

SCHEDULE 1

Regulation 21

COUNCIL TAX INSTALMENT SCHEMES

PART I

PAYMENT OF THE AGGREGATE AMOUNT: MONTHLY INSTALMENTS

1. This Part does not apply where, as regards the relevant year, instalments are payable in accordance with a Part II scheme.

2.—(1) This paragraph applies where the demand notice is issued on or before 31st December in the relevant year, but has effect subject to paragraph 3 below.

(2) The aggregate amount is to be payable in monthly instalments.

(3) The number of such instalments—

(a) where the notice is issued before the beginning of the relevant year or at any time in the period beginning on the first day of that year and ending on 31st May of that year, shall be 10;

(b) where the notice is issued on or after 1st June in the relevant year, shall be one less than the number of whole months remaining in the relevant year after the issue of the notice.

(4) The months in which the instalments are payable must be uninterrupted, but subject to that are to be such months in the relevant year as are specified in the notice; and the instalments are to be payable on such day in each month as is so specified.

(5) If the aggregate amount divided by the number of instalments gives an amount which is a multiple of a pound, the instalments shall be of that amount.

(6) If the aggregate amount so divided would not give such an amount, all but the first instalment shall be of an amount equal to A and the first instalment shall be of an amount equal to B, where

$$A = \frac{C}{D},$$

rounded up or down (as the case may be) to the nearest pound,

$$B = C - (D - 1) \times A,$$

C is equal to the aggregate amount, and

D is equal to the number of instalments to be paid.

3.—(1) If amounts calculated in accordance with paragraph 2 would produce an amount for an instalment of less than £5, the demand notice may require the aggregate amount to be paid—

(a) where the aggregate amount is less than £10, in a single instalment payable on such day as is specified in the notice, or

(b) where the aggregate amount is equal to or greater than £10, by a number of monthly instalments equal to the greatest whole number by which £5 can be multiplied to give a product which is less than or equal to the aggregate amount.

(2) The months in which the instalments under sub-paragraph (1)(b) are payable must be uninterrupted but subject to that are to be such of the months in which, but for this paragraph, the instalments would have been payable under paragraph 2 as are specified in the demand notice; and the instalments are to be payable on such day in each month as is so specified.

(3) Paragraph 2(5) and (6) applies to instalments under sub-paragraph (1)(b) as it applies to instalments under paragraph 2.

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4. Where the demand notice is issued between 1st January and 31st March in the relevant year, the aggregate amount is to be payable in a single instalment on such day as is specified in the notice.

5. In this Part “the aggregate amount” means the amount referred to in regulation 20(2).

## PART II

### PAYMENT OF THE AGGREGATE AMOUNT: AUTHORITIES' INSTALMENT SCHEMES

6.—(1) Subject to sub-paragraph (2), this Part applies where the demand notice is issued before or during the relevant year.

(2) This Part does not apply where, as regards the relevant year, instalments are payable under Part I of this Schedule.

(3) In this Part “the aggregate amount” means the amount referred to in regulation 20(2).

7. A scheme made by a billing authority for the payment by instalments of the aggregate amount shall comply with the following provisions of this Part.

8.—(1) The scheme shall be expressed to have effect for all financial years commencing with the financial year for which it first has effect unless varied or revoked.

(2) The scheme shall provide—

(a) that no variation shall affect the operation of the scheme as regards a particular financial year unless the variation is made before the day on which the authority first sets an amount for the year under section 30 of the Act; and

(b) that it may not be revoked later than the 31st December immediately preceding the financial year from which it is desired that it should cease to have effect.

(3) The scheme shall provide for its application as regards chargeable dwellings in the authority’s area in respect of which the aggregate amount as regards the dwelling and the relevant year falls or, in the opinion of the authority, will fall to be paid by a person by whom an amount by way of rent for that dwelling for periods in that year is or, in the opinion of the authority, will be payable to the authority.

(4) Without prejudice to regulation 21(5), the scheme may provide for its continued application, as regards any period in the relevant year in respect of which rent is not so payable where such period follows a period in respect of which rent is so payable.

(5) The scheme shall provide—

(a) for the aggregate amount to be payable in instalments;

(b) subject to sub-paragraph (c), for the number of instalments to be not less than 10 nor more than 52;

(c) for the first instalment to be required to be paid no earlier than 14 days after on the day on which the demand notice was issued and for the last instalment to be required to be paid before the end of the relevant year but, subject to that, for instalments to be payable on such day in each interval as is specified in the scheme;

(d) for the determination of the amount of any instalment where the aggregate amount divided by the number of instalments does not give an amount which is a multiple of 10 pence.

