

SCHEDULES

SCHEDULE 12

AMENDMENTS

PART II

SCOTLAND

Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c. 47)

35 After Schedule 1 to that Act there shall be inserted the following Schedule—

“SCHEDULE 1A

PERSONAL COMMUNITY CHARGE: EXEMPTION

Persons in detention

- 1 (1) A person is exempt if—
 - (a) he is detained in a prison, a hospital or any other place by virtue of an order of a court to which sub-paragraph (2) below applies;
 - (b) he is detained under paragraph 2 of Schedule 3 to the Immigration Act 1971 (deportation);
 - (c) he is detained under Part V or section 69, 70, 71 or 118 of the Mental Health (Scotland) Act 1984; or
 - (d) he is detained under a warrant issued under the Repatriation of Prisoners Act 1984.
- (2) This sub-paragraph applies to the following courts—
 - (a) a court in the United Kingdom; and
 - (b) a Standing Civilian Court established under the Armed Forces Act 1976.
- (3) If a person is temporarily discharged under section 22 of the Prisons (Scotland) Act 1952, or temporarily released under rules under section 35(6) of that Act, for the purposes of sub-paragraph (1) above he shall be treated as detained.
- (4) Sub-paragraph (1) above does not apply where the person is detained only under section 407 of the Criminal Procedure (Scotland) Act 1975, for non-payment of a fine.

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- (5) In sub-paragraph (1) above, “order” includes a sentence, direction, warrant or other means of giving effect to the decision of the court concerned.
- (6) The Secretary of State may by regulations provide that a person is exempt if—
- (a) he is imprisoned, detained or in custody under the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957; and
 - (b) such conditions as may be prescribed are fulfilled.

Visiting forces

- 2 (1) A person is exempt if he has a relevant association with a visiting force.
- (2) A visiting force, in relation to any particular time, is any body, contingent or detachment of the forces of a country to which any provision in Part I of the Visiting Forces Act 1952 applies at that time.
- (3) A person has, at any particular time, a relevant association with a visiting force if he has at that time such an association within the meaning of that Part.

International headquarters and defence organisations

- 3 (1) A person is exempt if he is a member of a headquarters or a dependant of such a member.
- (2) A headquarters, in relation to any particular time, is a headquarters or organisation designated at that time by an Order in Council under section 1 of the International Headquarters and Defence Organisations Act 1964.
- (3) A person is, at any particular time, a member of a headquarters if he is at that time such a member within the meaning of the Schedule to that Act.
- (4) A person is, at any particular time, a dependant of such a member if he is at that time such a dependant within the meaning of that Schedule.

The severely mentally impaired

- 4 (1) A person is exempt if—
- (a) he fulfils one or more of the conditions mentioned in sub-paragraph (2) below;
 - (b) he is severely mentally impaired; and
 - (c) he is stated to be severely mentally impaired in a certificate of a registered medical practitioner.
- (2) The conditions are that—
- (a) he is entitled to an invalidity pension under section 15 of the Social Security Act 1975;
 - (b) he is entitled to a severe disablement allowance under section 36 of that Act;

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- (c) he is of pensionable age within the meaning given by section 27 of that Act.
- (3) A person is severely mentally impaired if he is suffering from—
- (a) a state of arrested or incomplete development of mind which involves severe impairment of intelligence and social functioning; or
 - (b) an injury to the brain causing severe impairment of intelligence and social functioning which appears to be permanent.
- (4) The Secretary of State may by regulations amend sub-paragraph (2) above as it has effect for the time being (whether by adding, deleting or amending conditions, or by any combination of those methods).
- (5) The Secretary of State may by regulations substitute another definition for the definition of severe mental impairment for the time being effective for the purpose of this paragraph.

Children

- 5 A person is exempt if another person is entitled to child benefit in respect of him.

Students

- 6 (1) A person is exempt if he is undertaking a full-time course of education and he is resident during term time in England, Wales or Northern Ireland for the purpose of undertaking the course.
- (2) Regulations made under this paragraph—
- (a) shall make provision for the purpose of determining for the purposes of this paragraph whether a person is undertaking a full-time course of education; and
 - (b) shall prescribe the meaning of “term time” for the purposes of this paragraph.

Members of religious communities

- 7 (1) A person is exempt if—
- (a) he is a member of a relevant religious community; and
 - (b) he has no income or capital of his own and is dependent on the community concerned for his material needs.
- (2) A relevant religious community is a religious community whose principal occupation—
- (a) is prayer, contemplation, the relief of suffering, education, or any prescribed occupation; or
 - (b) consists of two or more of the occupations mentioned in paragraph (a) above.
- (3) A prescribed occupation is such occupation as may for the time being be prescribed for the purposes of this paragraph.

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- (4) In construing sub-paragraph (1)(b) above, income by way of pension in respect of a former employment is to be ignored.

Hospital patients

- 8 (1) A person is exempt if he is a patient who is solely or mainly resident in a hospital.
- (2) “Hospital” means a health service hospital within the meaning of section 108(1) of the National Health Service (Scotland) Act 1978.
- (3) The Secretary of State may by regulations substitute another definition for the definition of hospital for the time being effective for the purposes of this paragraph.

