

Clergy office holders living in a provided house may pay less Council Tax for a property they own or rent that is not their main home.

Councils can give furnished second homes or holiday homes a discount of up to 50%. Each local authority will take a different approach to assessing applications and you will need to support your application with reference to legislation.

Relevant legislation

There is legislation in place that supports clergy who wish to claim the 50% Council Tax discount for a 'second home' where they occupy provided accommodation.

- The provision in the primary legislation is [section 75 of the Local Government Act 2003](#) which amended the Local Government Finance Act 1992.
- The legislation should be read in conjunction with the [provisions of the Council Tax \(Liability of Owners\) Regulations 1992](#) SI 1992/551

Regulations which implement the discount

The [Council Tax \(Prescribed Classes of Dwellings\)\(England\) Regulations 2003](#) as amended by the [Council Tax \(Prescribed Classes of Dwellings\)\(Amendment\)\(England\) Regulations 2004](#).

There are later regulations which might be relevant in particular cases, but do not affect the basic right to the 50% discount. These are

The Council Tax(Prescribed Classes of Dwellings)(Amendment)(England) Regulations 2005 - SI No 2005/416 These regulations extend the right to the 50% discount on 'second homes' in England to clergy serving in Wales and Scotland

The Council Tax(Civil Partners)(England) Regulations 2005 - SI No 2005/2866 These regulations extend the right to claim the discount to 'second homes' in England owned by civil partners in the same way as spouses.

The Council Tax(Prescribed Classes of Dwellings)(Amendment)(England) Regulations 2012 - SI No 2012/2964 These regulations restate the 'Interpretation' Regulation in SI 2003/3011 as amended by SIs 2004/926, 2005/416 and 2005/2866, as well as other changes and additions which are not relevant to the 50% discount for clergy 'second homes'.

Detailed information in support of an application

Information below may be useful in applications for the 50% discount or for appeals against decisions.

Section 11(2) of the [Local Government Finance Act 1992](#) provides that the amount of council tax payable on an unoccupied property shall be 50% (being twice “the appropriate percentage” of 25% specified in s.11(3)).

Section 11A of the Act makes special provision for England in relation to the empty homes discounts, providing for the discounts to be reduced in relation to certain classes of dwelling prescribed by the Secretary of State. These provisions are contained in [The Council Tax \(Prescribed Classes of Dwellings\) \(England\) Regulations 2003](#).

However, Para 6(2) of the 2003 regulations specifically state that the classes of dwelling for which the empty home discount can be varied exclude dwellings where the qualifying person has a job-related dwelling. Details regarding what constitutes job-related dwellings are contained in a Schedule to the Regulations.

The key passage is as follows:

“a dwelling is job-related for a person if it is provided for him by reason of his employment or for his spouse by reason of the spouse’s employment, in any of the following cases—

1. where it is necessary for the proper performance of the duties of the employment that the employee should reside in that dwelling;
2. where the dwelling is provided for the better performance of the duties of the employment, and it is one of the kinds of employment in the case of which it is customary for employers to provide dwellings to employees; ...

Consequently, it is our understanding that, if an incumbent owns his or her own house in a personal capacity (as opposed to the parsonage which he owns by virtue of his/her office) and that house is unoccupied (because he is living in his or her parsonage), then the incumbent should be entitled to a 50% discount on the amount of council tax payable on that property.

Extracts from the text of the relevant legislation

Local Government Finance Act 1992

11 Discounts.

1. The amount of council tax payable in respect of any chargeable dwelling and any day shall be subject to a discount equal to the appropriate percentage of that amount if on that day—
 1. there is only one resident of the dwelling and he does not fall to be disregarded for the purposes of discount; or
 2. there are two or more residents of the dwelling and each of them except one falls to be disregarded for those purposes.
2. Subject to sections 11A and 12 below, the amount of council tax payable in respect of any chargeable dwelling and any day shall be subject to a discount equal to twice the appropriate percentage of that amount if on that day—
 1. there is no resident of the dwelling; or
 2. there are one or more residents of the dwelling and each of them falls to be disregarded for the purposes of discount.
3. In this section “the appropriate percentage” means 25 per cent. or, if the Secretary of State by order so provides in relation to the financial year in which the day falls, such other percentage as is specified in the order.
4. No order under subsection (3) above shall be made unless a draft of the order has been laid before and approved by resolution of the House of Commons.
5. Schedule 1 to this Act shall have effect for determining who shall be disregarded for the purposes of discount.

The Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003

Exceptions

6. (2) Class A and Class B shall not include any dwelling—
 1. where a qualifying person in relation to that dwelling is a qualifying person in relation to another dwelling which for him is job-related; or
 2. which for a qualifying person is job-related where that person is a qualifying person in relation to another dwelling.
3. For the purposes of paragraph (2), a dwelling is job-related if it falls within the description set out in paragraph 1 or 2 of the Schedule to these Regulations.

SCHEDULE

JOB-RELATED DWELLINGS

1. (1) Subject to sub-paragraph (2), a dwelling is job-related for a person if it is provided for him by reason of his employment or for his spouse by reason of the spouse’s employment, in any of the following cases—
 1. where it is necessary for the proper performance of the duties of the employment that the employee should reside in that dwelling;
 2. where the dwelling is provided for the better performance of the duties of the employment, and it is one of the kinds of employment in the case of which it is customary for employers to provide dwellings to employees;

where, there being a special threat to the employee's security, special security arrangements are in force and the employee resides in the dwelling as part of those arrangements.

2. If the dwelling is provided by a company and the employee is a director of that or an associated company, paragraph (a) or (b) of sub-paragraph (1) shall not apply unless either—
 1. the employment is as a full-time working director,
 2. the company is non-profit making, that is to say, it does not carry on a trade nor do its functions consist wholly or mainly in the holding of investments or other property, or
 3. the company is established for charitable purposes only.
2. (1) Subject to sub-paragraph (2), a dwelling is job-related for a person if he or his spouse is required, under a contract to which this sub-paragraph applies, to live in that dwelling.
3. Sub-paragraph (1) does not apply if the dwelling concerned is in whole or in part provided by any other person or persons together with whom the person or spouse carries on a trade or business in partnership.
4. Sub-paragraph (1) does not apply if the dwelling concerned is in whole or in part provided by any other person or persons together with whom the person or spouse carries on a trade or business in partnership.
5. A contract to which sub-paragraph (1) applies is a contract entered into at arm's length and requiring the person concerned or his spouse (as the case may be) to carry on a particular trade, profession or vocation in a property provided by another person and to live in a dwelling provided by that other person.
6. In this Schedule—
 - a company is an associated company of another person if one of them has control of the other or both are under the control of the same person;
 - “director”, “full-time working director” and “control”, in relation to a body corporate have the same meanings as they have in sections 67 and 69 of the Income Tax (Earnings and Pensions) Act 2003(4) in relation to the benefits code;
 - “provided” means provided under a tenancy or otherwise; and

references to the spouse of a person shall be taken to include references to a person of the opposite sex who is living with the other as that person's husband or wife.

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