

1989 No. 507 (S.59)

COMMUNITY CHARGES, SCOTLAND

WATER SUPPLY, SCOTLAND

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

<i>Made</i> - - - -	<i>15th March 1989</i>
<i>Laid before Parliament</i>	<i>17th March 1989</i>
<i>Coming into force</i> -	<i>8th April 1989</i>

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—

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

►“the 1986 Act” means the Social Security Act 1986(f); ◀

“adjudication officer” means an officer appointed in accordance with section 97(1) of the 1975 Act;

“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 97(3) of the 1975 Act or section

Defn. added to reg. 1(2) by reg. 2(2)(a) of S.I. 1990/113 as from 1.4.90.

Words added to defn. of “appropriate social security office” by reg.2(a) of S.I. 1996/2344 from 7.10.96.

(a) 1987 c.47; paragraph 7A was inserted by the Local Government Finance Act 1988 (c.41), Schedule 12, paragraph 36(10).

(b) Paragraph 11 was amended by the Local Government Finance Act 1988, Schedule 12, paragraph 38.

(c) S.I. 1988/1538.

(d) 1971 c.62.

(e) 1975 c.14.

(f) 1986 c.50.

Regs. 1-2

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

Words deleted from defn. of "debtor" in reg. 1(2) by reg. 2(2)(b) of S.I. 1990/113 as from 1.4.90.

Defn. of "income-based jobseekers allowance" inserted by reg. 3(1) of S.I. 1998/563 as from 1.4.98.

Words inserted in defn. of "income support" by reg. 2(b) of S.I. 1996/2344 from 7.10.96.

Defn. of "Jobseekers Act" and "jobseeker's allowance" inserted by reg. 2(c) of S.I. 1996/2344 from 7.10.96.

Defn. of "married couple" inserted in reg. 1(2) by reg. 2(2)(c) of S.I. 1990/113 as from 1.4.90.

Defn. of "personal allowance for a couple where both members are aged not less than 18" and "personal allowance for a single claimant aged not less than 25" inserted by reg. 2(d) of S.I. 1996/2344 from 7.10.96.

Defn. of "polygamous marriage" inserted in reg. 1(2) by reg. 2(2)(d) of S.I. 1990/113 as from 1.4.90.

Words substituted in defn. of "tribunal" in reg. 1(2) by reg. 2(2)(e) of S.I. 1990/113 as from 1.4.90.

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

13(5) of the Social Security Act 1980(a), and includes a Tribunal of 3 Commissioners constituted in accordance with section 116 of the 1975 Act;

► "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(b), 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 summary warrant or decree has been obtained;

"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 Social Security Act 1986 ► but does not include any back to work bonus under section 26 of the Jobseekers Act which is paid as income support; ◀(e);

► "Jobseekers Act" means the Jobseekers Act 1995(d);

"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 ◀

► "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(e);

► "personal allowance for a couple where both members are aged not less than 18" means the amount specified in paragraph 1(3)(c) of Schedule 2 to the Income Support Regulations 1987(f), or, as the case may be, the amount specified in paragraph 1(3)(e) of Schedule 1 to the Jobseeker's Allowance Regulations 1996(g);

"personal allowance for a single claimant aged not less than 25" means the amount specified in paragraph 1(1)(e) of Schedule 2 to the Income Support Regulations 1987, or, as the case may be, the amount specified in paragraph 1(1)(e) of Schedule 1 to the Jobseeker's Allowance Regulations 1996; ◀

► "polygamous marriage" means a marriage to which section 22B of the 1986 Act refers(h);

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

"tribunal" means a social security appeal tribunal constituted in accordance with section 97(2) to (2E) ► of the 1975 Act;(i) and ◀

► "unmarried couple" has the meaning ascribed to it in section 20(11) of the 1986 Act ◀

(a) 1980 c.30.

(b) 1995 c.18.

(c) 1986 c.50.

(d) 1995 c.18.

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

(f) S.I. 1987/1967.

(g) S.I. 1996/207.

(h) 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).

(i) Sub-sections 97(2) to (2E) of the 1975 Act were substituted for sub-section 97(2) by the Health and Social Services and Social Security Adjudications Act 1983 (c.41), Schedule 8, paragraph 2 and sub-section 97(2A) was substituted for sub-sections 97(2A) and (2B) by the Health and Social Security Act 1984 (c.48), section 16(a).

(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.

Deductions from income support ► or jobseeker's 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 ► by 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 ► or jobseeker's allowance. ◀

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

- (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) ►the total amount◀ which the levying 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 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) Subject to regulation 4(1), where the Secretary of State receives an application from a levying authority, he shall refer it to an adjudication officer who shall determine, so far as is practicable within 14 days of its submission to him, the following questions—

- (a) whether there is sufficient entitlement to income support ► or income-based jobseeker's allowance ◀ so as to enable the Secretary of State to make any deduction—
 - (i) ► where a summary warrant or decree is made in respect◀ of 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 for a single claimant aged not less than 25(a); or
 - (ii) ► ◀ where the decree or summary warrant ► is granted 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 for a couple where both members are aged not less than 18(b).

and if the amount payable by way of income support to the debtor were to be 10 pence or more after any such deduction, the adjudication officer shall determine that there is sufficient entitlement;
- (aa) whether there is sufficient entitlement to contribution-based jobseeker's allowance to enable the Secretary of State to make any deduction, and for this purpose the adjudication officer 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

Words added by reg. 3(1) of S.I. 1996/2344 from 7.10.96.

