

1989 No. 2274

COMMUNITY CHARGES, ENGLAND AND WALES

**The Community Charges (Miscellaneous Provisions)
(No. 2) Regulations 1989**

<i>Made</i> - - - -	<i>3rd December 1989</i>
<i>Laid before Parliament</i>	<i>7th December 1989</i>
<i>Coming into force</i>	<i>28th December 1989</i>

The Secretary of State for the Environment as respects England, and the Secretary of State for Wales as respects Wales, in exercise of the powers conferred on them by sections 19, 25, 30, 40(4), (11A) and (12), 143(1) and (2) and 146(6) of, and paragraphs 1 to 5A and 17 of Schedule 2, paragraph 6 of Schedule 3 and paragraphs 1, 3, 4, 7, 10, 11, 12, 15, 19, 21 and 23 of Schedule 4 to, the Local Government Finance Act 1988(a), and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Community Charges (Miscellaneous Provisions) (No. 2) Regulations 1989 and shall come into force on 28th December 1989.

(2) In these Regulations –

“the Act” means the Local Government Finance Act 1988; and

“the principal Regulations” means the Community Charges (Administration and Enforcement) Regulations 1989(b).

Community charges: information and inspection

2. Regulation 11(2) of the principal Regulations is amended by inserting after the words “together with” the words “(in the case of an individual)”, and by inserting at the end the words “, or (in the case of a body corporate) the name of the body corporate”.

Community charges: billing

3.—(1) Part III of the principal Regulations (billing) is amended in accordance with this regulation.

(2) Regulation 16(3)(c) is omitted.

(3) In regulation 16(5) –

(a) for the words “and 20” there are substituted the words “, 20 and 21A”; and

(b) for the words “the sum” there are substituted the words “the sums”.

(a) 1988 c.41, amended by the Local Government and Housing Act 1989 (c.42), Schedule 5, amended by S.I. 1989/712 and 1057.

(b) S.I. 1989/438.
[DET 9630]

(4) After regulation 21 there is inserted –

“Discount: lump sum payments

21A.—(1) A charging authority may, subject to the conditions set out in paragraph (2), accept an amount payable in a single lump sum in such cases as it may determine and in satisfaction of any liability of a chargeable person under a demand notice to which regulation 16(2) applies to pay the estimated amount, being a lump sum which is of an amount determined by the authority and less than the estimated amount.

(2) The conditions are that –

- (a) the determinations under paragraph (1) as to the cases where a lump sum will be accepted and as to the amount of the sum in those cases must be made by the authority on or before the day on which it first sets an amount for the relevant year under section 32 of the Act;
- (b) under those determinations chargeable persons liable to pay the same number of instalments in the relevant year must be treated alike, and so that in particular the proportion that the amount of the single lump sum to be accepted in relation to a chargeable person bears to the estimated amount payable by him must be the same as that applicable to all other chargeable persons liable to pay the same number of instalments in the relevant year; and
- (c) for a lump sum to be accepted under those determinations as they have effect in any case –
 - (i) at least two instalments must fall to be paid under the demand notice concerned in accordance with Schedule 1 or any agreement under regulation 17(3), and
 - (ii) the single lump sum payment must be made on or before the day on which the first instalment falls due under the notice.

(3) A determination under paragraph (1) may be revoked at any time, and if revoked may (but only on or before the day mentioned in paragraph (2)(a)) be replaced by a fresh determination.

(4) If the chargeable amount proves to be greater than the estimated amount, an additional sum equal to the difference between the two, proportionately reduced in accordance with paragraph (9), shall, on the service by the charging authority on the chargeable person of a notice stating the chargeable amount, be due from the person to the authority on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it.

(5) If the chargeable amount proves to be less than the estimated amount the charging authority shall notify the chargeable person in writing of the chargeable amount; and any overpayment of the chargeable amount (proportionately reduced in accordance with paragraph (9)) –

- (a) shall be repaid if the chargeable person so requires, or
- (b) in any other case shall (as the charging authority determines) either be repaid or be credited against any subsequent liability of the person to make a payment in respect of any community charge of the authority.

(6) If any factor or assumption by reference to which the estimated amount was calculated is shown to be false before the chargeable amount is capable of final determination for the purposes of paragraphs (4) and (5), the charging authority may, and if so required by the chargeable person shall, make a calculation of the appropriate amount with a view to adjusting the chargeable person's liability in respect of the estimated amount and (as appropriate) to –

- (a) requiring an interim payment from the chargeable person (proportionately reduced in accordance with paragraph (9)) if the appropriate amount is greater than the estimated amount, or
- (b) making an interim repayment to the chargeable person (proportionately reduced in accordance with paragraph (9)) if the appropriate amount is less than the amount of the estimated amount paid.

