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STATUTORY INSTRUMENTS

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**1996 No. 1880**

**CONTRACTING OUT**

**The Local Authorities (Contracting Out of Tax Billing,  
Collection and Enforcement Functions) Order 1996**

*Made* - - - - *17th July 1996*  
*Coming into force* - - *18th July 1996*

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 70(2) and (4) and 77(1) of, and paragraph 3 of Schedule 16 to, the Deregulation and Contracting Out Act 1994<sup>(1)</sup>, and of all other powers enabling them in that behalf, after consultation with the representatives of local government appearing to them to be appropriate, hereby make the following Order, a draft of which has been laid before and approved by resolution of each House of Parliament:

**PART I**  
**GENERAL**

**Title, commencement and interpretation**

1.—(1) This Order may be cited as the Local Authorities (Contracting Out of Tax Billing, Collection and Enforcement Functions) Order 1996 and shall come into force on the day immediately following the day on which it is made.

(2) In this Order, “contractor” means any person to whom an authorisation is given by virtue of Part II, Part IV or Part VI of this Order, and includes the employees of that person.

**PART II**  
**COUNCIL TAX: CONTRACTING OUT**

**Interpretation of Part**

2.—(1) In Parts II and III of this Order—

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(1) 1994 c. 40.

“the Act” means the Local Government Finance Act 1992<sup>(2)</sup>;

“authority” means a local authority which is a billing authority for the purposes of Part I of the Act;

“the Regulations” means the Council Tax (Administration and Enforcement) Regulations 1992<sup>(3)</sup>, and any reference to a regulation is to be construed as a reference to a regulation of those regulations; and

“the Schedule” means Schedule 1 to the Regulations.

(2) Subject to any provision to the contrary made in this Order—

(a) the expressions “chargeable amount”, “demand notice”, “joint taxpayers”, “liable person” and “Part II scheme” have the same meanings in Parts II and III of this Order as in Part V of the Regulations;

(b) the expressions “debtor” and “liability order” have the same meanings in Parts II and III of this Order as in Part IV of the Regulations; and

(c) any other expressions used in Part II or Part III of this Order which are also used in the Regulations have the same meaning as they have in the Regulations.

### **Functions of local authorities**

3. The functions of an authority conferred by or under the Act and the Regulations in relation to the administration and enforcement of council tax may, to the extent provided for in this Part and subject to the provisions of Part VIII and article 73 of this Order, be exercised by, or by the employees of, such person (if any) as may be authorised to exercise them by the authority whose functions they are.

### **Notices**

4. Where under an authorisation given by virtue of this Part a contractor is authorised to serve any notice which is required or authorised by the Regulations to be served on any person, the contractor may also be authorised—

(a) subject to articles 64, 65 and 66, to determine the form and the manner of service of the notice in question;

(b) to determine any period which is required or authorised by the Regulations to be specified in the notice; and

(c) where the notice requires the person on whom the notice is served to make a payment, to accept any amount paid in compliance with the notice.

### **Information about properties**

5.—(1) In this article, “listing officer” means the person appointed for an authority in accordance with section 20 of the Act (listing officers).

(2) An authority may authorise a contractor to exercise the functions of—

(a) supplying any information which relates to property and is requested in a notice served under section 27(1) of the Act (information about properties); and

(b) determining whether, in the course of the exercise of any functions of the authority, any information coming to the notice of the contractor would assist a listing officer in carrying

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(2) 1992 c. 14.

(3) S.I. 1992/613; relevant amendments have been made by S.I. 1992/3008. There are other amendments which are not relevant to this Order.

out any of his functions, and supplying such information to the listing officer in compliance with section 27(6) of the Act.

#### **Information from residents, etc.**

6. An authority may authorise a contractor to exercise the functions of—
- (a) requesting the person who appears to be the resident, owner or managing agent of a particular dwelling to supply information for the purposes of identifying the person who is liable to pay council tax in relation to the dwelling;
  - (b) specifying in the request the form in which the information is to be supplied; and
  - (c) identifying the person who is, or is in its opinion, liable (whether solely or jointly and severally) to pay council tax in relation to the dwelling.

#### **Information from public bodies**

7. For the purpose of carrying out its functions under Part I of the Act (Council Tax: England and Wales), an authority may authorise a contractor to request any public body or public officer mentioned in regulation 4 to supply information in accordance with that regulation.

#### **Inquiries as to dwellings**

8. An authority may authorise a contractor as regards each financial year commencing with the financial year beginning on 1st April 1993, to take such steps as the contractor considers reasonable to ascertain whether any dwellings in the authority's area will be or were exempt dwellings for any period during the year.

#### **Assumptions as to dwellings**

9. An authority may authorise a contractor who is authorised to take such steps as are mentioned in article 8 to exercise the functions of—
- (a) determining whether there is reason to believe that a particular dwelling will be or was an exempt dwelling for any period in a financial year; and
  - (b) making the assumption that the dwelling will be or was either a chargeable dwelling or an exempt dwelling for the period in question.

#### **Notification of assumption and billing particulars**

10. An authority may authorise a contractor to exercise the functions—
- (a) of giving notice of an assumption made as mentioned in article 9(b);
  - (b) of preparing and supplying with such notice a statement of the matters specified in regulation 10(3); and
  - (c) for the purpose of such statement, of making the assumption mentioned in regulation 10(4).

#### **Information relating to exempt dwellings, etc.**

- 11.—(1) An authority may authorise a contractor to exercise the function of requesting the person who appears to be the resident, owner or managing agent of a particular dwelling to—
- (a) supply information for the purposes of identifying the person who, in respect of any period specified in the notice, is or will be liable to pay council tax in relation to the dwelling, or would be so liable if the dwelling were not or had not been an exempt dwelling; and

- (b) supply the information in any form specified in the request.

### **Ascertaining entitlement to discounts**

**12.**—(1) In this article and in article 13, the expression “chargeable amount” has the same meaning as in Part IV of the Regulations.

(2) An authority may authorise a contractor for the purposes of calculating the chargeable amount in respect of any dwelling in the authority’s area to—

- (a) take such steps as the contractor considers reasonable to ascertain whether that amount is subject to any discount under section 11 of the Act (discounts) or, in the case of a dwelling in Wales, that section or section 12 of the Act (discounts: special provision for Wales), and if so, the amount of that discount;
- (b) determine whether there is reason to believe that the chargeable amount in respect of a dwelling for the financial year in question is subject to a discount; and
- (c) make the assumption that the chargeable amount either is or is not subject to a discount.

### **Ascertaining entitlement to reduced amounts**

**13.** An authority may authorise a contractor for the purposes of calculating the chargeable amount in respect of any dwelling in the authority’s area to—

- (a) serve a notice on any person requesting information for the purpose of considering whether, by virtue of regulations under section 13 of the Act (reduced amounts), the person on whom the notice is served is liable to pay an amount in respect of council tax which is less than the amount it would be apart from those regulations; and
- (b) where information is supplied in response to such a notice, determine the amount, if any, by which the liability in respect of council tax of the person concerned is less than the amount it would be apart from those regulations.

### **Demand notices and council tax payments**

**14.**—(1) In this article—

- (a) the expression “aggregate amount” has the same meaning as in Parts I and II of the Schedule; and
- (b) “liable person” means a person who is, or in the opinion of the authority or a contractor will be, solely liable to pay to the authority an amount in respect of council tax in respect of a particular dwelling and a day.

