CYNULLIAD CENEDLAETHOL CYMRU

OFFERYNNAU STATUDOL

2004 Rhif 2921 (Cy.260)

Y DRETH GYNGOR, CYMRU

Gorchymyn y Dreth Gyngor (Anheddau Taladwy, Anheddau Esempt a Diystyru Gostyngiadau) (Diwygio) (Cymru) 2004

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Gorchymyn)

Mae'r Gorchymyn hwn wedi'i wneud yn unol ag adrannau 3(5)(a), 4 a 113 o Ddeddf Cyllid Llywodraeth Leol 1992 ("Deddf 1992") a pharagraff 7 o Atodlen 1 iddi, ac mae'n diwygio Gorchymyn y Dreth Gyngor (Anheddau Taladwy) 1992 ("Gorchymyn 1992"), Gorchymyn y Dreth Gyngor (Anheddau Esempt) 1992 a Gorchymyn y Dreth Gyngor (Diystyru Gostyngiadau) 1992.

Mae adran 3 o Ddeddf 1992 yn diffinio annedd at ddibenion darpariaethau'r dreth gyngor ar gyfer Cymru a Lloegr. Mae erthygl 3 o Orchymyn 1992 yn ei gwneud yn ofynnol trin eiddo sengl sy'n cynnwys mwy nag un uned hunan gynwysedig fel pe bai wedi'i ffurfio o'r un nifer o anheddau â'r nifer o unedau hunan gynwysedig yn yr eiddo hwnnw. Diffinir eiddo sengl yng Ngorchymyn 1992 yn eiddo a fyddai, ar wahân i'r Gorchymyn hwnnw, yn un annedd o fewn ystyr "one dwelling" yn adran 3 o Ddeddf 1992.

Mae erthygl 2 o'r Gorchymyn hwn yn mewnosod erthygl 3A newydd yng Ngorchymyn 1992. Bydd hynny'n sicrhau bod cartref gofal (o fewn ystyr "care home" yn adran 3 o Ddeddf Safonau Gofal 2000, ac y mae person wedi'i gofrestru ar ei gyfer yn unol â Rhan 2 o'r Ddeddf honno), yn lle cael ei drin, at ddibenion y dreth gyngor, fel pe bai wedi'i ffurfio o anheddau ar wahân o fewn annedd, yn unol â nifer yr unedau hunan gynwysedig, yn cael ei drin fel nifer yr anheddau a geir wrth ychwanegu un at nifer yr unedau hunan gynwysedig a ddarperir i letya'r person a gofrestrwyd ar gyfer y cartref gofal.

NATIONAL ASSEMBLY FOR WALES

STATUTORY INSTRUMENTS

2004 No. 2921 (W.260)

COUNCIL TAX, WALES

The Council Tax (Chargeable Dwellings, Exempt Dwellings and Discount Disregards) (Amendment) (Wales) Order 2004

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under sections 3(5)(a), 4 and 113 of, and paragraph 7 of Schedule 1 to the Local Government Finance Act 1992 ("the 1992 Act") and amends the Council Tax (Chargeable Dwellings) Order 1992 ("the 1992 Order"), the Council Tax (Exempt Dwellings) Order 1992, and the Council Tax (Discount Disregards) Order 1992.

Section 3 of the 1992 Act defines a dwelling for the purposes of the council tax provisions for England and Wales. Article 3 of the 1992 Order requires a single property containing more than one self-contained unit to be treated as comprising the same number of dwellings as there are self-contained units within that property. A single property is defined in the 1992 Order as a property which would apart from that Order be one dwelling within the meaning of section 3 of the 1992 Act.

Article 2 of this Order inserts a new article 3A into the 1992 Order. This will ensure that, instead of a care home (within the meaning of section 3 of the Care Standards Act 2000, and in respect of which a person is registered in accordance with Part 2 of that Act) being treated for the purposes of council tax, as comprising separate dwellings within a dwelling in accordance with the number of self-contained units, it will be treated as the number of dwellings found by adding one to the number of self-contained units provided to accommodate the person registered in respect of the care home.

