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SCOTTISH STATUTORY INSTRUMENTS

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**2010 No. 35**

**COUNCIL TAX**

**The Council Tax (Dwellings) (Scotland) Regulations 2010**

*Made* - - - - 9th February 2010  
*Laid before the Scottish*  
*Parliament* - - - - 10th February 2010  
*Coming into force* - - 1st April 2010

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 72(4) and 116(1) of the Local Government Finance Act 1992(1) and all other powers enabling them to do so.

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Council Tax (Dwellings) (Scotland) Regulations 2010 and come into force on 1st April 2010.

(2) These Regulations extend to Scotland only.

**Interpretation**

2. In these regulations—

“power station” means a combined heat and power station as defined in paragraph 148(1) of Schedule 6 to the Finance Act 2000(2) together with pipes and risers for the transport of water to and from that station; and

“tenement” means a building or a part of a building which comprises two related flats which, or comprises more than two related flats at least two of which—

- (a) are, or are designed to be, in separate ownership; and
- (b) are divided from each other horizontally.

**Variation of definition of dwelling – combined heat and power stations**

3. The definition of dwelling in section 72(2) (dwellings chargeable to council tax) of the Local Government Finance Act 1992 is further varied(3) as set out in regulations 4 and 5.

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(1) 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).

(2) 2000 c.17.

(3) The definition of dwelling was previously varied by S.I. 1992/1334 and 2955, 1993/526 and 1997/673.

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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4. Subject to regulation 5, there shall be excluded from the definition of dwelling any pipes, risers or any other parts of a power station in so far as they do not fall within the solum, garden, yard or garage of a dwelling house or dwelling houses.

5.—(1) Where a dwelling is part of a tenement, there shall be included in the definition of dwelling the following parts of a power station—

- (a) any parts that fall within the solum of the tenement;
- (b) all pipes and risers for the transport of water between a power station and the tenement that are located in, over or under land pertaining to the tenement; and
- (c) where the power station benefits only the tenement, the other parts of that power station.

(2) The parts of a power station included by virtue of this regulation shall be allocated equally between the dwellings in the tenement that are served by those parts.

St Andrew's House,  
Edinburgh  
9th February 2010

*JOHN SWINNEY*  
A member of the Scottish Executive

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## EXPLANATORY NOTE

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

These Regulations make provision as to whether parts of combined heat and power stations are included or excluded in the definition of dwelling for the purposes of council tax in Scotland. Consequently the parts of a combined heat and power station included in the definition of a dwelling do not attract liability for non-domestic rates.

Regulation 4, subject to regulation 5, excludes from the definition of a dwelling any parts of a combined heat and power station that are not within the solum, garden, yard or garage of a dwelling house or dwelling houses.

Regulation 5 states that the parts of a combined heat and power station in relation to tenements that are to be included in the definition of a dwelling are: (a) parts that are within the solum of the tenement; (b) pipes and risers transporting water between the power station and the tenement in, over or under land pertaining to the tenement; and (c) parts that are not within the solum of a tenement but which benefit only that tenement.