(6) The scheme shall provide that where instalments fall to be adjusted in the circumstances mentioned in paragraph 10 of Part III below, the remaining instalments mentioned in sub-paragraph (2) of that paragraph are to be calculated as if references in this Part to the aggregate

amount and to instalments were references to the aggregate amount of the remaining instalments and to the remaining instalments respectively.

### PART III

#### CESSATION AND ADJUSTMENT OF INSTALMENTS

**9.—**(1) This paragraph applies where the demand notice has been served on a liable person by a billing authority and after its issue the person ceases to be the liable person in respect of the chargeable dwelling and the period to which the notice relates.

(2) Subject to sub-paragraphs (5) and (6), no payments of instalments falling due after the relevant day are payable under the notice.

(3) The billing authority shall on the relevant day or as soon as practicable after that day serve a notice on the liable person stating the amount of his liability in respect of the council tax to which the demand notice relates as it has effect for the period in the relevant year up to the day on which he ceased to be so liable.

(4) If the amount stated under sub-paragraph (3) is less than the aggregate amount of any instalments which have fallen due on or before the relevant day, the difference shall go in the first instance to discharge any liability to pay the instalments (to the extent that they remain unpaid); and any residual overpayment—

- (a) shall be repaid if the liable person so requires, or
- (b) in any other case shall (as the billing authority determines) either be repaid or credited against any subsequent liability of the person to make a payment in respect of any council tax of the authority.

(5) If the amount stated under sub-paragraph (3) is greater than the aggregate amount of any instalments which have fallen due on or before the relevant day, the difference between the two shall be due from the liable person to the billing authority on the expiry of such period (being not less than 14 days) after the day of issue of the notice served under that sub-paragraph as is specified in it.

(6) If this paragraph applies in relation to a demand notice, and after the person ceases to be liable to pay an amount in respect of council tax for the relevant year he again becomes liable to make such a payment, a further notice shall be served on the liable person requiring payments in respect of the council tax as it has effect for the period in the year after he becomes so liable; and regulations 19 to 23 (and, so far as applicable, this Schedule) shall apply to the further notice with respect to that period and the sums payable by the liable person with respect to that period, as if it were a different demand notice.

(7) In this paragraph “the relevant day” means the day on which the person ceases to be liable to make payments in respect of council tax.

**10.—**(1) This paragraph applies where the demand notice has been served on a liable person by a billing authority, the event mentioned in paragraph 9(1) has not occurred in relation to the notice, and

- (a) the notice was so served by reference to an amount set by the billing authority for the relevant year and after the issue of the notice the authority sets a different amount in substitution for that amount under section 31 of the Act;
- (b) the notice was so served on the assumption that, as regards any day in the period to which the notice relates, the dwelling concerned would be or was a chargeable dwelling and the dwelling was not or has ceased to be a chargeable dwelling as regards any day in that period;

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- (c) the notice was so served on the assumption that, as regards any day in the period to which the notice relates, the dwelling concerned would be or was in a particular valuation band and the dwelling was not or has ceased to be in that band as regards any day in that period;
  - (d) the notice was so served on the assumption that, as regards any day in the period to which the notice relates, the person would be or was entitled to a discount and he was not or has ceased to be so entitled or was or is entitled to a discount of a smaller amount than had been assumed;
  - (e) the notice was so served on the assumption that, as regards any day in the period to which the notice relates, the person was not or would not be entitled to a discount and he was or is so entitled;
  - (f) the notice was so served on the assumption that, as regards any day in the period to which the notice relates, the person was or would be liable to pay an amount in respect of council tax and, by virtue of regulations under section 13 of the Act, he was or is liable to pay a greater or lesser amount than the amount stated in the notice; or
  - (g) the notice was so served on the assumption that, as regards any day in the period to which the notice relates, the person was or would be entitled to a reduction in the amount he is liable to pay in respect of council tax under regulations made under section 138(1) of the Social Security Administration Act 1992(1), and he was or is allowed a larger or smaller reduction than had been so assumed.
- (2) The billing authority shall on or as soon as practicable after the relevant day—
- (a) adjust the instalments (if any) payable on or after the adjustment day (“the remaining instalments”) so that they accord with the amounts mentioned in sub-paragraph (4); and
  - (b) serve a notice on the liable person which is to state—
    - (i) the amount of the revised estimate mentioned in sub-paragraph (3); and
    - (ii) the amount of any remaining instalments.
- (3) The revised estimate is the revised estimate of the billing authority of the amount that the person is liable to pay in respect of council tax for the relevant year, made on the assumptions mentioned in regulation 20(3) and as if the notice mentioned in that provision were the notice referred to in sub-paragraph (2) above.
- (4) The aggregate amount of the remaining instalments payable shall be equal to the amount by which the revised estimate mentioned in sub-paragraph (3) exceeds the aggregate amount of the instalments payable under the demand notice before the adjustment day; and where instalments are payable in accordance with Part I of this Schedule, the amount of each remaining instalment (if there are more than one) shall be calculated in accordance with that Part, as if references in that Part to the aggregate amount and to instalments were references to the aggregate amount of the remaining instalments and to the remaining instalments respectively.
- (5) If the revised estimate mentioned in sub-paragraph (3) exceeds the aggregate amount of the instalments payable under the demand notice before the adjustment day, but no instalments are payable under it on or after that day, the amount of the excess shall be due from the liable person to the billing authority in a single instalment on the expiry of such period (being not less than 14 days) after the day of issue of the notice served under sub-paragraph (2) as is specified in it; and if in any case the revised estimate is less than the aggregate amount of the instalments payable before the adjustment day, any overpayment—
- (a) shall be repaid if the liable person so requires, or

