

2003 No. 176

COUNCIL TAX

WATER SUPPLY

**The Council Tax (Discounts) (Scotland) Consolidation and
Amendment Order 2003**

<i>Made</i>	<i>11th March 2003</i>
<i>Laid before the Scottish Parliament</i>	<i>11th March 2003</i>
<i>Coming into force</i>	<i>1st April 2003</i>

The Scottish Ministers, in exercise of the powers conferred by section 113(1) of, and paragraphs 1, 2, 4 and 5 of Schedule 1 to, the Local Government Finance Act 1992(a) and of all other powers enabling them in that behalf, hereby make the following Order:

Citation, commencement and extent

1.—(1) This Order may be cited as the Council Tax (Discounts) (Scotland) Consolidation and Amendment Order 2003 and shall come into force on 1st April 2003.

(2) This Order extends to Scotland only.

Interpretation

2. In this Order—

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

“central institution” has the same meaning as in section 135(1) of the Education (Scotland) Act 1980(b);

“designated institution” has the same meaning as in section 44(2) of the Further and Higher Education (Scotland) Act 1992(c);

“District Health Authority” and “Regional Health Authority” have the same meanings as in section 8 of the National Health Service Act 1977(d);

“further education”, in relation to Scotland, has the same meaning as in section 1(5)(b) of the Education (Scotland) Act 1980(e), in relation to England and Wales, has the same meaning as in section 2 of the Education Act 1996(f) and, in relation to Northern Ireland, has the same meaning as in article 5(c) of the Education and Libraries (Northern Ireland) Order 1986(g);

(a) 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).

(b) 1980 c.44.

(c) 1992 c.37.

(d) 1977 c.49; section 8 was amended by the Health Services Act 1980 (c.53), Schedule 1, paragraph 28, the Health and Social Services and Social Security Adjudications Act 1983 (c.41), Schedule 10, Part I and the National Health Service and Community Care Act 1990 (c.19), section 1 and Schedule 10.

(e) Section 1(5)(b) was amended by the Local Government and Planning (Scotland) Act 1982 (c.43), Schedule 3, paragraph 37(b) and by the Self-Governing Schools etc. (Scotland) Act 1989 (c.39), Schedule 11.

(f) 1996 c.56.

(g) S.I. 1986/594 (N.I.3).

“Health Board” has the same meaning as in section 2 of the National Health Service (Scotland) Act 1978(a);

“qualifying course of education” has the meaning assigned to it by Schedule 1;

“relevant activities” with respect to a qualifying course of education means the receipt of tuition, the undertaking of supervised study or examination, and the taking part (as part of the curriculum of the course) in any supervised exercise, experiment, project or practical work;

“the relevant number of hours per week” in relation to such a course means the average number of hours per week a person undertaking it would normally require to spend, in the period during which the course subsists, on relevant activities (excluding for the purpose of calculating that average any part of that period which is a period of vacation);

“the relevant period” for a programme or course means the period commencing with the day on which a person begins that programme or course and ending with the day (“the last day”) on which he completes it, abandons it or is dismissed from it (which period includes any period of vacation between terms and before the last day).

Persons in military detention

3.—(1) Under paragraph 1(6) of Schedule 1 to the Act, a person shall be disregarded for the purposes of discount on a particular day if—

- (a) on the day the person is imprisoned, detained or in custody under the Army Act 1955(b), the Air Force Act 1955(c) or the Naval Discipline Act 1957(d); and
- (b) the conditions prescribed in paragraph (2) are fulfilled where they are applicable.

(2) The conditions are that, where a person is in custody under arrest under any of the Acts mentioned in paragraph (1)—

- (a) the person is not in custody under open arrest; and
- (b) the custody forms part of a continuous period exceeding 48 hours during which the person is under arrest.

(3) A person is to be treated as in custody under open arrest for the purposes of paragraph (2)(a) if the person is so treated for the purposes of Queen’s Regulations for the Navy, Army or Air Force.

