
STATUTORY INSTRUMENTS

1992 No. 613

The Council Tax (Administration and Enforcement) Regulations 1992

PART VI

Enforcement

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, earnings,

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⁽¹⁾;

(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⁽²⁾; and

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

(2) 1992 c. 4.

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- (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(3) 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

Commencement Information

11 Reg. 32 in force at 1.4.1992, see [reg. 1\(1\)](#)

Liability orders: preliminary steps

33.—(1) Subject to paragraph (3), before a billing authority applies for a liability order it shall serve on the person against whom the application is to be made a notice (“final notice”), which is to be in addition to any notice required to be served under Part V, and which is to state every amount in respect of which the authority is to make the application.

(2) A final notice may be served in respect of an amount at any time after it has become due.

(3) A final notice need not be served on a person who has been served under regulation 23(1) with a reminder notice in respect of the amount concerned.

Commencement Information

12 Reg. 33 in force at 1.4.1992, see [reg. 1\(1\)](#)

Application for liability order

34.—(1) If an amount which has fallen due under regulation 23(3) or (4) is wholly or partly unpaid, or (in a case where a final notice is required under regulation 33) the amount stated in the final notice is wholly or partly unpaid at the expiry of the period of 7 days beginning with the day on which the notice was issued, the billing authority may, in accordance with paragraph (2), apply to a magistrates' court for an order against the person by whom it is payable.

(3) [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.

(2) The application is to be instituted by making complaint to a justice of the peace, and requesting the issue of a summons directed to that person to appear before the court to show why he has not paid the sum which is outstanding.

(3) Section 127(1) of the Magistrates' Courts Act 1980(4) does not apply to such an application; but no application may be instituted in respect of a sum after the period of six years beginning with the day on which it became due under Part V.

(4) A warrant shall not be issued under section 55(2) of the Magistrates' Courts Act 1980 in any proceedings under this regulation.

(5) If, after a summons has been issued in accordance with paragraph (2) but before the application is heard, there is paid or tendered to the authority an amount equal to the aggregate of—

- (a) the sum specified in the summons as the sum outstanding or so much of it as remains outstanding (as the case may be); and
- (b) a sum of an amount equal to the costs reasonably incurred by the authority in connection with the application up to the time of the payment or tender,

the authority shall accept the amount and the application shall not be proceeded with.

(6) The court shall make the order if it is satisfied that the sum has become payable by the defendant and has not been paid.

(7) An order made pursuant to paragraph (6) shall be made in respect of an amount equal to the aggregate of—

- (a) the sum payable, and
- (b) a sum of an amount equal to the costs reasonably incurred by the applicant in obtaining the order.

(8) Where the sum payable is paid after a liability order has been applied for under paragraph (2) but before it is made, the court shall nonetheless (if so requested by the billing authority) make the order in respect of a sum of an amount equal to the costs reasonably incurred by the authority in making the application.

Commencement Information

I3 Reg. 34 in force at 1.4.1992, see [reg. 1\(1\)](#)

Liability orders: further provision

35.—(1) A single liability order may deal with one person and one such amount (or aggregate amount) as is mentioned in regulation 34(7) and (8) (in which case the order shall be in the form specified as Form A in Schedule 2, or a form to the like effect), or, if the court thinks fit, may deal with more than one person and more than one such amount (in which case the order shall be in the form specified as Form B in that Schedule, or a form to the like effect).

(2) A summons issued under regulation 34(2) may be served on a person—

- (a) by delivering it to him, or
- (b) by leaving it at his usual or last known place of abode, or in the case of a company, at its registered office, or
- (c) by sending it by post to him at his usual or last known place of abode, or in the case of a company, to its registered office, or

(4) 1980 c. 43.

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(d) by leaving it at, or by sending it by post to him at, an address given by the person as an address at which service of the summons will be accepted.

(3) The amount in respect of which a liability order is made is enforceable in accordance with this Part; and accordingly for the purposes of any of the provisions of Part III of the Magistrates' Courts Act 1980 (satisfaction and enforcement) it is not to be treated as a sum adjudged to be paid by order of the court.

