
STATUTORY INSTRUMENTS

1992 No. 1332

The Council Tax (Administration and Enforcement) (Scotland) Regulations 1992

PART V
BILLING

Interpretation of Part V

16. The provisions of this Part which provide for the repayment or crediting of any amount or the adjustment of payments due under a notice shall have effect subject to section 94(8) of the Act.

The requirement for demand notices

17.—(1) Subject to paragraph (5), in respect of each financial year commencing with the financial year beginning on 1st April 1993, a levying authority shall serve, in accordance with paragraph (2) or (3), a demand notice as regards every dwelling in their area appearing to them likely to be, or to have been, a chargeable dwelling on 1st April in the year in question.

(2) A levying authority which is an islands council shall serve any demand notice required by paragraph (1) as soon as practicable after they have both—

- (a) first set an amount of islands council tax for the relevant year; and
- (b) set an amount of islands council water charge for that year.

(3) A levying authority which is a regional council shall, in respect of chargeable dwellings situated within the area of each district council within the region, serve any demand notice required by paragraph (1) as soon as practicable after—

- (a) they have received intimation of the district council tax first set by that district council for the relevant year; and
- (b) they have both—
 - (i) first set an amount of regional council tax for that year; and
 - (ii) set an amount of regional council water charge for that year.

(4) Subject to paragraph (5), a levying authority shall serve a demand notice as regards a dwelling in their area if it appears to them, at any time after the beginning of a financial year, that—

- (a) a sum in respect of council tax or the council water charge for that year remains to be paid as regards that dwelling; and
- (b) any part of that sum is attributable to a period in that year in respect of which all the liable persons are persons—
 - (i) on whom no demand notice as regards that dwelling and that year has yet been served; and

(ii) who have at no point in that year been jointly and severally liable with a person on whom such a demand notice has been served to pay council tax or the council water charge in respect of that dwelling.

(5) No demand notice need be served under paragraph (1) or (4) as regards a dwelling and a period in any case where the only liable person in respect of that dwelling and period is—

(a) a housing body; or

(b) a person who is liable in respect of that dwelling and period by virtue of—

(i) being the owner of the dwelling; or

(ii) the Council Tax (Liability of Owners) (Scotland) Regulations 1992(1);

and who has agreed with the levying authority that no demand notice need be served on him.

Payments required: general

18.—(1) Subject to paragraphs (2) and (3), no payment on account of the chargeable amount (whether interim, final or sole) need be made unless a notice served under this Part requires it.

(2) Where a notice under this Part is addressed to a liable person or liable persons, any other person who is, in terms of section 75(3) or (4), 76(4) or (5) or 77(1) or (2) of the Act or in terms of those provisions as read with paragraph 11 of Schedule 11 to the Act, jointly and severally liable with that person or those persons for payment of council tax and the council water charge in respect of the dwelling and the period to which the notice relates shall be jointly and severally liable to make any payments required by the notice.

(3) Paragraph (1) shall not apply where payment is due in terms of such an agreement as is referred to in paragraph (7) of regulation 21.

Notices: general

19.—(1) A notice under this Part shall relate to a particular dwelling and a particular financial year only.

(2) If the levying authority have not after reasonable inquiry been able to ascertain the name of a liable person in respect of a dwelling and they wish to serve a notice under this Part pertaining to that dwelling, they may do so by addressing it to the “The Council Tax Payer(s)” of the dwelling concerned (naming the dwelling) without further name or designation.

(3) If at the time of serving a notice under this Part it appears to the levying authority that there are persons jointly and severally liable to make any payments to which the notice relates, they shall address the notice in the joint names of those persons and may, where all such persons appear to the authority to be resident at the same address, effect service by sending or delivering only one copy of the notice to that address.

Demand notices: payments required

20.—(1) Subject to paragraph (4), if a demand notice is issued before or during the relevant year, it shall require the making of payments on account of the amount referred to in paragraph (2).