(2) For the purposes of Part V of the Regulations, an authority may authorise a contractor to identify the liable person or the joint taxpayers with respect to any dwelling and any day.

(3) An authority may authorise a contractor to prepare and serve demand notices and any notices required to be served under paragraph 9(6) of the Schedule, and where appropriate for these purposes to exercise the functions—

- (a) of estimating the chargeable amount on the assumptions referred to in regulation 20(3), and determine the amount, if any, by which that estimated amount exceeds any amount falling to be credited by the authority against the chargeable amount;
- (b) subject to article 67, of reaching agreement with a liable person or one or more of any joint taxpayers as to the manner of payment of the aggregate amount and as to provision for the cessation or adjustment of payments, the making of fresh estimates, and the treatment of any sums paid in accordance with Part I of the Schedule or a Part II scheme before the agreement was entered into;

- (c) of determining in accordance with Part I of the Schedule or in accordance with a Part II scheme the instalments by which the aggregate amount is required to be paid; and
  - (d) where a demand notice is issued—
    - (i) during the financial year to which it relates and the liable person is not liable to pay an amount by way of council tax in respect of the day on which the notice is issued, or
    - (ii) after the end of the financial year to which the notice relates,
- of determining the amounts of instalments of the amount in question and the intervals at which, and days on which, the instalments are payable.

### **Cessation and adjustment of instalments**

- 15.** Subject to article 73, an authority may authorise a contractor to exercise the functions—
- (a) of determining whether, after the service of a demand notice, a person has ceased to be the liable person in respect of the dwelling and the period to which the notice relates;
  - (b) of calculating the amount of that person's liability in respect of the council tax to which the notice relates as it has effect for the period up to the day on which he ceased to be so liable, and preparing and serving on him a notice stating that amount;
  - (c) where the amount stated in such a notice is less than the aggregate amount of the instalments paid before the day on which the person concerned ceased to be liable to pay council tax, of repaying the overpayment or crediting the overpayment against any subsequent liability of that person to make a payment in respect of council tax;
  - (d) of determining whether by reason of any of the matters mentioned in paragraph 10(1) of the Schedule to revise an estimate in a demand notice of the amount in respect of council tax that a person is liable to pay;
  - (e) of determining the amount of a revised estimate and adjusting the instalments, if any, payable with respect to that estimate on or after the day 14 days after the day of issue of the notice served as mentioned in paragraph (f) below (“the adjustment day”);
  - (f) of preparing and serving on the person who is liable to pay the amount of the revised estimate a notice stating the amount of that estimate and the amount of any remaining instalment; and
  - (g) of repaying any amount by which a revised estimate is less than the aggregate amount of the instalments payable before the adjustment day, or crediting the amount in question against any subsequent liability of that person to make a payment in respect of council tax.

### **Failure to pay instalments**

**16.** An authority may authorise a contractor to exercise the function, where any instalment payable under a demand notice is not paid in accordance with Part I of the Schedule, or, as the case may be, a Part II scheme, of serving a reminder notice on the liable person concerned requiring him to pay the amount which is the aggregate of the instalments due and unpaid and stating the other matters required under regulation 23 to be stated in a reminder notice.

### **Payments: adjustments**

**17.—**(1) In this article, the expressions “appropriate amount” and “estimated amount” have the same meanings as in regulation 24.

- (2) Subject to article 73, an authority may authorise a contractor to exercise the functions—
- (a) of calculating the chargeable amount and the difference between that amount and the estimated amount;

- (b) of preparing and serving a notice stating the chargeable amount;
- (c) where the chargeable amount exceeds the estimated amount, of requiring the liable person to pay an additional sum equal to the difference, and where the chargeable amount is less than the estimated amount, of repaying any overpayment or crediting any overpayment against any subsequent liability of the liable person to make a payment in respect of council tax;
- (d) of determining whether any factor or assumption by reference to which the estimated amount was calculated is shown to be false, and calculating the appropriate amount with a view to adjusting the liable person's liability in respect of the estimated amount;
- (e) of preparing and serving a notice stating the appropriate amount;
- (f) where the appropriate amount is greater than the estimated amount, of requiring an interim payment from the liable person, and where the appropriate amount is less than the amount of the estimated amount paid, of making an interim payment to the liable person; and
- (g) of requiring that the amount of any overpayment mentioned in sub-paragraph (c) above or the amount which would otherwise be paid to the liable person by way of an interim payment shall, instead of being repaid, be credited against the liable person's liability to pay council tax in respect of a dwelling other than the dwelling to which the chargeable amount relates.

### **Joint taxpayers' notice**

**18.**—(1) In this article, the expression “adjusted amount” has the same meaning as in regulation 28.

- (2) Subject to article 73, an authority may authorise a contractor to exercise the functions—
  - (a) of preparing and serving a notice (“a joint taxpayers' notice”) on a person who is one of joint taxpayers;
  - (b) for the purposes of a joint taxpayers' notice, of determining and requiring payment of the adjusted amount;
  - (c) where a joint taxpayers' notice is issued after the end of the financial year to which it relates or after the unpaid balance of the estimated amount has become due as mentioned in regulation 23(3) or (4), of requiring payment of the amount in question;
  - (d) of determining the amounts of instalments of the amount specified in a joint taxpayers' notice and the intervals at which, and days on which, the instalments are payable;
  - (e) subject to article 67, of reaching agreement with a person on whom a joint taxpayers' notice is served as to the manner of payment of the amount required to be paid under the notice, and as to provision for the cessation or adjustment of payments, the making of fresh estimates, and the treatment of any sums paid in accordance with Part I of the Schedule or a Part II scheme before the agreement was entered into;
  - (f) of determining whether the amount required to be paid under a joint taxpayers' notice is incorrect, and serving a further notice on every person on whom an incorrect notice was served stating the revised sum required to be paid;
  - (g) where the amount stated in such further notice is greater than the amount required to be paid under the joint taxpayers' notice, of determining the revised amount of each remaining instalment; and
  - (h) where the amount stated in such further notice is less than the amount required to be paid under the joint taxpayers' notice, of repaying any overpayment or crediting any overpayment against any subsequent liability of the person concerned to make a payment in respect of council tax.

### **Collection of penalties**

**19.**—(1) Where a penalty is payable by a person under any of sub-paragraphs (1) to (3) of paragraph 1 of Schedule 3 to the Act (Penalties), the authority concerned may authorise a contractor to exercise the functions—

- (a) where the person concerned is not one of joint taxpayers, of serving a notice on him requiring him to pay the penalty, or treating the penalty as if it were part of the amount that that person is or will be liable to pay in respect of council tax as regards any demand notice issued after the penalty is imposed; and
- (b) where the person concerned is one of joint taxpayers, of serving a notice on him requiring him to pay the penalty.

(2) Where such a penalty has been paid by a person and has been quashed under paragraph 1(6) of Schedule 3 to the Act or pursuant to the order of a valuation tribunal or the High Court, the authority concerned may authorise a contractor to exercise the functions of—

- (a) deducting the amount paid by that person from any other sum due from him to the authority under Part V of the Regulations; and
- (b) repaying any balance to him.