Commencement Information

I4 Reg. 35 in force at 1.4.1992, see [reg. 1\(1\)](#)

Duties of debtors subject to liability order

36.—(1) Where a liability order has been made, the debtor against whom it was made shall, during such time as the amount in respect of which the order was made remains wholly or partly unpaid, be under a duty to supply relevant information to the billing authority on whose application it was made.

(2) For the purposes of paragraph (1), relevant information is such information as fulfils the following conditions—

- (a) it is in the debtor's possession or control;
- (b) the billing authority requests him by notice given in writing to supply it; and
- (c) it falls within paragraph (3).

(3) Information falls within this paragraph if it is specified in the notice mentioned in paragraph (2) (b) and it falls within one or more of the following descriptions—

- (a) information as to the name and address of an employer of the debtor;
- (b) information as to earnings or expected earnings of the debtor;
- (c) information as to deductions and expected deductions from such earnings in respect of the matters referred to in paragraphs (a) to (c) of the definition of "net earnings" in regulation 32 or attachment of earnings orders made under this Part, the Attachment of Earnings Act 1971⁽⁵⁾ or the Child Support Act 1991⁽⁶⁾;
- (d) information as to the debtor's work or identity number in an employment, or such other information as will enable an employer of the debtor to identify him;
- (e) information as to sources of income of the debtor other than an employer of his;
- (f) information as to whether another person is jointly and severally liable with the debtor for the whole or any part of the amount in respect of which the order was made.

(4) Information is to be supplied within 14 days of the day on which the request is made.

Commencement Information

I5 Reg. 36 in force at 1.4.1992, see [reg. 1\(1\)](#)

⁽⁵⁾ 1971 c. 32.

⁽⁶⁾ 1991 c. 48.

Making of attachment of earnings order

37.—(1) Where a liability order has been made and the debtor against whom it was made is an individual, the authority which applied for the order may make an order under this regulation to secure the payment of any outstanding sum which is or forms part of the amount in respect of which the liability order was made.

(2) An order under this regulation—

- (a) shall be in the form specified in (and accordingly contain the matters specified in) Schedule 3; and
- (b) shall remain in force until discharged under regulation 41(2) or the whole amount to which it relates has been paid (whether by attachment of earnings or otherwise).

(3) The authority may serve a copy of the order on a person who appears to the authority to have the debtor in his employment; and a person on whom it is so served who has the debtor in his employment shall comply with it.

Commencement Information

I6 Reg. 37 in force at 1.4.1992, see [reg. 1\(1\)](#)

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—

- (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 that 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) calculating 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—

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- (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, 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 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.

Commencement Information

I7 Reg. 38 in force at 1.4.1992, see [reg. 1\(1\)](#)

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.

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(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

Commencement Information

18 Reg. 39 in force at 1.4.1992, see [reg. 1\(1\)](#)

Attachment of earnings orders: duties of debtor

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.

Commencement Information

19 Reg. 40 in force at 1.4.1992, see [reg. 1\(1\)](#)

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

Commencement Information

I10 Reg. 41 in force at 1.4.1992, see [reg. 1\(1\)](#)

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”) or the Child Support Act 1991(7) (“the 1991 Act”)—

- (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(8) as remain after deduction of the amount to be deducted under the order made under this Part.

Commencement Information

I11 Reg. 42 in force at 1.4.1992, see [reg. 1\(1\)](#)

Attachment of earnings orders: persons employed under the Crown

43.—(1) Where a debtor is in the employment of the Crown and an attachment of earnings order is made in respect of him, for the purposes of this Part—

- (a) the chief officer for the time being of the department, office or other body in which the debtor is employed shall be treated as having the debtor in his employment (any transfer of the debtor from one department, office or body to another being treated as a change of employment); and
- (b) any earnings paid by the Crown or a Minister of the Crown, or out of the public revenue of the United Kingdom, shall be treated as paid by that chief officer.

(7) 1991 c. 48.

(8) 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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(2) If any question arises as to what department, office or other body is concerned for the purposes of this regulation, or as to who for those purposes is its chief officer, the question shall be referred to and determined by the Minister for the Civil Service.

(3) A document purporting to set out a determination of the Minister under paragraph (2) and to be signed by an official of the Office of that Minister shall, in any proceedings arising in relation to an attachment of earnings order, be admissible in evidence and be deemed to contain an accurate statement of such a determination unless the contrary is shown.

