duties of a member of Her Majesty’s regular forces or reserve forces; and

“prescribed area” means any area over which Norway or any member State (other than the United Kingdom) exercises sovereign rights for the purpose of exploring the seabed and subsoil and exploiting their natural resources, being an area outside the territorial seas of Norway or such member State, or any other area which is from time to time specified under section 10(8) of the Petroleum Act 1998.

Signed by authority of the Secretary of State for Communities and Local Government

21st December 2016

Bourne of Aberystwyth
Parliamentary Under Secretary of State
Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 13A of the Local Government Finance Act 1992 (“the 1992 Act”) requires each billing authority in England to make a scheme specifying the reductions which are to apply to amounts of council tax payable by persons, or classes of person, whom the authority considers are in financial need (“a council tax reduction scheme”). The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 (“the 2012 Regulations”) prescribe matters which must be included in such a scheme in addition to matters set out in paragraph 2 of Schedule 1A to the 1992 Act. These Regulations amend the 2012 Regulations in consequence of changes to certain social security legislation.

The amendments made by virtue of regulation 2(2), (3)(c) and (d) mean that references to ‘Scottish taxpayer’ and ‘Scottish basic rate’ of income tax are to be taken into account when calculating the net earnings of employed earners and self-employed taxpayers, and certain disregards, for the purposes of determining eligibility for a discount. The provisions also update references to “personal allowance” and “personal reliefs”, in each of the provisions in question, so as to refer to the relevant provisions of the Income Tax Act 2007 (c. 3).

The amendments made by regulation 2(3)(a) reflect similar changes to the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/214) as amended by S.I. 2016/624. The amendments provide that allowable temporary absences from Great Britain are, in most cases, reduced from 13 weeks to 4 weeks. This is subject to certain exceptions.

The amendments made by regulation 2(3)(b), (4) and (5) uprate certain of the figures which are used in calculating whether a person is entitled to a council tax reduction and the amount of that reduction. The uprated figures relate to non-dependant deductions (adjustments made to the maximum amount of reduction a person can receive to take account of adults living in the dwelling who are not dependants of the applicant); the applicable amount in relation to an applicant for a reduction (the amount against which an applicant’s income is compared in order to determine the amount of reduction to which he or she is entitled) and the income bands in relation to which the amount of a person’s alternative maximum council tax reduction is calculated.

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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