

1990 No. 545

COMMUNITY CHARGES, ENGLAND AND WALES

Community Charges (Deductions from Income Support) (No. 2) Regulations 1990

Made - - - -	8th March 1990
Laid before Parliament	9th March 1990
Coming into force -	1st April 1990

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 sections 22(3) and 146(6) of, and paragraph 6 of Schedule 4 to, the Local Government Finance Act 1988(a) 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(b), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Community Charges (Deductions from Income Support) (No. 2) Regulations 1990 and shall come into force on 1st April 1990.

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

“the 1975 Act” means the Social Security Act 1975(c);

“the 1986 Act” means the Social Security Act 1986(d);

▶◀;

“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 ▶Department for Education and Employment◀ which is normally open to the public for the receipt of claims for ▶jobseeker’s allowance and income support◀;

▶“Commissioner” means the Chief or any other Social Security Commissioner appointed in accordance with section 14(12) of, and Schedule 4 to, the Social Security Act 1998 and includes a Tribunal of Commissioners constituted in accordance with section 16(7) of that Act;◀

(a) Defn. of “adjudication officer” omitted and defn. of “Commissioner” substituted by para 1(a) and (b) of Sch. 6 to S.I. 1999/2860 as from 18.10.99.
Words substituted by reg. 6(a) of S.I. 1996/2344 from 7.10.96.
See note (a) above.

(a) 1988 c. 41. Section 146(6) is cited for the meaning it ascribes to “Prescribed”.

(b) 1971 c. 62.

(c) 1975 c. 14.

(d) 1986 c. 50.

(e) 1980 c. 30.

Regs. 1

Defn. of “contribution-based jobseeker’s allowance” inserted by reg 3(1) of S.I. 1998/563 as from 1.4.98.

Defn. of “income-based jobseeker’s allowance” inserted by reg. 3(1) of S.I. 1998/563 as from 1.4.98.

Words inserted by reg. 6(b) of S.I. 1996/2344 from 7.10.96.

Defns of “Jobseekers Act” and “jobseekers allowance” inserted by reg. 6(c) of S.I. 1996/2344 from 7.10.96

Defn. of “tribunal” substituted by para 1(c) of Sch. 6 to S.I. 1999/2860 as from 18.10.99.

► “contribution-based jobseeker’s allowance”, except in a case to which paragraph (b) of the definition of income-based jobseeker’s allowance applies, means a contribution-based jobseeker’s allowance under Part I of the Jobseekers Act 1995(a), but does not include any back to work bonus under section 26 of the Jobseekers Act which is paid as jobseeker’s allowance;◄

“couple” means a married or unmarried couple;

“debtor” means a person against whom a liability order has been made;

“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;

► “income-based jobseeker’s allowance” means—

(a) an income-based jobseeker’s allowance under Part I of the Jobseekers Act 1995; and

(b) in a case where, if there was no entitlement to contribution-based jobseeker’s allowance, there would be entitlement to income-based jobseeker’s allowance at the same rate, contribution-based jobseeker’s allowance,

but does not include any back to work bonus under section 26 of the Jobseekers Act which is paid as jobseeker’s allowance;◄

“income support” means income support within the meaning of the 1986 Act ► but does not include any back to work bonus under section 26 of the Jobseekers Act which is paid as income support;◄

► “Jobseekers Act” means the Jobseekers Act 1995(a);

“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;◄

“liability order” means an order under regulation 29 of the Community Charges (Administration and Enforcement) Regulations 1989(b);

“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);

“polygamous marriage” means a marriage to which section 22B of the Social Security Act 1986 refers(d);

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

► “tribunal”, means an appeal tribunal constituted under Chapter I of Part I of the Social Security Act 1998; and◄

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

(3) 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.

(a) 1995 c. 18

(b) S.I. 1989/438.

(c) S.I. 1987/1968, amended by S.I. 1988/522, 1725, 1989/136 and 1689.

(d) Section 22B was inserted into the Social Security Act 1986 by the Local Government Finance Act 1988 (c. 41), Schedule 10, paragraph 5 and was amended by the Social Security Act 1989 (c. 24), Schedule 8, paragraph 9(3).

