

1989 No. 507 (S.59)

COMMUNITY CHARGES, SCOTLAND
WATER SUPPLY, SCOTLAND

Community Charges (Deductions from Income
Support) (Scotland) Regulations 1989

Made - - - - 15th March 1989
Laid before Parliament 17th April 1989
Coming into force - 8th April 1989

Note: Regulations 1 to 4 of this S.I. are reproduced below. The rest of the S.I. dealing with adjudication through the social security adjudication system, is not reproduced in this volume. The whole S.I. is reproduced in volume 6.

The Secretary of State for Social Security in exercise of powers conferred by section 31(3) of and paragraph 7A of Schedule 2 to the Abolition of Domestic Rates Etc. (Scotland) Act 1987(a) and those provisions as read with paragraph 11 of Schedule 5 to that Act(b) and with the Community Water Charges (Scotland) Regulations 1988(c) made thereunder and of all other powers enabling him in that behalf, after consultation with the Council on Tribunals in accordance with section 10 of the Tribunals and Inquiries Act 1971(d), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Community Charges (Deductions from Income Support) (Scotland) Regulations 1989 and shall come into force on 8th April 1989.

(2) In these Regulations, unless the context otherwise requires—

▶¹◀

▶²“the 1986 Act” means the Social Security Act 1986(e);◀

▶¹“the 1998 Act” means the Social Security Act 1998;◀

▶¹◀

“appropriate social security office” means an office of the Department of Social Security which is normally open to the public for the receipt of claims for income support and includes an office of the ▶³Department of Education and Employment◀ which is normally open to the public for the receipt of claims for ▶³jobseeker’s allowance and income support◀

▶¹“Commissioner” has the meaning it bears in section 39(1) of the 1998 Act;◀

▶⁴“Contributory employment and support allowance” means a contributory allowance under Part 1 of the Welfare Reform Act;◀

“couple” means a married or unmarried couple;

“debtor” means a person ▶⁵◀ against whom a summary warrant or decree has been obtained;

▶⁴“Employment and Support Allowance Regulations” means the Employment and Support Allowance Regulations 2008;◀

¹Defns. of “the 1975 Act” and “adjudication officer” omitted, defn. of “the 1998 Act” inserted and defn. of “Commissioner” substituted by para. 1 of Sch. 10 to S.I. 1999/3178 as from 29.11.99.
²Defn. of “the 1986 Act” added to reg. 1(2) by reg. 2(2)(a) of S.I. 1990/113 as from 1.4.90.
³Words substituted in defn. of “appropriate social security office” in reg. 1(2) by reg. 2(a) of S.I. 1996/2344 as from 7.10.96.
⁴Defns. of “Contributory employment and support allowance” & “Employment and Support Allowance Regulations” inserted in reg. 1(2) by reg. 1(a)-(b) of S.I. 2008/1879 as from 27.10.08.
⁵Words deleted from defn. of “debtor” in reg. 1(2) by reg. 2(2) of S.I. 1990/113 as from 1.4.90.

(a) 1987 c. 47; para. 7A was inserted by the Local Government Finance Act 1988 (c. 41), Sch. 12, para. 36(10). [Para. 7A was extended by para 10 of Sch. 2 to Jobseekers Act 1995 (c. 18).]
(b) Para. 11 was amended by the Local Government finance Act 1988, Sch. 12, para. 38.
(c) S.I. 1988/1538.
(d) 1971 c. 62.
(e) 1986 c. 50.

Reg. 1

¹Defn. of “income-related employment and support allowance” inserted in reg. 1(2) by reg. 1(c) of S.I. 2008/1879 as from 27.10.08.

²Words added in defn. of “income support” in reg. 1(2) by reg. 2(b) of S.I. 1996/2344 as from 7.10.96.

³Defns. of “Jobseekers Act” and “jobseeker’s allowance” inserted in reg. 1(2) by reg. 2(c) of S.I. 1996/2344 as from 7.10.96.

