

1990 No. 1714 (S.166)

COMMUNITY CHARGES, SCOTLAND
SOCIAL SECURITY

The Personal Community Charge (Relief) (No. 2)
(Scotland) Regulations 1990

<i>Made</i>	- - - -	<i>20th August 1990</i>
<i>Laid before Parliament</i>		<i>29th August 1990</i>
<i>Coming into force</i>		<i>19th September 1990</i>

The Secretary of State, in exercise of the powers conferred upon him by sections 9A, 26(1) and 31(3) of the Abolition of Domestic Rates Etc. (Scotland) Act 1987(a), 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 (Relief) (No. 2) (Scotland) Regulations 1990 and shall come into force on 19th September 1990.

Interpretation

2.—(1) In these Regulations—

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

“the Rebate Regulations” means the Housing Benefit (Community Charge Rebates) (Scotland) Regulations 1988(b);

“the Benefit Regulations” means the Community Charge Benefits (General) Regulations 1989(c);

“the Relief Regulations” means the Personal Community Charge (Relief) (Scotland) Regulations 1990(d);

“benefit week” has the same meaning as in regulation 2(1) of the Benefit Regulations;

“community charge benefit” means a benefit under section 31A of the Social Security Act 1986(e);

“community charge rebate” means the rebate in that form in section 28 of the Social Security Act 1986(f);

“eligible person” means a person eligible for relief under these Regulations and shall be construed in accordance with regulation 4 below;

“financial year” means the period of 12 months beginning on 1st April;

(a) 1987 c.47; section 9A was inserted by the Local Government and Housing Act 1989 (c.42), section 143; section 26(1) contains a definition of “prescribed” relevant to the exercise of the powers under which these Regulations are made.

(b) S.I. 1988/1890, as amended by S.I. 1989/361 and 972.

(c) S.I. 1989/1321, as amended by S.I. 1990/834 and 835.

(d) S.I. 1990/421, as amended by S.I. 1990/625.

(e) 1986 c.50; section 31A was inserted by the Local Government Finance Act 1988 (c.41), Schedule 10, paragraph 6.

(f) 1986 c.50; section 28 was modified by the Housing Benefit (Social Security Act 1986 Modifications) (Scotland) Regulations 1988 (S.I. 1988/1483) to extend to community charge rebates.

“member of a couple” means a member of a married couple or an unmarried couple where the expressions “married couple” and “unmarried couple” have the meanings assigned to them by section 20(11) of the Social Security Act 1986;

“regional personal community charge” means the personal community charge imposed by a regional council, and “islands personal community charge” and “district personal community charge” have the corresponding meanings;

“relevant local authority” means the local authority to which an application is made under regulation 4(1)(e) below for a reduction in liability in respect of the personal community charge for the financial year 1989-90; and

“week” means any complete period of 7 consecutive days commencing on a Monday and ending on a Sunday.

(2) Any reference in these Regulations to a person who is liable to pay the personal community charge in respect of a financial year includes—

- (a) a person who is jointly and severally liable for that charge by virtue of section 8(7) of the 1987 Act(a); and
- (b) a person who is liable only for a part of that personal community charge.

Application of the Regulations

3.—(1) These Regulations shall apply to any person in respect of whom the conditions of being an eligible person are satisfied, even although that person has died before the date of coming into force of these Regulations.

(2) These Regulations shall not apply to the personal community water charge(b).

