
STATUTORY INSTRUMENTS

1993 No. 775

**COMMUNITY CHARGES,
ENGLAND AND WALES**

**The Community Charges (Administration and
Enforcement) (Amendment) Regulations 1993**

<i>Made</i>	- - - -	<i>17th March 1993</i>
<i>Laid before Parliament</i>		<i>17th March 1993</i>
<i>Coming into force</i>	- -	<i>1st April 1993</i>

The Secretary of State for the Environment, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred on them by sections 143(1) and (2) and 146(6) of, and paragraphs 1, 4, 5(2) and (4), 7(2)(b) and (3A)(b), 12, 26 and 28 of Schedule 4 to the Local Government Finance Act 1988(1), and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement, and interpretation

1.—(1) These Regulations may be cited as the Community Charges (Administration and Enforcement) (Amendment) Regulations 1993 and shall come into force on 1st April 1993.

(2) In these Regulations “the principal Regulations” means the Community Charges (Administration and Enforcement) Regulations 1989(2); and, unless the context otherwise requires, expressions used in these Regulations which are also used in Part IV (enforcement) of the principal Regulations have the same meaning as in those Regulations.

Amendment of the principal Regulations

2. The principal Regulations shall be amended in accordance with the following provisions of these Regulations.

Definitions

3. In regulation 27 and, accordingly, in that regulation as set out in Form D in Schedule 3—

(1) 1988 c. 41. Paragraph (ee) was inserted in paragraph 1(1) of Schedule 4 by regulation 60(2) of S.I. 1989/438. Paragraph 4 of Schedule 4 was amended by paragraph 13(3) of Schedule 5 to the Local Government and Housing Act 1989 (c. 42). Paragraph 7(3A) was inserted by section 102(2) of the Local Government Finance Act 1992 (c. 14).

(2) S.I. 1989/438; relevant amending instruments are S.I. 1989/2274 and 1992/219.

- (a) in the definition in paragraph (1) of “net earnings” after the words “other benefits”, there is inserted the following—
- “; and, where an order under regulation 37 (making of attachment of earnings order) of the Council Tax (Administration and Enforcement) Regulations 1992 made before the making of the attachment of earnings order concerned remains in force,
- (d) any amount required to be deducted in accordance with that order”(3); and
- (b) after the definition of “earnings” there is inserted the following definition—
- ““the Income Support Regulations” means the Community Charges (Deductions from Income Support) (No. 2) Regulations 1990,”(4).

Duties of debtors subject to liability order

4. In regulation 31, after the words “this Part” in sub-paragraph (c) of paragraph (3) there are inserted the words “, regulation 36 of the Council Tax (Administration and Enforcement) Regulations 1992”.

Priority between attachment of earnings orders

5.—(1) In regulation 37—

- (a) in paragraph (1), for the word “Where” there are substituted the words “Subject to paragraph (3), where”; and
- (b) after paragraph (2) there is inserted the following—
- “(3) This regulation does not apply in a case to which regulation 37A applies.”.

(2) After regulation 37 and, accordingly, after that regulation as set out in Form D in Schedule 3, there is inserted the following—

“Priority as between orders made after 31st March 1993

37A.—(1) This regulation applies in the case of attachment of earnings orders made after 31st March 1993.

(2) Where an employer would, but for this paragraph, be obliged to make deductions on any pay-day under two or more attachment of earnings orders to which this regulation applies, he shall—

- (a) deal with the orders according to the respective dates on which they were made, disregarding any later order until an earlier one has been dealt with; and
- (b) deal with any later order as if the earnings to which it relates were the residue of the debtor’s earnings after the making of any deduction to comply with any earlier order.

(3) Subject to paragraph (4), where an employer would, but for this paragraph, be obliged to comply with one or more attachment of earnings order to which this regulation applies and with one or more deduction order, he shall deal with the orders according to the respective dates on which they were made in like manner as under paragraph (2).

(4) An employer shall not deal with a deduction order made either wholly or in part in respect of the payment of a judgment debt or payments under an administration order until he has dealt with the attachment of earnings order or orders and any other deduction order.

(3) S.I. 1992/613, to which there are amendments not relevant to these Regulations.

(4) S.I. 1990/545.

(5) In this regulation “deduction order” means an order under the Attachment of Earnings Act 1971 made on or after 1st April 1993.”(5).