Words inserted in reg. 2(1) by reg. 3(2) of S.I. 1990/113 as from 1.4.90. Words added by reg. 3(3) of S.I. 1996/2344 from 7.10.96.

Sub-para.(a) of reg. 2(2) substituted by reg. 3(3)(a) of S.I. 1990/113 as from 1.4.90.

Words substituted in reg. 2(2)(e) by reg. 3(3)(b) of S.I. 1990/113 as from 1.4.90.

Words added by reg. 3(4) of S.I. 1996/2344 from 7.10.96.

Words inserted by reg. 3(5)(a) of S.I. 1996/2344 from 7.10.96.

Words substituted and words inserted in reg. 2(4)(a)(i) by reg. 3(4)(a) of S.I. 1990/113 as from 1.4.90.

Words deleted and words substituted in reg. 2(4)(a)(ii) by reg. 3(4)(b) of S.I. 1990/113 from 1.4.90.

Words inserted by reg. 3(5)(a) of S.I. 1996/2344 from 7.10.96.

Reg 2(4)(aa) inserted by reg. 3(5)(b) of S.I. 1996/2344 from 7.10.96.

Words inserted by reg. 3(5)(c) of S.I. 1996/2344 from 7.10.96.

(a) See Schedule 2 to S.I. 1987/1967, paragraph 1(1)(c).
 (b) See Schedule 2 to S.I. 1987/1967, paragraph 1(3)(c).

Regs. 2-4

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*).

Words inserted in reg. 2(4)(b)(iii) by reg. 3(4)(c) of S.I. 1990/113 as from 1.4.90.

Reg. 2A inserted by reg. 4 of S.I. 1996/2344 from 7.10.96.

- charges and those payments to third parties, 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 (housing costs) of Schedule 9 to the Social Security (Claims and Payments) Regulations 1987;
 - (ii) any liability mentioned in paragraph 5 (certain service charges for fuel, and rent) of Schedule 9 to those regulations;
 - (iii) any liability mentioned in paragraph 6 ▶(fuel costs)◀ of Schedule 9 to those regulations;
 - (iv) any liability for arrears in respect of community charges.

(5) Subject to any right of appeal or review under these regulations, the decision of the adjudication officer shall be final.

▶ Deductions from debtor's jobseeker's allowance

2A.—(1) Where the adjudication officer has determined that there is sufficient entitlement to income-based jobseeker's allowance, the Secretary of State 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 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), where the adjudication officer has determined that there is sufficient entitlement to contribution-based jobseeker's allowance, the Secretary of State 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 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) 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 the adjudication officer's decision as soon as practicable after he receives that decision and at the same time he shall notify the debtor of his right of appeal.

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—

- (a) where the debtor is entitled to income support ▶ or jobseeker's allowance◀ throughout any benefit week; and
- (b) in respect of one application (the original application) at a time, and where, at the time he is making deductions under the original application, the Secretary of State receives one or more applications under regulation 2(1) ▶ or regulation 2 of the Council Tax (Deductions from Income Support) Regulations 1993◀, he shall not refer them to the adjudication officer until he has ceased making deductions under the original application when he shall forthwith refer the applications to the adjudication officer in the chronological order in which they were

Words in reg. 4(1) and (1)(a) inserted by reg. 5 of S.I. 1996/2344 from 7.10.96.

Words deleted in reg. 4(1) by reg. 4(a) of S.I. 1990/113 as from 1.4.90.

Words inserted in reg. 4(1)(b) by reg. 4 of S.I. 1993/2113 as from 27.9.93.

made.

(2) The Secretary of State shall make deductions from income support ►◄ at a time which corresponds to the payment of income support to the debtor(a) and he shall cease making deductions when-

Words deleted in reg. 4(2) by reg. 4(b)(i) of S.I. 1990/113 as from 1.4.90.

- (a) a payment to a third party has priority;
- (b) there is insufficient entitlement to income support to enable him to make the deduction;
- (c) entitlement to income support ceases;
- (d) the summary warrant ceases to have effect or the decree is rescinded;
►◄
- (dd) a levying authority withdraws its application for deductions to be made;
or ◄
- (e) the debt is discharged.

Words "or" deleted from reg. 4(2)(d) and para. (dd) inserted by reg. 4(b)(ii) and (iii) of S.I. 1990/113 as from 1.4.90.

(3) Payments shall be made to the levying 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.