Eligible person

4.—(1) An “eligible person” means a person if—

- (a) he was liable to pay the personal community charge determined by a local authority in respect of the first benefit week in the financial year 1990-91;
- (b) he was entitled, under the Benefit Regulations, to a community charge benefit for that week or, in the opinion of the relevant local authority, would have been so entitled if he had submitted a claim for such benefit within the time permitted by regulation 60(19)(b) of the Benefit Regulations(c);
- (c) he had, or where he is a member of a couple they had, for the purposes of calculating the amount of that community charge benefit for that week, capital exceeding £8,000 but not exceeding £16,000 in that week;
- (d) he was liable to pay the personal community charge determined by a local authority in respect of any time in the financial year 1989-90; and
- (e) an application is made by him or on his behalf or, as the case may be, by his executor to the relevant local authority or local authorities on or before 1st December 1990 (or such later date as the local authority or authorities may allow) for a reduction in liability for the personal community charge in respect of the financial year 1989-90 under regulations 5 and 6 or, as the case may be, regulations 7 and 8 below.

(2) A person may be an eligible person even if, at any time during the financial years 1989-90 and 1990-91, he has changed the area of the local authority in which he was solely or mainly resident.

Amount of relief in the case of the islands personal community charge

5.—(1) Regulation 6 below applies in any case where an eligible person, at any time during the financial year 1989-90—

- (a) was solely or mainly resident in the area of an islands council; and
- (b) was liable to pay the personal community charge determined by that islands council.

(a) Section 8(7) was amended by the Local Government Finance Act 1988, Schedule 12, paragraph 18(7).

(b) Section 9A of the 1987 Act, under which these Regulations are made, was disapplied in relation to the personal community water charge by the 1987 Act, Schedule 5, paragraph 11, and by the Community Water Charges (Scotland) Regulations 1988 (S.I. 1988/1538) and the Community Water Charges (Scotland) Amendment Regulations 1989 (S.I. 1989/2362).

(c) Regulation 60(19)(b) was inserted by S.I. 1990/835.

(2) Regulation 6 below also applies in any case where an eligible person, at any time during the financial year 1989-90—

- (a) was solely or mainly resident in the area of more than one islands council; and
- (b) was liable to pay the personal community charge determined by more than one islands council,

but, in such a case, regulation 6 applies separately in relation to the islands personal community charge due to each islands council.

(3) Regulation 6 below applies even although an eligible person may also be entitled to relief under regulations 7 and 8 below.

6.—(1) The amount which an eligible person was liable to pay in respect of the islands personal community charge due to an islands council in respect of the financial year 1989-90 shall be calculated as if the islands council had determined a personal community charge for that year equal to—

- (a) in the case where the eligible person is also an eligible person for the purposes of Part II, III or IV of the Relief Regulations, the amount of the personal community charge which the islands council is assumed to have determined for that year under the provisions of that Part for the purposes of calculating the amount of the personal community charge which that person was liable to pay in respect of that year; or
- (b) in any other case, the personal community charge which the islands council has determined for that year,

less, in either case, the product of the formula set out in paragraph (2) below.

(2) The formula referred to in paragraph (1) above is—

$$\frac{A}{B} \times \left(\frac{C}{D} \times E \right)$$

where—

- (a) A is the amount of the community charge benefit to which the eligible person is entitled in the first benefit week in the financial year 1990-91 or, in the opinion of the relevant local authority, would have been so entitled if he had submitted a claim for such benefit within the time permitted by regulation 60(19)(b) of the Benefit Regulations;
- (b) B is the amount of the personal community charge which the eligible person was liable to pay in respect of that week in respect of (depending upon the area of the local authority or authorities in which he was solely or mainly resident during that week) the islands personal community charge or, as the case may be, the aggregate of the regional and district personal community charges, taking account of any reduction in liability to which that person may be entitled under the Relief Regulations but not under the Benefit Regulations:
Provided that, if, during that week, the eligible person has changed the area of the local authority in which he was solely or mainly resident, he shall be deemed, for this purpose, to have been solely or mainly resident in the area of the local authority in which he was solely or mainly resident on the first day of that week;
- (c) C is the amount of the islands personal community charge due to the islands council referred to in paragraph (1) above which, disregarding the effect of these Regulations, the eligible person was liable to pay in respect of the financial year 1989-90, taking account of any reduction in liability to which that person may be entitled under the Relief Regulations but not under the Rebate Regulations;
- (d) D is the period consisting of the number of weeks in the financial year 1989-90 in respect of which the eligible person was liable to pay the islands personal community charge due to the islands council referred to in paragraph (1) above in that year; and
- (e) E is D less the number of benefit weeks in the period referred to in sub-paragraph (d) above in respect of which that person received a community charge rebate under the Rebate Regulations.