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(1) 1992 c. 5. Section 138 is amended by the Local Government Finance Act 1992, Schedule 9, paragraph 19.

- (b) in any other case shall (as the billing authority determines) either be repaid or credited against any subsequent liability of the person to make a payment in respect of any council tax of the authority.
- (6) In calculating the aggregate amount of instalments payable under a demand notice before the adjustment day for the purposes of sub-paragraphs (4) and (5) in consequence of the making of a revised estimate under sub-paragraph (3)—
  - (a) there shall count as so payable any amount in respect of such instalments which has been treated as paid to the authority under section 31(3) of the Act or has been credited under section 31(4) of the Act or (on the occasion of the making of a previous revised estimate under sub-paragraph (3)) under sub-paragraph (5) above; and
  - (b) there shall not count as so payable any amount in respect of such instalments which has been repaid under that section or under sub-paragraph (5) above.
- (7) Where a notice has been given under sub-paragraph (2), in the operation of this paragraph as respects any further notice that may fall to be given under it, references in this paragraph to the demand notice and to amounts in respect of instalments payable under it shall be construed (so far as the context permits) as references to the demand notice, and amounts in respect of instalments payable under the notice, as from time to time previously adjusted under this paragraph.
- (8) In this paragraph
  - “the adjustment day” means the day 14 days after the day the notice served under sub-paragraph (2) is issued; and
  - “the relevant day” means the day with respect to which the assumption mentioned in sub-paragraph (1) is wrong or the day the amount set in substitution mentioned in sub-paragraph (1) (a) is so set.
- 11.** More than one adjustment of amounts paid or payable under a demand notice may be made under this Part as the circumstances require.

SCHEDULE 2

Regulations 35(1) and 48(1)

FORMS OF LIABILITY ORDER AND OF WARRANT OF COMMITMENT  
FORM ALIABILITY ORDER IN RESPECT OF COUNCIL TAX

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Regulation 34 of the Council Tax (Administration and Enforcement) Regulations 1992

..... Magistrates' Court

Date:

Defendant:

Address:

On the complaint of [name of billing authority] that the sum of £ [ ] is due from the defendant to the complainant under Part V of the Council Tax (Administration and Enforcement) Regulations 1992 and is outstanding, it is adjudged that the defendant is liable to pay the aggregate amount specified below, and it is ordered that that amount may be enforced in the manner mentioned in Part VI of those Regulations accordingly.

Sum payable and outstanding: £

Costs of complainant: £

.....

Aggregate amount in respect of which the liability order is made: £

Justice of the Peace  
[or by order of the Court Clerk of the Court]

FORM LIABILITY ORDER IN RESPECT OF COUNCIL TAX

Regulation 34 of the Council Tax (Administration and Enforcement) Regulations 1992

..... Magistrates' Court

Date:

On the complaint of [name of billing authority] that the sums specified in the Table below are under Part V of the Council Tax (Administration and Enforcement) Regulations 1992 due from the defendants so specified to the complainant and are outstanding, it is adjudged that the defendants are liable to pay the aggregate amounts specified in respect of them in the Table, and it is ordered that those amounts may be enforced in the manner mentioned in Part VI of those Regulations accordingly.

TABLE

<i>Name and address of defendant</i>	<i>Sum payable and outstanding</i>	<i>Costs of complainant</i>	<i>Aggregate amount in respect of which the liability order is made with respect to the defendant</i>
.....			

Justice of the Peace  
[or by order of the Court Clerk of the Court]

FORM CWARRANT OF COMMITMENT

Regulation 47 of the Council Tax (Administration and Enforcement) Regulations 1992

.....Magistrates' Court

Date:

Defendant:

Address:

A liability order ("the order") was made in respect of the debtor by the [ ] Magistrates' Court on [ ] under regulation 34 of the Council Tax (Administration and Enforcement) Regulations 1992 ("the Regulations").