►Deductions from income support or jobseeker's allowance◄

2.—(1) Where a debtor is entitled to income support ►or jobseeker's allowance◄, an authority may apply to the Secretary of State by sending an application in respect of the debtor or, where a liability order is made against a couple, in respect of both of the couple, to an appropriate social security office asking the Secretary of State to deduct sums from any amount payable to the debtor, or as the case may be either of the couple by way of income support ►or jobseeker's allowance ◄.

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

- (a) the name and address of the debtor or where the liability order is made against a couple, the names and address of both of them;
- (b) the name and place of the court which made the liability order;
- (c) the date when the liability order was made;
- (d) the total amount of the arrears specified in the liability order;
- (e) the total amount which the authority wishes to have deducted from income support ►or jobseeker's allowance ◄.

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

(4) Subject to paragraph (5), where the Secretary of State receives an application from an authority, he shall ►◄ determine the following questions—

- (a) whether there is sufficient entitlement to income support ► or income-based jobseeker's allowance◄ to enable ►him◄ to make any deduction—
 - (i) where a liability order is made against a single debtor, or a debtor who is a member of a couple, or a member of a polygamous marriage, at a rate of 5 per cent. of the personal allowance set out in Schedule 2 to the Income Support (General) Regulations 1987(a), ►paragraph 1(1)(e)◄ ►or, as the case may be, paragraph 1(1)(e) of Schedule 1 to the Jobseeker's Allowance Regulations 1996(b) ◄ (single claimant aged not less than 25); or
 - (ii) where a liability order is made against a couple and income support ►or income based jobseeker's allowance◄ is payable in respect of both of them, at a rate of 5 per cent. of the personal allowance set out in Schedule 2 to the Income Support (General) Regulations 1987, paragraph 1(3)(c) ►or, as the case may be, paragraph 1(3)(e) of Schedule 1 to the Jobseeker's Allowance Regulations 1996 ◄ (couple where both members are aged not less than 18),

and, if the amount payable by way of income support ►or income-based jobseeker's allowance ◄ to the debtor were to be 10 pence or more after any such deduction, the ►Secretary of State◄ shall determine that there is sufficient entitlement;

- (aa) ►whether there is sufficient entitlement to contribution-based jobseeker's allowance to enable ►him◄ to make any deduction, and for this purpose ►he◄ shall determine that there is sufficient entitlement if the amount of contribution-based jobseeker's allowance payable before any deduction under these regulations 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;◄
- (b) the priority of any sum to be deducted as against any payments to third parties where there is insufficient entitlement to income support ►or jobseeker's allowance◄ to meet both the deduction in respect of arrears of community charges and those payments to third parties, and the following priorities shall apply—
 - (zi) any liability mentioned in regulation 34A of the Social Security (Claims and Payments) Regulations 1987 (mortgage interest);◄
 - (i) any liability mentioned in paragraph 3 of Schedule 9 (housing

Words substituted by reg. 7(1) of S.I. 1996/2344 from 7.10.96.

Words inserted by reg. 7(3) of S.I. 1996/2344 from 7.10.96.

Words inserted by reg. 7(4) of S.I. 1996/2344 from 7.10.96.

(a) Words omitted and substituted in reg. 2(4), (4)(a) and (aa) by para. 2(a)(i), (ii) and (iii) of Sch. 6 to S.I. 1999/2860 as from 18.10.99.

(b) Words inserted by reg. 7(5)(a)(i) and (ii) of S.I. 1996/2344 from 7.10.96.

See note (a) above. Words substituted in reg. 2(4)(a)(i) by reg. 5(a) of S.I. 1993/2113 as from 27.9.93.

See note (b) above.

See note (a) above.

Reg. 2(4)(aa) inserted by reg. 7(5)(b) of S.I. 1996/2344 from 7.10.96.

See note (b) above.

Words added by reg. 7(5)(b) of S.I. 1996/2344 from 7.10.96.

Head (zi) of reg. 2(4)(b) inserted by reg. 7 of S.I. 1992/1026 as from 25.5.92 (or later—see reg. 1(4) *ibid.*).

(a) S.I. 1987/1967, to which the relevant amendment is S.I. 1988/1228.

(b) S.I. 1996/207.

