
STATUTORY INSTRUMENTS

1992 No. 1814

The Council Tax Benefit (General) Regulations 1992

PART X

Awards or payments of benefit

Time and manner of granting council tax benefit

77.—(1) Subject to regulations 80, 81 and 82 (withholding of benefit, payments on death and offsetting), where a person is entitled to council tax benefit in respect of his liability for an appropriate authority's council tax as it has effect in respect of the relevant or any subsequent chargeable financial year, the appropriate authority shall discharge his entitlement—

- (a) by reducing, so far as possible, the amount of his liability to which regulation 20(2) of the Council Tax (Administration and Enforcement) Regulations 1992(1) (the English and Welsh Regulations) or regulation 20(2) of the Council Tax (Administration and Enforcement) (Scotland) Regulations 1992(2) (the Scottish Regulations) refers; or
- (b) where—
 - (i) such a reduction is not possible, or
 - (ii) such a reduction would be insufficient to discharge the entitlement to council tax benefit, or
 - (iii) the person entitled to council tax benefit is jointly and severally liable for the tax and the appropriate authority determines that such a reduction would be inappropriate, by making payments to him of the benefit to which he is entitled, rounded where necessary to the nearest penny.

(2) The appropriate authority, shall notify the person entitled to council tax benefit of the amount of that benefit and how his entitlement is to be discharged in pursuance of paragraph (1).

(3) In a case to which paragraph (1)(b) refers—

- (a) if the amount of the council tax for which he remains liable in respect of the relevant chargeable financial year, after any reduction to which paragraph (1)(a) refers has been made, is insufficient to enable his entitlement to council tax benefit in respect thereof to be discharged in that year, upon the final instalment of that tax becoming due any outstanding benefit—
 - (i) shall be paid to that person if he so requires; or
 - (ii) in any other case shall (as the appropriate authority determines) either be repaid or credited against any subsequent liability of the person to make a payment in respect of the authority's council tax as it has effect for any subsequent year;
- (b) if that person has ceased to be liable for the appropriate authority's council tax and has discharged the liability for that tax, the outstanding balance (if any) of the council

(1) S.I.1992/613.

(2) S.I. 1992/1332.

tax benefit in respect thereof shall be paid within 14 days or, if that is not reasonably practicable, as soon as practicable thereafter;

- (c) in any other case, the council tax benefit shall be paid within 14 days of the receipt of the claim at the designated office or, if that is not reasonably practicable, as soon as practicable thereafter.

(4) For the purposes of this regulation “instalment” means any instalment of an appropriate authority’s council tax to which regulation 19 of either the English and Welsh Regulations or as the case may be the Scottish Regulations refers (council tax payments).

Person to whom benefit is to be paid

78.—(1) Subject to regulation 81 (payment on death) and paragraph (2), any payment of council tax benefit under regulation 77(1)(b) shall be made to that person.

(2) Where a person other than a person who is entitled to council tax benefit made the claim and that first person is a person acting pursuant to an appointment under regulation 61(3) (persons appointed to act for a person unable to act) or is treated as having been so appointed by virtue of regulation 61(5), benefit may be paid to that person.

Shortfall in benefit

79.—(1) Except in cases to which paragraph (2) refers, where, on the review of a determination or a decision of a review board allowing council tax benefit to a person, it is determined that the amount allowed was less than the amount to which that person was entitled, the appropriate authority shall either—

- (a) make good any shortfall in benefit which is due to that person, by reducing so far as possible the next and any subsequent payments he is liable to make in respect of the council tax of the authority concerned as it has effect for the relevant chargeable financial year until that shortfall is made good; or
- (b) where this is not possible or the person concerned so requests, pay any shortfall in benefit due to that person within 14 days of the decision on review being made or if that is not reasonably practicable, as soon as possible afterwards.

(2) A shortfall in benefit need not be paid in any case to the extent that there is due from the person concerned to the appropriate authority any recoverable excess benefit to which regulation 84(1) refers.

Withholding of benefit

80.—(1) Where it appears to an appropriate authority that a question has arisen in relation to a person’s entitlement to council tax benefit or to the allowance or payment of such benefit it may withhold the allowance or payment of the benefit in whole or in part pending the determination of that question on review under regulation 69 (review of determinations).

(2) Where it appears to an authority that a question has arisen whether any amount allowed or paid to a person by way of, or in connection with, a claim for council tax benefit, constitutes excess benefits for the purposes of section 76 of the Administration Act 1992(3) or Part XI of these Regulations (excess benefit) it may withhold any allowance or payment of arrears of benefit to that person, in whole or in part, pending the determination of that question.

(3) Upon determination of a question to which paragraph (1) or (2) refers, any benefit withheld under those paragraphs shall be—

(3) Section 76 was amended to apply to council tax benefit by the Local Government Finance Act 1992 (c. 14) Schedule 9 paragraph 15.

- (a) allowed to the person concerned by reducing, so far as possible, the next and any subsequent payments he is liable to make in respect of the council tax of the authority concerned as it has effect for the relevant chargeable financial year, until the benefit withheld is made good; or
- (b) where this is not possible or the person concerned so requests, paid to that person within 14 days of the determination of that question or, if this is not reasonably practicable, as soon as possible afterwards, except to the extent that there was no entitlement to that benefit or recoverable excess benefit remain due from the person from whom the benefit was withheld.

Payment on death of the person entitled

81.—(1) Where the person entitled to any council tax benefit has died and it is not possible to award any council tax benefit which is due in the form of a reduction of the council tax for which he was liable, the appropriate authority shall make payment either to his personal representative or, where there is none, his next of kin if aged 16 or over.

(2) For the purposes of paragraph (1), “next of kin” means in England and Wales the persons who would take beneficially on an intestacy and in Scotland the person entitled to the moveable estate on intestacy.

(3) A payment under paragraph (1) may not be made unless the personal representative or the next of kin, as the case may be, makes written application for the payment of any sum of benefit to which the deceased was entitled, and such written application is sent to or delivered to the appropriate authority at its designated office within 12 months of the deceased’s death or such longer period as the authority may allow in any particular case.

(4) The authority may dispense with strict proof of title of any person claiming under paragraph (3) and the receipt of such a person shall be a good discharge to the authority for any sum so paid.

Offsetting

82.—(1) Where a person has been allowed or paid a sum of council tax benefit under a determination which is subsequently revised upon review or further review, any sum allowed or paid in respect of a period covered by the subsequent determination shall be offset against arrears of entitlement under the subsequent determination except to the extent that the sum exceeds the arrears and shall be treated as properly awarded or paid on account of them.

(2) No amount may be offset under paragraph (1) which has been determined to be excess benefit within the meaning of regulation 83 (meaning of excess benefit).