

## **Explanatory Memorandum to The Council Tax (Discount Disregards) (Amendment) (Wales) Order 2010**

This Explanatory Memorandum has been prepared by the Department for Social Justice and Local Government and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 24.1.

### **Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of **The Council Tax (Discount Disregards) (Amendment) (Wales) Order (2010)**

*Carl Sargeant*

**Minister for Social Justice and Local Government  
06 October 2010**

## **1. Description**

This Order updates our statutory functions to take account of provisions in the Apprenticeships, Skills, Children and Learning Act 2009. The Act establishes, for England, the Office of Qualifications and Examinations Regulation (Ofqual) as an independent body to recognise awarding bodies and the accreditation of qualifications. Under the Order council tax liability in relation to apprentices is determined by reference to qualifications awarded or authenticated by bodies recognised by Ofqual, the Scottish Vocational Education Council and by the Welsh Ministers in accordance with section 30 Education Act 1997.

## **2. Matters of special interest to the Constitutional Affairs Committee**

None

## **3. Legislative background**

At present, the Council Tax (Discounts Disregards) Order 1992 (the 1992 Order) provides that a person is considered to be an apprentice, and therefore disregarded for the purposes of determining liability for council tax, if on a particular day, that person is;

- (i) employed for the purposes of learning a trade, business, profession, office, employment or vocation;
- (ii) for that purpose is undertaking a programme of training leading to a qualification accredited by the National Assembly for Wales, the Qualifications and Curriculum Authority or the Scottish Vocational Education Council; and
- (iii) employed at a salary or in receipt of an allowance or both, which are, in total, no more than £195 per week.

In November 2009, the Apprenticeships, Skills, Children and Learning Act 2009 (the 2009 Act) received Royal Assent. Due to the changes introduced by the 2009 Act it is necessary to amend the second of the criteria above to reflect the changes that have been made to the way in which apprenticeship schemes are accredited. One of the provisions of the 2009 Act was the creation of the Office of Qualifications and Examinations Regulation (Ofqual), an independent body established to recognise awarding bodies and the accreditation of qualifications. Ofqual came into being on 1<sup>st</sup> April 2010.

The Council Tax (Discount Disregards) (Amendment) (Wales) Order 2010 amends the second of the criteria above so that in order to be discounted for the purposes of determining council tax liability, the apprentice must be undertaking a programme of training leading to:

- (i) a qualification provided by a body that is accredited or authenticated by Ofqual;
- (ii) a qualification accredited by the Scottish Vocational Education Council; or

- (iii) a qualification provided by a body that is accredited or authenticated by the Welsh Ministers in accordance with section 30 Education Act 1997.

The regulations follow the negative resolution procedure.

#### **4. Purpose & intended effect of the legislation**

The objectives are to:

- ensure that reference to qualifications in legislation in Wales is up to date and reflects the terms used in the 2009 Act
- recognise qualifications accredited by the Scottish Vocational Education Council
- recognise qualifications accredited or authenticated by the Welsh Ministers in accordance with Section 30 Education Act 1997.

#### **Risks/hazards if the regulations are not made, or if they are annulled**

If these regulations annulled, revenue officers in local authorities would be assessing individuals for liability of council tax against out-of-date information, and as such may not recognise apprentices in order to award them an exemption from their council tax. Those apprentices undertaking a programme of training leading to qualifications provided by bodies accredited by Ofqual as established by the Apprenticeships, Skills, Children and Learning Act 2009 would not be recognised under the Council Tax (Discount Disregards) Order 1992 unless this Order is made.

#### **5. Consultation**

Consultation was not considered necessary for these amendments as they are technical amendments that are consequential to the commencement of the provisions of the 2009 Act, which was itself subject to a full public consultation.

#### **6. Regulatory Impact Assessment (RIA)**

##### **Please Note:**

An RIA has not been conducted as these regulations impose no costs or savings on public, private, charities or voluntary sectors: they simply update terminology.

The regulations are consequential on provisions made by The 2009 Act, and the impact on public, private, charities or voluntary sectors is minimal. The regulations do not of themselves make any changes for the learners or learning providers.