Amount of relief in the case of the regional personal community charge

7.—(1) Regulation 8 below applies in any case where an eligible person, at any time during the financial year 1989-90—

- (a) was solely or mainly resident in the area of a regional council; and
- (b) was liable to pay the personal community charge determined by that regional council.

(2) Regulation 8 below also applies in any case where an eligible person, at any time during the financial year 1989-90—

- (a) was solely or mainly resident in the area of more than one regional council; and
- (b) was liable to pay the personal community charge determined by more than one regional council,

but, in such a case, regulation 8 applies separately in relation to the personal community charge due to each regional council.

(3) Regulation 8 below applies even although the eligible person—

- (a) has, at any time during the financial year 1989-90, changed the area of the district council within the region in which he is solely or mainly resident; and
- (b) may also be entitled to relief under regulations 5 and 6 above.

8.—(1) The amount which an eligible person was liable to pay in respect of the regional personal community charge due to a regional council in respect of the financial year 1989-90 shall be calculated as if the regional council had determined a personal community charge for that year equal to—

- (a) in the case where the eligible person is also an eligible person for the purposes of Part II, III or IV of the Relief Regulations, the amount of the personal community charge which the regional council is assumed to have determined for that year under the provisions of that Part for the purposes of calculating the amount of the personal community charge which that person was liable to pay in respect of that year; or
- (b) in any other case, the personal community charge which the regional council has determined for that year,

less, in either case, the product of the formula set out in paragraph (2) below.

(2) The formula referred to in paragraph (1) above is—

$$\frac{A}{B} \times \left(\frac{C}{D} \times E \right)$$

where—

- (a) A shall have the same meaning as A has in regulation 6(2)(a) above;
- (b) B shall have the same meaning as B has in regulation 6(2)(b) above;
- (c) C is the aggregate amount of the personal community charge which, disregarding the effect of these Regulations, the eligible person was liable to pay in respect of the financial year 1989-90—
 - (i) in respect of the regional personal community charge due to the regional council referred to in paragraph (1) above; and
 - (ii) the district personal community charge due to any district council or councils whose area is situated within the area of that regional council and in whose area the eligible person was solely or mainly resident at any time during that financial year,

taking account of any reduction in liability to which that person may be entitled under the Relief Regulations but not under the Rebate Regulations;

- (d) D is the period consisting of the number of weeks in the financial year 1989-90 in respect of which the eligible person was liable to pay the regional personal community charge due to the regional council referred to in paragraph (1) above in that year; and
- (e) E is D less the number of benefit weeks in the period referred to in sub-paragraph (d) above in respect of which that person received a community charge rebate under the Rebate Regulations.

Provision of evidence and information

9. A person who makes an application to a relevant local authority under these Regulations shall furnish to that local authority such documents, information and evidence in connection with the application, or any question arising out of it, as may be reasonably required by that local authority for the purpose of determining whether the person to whom

the application relates is an eligible person and the amount of relief to which that person may be entitled under these Regulations, and shall do so within four weeks of being so required, or such longer period as the local authority may consider reasonable.

Reasons for decision

10. Where a local authority makes a decision relating to the application or the operation of these Regulations in relation to any person, the authority shall, if requested in writing by that person or, as the case may be, the person who made the application relating to that person, provide him with a written statement of the decision and the reasons for it; and the statement shall be dated and sent within 14 days from the date on which it is requested or as soon as is reasonably practicable thereafter.