### **Demand notices: final adjustment**

**20.** Subject to article 73, an authority may authorise a contractor to determine whether the circumstances specified in regulation 31(1) arise with respect to the liability of any person to pay council tax, and for the purposes of regulation 31 to exercise the functions of—

- (a) calculating the amount of a person’s liability in respect of council tax for a financial year or part of a financial year and adjust the amounts required to be paid by that person;
- (b) preparing and serving a further notice stating the amount of such liability and the adjusted payments; and
- (c) repaying any overpayment, or crediting any overpayment against any subsequent liability of the person concerned to make a payment in respect of any council tax of the authority.

### **Executors and administrators—council tax**

**21.**—(1) In this article—

- (a) a reference to a deceased person is a reference to a person who has died and, at any time before his death, was (or is alleged to have been) liable to pay a relevant amount; and
- (b) “relevant amount” means either of the amounts mentioned in section 18(1)(a) and (b) of the Act (death of persons liable) or a penalty imposed under paragraph 1 of Schedule 3 to the Act.

(2) An authority may authorise a contractor to exercise the functions of—

- (a) receiving any sum which the executor or administrator of a deceased person is liable to pay by virtue of regulations made under section 18 of the Act;
- (b) giving to such an executor or administrator a notice requiring the payment of such a sum;
- (c) paying to such an executor or administrator a sum paid by the deceased person before his death in excess of his liability to pay a relevant amount; and
- (d) taking steps for the recovery of any sum from such an executor or administrator.

### **Liability orders**

**22.** An authority may authorise a contractor to exercise the functions—

- (a) of preparing and serving on a person, or on any two or more persons jointly, against whom an application is to be made for a liability order a final notice stating every amount in respect of which the application is to be made;
- (b) subject to article 69, of applying to the magistrates court for a liability order against a person, or any two or more persons jointly;
- (c) where, after a summons has been issued directing a person to appear before the court to show why he has not paid a sum which is outstanding, that person pays or tenders an amount equal to the aggregate of the sum outstanding and costs reasonably incurred by the authority in connection with the application, of accepting the amount so paid or tendered and taking all steps necessary to ensure that the application is not proceeded with;
- (d) where the sum payable is paid after a liability order has been applied for but before it is made, of requesting the court to make the order in respect of the costs reasonably incurred by the authority in making the application; and
- (e) by notice in writing, of requesting a person against whom a liability order has been made to supply information which is relevant information for the purposes of regulation 36, and of receiving such information.

#### **Attachment of earnings**

- 23.** Subject to article 70, an authority may authorise a contractor to exercise the functions—
- (a) of making an order under regulation 37 to secure the payment from a debtor of any outstanding sum which is or forms part of the amount in respect of which a liability order has been made;
  - (b) of serving a copy of an attachment of earnings order on a person who appears to have the debtor in his employment, and on the debtor;
  - (c) where the whole amount to which such an order relates has been paid, of giving notice of the fact to any person who appears to have the debtor in his employment and has been served with a copy of the order; and
  - (d) of discharging an attachment of earnings order, and giving notice of the discharge to any person who appears to have the debtor in his employment and has been served with a copy of the order.

#### **Attachment of allowances orders**

- 24.** Subject to article 70, an authority may authorise a contractor to exercise the functions—
- (a) of making an order under regulation 44 to secure the payment from a debtor of any outstanding sum which is or forms part of the amount in respect of which a liability order has been made;
  - (b) of serving a copy of an attachment of allowances order on the local authority which appears to have the debtor as an elected member;
  - (c) where the whole amount to which such an order relates has been paid, of giving notice of the fact to the local authority which appears to have the debtor as an elected member and has been served with a copy of the order; and
  - (d) of discharging an attachment of allowances order, and giving notice of the discharge to the local authority which has been served with a copy of the order.

#### **Distress**

- 25.** Subject to article 70, an authority may authorise a contractor to exercise the functions—



- (a) of taking steps to levy by distress and sale of the debtor's goods the aggregate of any outstanding sum which is or forms part of the amount in respect of which a liability order has been made and a sum determined in accordance with Schedule 5 to the Regulations in respect of charges connected with the distress;
- (b) where a liability order has been made against two or more persons jointly, of levying distress against any one or more of those persons; and
- (c) where the amount mentioned in paragraph (a) above (including charges arising up to the time of the payment or tender) is paid or tendered before any goods are seized, or after goods have been seized in pursuance of the distress, but before sale of those goods, of accepting that amount and, where applicable, making the goods available for collection by the debtor.

### **Insolvency**

**26.** Subject to article 70, an authority may authorise a contractor for the purposes of collecting council tax to present to the court—

- (a) in respect of an amount equal to any outstanding sum which is or forms part of the amount for which a liability order has been made against a debtor who is an individual, a petition for a bankruptcy order to be made against the debtor under section 264 of the Insolvency Act 1986 (who may present a bankruptcy petition)(4); and
- (b) in respect of an amount equal to any outstanding sum which is or forms part of the amount for which a liability order has been made against a debtor which is a company or an unregistered company, a petition for an order to be made under section 125 of that Act (powers of court on hearing of petition) for the winding up of the company.

### **Charging orders**

**27.** An authority may authorise a contractor to determine whether an application is to be made under regulation 50 for an order imposing, on any interest held by a debtor beneficially in the relevant dwelling, a charge for securing the aggregate of any outstanding sum which is or forms part of the amount in respect of which a liability order has been made and costs reasonably incurred in obtaining the charging order.

## **PART III**

### **COUNCIL TAX: CONSEQUENTIAL, SUPPLEMENTAL AND INCIDENTAL PROVISIONS**

#### **Amendment of Regulations**

**28.** The Regulations and the Council Tax (Administration and Enforcement) (Attachment of Earnings Order) (Wales) Regulations 1992(5) (“the 1992 (Wales) Regulations”) are amended in accordance with article 29, and the Regulations are further amended in accordance with article 30.

#### **Form of attachment of earnings order**

**29.** An order made under regulation 37 by a contractor under an authorisation given by virtue of this Order shall—

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(4) 1986 c. 45.

(5) S.I. 1992/1741.

- (a) in the case of an attachment of earnings order by an English billing authority, be in the form specified in Schedule 3 to the Regulations, except that for the words in that form “Proper officer of the authority” there shall be substituted “Person authorised by the authority to make this order”; and
- (b) in the case of an attachment of earnings order by a Welsh billing authority, be in the form specified in the Schedule to the 1992 (Wales) Regulations, except that for the words in that form “Proper officer of the authority” there shall be substituted “Person authorised by the authority to make this order”, and for the words in that form “Swyddog priodol yr awdurdod” there shall be substituted “Person a awdurdodir gan yr awdurdod i wneud y gorchymyn hwn”.

### **Magistrates' courts**

**30.**—(1) In regulation 32, after ““attachment of earnings order” means an order under regulation 37;” insert—

““authorised person” means any person authorised by a billing authority to exercise any functions relating to the administration and enforcement of the council tax;”

- (2) In regulation 53(4) and (5), after “the applicant authority” insert “or an authorised person”.
- (3) In regulation 57(2), after “given by the billing authority” insert “or an authorised person”.

## **PART IV**

### **COMMUNITY CHARGES: CONTRACTING OUT**

#### **Interpretation of Part**

**31.**—(1) In Parts IV and V of this Order, except in so far as the context otherwise requires—

“the Act” means the Local Government Finance Act 1988<sup>(6)</sup>;

“authority” means a local authority which has the functions of a charging authority under Part I of the Act; and

“the Regulations” means the Community Charges (Administration and Enforcement) Regulations 1989<sup>(7)</sup>, and any reference to a regulation is to be construed as a reference to a regulation of those regulations.