The court is satisfied-

- (i) that the [name of billing authority] ("the authority") sought under regulation 45 of the Regulations to levy by distress the amount then outstanding in respect of which the order was made of [ ], together with charges determined in accordance with Schedule 5 to the Regulations of [ ];
- (ii) that the authority has been unable to levy that amount by distress;
- (iii) that the debtor has attained the age of 18 years; and
- (iv) having inquired in the debtor's presence as to his means and as to whether the failure to pay which has led to the application for a warrant of commitment is due to his wilful refusal or culpable neglect, that it was due to such wilful refusal or culpable neglect.

The decision of the court is that the debtor be [committed to prison] [detained] for [ ] unless the aggregate amount mentioned below in respect of which this warrant is made is sooner paid\*.

This warrant is made in respect of-

Amount outstanding (including charges) in respect of which distress was sought:

Costs of commitment of the authority: .....

Aggregate amount:

And you [name of person or persons to whom warrant is directed] are hereby required to take the debtor and convey him to [name of prison or place of detention] and there deliver the debtor to the [governor][officer in charge] thereof; and you, the [governor][officer in charge], to receive the debtor into your custody and keep the debtor for [period of imprisonment] from the debtor's arrest under this warrant or until the debtor be sooner discharged in due course of law.

Justice of the Peace  
[or by order of the Court Clerk of  
the Court]

\*Note: The period of imprisonment will be reduced as provided by regulation 47(7)(b) of the Regulations if part payment is made of the aggregate amount.

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*{Name of billing authority}*  
Regulation 37 of the Council Tax  
(Administration and Enforcement) Regulations 1992

*{Debtor's name  
and address}*

*{Payroll/Works No.}*

*{Billing authority's  
reference}*

To any person who has in his employment the person named above.

On *{date}* the *{name}* Magistrates' Court made a liability order under regulation 34 of the Council Tax (Administration and Enforcement) Regulations 1992 against the person named above in respect of an amount of which £*{amount}* is outstanding at the date of the making of this order. This order relates to the outstanding amount.

**YOU ARE ORDERED** by *{name of billing authority}* to make deductions from the net earnings (as defined in regulation 32 of those Regulations) of the person named above at the times and at the rate specified in regulation 38 of those Regulations. The first such deduction shall be made as soon as reasonably practicable after the service on you of a copy of this order. A copy of regulations 32 and 38, together with regulations 39 to 42 and Schedule 4, are set out at the end of this order.

**YOU ARE ALSO ORDERED** to pay each sum deducted to *{name of billing authority and address for payments}* within the period of 19 days beginning on the last day of the month in which the deduction was made.

Dated . . . . . 199 . . . . .  
Proper officer of the authority

\*Indorsement on copy sent to person appearing to have the debtor in his employment

It appears to *{name of billing authority}* that you have the above-named debtor in your employment. You must notify *{name of billing authority}* in writing within 14 days of the date of service on you of this copy of the order if you do not have the debtor in your employment. You must also notify *{name of billing authority}* in writing within 14 days of the day on which the debtor leaves your employment. Failure to do so may render you liable to a fine.

\*Indorsement on copy sent to debtor

This is a copy of an attachment of earnings order served on your employer. If you leave his employment or become employed or re-employed you must notify *{name of billing authority}* in writing within 14 days, giving the particulars specified in regulation 40(1) of the Regulations mentioned in the order. Failure to do so may render you liable to a fine.

*Italics* indicate words or figures to be inserted.

\*Delete whichever indorsement is inapplicable.

REGULATIONS 32 AND 38 TO 42 OF, AND SCHEDULE 4 TO, THE COUNCIL  
TAX (ADMINISTRATION AND ENFORCEMENT) REGULATIONS 1992

**Interpretation and application of Part VI**

32.—(1) In this Part—

- “attachment of allowances order” means an order under regulation 44;
- “attachment of earnings order” means an order under regulation 37;
- “charging order” means an order under regulation 50;
- “debtor” means a person against whom a liability order has been made;



“earnings” means sums payable to a person—

(a) by way of wages or salary (including any fees, bonus, commission, overtime pay or other emoluments payable in addition to wages or salary or payable under a contract of service); or

(b) by way of statutory sick pay,

but, in so far as the following would otherwise be treated as earnings, they shall not be treated as such—

(i) sums payable by any public department of the Government of Northern Ireland or of a territory outside the United Kingdom;

(ii) pay or allowances payable to the debtor as a member of Her Majesty’s forces;

(iii) allowances or benefit payable under the Social Security Acts(2);

(iv) allowances payable in respect of disablement or disability; and

(v) wages payable to a person as a seaman, other than wages payable to him as a seaman of a fishing boat;

