

EXPLANATORY MEMORANDUM TO
THE COUNCIL TAX (DISCOUNT DISREGARDS) (AMENDMENT) (ENGLAND)
ORDER 2006

2006 No. 3396

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government (The Department) and is laid before Parliament by Command of Her Majesty.
2. **Description**
 - 2.1 This Order makes minor amendments to the Council Tax (Discount Disregards) Order 1992 (S.I. 1992/548) (“the Discount Disregards Order”). In particular, amendments are made to uprate financial limits and update definitions.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative Background**
 - 4.1 Section 11 of the Local Government Finance Act 1992 (“the 1992 Act”) provides for certain council tax discounts. A full council tax bill assumes that there are two people resident in the dwelling. Under section 11 of the 1992 Act a discount of 25% is available if there is only one resident in the dwelling, and a discount of 50% is available if there is no resident (see generally section 11(1) to (3) of the 1992 Act).
 - 4.2 In determining whether a discount under section 11 of the 1992 Act is applicable certain people are ‘disregarded’; that is, they are ignored when determining how many people are resident in a dwelling. Schedule 1 to the 1992 Act specifies persons who are to be disregarded for this purpose.
 - 4.3 One category of person in Schedule 1 is students. Students, student nurses, apprentices and youth training trainees are to be disregarded if they fulfil such conditions as may be prescribed by order by the Secretary of State (see paragraph 4(1) of Schedule 1 to the 1992 Act). The Secretary of State also has power (by way of order) to define the meaning of “apprentice”, “student nurse”, “student” and “youth training trainee” (paragraph 4(2) of Schedule 1 to the 1992 Act) and to prescribe educational establishments which are required, on request, to supply certificates to any students or student nurses following a course of education at the establishments (paragraph 5(4) of Schedule 1 to the 1992 Act).
 - 4.4 These (and other related matters) are currently addressed in the Discount Disregards Order. This Order amends the Discount Disregards Order in

certain respects. The amendments are further explained in the ‘policy background’ section below.

5. Extent

5.1 This instrument applies in relation to billing authorities in England.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 There are a number of financial limits and definitions in council tax secondary legislation that have not been updated for a number of years. These amendments - together with amendments contained in The Council Tax and Non-Domestic Rating (England) Regulations 2006 - are intended to ensure that the original policy intention of the legislation is effective and up to date and that the financial limits reflect changes in the value of money since they were last updated.

7.2 The Department published a consultation paper containing the proposed amendments on 8 August 2006. A letter publicising the consultation paper was sent to all English local authorities, the Institute of Revenues, Rating and Valuation, the Local Government Association, the Association of London Government, the Valuation Office Agency, the Chartered Institute of Public Finance and Accountancy, Carers UK, the Institute of Payroll and Pensions Management, the Federation of Small Businesses, the Confederation of British Industry, the Insolvency Service, the Local Authority Civil Enforcement Forum, the National Association of Local Councils, the National Association of Connexions Partnerships, the Association of Learning Providers, the Association of Colleges, the Learning & Skills Council, the Trades Union Congress, and the National Association of Citizens Advice Bureaux on behalf of the Citizen generally, Liberata, BH&HPA, Individual, British Beer & Pub Association, King Sturge LLP/Rating Surveyors' Association, Royal Institute of Chartered Surveyors, UK PIA, EP2, GVA Grimley, Erdman Lewis Rating, Cluttons LLP, British Holiday & Homes Park Association, National Caravan Council, Easynet, Sanderson Weatherall, Edwin Hill, Baker Davidson Thomas, Evans & Payne, Hair & Son, CAPITA, Stimpsons Chartered Surveyors, CIO, Rating Surveyors Association, J D Consultancy Ltd, LSM Partners, Local Government Ombudsman, Inter Bank Rating Forum, Cyril Leonard, British Council for Offices, Bridgestone Surveyors, Valuation Tribunal Service, British Chamber of Commerce, Forum of Private Business, National Grid Plc, Jones Lang LaSalle, Rating Solutions South West, GL Hearn, Wilkinson Hardware Stores, BBG Commercial, Rapleys LLP, NAI Fuller Peiser, MUA Property Services Ltd, IBS Open systems, Allsop Chartered Surveyors, B.I.S.L, Robert Clarke Chartered Surveyors, BOC Ltd, PriceWaterhouseCoopers, Bayram Vickery Meech, Lambert Smith Hampton, Portsmouth Water, Institute Of Directors. It was also made available on the Department’s web-site. The paper can currently be found on the Department’s web-site at the following link:

<http://www.communities.gov.uk/index.asp?id=1502036>

The consultation period closed on 31 October 2006.

- 7.3 The Department received 59 representations in response to the consultation. The low number of responses was expected given the minor, technical nature of the proposed amendments. All the respondents that expressed an opinion agreed with the amendments contained in this Order. A detailed analysis of the consultation responses can be found at the following link:

<http://www.communities.gov.uk/index.asp?id=1502036>

Details of the amendments are set out below.

