

1989 No. 442

COMMUNITY CHARGES, ENGLAND AND WALES

**The Personal Community Charge (Exemptions)
Order 1989**

<i>Made - - - -</i>	<i>12th March 1989</i>
<i>Laid before Parliament</i>	<i>17th March 1989</i>
<i>Coming into force</i>	<i>7th April 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 143(1) and 146(6) of, and paragraphs 1(7), 4(4) and 9(4) and (6) of Schedule 1 to, the Local Government Finance Act 1988(a), and of all other powers enabling them in that behalf, hereby make the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Personal Community Charge (Exemptions) Order 1989 and shall come into force on 7th April 1989.

(2) In this Order “the Act” means the Local Government Finance Act 1988.

Persons in detention

2.—(1) A person is an exempt individual on a particular day if—

- (a) at any time on the day he is imprisoned, detained or in custody under the Army Act 1955(b), the Air Force Act 1955(c) or the Naval Discipline Act 1957(d), and
- (b) the conditions mentioned in paragraph (2) below are fulfilled with respect to the time where they are applicable.

(2) The conditions are that, where the person is in custody under arrest—

- (a) he is not in custody under open arrest; and
- (b) the custody forms part of a continuous period exceeding 48 hours during which he is under arrest.

(3) A person is to be treated as in custody under open arrest for the purposes of paragraph (2)(a) if he is so treated for the purposes of Queen’s Regulations for the Navy, Army or Air Force.

The severely mentally impaired

3. Paragraph 4(2) of Schedule 1 to the Act is amended by adding after paragraph (c)—

“(d) he is entitled for the day to an invalidity pension under section 15 or 16 of the Social Security Pensions Act 1975(e);

(a) 1988 c.41.

(b) 1955 c.18.

(c) 1955 c.19.

(d) 1957 c.53.

(e) 1975 c.60; section 15 was modified by S.I. 1978/529, regulation 2, restricted by the Social Security Act 1979 (c.18), Schedule 1, paragraph 17, and amended by the Social Security Act 1986 (c.50), Schedule 10, paragraph 70; sections 15 and 16 were amended by the Social Security (Miscellaneous Provisions) Act 1977 (c.5), section 4(4); section 16 was restricted by the Social Security Act 1979 (c.18), Schedule 1, paragraph 18.

- (e) he is entitled for the day to an unemployability supplement under section 58 of the Social Security Act 1975(a);
- (f) he is entitled for the day to an unemployability allowance under-
 - (i) article 18(1) of the Personal Injuries (Civilians) Scheme 1983(b), or
 - (ii) article 18(1) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983(c) (including that provision as applied, whether with or without modifications, by any other instrument)."

Patients in homes

4.—(1) The definition of hostel set out in paragraph (2) below is prescribed under paragraph 9(4) of Schedule 1 to the Act.

(2) A hostel is—

- (a) a bail hostel or probation hostel approved under section 49(1) of the Powers of Criminal Courts Act 1973(d), or
- (b) a building or part of a building—
 - (i) which is solely or mainly used for the provision of residential accommodation in other than separate and self-contained sets of premises, together with personal care, for persons who require such personal care by reason of old age, disablement, past or present alcohol or drug dependence or past or present mental disorder, and
 - (ii) which is not a residential care home, nursing home or mental nursing home for the purposes of paragraph 9 of Schedule 1 to the Act.

(3) In paragraph (2)(b) "disablement" means a disablement within the meaning of Part I of the Registered Homes Act 1984(e), and "personal care" has the same meaning as in that Part.

(4) The definition of residential care home set out in paragraph (5) below is substituted for that set out in paragraph 9(2) of Schedule 1 to the Act.

(5) A residential care home is—

- (a) an establishment in respect of which registration is required under Part I of the Registered Homes Act 1984 or would be so required but for section 1(4) or (5)(j) of that Act;
- (b) a building or part of a building in which residential accommodation is provided under section 21 of the National Assistance Act 1948(f) or paragraph 2(1)(a) of Schedule 8 to the National Health Service Act 1977(g); or
- (c) a building or part of a building in which residential accommodation is provided and which is run by the Abbeyfield Society, including all bodies corporate or unincorporate which are affiliated to that Society.

9th March 1989

Nicholas Ridley
Secretary of State for the Environment

12th March 1989

Peter Walker
Secretary of State for Wales

(a) 1975 c.14; section 58 was restricted by the Social Security Act 1986, Schedule 3, paragraphs 4 and 16.

(b) S.I. 1983/686; article 18 was amended by S.I. 1984/1289, 1985/1313 and 1988/367.

(c) S.I. 1983/883; article 18 was amended by S.I. 1984/1154, 1985/1201 and 1988/248, and is applied by S.R. & O. 1944/500, S.I. 1964/1985, 2007 and 2058, the Royal Warrant of 21 December 1964 (1964 III p.5646; Cmnd 2563), the Order by Her Majesty of 22 December 1964 (1964 III p. 5675; Cmnd 2564), and the Order by Her Majesty of 4 January 1971 (Cmnd 4567).

(d) 1973 c.62; section 49(1) was amended by the Criminal Law Act 1977 (c.45), Schedule 12, paragraph 6, and Schedule 13.

(e) 1984 c.23; see section 20(1).

(f) 1948 c.29; section 21 was amended by the Local Government Act 1972 (c.70), Schedule 23, paragraph 2(1), the National Health Service Reorganisation Act 1973 (c.32), Schedule 4, paragraph 44, and Schedule 5, the Housing (Homeless Persons) Act 1977 (c.48), the Schedule, the National Health Service Act 1977 (c.49), Schedule 15, paragraph 5, and the Health Services Act 1980 (c. 53), Schedule I, paragraph 5.

(g) 1977 c.49.

EXPLANATORY NOTE

(This note is not part of the Order)

Schedule 1 to the Local Government Finance Act 1988 provides for certain exemptions from personal community charges arising under the Act. This Order makes further provision in relation to those exemptions.

Article 2 provides that a person is exempt on a day if at any time on the day he is imprisoned, detained or in custody under the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957, provided that, in the case of a person in custody under arrest, the arrest subsists for a period exceeding 48 hours and he is not under open arrest.

A person who is severely mentally impaired and who holds a certificate of a registered medical practitioner to that effect is exempt from the personal community charge if one or more of the conditions mentioned in paragraph 4(2) of Schedule 1 to the Act is satisfied. Article 3 widens this exemption by adding to the conditions specified in that paragraph.

Paragraph 9 of Schedule 1 to the Act provides for certain patients in homes to be exempt. Amongst these are individuals having their sole or main residence in a hostel or residential care home. Article 4 defines "hostel" for this purpose, and also substitutes a new definition of residential care home so as to include residential accommodation run by the Abbeyfield Society and affiliated bodies.