SCOTTISH STATUTORY INSTRUMENTS

2003 No. 176

COUNCIL TAX
WATER SUPPLY

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

Made - - - -	*11th March 2003*
Laid before the Scottish Parliament - - - -	*11th March 2003*
Coming into force - -	*1st April 2003*

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(**1**) 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(**2**);

"designated institution" has the same meaning as in section 44(2) of the Further and Higher Education (Scotland) Act 1992(**3**);

(**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**) 1980 c. 44.
(**3**) 1992 c. 37.

"District Health Authority" and "Regional Health Authority" have the same meanings as in section 8 of the National Health Service Act 1977(**4**);

"further education", in relation to Scotland, has the same meaning as in section 1(5)(b) of the Education (Scotland) Act 1980(**5**), in relation to England and Wales, has the same meaning as in section 2 of the Education Act 1996(**6**) and, in relation to Northern Ireland, has the same meaning as in article 5(c) of the Education and Libraries (Northern Ireland) Order 1986(**7**);

"Health Board" has the same meaning as in section 2 of the National Health Service (Scotland) Act 1978(**8**);

"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(**9**), the Air Force Act 1955(**10**) or the Naval Discipline Act 1957(**11**); 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.

(**4**) 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.
(**5**) 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.
(**6**) 1996 c. 56.
(**7**) S.I.1986/594 (N.I.3).
(**8**) 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.
(**9**) 1955 c. 18.
(**10**) 1955 c. 19.
(**11**) 1957 c. 53.

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(**12**);

(b) an attendance allowance under section 64 of that Act;

(c) a severe disablement allowance under section 68(**13**) 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);

(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(**14**); or

(ii) article 14 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983(**15**) (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(**16**); or

(ii) article 18(1) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983(**17**) (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(**18**) is satisfied; and

(k) long-term incapacity benefit under section 40 or 41 of the Social Security Contributions and Benefits Act 1992(**19**).

(3) The requirements in this paragraph are–

(**12**) 1992 c. 4.
(**13**) Section 68 was repealed by Schedule 13 to the Welfare Reform and Pensions Act 1999 (c. 30) with saving provisions for transitional cases.
(**14**) S.I. 1983/686, article 14 was substituted by S.I. 2001/420, Schedule 1, paragraph 3.
(**15**) S.I. 1983/883, article 14 was substituted by S.I. 2001/409, Schedule 1, paragraph 3.
(**16**) Article 18 was relevantly amended by S.I. 1984/1289, 1985/1313, 1992/702 and 2001/420.
(**17**) Article 18 was relevantly amended by S.I. 1984/1154, 1985/1201, 1992/710 and 2001/409.
(**18**) S.I. 1987/1967; relevant amending instruments are S.I. 1988/2022, 1995/482, 2303 and 1998/2231.
(**19**) 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).

(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(**20**) 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(**21**).

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

(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–

(**20**) S.I. 1996/207.
(**21**) Paragraph 20H(1) was inserted by paragraph 53 of Schedule 2 to the Jobseekers Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978).

(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(**22**) 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.

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(**23**); and

(ii) constitute a training scheme as defined in regulation 75(1)(b) of the Jobseeker's Allowance Regulations 1996.

(**22**) 1997 c. 24.
(**23**) 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.