(2) The amount is—

(a) the levying authority’s estimate of the chargeable amount, made as respects the relevant year or part, as the case may be, on the assumptions referred to in paragraph (3); or

- (b) where an amount falls to be credited by the levying authority against the chargeable amount, the amount (if any) by which the amount estimated as mentioned in subparagraph (a) exceeds the amount falling to be so credited.
- (3) The assumptions are—
- (a) that the person will be liable to pay the council tax and the council water charge to which the notice relates on every day after the issue of the notice;
 - (b) that, as regards the dwelling concerned, the relevant valuation band on the day the notice is issued will remain the relevant valuation band for the dwelling as regards every day after the issue of the notice;
 - (c) if on the day the notice is issued the person satisfies conditions prescribed for the purposes of regulations under section 80 of the Act (and consequently the chargeable amount in his case is less than it would otherwise be), that he will continue to satisfy those conditions as regards every day after the issue of the notice;
 - (d) if, by virtue of regulation 8(1), the dwelling to which the notice relates is assumed to be a chargeable dwelling on the day the notice is issued, that it will continue to be a chargeable dwelling as regards every day after the issue of the notice;
 - (e) if, by virtue of regulation 13(1), the chargeable amount is assumed not to be subject to a discount on the day the notice is issued, that it will not be subject to a discount as regards any day after the issue of the notice;
 - (f) if, by virtue of regulation 13(2), the chargeable amount is assumed to be subject to a discount on the day the notice is issued, that it will continue to be subject to the same rate of discount as regards every day after the issue of the notice;
 - (g) if on the day the notice is issued a determination as to council tax benefit to which the person is entitled is in effect, and by virtue of regulations under section 138(1) of the Social Security Administration Act 1992(2) the benefit allowed as regards that day takes the form of a reduction in the amount the person is liable to pay in respect of council tax for the relevant year, that as regards every day after that day he will be allowed the same reduction in that amount;
 - (h) if on the day the notice is issued the qualifying conditions mentioned in paragraph 8 of Schedule 11 to the Act are met in respect of the dwelling concerned, that they will continue to be met as regards every day after the issue of the notice; and
 - (i) if on the day the notice is issued those qualifying conditions are not met in respect of the dwelling concerned, that they will continue not to be met as regards every day after the issue of the notice.
- (4) If a demand notice is issued during the relevant year and the liable person is not liable to pay an amount by way of council tax or the council water charge in respect of the day on which the notice is issued and the dwelling to which the notice relates, the notice shall require payment of—
- (a) the chargeable amount for the period in the year up to the last day in respect of which he was so liable; or
 - (b) where an amount falls to be credited by the levying authority against that chargeable amount, an amount equal to the amount (if any) by which that chargeable amount exceeds the amount falling to be so credited.
- (5) If a demand notice is issued after the end of the relevant year, it shall require payment of—
- (a) the chargeable amount; or

(2) 1992 c. 5; section 138 is amended by paragraph 19 of Schedule 9 to the Act.

- (b) where an amount falls to be credited by the levying authority against the chargeable amount, an amount equal to the amount (if any) by which the chargeable amount exceeds the amount falling to be so credited.

Council tax and the council water charge: payments

21.—(1) Unless an agreement under paragraph (4) in relation to the relevant year has been reached between the levying authority and the liable person before a demand notice is issued, a demand notice to which paragraph (1) of regulation 20 applies shall require the amount mentioned in paragraph (2) of that regulation to be paid by instalments in accordance with Part I of Schedule 1.

(2) Where instalments are required to be paid under Part I of Schedule 1, Part II of that Schedule applies for their cessation or adjustment in the circumstances described in that Part.

(3) If an agreement under paragraph (4) in relation to the relevant year has been reached between the levying authority and the liable person before a demand notice is issued, a demand notice to which paragraph (1) of regulation 20 applies shall require the amount mentioned in paragraph (2) of that regulation to be paid in accordance with that agreement.

(4) A levying authority and a liable person may agree that the amount mentioned in paragraph (2) of regulation 20 which is required to be paid under a notice to which paragraph (1) of that regulation applies shall be paid in such manner as is provided by the agreement.

(5) Notwithstanding the foregoing provisions of this regulation, such an agreement may be entered into either before or after the demand notice concerned is issued, and may make provision for the cessation or adjustment of payments, and for the making of fresh estimates, in the event of the estimate mentioned in sub-paragraph (a) of regulation 20(2) turning out to be wrong; and if it is entered into after the demand notice has been issued, it may make provision dealing with the treatment for the purposes of the agreement of any sums paid in accordance with Part I of Schedule 1 before it was entered into.