The severely mentally impaired

4.—(1) The conditions prescribed for the purposes of paragraph 2(1)(c) of Schedule 1 to the Act are that the person in question—

- (a) is entitled to one or more of the qualifying benefits listed in paragraph (2);
- (b) meets the requirements in paragraph (3); or
- (c) is a qualifying person for the purposes of paragraph (4).

(2) The qualifying benefits are—

- (a) short-term incapacity benefit under section 30A of the Social Security Contributions and Benefits Act 1992(e);
- (b) an attendance allowance under section 64 of that Act;
- (c) a severe disablement allowance under section 68(f) of that Act;
- (d) the care component of a disability living allowance under section 71 of that Act, payable at the highest rate under section 72(4)(a) or at the middle rate under section 72(4)(b) of that Act;
- (e) an increase in the rate of disablement pension under section 104 of that Act (increase where constant attendance needed);

(a) 1978 c.29; section 2 was amended by the Health and Social Services and Social Security Adjudications Act 1983, Schedule 7, paragraph 1 and by the National Health Service and Community Care Act 1990, section 28, Schedule 9, paragraph 19(1) and Schedule 10.

(b) 1955 c.18.

(c) 1955 c.19.

(d) 1957 c.53.

(e) 1992 c.4.

(f) Section 68 was repealed by Schedule 13 to the Welfare Reform and Pensions Act 1999 (c.30) with saving provisions for transitional cases.

- (f) a disabled person's tax credit under section 129 of that Act for which the qualifying benefit is one falling within subsection (2)(a)(i) or (ii) of that section, or is a corresponding Northern Ireland benefit;
 - (g) an unemployability supplement under Part I of Schedule 7 to that Act;
 - (h) a constant attendance allowance under—
 - (i) article 14 of the Personal Injuries (Civilians) Scheme 1983(a); or
 - (ii) article 14 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983(b) (including that provision as applied, whether with or without modifications, by any other instrument);
 - (i) an unemployability allowance under—
 - (i) article 18(1) of the Personal Injuries (Civilians) Scheme 1983(c); or
 - (ii) article 18(1) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983(d) (including that provision as applied, whether with or without modifications, by any other instrument);
 - (j) income support where the applicable amount includes a disability premium in respect of which the additional condition in paragraph 12(1)(b) of Schedule 2 to the Income Support (General) Regulations 1987(e) is satisfied; and
 - (k) long-term incapacity benefit under section 40 or 41 of the Social Security Contributions and Benefits Act 1992(f).
- (3) The requirements in this paragraph are—
- (a) that the person in question has reached pensionable age as defined for the purposes of Parts I to VI of the Social Security Contributions and Benefits Act 1992; and
 - (b) that, had the person in question not reached pensionable age, such person would have been entitled to one of the benefits listed in paragraph (2) above.
- (4) A qualifying person is
- (a) a person whose partner is in receipt of jobseeker's allowance in a case where, by virtue of that person's incapacity for work, the applicable amount for the purposes of regulation 83 or 84 of the Jobseeker's Allowance Regulations 1996(g) includes a premium which falls to be determined under paragraph 14(1)(d) or (g) of Schedule 1 to those Regulations; or
 - (b) a member of a joint-claim couple who are in receipt of joint-claim jobseeker's allowance in a case where, by virtue of the incapacity for work of a member of that couple, the applicable amount under regulation 86A or 86B of the Jobseeker's Allowance Regulations 1996 includes a premium which falls to be determined under paragraph 20H(1)(d) or (h) of Schedule 1 to those Regulations(h).

Apprentices

5.—(1) For the purposes of paragraph 4 of Schedule 1 to the Act, “apprentice” means a person who, on a particular day, is—

- (a) employed for the purpose of learning a trade, business, profession, office, employment or vocation;
- (b) for that purpose undertaking a programme of training leading to a qualification accredited by the Qualifications and Curriculum Authority (QCA) or the Scottish Qualifications Authority (SQA); and
- (c) employed at a salary or in receipt of an allowance which is or (if both) which are in total—
 - (i) substantially less than the salary the person would be likely to receive if the person had achieved the qualification in question; and

(a) S.I. 1983/686, article 14 was substituted by S.I. 2001/420, Schedule 1, paragraph 3.