(4) This Part shall have effect in relation to attachment of earnings orders notwithstanding any enactment passed before 29th May 1970 and preventing or avoiding the attachment or diversion of sums due to a person in respect of services under the Crown, whether by way of remuneration, pension or otherwise.

Commencement Information

I12 Reg. 43 in force at 1.4.1992, see [reg. 1\(1\)](#)

Attachment of allowances orders

44.—(1) This regulation applies in relation to an elected member of a relevant billing authority or a relevant precepting authority.

(2) For the purposes of this regulation—

- (a) a relevant billing authority is a billing authority other than the Common Council;
- (b) a relevant precepting authority is a major precepting authority⁽⁹⁾ other than the Receiver for the Metropolitan Police District;
- (c) a person is an elected member of a relevant precepting authority other than a county council if he is appointed to the authority by a constituent council of which he is an elected member; and
- (d) references to attachable allowances are references to the allowances referred to in paragraph (7)(b).

(3) Where a liability order has been made and the debtor against whom it was made is a person in relation to whom this regulation applies, the authority which applied for the order may make an order under this regulation to secure the payment of any outstanding sum which is or forms part of the amount in respect of which the liability order was made.

(4) An order under this regulation shall be expressed to be directed to the authority of whom the debtor is an elected member and shall operate as an instruction to the authority to make deductions from attachable allowances payable to the debtor and to pay the sums so deducted to the authority by which the order was made.

(5) An order under this regulation shall remain in force until discharged or the whole sum to which it relates has been paid (whether by attachment of allowances or otherwise).

(6) The sum to be deducted by an authority under an order under this regulation on any day shall be a sum equal to 40 per cent. of the aggregate of attachable allowances payable to the debtor on that day.

(7) Paragraph (3) of regulation 37, paragraphs (1) to (5) of regulation 39 and paragraphs (1) and (2) of regulation 41 shall apply to orders under this regulation as they apply to attachment of earnings orders as if any reference in those paragraphs—

⁽⁹⁾ See section 39(1) of the Local Government Finance Act 1992.

- (a) to an employer or a person having the debtor in his employment, were a reference to such an authority as is mentioned in paragraph (1) above having the debtor as an elected member;
- (b) to the debtor's earnings, were a reference to allowances—
 - (i) payable to the debtor in accordance with a scheme under regulations under section 18 (schemes for basic, attendance and special responsibility allowances for local authority members) of the Local Government and Housing Act 1989⁽¹⁰⁾; or
 - (ii) in the nature of an attendance allowance, payable to the debtor under section 175 (allowances for attending conferences and meetings) of the Local Government Act 1972⁽¹¹⁾;
- (c) to an attachment of earnings order, were a reference to an order under this regulation.

Commencement Information

113 Reg. 44 in force at 1.4.1992, see [reg. 1\(1\)](#)

Distress

45.—(1) Where a liability order has been made, the authority which applied for the order may levy the appropriate amount by distress and sale of the goods of the debtor against whom the order was made.

(2) The appropriate amount for the purposes of paragraph (1) is the aggregate of—

- (a) an amount equal to any outstanding sum which is or forms part of the amount in respect of which the liability order was made, and
- (b) a sum determined in accordance with Schedule 5 in respect of charges connected with the distress.

(3) If, before any goods are seized, the appropriate amount (including charges arising up to the time of the payment or tender) is paid or tendered to the authority, the authority shall accept the amount and the levy shall not be proceeded with.

(4) Where an authority has seized goods of the debtor in pursuance of the distress, but before sale of those goods the appropriate amount (including charges arising up to the time of the payment or tender) is paid or tendered to the authority, the authority shall accept the amount, the sale shall not be proceeded with and the goods shall be made available for collection by the debtor.

(5) The person levying distress on behalf of an authority shall carry with him the written authorisation of the authority, which he shall show to the debtor if so requested; and he shall hand to the debtor or leave at the premises where the distress is levied a copy of this regulation and Schedule 5 and a memorandum setting out the appropriate amount, and shall hand to the debtor a copy of any close or walking possession agreement entered into.

(6) A distress may be made anywhere in England and Wales.