“liability order” means an order under regulation 34; and

“net earnings” in relation to an employment means the residue of earnings payable under the employment after deduction by the employer of—

(a) income tax;

(b) primary Class 1 contributions under Part I of the Social Security Contributions and Benefits Act 1992(3) and

(c) amounts deductible under any enactment, or in pursuance of a request in writing by the debtor, for the purposes of a superannuation scheme, namely any enactment, rules, deed or other instrument providing for the payment of annuities or lump sum—

(i) to the persons with respect to whom the instrument has effect on their retirement at a specified age or on becoming incapacitated at some earlier age, or

(ii) to the personal representatives or the widows, relatives or dependants of such persons on their death or otherwise,

whether with or without any further or other benefits.

(2) In sub-paragraph (v) of the definition of “earnings” in paragraph (1) above expressions used in the Merchant Shipping Act 1894(4) have the same meanings as in that Act.

(3) Regulations 33 to 53 apply for the recovery of a sum which has become payable to a billing authority under Part V and which has not been paid; but their application in relation to a sum for which persons are jointly and severally liable under that Part is subject to the provisions of regulation 54 (joint and several liability).

(4) References in this Part to a sum which has become payable and which has not been paid include references to a sum forming part of a larger sum which has become payable and the other part of which has been paid.

### **Deductions under attachment of earnings order**

**38.**—(1) Subject to paragraphs (2) and (3), the sum to be deducted by an employer under an attachment of earnings order on any pay-day shall be—

(2) See the definition in section 116(1) of the Local Government Finance Act 1992.

(3) 1992 c. 4.

(4) 1894 c. 60. The definition of “fishing boat” in section 370 was amended by the Merchant Shipping Act 1970 (c. 36), Schedule 5 and the definition of “seaman” in section 742 was amended by paragraph 4 of Schedule 3 to that Act.

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- (a) where the debtor's earnings from the employer are payable weekly, a sum equal to the appropriate percentage of the net earnings otherwise payable on that pay-day; and for this purpose the appropriate percentage is the percentage (or percentages) specified in column 2 of Table A in Schedule 4 in relation to the band in column 1 of that Table within which the net earnings fall;
  - (b) where his earnings from the employer are payable monthly, a sum equal to the appropriate percentage of the net earnings otherwise payable on that pay-day; and for this purpose the appropriate percentage is the percentage (or percentages) specified in column 2 of Table B in that Schedule 4 in relation to the band in column 1 of that Table within which the net earnings fall;
  - (c) where his earnings from the employer are payable at regular intervals of a whole number of weeks or months, the sum arrived at by—
    - (i) calculated what would be his weekly or monthly net earnings by dividing the net earnings payable to him by the employer on the pay-day by that whole number (of weeks or months, as the case may be),
    - (ii) ascertaining the percentage or percentages specified in column 2 of Table A (if the whole number is of weeks) or of Table B (if the whole number is of months) in Schedule 4 opposite the band in column 1 of that Table within which the notional net earnings calculated under paragraph (i) fall, and
    - (iii) calculating the sum which equals the appropriate percentage (or percentages) of the notional net earnings for any of those weeks or months and multiplying that sum by the whole number of weeks or months, as appropriate.
- (2) Where paragraph (1) applies and the amount to be paid to the debtor on any pay-day includes an advance in respect of future pay, the sum to be deducted on that pay-day shall be the aggregate of the amount which would otherwise fall to be deducted under paragraph (1) and—
- (a) where the amount advanced would otherwise have been paid on a single pay-day, the sum which would have been deducted on that pay-day in accordance with paragraph (1) if the amount advanced had not been the amount of net earnings on that day; or
  - (b) where the amount advanced would otherwise have been paid on more than one pay-day, the sums which would have been deducted on each of the relevant pay-days in accordance with paragraph (1) if—
    - (i) an equal proportion of the amount advanced had paid on each of those days; and
    - (ii) the net earnings of the debtor on each of those days had been an amount equal to that proportion.
- (3) Where the amount payable to the debtor on any pay-day is reduced by reason of an earlier advance of pay or by reason of the repayment by the debtor of a loan made to him by his employer for any purpose, the net earnings of the debtor on that day shall, for the purposes of paragraph (1), be the amount defined in regulation 32(1) less the amount of the deduction.
- (4) Subject to paragraphs (5) and (6), where the debtor's earnings from the employer are payable at regular intervals other than at intervals to which paragraph (1) applies, the sum to be deducted on any pay-day shall be arrived at by—
- (a) calculating what would be his daily net earnings by dividing the net earnings payable to him by the employer on the pay-day by the number of days in the interval,
  - (b) ascertaining the percentage or percentages specified in column 2 of Table C in Schedule 4 opposite the band in column 1 of that Table within which the notional net earnings calculated under sub-paragraph (a) fall, and
  - (c) calculating the sum which equals the appropriate percentage (or percentages) of the notional daily net earnings and multiplying that sum by the number of days in the interval.

