

1989 No. 63 (S.6)

COMMUNITY CHARGES, SCOTLAND
WATER SUPPLY, SCOTLAND

The Personal Community Charge (Exemptions)
(Scotland) Regulations 1989

<i>Made</i>	- - - -	<i>17th January 1989</i>
<i>Laid before Parliament</i>		<i>19th January 1989</i>
<i>Coming into force</i>		<i>9th February 1989</i>

The Secretary of State, in exercise of the powers conferred upon him by sections 26(1) and 31(3) of, and paragraphs 1(6), 4(4), 6 and 10 of Schedule 1A to, the Abolition of Domestic Rates Etc. (Scotland) Act 1987(a) and those sections and paragraphs as read with paragraph 11 of Schedule 5 to that Act(b) and with the Community Water Charges (Scotland) Regulations 1988(c) made under that paragraph 11, and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Personal Community Charge (Exemptions) (Scotland) Regulations 1989 and shall come into force on 9th February 1989.

Interpretation

2. In these Regulations—

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

“the 1944 Act” means the Education Act 1944(d);

“the 1980 Act” means the Education (Scotland) Act 1980(e);

“the 1986 Order” means the Education and Libraries (Northern Ireland) Order 1986(f);

“educational establishment” means—

- (i) a university and any college, school, hall or other institution of a university;
- (ii) a central institution within the meaning of section 135(1) of the 1980 Act;
- (iii) a college of education within the meaning of section 135(1) of the 1980 Act;
- (iv) any other institution for the provision of further education in Scotland;

(a) 1987 c.47; section 26(1) contains a definition of “prescribed” relevant to the exercise of the statutory powers under which these Regulations are made; Schedule 1A was inserted by the Local Government Finance Act 1988 (c.41), Schedule 12, paragraph 35.

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

(c) S.I. 1988/1538.

(d) 1944 c.31.

(e) 1980 c.44.

(f) S.I. 1986/594 (N.I.3).

- (v) an establishment of further education in England or Wales maintained or assisted by a local education authority within the meaning of the 1944 Act or in receipt of grants made under regulations made under section 100 of that Act(a);
- (vi) an institution within the P.C.F.C. funding sector;
- (vii) a college of education within the meaning of article 2(2) of the 1986 Order;
- (viii) an institution of further education in Northern Ireland provided by an Education and Library Board constituted in accordance with Schedule 1 to the 1986 Order;
- (ix) a theological college;
- (x) an institute of a Research Council established by Royal Charter under section 1 of the Science and Technology Act 1965(b);

“further education”, in relation to Scotland, has the same meaning as in the 1980 Act, in relation to England and Wales, has the same meaning as in the 1944 Act and, in relation to Northern Ireland, has the same meaning as in article 5(c) of the 1986 Order;

“institution within the P.C.F.C. funding sector” has the same meaning as in section 120(8) of the Education Reform Act 1988(c);

and any reference to a provision of the Act includes a reference to that provision as read with paragraph 11 of Schedule 5 to the Act and the Community Water Charges (Scotland) Regulations 1988.

Service prisoners

3.—(1) For the purposes of paragraph 1(6) of Schedule 1A to the Act (exemption of persons in detention from liability for the personal community charge and personal community water charge), a person is exempt if—

- (a) he is imprisoned, detained or in custody under the Army Act 1955(d), the Air Force Act 1955(e) or the Naval Discipline Act 1957(f); and
- (b) the conditions mentioned in paragraph (2) below 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 above,—

- (a) he is not in custody under open arrest; and
- (b) the custody is for a continuous period exceeding 48 hours.

Severely mentally impaired

Amendment of paragraph 4(2) of Schedule 1A to the Act

4. Sub-paragraph (2) of paragraph 4 of Schedule 1A to the Act(g) (conditions for the severely mentally impaired being exempt from liability for the personal community charge and the personal community water charge) shall be amended in accordance with Schedule 1 to these Regulations.

Revocation

5. The Personal Community Charge (Exemption for the Severely Mentally Impaired) (Scotland) Regulations 1988(h) are hereby revoked.