Mae adran 4 o Ddeddf 1992 yn galluogi Cynulliad Cenedlaethol Cymru, mewn perthynas â Chymru, i ragnodi drwy orchymyn ddosbarthiadau ar anheddau nad yw'r dreth gyngor yn daladwy ar eu cyfer. Mae Dosbarth I yn erthygl 3 o Orchymyn y Dreth Gyngor (Anheddau Esempt) 1992 yn esemptio rhag talu'r dreth gyngor annedd sydd heb ei meddiannu ac y mae ei pherchennog neu ei thenant bellach â'i unig neu ei brif breswylfa mewn man arall "not being a hospital, residential care home, nursing home, mental nursing home or hostel within the meaning of paragraphs 6, 7 or 8 of Schedule 1" i Ddeddf 1992, at y diben o dderbyn gofal personol y mae ei angen ar y perchennog neu'r tenant am rai resymau penodedig.

Section 4 of the 1992 Act enables the National Assembly for Wales in relation to Wales to prescribe by order classes of dwellings for which no council tax is payable. Class I in article 3 of the Council Tax (Exempt Dwellings) Order 1992 exempts from council tax an unoccupied dwelling whose owner or tenant now has his sole or main residence in another place, "not being a hospital, residential care home, nursing home, mental nursing home or hostel within the meaning of paragraphs 6, 7 or 8 of Schedule 1" to the 1992 Act, for the purpose of receiving personal care required by the owner or tenant for certain specified reasons.

Mae erthygl 3 o'r Gorchymyn hwn yn rhoi geiriad newydd ar gyfer Dosbarth I, sy'n cynnwys cyfeiriad at lety a ddarperir gan wasanaeth gofal cartref yn yr Alban.

Article 3 of this Order substitutes a new wording of Class I which includes reference to accommodation provided by a care home service in Scotland.

Mae adran 11 o Ddeddf 1992 ac Atodlen 1 iddi yn darparu y caiff disgrifiadau o bobl sy'n preswylio mewn annedd eu diystyru wrth benderfynu a yw'n gymwys rhoi gostyngiad ar swm y dreth gyngor sy'n daladwy mewn perthynas â'r annedd. Mae paragraff 7 o Atodlen 1 i Ddeddf 1992 yn darparu y caiff person ei ddiystyru os hostel yw ei unig neu ei brif breswylfa. Mae paragraff 7(2) yn caniatáu i Gynulliad Cenedlaethol Cymru ddiffinio hostel drwy Orchymyn. Mae erthygl 4 o'r Gorchymyn hwn yn rhoi erthygl 6 (sy'n diffinio "hostel") newydd yng Ngorchymyn y Dreth Gyngor (Diystyru Gostyngiadau) 1992 o ganlyniad i'r diwygiadau a wnaed i baragraff 7 o Atodlen 1 i Ddeddf 1992 gan Ddeddf Safonau Gofal 2000. Mae'r diffiniad bellach yn rhoi, yn lle'r cyfeiriad at adran 49(1) o Ddeddf Pwerau Llysoedd Troseddol 1973, sydd wedi'i diddymu, gyfeiriad at adran 9(1) o Ddeddf Cyfiawnder Troseddol a Gwasanaethau Llysoedd 2000.

Section 11 and Schedule 1 to the 1992 Act provide for descriptions of people resident in a dwelling to be disregarded in determining whether the amount of council tax payable in respect of the dwelling is subject to a discount. Paragraph 7 of Schedule 1 to the 1992 Act provides for a person to be disregarded if he has his sole or main residence in a hostel. Paragraph 7(2) allows the National Assembly for Wales to define a hostel by Order. Article 4 of this Order substitutes a new article 6 (which defines "hostel") into the Council Tax (Discount Disregards) Order 1992 in consequence of the amendments made by the Care Standards Act 2000 to paragraph 7 of Schedule 1 to the 1992 Act. The definition now replaces a reference to section 49(1) of the Powers of Criminal Courts Act 1973 which has been repealed with a reference to section 9(1) of the Criminal Justice and Courts Services Act 2000.