(5) Where the debtor's earnings are payable as mentioned in paragraph (4), and the amount to be paid to the debtor on any pay-day includes an amount advanced in respect of future pay, the amount of the debtor's notional net earnings under sub-paragraph (a) of that paragraph shall be calculated in accordance with the formula—

$$\frac{A - B}{C + D}$$

where

A is the amount of net earnings payable to him on that pay-day (exclusive of the amount advanced);

B is the amount advanced;

C is the number of days in the period for which the amount of net earnings is payable; and

D is the number of days in the period for which, but for the agreement to pay in advance, the amount advanced would have been payable.

(6) Paragraph (3) applies in relation to paragraph (4) as it applies in relation to paragraph (1).

(7) Where earnings are payable to a debtor by the employer by 2 or more series of payments at regular intervals—

(a) if some or all of the intervals are of different lengths—

(i) for the purpose of arriving at the sum to be deducted, whichever of paragraphs (1), (2), (3), (4), (5) and (6) is appropriate shall apply to the series with the shortest interval (or, if there is more than one series with the shortest interval, such one of those series as the employer may choose), and

(ii) in relation to the earnings payable in every other series, the sum to be deducted shall be 20 per cent. of the net earnings or, where on any pay-day an amount advanced is also paid, 20 per cent. of the aggregate of the net earnings and the amount advanced;

(b) if all of the intervals are of the same length, whichever of paragraphs (1), (2), (3), (4), (5) and (6) is appropriate shall apply to such series as the employer may choose and sub-paragraph (a)(ii) shall apply to every other series,

and paragraph (3) shall apply in relation to sub-paragraph (a)(ii) above as it applies in relation to paragraph (1).

(8) Subject to paragraphs (9) and (10), where the debtor's earnings from the employer are payable at irregular intervals, the sums to be deducted on any pay-day shall be arrived at by—

(a) calculating what would be his daily net earnings by dividing the net earnings payable to him by the employer on the pay-day—

(i) by the number of days since earnings were last payable by the employer to him, or

(ii) if the earnings are the first earnings to be payable by the employer to him with respect to the employment in question, by the number of days since he began the employment;

(b) ascertaining the percentage (or percentages) specified in column 2 of Table C of Schedule 4 opposite the band in column 1 of that Table within which the notional net earnings calculated under sub-paragraph (a) fall; and

(c) calculating the sum which equals the appropriate percentage (or percentages) of the daily net earnings and multiplying that sum by the same number as that of the divisor for the purposes of the calculation mentioned in sub-paragraph (a).

(9) Where on the same pay-day there are payable to the debtor by the employer both earnings payable at regular intervals and earnings payable at irregular intervals, for the purpose of arriving

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at the sum to be deducted on the pay-day under the foregoing provisions of this regulation all the earnings shall be aggregated and treated as earnings payable at the regular interval.

(10) Where there are earnings payable to the debtor by the employer at regular intervals on one pay-day, and earnings are payable by the employer to him at irregular intervals on a different pay-day, the sum to be deducted on each of the pay-days on which the earnings which are payable at irregular intervals are so payable shall be 20 per cent. of the net earnings payable to him on the day.

#### **Attachment of earnings orders: ancillary powers and duties of employers and others served**

**39.**—(1) An employer who deducts and pays amounts under an attachment of earnings order may, on each occasion that he makes such a deduction, also deduct from the debtor's earnings the sum of one pound towards his administrative costs.

(2) An employer who deducts and pays amounts under an attachment of earnings order shall, in accordance with paragraph (3), notify the debtor in writing of—

- (a) the total amount of the sums (including sums deducted under paragraph (1)) deducted under the order up to the time of the notification; or
- (b) the total amount of the sums (including sums deducted under paragraph (1)) that will fall to be so deducted after that time.

(3) A notification under paragraph (2) must be given at the time that the pay statement given by the employer to the debtor next after a deduction has been made is so given, or if no such statements are usually issued by the employer, as soon as practicable after a deduction has been made.

(4) A person on whom a copy of an attachment of earnings order has been served shall, in accordance with paragraph (5), notify in writing the authority which made the order if he does not have the debtor against whom it was made in his employment or the debtor subsequently ceases to be in his employment.

(5) A notification under paragraph (4) must be given within 14 days of the day on which the copy of the order was served on him or the debtor ceased to be in his employment (as the case may be).