(a) Section 100 was amended by S.I. 1964/490, article 3(2)(a), the Local Government Act 1958 (c.55), Schedule 8, paragraphs 16(2) and 35 and Schedule 9, Part II, the Education Act 1962 (c.12), Schedule 2, and the Education Act 1980 (c.20), Schedule 7.

(b) 1965 c.4; section 1 was amended by the Nature Conservancy Council Act 1973 (c.54), Schedule 4.

(c) 1988 c.40.

(d) 1955 c.18.

(e) 1955 c.19.

(f) 1957 c.53.

(g) Sub-paragraph (2) was amended by the Personal Community Charge (Exemption for the Severely Mentally Impaired) (Scotland) Regulations 1988 (S.I. 1988/1541) which are revoked by regulation 5.

(h) S.I. 1988/1541.

Persons resident during term time in England, Wales or Northern Ireland for purpose of undertaking a full-time course of education

Determination of whether a person undertakes a full-time course of education

6.—(1) The following paragraphs shall apply for the purpose of determining whether a person is undertaking a full-time course of education for the purposes of paragraph 6 of Schedule 1A to the Act (exemption from liability for the personal community charge and personal community water charge of person undertaking a full-time course of education and resident during term time in England, Wales or Northern Ireland for the purpose of undertaking that course).

(2) A person shall be treated as undertaking a full-time course of education if—

- (a) he enrolls with an educational establishment providing a full-time course of education for the purpose of attending the course, and
- (b) he attends the course during the period ordinarily required for its completion, or during such other period for its completion as the educational establishment may allow in the circumstances of that person,

and he continues to undertake the course during such a period notwithstanding that it may include periods which are not term time within the meaning of regulation 7 of these Regulations.

(3) A “full-time” course of education” shall mean a course specified in Schedule 2 to these Regulations—

- (a) which is provided by an educational establishment, and
- (b) which a person undertaking the course is required by the educational establishment to attend for a period of at least 24 weeks within each academic year of the establishment required to complete the course, and
- (c) in respect of which, in the opinion of the educational establishment, 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 he 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 subparagraph (b) above,

but does not include any such course leading to a qualification for registration in any of the parts of the Register maintained by the United Kingdom Central Council for Nursing, Midwifery and Health Visiting under section 10 of the Nurses, Midwives and Health Visitors Act 1979(a), unless that course is provided by an educational establishment within paragraph (i), (ii), (iii), (v) or (vi) of the definition of “educational establishment” in regulation 2 of these Regulations.

Meaning of term time

7. For the purposes of paragraph 6 of Schedule 1A to the Act, “term time” shall mean any period in the academic year of an educational establishment during which a person undertaking a full-time course of education is required by the educational establishment providing the course to attend the course at such place or places as the educational establishment may specify or approve.

Care workers

Conditions for exemption

8.—(1) For the purposes of paragraph 10 of Schedule 1A to the Act (exemption from liability to pay the personal community charge and personal community water charge of persons employed to provide care or support (or both) to other persons, if prescribed conditions are fulfilled) the conditions to be fulfilled are prescribed in paragraph (2) below.

(2) The conditions are—

(a) 1979 c.36; the parts of the register maintained under section 10 are specified in Schedule 1 to the Nurses, Midwives and Health Visitors (Parts of the Register) Order 1983 (S.I. 1983/667).

- (a) that the person is employed to provide care or support (or both) to another person or other persons—
 - (i) by a body established for charitable purposes only, or
 - (ii) by a person or other body as a result of being introduced to that person or other body by a body established for charitable purposes only;
 - (b) that he is so employed under a contract of employment in terms of which—
 - (i) he is required to provide such care or support (or both) for a period of at least 24 hours per week;
 - (ii) his salary or wages do not exceed £25 per week; and
 - (iii) he is required to be resident in premises provided in connection with his employment; and
 - (c) that he is so resident.
- (3) In this regulation “charitable” shall be construed in the same way as if it were contained in the Income Tax Acts.