(7) A distress shall not be deemed unlawful on account of any defect or want of form in the liability order, and no person making a distress shall be deemed a trespasser on that account; and no person making a distress shall be deemed a trespasser from the beginning on account of any subsequent irregularity in making the distress, but a person sustaining special damage by reason of the subsequent irregularity may recover full satisfaction for the special damage (and no more) by proceedings in trespass or otherwise.

⁽¹⁰⁾ 1989 c. 42. See the Local Authorities (Members' Allowances) Regulations 1991 (S.I. 1991/351).

⁽¹¹⁾ 1972 c. 70. Section 175 was amended by section 25 of the Local Government, Planning and Land Act 1980 (c. 65) and by the Local Government and Housing Act 1989, Schedule 11, paragraph 27.

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(8) The provisions of this regulation shall not affect the operation of any enactment which protects goods of any class from distress.

(9) Nothing in the Distress (Costs) Act 1817(**12**), as extended by the Distress (Costs) Act 1827(**13**), (which makes provision as to the costs and expenses of the levying of certain distresses) shall apply to a distress under this regulation.

Commencement Information

I14 Reg. 45 in force at 1.4.1992, see [reg. 1\(1\)](#)

Appeals in connection with distress

46.—(1) A person aggrieved by the levy of, or an attempt to levy, a distress may appeal to a magistrates' court.

(2) The appeal shall be instituted by making complaint to a justice of the peace, and requesting the issue of a summons directed to the authority which levied or attempted to levy the distress to appear before the court to answer to the matter by which the person is aggrieved.

(3) If the court is satisfied that a levy was irregular, it may order the goods distrained to be discharged if they are in the possession of the authority; and it may by order award compensation in respect of any goods distrained and sold of an amount equal to the amount which, in the opinion of the court, would be awarded by way of special damages in respect of the goods if proceedings were brought in trespass or otherwise in connection with the irregularity under regulation 45(7).

(4) If the court is satisfied that an attempted levy was irregular, it may by order require the authority to desist from levying in the manner giving rise to the irregularity.

Commencement Information

I15 Reg. 46 in force at 1.4.1992, see [reg. 1\(1\)](#)

Commitment to prison

47.—(1) Where a billing authority has sought to levy an amount by distress under regulation 45, the debtor is an individual who has attained the age of 18 years, and the person making the distress reports to the authority that he was unable (for whatever reason) to find any or sufficient goods of the debtor on which to levy the amount, the authority may apply to a magistrates' court for the issue of a warrant committing the debtor to prison.

(2) On such application being made the court shall (in the debtor's presence) inquire as to his means and inquire whether the failure to pay which has led to the application is due to his wilful refusal or culpable neglect.

(3) If (and only if) the court is of the opinion that his failure is due to his wilful refusal or culpable neglect it may if it thinks fit—

- (a) issue a warrant of commitment against the debtor, or
- (b) fix a term of imprisonment and postpone the issue of the warrant until such time and on such conditions (if any) as the court thinks just.

(4) The warrant shall be made in respect of the relevant amount; and the relevant amount for this purpose is the aggregate of—

(12) 1817 c. 93.

(13) 1827 c. 17.

- (a) an amount equal to the appropriate amount mentioned in regulation 45(2) or (as the case may be) so much of it as remains outstanding, and
 - (b) a sum of an amount equal to the costs reasonably incurred by the applicant in respect of the application.
- (5) The warrant—
- (a) shall state the relevant amount mentioned in paragraph (4),
 - (b) may be directed to the authority making the application and to such other persons (if any) as the court issuing it thinks fit, and
 - (c) may be executed anywhere in England and Wales by any person to whom it is directed.
- (6) If—
- (a) before the issue of a warrant the appropriate amount mentioned in regulation 45(2) (or so much of it as remains outstanding) is paid or tendered to the authority, or
 - (b) after the issue of the warrant, the amount stated in it is paid or tendered to the authority,
- the authority shall accept the amount concerned, no further steps shall be taken as regards its recovery, and the debtor if committed to prison shall be released.
- (7) The order in the warrant shall be that the debtor be imprisoned for a time specified in the warrant which shall not exceed 3 months, unless the amount stated in the warrant is sooner paid; but—
- (a) where a warrant is issued after a postponement under paragraph (3)(b) and, since the term of imprisonment was fixed but before the issue of the warrant, the amount mentioned in paragraph (4)(a) with respect to which the warrant would (but for the postponement) have been made has been reduced by a part payment, the period of imprisonment ordered under the warrant shall be the term fixed under paragraph (3) reduced by such number of days as bears to the total number of days in that term less one day the same proportion as the part paid bears to that amount, and
 - (b) where, after the issue of a warrant, a part payment of the amount stated in it is made, the period of imprisonment shall be reduced by such number of days as bears to the total number of days in the term of imprisonment specified in the warrant less one day the same proportion as the part paid bears to the amount so stated.
- (8) In calculating a reduction required under paragraph (7) any fraction of a day shall be left out of account; and rule 55(1), (2) and (3) of the Magistrates' Courts Rules 1981(14) applies (so far as is relevant) to a part payment as if the imprisonment concerned were imposed for want of sufficient distress to satisfy a sum adjudged to be paid by a magistrates' court

