

1990 No. 146

COMMUNITY CHARGES, ENGLAND AND WALES

The Community Charges
(Co-owners) Regulations 1990

<i>Made</i> - - - -	<i>1st February 1990</i>
<i>Laid before Parliament</i>	<i>5th February 1990</i>
<i>Coming into force</i>	<i>26th February 1990</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, 143(1) and (2) and 146(6) of, and paragraphs 1 and 21 of Schedule 2, paragraph 6 of Schedule 3 and paragraphs 1, 21B, 23, 24 and 26 to 28 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 (Co-owners) Regulations 1990 and shall come into force on 26th February 1990.

(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).

(3) Unless the context otherwise requires expressions used in these Regulations which are also used in regulation 59 of or Parts II to IV of the principal Regulations have the same meaning as they have in that regulation or those Parts.

(4) Regulation 2 of the principal Regulations applies to the service of a notice under these Regulations as it applies to the service of a notice under those Regulations.

Co-owners: information and inspection

2.—(1) The duty of persons who believe they are or have been subject jointly to a community charge of a charging authority to inform the appropriate registration officer in accordance with regulation 3(1) of the principal Regulations is satisfied if one of those persons supplies on behalf of all of them the information required to be given to the registration officer.

(2) The duty of persons who are shown as jointly subject to a community charge of a charging authority and who have reason to believe as mentioned in regulation 3(2) of the principal Regulations to inform the appropriate registration officer in accordance with that regulation is satisfied if one of those persons supplies the information to be given to the registration officer on behalf of all of them.

(3) The duty under regulation 9 of the principal Regulations of a registration officer to send a copy of an item which relates to a charge to which persons are jointly subject is satisfied if it is sent to one of those persons.

(a) 1988 c.41, amended by S.I. 1989/438, regulation 60, S.I. 1989/1057, regulation 3, and S.I. 1989/2274, regulation 8.

(b) S.I. 1989/438, amended by S.I. 1989/712, 1057 and 2274.

Co-owners: billing

3.—(1) Part III of the principal Regulations (billing) shall have effect in relation to co-owners as if regulation 13(8) of those Regulations were omitted and with the following modifications—

- (a) references to the amount for which a person is liable, or the liability of a person, in respect of a community charge include references to the amount for which the co-owners concerned are jointly and severally liable under regulation 59(2) (d) of those Regulations,
- (b) service on one co-owner of any notice required or authorised to be served on a chargeable person shall be treated as service on all the co-owners concerned, and the co-owners shall be jointly and severally liable to pay any amount required to be paid under it,
- (c) the duty to make payments under section 9 of the Act shall be discharged by the making of payments in accordance with Part II of Schedule 2 to those Regulations to any of the co-owners shown as subject to the charge concerned,
- (d) where any amount arising in respect of a charge to which persons are shown as jointly subject (“ joint charge ”) may be credited against a liability instead of being repaid, it may be credited only against a liability in respect of the same charge,
- (e) where any amount arising in respect of a joint charge might fall to be repaid to co-owners, it may be repaid to such of the co-owners as the person making the repayment considers appropriate,
- (f) where any amount arising in respect of a joint charge might fall to be repaid to more than one spouse or manager, it may be repaid to such of them as the person making the repayment considers appropriate,
- (g) a penalty under Schedule 3 to the Act may not be recovered in the manner mentioned in regulation 24(1) (a) of the principal Regulations in respect of a joint charge,
- (h) the duty to compile a record under paragraph 1 of Schedule 2 to those Regulations is a duty of each of the co-owners shown as subject to the charge concerned, but is discharged if one of them compiles the record on behalf of all of them,
- (i) the duty to retain, allow the inspection of and to send a copy of a record under that paragraph is a duty of the co-owner who so compiles the record,
- (j) the duty to submit a return under paragraph 2 of that Schedule is a duty of each of the co-owners shown as subject to the charge concerned, but is discharged if one of them submits the return on behalf of all of them,
- (k) the duty to supply information under paragraph 5 or 7 of that Schedule is a duty of each of the co-owners shown as subject to the charge concerned, but is discharged if one of them supplies the information on behalf of all of them, and
- (l) the duty to supply a receipt under paragraph 8 of that Schedule is a duty of the co-owner to whom the payment concerned is made.