St. Andrew's House, Edinburgh
17th January 1989

Ian Lang
Minister of State,
Scottish Office

Additional conditions for exemption of severely mentally impaired

Sub-paragraph (2) of paragraph 4 of Schedule 1A to the Act shall be amended as follows:-

- (1) conditions (d), (e) and (f) shall be deleted; and
- (2) after condition (c), there shall be added the following conditions-
 - “(d) he is entitled to an invalidity pension under section 15 or 16 of the Social Security Pensions Act 1975(a);
 - (e) he is entitled to an unemployability supplement under section 58 of the Social Security Act 1975(b);
 - (f) he is entitled to an unemployability allowance under-
 - (i) article 18(1) of the Personal Injuries (Civilians) Scheme 1983(c), or
 - (ii) article 18(1) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983(d) (including that provision as applied, whether with or without modifications, by any other instrument).”.

(a) 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, Schedule 1, paragraph 18.

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

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

(d) S.I. 1983/883; article 18 was amended by S.I. 1984/1154, 1985/1201 and 1988/248.

The following are the courses referred to in regulation 6(3) of these Regulations:-

Courses at first degree and diploma level

1. A course at undergraduate level leading to-
 - (a) a degree, certificate, diploma or licentiateship of a university or theological college, or
 - (b) a degree, certificate or diploma granted by a body other than a university or theological college, being a course approved by the Council for National Academic Awards, a central institution or an establishment or institution of further education.

Courses in further education

2. A course in further education leading to an award of the Scottish Certificate of Education, the General Certificate of Education, the General Certificate of Secondary Education or the International Baccalaureat.

3. A course in further education leading to the National Certificate, Higher National Certificate or Higher National Diploma of the Scottish Vocational Education Council, the Higher National Certificate or Higher National Diploma of the Business and Technical Education Council or any other course in further education leading to a comparable award.

4. A course in further education required by an educational establishment to be undertaken prior to any other course mentioned in this Schedule being undertaken.

Teacher training and other courses

5. A course at undergraduate or postgraduate level for the initial training of teachers, social workers or youth and community workers.

Vocational courses at postgraduate level

6. A course at postgraduate level leading to a certificate or diploma in professional studies or to any other comparable award.

Courses at higher degree level

7. A course leading to the award of the degree of Doctor of Philosophy or a Master's degree or to any other comparable award.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe certain matters falling to be prescribed under Schedule 1A to the Abolition of Domestic Rates Etc. (Scotland) Act 1987, as inserted by paragraph 35 of Schedule 12 to the Local Government Finance Act 1988. That Schedule describes the persons who are exempt from liability to pay the personal community charge and, as applied in relation to the community water charges by paragraph 11 of Schedule 5 to the 1987 Act and the Community Water Charges (Scotland) Regulations 1988, from liability to pay the personal community water charge.

Under paragraph 1(6) of Schedule 1A the Secretary of State may by regulations provide that a person is exempt from liability if he is imprisoned, detained or in custody under the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957 and certain prescribed conditions are fulfilled. *Regulation 3* provides for the exemption of such a person unless, where he is in custody under arrest, it is under open arrest or for no longer than 48 hours.

Paragraph 4 of Schedule 1A provides for the exemption of persons who are severely mentally impaired if they satisfy one or more of the conditions mentioned in sub-paragraph (2) of that paragraph. Sub-paragraph (4) gives the Secretary of State power to amend these conditions and to prescribe new conditions. *Regulation 4* and *Schedule 1* prescribe further conditions which relate to eligibility for certain invalidity pensions, unemployability allowances or supplements or disability pensions or awards. *Regulation 5* revokes the Personal Community Charge (Exemption for the Severely Mentally Impaired (Scotland) Regulations 1988 which had previously prescribed conditions.

Under paragraph 6 of Schedule 1A a person is exempt if he is undertaking a full-time course of education and he is resident during term time in England, Wales or Northern Ireland for the purpose of undertaking the course. *Regulations 6 and 7* and *Schedule 2* to these Regulations make provision for determining whether a person is undertaking such a course and prescribe the meaning of "term time".

Under paragraph 10 of Schedule 1A a person is exempt if he is employed to provide care or support (or both) to another person or other persons and certain prescribed conditions are fulfilled. *Regulation 8* prescribes those conditions.