Commencement Information

I16 Reg. 47 in force at 1.4.1992, see [reg. 1\(1\)](#)

Commitment to prison: further provision

48.—(1) A single warrant may not be issued under regulation 47 against more than one person, and shall be in the form specified as Form C in Schedule 2, or in a form to the like effect.

(2) Where an application under regulation 47 has been made, and after the making of the inquiries mentioned in paragraph (2) of that regulation no warrant is issued or term of imprisonment fixed, the court may remit all or part of the appropriate amount mentioned in regulation 45(2) with respect to which the application related.

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(3) Where an application under regulation 47 has been made but no warrant is issued or term of imprisonment fixed, the application may be renewed (except so far as regards any sum remitted under paragraph (2)) on the ground that the circumstances of the debtor have changed.

(4) A statement in writing to the effect that wages of any amount have been paid to the debtor during any period, purporting to be signed by or on behalf of his employer, shall in any proceedings under regulation 47 be evidence of the facts there stated.

(5) For the purpose of enabling inquiry to be made as to the debtor's conduct and means under regulation 47, a justice of the peace may—

- (a) issue a summons to him to appear before a magistrates' court and (if he does not obey the summons) issue a warrant for his arrest, or
- (b) issue a warrant for the debtor's arrest without issuing a summons.

(6) A warrant issued under paragraph (5) may be executed anywhere in England and Wales by any person to whom it is directed or by any constable acting within his police area; and section 125(3) of the Magistrates' Courts Act 1980 applies to such a warrant.

(7) Regulation 47 and this regulation have effect subject to Part I of the Criminal Justice Act 1982⁽¹⁵⁾ (treatment of young offenders)

Commencement Information

I17 Reg. 48 in force at 1.4.1992, see [reg. 1\(1\)](#)

Insolvency

49.—(1) Where a liability order has been made and the debtor against whom it was made is an individual, the amount due shall be deemed to be a debt for the purposes of section 267 of the Insolvency Act 1986⁽¹⁶⁾ (grounds of creditor's petition).

(2) Where a liability order has been made and the debtor against whom it was made is a company, the amount due shall be deemed to be a debt for the purposes of section 122(1)(f) (winding up of companies by the court) or, as the case may be, section 221(5)(b) (winding up of unregistered companies) of that Act.

(3) For the purposes of this regulation the amount due is an amount equal to any outstanding sum which is or forms part of the amount in respect of which the liability order was made.

Commencement Information

I18 Reg. 49 in force at 1.4.1992, see [reg. 1\(1\)](#)

Charging orders

50.—(1) An application to the appropriate court may be made under this regulation where—

- (a) a magistrates' court has made a liability order pursuant to regulation 34(6),
- (b) the amount mentioned in regulation 34(7)(a) in respect of which the liability order was made is an amount the debtor is liable to pay under Part V, and
- (c) at the time that the application under this regulation is made at least £1000 of the amount in respect of which the liability order was made remains outstanding.

⁽¹⁵⁾ 1982 c. 48.

⁽¹⁶⁾ 1986 c. 45.

(2) The application which may be made to the appropriate court under this regulation is an application by the authority concerned for an order imposing, on any interest held by the debtor beneficially in the relevant dwelling, a charge for securing the due amount; and the court may make such an order on such application.