(6) A demand notice to which paragraph (4) or (5) of regulation 20 applies shall (as the levying authority determine) require payment of the amount concerned—

- (a) on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it; or
- (b) by instalments of such amounts as are specified in the notice, payable at such intervals and on such day in each interval as is so specified.

(7) Where, under paragraph (5) of regulation 17, a demand notice is not served in respect of a dwelling and a period in a financial year, any sum that would have been payable to a levying authority had such a notice been served shall instead be payable to them in terms of any agreement entered into between them and the liable person.

Failure to pay instalments

22.—(1) Subject to paragraph (2), where—

- (a) a notice under this Part has been served by a levying authority on a liable person;
- (b) instalments in respect of the council tax and the council water charge to which the notice relates are payable in accordance with Schedule 1 or an agreement under paragraph (4) of regulation 21; and
- (c) any such instalment is not paid in accordance with that Schedule or that agreement;

the levying authority shall serve a notice (“reminder notice”) on the liable person stating—

- (i) the instalments required to be paid;
- (ii) the effect of paragraph (3) below; and

(iii) where the notice is the second such notice as regards the relevant year, the effect of paragraph (4) below.

(2) Nothing in paragraph (1) shall require the service of a reminder notice—

- (a) where all the instalments have fallen due; or
- (b) in the circumstances mentioned in paragraph (4).

(3) If, within the period of 7 days beginning with the day on which a reminder notice is issued, the liable person fails to pay any instalments which are or will become due before the expiry of that period, the unpaid balance of the estimated amount specified in the notice referred to in subparagraph (a) of paragraph (1) shall become payable by him at the expiry of a further period of 7 days beginning with the day of the failure.

(4) If, after making a payment in accordance with a reminder notice which is the second such notice as regards the relevant year, the liable person fails to pay any subsequent instalment as regards that year on or before the day on which it falls due, the unpaid balance of the estimated amount specified in the notice referred to in subparagraph (a) of paragraph (1) shall become payable by him on the day following the day of the failure.

Payments: adjustments

23.—(1) This regulation applies for the purpose of adjusting amounts payable under this Part, but shall not apply in the circumstances specified in paragraph 5(1) or 6(1) of Schedule 1.

(2) If the chargeable amount proves to be greater than the estimated amount, an additional sum equal to the difference between the two shall, on the service by the levying authority on the liable person of a notice stating the chargeable amount, be due from him to the authority on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it.

(3) If the chargeable amount proves to be less than the estimated amount, the levying authority shall notify the liable person in writing of the chargeable amount; and any overpayment of the chargeable amount shall, to the extent that it exceeds any other outstanding liability of that person to the levying authority in respect of council tax or the council water charge—

- (a) subject to paragraph (4), be repaid to him if he so requires; or
- (b) in any other case (as the levying authority determine) either be repaid to him or be credited against any subsequent liability of his to make a payment in respect of any council tax or council water charge to the authority.

(4) If the chargeable amount is less than the estimated amount in consequence of the liable person ceasing during the relevant year to be a liable person in respect of the dwelling to which the estimated amount relates, and he becomes liable, in respect of a different chargeable dwelling, to make a payment to the same levying authority by way of council tax or the council water charge in respect of the same day as that on which he so ceases, the levying authority may require that the amount of any overpayment mentioned in paragraph (3) shall, instead of being repaid, be credited against his liability in respect of the different dwelling.

(5) In this regulation, “the estimated amount” means the amount last estimated under paragraph (2) of regulation 20 for the purposes of a demand notice or any subsequent notice served under paragraph 6(3)(b) of Schedule 1.

Lump sum payments

24.—(1) A levying authority may, subject to the conditions set out in paragraph (2), accept an amount payable in a single lump sum in such cases as they may determine and in satisfaction of any liability of a liable person under a demand notice to which paragraph (1) of regulation 20 applies

to pay the estimated amount, being a lump sum which is of an amount determined by the authority and less than the estimated amount.

(2) The conditions are that—

- (a) the determinations under paragraph (1) as to the cases where a lump sum will be accepted and as to the basis of calculation of the amount of the sum in those cases must be made by the authority on or before the day on which they first set an amount for the relevant year under section 93(1) of the Act;
- (b) under those determinations persons liable to pay the same number of instalments in the relevant year must be treated alike, and so that in particular the proportion that the amount of the single lump sum to be accepted from a liable person bears to the estimated amount payable by him must be the same as that applicable to all other liable persons liable to pay the same number of instalments in the relevant year; and
- (c) for a lump sum to be accepted under those determinations as they have effect in any case—
 - (i) at least two instalments must fall to be paid under the demand notice concerned in accordance with Part I of Schedule 1 or any agreement under paragraph (4) of regulation 21; and
 - (ii) the single lump sum payment must be made on or before the day on which the first instalment falls due under the notice.