Review

11.—(1) Any person in relation to whom a local authority makes a decision relating to the application or operation of these Regulations or, as the case may be, the person who made the application relating to that person, may request a review of that decision by the Review Board appointed by that local authority and constituted in accordance with regulation 69(3) of and Schedule 6 to the Benefit Regulations.

(2) Any request in terms of paragraph (1) shall be by notice which shall set out the grounds upon which a review is requested.

(3) Regulations 70(2) and 71(4) and (5) of the Benefit Regulations shall apply, with the necessary modifications, for the purposes of a review under these Regulations as they apply for the purposes of a further review under the Benefit Regulations.

(4) A local authority shall comply with any decision of its Review Board.

Amendment of the Benefit Regulations

12. In regulation 87 of the Benefit Regulations(a) (methods of recovery) after paragraph (2A) there shall be inserted the following paragraph—

“(2B) Paragraph (2A) shall not apply in any case where a person’s liability for a personal community charge is reduced in accordance with the Personal Community Charge (Relief) (No. 2) (Scotland) Regulations 1990.”.

St. Andrew’s House, Edinburgh
20th August 1990

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

(a) S.I. 1989/1321; relevant amending instrument is S.I. 1990/834.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for reducing the liability of certain persons in Scotland to pay the personal community charge in the financial year 1989-90.

These Regulations apply to any person who meets the conditions of eligibility set out in regulation 4, even although that person may have died before the coming into force of the Regulations (regulation 3(1)).

Regulation 4 defines an eligible person by reference to his liability for the personal community charge in respect of the first benefit week in 1990-91 and his entitlement to community charge benefit for that week. It is a requirement that such a person had, (or where he is a member of a couple they had), for the purposes of calculating the amount of that benefit, capital resources exceeding £8,000 but not exceeding £16,000 in that week and should have been liable to pay the personal community charge at some time in 1989-90. It is also a requirement that an application is made for relief to the relevant local authority on or before 1st December 1990 or such later date as the local authority may allow. Regulation 4(2) makes it clear that a person may be an eligible person even if he has moved residence in 1989-90 or in 1990-91.

Regulations 5 and 6 apply in any case where an eligible person was solely or mainly resident in the area of an islands council in 1989-90 and provide for the reduction in that person's liability to pay the personal community charge determined by that islands council for that financial year. Regulation 6(2) defines the way in which the reduction in liability is calculated, which is by applying the proportion that the eligible person's community charge benefit bears to his personal community charge liability in the first benefit week of 1990-91 to the number of weeks in 1989-90 in which that person was liable for the islands personal community charge and was not in receipt of community charge rebate. It also provides that the reduction in liability under these Regulations should be applied, where appropriate, after taking account of any reduction in liability to which the eligible person may be entitled under the Personal Community Charge (Relief) (Scotland) Regulations 1990 (S.I. 1990/421).

Regulations 7 and 8 make similar provision in any case where an eligible person at any time during 1989-90 was solely or mainly resident in the area of a regional council.

It is also made clear that, where an eligible person has moved his residence during 1989-90, he may be entitled to relief in respect of every change which he has made (regulations 5(2) and (3) and 7(2) and (3)).

Regulation 9 requires the person making an application under these Regulations to furnish to the local authority any information and evidence in connection with the application which the local authority may reasonably require.

The Regulations also require a local authority, when making a decision relating to the application or operation of the Regulations, to give reasons for its decision if so requested (regulation 10). The Regulations also make provision for the review of such decisions by a Review Board appointed under the Community Charge Benefits (General) Regulations 1989 (S.I. 1989/1321) ("the Benefit Regulations") (regulation 11).

Regulation 12 amends regulation 87 of the Benefit Regulations to provide that, where a person's liability for a personal community charge in respect of the financial year 1989-90 is reduced in consequence of these Regulations, his reduced liability shall not be taken into account for the purposes of recalculating any community charge rebate to which he may have been entitled in respect of that charge.

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