⁴Defn. of “married couple” inserted in reg. 1(2) by reg. 2(2)(c) of S.I. 1990/113 as from 1.3.90

⁵Defn. of “personal allowance for a couple ...” substituted by reg. 7(3) of S.I. 2002/3197 as from 6.10.03.

⁶In reg. 1(2), defns. of “personal allowance for ...” words deleted & sub-para. (c) inserted by reg. 34(2)(d)-(e) of S.I. 2008/1879 as from 27.10.08.

⁷Defns. of “personal allowance ...” substituted and “state pension credit” inserted by reg. 34(2) of S.I. 2002/3019 as from 6.10.03.

⁸Defn. of “polygamous marriage” inserted in reg. 1(2) by reg. 2(2)(c) of S.I. 1990/113 as from 1.4.90.

“5 per cent. of the personal allowance for a single claimant aged not less than 25” and “5 per cent. of the personal allowance for a couple where both members are aged not less than 18” means, in each case, where the percentage is not a multiple of 5 pence, the sum obtained by rounding that 5 per cent. to the next higher such multiple;

▶¹“income-related employment and support allowance” means an income-related allowance under Part I of the Welfare Reform Act;◀

“income support” means income support within the meaning of the Social Security Act 1986(a) ▶²but does not include any back to work bonus under section 26 of the Jobseekers Act which is paid as income support◀

▶³“Jobseekers Act” means the Jobseekers Act 1995(b)◀

“jobseeker’s allowance means an allowance under Part I of the Jobseekers Act but does not include any back to work bonus under section 26 of that Act which is paid as jobseeker’s allowance;◀

▶⁴“married couple” has the meaning ascribed to it in section 20(11) of the 1986 Act;◀

“payments to third parties” means direct payments to third parties in accordance with Schedule 9 to the Social Security (Claims and Payments) Regulations 1987(c);

▶⁵“personal allowance for a couple where both members are aged not less than 18” means—

(a) in the case of a person who is entitled to either income support or state pension credit, the amount for the time being specified in paragraph 1(3)(c) of column (2) of Schedule 2 to the Income Support (General) Regulations 1987(d); ▶⁶◀

(b) in the case of a person who is entitled to an income-based jobseeker’s allowance, the amount for the time being specified in paragraph 1(3)(e) of column (2) of Schedule 1 to the Jobseeker’s Allowance Regulations 1996 (e);◀▶⁶◀

(c) in the case of a person who is entitled to an income-related employment and support allowance, the amount for the time being specified in paragraph 1(3)(a) of column (2) of Schedule 4 to the Employment and Support Allowance Regulations;◀

▶⁷“personal allowance for a single claimant aged not less than 25” means—

(a) in the case of a person who is entitled to either income support or state pension credit, the amount for the time being specified in paragraph 1(1)(e) of column (2) of Schedule 2 to the Income Support (General) Regulations 1987; ▶⁶◀

(b) in the case of a person who is entitled to an income-based jobseeker’s allowance, the amount for the time being specified in paragraph 1(1)(e) of column (2) of Schedule 1 to the Jobseeker’s Allowance Regulations 1996;◀▶⁶◀

(c) in the case of a person who is entitled to an income-related employment and support allowance, the amount for the time being specified in paragraph 1(1)(b) of column (2) of Schedule 4 to the Employment and Support Allowance Regulations;◀

▶⁸“polygamous marriage” means a marriage to which section 22B of the 1986 Act refers(f);◀

“single debtor” means a debtor who is not a member of a couple; and

▶⁷“state pension credit” means the benefit of that name payable under the State Pension Credit Act 2002;◀

(a) 1986 c. 50.

(b) 1995 c. 18.

(c) S.I. 1987/1968, amended by S.I. 1988/522, 1725 and 1989/136.

(d) S.I. 1987/1967.

(e) S.I. 1996/207.

(f) S. 22B was inserted into the Social Security Act 1986 by the Local Government Finance Act 1988 (c. 41), Sch. 10, para. 5 and was amended by the Social Security Act 1989 (c. 24), Sch. 8, para. 9(3).

