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STATUTORY INSTRUMENTS

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**1992 No. 2955 (S.242)**

**COUNCIL TAX, SCOTLAND**

**The Council Tax (Dwellings and Part Residential  
Subjects) (Scotland) Regulations 1992**

*Made* - - - - 23rd November 1992  
*Laid before Parliament* 7th December 1992  
*Coming into force* - - 28th December 1992

The Secretary of State, in exercise of the powers conferred on him by sections 72(4), 99(1) and section 116(1) of the Local Government Finance Act 1992(1) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Council Tax (Dwellings and Part Residential Subjects) (Scotland) Regulations 1992 and shall come into force on 28th December 1992.

**Interpretation**

2. In these Regulations, unless the context otherwise requires—

“the Act” means the Local Government Finance Act 1992;

“hostel” has the same meaning as in sub-paragraph (2) of paragraph 8 of Schedule 1 to the Act(2);

“nursing home” has the same meaning as in that sub-paragraph;

“private hospital” has the same meaning as in that sub-paragraph;

“pupils receiving school education” shall be construed in accordance with the Education (Scotland) Act 1980(3);

“relevant person” means, in relation to any lands and heritages—

(a) subject to paragraphs (b) and (c) below, the owner;

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(1) 1992 c. 14; section 99(1) contains in paragraph (b) of the definition of “part residential subjects” a power of prescription; section 116(1) contains a definition of “prescribed” relevant to the exercise of the statutory powers under which these Regulations are made.

(2) See the definition of “hostel” at article 10 of S.I.1992/1408.

(3) 1980 c. 44.

(b) subject to paragraph (c) below, if they are let for a period of 12 months or more, the tenant; or

(c) if they are sublet for such a period, the subtenant;

“residential care home” has the same meaning as in sub-paragraph (2) of paragraph 8 of Schedule 1 to the Act;

“school boarding house” means any premises used for the boarding of pupils receiving school education;

“school dormitory accommodation” means any accommodation used for sleeping purposes by pupils receiving school education;

“student” has the same meaning as in sub-paragraph (2) of paragraph 4 of Schedule 1 to the Act<sup>(4)</sup>;

“voluntary organisation” has the same meaning as in section 94(1) of the Social Work (Scotland) Act 1968<sup>(5)</sup>.

### **Variation of definition of dwelling**

**3.** The definition of dwelling in section 72(2) of the Act is hereby further varied<sup>(6)</sup> in accordance with regulations 4 and 5 below.

**4.** There shall be included as a dwelling any lands and heritages or parts thereof—

(a) which fall within the classes specified in Schedule 1 to these Regulations; and

(b) which would, but for the provisions of section 73(1) of the Act—

(i) be entered separately in the valuation roll; or

(ii) in the case of parts of lands and heritages, form part of a separate entry in the valuation roll.

**5.** There shall be excluded from the definition of dwelling any lands and heritages or parts thereof which fall within the classes specified in Schedule 2 to these Regulations.

### **Definition of part residential subjects—exceptions**

**6.** The classes of lands and heritages which are prescribed for the purposes of paragraph (b) of the definition of part residential subjects in section 99(1) of the Act (lands and heritages excluded from that definition) are—

(a) any lands and heritages or parts thereof excluded from the definition of dwelling under paragraph 3 of Schedule 2 to these Regulations; and

(b) any part of—

(i) a hostel;

(ii) a nursing home;

(iii) a private hospital; or

(iv) a residential care home;

which is not used wholly or mainly as the sole or main residence of a person employed there.

<sup>(4)</sup> See the definition of “student” at article 6 of S.I. 1992/1408.

<sup>(5)</sup> 1968 c. 49.

<sup>(6)</sup> The definition of dwelling was previously varied by S.I. 1992/1334.

### **Amendment of the Council Tax (Dwellings) (Scotland) Regulations 1992**

7. The Council Tax (Dwellings) (Scotland) Regulations 1992(7) are hereby amended—
- (a) by adding, after “1992” in paragraph (2) of regulation 1, the words “and “private motor vehicle” means a mechanically propelled vehicle not falling within Schedules 2, 3 and 4 to the Vehicles (Excise) Act 1971(8)”; and
  - (b) by adding, at the end of regulation 2, the following paragraph:—

“(4) Lands and heritages which are not in use shall nevertheless be treated as falling within the class specified in paragraph (2) or that specified in paragraph (3) if, when last in use, they were used as specified in those paragraphs.”.