- (2) Subject to any provision to the contrary made in this Order—
  - (a) the expressions “chargeable person” and “demand notice” have the same meanings in Parts IV and V of this Order as in Part III of the Regulations;
  - (b) the expressions “debtor” and “liability order” have the same meanings in Parts IV and V of this Order as in Part IV of the Regulations; and
  - (c) any other expressions used in Part IV or Part V of this Order which are also used in the Regulations have the same meaning as in the Regulations.

#### **Functions of local authorities**

**32.** The functions of an authority conferred by or under the Act and the Regulations in relation to the administration and enforcement of community charges may, to the extent provided for in this

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<sup>(6)</sup> 1988 c. 41.

<sup>(7)</sup> S.I. 1989/438; relevant amendments have been made by S.I. 1989/1057, S.I. 1989/2274, S.I. 1992/219, S.I. 1992/474, and S.I. 1992/775. There are other amendments which are not relevant to this Order.

Part and subject to the provisions of Part VIII and article 73 of this Order, be exercised by, or by the employees of, such person (if any) as may be authorised to exercise them by the authority whose functions they are.

### Notices

**33.** Where under an authorisation given by virtue of this Part a contractor is authorised to serve any notice which is required or authorised by the Regulations to be served on any person, the contractor may also be authorised—

- (a) subject to article 64, to determine the form and the manner of service of the notice in question;
- (b) to determine any period which is required or authorised by the Regulations to be specified in the notice; and
- (c) where the notice requires the person on whom the notice is served to make a payment, to accept any amount paid in compliance with the notice.

### Information about properties

**34.**—(1) In this article—

“the 1992 Act” means the Local Government Finance Act 1992(8); and

“listing officer” means the person appointed in accordance with section 20 of the 1992 Act (listing officers) for a local authority which is a billing authority within the meaning of section 1(2) of that Act (council tax in respect of dwellings).

(2) An authority may authorise a contractor to exercise the functions of—

- (a) supplying any information which relates to property and is requested in a notice served under section 27(1) of the 1992 Act (information about properties); and
- (b) determining whether any information would assist a listing officer in carrying out any of his functions, and supplying such information to him in compliance with section 27(6) of the 1992 Act.

### Personal and standard community charges: payments

**35.** Subject to article 67, an authority may authorise a contractor to exercise the function of reaching agreement with a chargeable person as to—

- (a) the manner of payment of an amount required to be paid under a demand notice issued before or during the chargeable financial year to which the notice relates; and
- (b) provision for the cessation or adjustment of payments, the making of fresh estimates, and the treatment of any sums paid in accordance with Schedule 1 to the Regulations before the agreement was entered into.

### Joint and several liability

**36.** An authority may authorise a contractor to exercise the functions—

- (a) of identifying the person, if any, who is the spouse or manager of a chargeable person;
- (b) of determining whether the joint and several liability conditions mentioned in regulation 22 were fulfilled on any day in the chargeable period in question;
- (c) of determining the amount, if any, payable by a spouse or manager under regulation 22;

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(8) 1992 c. 14.

- (d) of preparing and serving on a spouse or manager a notice stating the amount which he is jointly and severally liable to pay; and
- (e) where a sum would fall to be repaid to a chargeable person or credited against a liability of his if all the payments made by him and a spouse or manager under regulation 22 in respect of any amount for which he is liable had been made by him, of repaying the sum to, or crediting it in favour of, the spouse or manager.

### **Collection of penalties**

- 37.** An authority may authorise a contractor to exercise the functions—
- (a) where a penalty is payable by a person under paragraph 1 or 2 of Schedule 3 to the Act (Community Charges: Penalties), of serving a notice on the person concerned requiring him to pay the penalty; and
  - (b) where such a penalty has been paid by a person and has been quashed under paragraph 1(6) of Schedule 3 to the Act or pursuant to the order of a valuation tribunal or the High Court, of deducting the amount paid by that person from any other sum due from him to the authority under Part III of the Regulations and repaying any balance to him.

### **Demand notices: final adjustment**

- 38.** Subject to article 73, an authority may authorise a contractor to determine whether the circumstances specified in regulation 26(1) arise with respect to the liability of any person to pay a community charge, and for the purposes of regulation 26 to exercise the functions of—
- (a) calculating the amount of a person's liability in respect of the community charge as it has effect for a chargeable financial year or part of a chargeable financial year and adjusting the amounts required to be paid by that person;
  - (b) preparing and serving a further notice stating the amount of such liability and the adjusted payments; and
  - (c) repaying any overpayment, or crediting any overpayment against any subsequent liability of the person concerned to make a payment in respect of any community charge of the authority.

### **Executors and administrators—community charges**

- 39.**—(1) In this article—
- (a) a reference to a deceased person is a reference to a person who has died and, at any time before his death, was (or is alleged to have been) liable to pay a relevant amount; and
  - (b) “relevant amount” means any of the amounts mentioned in section 25(1)(a) to (c) of the Act (death) or a penalty imposed under Schedule 3 to the Act.
- (2) An authority may authorise a contractor to exercise the functions of—
- (a) receiving any sum which the executor or administrator of a deceased person is liable to pay by virtue of regulations made under section 25 of the Act;
  - (b) giving to such an executor or administrator a notice requiring the payment of such a sum;
  - (c) paying to such an executor or administrator a sum paid by the deceased person before his death in excess of his liability to pay a relevant amount; and
  - (d) taking steps for the recovery of any sum from such an executor or administrator.

### **Liability orders**

- 40.** An authority may authorise a contractor to exercise the functions—
- (a) of preparing and serving on a person, or on a person and the spouse or manager of that person, against whom an application is to be made for a liability order a reminder notice stating every amount in respect of which the application is to be made;
  - (b) subject to article 69, of applying to the magistrates court for a liability order against a person, or against a person and the spouse or manager of that person; and
  - (c) by notice in writing, of requesting a person against whom a liability order has been made to supply information which is relevant information for the purposes of regulation 31, and of receiving such information.

### **Attachment of earnings**

- 41.** Subject to article 70, an authority may authorise a contractor to exercise the functions—
- (a) of making an order under regulation 32 to secure the payment from a debtor of any outstanding sum which is or forms part of the amount in respect of which a liability order has been made;
  - (b) of serving a copy of an attachment of earnings order on a person who appears to have the debtor in his employment, and on the debtor;
  - (c) where the whole amount to which such an order relates has been paid, of giving notice of the fact to any person who appears to have the debtor in his employment and has been served with a copy of the order; and
  - (d) of discharging an attachment of earnings order, and giving notice of the discharge to any person who appears to have the debtor in his employment and has been served with a copy of the order.

### **Distress**

- 42.** Subject to article 70, an authority may authorise a contractor to exercise the functions—
- (a) of taking steps to levy by distress and sale of the debtor's goods the aggregate of any outstanding sum which is or forms part of the amount in respect of which a liability order has been made and a sum determined in accordance with Schedule 5 to the Regulations in respect of charges connected with the distress;
  - (b) where a liability order has been made against a chargeable person and the spouse or manager of that person, of levying distress against one of them or against each; and
  - (c) where the amount mentioned in paragraph (a) above (including charges arising up to the time of the payment or tender) is paid or tendered before any goods are seized, or after goods have been seized in pursuance of the distress, but before sale of those goods, of accepting that amount and, where applicable, making the goods available for collection by the debtor.