Regs. 1-3

▶¹“tribunal” means an appeal tribunal constituted under Chapter I of Part I of the 1998 Act;◀

▶²“unmarried couple” has the meaning ascribed to it in section 20(11) of the 1986 Act.◀

▶³“Welfare Reform Act” means the Welfare Reform Act 2007.◀

See Sch. 2 para. 22A of S.I. 2010/1907 at page 13.9428 for details of modifications to reg. 2 as from 1.10.10.

(3) Any reference in these Regulations to community charges includes a reference to those charges as read with paragraph 11 of Schedule 5 to the Abolition of Domestic Rates Etc. (Scotland) Act 1987 and the Community Water Charges (Scotland) Regulations 1988.

(4) Unless the context otherwise requires, any reference in these Regulations to a numbered regulation or Schedule is a reference to the regulation and Schedule bearing that number in the Regulations and any reference in a regulation or Schedule to a numbered paragraph is a reference to the paragraph of that regulation or Schedule having that number.

▶⁴▶⁵**Application for deductions◀ from income support ▶⁶, state pension credit◀ ▶³, jobseeker’s allowance or employment and support allowance◀**

2.—(1) Without prejudice to their right to pursue any other means of recovering arrears of community charges, a levying authority may apply to the Secretary of State ▶⁷by sending an application in respect of each debtor or where a summary warrant or decree is granted against a couple in respect of both of them to an appropriate social security office◀ asking him to deduct sums from any amount payable to a debtor by way of income support ▶⁸, state pension credit◀ ▶³, jobseeker’s allowance or employment and support allowance◀.

(2) An application from a levying authority shall be in writing and shall contain the following particulars—

- ▶⁷(a) the name and address of the debtor or where the summary warrant or decree is granted against a couple, the names and address of both of them;◀
- (b) the name and place of the court at which the summary warrant or decree was obtained;
- (c) the date when the summary warrant or decree was obtained;
- (d) the total amount of the arrears specified in the summary warrant or decree;
- (e) ▶⁷the total amount◀ which the levying authority wishes to have deducted from income support ▶⁸, state pension credit◀ ▶³, jobseeker’s allowance or employment and support allowance◀.

(3) Where it appears to the Secretary of State that an application from a levying authority gives insufficient particulars to enable the debtor to be identified he may require the levying authority to furnish such further particulars as may reasonably be required.

(4)–(5) ▶⁵◀

▶⁹**Deductions from debtor’s income support ▶⁸, state pension credit◀ ▶¹⁰, jobseeker’s allowance or employment and support allowance◀.**

3.—(1) Subject to paragraph (4) and regulation 4, where the Secretary of State receives an application from a levying authority in respect of a debtor who is entitled to income support ▶⁸, state pension credit◀ ▶¹⁰, income-based jobseeker’s allowance or income-related employment and support allowance◀ and the amount payable by way of that benefit, after any deduction under this paragraph, is 10 pence or more, the Secretary of State may deduct a sum from that benefit which is equal to 5 per cent, of the personal allowance—

- (a) for a couple where—
 - (i) a summary warrant or decree is made; and
 - (ii) that benefit is payable.

¹Defn. of “tribunal” substituted by para. 1(d) of Sch. 10 to S.I. 1999/3178 as from 29.11.99.

²Defn. of “unmarried couple” added to reg. 1(2) by reg. 2(2)(f) of S.I. 1990/113 as from 1.4.90.

³Defn. of “Welfare Reform Act” inserted in reg. 1(2), words in heading of reg. 2 & paras. (1) & (2)(e) substituted by regs. 34(2)(f) & (3)(a)-(c) of S.I. 2008/1879 as from 27.10.08.

⁴Heading of reg. 2 substituted by reg. 3(1) of S.I. 1996/2344 as from 7.10.96.

⁵Words substituted in heading to reg. 2(1) & paras. (4) and (5) of reg. 2 omitted by para. 2(1) & (2) to Sch. 10 to S.I. 1999/3178 as from 29.11.99.