St. Andrew’s House,  
Edinburgh  
23rd November 1992

*Allan Stewart*  
Parliamentary Under Secretary of State, Scottish  
Office

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(7) S.I. 1992/1334.  
(8) 1971 c. 10.

SCHEDULE 1

Regulation 4

DEFINITION OF DWELLING—INCLUSIONS

**Bed and breakfast accommodation**

1. Any lands and heritages—
  - (a) which are the sole or main residence of a person;
  - (b) which are intended by such a person to be made available for letting, on a commercial basis and with a view to the realisation of profits, as bed and breakfast accommodation to no more than 6 persons per night;
  - (c) which are not made available for letting over the limit specified in sub-paragraph (b) above; and
  - (d) which would, but for being available for letting as referred to in sub-paragraph (b) above, be such lands and heritages as are described in sub-paragraph (i) of section 72(2)(a) of the Act.

**Student halls**

2. Any lands and heritages—
  - (a) which are used (or, if not in use, were last used) predominantly as residential accommodation by students; and
  - (b) in which there are facilities which are available for sharing by some or all of the students.

**Barracks**

3. Any lands and heritages—
  - (a) of which the Secretary of State for Defence is the owner;
  - (b) which are held for the purposes of armed forces accommodation; and
  - (c) which are the sole or main residence of at least one member of the armed forces or, if unoccupied, are likely to be the sole or main residence of such a person when next occupied.

**Communal residential establishments**

4. Any lands and heritages which are used (or, if not in use, were last used) wholly as the sole or main residence of persons who reside there and in which there are facilities available for sharing by some or all of those persons, other than any part of—

- (a) a hostel;
- (b) a nursing home;
- (c) a private hospital; or
- (d) a residential care home,

which is not used wholly or mainly as the sole or main residence of a person employed there.

**School boarding accommodation**

5. Any lands and heritages which are used wholly or mainly as—
  - (a) a school boarding house; or

(b) school dormitory accommodation,  
including any kitchen, dining room or other premises which are integrated with and which are used wholly in connection with the school boarding house or, as the case may be, the school dormitory accommodation.

## SCHEDULE 2

Regulation 5

### DEFINITION OF DWELLING—EXCLUSIONS

#### **Huts, sheds and bothies**

1. Any lands and heritages—
  - (a) which constitute a hut, shed, bothy or a similar structure or building;
  - (b) which are not the sole or main residence of any person; and
  - (c) which either—
    - (i) in accordance with any licence or planning permission regulating the use of their sites, or for any other reason, are not allowed to be used for human habitation throughout the whole year; or
    - (ii) by reason of their construction or the facilities which they do, or do not, provide, are unfit so to be used.

#### **Self-catering holiday accommodation**

2. Any lands and heritages—
  - (a) which are not the sole or main residence of any person; and
  - (b) which either—
    - (i) are made available by a relevant person for letting, on a commercial basis and with a view to the realisation of profits, as self-catering accommodation for short periods amounting in the aggregate to 140 days or more in the financial year; or
    - (ii) if they have not been made so available for letting in that year, are intended by a relevant person to be made so available for letting in that year and the interest of the relevant person in the lands and heritages is such as to enable him to let them for such periods.

#### **Women's refuges**

3. Any lands and heritages managed by a voluntary organisation for the temporary accommodation of persons who have left their homes as a result of—

- (a) physical violence or mental cruelty; or
- (b) threats of such violence or cruelty,

from persons to whom they are married or with whom they are or were cohabiting, other than any part of such lands and heritages which constitutes the sole or main residence of any person employed by the voluntary organisation.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

With effect from 1st April 1993, the council tax will be levied on all “dwellings” in Scotland, other than exempt dwellings. Section 72(2) of the Local Government Finance Act 1992 (“the Act”) provides a definition of “dwelling” for these purposes, which may be varied by way of Regulations.

These Regulations vary the definition by including as dwellings certain bed and breakfast accommodation, student halls, barracks, communal residential establishments and school boarding accommodation (regulation 4 and Schedule 1) and by excluding certain huts, sheds and bothies, self-catering holiday accommodation and woman’s refuges (regulation 5 and Schedule 2). Premises excluded from the definition will be subject to non-domestic rates, rather than the council tax.

In addition, the Regulations prescribe certain categories of premises which will not constitute “part residential subjects” for the purposes of the Act (regulation 6) and make minor amendments to previous Regulations which prescribed certain private garages and storage premises as dwellings (regulation 7).