(b) S.I. 1983/883, article 14 was substituted by S.I. 2001/409, Schedule 1, paragraph 3.

(c) Article 18 was relevantly amended by S.I. 1984/1289, 1985/1313, 1992/702 and 2001/420.

(d) Article 18 was relevantly amended by S.I. 1984/1154, 1985/1201, 1992/710 and 2001/409.

(e) S.I. 1987/1967; relevant amending instruments are S.I. 1988/2022, 1995/482, 2303 and 1998/2231.

(f) 1992 c.4; sections 40 and 41 were substituted by the Social Security (Incapacity for Work) Act 1994 (c.18), Schedule 1, paragraphs 8 and 9, and section 41 was amended by the Pensions Act 1995 (c.26), Schedule 4, paragraph 21(4).

(g) S.I. 1996/207.

(h) Paragraph 20H(1) was inserted by paragraph 53 of Schedule 2 to the Jobseekers Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978).

(ii) no more than £163 per week.

(2) A person is undertaking a programme for the purposes of paragraph (1) above on a particular day if the day falls within the relevant period for that programme.

Students

6.—(1) For the purposes of paragraph 4 of Schedule 1 to the Act, “student” means a person who, on a particular day, is not a student nurse (in terms of article 7) and is—

- (a) registered with the Central Bureau for Educational Visits and Exchanges as a foreign language assistant, provided that the day falls within the period of the person’s appointment as such an assistant at a school or other educational institution in Great Britain;
- (b) aged under 20 and undertaking with a single educational establishment (otherwise than in consequence of an office or employment held by the person)—
 - (i) a qualifying course of education in respect of which the relevant number of hours per week exceeds 12; or
 - (ii) two or more qualifying courses of education in respect of which the aggregate of the relevant number of hours per week for all those courses exceeds 12; or
- (c) undertaking a course of education—
 - (i) which is specified in Schedule 2 to this Order;
 - (ii) which is provided by an institution specified in Schedule 3 to this Order;
 - (iii) which requires the attendance of persons undertaking it for a period of at least 24 weeks within each academic year of the institution providing it; and
 - (iv) in respect of which, in the opinion of the institution, a person would ordinarily require to undertake periods of study or tuition (including any periods of industrial, professional or commercial experience associated with the course which the person requires to undertake to complete the course) which amount, in the aggregate, to an average of at least 21 hours a week during the period mentioned in head (iii) above.

(2) A person is to be regarded for the purposes of paragraph (1)(b) as undertaking a qualifying course of education on a particular day if—

- (a) the day falls within the relevant period for that course; and
- (b) the person is not on that day an apprentice or a youth training trainee (in terms of article 5 or 8).

(3) A person is to be regarded for the purposes of paragraph (1)(c) as undertaking a course of education on a particular day if—

- (a) on the day the person is enrolled with the institution providing the course for the purpose of attending that course; and
- (b) the day falls within the period beginning with the day on which the person begins the course and ending with the day on which the person ceases to undertake it, and for these purposes a person is to be regarded as ceasing to undertake a course of education if the person has completed it, abandoned it or is no longer permitted by the institution to attend it.

Student nurses

7.—(1) For the purposes of paragraph 4 of Schedule 1 to the Act, “student nurse” means a person who, on a particular day, is undertaking, at such an educational establishment as is specified in Schedule 3 to this Order, a course which would (if successfully completed) lead to registration on any of Parts 1 to 8, 10 and 12 to 15 of the Register maintained under section 7 of the Nurses, Midwives and Health Visitors Act 1997^(a) as a first inclusion on that Register.

(2) A person is undertaking a course for the purposes of paragraph (1) above on a particular day if the day falls within the relevant period for that course.

(a) 1997 c.24.

Youth training trainees

8.—(1) For the purposes of paragraph 4 of Schedule 1 to the Act, “youth training trainee” means a person who, on a particular day, is—

- (a) under the age of 25; and
- (b) undertaking a course of training in conformity with an individual training plan pursuant to arrangements which—
 - (i) are made under section 2 of the Employment and Training Act 1973(a); and
 - (ii) constitute a training scheme as defined in regulation 75(1)(b) of the Jobseeker’s Allowance Regulations 1996.