### **Insolvency**

- 43.** Subject to article 70, an authority may authorise a contractor for the purposes of collecting a community charge to present to the court—
- (a) in respect of an amount equal to any outstanding sum which is or forms part of the amount for which a liability order has been made against a debtor who is an individual, a petition

for a bankruptcy order to be made against the debtor under section 264 of the Insolvency Act 1986 (who may present a bankruptcy petition)(9); and

- (b) in respect of an amount equal to any outstanding sum which is or forms part of the amount for which a liability order has been made against a debtor which is a company or an unregistered company, a petition for an order to be made under section 125 of that Act (powers of court on hearing of petition) for the winding up of the company.

### **Charging orders**

**44.** An authority may authorise a contractor to determine whether an application is to be made under regulation 44 for an order imposing, on any interest held by a debtor beneficially in the relevant designated dwelling, a charge for securing the aggregate of any outstanding sum which is or forms part of the amount in respect of which a liability order has been made and costs reasonably incurred in obtaining the charging order.

## **PART V**

### **COMMUNITY CHARGES: CONSEQUENTIAL, SUPPLEMENTAL AND INCIDENTAL PROVISIONS**

#### **Amendment of Regulations**

**45.** The Regulations and the Community Charges (Administration and Enforcement) (Attachment of Earnings Order) (Wales) Regulations 1992(10) (“the 1992 (Wales) Regulations”) are amended in accordance with article 46, and the Regulations are further amended in accordance with article 47.

#### **Form of attachment of earnings order**

**46.** An order made under regulation 32 by a contractor under an authorisation given by virtue of this Order shall—

- (a) in the case of an attachment of earnings order by an English charging authority, be in the form specified as Form D in Schedule 3 to the Regulations, except that for the words in that form “Proper officer of the authority” there shall be substituted “Person authorised by the authority to make this order”; and
- (b) in the case of an attachment of earnings order by a Welsh charging authority, be in the form specified in the Schedule to the 1992 (Wales) Regulations, except that for the words in that form “Proper officer of the authority” there shall be substituted “Person authorised by the authority to make this order”, and for the words in that form “Swyddog priodol yr awdurdod” there shall be substituted “Person a awdurdodir gan yr awdurdod i wneud y gorchymyn hwn”.

#### **Magistrates' courts**

**47.—(1)** In regulation 27, after ““attachment of earnings order” means an order under regulation 32;” insert—

““authorised person” means any person authorised by a charging authority to exercise any functions relating to the administration and enforcement of community charges;”.

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(9) 1986 c. 45.

(10) S.I. 1992/663.

- (2) In regulation 47(4) and (5), after “the applicant authority” insert “or an authorised person”.
- (3) In regulation 52—
  - (a) in paragraph 2(b), after “authorised by it in that behalf” insert “or an authorised person”; and
  - (b) in paragraph (3), after “given by the charging authority” insert “or an authorised person”.

## PART VI

### NON-DOMESTIC RATING: CONTRACTING OUT

#### Interpretation of Part

- 48.**—(1) In Parts VI and VII of this Order—
- “the Act” means the Local Government Finance Act 1988(**11**);
  - “authority” has the same meaning as in section 144(2) of the Act (interpretation: authorities)(**12**);
  - “the Regulations” means the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989(**13**);
  - “the 1990 Regulations” means the Non-Domestic Rating (Collection and Enforcement) (Miscellaneous Provisions) Regulations 1990(**14**); and
  - “the Schedule” means Schedule 1 to the Regulations.
- (2) Subject to any provision to the contrary made in this Order—
- (a) the expressions “the amount payable”, “demand notice”, “ratepayer”, and “relevant year” have the same meanings in Parts VI and VII of this Order as in Part II of the Regulations;
  - (b) the expressions “debtor” and “liability order” have the same meanings in Parts VI and VII of this Order as in Part III of the Regulations; and
  - (c) any other expressions used in Part VI or Part VII of this Order which are also used in the Regulations have the same meaning as in the Regulations.

#### Functions of local authorities

**49.** The functions of an authority conferred by or under the Act, the Regulations and the the Regulations in relation to the collection and enforcement of non-domestic rates may, to the extent provided for in this Part and subject to the provisions of Part VIII and article 73 of this Order, be exercised by, or by the employees of, such person (if any) as may be authorised to exercise them by the authority whose functions they are.

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(11) 1988 c. 41.

(12) Section 144(2), which was substituted by paragraph 81(1) of Schedule 13 to the Local Government Finance Act 1992, provides that “billing authority” has the same meaning as in Part I of the 1992 Act.

(13) S.I. 1989/1058; relevant amendments have been made by S.I. 1991/141, S.I. 1992/1512 and S.I. 1993/616. There are other amendments which are not relevant to this Order.

(14) S.I. 1990/145; amended by S.I. 1993/616, S.I. 1993/774 and S.I. 1993/894. See also article 3 of, and Part II of Schedule 2 to, the Local Government Finance (Repeals, Savings and Consequential Amendments) Order 1993 (S.I. 1993/616); for the words “charging authority”(wherever they occur in the Regulations) there are substituted the words “billing authority”.

## Notices

**50.** Where under an authorisation given by virtue of this Part a contractor is authorised to serve any notice which is required or authorised by the Regulations to be served on any person, the contractor may also be authorised—

- (a) subject to articles 64, 65 and 66, to determine the form and the manner of service of the notice in question;
- (b) to determine any period which is required or authorised by the Regulations to be specified in the notice; and
- (c) where the notice requires the person on whom the notice is served to make a payment, to accept any amount paid in compliance with the notice.

## Demand notices and payments of non-domestic rates

**51.—(1)** In this article, “relevant conditions” means the conditions mentioned in section 43(1) of the Act (occupied hereditaments: liability)(**15**) or section 45(1) of the Act (unoccupied hereditaments: liability)(**16**).

(2) For the purposes of Part II of the Regulations (Billing), an authority may authorise a contractor to identify the ratepayers of the authority, and for the purposes of Part II of the the Regulations (Joint Owners and Occupiers), to identify those hereditaments with respect to which there would at a particular time be more than one occupier or more than one owner.

(3) An authority may authorise a contractor to prepare and serve demand notices and any further notice which is to be treated under the Regulations as if it were a demand notice (where the relevant conditions ceased to be fulfilled as regards the ratepayer and the hereditament concerned, and have been fulfilled again in the relevant year), and where appropriate for these purposes to exercise the functions—

- (a) of determining whether the relevant conditions are fulfilled with respect to any person as regards a hereditament;
- (b) where a person is a ratepayer of the authority as regards more than one hereditament, of serving a single demand notice in relation to the amounts payable with respect to all, or any two or more, of those hereditaments;
- (c) of serving a demand notice before the beginning of the chargeable financial year to which the notice relates;
- (d) subject to paragraph (4) below, of estimating or calculating the amount payable for a chargeable financial year or part of a chargeable financial year in relation to a ratepayer, the authority and a hereditament;
- (e) of determining in accordance with Part I of the Schedule the instalments by which an estimate of the amount payable is required to be paid;
- (f) subject to article 67, of reaching agreement with a ratepayer as to the manner of payment of an estimate of the amount payable and as to provision for the cessation or adjustment of payments, the making of fresh estimates, and the treatment of any sums paid in accordance with the Schedule before the agreement was entered into;
- (g) where regulation 3 of the the Regulations (Joint Owners and Occupiers) applies with respect to a hereditament and the persons who are jointly and severally liable to pay the non-domestic rate are liable as partners or trustees, of giving a notice which falls to be

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(15) Section 43 of the Act was amended by paragraph 60 of Schedule 13 to the Local Government Finance Act 1992 (c. 14).