(3) For the purposes of paragraph (2)—

- (a) the authority concerned is the authority which applied for the liability order referred to in paragraph (1)(a),
- (b) the relevant dwelling is the dwelling in respect of which, at the time the application for the liability order was made, the debtor was liable to pay council tax,
- (c) the due amount is the aggregate of—
 - (i) an amount equal to any outstanding sum which is or forms part of the amount in respect of which the liability order was made, and
 - (ii) a sum of an amount equal to the costs reasonably incurred by the applicant in obtaining the charging order,
- (d) the appropriate court is the county court for the area in which the relevant dwelling is situated.

Commencement Information

119 Reg. 50 in force at 1.4.1992, see [reg. 1\(1\)](#)

Charging orders: further provision

51.—(1) In deciding whether to make a charging order, the court shall consider all the circumstances of the case, and in particular any evidence before it as to—

- (a) the personal circumstances of the debtor, and
- (b) whether any other person would be likely to be unduly prejudiced by the making of the order.

(2) A charging order—

- (a) shall specify the dwelling concerned and the interest held by the debtor beneficially in it, and
- (b) may, as the court thinks fit, be made absolutely or subject to conditions as to the time when the charge is to become enforceable or as to other matters.

(3) A charge imposed by a charging order shall have the like effect and shall be enforceable in the same courts and in the same manner as an equitable charge created by the debtor by writing under his hand.

(4) The court by which a charging order was made may at any time, on the application of the debtor, the authority on whose application the order was made or any person interested in the dwelling, make an order discharging or varying the charging order.

(5) The Land Charges Act 1972(**17**) and the Land Registration Act 1925(**18**) shall apply in relation to charging orders as they apply in relation to orders or writs issued or made for the purposes of enforcing judgments; and in section 49(1)(g) of the Land Registration Act 1925, after the words

(17) 1972 c. 61; section 6 of the Act was amended by the Supreme Court Act 1981 (c. 54), Schedule 5, and the County Courts Act 1984 (c. 28), Schedule 2, paragraph 18.

(18) 1925 c. 21; section 49(1)(g) was inserted by the Charging Orders Act 1979 (c. 53), section 3(3), and amended by the Drug Trafficking Offences Act 1986 (c. 32), section 39(2), the Criminal Justice Act 1988 (c. 33), Schedule 15, paragraph 6 and regulation 45(5) of the Community Charges (Administration and Enforcement) Regulations 1989 (S.I. 1989/438).

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“Local Government Finance Act 1988” there are inserted the words “, or regulations under paragraph 11 of Schedule 4 to the Local Government Finance Act 1992”.

(6) Where a charging order has been protected by an entry registered under the Land Charges Act 1972 or the Land Registration Act 1925, an order under paragraph (4) discharging the charging order may direct that the entry be cancelled.

Commencement Information

I20 Reg. 51 in force at 1.4.1992, see [reg. 1\(1\)](#)

Relationship between remedies

52.—(1) Where a warrant of commitment is issued against (or a term of imprisonment is fixed in the case of) a person under regulation 47(3), no steps, or no further steps, may be taken under this Part by way of attachment of allowances, attachment of earnings, distress, bankruptcy or charging in relation to the relevant amount mentioned in regulation 47(4).

(2) Steps under this Part by way of attachment of allowances, attachment of earnings, distress, commitment, bankruptcy, winding up or charging may not be taken against a person under a liability order while steps by way of another of those methods are being taken against him under it.

(3) Subject to paragraphs (1) and (2)—

- (a) attachment of allowances, attachment of earnings or distress may be resorted to more than once, and
- (b) attachment of allowances, attachment of earnings or distress may be resorted to in any order or alternately (or both).

(4) Where a step is taken for the recovery of an outstanding sum which is or forms part of an amount in respect of which a liability order has been made and under which additional costs or charges with respect to the step are also recoverable in accordance with this Part, any sum recovered thereby which is less than the aggregate of the amount outstanding and such additional costs and charges shall be treated as discharging first the costs and charges, the balance (if any) being applied towards the discharge of the outstanding sum.

Commencement Information

I21 Reg. 52 in force at 1.4.1992, see [reg. 1\(1\)](#)

Magistrates' courts

53.—(1) Justices of the peace for a commission area within which is situated the area of a billing authority shall have jurisdiction to act under the provisions of this Part as respects that authority.