Patients in homes

- 9 (1) A person is exempt if—
- (a) he is solely or mainly resident in a residential care home, nursing home, private hospital or hostel; and
 - (b) he is receiving care or treatment (or both) there.
- (2) A residential care home is—
- (a) a residential establishment provided and maintained by a local authority in respect of the functions under section 27 of the National Health Service (Scotland) Act 1947 transferred to them by section 1(4)(c) of the Social Work (Scotland) Act 1968; or
 - (b) a residential establishment to which Part IV of the said Act of 1968 applies; or
 - (c) residential accommodation provided and maintained by a local authority under section 7 of the Mental Health (Scotland) Act 1984,

where the sole or main function of the establishment or accommodation is to provide personal care or support, combined with board, to persons who are solely or mainly resident in the establishment or accommodation.

- (3) A nursing home is—
- (a) a nursing home within the meaning of section 10(2) of the Nursing Homes Registration (Scotland) Act 1938 in respect of which a person is registered; or
 - (b) any premises in respect of which an exemption has been granted under section 6 or 7 of that Act.
- (4) A private hospital is a private hospital within the meaning of section 12 of the Mental Health (Scotland) Act 1984 which is registered under that Act.
- (5) A hostel is an establishment in which residential accommodation is provided and which is—
- (a) managed by a housing association registered for the time being in a register maintained under section 3 of the Housing Associations Act 1985; or

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- (b) operated other than on a commercial basis and in respect of which funds are provided wholly or in part by a Government department or agency or a local authority; or
 - (c) managed by a voluntary organisation,
where the sole or main function of the establishment is to provide personal care or support, combined with board, to persons who are solely or mainly resident in the establishment.
- (6) The Secretary of State may by regulations made under this paragraph substitute another definition for any definition of a residential care home, nursing home, private hospital or hostel for the time being effective for the purpose of this paragraph.
- (7) In this paragraph—
“personal care” includes the provision of appropriate help with physical and social needs;
“support” means counselling or other help provided as part of a planned programme of care; and
“voluntary organisation” has the meaning given by section 94(1) of the Social Work (Scotland) Act 1968.

Care workers

- 10 (1) A person is exempt if—
- (a) he is employed to provide care or support (or both) to another person or other persons; and
 - (b) such conditions as may be prescribed are fulfilled.
- (2) Without prejudice to the generality of sub-paragraph (1)(b) above the conditions may—
- (a) require the person’s employer to be a charity or fulfil some other description;
 - (b) relate to the period for which he is employed or other factors concerning his employment;
 - (c) require his income for a prescribed period not to exceed a prescribed amount;
 - (d) require his capital not to exceed a prescribed amount;
 - (e) require him to be resident in prescribed premises;
 - (f) require him not to exceed a prescribed age; and
 - (g) require the other person or persons to fulfill a prescribed description (whether relating to age, disablement or otherwise).

Residents of certain Crown land

- 11 (1) A person is exempt if he is solely or mainly resident in Crown land which is designated under this paragraph.
- (2) The Secretary of State may designate land under this paragraph if at the time of designation the first and second conditions are fulfilled.
- (3) The first condition is that it is land in which there is any interest belonging to Her Majesty in right of the Crown or to a Government

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department or to a Minister of the Crown or held on behalf of Her Majesty for the purposes of a Government department.

- (4) The second condition is that in the Secretary of State's opinion the land is used wholly or mainly as the sole or main residence of individuals, and in his opinion most or all of them—
- (a) reside there for short periods; or
 - (b) should in the interests of national security not be registered as subject to a personal community charge.
- (5) The Secretary of State—
- (a) at any time may, and
 - (b) if the first or second condition ceases to be fulfilled shall, revoke a designation under this paragraph.
- (6) A designation under this paragraph shall take effect at the beginning of the day following that on which it was made, and shall cease to have effect at the end of the day (if any) on which it is revoked.

Residents of certain other premises

- 12 A person other than a person such as is mentioned in section 8(4) or (6A) of this Act is exempt if he is solely or mainly resident in premises—
- (a) in respect of which the collective community charge is payable;
 - (b) which are premises of a description prescribed for the purposes of paragraph (a) of section 11(3A) of this Act; or
 - (c) which are subject to non-domestic rates.

Persons without fixed abode

- 13 (1) A person is exempt in relation to any day if—
- (a) he has no fixed abode in Scotland or elsewhere; and
 - (b) at the end of the day the place of his sole or main residence does not consist of a building, caravan or residential boat.
- (2) If a person has no fixed abode (in Scotland or elsewhere) he shall be treated as having his sole or main residence in the place where he is at any particular time.
- (3) Whether anything is a caravan shall be construed in accordance with Part I of the Caravan Sites and Control of Development Act 1960.
- (4) In this paragraph—
- (a) a building includes a chalet or hut; and
 - (b) a residential boat is a boat which is designed or adapted for human habitation.”