Distress

6. In regulation 39, after paragraph (1), there is inserted the following paragraph—

“(1A) Without prejudice to paragraph (8) below, no person making a distress shall seize any goods of the debtor of any of the following descriptions—

- (a) such tools, books, vehicles and other items of equipment as are necessary to the debtor for use personally by him in his employment, business or vocation;
- (b) such clothing, bedding, furniture, household equipment and provisions as are necessary for satisfying the basic domestic needs of the debtor and his family.”.

Relationship between remedies

7. In regulation 46—

- (a) in paragraph (1), after the words “designated dwelling” there are inserted the words “, or under the Income Support Regulations”;
- (b) in paragraph (2)(6), for the words after “may not be taken” there are substituted the words—

“in relation to a person against whom a liability order has been made while—

- (a) steps by way of another of those methods are being taken against him under it; or
- (b) deductions are being made under the Income Support Regulations from any amount payable to him by way of income support; or
- (c) an application under regulation 2(1) of the Income Support Regulations has been made in respect of him to the Secretary of State and remains undetermined.”;

(c) after paragraph (2), there is inserted the following paragraph—

“(2A) An application under regulation 2(1) of the Income Support Regulations may not be made in respect of a person against whom a liability order has been made while steps under this Part are being taken against him for the recovery of an amount equal to any outstanding sum which is or forms part of the amount in respect of which the liability order was made.”.

Joint and several liability

8. In regulation 48—

(a) after paragraph (8) there is inserted the following paragraph—

“(8A) Where a liability order has been made against a chargeable person and a spouse of his, and a warrant of commitment is issued against (or a term of imprisonment is fixed in the case of) one of them under regulation 41(3), no steps, or further steps, may be taken under the Income Support Regulations in respect of either of them in relation to the amount mentioned in regulation 41(4).”; and

(b) for paragraph (11) there is substituted the following paragraph—

“(11) Where—

(5) 1971 c. 32.

(6) Paragraph (2) of regulation 46 was amended by S.I. 1989/2274.

- (a) a liability order has been made against a chargeable person and a spouse or manager in respect of an amount; and
- (b) a charge has arisen as regards one of them under head B of the Table in paragraph 1 of Schedule 5 in respect of that amount,

no further charge may be aggregated for the purposes of regulation 39(2) under that head or head A of that Table in consequence of any subsequent levy or attempted levy against either in respect of that amount; and a charge under head A(i) or charges under that head and head A(ii) against one of them shall be treated for those purposes as a charge or, as the case may be, charges under that head with respect to the other as well as that one.”.

Prescribed form of attachment of earnings order

9. In Form D in Schedule 3(7)—

- (a) in the second paragraph, for the words “regulations 34 to 37” there are substituted the words “regulations 34 to 37A”; and
- (b) in the heading to the regulations set out at the end of the Order, for the words “33 TO 37” there are substituted the words “33 TO 37A”.

Charges relating to distress

10. The Schedule set out in the Schedule hereto is substituted for Schedule 5.

Signed by authority of the Secretary of State for the Environment

16th March 1993

John Redwood
Minister of State,
Department of the Environment

17th March 1993

David Hunt
Secretary of State for Wales

SCHEDULE

Regulation 10.

“SCHEDULE 5

CHARGES CONNECTED WITH DISTRESS

1. The sum in respect of charges connected with the distress which may be aggregated under regulation 39(2) shall be as set out in the following Table—

(1) Matter connected with distress	(2) Charge
A For making a visit to premises with a view to levying distress (where no levy is made)—	£15.00.
(i) where the visit is the first or only such visit:	
(ii) where the visit is the second such visit:	£12.50.
B For levying distress:	The lesser of—
	(i) the amount of the costs and fees reasonably incurred; and
	(ii) the relevant amount calculated under paragraph 2(1) with respect to the levy.
C For one attendance with a vehicle with a view to the removal of goods (where, following the levy, goods are not removed):	Reasonable costs and fees incurred.
D For the removal and storage of goods for the purposes of sale:	Reasonable costs and fees incurred.
E For the possession of goods as described in paragraph 2(2)—	£10 per day.
(i) for close possession (the man in possession to provide his own board):	
(ii) for walking possession:	10 pence per day.
F For appraisalment of an item distrained, at the request in writing of the debtor:	Reasonable fees and expenses of the broker appraising.
G 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), together with reasonable costs and fees incurred in respect of advertising.
(i) where the sale is held on the auctioneer’s premises:	
(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.
H Where no sale takes place by reason of payment or tender in the circumstances referred to in regulation 39(4):	Reasonable costs and fees incurred in respect of advertising.