(2) Subject to any other enactment authorising a stipendiary magistrate or other person to act by himself, a magistrates' court shall not under this Part hear a summons, entertain an application for a warrant or hold an inquiry as to means on such an application except when composed of at least two justices.

(3) References to a justice of the peace in regulations 34(2) and 46(2) shall be construed subject to rule 3 of the Justices' Clerks Rules 1970(19) (which authorises certain matters authorised to be done by a justice of the peace to be done by a justices' clerk).

(19) [S.I. 1970/231](#), to which there are amendments not relevant to these Regulations.

(4) In any proceedings under regulation 34 (application for liability order), regulation 46 (appeals in connection with distress) or regulation 47 (commitment to prison), a statement contained in a document constituting or forming part of a record compiled by the applicant authority shall be admissible as evidence of any fact stated in it of which direct oral evidence would be admissible.

(5) In proceedings where the applicant authority desires to give a statement in evidence in accordance with paragraph (4), and the document containing that statement is produced by a computer, a certificate—

- (a) identifying the document containing the statement and the computer by which it was produced;
- (b) containing a statement that at all material times the computer was operating properly, or if not, that any respect in which it was not operating properly or was out of operation was not such as to affect the production of the document or the accuracy of its contents;
- (c) giving such explanation as may be appropriate of the content of the document; and
- (d) purporting to be signed by a person occupying a responsible position in relation to the operation of the computer,

shall be admissible as evidence of anything which is stated in it to the best of the signatory's information and belief.

(6) In paragraph (4) above, "statement" includes any representation of fact, whether made in words or otherwise; and the reference to an application under regulation 47 includes a reference to an application made in the circumstances mentioned in regulation 48(3).

Commencement Information

122 Reg. 53 in force at 1.4.1992, see [reg. 1\(1\)](#)

Joint and several liability: enforcement

54.—(1) This regulation has effect with respect to the application of regulations 33 to 53 to a sum for which persons are jointly and severally liable under Part V.

(2) In this regulation, "joint taxpayers" means two or more individuals who are jointly and severally liable to pay an amount in respect of council tax.

(3) A final notice served in accordance with regulation 33 on every person against whom the application for a liability order is to be made may be addressed to two or more joint taxpayers in joint names.

(4) A liability order may be made against one or more joint taxpayers in respect of an amount for which they are jointly and severally liable.

(5) Where a liability order has been made against two or more joint taxpayers, subject to paragraph (6)—

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

(6) Where a liability order has been made against two or more joint taxpayers in respect of an amount, steps by way of any method specified in paragraph (5)—

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- (a) may not be taken in respect of one of them while steps by way of that or another of those methods are being taken in respect of another of them; and
- (b) may be taken in respect of one of them notwithstanding that no steps by way of that or another of those methods have been taken in respect of another of them.
- (7) Where a distress has been made against two or more joint taxpayers in respect of an amount a warrant of commitment may, subject to paragraph (8), be applied for at any time against one of them or different warrants may be applied for against more than one of them: but no such application may be made in respect of any of them who has not attained the age of 18 years.
- (8) Where a liability order has been made against two or more joint taxpayers in respect of an amount, a warrant of commitment may not be applied for unless—
- (a) distress has been made against all of them; and
- (b) the person making the distress reports to the authority that, in relation to each of them, he was unable (for whatever reason) to find any or sufficient goods.
- (9) Where a liability order has been made against two or more joint taxpayers in respect of an amount, and a warrant of commitment is issued against (or a term of imprisonment is fixed in the case of) one of them under regulation 47(3), no steps, or no further steps, may be taken against any of them by way of attachment of allowances or earnings, distress, bankruptcy or charging in relation to the amount mentioned in regulation 47(4).
- (10) Where a liability order has been made against two or more joint taxpayers in respect of an amount and in making distress against one of them goods jointly owned by both or all of them are found, distress may be levied against those goods with respect to that amount; but in any subsequent proceedings under regulation 47 (commitment), charges arising under Schedule 5 from such a distress shall be treated as charges relating to the person against whose goods the levy was intended to be made when the joint goods were found, and not as charges relating to the other or others.
- (11) Where a liability order has been made against two or more joint taxpayers in respect of an amount, paragraph 2(2) of Schedule 5 shall have effect so that if a charge has arisen against one of them under head B of the Table in paragraph 1 of that Schedule as regards a levy in respect of it, no further charge may be aggregated for the purposes of regulation 45(2) under heads A or B in consequence of any subsequent levy or attempted levy against any of them in respect of that amount; and if a charge has arisen under head A against one of them, it shall be treated as a charge under that head with respect to the others as well as that one for the purposes of the calculation of any subsequent charge under heads A or B against any of them.

