

2011 No. 948

COUNCIL TAX, ENGLAND AND WALES

**The Council Tax (Discount Disregards) (Amendment) Order
2011**

<i>Made</i>	- - - -	<i>24th March 2011</i>
<i>Laid before Parliament</i>		<i>29th March 2011</i>
<i>Laid before the National Assembly of Wales</i>		<i>29th March 2011</i>
<i>Coming into force</i>	- -	<i>13th May 2011</i>

The Secretary of State for Communities and Local Government in relation to England, and the Welsh Ministers in relation to Wales, in exercise of the powers conferred by sections 113(1) and 116(1) of, and paragraphs 4 and 5 of Schedule 1 to, the Local Government Finance Act 1992(a) make the following Order:

Citation, extent and commencement

1.—(1) This Order may be cited as the Council Tax (Discount Disregards) (Amendment) Order 2011.

(2) This Order extends to England and Wales and comes into force on 13th May 2011.

Amendments to the Council Tax (Discounts Disregards) Order 1992

2. The Council Tax (Discount Disregards) Order 1992(b) is amended as follows.

Amendments to Article 5 relating to prescribed educational establishments

3. In article 5 (prescribed educational establishments), for paragraph (2) substitute the following paragraph—

“(2) For the purposes of paragraph 5(4) of Schedule 1 to the Act, the bodies prescribed for the definition of “institution” are those institutions situated in England and Wales which—

(a) in relation to students, are defined as prescribed educational establishments in Part I of Schedule 2 to this Order; and

(a) 1992 c.14. Section 113(1) was amended by paragraph 52(2) of Schedule 7 to the Local Government Act 2003 (c.26). These powers are now vested in the Welsh Ministers so far as they are exercisable in relation to Wales. They were previously transferred to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672); see the entry in Schedule 1 for the Local Government Finance Act 1992. By virtue of section 162 of, paragraphs 30 and 32 of Schedule 11 to, the Government of Wales Act 2006 (c.32), they were transferred to the Welsh Ministers.

(b) 1992/548; relevant amending instruments are S.I. 1995/619, 2006/3396 and 2007/580 (W. 52).

- (b) in relation to student nurses, are defined as prescribed educational establishments in Part II of that Schedule.”.

Amendments to Schedule 1 relating to definition of students, etc

- 4. In paragraph 3 of Part II (students) of Schedule 1 (definition of students, etc)—
 - (a) for “attending” substitute “undertaking”, and
 - (b) for “attend” substitute “undertake”.
- 5. In paragraph 4(1) of Part II of Schedule 1, for paragraphs (b) and (c) substitute—
 - “(b) which persons undertaking it are normally required by the educational establishment concerned to undertake periods of study, tuition or work experience (whether at premises of the establishment or otherwise)—
 - (i) of at least 24 weeks in each academic or calendar year (as the case may be) during which it subsists, and
 - (ii) which taken together amount in each such academic or calendar year to an average of at least 21 hours a week.”
- 6. In paragraph 6(2) of Part II of Schedule 1, for the definition of “course of higher education” substitute—
 - ““course of higher education” means a course which is within the meaning of the definition of “higher education” in paragraph 2 of Part I of Schedule 2 to this Order.”.

Amendments to Schedule 2 relating to prescribed educational establishments

- 7. In Part I (establishments for students) of Schedule 2 (prescribed educational establishments), for paragraphs 1 and 2(a) substitute—
 - “1. Subject to paragraph (3) below, an institution is a prescribed educational establishment within this Part if it is—
 - (a) situated in a member State, and
 - (b) established solely or mainly for the purpose of providing further or higher education.
 - 2. In this Part—
 - “further education”, in relation to a member State, means—
 - (a) any course of education (other than a course which is within the definition of “higher education” below) which is suitable to the requirements of persons who are over the compulsory school age applicable in that State, and
 - (b) organised leisure-time occupation provided in connection with such a course;
 - “higher education”, in relation to a member State, means any course of education the successful completion of which results in any of the following qualifications—
 - (a) a first degree,
 - (b) a higher degree,
 - (c) a qualification (including a professional qualification) which is regarded by the relevant authority as being equivalent to a qualification (or part of a qualification) mentioned in paragraph (a) or (b) of this definition; and
 - “relevant authority”, in relation to a member State, means the authority which in relation to that State has sole or primary responsibility for the regulation of higher education.”.

(a) Paragraph 1 was amended by S.I. 1995/619, 2006/3396 and 2007/580 (W. 52) and by section 74 of the Education Act 2005 (c.18).

24th March 2011

Bob Neill
Parliamentary Under Secretary of State
Department for Communities and Local Government

23rd March 2011

Carl Sargeant
Minister for Social Justice and Local Government,
one of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Council Tax (Discounts Disregards) Order 1992 (“the 1992 Order”). It extends to England and Wales (see article 1).

Part 1 of the Local Government Finance Act 1992 (“the 1992 Act”) concerns council tax in England and Wales. Paragraph 5 of Schedule 1 to the 1992 Act provides that an institution shall, on request, supply a certificate to any person who is following a course of education at that institution as a student or a student nurse. For these purposes “institution”, “student” and “student nurse” have the meanings assigned to them by order made by the Secretary of State in relation to England and Welsh Ministers in relation to Wales (see generally paragraphs 4(2) and 5(4) of Schedule 1 to the 1992 Act). The 1992 Order defines these terms for the purposes of the 1992 Act.

Articles 4 and 5 of this Order amend paragraphs 3 and 4 of Part II (students) of Schedule 1 (definition of students, etc) to the 1992 Order. Those paragraphs specify the circumstances in which a person is to be regarded as undertaking a full-time course of education. Articles 4 and 5 amend those paragraphs so that the requirement for attendance in relation to a full-time course of education is replaced by a requirement to undertake such a course.

Article 7 of this Order amends paragraphs 1 and 2 of Part I (establishments for students) of Schedule 2 (prescribed educational establishments) to the 1992 Order. Those paragraphs define prescribed educational establishments by reference to legislation which applies in relation to Great Britain. Article 7 substitutes those paragraphs with paragraphs which define prescribed educational establishments by reference to establishments situated in any member State of the European Union.

Articles 3 and 6 of this Order make amendments which are consequential on the amendments in article 7.

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

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STATUTORY INSTRUMENTS

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£4.00