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

2.—(1) In head B of the Table in paragraph 1, “the relevant amount” with respect to a levy means—

- (a) where the sum due at the time of the levy does not exceed £100, £15;
- (b) where the sum due at the time of the levy exceeds £100, 15 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) An authority takes close or walking possession of goods for the purposes of head E in paragraph 1 if it takes such possession in pursuance of an agreement—

- (a) to which the debtor is a signatory;
- (b) which is made at the time that the distress is levied; and
- (c) (without prejudice to such other terms as may be agreed) which 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 takes close possession of goods on any day for those 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 (other than a charge of a prescribed amount), the debtor or the authority may apply to the district judge of the county court for the district in which the distress is or is intended to be levied for the amount of the charge to be taxed.

(3) On any such application, the district judge 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 charging authority shall be added to the sum which may be aggregated under regulation 39(2).

(4) References in the Table in 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.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Community Charges (Administration and Enforcement) Regulations 1989 (“the principal Regulations”).

Regulation 3 amends regulation 27(1) of the principal Regulations in two respects. Firstly, it alters the definition of “net earnings” so that, where deductions are being made under an attachment of earnings order in respect of unpaid council tax, account must be taken of the amount deducted in calculating the amount to be deducted under any subsequent attachment of earnings order under regulation 32

of the principal Regulations in respect of unpaid community charge. Secondly, it inserts a definition relevant to the Community Charges (Deductions from Income Support) (No. 2) Regulations 1990, to which reference is made in regulations 46 and 48 of the principal Regulations (as amended by regulations 7 and 8 of these Regulations).

Regulation 4 amends regulation 31(3)(c) of the principal Regulations and applies in relation to liability orders made on or after 1st April 1993 for unpaid community charge. The effect of the amendment is to enable an authority to require a person against whom such an order has been made to provide information about deductions or expected deductions from his earnings under any attachment of earnings order for unpaid council tax made in relation to him.

The amendment made by regulation 5 inserts into the principal Regulations a new regulation, 37A, which provides for the order in which attachment of earnings orders made after 31st March 1993 under the principal Regulations or under those Regulations and the Attachment of Earnings Act 1971 (“the 1971 Act”), are to be dealt with. Regulation 37A differs from regulation 37 (which continues to apply to orders made before 1st April 1993) in allowing at any one time deductions to be made under more than one order, and in giving attachment of earnings orders under the principal Regulations priority over orders under the 1971 Act relating to judgement debts or administration orders.

Regulation 6 amends regulation 39 of the principal Regulations, which makes provision relating to the seizure and sale of goods of a debtor following the making of a liability order for unpaid community charge. A new paragraph (1A) provides for protection from seizure of certain goods of the debtor.

Regulation 7 amends regulation 46 of the principal Regulations which relates to the relationship between enforcement remedies. The amendment adds references to deductions from income support under the Community Charges (Deductions from Income Support) (No. 2) Regulations 1990.

Regulation 8 amends regulation 48 of the principal Regulations which relates to the application of regulations 33 to 53 where persons are jointly and severally liable to pay an amount in respect of Community Charge. The amendments reflect the amendments made by regulations 7 and 10.

Regulation 9 amends the prescribed form of attachment of earnings order set out in Schedule 3 of the principal Regulations in consequence of the amendments made by regulation 5.

Regulation 10 substitutes a new Schedule 5 which sets out the charges that may be made for matters connected with distress for unpaid community charge. The principal changes are—

- (a) the prescription of a charge which varies according to whether a visit where no goods are taken is the first (£15) or second (£12.50). The former provision allowed a charge related to the costs and fees actually incurred, subject to a prescribed maximum;
- (b) an increase from £12.50 to £15 in respect of the maximum charge for distress levied for sums due which at the time of the levy do not exceed £100, and on the first £100 of sums due which exceed that amount;
- (c) a reduction from 45 pence per day to 10 pence per day for taking walking possession of goods;
- (d) an increase from £4.50 per day to £10 per day for taking close possession of goods.