

2011 No. 5

COUNCIL TAX

The Council Tax (Discounts) (Scotland) Amendment Order 2011

Made - - - - *12th January 2011*

Laid before the Scottish Parliament *14th January 2011*

Coming into force - - *1st April 2011*

The Scottish Ministers make the following Order in exercise of the powers conferred by section 113(1) of, and paragraphs 4 and 5 of Schedule 1 to, the Local Government Finance Act 1992(a) and all other powers enabling them to do so.

Citation and commencement

1. This Order may be cited as the Council Tax (Discounts) (Scotland) Amendment Order 2011 and comes into force on 1st April 2011.

Amendment of the Council Tax (Discounts) (Scotland) Consolidation and Amendment Order 2003

2. The Council Tax (Discounts) (Scotland) Consolidation and Amendment Order 2003(b) is amended as follows.

3. In article 2 (interpretation), omit the definition of “further education”.

4. For article 6 (students), substitute—

“6.—(1) For the purposes of paragraph 4 of Schedule 1 to the Act, “student” means a person who, on a particular day, is not a student nurse (within the meaning of article 7) and is—

- (a) a foreign language assistant, within the meaning of paragraph (2);
- (b) undertaking a qualifying course of education, within the meaning of paragraph (3);
or
- (c) undertaking a full time course of education, within the meaning of paragraph (4).

(2) A person is a foreign language assistant on the particular day if the person is registered as a foreign language assistant with the British Council and the day falls within the period of the person’s appointment as such at a school or other educational institution in Great Britain.

(a) 1992 c.14. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46). There are amendments to section 113(1) which are not relevant to this Order.

(b) S.S.I. 2003/176, to which there are amendments not relevant to this Order.

- (3) A person is undertaking a qualifying course of education on the particular day if—
 - (a) the person is aged under 20 and is undertaking with a single educational establishment—
 - (i) a qualifying course of education in respect of which the relevant number of hours per week exceeds 12; or
 - (ii) two or more qualifying courses of education in respect of which the cumulative relevant number of hours per week for all those courses exceeds 12;
 - (b) the day falls within the relevant period for that course or any of those courses; and
 - (c) the person is not on that day an apprentice (within the meaning of article 5) or a youth training trainee (within the meaning of article 8).
- (4) A person is undertaking a full time course of education on the particular day if—
 - (a) the person is undertaking a course of education which—
 - (i) is specified in Part 1 of Schedule 2; and
 - (ii) is provided by an institution specified in Part 2 of Schedule 2;
 - (b) in respect of that course the person—
 - (i) is or would normally be required by the institution to undertake periods of study, work experience or tuition (whether that tuition is received at the premises of the institution, through correspondence or otherwise); or
 - (ii) is undertaking periods of work experience which are not required in order to complete the course but are arranged or permitted to be undertaken by the institution due to their relevance to the course;
 - (c) the periods of study, work experience or tuition referred to in paragraph (b) amount to—
 - (i) at least 24 weeks within each academic year of the institution providing the course; and
 - (ii) an average of at least 21 hours per week during each of those weeks;
 - (d) the person is enrolled with the institution providing the course for the purpose of undertaking that course; and
 - (e) the day falls within the relevant period for that course.”.

5. In article 7(1) (student nurses), for “Schedule 3” substitute “Part 2 of Schedule 2”.

6. In article 9(b) (certificate), for “Schedule 3” substitute “Part 2 of Schedule 2”.

7. In Schedule 1—

- (a) after paragraph 1(b) insert—
 - “(ba) which is not undertaken as a consequence of an office or employment held by the person;”;
- (b) in paragraph 2(1) omit the “and” after (h) and after (i) insert—
 - “and
 - (j) a course provided by a single educational establishment situated in a Member State other than the United Kingdom which is not otherwise a course described in this sub-paragraph, but which is equivalent to such a course.”.

8. For Schedule 2 substitute—

“SCHEDULE 2 Article 6(4)(a)
SPECIFIED COURSES AND INSTITUTIONS

PART 1

Specified Courses

1. A course of further education within the meaning of section 1(3) of the Further and Higher Education (Scotland) Act 1992(a).
2. A course of higher education within the meaning of section 38 of that Act(b).
3. A course leading to a licentiate of a theological college.
4. A course which is equivalent to any course referred to in paragraph 1 or 2.

PART 2

Specified Institutions

1. Any fundable body within the meaning of section 6 of the Further and Higher Education (Scotland) Act 2005(c).
2. A theological college.
3. A college of nursing and midwifery or a college of health established by a Health Board or by a Regional or District Health authority, or by the equivalent authority in a Member State other than the United Kingdom.
4. Any other institution situated in any Member State which provides any course of education specified in Part 1 of this Schedule, with the exception of training establishments for the armed forces.”

9. Omit Schedule 3.

JOHN SWINNEY
A member of the Scottish Executive

St Andrew’s House,
Edinburgh
12th January 2011

(a) 1992 c.37. There is an amendment not relevant to this Order.
(b) Section 38 was amended by paragraph 9 of Schedule 5 to the Education (Scotland) Act 1996 (c.43).
(c) 2005 asp 6.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Council Tax (Discounts) (Scotland) Consolidation and Amendment Order 2003 (“the 2003 Order”) so far as it relates to the definition of “student” and the institutions they attend.

The 2003 Order makes provision for prescribed persons to be disregarded when calculating the amount of council tax payable by a household in Scotland. Article 6 of that Order defines who will qualify for discount by virtue of being a “student”.

This Order makes four substantive changes to the definition of “student”. It includes within the definition of “student” those who are students of institutions situated in Member States other than the United Kingdom. It does so by replacing the specified courses and institutions set out in Schedules 2 and 3 to the 2003 Order with a new Schedule 2. It also ensures that a consistent approach is taken to students of UK and other EU institutions by including courses provided by other EU institutions within the definition of “excepted course” in Schedule 1.

Further, this Order includes students who are undertaking courses by way of distance learning in a new article 6(4)(b)(i) of the 2003 Order, inserted by article 4 to ensure that distance learners are also disregarded when calculating council tax liability. Finally, it includes students who are on work experience placements which do not require to be undertaken as part of the course but which are arranged or permitted by the institution.

This Order also makes various consequential amendments to the 2003 Order.

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