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costs) to the Social Security (Claims and Payments) Regulations 1987;

- (ii) any liability mentioned in paragraph 5 of Schedule 9 (service charges for fuel, and rent not falling within paragraph 2(1)(a)) to those Regulations;
- (iii) any liability mentioned in paragraph 6 of Schedule 9 (fuel costs) to those Regulations;
- (iv) any liability mentioned in paragraph 7 of Schedule 9 (water charges) to those Regulations;
- (v) any liability for arrears in respect of community charges,

(a) Words substituted in reg. 2(4)(b), (5) and (6) by para. 2(a)(iv), (b) and (c) of Sch. 5 to S.I. 1999/2860 as from 18.10.99.

Words inserted in reg. 2(5) by reg. 5(b) of S.I. 1993/2113 as from 27.9.93.

See note (a) above.

and the ►Secretary of State◄ shall determine these questions so far as is practical within 14 days of receipt of the reference.

(5) Where at the time the Secretary of State is making deductions in respect of an application from an authority he receives one or more further applications ►or one or more applications under regulation 2 of the Council Tax (Deductions from Income Support) Regulations 1993◄ from an authority in respect of the person from whom the deductions are being made, he shall ►determine those further applications◄ in accordance with the following order of priority, namely, the one bearing the earliest date shall be referred first and each subsequent application shall be referred, one at a time and in date order, only after deductions under any earlier application have ceased.

(6) Subject to any right of appeal ►, revision or supersession◄ under these Regulations, the ►Secretary of State◄ decision of the shall be final.

Reg. 2A inserted by reg. 8 of S.I. 1996/2344 from 7.10.96.

Words substituted in reg. 2A by para. 3 of Sch. 6 to S.I. 1999/2860 as from 18.10.99.

►Deductions from debtor's jobseeker's allowance

2A.—(1) Where the ►Secretary of State◄ has determined that there is sufficient entitlement to income-based jobseeker's allowance, ►he◄ may deduct—

- (a) in a case to which regulation 2(4)(a)(i) applies, a sum equal to 5 per cent. of the personal allowance for a single claimant aged not less than 25; or
- (b) in a case to which regulation 2(4)(a)(ii) applies, and subject to paragraph (4), a sum equal to 5 per cent. of the personal allowance for a couple where both members are aged not less than 18,

and pay that sum to the authority towards satisfaction of any outstanding sum which is or forms part of the amount in respect of which the liability order was made.

(2) Subject to paragraph (3), where the ►Secretary of State◄ has determined that there is sufficient entitlement to contribution-based jobseeker's allowance, ►he◄ may deduct a sum equal to one-third of the age-related amount applicable to the debtor under section 4(1)(a) of the Jobseekers Act, and pay that sum to the authority towards satisfaction of any outstanding sum which is or forms part of the amount in respect of which the liability order was made.

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

(4) In a case to which paragraphs (1)(b) and (2) apply, deductions shall be made in accordance with paragraph (2).◄

Notification of decision

3. The Secretary of State shall notify the debtor in writing of ►his◄ decision as soon as is practicable ►◄ and at the same time he shall notify the debtor of his right of appeal.

Words substituted and deleted in reg. 3 by para. 4 of Sch. 6 to S.I. 1999/2860 as from 18.10.99.

Circumstances, time of making and termination of deductions

4.—(1) The Secretary of State shall make deductions from income support ► or jobseeker's allowance ◀ only—

Words inserted by reg. 9 of S.I. 1996/2344 from 7.10.96.

- (a) where the debtor is entitled to income support ► or jobseeker's allowance ◀ throughout any benefit week and the amount to which he is entitled is sufficient to enable him to make the deductions; and
- (b) in respect of one application at a time.

(2) The Secretary of State shall make deductions from income support ► or jobseeker's allowance ◀ at a time which corresponds to the payment of income support ► or jobseeker's 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 ► or jobseeker's allowance ◀ to enable him to make the deduction;
- (c) entitlement to income support ► or jobseeker's allowance ◀ ceases;
- (d) an authority withdraws its application for deductions to be made; or
- (e) the debt in respect of which he was making the deductions is discharged.

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

[The remaining provisions of this S.I., dealing with adjudication through the social security adjudication system, are reproduced in volume 6.]

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

