

1989 No. 2437 (S.164)

COMMUNITY CHARGES, SCOTLAND

WATER SUPPLY, SCOTLAND

**The Standard Community Charge (Scotland) Regulations
1989**

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| <i>Made</i> | - - - - | <i>20th December 1989</i> |
| <i>Laid before Parliament</i> | | <i>28th December 1989</i> |
| <i>Coming into force</i> | | <i>22nd January 1990</i> |

The Secretary of State, in exercise of the powers conferred upon him by sections 10(2), (3), (7), (7D) and (7F), 26(1) and 31(3) of the Abolition of Domestic Rates Etc. (Scotland) Act 1987(a), and those sections as read with paragraph 11 of Schedule 5 to that Act(b) and with the Community Water Charges (Scotland) Regulations 1988(c) and the Community Water Charges (Scotland) Amendment Regulations 1989(d) made thereunder, and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Standard Community Charge (Scotland) Regulations 1989 and shall come into force on 22nd January 1990.

(2) These Regulations shall apply for the purposes of and in relation to the financial year 1990-91 and any subsequent financial year.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Abolition of Domestic Rates Etc. (Scotland) Act 1987;

“dwellinghouse” includes any garden, yard, garage, outhouse or pertinent belonging to and occupied along with the dwellinghouse;

“hospital” has the same meaning as in paragraph 8(2) of Schedule 1A to the Act(e);

“hostel” has the same meaning as in paragraph 9(5) of Schedule 1A to the Act;

“nursing home” has the same meaning as in paragraph 9(3) of Schedule 1A to the Act;

“personal care” includes the provision of appropriate help with physical and social needs;

“private hospital” has the same meaning as in paragraph 9(4) of Schedule 1A to the Act;

(a) 1987 c.47; section 10(3) was amended by the Local Government Finance Act 1988 (c.41), Schedule 12, paragraph 19(2); section 10(7), (7D) and (7F) was amended and inserted by the Local Government and Housing Act 1989 (c.42), section 142; section 26(1) contains a definition of “prescribed” relevant to the exercise of the powers under which these Regulations are made.

(b) Paragraph 11 of Schedule 5 was amended by the Local Government Finance Act 1988, Schedule 12, paragraph 38.

(c) S.I. 1988/1538.

(d) S.I. 1989/2362.

(e) Schedule 1A to the Act was inserted by the Local Government Finance Act 1988, Schedule 12, paragraph 35.

“registered housing association” has the same meaning as it has for the purposes of the Housing Associations Act 1985(a); and

“residential care home” has the same meaning as in paragraph 9(2) of Schedule 1A to the Act.

(2) Any reference in these Regulations to a person liable to pay the standard community charge includes any person who may be jointly and severally liable to pay that charge.

(3) Any reference in these Regulations to a section of or a Schedule to the Act includes a reference to that section or Schedule as read with paragraph 11 of Schedule 5 to the Act and the Community Water Charges (Scotland) Regulations 1988 and the Community Water Charges (Scotland) Amendment Regulations 1989.

Classes of premises excepted from standard community charge

3. The classes of premises specified in Schedule 1 to these Regulations are prescribed for the purposes of section 10(2) of the Act (premises falling within section 10(2)(a) to (c) in respect of which the standard community charge is not payable).

Classes of premises where maximum standard community charge multiplier is zero

4.—(1) The classes of premises specified in Schedule 2 to these Regulations are prescribed for the purposes of section 10(7) of the Act.

(2) The maximum community charge multiplier prescribed for the purposes of section 10(7D) of the Act in relation to each class of premises specified in the said Schedule 2 is 0.

Determination of different classes of premises

5.—(1) Subject to paragraph (2) below, a regional or islands council may determine—

- (a) in relation to their area, classes of premises additional to those specified in Schedule 2 to these Regulations; and
- (b) different such classes of premises in relation to different parts of their area.

