

2006 No. 67

LOCAL GOVERNMENT

COUNCIL TAX

RATING AND VALUATION

**The Council Tax (Electronic Communications) (Scotland)
Order 2006**

Made - - - - - *20th February 2006*

Laid before the Scottish Parliament *21st February 2006*

Coming into force - - - *1st April 2006*

The Scottish Ministers, considering that the authorisation of the use of electronic communications and or electronic storage by this Order for any purpose, is such that the extent (if any) to which records of things done for that purpose will be available will be no less satisfactory in cases where use is made of electronic communications or electronic storage than in other cases, in exercise of the powers conferred by sections 8 and 9 of the Electronic Communications Act 2000(a) and of all other powers enabling them in that behalf, and with the consent of the Secretary of State in accordance with section 9(7)(c) of that Act, hereby make the following Order:

Citation, commencement and extent

1.—(1) This Order may be cited as the Council Tax (Electronic Communications) (Scotland) Order 2006 and shall come into force on 1st April 2006.

(2) This Order extends to Scotland only.

Amendment of the Council Tax (Administration and Enforcement) (Scotland) Regulations 1992

2. The Council Tax (Administration and Enforcement) (Scotland) Regulations 1992(b) are amended in accordance with articles 3 and 4.

3. In regulation 1(2) (interpretation)—

(a) after the definition of “the Act”, insert—

““address” in relation to electronic communications, includes any number or address used for the purposes of such communications;” and

(b) after the definition of “demand notice” insert—

(a) 2000 c.7 (“the 2000 Act”). All by virtue of the modifications for Scotland in section 9(7) of the 2000 Act, the reference to the appropriate Minister is to be read as a reference to the Secretary of State, and the powers of the Secretary of State may be exercised by the Scottish Ministers, with the consent of the Secretary of State.

(b) S.I. 1992/1332, to which there are amendments not relevant to this Order.

““electronic communication” has the meaning given by section 15(1) of the Electronic Communications Act 2000;”.

4. In regulation 19 (notices: general), after paragraph (3), insert–

“(4) Without prejudice to section 192 of the Local Government (Scotland) Act 1973(a) and paragraphs (1) to (3), a levying authority may use the method specified in subsection (5) or that specified in subsection (6) in order to–

- (a) issue a notice required or authorised by Part V of these Regulations;
- (b) supply information which requires to be supplied when such a notice is issued.

(5) The method specified in this paragraph is to send the demand notice or information by electronic communication to an address notified to the authority for the purposes of this paragraph by the recipient of the notice or information, and an electronic communication under this paragraph must be–

- (a) capable of being accessed by the recipient;
- (b) legible in all other material respects; and
- (c) sufficiently permanent to be used for subsequent reference.

(6) The method specified in this paragraph is to publish the notice or information on a website in a case where–

- (a) the levying authority have agreed with a person that notices or information will be issued or supplied to that person by this method;
- (b) the notice or information falls within the terms of that agreement; and
- (c) the authority notify that person, in a manner agreed between them of–
 - (i) the address of the website on which the notice or information has been published; and
 - (ii) the place on the website where the notice or information may be accessed and how it may be accessed.

(7) In paragraph (5)(b), “legible in all other material respects” means that the information contained in the electronic communication shall be available to the recipient to no lesser extent than it would be if that information had been contained in a document in printed form.

(8) Unless the contrary is proved–

- (a) a notice issued under paragraph (5) shall be regarded for the purposes of any legal proceedings as having been issued on the second working day after the day on which the electronic communication containing it was sent;
- (b) a notice issued under paragraph (6) shall be regarded for the purposes of any legal proceedings as having been issued on the second working day after the day on which notification was given under sub-paragraph (c) of that paragraph,

and for these purposes “working day” means a day which is not a Saturday, Sunday, Christmas Eve, a bank holiday in Scotland under the Banking and Financial Dealings Act 1971(b), a day appointed for public thanksgiving or mourning, or any other day which is a local or public holiday in an area in which an electronic communication is received.

(9) A person who has notified an address for the purposes of paragraph (5) may subsequently give notice to the levying authority of a different address for those purposes and such a notice shall take effect from the date specified in it, being a date not less than three working days after the date on which the notice is given.

(a) 1973 c.65.
(b) 1971 c.80.

(10) Where a person has agreed to receive notices or information by a method specified in paragraph (5) or (6), that person may at any time withdraw from that agreement by giving notice to the levying authority and such a notice shall take effect from the date specified in it, being a date not less than seven working days after the date on which the notice is given.”.

St Andrew's House,
Edinburgh
20th February 2006

TOM McCABE
A member of the Scottish Executive

I consent

16th February 2006

PHIL WOOLAS
Minister of State, Office of the Deputy Prime Minister

EXPLANATORY NOTE

(This note is not part of the Order)

Section 8 of the Electronic Communications Act 2000 empowers the Scottish Ministers, with the consent of the Secretary of State (required by section 9 of that Act) by order to modify any enactment or subordinate legislation for the purpose of authorising or facilitating the use of electronic communications. This Order amends the Council Tax (Administration and Enforcement) (Scotland) Regulations 1992 (“the 1992 Regulations”) to provide for the service by levying authorities of certain notices and information required to be supplied when demand notices are served by electronic communication on a person who has agreed to accept electronic notices.

Article 4(2) inserts additional paragraphs into regulation 19 of the 1992 Regulations. Under new paragraph (4) any notice under Part V of the Regulations (which covers establishing liability but not enforcement) or any information which is required to be supplied when a notice is served may be served electronically by the methods set out in new paragraphs (5) and (6).

Paragraph (5) as inserted provides that a notice may be sent by electronic communication where a person has notified an address for that purpose to the levying authority, subject to certain specified conditions.

Paragraph (6) as inserted specifies that where the levying authority has so agreed with the recipient, notices and documents may be published on a website and the levying authority may notify the recipient that it has done so, where the notice or information may be found and how it may be accessed.

Paragraph (7) as inserted defines the meaning for “legible in all material respects” for the purposes of service of notices by electronic communication.

Paragraph (8) as inserted provides that a notice under Part V of the Regulations will be deemed to have been served for the purpose of any legal proceedings, on the second working day after it was sent or, if published on a website, on the second day after notification is given of its publication. “Working day” is defined in relation to the service of notices.

Paragraph (9) as inserted provides that the recipient of notices or information may notify the levying authority of any change in the recipient’s electronic address.

Paragraph (10) as inserted provides for a person to withdraw agreement to accepting electronic service of such documents or to accessing such documents on a website.

£3.00

© Crown Copyright 2006