Commencement Information

I23 Reg. 54 in force at 1.4.1992, see [reg. 1\(1\)](#)

Repayments

55. A sum which has become payable (by way of repayment) under Part V to a person other than a billing authority but which has not been paid shall be recoverable in a court of competent jurisdiction.

Commencement Information

I24 Reg. 55 in force at 1.4.1992, see [reg. 1\(1\)](#)

Offences

56.—(1) A person shall be guilty of an offence if, following a request under paragraph (2)(b) of regulation 36, he is under a duty to supply information and—

- (a) he fails without reasonable excuse to supply the information in accordance with that regulation, or
- (b) in supplying information in purported compliance with that regulation he makes a statement which is false in a material particular or recklessly makes a statement which is false in a material particular.

(2) Subject to paragraph (3), a person shall be guilty of an offence if, following the service on him of a copy of an attachment of allowances order or an attachment of earnings order, he is under a duty to comply with the order by virtue of regulation 37(3) (including that provision as applied for the purposes of attachment of allowances orders by regulation 44(7)) and he fails to do so.

(3) It shall be a defence for a person charged with an offence under paragraph (2) to prove that he took all reasonable steps to comply with the order.

(4) A person shall be guilty of an offence if he is under a duty to notify another person under regulation 39(2) and (3) or (4) and (5) (including those provisions as applied for the purposes of attachment of allowances orders by regulation 44(7)), regulation 39(6) and (7) or regulation 40 and—

- (a) he fails without reasonable excuse to notify the other person in accordance with the provision concerned, or
- (b) in notifying the other person in purported compliance with the provision concerned he makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular.

(5) A person guilty of an offence under paragraph (1)(a) or (4)(a) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(6) A person guilty of an offence under paragraph (1)(b), (2) or (4)(b) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Commencement Information

I25 Reg. 56 in force at 1.4.1992, see [reg. 1\(1\)](#)

Miscellaneous provisions

57.—(1) Any matter which could be the subject of an appeal under section 16 of the Act may not be raised in proceedings under this Part.

(2) If a liability order has been made and by virtue of—

- (a) a notification which is given by the billing authority under regulation 24(2) or (5), 25(5) or (8), 28(3) or (4) or 31(2), or paragraph 9(3) or 10(2)(a) of Schedule 1, or
- (b) section 31(4) of the Act applying in any case,

any part of the amount mentioned in regulation 34(6)(a) in respect of which the order was made would (if paid) fall to be repaid or credited against any subsequent liability, that part shall be treated for the purposes of this Part as paid on the day the notification is given or the amount in substitution is set under section 31(2) of the Act and accordingly as no longer outstanding.

(3) If, after a warrant is issued or term of imprisonment is fixed under regulation 47(3), and before the term of imprisonment has begun or been fully served, a billing authority gives such a notification as is mentioned in paragraph (2)(a) in the case in question, or sets an amount in substitution so that section 31(4) of the Act applies in the case in question, it shall forthwith notify accordingly the clerk

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of the court which issued the warrant and (if the debtor is detained) the governor or keeper of the prison or place where he is detained or such other person as has lawful custody of him.

- (4) If the debtor is treated as having paid an amount under paragraph (2) on any day, and
- (a) that day falls after the completion of the service of a term of imprisonment imposed under regulation 47 in respect of the amount he is treated as having paid, or
 - (b) the debtor is serving a term of imprisonment imposed under regulation 47 on that day and the amount he is treated as having paid exceeds the amount of any part payment which, if made, would cause the expiry of the term of imprisonment pursuant to paragraph (7) (b) of that regulation on that day,

the amount mentioned in sub-paragraph (a) or excess mentioned in sub-paragraph (b) shall be paid to the debtor or credited against any subsequent liability of his, as the debtor requires.

Commencement Information

I26 Reg. 57 in force at 1.4.1992, see [reg. 1\(1\)](#)

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