Apprentice Disregard

- 7.4 The qualifying criteria for the apprentice disregard are set out in Part I of Schedule 1 to the Discount Disregards Order. Before formally consulting, the Department discussed the operation of this disregard with the Department for Education and Skills (“DfES”) and other key stakeholders and subsequently consulted on three amendments. This Order makes the following three amendments to Part 1 of Schedule 1 to the Discount Disregards Order.
- 7.5 Currently an apprentice must earn no more than £160 per week to qualify to be disregarded. That figure was last updated in 1998. Article 2(2)(a)(ii) of the Order substitutes paragraph 1(1)(c) in Part I of Schedule 1 to the Discount Disregards Order and so updates that limit in line with inflation (20.8% between April 1998 and April 2006 rounded to the nearest £5) to £195.
- 7.6 Under Part 1 of Schedule 1, there is currently a requirement for an apprentice to be earning substantially less than their expected future salary. The Department believes that there is little justification for that requirement and that it is administratively burdensome for authorities. The substituted paragraph 1(1)(c) also omits that requirement.
- 7.7 Part 1 also currently provides that an apprentice must be undertaking a programme of training leading to a qualification accredited by the National Council for Vocational Qualifications (“NCVQ”). However, the NCVQ has been replaced by the Qualifications and Curriculum Authority (“QCA”). Article 2(2)(a)(i), therefore, amends Part I of Schedule 1 to substitute the QCA for the NCVQ.

Definition of Foreign Language Assistant

- 7.8 Article 4 of the Discount Disregards Order defines “student” so as to include a foreign language assistant. Paragraph 2 of Part II of Schedule 1 to the Discounts Disregards Order then defines “foreign language assistant” for council tax purposes.
- 7.9 The Central Bureau for Educational Visits and Exchanges’ registration role referred to at paragraph 2(a) of Part II of Schedule 1 to the Discount

Disregards Order is now undertaken by the British Council. Article 2(2)(b) of this Order, therefore, amends paragraph 2 of Part II of Schedule 1 to the Discounts Disregards Order so as to substitute “British Council” for “The Central Bureau for Educational Visits and Exchanges”.

Youth Trainee Disregard

- 7.10 Currently under Part IV of Schedule 1 to the Discount Disregards Order, to qualify for a disregard as a youth trainee a person must be under the age of 25 and be undertaking training in conformity with an individual training plan pursuant to arrangements made under section 2 of the Employment and Training Act 1973. Those arrangements must constitute an approved training scheme for the purposes of section 28 of the Social Security Contributions and Benefits Act 1992.
- 7.11 The Department has been advised by DfES that this disregard is now out of step with current training arrangements. Article 2(2)(c) of this Order amends Part IV of Schedule 1 to the Discount Disregards Order so that the qualifying criteria are that a person must be under the age of 25, and undertaking training pursuant to arrangements made by the Secretary of State under section 2 of the Employment and Training Act 1973, which is funded by the Learning and Skills Council for England.

Definition of Prescribed Educational Establishments

- 7.12 Under paragraph 3(a) of Schedule 1 to the Discount Disregards Order a student is required to be studying at a prescribed educational establishment in order to be discounted for the purposes of section 11 of the 1992 Act.
- 7.13 Paragraph 1(d) of Part I of Schedule 2 to the Discounts Disregards Order provides that an institution is to be a prescribed educational establishment if it is “an institution within the PCFC [Polytechnics and Colleges Funding Council] funding sector for the purposes of the Education Reform Act 1988”. Section 132 of the Education Reform Act 1988, which created the PCFC, was repealed by the Further and Higher Education Act 1992, although the classes of institution contained in the original definition still exist.
- 7.14 Article 2(3)(a) of this Order omits paragraph 1(d) of Part 1 of Schedule 2 to the Discounts Disregards Order. This amendment will not alter the current position, since the institutions which currently fall within paragraph 1(d) of Part I of Schedule 2 to the Discount Disregards Order will in future fall within paragraph 1(f) (“any other institution in England or Wales established solely or mainly for the purpose of providing courses of further or higher education”).

Definition of Further Education

- 7.15 As mentioned above, some prescribed educational establishments qualify as such by virtue of the fact that they provide ‘further education’. Paragraph 2 of Part I of Schedule 2 to the Discounts Disregards Order 1992 defines ‘further education’ by reference to the Education Act 1944. That Act was repealed by the Education Act 1996 and the current definition of further education is contained within section 2 of the latter Act. Article 2(3)(b) of this Order

amends paragraph 2 of Part 1 of Schedule 2 to the Discounts Disregards Order so that “section 2 of the Education Act 1996” is substituted for “the Education Act 1944”.

Timing

7.16 The amendments will come into force on 31 January 2007 and take effect from 1 April 2007. The changes will therefore apply to 2007/08 bills.

Guidance

7.17 The Department has published a Council Tax Information Letter advising stakeholders of these amendments, and published a summary of consultation responses, including the decisions taken by Ministers in the light of those responses, on the The Department’s website (see 7.3 above).

Consolidation

7.18 As the amendments contained in this Order are minor changes, mainly to figures and definitions, The Department considers it unnecessary to consolidate the Statutory Instrument being amended.

8. Impact

8.1 A full regulatory impact assessment has not been produced for this instrument, as it has no impact on the costs of businesses, charities or voluntary bodies; neither does it have significant financial impact on any public bodies.

9. Contact

David McDonald at the Department for Communities and Local Government Tel: 020 7944 4206 or e-mail: david.mcdonald@communities.gsi.gov.uk can answer any queries regarding the instrument.