(2) Sections 16(7) and 17(8) of the Act shall have effect in relation to an amount paid by the spouse or manager of a co-owner as if the reference to the chargeable person were a reference to any of the co-owners; and references to those provisions in regulation 23(10) of the principal Regulations shall have effect accordingly.

(3) Paragraphs (1) (b) to (e) and (2) are without prejudice to any right or duty in law or equity (whether under the terms of the trusts on which the property concerned is held or otherwise) of a co-owner who has made a payment, or receives a repayment or contribution, in respect of a joint charge to recover all or part of the payment from, or to account for all or part of the repayment or contribution to, the other co-owners or any beneficiaries interested in the property; but insofar as in any particular case no such right or duty exists (and the co-owner is not himself in consequence of any such provision in law or equity obliged to bear the burden of the payment or entitled to receive the benefit of the repayment or contribution), such payments shall be due between the co-owners as will secure that in respect of the joint charge the burden or benefit of the payment, repayment or contribution accrues to them in equal shares.

(4) Where—

- (a) a payment has been made by a spouse in relation to an amount mentioned in regulation 22(1) of the principal Regulations as it has effect in relation to co-owners,
- (b) recovery is not possible under section 16(7) of the Act as applied by paragraph (2) above in consequence of the condition mentioned in subsection (7) (b) of that section not being fulfilled in respect of the co-owners, and
- (c) the spouse or spouses of other co-owners were (or if notice were given under regulation 23(1) of the principal Regulations, would have been) liable to make a payment with respect to the amount,

the spouse who made the payment may recover from those other spouse or spouses such sums as will secure that the payment is borne between them according to the relative proportions in which, in accordance with the formula in regulation 22(1) of the principal Regulations, they are jointly and severally liable for the amount mentioned in that provision; and where recovery is so made, a spouse shall account between the other spouses accordingly with respect to any repayment by the charging authority.

(5) In paragraph (4) "spouse" does not include a spouse who is also one of the co-owners concerned; and that paragraph has effect subject to any agreement to the contrary between the spouses or any other rule having effect in law or equity in any particular case and governing the relationship between them.

Co-owners: enforcement

4.—(1) Part IV of the principal Regulations (enforcement) shall have effect, with the following modifications, for the recovery of a sum for which persons are liable under Part III of the principal Regulations as applied by regulation 3 above.

(2) A reminder notice shall be served in accordance with regulation 28(1) and (2) of those Regulations on every person against whom the application for a liability order is to be made except a co-owner who has been served under regulation 20(1) or 21(4) of those Regulations with a notice in respect of the amount concerned; and in determining whether a person is served for this purpose, regulation 22(6) of those Regulations and regulation 3(1) (b) above shall not have the effect of deeming him to have been served in a case where he has not in fact been so.

(3) A liability order may be made against one or more co-owners and their spouses or managers in respect of an amount for which they are jointly and severally liable, but may not be made against—

- (a) a spouse unless it is also made against the co-owner of whom he is the spouse or,
- (b) a manager unless it is also made against all the co-owners.

(4) Where a liability order has been made against more than one person in respect of an amount, subject to paragraph (9)—

- (a) an attachment of earnings order may be made against one of them, or different such orders may be made against more than one;
- (b) distress may be made against one or more of them; and
- (c) a charging order may be made against one of them, or against more than one jointly, or different such orders may be made against more than one of them (as the circumstances require).

(5) Where a distress has been made against more than one person in respect of an amount, subject to paragraph (7) a warrant of commitment may be applied for at any time against one of them or different warrants may be applied for against more than one of them.

(6) Where distress has been made against one person only, subject to paragraph (7) a warrant of commitment may be applied for against that person.

(7) Where a liability order has been made against a co-owner or co-owners and a spouse or manager in respect of an amount, a warrant of commitment may not be applied for against the spouse or manager unless distress has been made against the co-owner of which he is the spouse or (as the case may be) such of the co-owners as are those of which he is the manager (as well as against the spouse or manager) and it appears to the authority concerned that no (or insufficient) goods of those persons can be found.