(2) A person is undertaking a course for the purposes of paragraph (1) on a particular day if the day falls within the relevant period for that course.

Certificates

9. For the purposes of paragraph 5 of Schedule 1 to the Act—

- (a) the information to be contained in a certificate under sub-paragraph (2) of that paragraph is—
 - (i) the name and address of the institution by whom the certificate is supplied;
 - (ii) the full name of the person to whom it is supplied;
 - (iii) the person’s date of birth (where this is known to the institution and where the person to whom the certificate is supplied is, at the time of supply, a student by virtue of article 6(1)(b));
 - (iv) the person’s home address and, where different, the person’s address during the term time of the institution (where these are known to the institution);
 - (v) a statement certifying that the person is following or has followed a course of education at the institution as a student or, as the case may be, a student nurse; and
 - (vi) the date when the person became a student or a student nurse at the institution and the date when the person’s course ended or is expected to end; and
- (b) any educational establishment situated in Scotland which is specified in Schedule 3 to this Order is hereby prescribed as an institution.

Revocations

10. The Orders specified in Schedule 4 are hereby revoked.

PETER J PEACOCK

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
11th March 2003

(a) 1973 c.50; section 2 was substituted by the Employment Act 1988 (c.19), section 25 and amended by the Employment Act 1989 (c.38), Schedule 7, Part I.

SCHEDULE 1

QUALIFYING COURSES OF EDUCATION

1. A qualifying course of education is a course of education—
 - (a) which subsists for more than 3 calendar months;
 - (b) which is not an excepted course;
 - (c) with respect to which tuition is principally received otherwise than through correspondence; and
 - (d) with respect to which the relevant activities are (insofar as they are normally carried out under the course at particular times) normally so carried out principally between 8.00am and 5.30pm.

- 2.—(1) In paragraph 1(b) above, an excepted course means, subject to sub-paragraphs (2) and (3)—
 - (a) a course for the further training of teachers or youth and community workers;
 - (b) a post-graduate course (including a higher degree course);
 - (c) a first degree course;
 - (d) a course for the Diploma of Higher Education;
 - (e) a course for—
 - (i) the Higher National Diploma or Higher National Certificate of the Scottish Qualifications Authority;
 - (ii) a Scottish Vocational Qualification Level IV; or
 - (iii) the Diploma in Management Studies;
 - (f) a course for a diploma, certificate or qualification equivalent to those specified in head (e) above;
 - (g) a course for the Post Graduate Certificate in Education;
 - (h) a course in preparation for a professional examination at higher level; and
 - (i) a course providing education at a higher level (whether or not in preparation for an examination).

(2) For the purposes of sub-paragraph (1)(h), a professional examination is at higher level if its standard is higher than—

 - (a) the standard of examinations at the higher grade of the Scottish Certificate of Education or the Advanced Level for the General Certificate of Education; or
 - (b) the assessment for the National Certificate of the Scottish Qualifications Authority for Scottish Vocational Qualification Level III.

(3) For the purposes of sub-paragraph (1)(i) above, a course is to be regarded as providing education at a higher level if its standard is higher than the standard of courses providing education in preparation for any of the examinations or the assessments mentioned in sub-paragraph (2) above.

SCHEDULE 2
SPECIFIED COURSES

Courses at first degree and diploma level

1. A course at undergraduate level leading to—
 - (a) a degree, certificate, diploma or licentiateship of a university or theological college; or
 - (b) a degree, certificate or diploma granted by a designated institution, a central institution or any other institution for the provision of any form of further education.

Courses in further education

2. A course in further education leading to an award of the Scottish Certificate of Education, the General Certificate of Education, the General Certificate of Secondary Education or the International Baccalaureate.
3. A course in further education leading to the National Certificate, the Higher National Certificate or Higher National Diploma of the Scottish Qualifications Authority, or a Scottish Vocational Qualification, or any other course in further education leading to a comparable award.
4. A course in further education required by an educational establishment to be undertaken prior to any other course mentioned in this Schedule being undertaken.