(16) Section 45 of the Act was amended by paragraph 23 of Schedule 5 to the Local Government and Housing Act 1989 (c. 42) and paragraph 63 of Schedule 13 to the Local Government Finance Act 1992.



given under Part II of the Regulations (Billing) severally to each or any of the owners or occupiers concerned, or jointly to the partnership or trust;

- (h) where a notice which falls to be given under Part II of the Regulations is given to more than one person in respect of the same amount, of notifying that fact to each such person; and
- (i) where, under Part II of the Regulations as applied by regulation 3 of the the Regulations, there falls to be repaid a sum paid under a notice given to any persons jointly and severally liable as partners or trustees, of repaying the sum in question to any one or more of those persons.

(4) For the purposes of section 47 of the Act (discretionary relief)(17) and section 49 of the Act (reduction or remission of liability)(18), an authority may authorise a contractor to determine any amount which a ratepayer would, apart from those sections, be liable to pay by way of non-domestic rate, but may not authorise a contractor to exercise any other functions relating to the determination of a ratepayer's entitlement under those sections to any relief or reduction or remission of liability.

### **Cessation and adjustment of instalments**

**52.** Subject to article 73, an authority may authorise a contractor to exercise the functions—

- (a) of determining whether on any day (“the relevant day”) after the service of a demand notice the conditions mentioned in section 43(1) or 45(1) of the Act have ceased to be fulfilled as regards the ratepayer and the hereditament to which the demand notice relates;
- (b) of calculating the amount payable in relation to the hereditament for the period in the relevant year up to the relevant day, and preparing and serving on the ratepayer a notice stating that amount;
- (c) where the amount stated in such a notice is less than the aggregate amount of the instalments paid before the relevant day, of repaying the overpayment or crediting the overpayment against any subsequent liability of the ratepayer to pay anything by way of non-domestic rate;
- (d) of revising an estimate in a demand notice of the amount payable on the ground that any factor or assumption by reference to which the estimate was calculated is shown to be false;
- (e) of determining the amount of a revised estimate and adjusting the instalments, if any, payable with respect to that estimate on or after the day 14 days after the day of issue of the notice served as mentioned in paragraph (f) below (“the adjustment day”);
- (f) of preparing and serving on the ratepayer who is liable to pay the amount of the revised estimate a notice stating the amount of that estimate and the amount of any remaining instalment; and
- (g) of repaying any amount by which a revised estimate is less than the aggregate amount of the instalments payable before the adjustment day, or crediting the amount in question against any subsequent liability of the ratepayer to pay anything by way of non-domestic rate.

### **Failure to pay instalments**

**53.—**(1) In this article, the expressions “appropriate amount” and “estimated amount” have the same meanings as in regulation 8 of the Regulations.

(2) Subject to article 73, an authority may authorise a contractor to exercise the functions—

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(17) Section 47 of the Act was amended by paragraph 26 of Schedule 5 to the Local Government and Housing Act 1989 and paragraph 65 of Schedule 13 to the Local Government Finance Act 1992.

(18) Section 49 of the Act was amended by paragraph 27 of Schedule 5 to the Local Government and Housing Act 1989 and paragraph 66 of Schedule 13 to the Local Government Finance Act 1992.

- (a) where any instalment payable under a demand notice in accordance with Part I of the Schedule is not paid, of serving a further notice on the ratepayer stating the instalments required to be paid;
- (b) where, after the service of such a notice, the unpaid balance of the estimated amount in question becomes payable by reason of the ratepayer's failure to pay an instalment, of calculating the amount payable for the relevant year in relation to the hereditament concerned, and the difference between that amount and the estimated amount;
- (c) of preparing and serving a notice stating the amount payable;
- (d) where the amount payable exceeds the estimated amount, of requiring the ratepayer to pay an additional sum equal to the difference, and where the amount payable is less than the estimated amount, of repaying any overpayment or crediting any overpayment against any subsequent liability of the ratepayer to pay anything by way of non-domestic rate;
- (e) of determining whether any factor or assumption by reference to which the estimated amount was calculated in relation to a hereditament is shown to be false, and calculating the appropriate amount with a view to adjusting the ratepayer's liability in respect of the estimated amount;
- (f) of preparing and serving a notice stating the appropriate amount; and
- (g) where the appropriate amount is greater than the estimated amount, of requiring an interim payment from the ratepayer, and where the appropriate amount is less than the amount of the estimated amount paid, of making an interim repayment to the ratepayer.

#### **Demand notices: final adjustment**

- 54.** Subject to article 73, an authority may authorise a contractor to exercise the functions—
- (a) after the expiry of a chargeable financial year or part of a chargeable financial year for which an amount is payable in relation to a hereditament by way of non-domestic rate, of preparing and serving a further notice on the ratepayer concerned stating the amount payable for the year or part in relation to the hereditament and adjusting the amounts required to be paid; and
  - (b) where there has been an overpayment in respect of the ratepayer's liability under Part II of the Regulations, of repaying the amount overpaid or crediting it against any subsequent liability of the ratepayer to pay anything by way of non-domestic rate.

#### **Payment of interest**

- 55.** Subject to article 68, an authority may authorise a contractor to exercise the functions of—
- (a) determining whether a ratepayer, in relation to his liability to pay anything by way of non-domestic rate, is entitled to a payment by way of interest on any amount;
  - (b) calculating the amount of any interest due to a ratepayer; and
  - (c) making payment of interest due to a ratepayer, or crediting the amount of any interest against any subsequent liability of a ratepayer to pay anything by way of non-domestic rate.

#### **Executors and administrators—non-domestic rates**

- 56.** An authority may authorise a contractor to exercise the functions of—
- (a) receiving any sum which the executor or administrator of a deceased person who, at any time before his death, was (or is alleged to have been) subject to a non-domestic rate is liable to pay by virtue of regulations made under section 63 of the Act (death);

- (b) giving to such an executor or administrator a notice requiring the payment of such a sum;
- (c) paying to such an executor or administrator a sum paid by the deceased person before his death in excess of his liability to pay a non-domestic rate or any costs incurred in the enforcement of his liability to pay a non-domestic rate; and
- (d) taking steps for the recovery of any sum from such an executor or administrator.

### **Liability orders**

**57.** An authority may authorise a contractor to exercise the functions—

- (a) of preparing and serving on any person against whom an application is to be made for a liability order a reminder notice stating every amount in respect of which the application is to be made;
- (b) where regulation 3 of the the Regulations applies with respect to a hereditament and the persons who are jointly and severally liable to pay the non-domestic rate are liable as partners or trustees, of giving a reminder notice severally to each or any of the owners or occupiers concerned, or jointly to the partnership or trust;
- (c) where a reminder notice is given to more than one person in respect of the same amount, of notifying that fact to each such person;
- (d) subject to article 69, of applying to the magistrates' court for a liability order against a person or, where two or more persons are jointly and severally liable as partners or trustees to pay an amount by way of non-domestic rate, against any one or more of those persons; and
- (e) where the sum payable is paid after a liability order has been applied for but before it is made, of requesting the court to make the order in respect of the costs reasonably incurred by the authority in making the application.