(6) While an attachment of earnings order is in force, any person who becomes the debtor's employer and knows that the order is in force and by what authority it was made shall notify that authority in writing that he is the debtor's employer.

(7) A notification under paragraph (6) must be given within 14 days of the day on which the debtor became the person's employee or of the day on which the person first knows that the order is in force and the identity of the authority by which it was made, whichever is the later.

#### **Attachment of earnings orders: duties of debtors**

**40.**—(1) While an attachment of earnings order is in force, the debtor in respect of whom the order has been made shall notify in writing the authority which made it of each occasion when he leaves an employment or becomes employed or re-employed, and (in a case where he becomes so employed or re-employed) shall include in the notification a statement of—

- (a) his earnings and (so far as he is able) expected earnings from the employment concerned,
- (b) the deductions and (so far as he is able) expected deductions from such earnings—
  - (i) in respect of income tax;
  - (ii) in respect of primary Class 1 contributions under Part I of the Social Security Contributions and Benefits Act 1992;
  - (iii) for the purposes of such a superannuation scheme as is mentioned in the definition of "net earnings" in regulation 32(1),
- (c) the name and address of the employer, and

(d) his work or identity number in the employment (if any).

(2) A notification under paragraph (1) must be given within 14 days of the day on which the debtor leaves or commences (or recommences) the employment (as the case may be), or (if later) the day on which he is informed by the authority that the order has been made.

#### **Attachment of earnings orders: ancillary powers and duties of authority**

**41.**—(1) Where the whole amount to which an attachment of earnings order relates has been paid (whether by attachment of earnings or otherwise), the authority by which it was made shall give notice of the fact to any person who appears to it to have the debtor in his employment and who has been served with a copy of the order.

(2) The authority by which an attachment of earnings order was made may, on its own account or on the application of the debtor or an employer of the debtor, make an order discharging the attachment of earnings order; and if it does so it shall give notice of that fact to any person who appears to it to have the debtor in his employment and who has been served with a copy of the order.

(3) If an authority serves a copy of an attachment of earnings order in accordance with regulation 37(3), it shall (unless it has previously done so) also serve a copy of the order on the debtor.

#### **Priority between attachment of earnings orders**

**42.**—(1) Where an employer would, but for this paragraph, be obliged under regulation 37(3) to make deductions on any pay-day under two or more attachment of earnings orders made under this Part, he shall make deductions only with respect to the one which was made first until it ceases to be in force, and shall then deal with the other order or orders in like manner in the order in which they were made.

(2) Where an employer is or would, but for this paragraph, be obliged to comply at any time with an attachment of earnings order made under this Part and an order made under the Attachment of Earnings Act 1971 (“the 1971 Act”)(**5**) or the Child Support Act 1991 (“the 1991 Act”)(**6**)—

- (a) if the order made under the 1971 Act or, as the case may be, the 1991 Act was made first, whilst it is in force he shall comply only with the order made under the 1971 Act or, as the case may be, the 1991 Act, or
- (b) if the attachment of earnings order made under this Part was made first, whilst it is in force the attachable earnings for the purposes of Schedule 3 to the 1971 Act are to be treated as such of the attachable earnings mentioned in paragraph 3 of that Schedule(**7**) as remain after deduction of the amount to be deducted under the order made under this Part.

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(5) 1971 c. 32.

(6) 1991 c. 48.

(7) Paragraph 3 of Schedule 3 was amended by the Social Security (Consequential Provisions) Act 1975 (c. 18), Schedule 2, paragraph 43, the Social Security Pensions Act 1975 (c. 60), Schedule 5 and the Wages Act 1986 (c. 48), Schedule 4, paragraph 4.

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## SCHEDULE 4

## DEDUCTIONS TO BE MADE UNDER ATTACHMENT OF EARNINGS ORDER

**TABLE A**

## DEDUCTIONS FROM WEEKLY EARNINGS

(1) Net earnings	(2) Deduction rate %
Not exceeding £35	0
Exceeding £35 but not exceeding £65	3
Exceeding £65 but not exceeding £90	5
Exceeding £90 but not exceeding £110	7
Exceeding £110 but not exceeding £175	12
Exceeding £175 but not exceeding £250	17
Exceeding £250	17 in respect of the first £250 and 50 in respect of the remainder

**TABLE B**

## DEDUCTIONS FROM MONTHLY EARNINGS

(1) Net earnings	(2) Deduction rate %
Not exceeding £152	0
Exceeding £152 but not exceeding £260	3
Exceeding £260 but not exceeding £360	5
Exceeding £360 but not exceeding £440	7
Exceeding £440 but not exceeding £700	12
Exceeding £700 but not exceeding £1,000	17
Exceeding £1,000	17 in respect of the first £1,000 and 50 in respect of the remainder

