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STATUTORY INSTRUMENTS

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**2005 No. 2865**

**COUNCIL TAX, ENGLAND**

**The Council Tax (Exempt Dwellings)  
(Amendment) (England) Order 2005**

*Made* - - - - *11th October 2005*  
*Laid before Parliament* *20th October 2005*  
*Coming into force* - - *10th December 2005*

The First Secretary of State, in exercise of the powers conferred upon him by section 4 of the Local Government Finance Act 1992(1), makes the following Order:

**Citation, commencement and application**

1.—(1) This Order may be cited as the Council Tax (Exempt Dwellings) (Amendment) (England) Order 2005 and shall come into force on 10th December 2005.

(2) This Order applies to billing authorities in England only.

(3) The amendments made by paragraph (2), and sub-paragraph (a) of paragraph (3), of article 2 apply in relation to financial years beginning on or after 1st April 2006.

**Amendment of the Council Tax (Exempt Dwellings) Order 1992**

2.—(1) The Council Tax (Exempt Dwellings) Order 1992(2) shall be amended in accordance with paragraphs (2) and (3).

(2) In paragraph (5) of article 2—

(a) in sub-paragraph (a), after the word “spouse” insert “or civil partner”(3);

(b) in sub-paragraph (i), after the word “marriage” insert “or civil partnership”;

(c) in sub-paragraph (ii) after the word “marriage” insert “and a relationship between two persons of the same sex living together as if they were civil partners shall be treated as a relationship by civil partnership”; and

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(1) 1992 (c. 14). These powers are devolved, in relation to Wales, to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672); see the reference to the Local Government Finance Act 1992 in Schedule 1.

(2) S.I. 1992/558; relevant amending instruments are S.I. 1993/150, 1994/539, 1997/656, 1998/291.

(3) The Civil Partnership Act 2004 (c. 33) amends Schedule 1 to the Interpretation Act 1978 to insert a definition of civil partnership see paragraph 59 of Schedule 27 to the Civil Partnership Act 2004. A “civil partnership” means a civil partnership which exists under or by virtue of the Civil Partnership Act 2004 (and any reference to a civil partner is to be read accordingly).

- (d) after sub-paragraph (iii) add—
  - “(iv) the child of the civil partner of a person (here (“A”)), shall be treated as A’s child;”.
- (3) In article 3—
  - (a) in Class E substitute for paragraph (a)—
    - “(a) has his sole or main residence elsewhere in the circumstances specified in paragraphs 6 or 7 of Schedule 1 to the Act or in accommodation provided in Scotland by a care home service within the meaning of section 2(3) of the Regulation of Care (Scotland) Act 2001<sup>(4)</sup>; and”.
  - (b) in Class N, in paragraph (ii) of sub-paragraph (a) of paragraph (2)—
    - (i) after the word “spouse” insert “, civil partner” ; and
    - (ii) substitute “each” for the word “either”.

11th October 2005

*Phil Woolas*  
Minister of State  
Office of the Deputy Prime Minister

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(4) 2001 asp 8.

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## EXPLANATORY NOTE

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

This Order amends the Council Tax (Exempt Dwellings) Order 1992 as it applies to billing authorities in England. That Order exempts certain classes of dwellings so that they are not liable for council tax.

Most of the amendments are consequential changes in the light of the Civil Partnership Act 2004. That Act provides that two people of the same sex may form a civil partnership and will then be given many of the same rights and responsibilities as those that accompany marriage. It also inserts a definition of “civil partnership” into the Interpretation Act 1978. References to civil partners and civil partnerships will include overseas relationships treated as civil partnerships in accordance with Chapter 2 of Part 5 of the Civil Partnership Act 2004.

This Order amends article 2(5) of the 1992 Order which makes provision about the persons who are to be regarded as relatives of another for the purposes of the exemption of dwellings by virtue of Class W of article 3 of that Order. The descriptions of “relative” in article 2(5) are extended to include, as well as those linked by marriage, persons linked by civil partnership. The definition of “relevant person” in Class N is amended to include a person’s civil partner.

This Order also updates Class E by substituting for a reference to paragraph 8 (patients in homes in Scotland) of Schedule 1 to the Local Government Finance Act 1992, a reference to accommodation provided in Scotland by a care home service under the Regulation of Care (Scotland) Act 2001. A similar change was made to Class I by the Council Tax (Chargeable Dwellings, Exempt Dwellings and Discount Disregards) (Amendment) (England) Order 2003, S.I.2003/3121.

The amendments made by this Order to take account of the Civil Partnership Act 2004 have effect in relation to financial years beginning on or after 1st April 2006.

A full regulatory impact assessment has not been produced for this instrument, as it has no impact on the costs of businesses, charities or voluntary bodies; neither does it have significant financial impact on any public bodies.