⁶Words inserted in heading to reg. 2 by reg. 34(3) of S.I. 2002/3019 as from 6.10.03.

⁷Words inserted in reg. 2(1) by reg. 3(2) of S.I. 1990/113 as from 1.4.90.

⁸Words inserted in reg. 2(1), 2(2)(e) & heading & para. 1 to reg. 3 by reg. 34(3) & (4) of S.I. 2002/3019 as from 6.10.03.

⁹Reg. 3 substituted for reg. 2A and 3 by para. 3 of Sch. 10 to S.I. 1999/3178 as from 29.11.99.

¹⁰Words in heading to reg. 3 & para. (1) substituted by regs. 34(4)(a) & (b) of S.I. 2008/1879 as from 27.10.08.

Regs. 3-4

in respect of both members of a couple both of whom are aged not less than 18; and

(b) in any other case, for a single claimant aged not less than 25,

and pay that sum to the levying authority towards satisfaction of any outstanding sum which is or forms part of the amount in respect of which the summary warrant or decree was granted.

(2) Subject to paragraph (3) and regulation 4, where—

(a) the Secretary of State receives an application from a levying authority in respect of a debtor who is entitled to contribution-based jobseeker's allowance ►¹or contributory employment and support allowance◄; and

►¹(b) the amount payable, before any deductions under this paragraph, of—

(i) contribution-based jobseeker's allowance is equal to or more than one-third of the age-related amount applicable to the debtor under section 4(1)(a) of the Jobseekers Act; or

(ii) contributory employment and support allowance is equal to or more than one-third of the amount applicable to the debtor under section 2(1)(a) of the Welfare Reform Act,

as the case may be,◄

¹Words inserted in regs. 3(2)(a), 4(1)(a) & reg. 3(2)(b) substituted by reg. 34(4) & (5)(a) of S.I. 2008/1879 as from 27.10.08.

the Secretary of State may deduct a sum from that benefit which is equal to one-third of the age-related amount applicable to the debtor under section 4(1)(a) of the Jobseekers Act ►¹or under section 2(1)(a) of the Welfare Reform Act◄ and pay that sum to the levying authority towards satisfaction of any outstanding sum which is or forms part of the amount in respect of which the summary warrant or decree was granted.

(3) Where the sum that would otherwise fall to be deducted under paragraph (2) includes a fraction of a penny, the sum to be deducted shall be rounded down to the next whole penny.

(4) Before making a deduction under paragraph (1) the Secretary of State shall make any deduction which falls to be made in respect of a liability mentioned in any of the following provisions of the Social Security (Claims and Payments) Regulations 1987—

(a) regulation 34A(a) (mortgage interest);

(b) paragraph 3(b) (housing costs) of Schedule 9;

(c) paragraph 5(c) (rent and certain service charges for fuel) of Schedule 9;

(d) paragraph 6(d) (fuel costs) of Schedule 9.

(5) Subject to regulations 5 and 6, a decision of the Secretary of State under this regulation shall be final.

(6) The Secretary of State shall notify the debtor in writing of a decision to make a deduction under this regulation as soon as is practicable and at the same time shall notify the debtor of his right of appeal.◄

Circumstances, time of making and termination of deductions

4.—►²(1) The Secretary of State—

(a) shall make deductions under regulation 3 only where the debtor is entitled to income support ►³, state pension credit◄ ►¹, jobseeker's allowance or employment and support allowance◄ throughout any benefit week; and

(b) shall not determine any application under regulation 2 which relates to a debtor in respect of whom—

(a) Regulation 34A was inserted by S.I. 1992/1026.

(b) Paragraph 3 was amended by S.I. 1992/1026 and 2595, 1995/1613 and 2927 and 1996/1460.

(c) Paragraph 5 was amended by S.I. 1991/2284, 1992/2595 and 1996/1460.

(d) Paragraph 6 was amended by S.I. 1991/2284, 1992/2595, 1994/2319 and 1996/1460.