**TABLE C**

## DEDUCTIONS FROM DAILY EARNINGS

(1) Net earnings	(2) Deduction rate %
Not exceeding £5	0
Exceeding £5 but not exceeding £9	3
Exceeding £9 but not exceeding £13	5

(1) Net earnings	(2) Deduction rate %
Exceeding £13 but not exceeding £16	7
Exceeding £16 but not exceeding £25	12
Exceeding £25 but not exceeding £36	17
Exceeding £36	17 in respect of the first £36 and 50 in respect of the remainder

## SCHEDULE 5

Regulation 45(2)(b)

## CHARGES CONNECTED WITH DISTRESS

1. The sum in respect of charges connected with the distress which may be aggregated under regulation 45(2) shall be set out in the following Table—

(1) Matter connected with distress	(2) Charge
<b>A.</b> For making a visit to premises with a view to levying distress (whether the levy is made or not):	Reasonable costs and fees incurred, but not exceeding an amount which, when aggregated with charges under this head for any previous visits made with a view to levying distress in relation to an amount in respect of which the liability order concerned was made, is not greater than the relevant amount calculated under paragraph 2(1) with respect to the levy.
<b>B.</b> For levying distress:	An amount (if any) which, when aggregated with charges under head A for any visits made with a view to levying distress in relation to an amount in respect of which the liability order concerned was made, is equal to the relevant amount calculated under paragraph 2(1) with respect to the levy.
<b>C.</b> For the removal and storage of goods for the purpose of sale:	Reasonable costs and fees incurred.
<b>D.</b> For the possession of goods as described in paragraph 2(3)—	£4.50 per day.
(i) for close possession (the man in possession to provide his own board);	
(ii) for walking possession:	45p per day.
<b>E.</b> For appraisalment of an item distrained, at the request in writing of the debtor:	Reasonable fees and expenses of the broker appraising.
<b>F.</b> For other expenses of, and commission on, a sale by auction—	The auctioneer's commission fee and out-of-pocket expenses (but not exceeding in aggregate 15 per cent. of the sum realised),

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(1) Matter connected with distress	(2) Charge
(i) where the sale is held on the auctioneer’s premises:	together with reasonable costs and fees incurred in respect of advertising.
(ii) where the sale is held on the debtor’s premises:	The auctioneer’s commission fee (but not exceeding 7½ per cent. of the sum realised), together with the auctioneer’s out-of-pocket expenses and reasonable costs and fees incurred in respect of advertising.
<b>G.</b> For other expenses incurred in connection with a proposed sale where there is no buyer in relation to it:	Reasonable costs and fees incurred.

**2.—(1)** In heads A and B of the Table to paragraph 1, “the relevant amount” with respect to a visit or a levy means—

- (a) where the sum due at the time of the visit or of the levy (as the case may be) does not exceed £100, £12.50,
- (b) where the sum due at the time of the visit or of the levy (as the case may be) exceeds that amount, 12½ per cent. on the first £100 of the sum due, 4 per cent. on the next £400, 2½ per cent. on the next £1,500, 1 per cent. on the next £8,000 and ¼ per cent. on any additional sum;

and the sum due at any time for these purposes means so much of the amount in respect of which the liability order concerned was made as is outstanding at the time.

(2) Where a charge has arisen under head B with respect to an amount, no further charge may be aggregated under heads A or B in respect of that amount.

(3) An authority takes close or walking possession of goods for the purposes of head D of the Table to paragraph 1 if it takes such possession in pursuance of an agreement which is made at the time that the distress is levied and which (without prejudice to such other terms as may be agreed) is expressed to the effect that, in consideration of the authority not immediately removing the goods distrained upon from the premises occupied by the debtor and delaying its sale of the goods, the authority may remove and sell the goods after a later specified date if the debtor has not by then paid the amount distrained for (including charges under this Schedule); and an authority is in close possession of goods on any day for these purposes if during the greater part of the day a person is left on the premises in physical possession of the goods on behalf of the authority under such an agreement.

**3.—(1)** Where the calculation under this Schedule of a percentage of a sum results in an amount containing a fraction of a pound, that fraction shall be reckoned as a whole pound.

(2) In the case of dispute as to any charge under this Schedule, the amount of the charge shall be taxed.

(3) Such a taxation shall be carried out by the district judge of the county court for the district in which the distress is or is intended to be levied, and he may give such directions as to the costs of the taxation as he thinks fit; and any such costs directed to be paid by the debtor to the billing authority shall be added to the sum which may be aggregated under regulation 45(2).

(4) References in the Table to paragraph 1 to costs, fees and expenses include references to amounts payable by way of value added tax with respect to the supply of goods or services to which the costs, fees and expenses relate.



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