Teacher training and other courses

5. A course at undergraduate or postgraduate level for the initial training of teachers, social workers or youth and community workers.

Vocational courses at postgraduate level

6. A course at postgraduate level leading to a certificate or diploma in professional studies or to any other comparable award.

Courses at higher degree level

7. A course leading to the award of the degree of Doctor of Philosophy or a Master's degree or to any other comparable award.

SCHEDULE 3
INSTITUTIONS

- 1.** A university in the United Kingdom and any college, school, hall or other institution of such a university.
- 2.** A central institution.
- 3.** A designated institution.
- 4.** A college of nursing and midwifery or a college of health, established by a Health Board or by a Regional or District Health authority.
- 5.** Any other institution in Scotland for the provision of any form of further education (other than a Ministry of Defence training establishment for the armed forces).
- 6.** An establishment of further education in England or Wales maintained or assisted by a local education authority within the meaning of the Education Act 1996(**a**) or in receipt of grants made under regulations made under section 484 of that Act(**b**).
- 7.** Any other institution in England or Wales which is—
 - (a) within the further education sector (in terms of section 91(3) of the Further and Higher Education Act 1992(**c**); or
 - (b) within the higher education sector (in terms of section 91(5) of that Act).
- 8.** A college of education within the meaning of article 2(2) of the Education and Libraries (Northern Ireland) Order 1986(**d**).
- 9.** An institution of further education in Northern Ireland provided by an Education and Library Board constituted in accordance with Schedule 1 to that Order.
- 10.** A theological college.
- 11.** An institution of a Research Council established by Royal Charter under section 1 of the Science and Technology Act 1965(**e**).

(a) 1996 c.56.

(b) Section 484 was amended by the School Standards and Framework Act 1998 (c.31), Schedule 30, paragraph 125.

(c) 1992 c.13.

(d) S.I. 1986/594.

(e) 1965 c.4; section 1 was amended by the Nature Conservancy Council Act 1973 (c.54), Schedule 4.

SCHEDULE 4
REVOCATIONS

<i>Orders revoked</i>	<i>References</i>
The Council Tax (Discounts) (Scotland) Order 1992	S.I. 1992/1408 (S.136)
The Council Tax (Discounts) (Scotland) Amendment Order 1994	S.I. 1994/626 (S.26)
The Council Tax (Discounts) (Scotland) Amendment Order 1995	S.I. 1995/599 (S.50)
The Council Tax (Discounts) (Scotland) Amendment Order 1997	S.I. 1997/586 (S.37)
The Council Tax (Discounts) (Scotland) Amendment Order 1998	S.I. 1998/341 (S.16)

EXPLANATORY NOTE

(This note is not part of the Order)

This Order consolidates with amendments and revokes the provisions of the Council Tax (Discounts) (Scotland) Order 1992 (“the 1992 Order”) and Orders amending that Order.

The 1992 Order made provision for certain prescribed persons to be disregarded when calculating the amount of council tax payable by a household in Scotland. This Order consolidates the 1992 Order and its amending Orders (which are revoked in article 10 of this Order).

Article 3 provides for a person to qualify for discount on a particular day if that person is in military detention and certain conditions are fulfilled.

Article 4 provides that, for a person to qualify for discount within the class of the severely mentally impaired, that person must be entitled to one of the benefits listed in the article.

Articles 5 to 8 provide appropriate definitions of persons who will qualify for discount by virtue of being “apprentices”, “students”, “student nurses” or “youth training trainees”.

Article 9 specifies the information to be contained in certificates supplied to students and student nurses and prescribes the educational establishments which are to be responsible for providing such certificates.

The principal changes to the 1992 Order (as amended) are that in article 4 the “disability working allowance” has been renamed the “disabled person’s tax credit” and that in article 5 the gross earnings of apprentices have been uprated in line with second adult rebate cases to £163 per week. Article 7 has also been amended to reflect the fact that courses on nursing and midwifery are provided at Further and Higher Educational Institutions.

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