### **Distress**

**58.** Subject to article 70, an authority may authorise a contractor to exercise the functions—

- (a) of taking steps to levy by distress and sale of the debtor's goods the aggregate of any outstanding sum which is or forms part of the amount in respect of which a liability order has been made and a sum determined in accordance with Schedule 3 to the Regulations in respect of charges connected with the distress;
- (b) where a liability order has been made against two or more persons jointly, of levying distress against any one or more of those persons; and
- (c) where the amount mentioned in paragraph (a) above (including charges arising up to the time of the payment or tender) is paid or tendered before any goods are seized, or after goods have been seized in pursuance of the distress, but before sale of those goods, of accepting that amount and, if applicable, making the goods available for collection by the debtor.

### **Insolvency**

**59.** Subject to article 70, an authority may authorise a contractor for the purposes of collecting non-domestic rates to present to the court—

- (a) in respect of an amount equal to any outstanding sum which is or forms part of the amount for which a liability order has been made against a debtor who is an individual, a petition

for a bankruptcy order to be made against the debtor under section 264 of the Insolvency Act 1986 (who may present a bankruptcy petition)(**19**); and

- (b) in respect of an amount equal to any outstanding sum which is or forms part of the amount for which a liability order has been made against a debtor which is a company, a petition for an order to be made under that Act for the winding up of the company.

### **Security for unpaid rates**

**60.** Subject to article 67, an authority may authorise a contractor to exercise the function conferred under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) (Amendment and Miscellaneous Provision) Regulations 1991(**20**) of entering into an agreement with a person liable to pay to it an amount under section 43(1) of the Act (occupied hereditaments: liability) or section 45(1) of the Act (unoccupied hereditaments: liability)—

- (a) charging any interest of that person in the hereditament concerned to secure payment of the amount and undertaking to take no steps for a specified period to recover any payment in respect of the amount;
- (b) extending to any further amount the person may become liable to pay to the authority under section 43 or 45 of the Act as regards the hereditament; and
- (c) providing for the payment of interest on sums outstanding or for interest payable to be secured by the charge.

## **PART VII**

### **NON-DOMESTIC RATES: CONSEQUENTIAL, SUPPLEMENTAL AND INCIDENTAL PROVISIONS**

#### **Amendment of Regulations—magistrates' courts**

**61.** The Regulations are amended as follows—

- (a) in regulation 21(4) and (5), by the insertion after “the applicant authority” of the words “or an authorised person”;
- (b) by the addition after regulation 21(6) of the following paragraph—  
“(7) In this regulation and in regulation 23(3), “authorised person” means any person authorised by a billing authority to exercise any functions relating to the collection and enforcement of non-domestic rates.”; and
- (c) in regulation 23(3), by the insertion after “given by the billing authority” of the words “or an authorised person”.

## **PART VIII**

### **CONDITIONS ATTACHING TO THE EXERCISE OF FUNCTIONS**

#### **Interpretation of Part**

**62.** In this Part, “authority”, in relation to a function and a contractor, means the local authority which authorises the exercise of the function in question by the contractor.

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(19) 1986 c. 45.

(20) S.I. 1991/141; amended by S.I. 1991/228 and S.I. 1993/616.

### Conditions attaching to the exercise of functions

63. In relation to any function which is to be specified in an authorisation given by virtue of Part II, Part IV or Part VI of this Order, the authorisation shall require the person who is to be authorised to fulfil such of the conditions specified in this Part as relate to the exercise of the function concerned, and the contractor may only exercise that function subject to the fulfilment of those conditions.

### Notices and other documents

64. In relation to the function of giving or serving a demand notice or any other notice or any request or other document, a contractor shall ensure that all such documents are given or served in the name of the authority.

### Contents of demand notices—England

65.—(1) In this article—

- (a) “the 1993 Regulations” means the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 1993<sup>(21)</sup>; and
- (b) the expressions “council tax demand notice” and “rate demand notice” have the same meaning as in the 1993 Regulations.

(2) In relation to the function of preparing and serving a council tax demand notice or a rate demand notice, a contractor shall ensure that all such notices are prepared and served in compliance with the 1993 Regulations, and, without prejudice to the generality of this obligation, that—

- (a) subject to regulation 3(2) of the 1993 Regulations, all council tax demand notices contain the matters specified in Schedule 1 to those Regulations;
- (b) except where the notice is served after the end of the financial year to which the demand for payment made by the notice relates, the information mentioned in Part I of Schedule 3 to the 1993 Regulations is supplied to the person on whom a council tax demand notice is served at the same time as the notice is served;
- (c) all rate demand notices served on behalf of the Common Council of the City of London contain the matters mentioned in Part II of Schedule 2 to the 1993 Regulations;
- (d) all rate demand notices served on behalf of any other billing authority contain the matters mentioned in Part I of that Schedule; and
- (e) except where the notice is served after the end of the financial year to which the demand for payment made by the notice relates, the information mentioned in Part II of Schedule 3 to the 1993 Regulations is supplied to the person on whom a rate demand notice is served at the same time as the notice is served.

### Contents of demand notices—Wales

66.—(1) In this article—

“the Council Tax Regulations” means the Council Tax (Demand Notices) (Wales) Regulations 1993<sup>(22)</sup>;

“the 1993 Regulations” means the Non-Domestic Rating (Demand Notices) (Wales) Regulations 1993<sup>(23)</sup>;

“council tax demand notice” has the same meaning as in the Council Tax Regulations; and

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<sup>(21)</sup> S.I. 1993/191, amended by S.I. 1995/23 and S.I. 1995/121 and article 74 of this Order.

<sup>(22)</sup> S.I. 1993/255, amended by S.I. 1995/160, S.I. 1996/310 and article 75 of this Order.

<sup>(23)</sup> S.I. 1993/252, amended by S.I. 1993/1506, S.I. 1994/415 and S.I. 1995/284 and article 75 of this Order.

“rate demand notice” has the same meaning as in the 1993 Regulations.

(2) In relation to the function of preparing and serving a council tax demand notice, a contractor shall ensure that all such notices are prepared and served in compliance with the Council Tax Regulations, and, without prejudice to the generality of this obligation, that—

- (a) all such notices contain the matters specified in Schedule 1 to those Regulations; and
- (b) except where the notice is served after the end of the financial year to which the demand for payment made by the notice relates, the information mentioned in Part I of Schedule 2 to those Regulations is supplied to the person on whom such a notice is served at the same time as the notice is served.

(3) In relation to the function of preparing and serving a rate demand notice, a contractor shall ensure that all such notices are prepared and served in compliance with the 1993 Regulations, and, without prejudice to the generality of this obligation, that—

- (a) all such notices contain the matters mentioned in Schedule 1 to those Regulations;
- (b) the explanatory information prescribed in Part I or, as the case may be, Part II of Schedule 2 to those Regulations is supplied to the person on whom such a notice is served at the same time as the notice is served; and
- (c) except where the notice is served after the end of the financial year to which the demand for payment made by the notice relates, the information mentioned in Part I of Schedule 3 to those Regulations is supplied to the person on whom such a notice is served, at the same time as the notice is served.

#### **Agreements as to payments etc.**

**67.** In relation to the function of entering into an agreement with any person as to the manner of payment of any amount or the charging of a person’s interest in any property to secure payment of any amount or any other matter, a contractor shall ensure that all such agreements are entered into in the name of the authority.