(3) A determination under paragraph (1) may be revoked at any time, and if revoked may (but only on or before the day mentioned in sub-paragraph (a) of paragraph (2)) be replaced by a fresh determination.

(4) If the chargeable amount proves to be greater than the estimated amount, an additional sum equal to the difference between the two, proportionately reduced in accordance with paragraph (9), shall, on the service by the levying authority on the liable person of a notice stating the chargeable amount, be due from him to the authority on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it.

(5) If the chargeable amount proves to be less than the estimated amount, the levying authority shall notify the liable person in writing of the chargeable amount; and any overpayment of the chargeable amount (proportionately reduced in accordance with paragraph (9)) shall, to the extent that it exceeds any other outstanding liability of that person to the levying authority in respect of council tax or the council water charge—

- (a) be repaid to him if he so requires; or
- (b) in any other case (as the levying authority determine) either be repaid to him or be credited against any subsequent liability of his to make a payment in respect of any council tax or council water charge to the authority.

(6) If any assumption by reference to which the estimated amount was calculated is shown to be false before the chargeable amount is capable of final determination for the purposes of paragraphs (4) and (5), the levying authority may, and if so required by the liable person shall, make a calculation of the appropriate amount with a view to adjusting that person's liability in respect of the estimated amount and (as appropriate) to—

- (a) requiring an interim payment from the liable person (proportionately reduced in accordance with paragraph (9)) if the appropriate amount is greater than the estimated amount, or
- (b) making an interim repayment to the liable person (proportionately reduced in accordance with paragraph (9)) if the appropriate amount is less than the amount of the estimated amount paid.

(7) The appropriate amount for the purposes of paragraph (6) is the amount which would be required to be paid under a demand notice if such a notice were issued with respect to the relevant

year on the day that the notice under paragraph (8) is issued; and more than one calculation of the appropriate amount and interim adjustment may be made under paragraph (6) according to the circumstances.

(8) On calculating the appropriate amount the levying authority shall notify the liable person in writing of it; and a payment required under sub-paragraph (a) of paragraph (6) shall be due from the liable person to the levying authority on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it.

(9) The proportion by reference to which a payment or repayment (or sum to be credited) under paragraph (4), (5) or (6) is to be reduced is to be the proportion determined under sub-paragraph (b) of paragraph (2) in respect of the lump sum concerned in that case; but in determining whether there has been an overpayment of the chargeable amount or appropriate amount (and the amount of any sum to be repaid or credited before reduction as aforementioned) one payment of the lump sum shall be treated as a payment of the estimated amount in full, and any other proportionately reduced payment or repayment already made shall be treated as not having been so reduced.

(10) In this regulation—

“the appropriate amount” has the meaning given in paragraph (7); and

“the estimated amount” means the amount last estimated under paragraph (2) of regulation 20 for the purposes of a demand notice or any subsequent notice given under paragraph 6(3)(b) of Schedule 1 prior to the payment of the single lump sum mentioned in paragraph (1) above; save that if in any case an interim adjustment has been made under paragraph (6), in relation to the next payment, repayment or interim adjustment in that case under this regulation (if any) it means (except in paragraph (9)) the appropriate amount by reference to which the previous interim adjustment was so made.

Non-cash payments

25.—(1) A levying authority may, subject to the conditions set out in paragraph (2), accept an amount (“discounted amount”) in such cases as they may determine and in satisfaction of any liability of a person to pay to them any instalment or other payment on account due under a notice given under this Part, being an amount determined by the authority and less than the amount of the instalment or other payment due.

(2) The conditions are that—

(a) the discounted amount is paid to the authority otherwise than by either bank notes or coin; and

(b) the determinations under paragraph (1) as to the cases where a discounted amount will be accepted and as to the proportion that the amount is to bear to the amount of the instalment or other payment due in those cases must be made by the authority on or before the day on which they first set an amount for the relevant year under section 93(1) of the Act.