(7) The appropriate amount for the purposes of paragraph (6) is the amount which would be required to be paid under a demand notice if such a notice were issued with respect to the relevant year on the day that the notice under paragraph (8) is issued; and more than one calculation of the appropriate amount and interim adjustment may be made under paragraph (6) according to the circumstances.

(8) On calculating the appropriate amount the charging authority shall notify the chargeable person in writing of it; and a payment required under paragraph (6)(a) shall be due from the chargeable person to the charging authority on the expiry of such period (being not less than 14 days) after the day of issue of the notice as it specified in it.

(9) The proportion by reference to which a payment or repayment (or sum to be credited) under paragraph (4), (5) or (6) is to be reduced is to be the proportion determined under paragraph (2)(b) in respect of the lump sum concerned in that case; but in determining whether there has been an overpayment of the chargeable amount or appropriate amount (and the amount of any sum to be repaid or credited before reduction as aforementioned). The payment of the lump sum shall be treated as a payment of the estimated amount in full, and any other proportionately reduced payment or repayment already made shall be treated as not having been so reduced.

(10) In this regulation –

“the appropriate amount” has the meaning given in paragraph (7);

“the chargeable amount” means the amount that the chargeable person is liable to pay in respect of the community charge to which the demand notice mentioned in paragraph (1) relates as it has effect for the relevant year; and

“the estimated amount” means the amount last estimated under regulation 16(3) for the purposes of that notice or any subsequent notice given under paragraph 7(2) of Schedule 1 prior to the payment of the single lump sum mentioned in paragraph (1) above; save that if in any case an interim adjustment has been made under paragraph (6), in relation to the next payment, repayment or interim adjustment in that case under this regulation (if any) it means (except in paragraph (9)) the appropriate amount by reference to which the previous interim adjustment was so made.

Discount: non-cash payments

21B.—(1) A charging authority may, subject to the conditions set out in paragraph (2), accept an amount (“discounted amount”) in such cases as it may determine and in satisfaction of any liability of a person to pay to it any instalment or other payment due under a notice given under this Part, being an amount determined by the authority and less than the amount of the instalment or other payment due.

(2) The conditions are that –

(a) the discounted amount is paid to the authority otherwise than by either bank notes within the meaning of the Currency and Bank Notes Act 1954(a) or coin; and

(b) the determinations under paragraph (1) as to the cases where a discounted amount will be accepted and as to the proportion that the amount is to bear to the amount of the instalment or other payment due in those cases must be made by the authority on or before the day on which it first sets an amount for the relevant year under section 32 of the Act.

(3) Subject to paragraph (5), a determination under paragraph (1) may be revoked at any time, and if revoked may (but only on or before the day mentioned in paragraph (2)(b)) be replaced by a fresh determination.

(a) 1954 c.12.

(4) For the purpose of determining whether an adjustment of any amount paid (whether by way of repayment, crediting or otherwise) falls to be made under this Part where a discounted amount has been accepted, the instalment or other payment by reference to which the discounted amount was accepted shall be treated as having been paid in full; but any amount to be repaid or credited against any subsequent liability in any case shall, insofar as it is attributable to such an instalment or other payment, be reduced in accordance with the proportion determined under paragraph (2)(b) in respect of that case.

(5) Paragraph (4), and the power to revoke under paragraph (3), have effect in any case subject to any agreement to the contrary between the charging authority and the person liable to pay the instalment or other payment concerned.”.

(5) In regulation 22(1)–

(a) at the end of sub-paragraph (c) there are inserted the words “or 21A(4) or (8)”; and

(b) after sub-paragraph (f) there is inserted –

“or

(g) any amount payable under an agreement under regulation 17(3),”.

(6) In regulation 22(2) –

(a) in sub-paragraph (a), for the words “to (f)” there are substituted the words “to (g)”; and

(b) after sub-paragraph (c) there is inserted –

“ or

(d) any amount payable under an agreement under paragraph 3(4) of Schedule 2,”.

(7) In regulation 22, after paragraph (9) there is inserted –

“(10) Where a charging authority collects a penalty from the chargeable person in accordance with regulation 24(1)(a), references in paragraph (1) to an amount do not include references to such part of the amount as is attributable to the penalty; but any payment made by the chargeable person in respect of the amount shall (unless it is made while the penalty is subject to appeal or arbitration) be treated as being made towards satisfaction of the penalty unless and until his liability in respect of the penalty is discharged.”.

(8) In regulation 23(5), after the words “the day” there are inserted the words “of issue”.