#### **Deduction of tax from payments of interest**

**68.** In relation to the function of paying interest on any amount falling due to a ratepayer, a contractor shall ensure that there is deducted out of the payment of interest any sum representing income tax which is deductible in accordance with section 349(2) of the Income and Corporation Taxes Act 1988 (payments not out of profits or gains brought into charge to income tax, and annual interest)(24).

#### **Application for liability orders**

**69.** In relation to the function of applying to the magistrates' court for a liability order against any person, a contractor shall ensure that all such applications are made in the name of the authority.

#### **Enforcement**

**70.** In relation to the function of taking steps by way of attachment of earnings, attachment of allowances, distress, bankruptcy, winding up or charging order, a contractor shall ensure that—

- (a) all such steps and all such proceedings are taken or brought in the name of the authority;
- (b) any instruction from the authority in relation to any debtor to take no (or no further) such steps is immediately complied with;

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(24) 1988 c. 1.

- (c) any intention to take steps to levy any amount by distress and sale of the goods of any person is immediately notified in writing to the authority;
- (d) no (or no further) steps to levy distress are taken in relation to any debtor after an instruction to that effect has been given by the authority or after the amount which is due to the authority has been received by the contractor; and
- (e) upon the giving of any such instruction or receipt of any such amount, any goods of the debtor which have already been seized are not sold and are made available for collection by the debtor.

### **Information**

**71.** In relation to any function which a contractor is authorised to exercise by the authority, the contractor—

- (a) shall take all necessary steps to ensure that he holds lawfully at all times all information obtained, whether from the authority or otherwise, in the course of exercising the function in question;
- (b) subject to the provisions of Schedule 15 to the Deregulation and Contracting Out Act 1994 (restrictions on disclosure of information)(**25**), shall not use any such information for any purpose apart from the purpose of lawfully exercising that function on behalf of the authority; and
- (c) shall immediately comply with any written request made by the authority for the supply of any information, including copies of any records made or held by the contractor, relating to the exercise of that function.

### **Assignment and sub-contracting**

**72.** A contractor shall not make any arrangement for the exercise, whether in whole or in part, by any other person of any function which he has been authorised to exercise by the authority, unless that person has been authorised to exercise the function concerned under a further authorisation given by the authority by virtue of this Order.

## **PART IX**

### **MISCELLANEOUS AND SUPPLEMENTAL PROVISIONS**

#### **Warrants of commitment**

**73.—(1)** In this article—

- (a) “debtor” means any person against whom a local authority proposes to apply for the issue of a warrant of commitment; and
- (b) “relevant functions” means the functions of—
  - (i) giving any notification by virtue of which any part of the sum payable under a liability order would, if paid, fall to be repaid or credited against any subsequent liability of the person against whom the order was made; and
  - (ii) making all calculations and taking all other steps to determine a person’s liability for any amount by reference to which such a notification falls to be prepared.

(2) Where a local authority has authorised the exercise of relevant functions by a contractor, the authority shall, before applying for the issue of a warrant of commitment against any debtor, notify the contractor in writing that it proposes to make such an application in relation to the debtor concerned.

(3) Where a local authority serves on a contractor a notice in accordance with paragraph (2) above, all relevant functions falling to be exercised in relation to the debtor named in the notice shall cease to be exercisable by the contractor until the contractor is notified by the authority in writing that no further steps are to be taken as regards the recovery of the amount payable under the liability order made against the debtor, and that the debtor, if committed to prison, has been released.

### **Demand notices: regulations as respects England**

**74.** The Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 1993<sup>(26)</sup> are amended as follows—

- (a) in regulation 1(2), with respect to the meaning of “council tax demand notice”, by the insertion after “served by a billing authority” of the words “or any person authorised by a billing authority to exercise any functions relating to the administration of the council tax”;
- (b) in regulation 1(2), with respect to the meaning of “rate demand notice”, by the insertion after “served by a billing authority” of the words “or any person authorised by a billing authority to exercise any functions relating to the collection of non-domestic rates”;
- (c) in regulation 2, by the insertion after “served by an English billing authority” of the words “or an authorised person on behalf of such an authority”; and
- (d) in regulation 3(3), by the insertion after “served by the Common Council” of the words “or an authorised person on behalf of the Common Council”, and after “any other billing authority” of the words “or an authorised person on behalf of the authority concerned”.

### **Demand notices: regulations as respects Wales**

**75.**—(1) The Council Tax (Demand Notices) (Wales) Regulations 1993<sup>(27)</sup> are amended as follows—

- (a) in regulation 1, by the insertion after “demand notices issued by” of the words “or on behalf of”; and
- (b) in regulation 2, with respect to the meaning of “demand notice”, by the insertion after “served by a billing authority” of the words “or any person authorised by a billing authority to exercise any functions relating to the administration of the council tax”.

(2) The Non-Domestic Rating (Demand Notices) (Wales) Regulations 1993<sup>(28)</sup> are amended as follows—

- (a) in regulation 1, by the insertion after “demand notices issued by” of the words “or on behalf of”; and
- (b) in regulation 2, with respect to the meaning of “demand notice”, by the insertion after “served by a billing authority” of the words “or any person authorised by a billing authority to exercise any functions relating to the collection of non-domestic rates”.

### **Appearance of authority in legal proceedings**

**76.** Where a contractor is authorised by virtue of this Order to exercise the function of applying to the magistrates' court for a liability order or taking steps to levy any amount by distress and sale

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<sup>(26)</sup> S.I. 1993/191, amended by S.I. 1995/23 and S.I. 1995/121.

<sup>(27)</sup> S.I. 1993/255, amended by S.I. 1995/160.

<sup>(28)</sup> S.I. 1993/252, amended by S.I. 1993/1506, S.I. 1994/415 and S.I. 1995/284.



of the goods of any person, section 223 of the Local Government Act 1972 (appearance of local authorities in legal proceedings)(29) shall have effect in relation to—

- (a) the hearing of an application for a liability order, and
- (b) an appeal brought by any person in connection with the distress,

as if the contractor were an officer of the authority.

Signed by authority of the Secretary of State for the Environment

Department of the Environment  
17th July 1996

*Paul Beresford*  
Parliamentary Under Secretary of State,

Signed by authority of the Secretary of State for Wales

Welsh Office  
17th July 1996

*Gwilym Jones*  
Parliamentary Under-Secretary of State,

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order makes provision to enable a billing authority in relation to the council tax and non-domestic rates, and a local authority which has the functions of a charging authority in relation to community charges, to authorise another person, or that person's employees, (a "contractor") to exercise functions relating to the administration and enforcement of the council tax, community charges and non-domestic rates. The following local authorities are billing authorities and have the functions of a charging authority— the council of a district or London borough, the Common Council of the City of London, the Council of the Isles of Scilly, a county council which has the functions of a district council by virtue of an order under Part II of the Local Government Act 1992 making provision for local government changes in England, and, in relation to Wales, a county council or county borough council.

The exercise by a contractor of the functions described in Part II (council tax), Part IV (community charges) and Part VI (non-domestic rating) of the Order is subject to the conditions specified in Part VIII, including, in particular—

- (a) in article 71, requirements relating to the holding and use of information obtained by the contractor in the course of exercising functions which he has been authorised to exercise; and
- (b) in article 72, a requirement that a contractor shall not appoint any other person to exercise any function which he has been authorised to exercise, unless that person has also been authorised to exercise the function concerned.