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Y DRETH GYNGOR, CYMRU

Gorchymyn y Dreth Gyngor (Anheddau Taladwy, Anheddau Esempt a Diystyru Gostyngiadau) (Diwygio) (Cymru) 2004

Wedi'i wneud 9 Tachwedd 2004

Yn dod i rym 1 Ebrill 2005

Mae Cynulliad Cenedlaethol Cymru, drwy arfer y pwerau a roddwyd iddo gan adrannau 3(5)(a), 4 a 113 o Ddeddf Cyllid Llywodraeth Leol 1992(**a**)a pharagraff 7 o Atodlen 1 iddi, drwy hyn yn gwneud y Gorchymyn canlynol:

Enwi, cychwyn a chymhwyso

1.-(1) Enw'r Gorchymyn hwn yw Gorchymyn y Dreth Gyngor (Anheddau Taladwy, Anheddau Esempt a Diystyru Gostyngiadau) (Diwygio) (Cymru) 2004 a daw i rym ar 1 Ebrill 2005.

(2) Mae'r Gorchymyn hwn yn gymwys i Gymru yn unig.

Diwygio Gorchymyn y Dreth Gyngor (Anheddau Taladwy) 1992

2. Mae Gorchymyn y Dreth Gyngor (Anheddau Taladwy) 1992(**b**) wedi'i ddiwygio fel a ganlyn:

(a) yn erthygl 2, ar ôl y diffiniad o "the Act", mewnosoder -

""care home" means a care home within the meaning of the Care Standards Act 2000(**c**), in respect of which a person is registered in accordance with Part 2 of that Act;"

(a) 1992 (p.14). Trosglwyddwyd y pwerau hyn, mewn perthynas â Chymru, i Gynulliad Cenedlaethol Cymru drwy Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S.1999/672); gweler y cyfeiriad at Ddeddf Cyllid Llywodraeth Leol 1992 yn Atodlen 1.

(b) O.S. 1992/549, y mae diwygiadau perthnasol wedi'u gwneud iddo gan Orchymyn Diwygio y Dreth Gyngor (Anheddau Taladwy, Anheddau Esempt a Diystyru Gostyngiadau) 1997 (O.S. 1997/656).

(c) 2000 p.14.

2004 No. 2921 (W.260)

COUNCIL TAX, WALES

The Council Tax (Chargeable Dwellings, Exempt Dwellings and Discount Disregards) (Amendment) (Wales) Order 2004

Made 9 November 2004

Coming into force 1 April 2005

The National Assembly for Wales, in exercise of its powers conferred by sections 3(5)(a), 4 and 113 of, and paragraph 7 of Schedule 1 to the Local Government Finance Act 1992(**a**) hereby makes the following Order:

Name, commencement and application

1.-(1) This Order is called the Council Tax (Chargeable Dwellings, Exempt Dwellings and Discount Disregards) (Amendment) (Wales) Order 2004 and comes into force on 1 April 2005.

(2) This Order applies to Wales only.

Amendment to the Council Tax (Chargeable Dwellings) Order 1992

2. The Council Tax (Chargeable Dwellings) Order 1992(**b**) is amended as follows:

(a) in article 2, after the definition of "the Act" insert -

""care home" means a care home within the meaning of the Care Standards Act 2000(**c**), in respect of which a person is registered in accordance with Part 2 of that Act;"

(a) 1992 (c.14). These powers have been transferred, 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.

(b) S.I. 1992/549 to which relevant amendments have been made by the Council Tax (Chargeable Dwellings, Exempt Dwellings and Discount Disregards) Amendment Order 1997 (S.I. 1997/656).

(c) 2000 c.14.

(b) yn erthygl 3, o flaen "Where" mewnosoder "Subject to article 3A,";

(c) ar ôl erthygl 3, mewnosoder yr erthygl ganlynol -

"**3A**. A care home shall be treated as comprising the number of dwellings found by adding one to the number of self-contained units occupied by, or if currently unoccupied, provided for the purpose of accommodating the person registered in respect of it in accordance with Part 2 of the Care Standards Act 2000, and each such unit shall be treated as a dwelling.".