(9) In regulation 24(1)(a), for the words “as it” there are substituted the words “as if”.

(10) In regulation 24(3), after the words “this regulation” there are inserted the words “and regulation 22(10)”.

(11) In paragraph 6(6) of Schedule 1, for the words “and 20” there are substituted the words”, 20 and 21A”.

(12) In paragraph 7(1)(d) of Schedule 1, for the words “under regulation 62” there are substituted the words “under section 40(3) of the Act”.

(13) In paragraph 7(2) of Schedule 2, after the words “period will end” there are inserted the words “by reason of other than the expiry of a chargeable financial year”.

Community charges: enforcement

4.—(1) Part IV of the principal Regulations (enforcement) is amended in accordance with this regulation.

(2) In paragraph (6) of regulation 29, for the words "The order shall" there are substituted the words "An order made pursuant to paragraph (5) shall"; and after that paragraph there is inserted –

"(7) Where the sum payable is paid after a liability order has been applied for under paragraph (2) but before it is made, the court shall nonetheless (if so requested by the charging authority) make the order in respect of a sum of an amount equal to the costs reasonably incurred by the authority in making the application."

(3) In regulation 30(1), after the words "such amount" there are inserted the words "(or aggregate amount)", and after the words "regulation 29(6)" there are inserted the words "and (7)".

(4) In regulation 31(3), after sub-paragraph (e) there is inserted –

"(f) where the liability order was made in respect of an amount payable in relation to a personal or standard community charge, information as to whether another person is jointly and severally liable as spouse of the debtor for the whole or any part of that amount; or

(g) where the liability order was made in respect of an amount payable in relation to a standard community charge and the debtor is a company, or it was made in respect of an amount payable in relation to a collective community charge, information as to whether another person is jointly and severally liable as manager of the debtor for the whole or any part of that amount."

(5) After regulation 31(4) there is inserted –

"(5) In paragraph (3), "spouse" and "manager" have the same meaning as in sections 16 and 17 of the Act."

(6) In regulation 43(2), the words "of that Act" are omitted, and at the end there are inserted the words "or, as the case may be, 221(5)(b) (winding up of unregistered companies) of that Act".

(7) In regulation 44(1)(a), after the words "liability order" there are inserted the words "pursuant to regulation 29(5)".

(8) In regulation 46(2) –

(a) after the words "may not be taken" there are inserted the words "against a person under a liability order"; and

(b) at the end there are inserted the words "against him under it".

(9) In regulation 48(8) –

(a) for the words "against that one" there are substituted the words "against any of them"; and

(b) after the words "distress" there are inserted the words "bankruptcy, winding up".

(10) In regulation 48(12), after the words "regulation 29(6)(b)" (in both places where they occur) there are substituted the words "or (7)".

(11) After regulation 48(12) there is inserted –

"(12A) Paragraph (12) is not to be construed as permitting a charging authority to apply under regulation 29(2) for a liability order against a spouse or manager in respects of costs alone after an order has been made for those costs against the chargeable person."

(12) In regulation 52(3)(a), for the words "23(4)" there are substituted the words "21A(5) or (8), 23(3) or (4)".

(13) In column (2) of head A of the Table to paragraph 1 of Schedule 5, for the words "not greater than" there are substituted the words "equal to".

Outstanding liabilities on death

5. Regulation 61(5)(a) of the principal Regulations is amended by inserting after the words "regulation 29(6)(b)" the words "or (7)".

Standard community charge multipliers

6.—(1) In regulation 62(1) of the principal Regulations –

(a) for the words “specified for the purposes of section 40(2) and (3)” there are substituted the words “prescribed for the purposes of section 40(4)”;

(b) for sub-paragraph (b) of the prescription of class D there is substituted –

“(b) the property was previously his sole or main residence, and for the whole of the period since it last ceased to be such he has been a relevant individual”;

(c) after the prescription of class F there are inserted the following prescriptions –

“Class FA: unoccupied property which is held for the purpose of being available for occupation by a minister of religion as a residence from which to perform the duties of his office;

Class FB: unoccupied property with respect to which less than 12 months have elapsed since the day on which it was last occupied, where –

(a) the person subject to the standard community charge arising by virtue of the property is an individual who has his sole or main residence in another place which is not a hospital, residential care home, nursing home, mental nursing home or hostel within the meaning of paragraph 8 or 9 of Schedule 1 to the Act(a), and he is so resident there for the purpose of receiving personal care which he requires by reason of old age, disablement, illness, past or present alcohol or drug dependence or past or present mental disorder; and

(b) the property was previously his sole or main residence, and for the whole of the period since it last ceased to be such he has been a relevant individual;

Class FC: unoccupied property with respect to which less than 12 months have elapsed since the day on which it was last occupied, where –

(a) the person subject to the standard community charge arising by virtue of the property (“the chargeable person”) is an individual who has his sole or main residence in another place for the purpose of providing, or better providing, personal care for a person who requires such care by reason of old age, disablement, illness, past or present alcohol or drug dependence or past or present mental disorder; and

(b) the property was previously the sole or main residence of the chargeable person, and for the whole of the period since it last ceased to be such he has had his sole or main residence in other places for the purpose mentioned in sub-paragraph (a) above.”.