(3) Subject to paragraph (5), a determination under paragraph (1) may be revoked at any time, and if revoked may (but only on or before the day mentioned in sub-paragraph (b) of paragraph (2)) be replaced by a fresh determination.

(4) For the purpose of determining whether an adjustment of any amount paid (whether by way of repayment, crediting or otherwise) falls to be made under this Part where a discounted amount has been accepted, the instalment or other payment by reference to which the discounted amount was accepted shall be treated as having been paid in full; but any amount to be repaid or credited against any subsequent liability in any case shall, insofar as it is attributable to such an instalment or other payment, be reduced in accordance with the proportion determined under sub-paragraph (b) of paragraph (2) in respect of that case.

(5) Paragraph (4), and the power to revoke under paragraph (3), have effect in any case subject to any agreement to the contrary between the levying authority and the person liable to pay the instalment or other payment concerned.

Collection of penalties

26.—(1) Subject to paragraphs (2) and (4), where a penalty is payable by a person to a levying authority under any of sub-paragraphs (1) to (3) of paragraph 2 of Schedule 3 to the Act, it may be collected, as the authority to which it is payable determine, either—

- (a) by treating the penalty for the purposes of regulations 20 and 21 and Schedule 1 as if it were part of the amount that the person is or will be liable to pay in respect of any council tax or council water charge as regards any demand notice issued after the penalty is imposed; or
- (b) by the service by the authority on the person of a notice requiring payment of the penalty on the expiry of such period (being not less than 14 days) after the issue of the notice as is specified in it.

(2) Where the imposition of a penalty is subject to an appeal, no amount shall be payable in respect of the penalty while the appeal is outstanding.

(3) The imposition of a penalty is to be treated as subject to an appeal for the purposes of this regulation until such time as the appeal is finally disposed of in accordance with regulations under section 82 of the Act or is abandoned or fails for non-prosecution; and the circumstances in which an appeal is to be treated as failing for non-prosecution include the expiry of any time prescribed under such regulations in consequence of which any such appeal would require to be dismissed by a valuation appeal committee.

(4) A demand notice making provision for the recovery of a penalty which is subject to appeal may not be issued under sub-paragraph (a) of paragraph (1) during the period that the appeal concerned is outstanding; and where a penalty becomes subject to appeal after the issue of a demand notice which makes such provision, such proportion of the sum due under it as is attributable to the penalty shall not fall due until the appeal is finally disposed of, abandoned or fails for non-prosecution.

(5) Where an amount has been paid by a person in respect of a penalty which is quashed under paragraph 2(6) of Schedule 3 to the Act or pursuant to the order of a valuation appeal committee or the Court of Session, the levying authority which imposed the penalty may allow the amount to him by way of deduction against any other sum which has become due from him under this Part (whether in respect of another penalty or otherwise); and any balance shall be repaid to him.

Final adjustment of sums payable

27.—(1) This regulation applies where—

- (a) a notice has been issued by a levying authority under this Part requiring a payment or payments to be made by a person in respect of his liability to pay council tax and the council water charge for a financial year or part of a financial year;
- (b) the payment or payments required to be made are found to be in excess of or less than his liability for the year or the part; and
- (c) provision for adjusting the amounts payable under the notice and (as appropriate) for the making of additional payments or the repaying or crediting of any amount overpaid is not made by any other provision of this Part, of the Act or of any agreement entered into under paragraph (4) of regulation 21.

(2) The levying authority shall as soon as practicable after the expiry of the year or the part of a year serve a further notice on the person stating the amount of his liability for the year or the part, and adjusting (by reference to that amount) the amounts required to be paid under the notice referred to in sub-paragraph (a) of paragraph (1).

(3) If the amount stated in the further notice is greater than the amount required to be paid under the notice referred to in sub-paragraph (a) of paragraph (1), the amount of the difference for which such other provision as is mentioned in sub-paragraph (c) of that paragraph is not made shall be due from the person to the levying authority on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it.

(4) If there has been an overpayment, the amount overpaid for which such other provision as is mentioned in sub-paragraph (c) of paragraph (1) is not made shall, to the extent that it exceeds any other outstanding liability of the person to the levying authority in respect of council tax or the council water charge—

- (a) be repaid to him if he so requires; or
- (b) in any other case (as the levying authority determine) either be repaid to him or be credited against any subsequent liability of his to make a payment in respect of any council tax or council water charge to the authority.