(2) A regional or islands council are required, when determining any class of premises under paragraph (1) above, to classify premises only by reference to one or more of the following factors:—

- (a) the period during which the premises have not been the sole or main residence of any person;
- (b) the nature of the use to which the premises were, are, or are intended to be, put; and
- (c) the circumstances (other than financial circumstances) of any person liable to pay the standard community charge.

Different standard community charge multipliers

6.—(1) A regional or islands council may resolve that different standard community charge multipliers shall apply in relation to different classes of premises which they have determined under regulation 5(1) above.

(2) A district council may resolve that different standard community charge multipliers shall apply in relation to any different classes of premises which have, in relation to the district, been determined under regulation 5(1) above by the council of the region in which the district is situated.

Revocations

7. The following Regulations are revoked:—

- (a) regulation 3 of the Standard and Collective Community Charges (Scotland) Regulations 1988(b);

(a) 1985 c.69; Part I of that Act was amended by the Housing Act 1988 (c.50), Schedule 6, Part I.

(b) S.I. 1988/631; regulation 3 was amended by S.I. 1988/1540 and 1989/1004.

- (b) the Standard and Collective Community Charges (Scotland) Amendment Regulations 1988(a); and
- (c) the Standard and Collective Community Charges (Scotland) Amendment Regulations 1989(b).

St. Andrew's House, Edinburgh
20th December 1989

James Douglas-Hamilton
Parliamentary Under Secretary of State,
Scottish Office

(a) S.I. 1988/1540.
(b) S.I. 1989/1004.

Classes of premises excepted from standard community charge

1. A dwellinghouse which is or forms part of a building in respect of which a local authority have made an order under section 13 of the Building (Scotland) Act 1959(a).
2. A dwellinghouse which is a house in respect of which a local authority have made a closing order under section 114 of the Housing (Scotland) Act 1987(b).
3. A dwellinghouse which is or forms part of a building in respect of which a local authority have made a demolition order under section 115 of the Housing (Scotland) Act 1987.
4. A dwellinghouse which is incapable of, and is not, being lived in because it is being repaired, improved or reconstructed.
5. A dwellinghouse in respect of any time during which any person who would, but for this provision, be liable to pay the standard community charge in respect thereof falls within the following description, that is to say:-
 - (a) he is solely or mainly resident in premises which are a hospital, residential care home, nursing home, private hospital or hostel;
 - (b) he is exempt from liability to pay the personal community charge by virtue of paragraph 8 or 9 of Schedule 1A to the Act (exemption from liability of certain persons solely or mainly resident in such premises); and
 - (c) immediately before becoming solely or mainly resident in such premises, he was solely or mainly resident in the dwellinghouse.
6. A dwellinghouse-
 - (a) which is situated on lands and heritages used for agricultural or pastoral purposes only, or as woodlands, market gardens, orchards, allotments or allotment gardens, or on lands exceeding one tenth of an hectare used for the purpose of poultry farming;
 - (b) which is unoccupied and unfurnished; and
 - (c) which, when last occupied and used, was occupied together with and used in connection with the lands and heritages on which the dwellinghouse is situated.

(a) 1959 c.24; section 13 was amended by the Local Government (Scotland) Act 1973 (c.65), Schedule 15, paragraph 10.

(b) 1987 c.26; section 114 was amended by the Housing (Scotland) Act 1988 (c.43), Schedule 7.

Classes of premises where maximum standard community charge multiplier is zero

1. A dwellinghouse which is held by or on behalf of a religious body 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.

2. A dwellinghouse—

- (a) in respect of which the standard community charge is, or would be, but for this provision, payable immediately following the death of a person who, immediately before his death,
 - (i) was solely or mainly resident in the dwellinghouse; or
 - (ii) was a person who fell within the description mentioned in paragraph 5 of Schedule 1 to these Regulations and, as a consequence, in terms of that paragraph, the standard community charge was not payable in respect of the dwellinghouse; and
- (b) where not more than 6 months have elapsed since the date of death of that person.