(2) In regulation 62(2) of those Regulations, for the words “specified for the purposes of section 40(2) and (3)” there are substituted the words “prescribed for the purposes of section 40(4)”.

(a) The definition of “hostel”, and a substituted definition of “residential care home”, are provided in S.I. 1989/442, article 4.

(3) For regulation 62(3) of those Regulations there is substituted –

“(3) A person is a relevant individual at any time for the purposes of sub-paragraph (b) of the prescription of classes D and FB if –

- (a) he is exempt at the time from the personal community charge in consequence of the provisions of paragraph 8 or 9 of Schedule 1 to the Act (or, as regards periods before persons could become subject to a personal community charge, would be so exempt if such charges, those provisions and the provisions of article 4 of the Personal Community Charge (Exemptions) Order 1989(a) were then in effect), or
- (b) he has his sole or main residence at the time in such another place as is mentioned in sub-paragraph (a) of the prescription of class FB for the purpose of receiving personal care which he requires by reason of the matters so mentioned.”.

(4) In regulation 62(5)(a) of those Regulations, for the words “to F and I to L” there are substituted the words “to FC”.

(5) In regulation 62(5)(b) of those Regulations, the words “and M to O” are omitted.

(6) In regulation 59(5) of those Regulations –

- (a) for the words “or I (as the case may be)” there are substituted the words “,FB or FC”; and
- (b) for the words “specification of class D” there are substituted the words “prescription of class D, FB or FC (as the case may be)”.

Students

7.—(1) In paragraph (c) of the definition of “full-time course of education” in regulation 2(1) of the Personal Community Charge (Students) Regulations 1989(b), and in regulation 6(1)(d) of those Regulations –

- (a) for the words “as respects” there is substituted the word “during”; and
- (b) for the words “for the year” there are substituted the words “in the year”.

(2) As regards any certificate which may fall to be supplied under regulation 4 of those Regulations in consequence of the amendments made by paragraph (1) and which has not been supplied on or before the day these Regulations came into force, regulation 4(3) of those Regulations shall have effect as if the reference to the day those Regulations come into force were a reference to the day these Regulations come into force.

Co-owners: administration and enforcement

8. Paragraph 21(a) of Schedule 2 to the Act(c) is amended by substituting for the words “to 5” the words “to 5A”.

1st December 1989

Chris Patten
Secretary of State for the Environment

3rd December 1989

Peter Walker
Secretary of State for Wales

(a) S.I. 1989/442. (b) S.I. 1989/443. (c) Paragraph 21(a) was inserted by S.I. 1989/438, regulation 60.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which are made under Parts I and II of the Local Government Finance Act 1988, deal with miscellaneous matters concerning community charges.

Regulations 2 to 6 make miscellaneous amendments to the Community Charges (Administration and Enforcement) Regulations 1989, made necessary in part by amendments made to the Local Government Finance Act 1988 by the Local Government and Housing Act 1989. Amongst other matters, they require the names of bodies corporate, as well as individuals, to appear on the extracts of community charges registers to be kept for public inspection (regulation 2), enable charging authorities to offer discounts where community charge instalment payments are made in a single lump sum or otherwise than in cash (regulation 3), permit a liability order to be made in respect of costs alone where the amount outstanding in respect of community charge is paid after a liability order has been applied for, enable enquiries to be pursued once a liability order has been made as to whether another person may be jointly and severally liable as spouse or manager, provide that where one person jointly and severally liable with another is committed to prison upon a default in payment, no further steps can be taken against the other in respect of it (regulations 4 and 5) and simplify the provisions relating to standard community charge multipliers, at the same time as extending the cases where charging authorities must set a multiplier of 0 (regulation 6).

Regulation 7 clarifies the definition of "full-time course of education" in regulation 2(1) of the Personal Community Charge (Students) Regulations 1989.

Regulation 8 amends the provisions of the 1988 Act dealing with the collection of amounts due from co-owners in consequence of the provision dealing with discounts mentioned above.

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