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WELSH STATUTORY INSTRUMENTS

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**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(1) 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(2) 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(3), in respect of which a person is registered in accordance with Part 2 of that Act;”

(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

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(1) 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.

(2) 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).

(3) 2000 c. 14.

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(4), 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(5)); 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(6) 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(7), or
  - (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.”.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(8).

9 November 2004

*D. Elis-Thomas*  
The Presiding Officer of the National Assembly

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

(5) [2001 asp 8](#).

(6) [S.I. 1992/548](#).

(7) [2000 c. 18](#).

(8) [1998 c. 38](#).

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## 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.

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.

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.

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.