Diwygio Gorchymyn y Dreth Gyngor (Anheddau Esempt) 1992

3. Yn erthygl 3 o Orchymyn y Dreth Gyngor (Anheddau Esempt) 1992(**a**), rhodder yn lle Dosbarth I-

"Class I: an unoccupied dwelling which was previously the sole or main residence of a person who is an owner or tenant of the dwelling and who -

(a) for the purpose of receiving personal care required by that person by reason of old age, disablement, illness, past or present alcohol or drug dependence or past or present mental disorder has his sole or main residence in another place (not being a hospital, care home, independent hospital or hostel within the meaning of paragraphs 6 or 7 of Schedule 1 to the Act or accommodation provided in Scotland by a care home service within the meaning of section 2(3) of the Regulation of Care (Scotland) Act 2001(**b**)); and

(b) has been a relevant absentee for the whole of the period since the dwelling last ceased to be his residence;".

Diwygio Gorchymyn y Dreth Gyngor (Diystyru Gostyngiadau) 1992

4. Yn lle erthygl 6 o Orchymyn y Dreth Gyngor (Diystyru Gostyngiadau) 1992(**c**) rhodder -

"**6**. For the purposes of paragraph 7 of Schedule 1 to the Act, "hostel" means -

(a) premises approved under section 9(1) of the Criminal Justice and Court Services Act 2000(**ch**), or

(a) O.S. 1992/558 y mae diwygiadau perthnasol wedi'u gwneud iddo gan Orchymyn y Dreth Gyngor (Anheddau Esempt) (Diwygio) 1994 (O.S. 1994/539).

(b) 2001 dsa 8.

(c) O.S. 1992/548.

(ch) 2000 p.18.

(b) in article 3, before "Where" insert "Subject to article 3A,";

(c) after article 3, insert the following article -

"**3A**. A care home shall be treated as comprising the number of dwellings found by adding one to the number of self-contained units occupied by, or if currently unoccupied, provided for the purpose of accommodating, the person registered in respect of it in accordance with Part 2 of the Care Standards Act 2000, and each such unit shall be treated as a dwelling.".

Amendment to the Council Tax (Exempt Dwellings) Order 1992

3. In article 3 of the Council Tax (Exempt Dwellings) Order 1992(**a**), for Class I substitute -

"Class I: an unoccupied dwelling which was previously the sole or main residence of a person who is an owner or tenant of the dwelling and who -

(a) for the purpose of receiving personal care required by that person by reason of old age, disablement, illness, past or present alcohol or drug dependence or past or present mental disorder has his sole or main residence in another place (not being a hospital, care home, independent hospital or hostel within the meaning of paragraphs 6 or 7 of Schedule 1 to the Act or accommodation provided in Scotland by a care home service within the meaning of section 2(3) of the Regulation of Care (Scotland) Act 2001(**b**)); and

(b) has been a relevant absentee for the whole of the period since the dwelling last ceased to be his residence;".

Amendment to the Council Tax (Discount Disregards) Order 1992

4. For article 6 of the Council Tax (Discount Disregards) Order 1992(**c**) substitute -

"**6**. For the purposes of paragraph 7 of Schedule 1 to the Act, "hostel" means -

(a) premises approved under section 9(1) of the Criminal Justice and Court Services Act 2000(**d**), or

(a) S.I. 1992/558 to which relevant amendments have been made by the Council Tax (Exempt Dwellings) (Amendment) Order 1994 (S.I. 1994/539).

(b) 2001 asp 8.

(c) S.I. 1992/548.

(d) 2000 c.18.

(b) a building or part of a building -

(i) which is solely or mainly used for the provision of residential accommodation in other than separate and self-contained sets of premises, together with personal care, for persons who require such personal care by reason of old age, disablement, past or present alcohol or drug dependence or past or present mental disorder, and

(ii) which is not a care home or independent hospital for the purposes of that paragraph.".

(b) a building or part of a building -

(i) which is solely or mainly used for the provision of residential accommodation in other than separate and self-contained sets of premises, together with personal care, for persons who require such personal care by reason of old age, disablement, past or present alcohol or drug dependence or past or present mental disorder, and

(ii) which is not a care home or independent hospital for the purposes of that paragraph.".

Llofnodwyd ar ran Cynulliad Cenedlaethol Cymru yn unol ag adran 66(1) o Ddeddf Llywodraeth Cymru 1998(**a**).

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(**a**).

9 Tachwedd 2004

9 November 2004

D. Elis-Thomas

Llywydd y Cynulliad Cenedlaethol

The Presiding Officer of the National Assembly

(a) 1998 p.38.

(a) 1998 c.38.

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