3. A dwellinghouse—

- (a) in respect of which the standard community charge is, or would be, but for this provision, payable by a person who is exempt from liability to pay the personal community charge by virtue of paragraph 1 of Schedule 1A to the Act(a) (exemption from liability of certain persons in detention); and
- (b) which was the sole or main residence of that person immediately before he became so exempt.

4. A dwellinghouse—

- (a) in respect of which the standard community charge is, or would be, but for this provision, payable by a person who is undertaking a full-time course of education or of nursing education within the meaning of section 8 of the Act(b); and
- (b) which was the sole or main residence of that person immediately before he undertook that course.

5. A dwellinghouse in respect of which the standard community charge is, or would be, but for this provision, payable by a person who falls within the following description:—

- (a) he is solely or mainly resident in other premises which are not a hospital, residential care home, nursing home, private hospital or hostel;
- (b) he is so resident in those other premises 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;
- (c) immediately before he became so resident in those other premises for the purpose mentioned in (b) above (or in other premises of the kind mentioned in (a) above for that purpose), he was a person
 - (i) who was solely or mainly resident in the dwellinghouse; or
 - (ii) who fell within the description mentioned in paragraph 5 of Schedule 1 to these Regulations and, as a consequence, in terms of that paragraph, the standard community charge was not payable in respect of the dwellinghouse; and
- (d) since ceasing to be such a person as described in (c) above, he has been continuously solely or mainly resident in those other premises for the purpose mentioned in (b) above (or in other premises of the kind mentioned in (a) above for that purpose).

6. A dwellinghouse in respect of which the standard community charge is, or would be, but for this provision, payable by a person who falls within the following description:—

- (a) he is solely or mainly resident in other premises 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;
- (b) he was solely or mainly resident in the dwellinghouse immediately before he was so resident in premises (whether or not the premises in which he is now solely or mainly resident) for the purpose mentioned in (a) above; and

(a) See regulation 3 of S.I. 1989/63 made under paragraph 1(6) of Schedule 1A.

(b) Section 8 was amended by the Local Government Finance Act 1988 (c.41), Schedule 12, paragraph 18. Relevant definitions for the purposes of section 8 are prescribed in S.I. 1989/32.

- (c) since ceasing to be solely or mainly resident in the dwellinghouse, he has been continuously solely or mainly resident in premises (whether or not the premises in which he is now solely or mainly resident) for the purpose mentioned in (a) above.

7. A dwellinghouse—

- (a) which falls within the description mentioned in section 61(4)(a) of the Housing (Scotland) Act 1987(a) (house with facilities specially designed or adapted for persons of pensionable age or disabled persons); and
- (b) which is held by a registered housing association for the purpose of being available for occupation by such a person who is intended to become solely or mainly resident in other dwellinghouses falling within the same description which are provided by the association.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe certain matters relating to the standard community charge under section 10 of the Abolition of Domestic Rates Etc. (Scotland) Act 1987, as amended by paragraph 19 of Schedule 12 to the Local Government Finance Act 1988 and by section 142 of the Local Government and Housing Act 1989.

Regulation 3 of and Schedule 1 to these Regulations prescribe classes of premises in respect of which the standard community charge is not payable. They re-enact the provisions of regulation 3 of the Standard and Collective Community Charges (Scotland) Regulations 1988 (S.I. 1988/631), as amended by S.I. 1988/1540 and 1989/1004, which are revoked (regulation 7).

Regulation 4 of and Schedule 2 to these Regulations prescribe classes of premises in respect of which the maximum standard community charge multiplier which a local authority may determine is 0.

These Regulations also empower a regional or islands council to determine additional classes of premises in relation to their area or to different parts of their area by reference to prescribed factors and to determine different standard community charge multipliers in relation to those classes (regulations 5 and 6(1)). They also enable a district council to determine a different standard community charge multiplier in relation to any such class of premises which has been determined by the regional council in relation to the district (regulation 6(2)).

These Regulations apply for the purposes of and in relation to the financial year 1990-91 and any subsequent financial year (regulation 1(2)).

(a) 1987 c.26.

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