(8) Where a liability order has been made against more than one person in respect of an amount, and a warrant of commitment is issued against (or a term of imprisonment is fixed in the case of) one of them under regulation 41(3) of the principal Regulations, no steps, or no further steps, may be taken against any of them by way of attachment of earnings, distress, bankruptcy, winding up or charging of a designated dwelling in relation to the amount mentioned in regulation 41(4) of those Regulations.

(9) Where a liability order has been made against more than one person in respect of an amount—

- (a) steps by way of attachment of earnings, distress, commitment, bankruptcy, winding up or charging of a designated dwelling may not be taken against a person in respect of the amount while steps by way of another of those methods are being taken against him in respect of it,
- (b) subject to paragraph (10), steps by way of attachment of earnings or distress may not be taken against a person in respect of the amount while steps by way of the same method, another of those methods or the charging of a designated dwelling are being taken against one of the others in respect of it, and
- (c) steps by way of the charging of a designated dwelling may not be taken against a person in respect of the amount while steps by way of attachment of earnings or distress are being taken against one of the others in respect of it.

(10) Where a liability has been made against a co-owner and his spouse in respect of an amount and in making distress against one of them goods jointly owned by both are found, paragraph (9) (b) does not preclude distress being levied against those goods with respect to that amount; but in any subsequent proceedings under regulation 41 of the principal Regulations (commitment), charges arising under Schedule 5 to those Regulations from such a distress shall be treated as charges relating to the person against whose goods the levy was intended to be made when the joint goods were found, and not as charges relating to the other.

(11) Where a liability order has been made against more than one person in respect of an amount, paragraph 2(2) of Schedule 5 to the principal Regulations shall have effect so that if a charge has arisen against one of them under head B of the Table to paragraph 1 of that Schedule as regards a levy in respect of it, no further charge may be aggregated for the purposes of regulation 39(2) of those Regulations under heads A or B in consequence of any subsequent levy or attempted levy against any of them in respect of that amount; and if a charge has arisen under head A against one of them, it shall be treated as a charge under that head with respect to the others as well as that one for the purposes of the calculation of any subsequent charge under heads A or B against any of them.

(12) Where a liability order is made against a co-owner in respect of an amount, and also against another co-owner or a spouse or manager of a co-owner (whether at the same time as the order against the first mentioned co-owner or subsequently and whether in respect of all or part of that amount), the order made as respects all but the relevant co-owner shall not include under regulation 29(6) (b) or (7) of the principal Regulations (a) any additional sum in respect of the costs of obtaining the order against them, but they (with the relevant co-owner) shall be treated as jointly and severally liable for the amount included in the order against the relevant co-owner in respect of costs, and the order against them shall (as regards regulation 29(6) (b) or (7) of those Regulations) be made in respect of the sum outstanding in relation to it; and for this purpose the relevant co-owner is the co-owner against whom the liability order was first made in respect of the amount, or if there are more than one such, such one of them as the court considers appropriate.

(13) Paragraph (12) is not to be construed as permitting a charging authority to apply under regulation 29(2) of the principal Regulations for a liability order against a person in respect of costs alone after an order had been made for those costs against a co-owner.

1st February 1990

Chris Patten
Secretary of State for the Environment

1st February 1990

Peter Walker
Secretary of State for Wales

(a) Regulation 29(7) was inserted by S.I. 1989/2274, regulation 4(2).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the administration and collection of standard and collective community charges to which co-owners are jointly subject by virtue of regulation 59 of the Community Charges (Administration and Enforcement) Regulations 1989 ("the principal Regulations").

Regulation 2 provides that the duty under the principal Regulations of a co-owner to inform the community charges registration officer if an item in a register is not accurate or up-to-date, or if he becomes subject to a charge, is satisfied if one of the co-owners concerned informs the registration officer; and that the duty of a registration officer to send a copy of an item in the register to co-owners is satisfied if he sends it to one of them.

Regulation 3 applies Part III of the principal Regulations, concerned with billing, to co-owners with appropriate modifications; and provides (subject to any special rights between the parties in particular cases) that a co-owner, or a spouse of a co-owner, who has made a payment may recover an appropriate proportion of it from the other co-owners or other spouses (as the case may be).

Regulation 4 applies Part IV of the principal Regulations, concerned with enforcement, with appropriate modifications.