²Reg. 4(1) substituted by para. 4 of Sch. 10 to S.I. 1999/3178 as from 29.11.99.

³Words inserted in paras. (1)(a) & (2), (2)(b) & (c) of reg. 4 by reg. 34(5) of S.I. 2002/3019 as from 6.10.03.

- (i) he is making deductions; or
(ii) deductions fall to be made,
pursuant to an earlier application under regulation 3 until no deductions
pursuant to that earlier application fall to be made.◀

(2) The Secretary of State shall make deductions from income support ▶¹, state pension credit◀ ▶², jobseekers's allowance or employment and support allowance◀ ▶³◀ at a time which corresponds to the payment of income support ▶¹, state pension credit◀ ▶², jobseekers's allowance or employment and support allowance◀ to the debtor(a) and he shall cease making deductions when—

- (a) a payment to a third party has priority;
(b) there is insufficient entitlement to income support ▶¹, state pension credit◀ ▶², jobseekers's allowance or employment and support allowance◀ to enable him to make the deduction;
(c) entitlement to income support ▶¹, state pension credit◀ ▶², jobseekers's allowance or employment and support allowance◀ ceases;
(d) the summary warrant ceases to have effect or the decree is rescinded; ▶¹◀
▶³(dd) a levying authority withdraws its application for deductions to be made; or◀
(e) the debt is discharged.

(3) Payments shall be made to the levying authority at such intervals as the Secretary of State may decide.

▶⁴Revision and supersession

5. Any decision of the Secretary of State under regulation 3 may be revised under section 9 of the 1998 Act or superseded under section 10 of that Act as though the decision were made under section 8(1)(c) of that Act.

Appeal

6. Any decision of the Secretary of State under regulation 3 (whether as originally made or as revised under regulation 5) may be appealed to a tribunal as though the decision were made on an award of a relevant benefit (within the meaning of section 8(3) of the 1998 Act) under section 8(1)(c) of the 1998 Act.◀

7.–11. ▶⁵◀

Signed by authority of the Secretary of State for Social Security.

Nicholas Scott
Minister of State,
Department of Social Security

15th March 1989

Schs. 1 & 2 ▶⁵◀

¹Words inserted in paras. (2), (2)(b) & (c) of reg. 4 by reg. 34(5) of S.I. 2002/3019 as from 6.10.03.

²Words substituted in reg. 4(2) by reg. (5)(b) of S.I. 2008/1879 as from 27.10.08.

³Words deleted in reg. 4(2), (2)(d) & reg. 4(2)(dd) inserted by reg. 4(b)(i)-(iii) of S.I. 1990/113 as from 1.4.90.

⁴Regs. 5 and 6 substituted by para. 5 of Sch. 10 to S.I. 1999/3178 as from 29.11.99.

⁵Regs. 7 to 11 and Schs. 1 and 2 revoked by para. 6 of Sch. 10 to S.I. 1999/3178 as from 29.11.99.

(a) See Schedule 7 to S.I. 1987/1968.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for deductions to be made from income support towards discharging a debt in respect of community charges where a levying authority (that is the appropriate local authority) has obtained a summary warrant or decree against a person (the debtor).

The Regulations further provide that where the Secretary of State receives a notice from a levying authority asking him to deduct amounts payable by way of income support, he shall refer the matter to an adjudication officer for the determination of the questions as to whether there is enough income support to make such deduction and in the case where other deductions are being made from income support the priority of the community charges debt in relation to those (regulation 2). Payment to the levying authority is to be at such intervals as the Secretary of State may decide.

Provision is also made for appeals by the debtor from the decision of the adjudication officer to a Social Security Appeal Tribunal and for further appeal from that by the debtor and the adjudication officer to the Social Security Commissioners and from there by the debtor, adjudication officer and Secretary of State to the Court of Session.

Incidental provision is made for setting aside decisions, correction of decisions, withdrawal of applications and time limits for making appeals and applications, service of notices and to enable nominated officer to act instead of a Commissioner in certain procedural matters.