

1990 No. 113 (S.9)

**COMMUNITY CHARGES, SCOTLAND  
WATER SUPPLY, SCOTLAND**

**Community Charges (Deductions from Income Support)  
(Scotland) (Amendment) Regulations 1990**

<i>Made</i> - - - -	<i>25th January 1990</i>
<i>Laid before Parliament</i>	<i>1st February 1990</i>
<i>Coming into force</i> -	<i>1st April 1990</i>

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) (Amendment) Regulations 1990 and shall come into force on 1st April 1990.

(2) In these Regulations “the principal regulations” means the Community Charges (Deductions from Income Support) (Scotland) Regulations 1989(e).

**Amendment of regulation 1**

2.—(1) Regulation 1 of the principal regulations (citation, commencement and interpretation) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (2)—

(a) after the definition “the 1975 Act” there shall be added the following definition—

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

(b) the words “who is in arrears in respect of community charges and” shall be omitted from the definition “debtor”;

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(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, which was amended by S.I. 1989/2362.  
(d) 1971 c.62.  
(e) S.I. 1989/507.  
(f) 1986 c.50.

- (c) after the definition "income support" there shall be inserted the following definition—  
     "“married couple” has the meaning ascribed to it in section 20(11) of the 1986 Act;”;
- (d) after the definition "payments to third parties" there shall be inserted the following definition—  
     "“polygamous marriage” means a marriage to which section 22B of the 1986 Act refers(a)”
- (e) for the words "of the 1975 Act." in the definition "tribunal" there shall be substituted the words "of the 1975 Act; and”; and
- (f) after the definition "tribunal" there shall be added the following definition—  
     "“unmarried couple” has the meaning ascribed to it in section 20(11) of the 1986 Act.”.

**Amendment of regulation 2**

3.—(1) Regulation 2 of the principal regulations (deductions from income support) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1) after the words "Secretary of State" there shall be inserted the words "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”.

(3) In paragraph (2)—

- (a) for sub-paragraph (a) there shall be substituted the following sub-paragraph—  
     “(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;”; and
- (b) in paragraph (e) for the words "the amount" there shall be substituted the words "the total amount”.

(4) In paragraph (4)—

- (a) in sub-paragraph (a)(i)—
  - (i) for the words "in the case" there shall be substituted the words "where a summary warrant or decree is made in respect”; and
  - (ii) after the words "who is a member of a couple" there shall be inserted the words "or a member of a polygamous marriage”;
- (b) in sub-paragraph (a)(ii)—
  - (i) the words "in a case" shall be omitted, and
  - (ii) for the word "names" there shall be substituted the words "is granted against”; and
- (c) in sub-paragraph (b)(iii) after the words "mentioned in paragraph 6" there shall be inserted the words "(fuel costs)”.

**Amendment of regulation 4**

4. In regulation 4 of the principal regulations (circumstances, time of making and termination of deductions)—

- (a) in paragraph (1) the words "in respect of community charges" shall be omitted; and
- (b) in paragraph (2)—
  - (i) the words "in respect of community charges" shall be omitted;
  - (ii) in sub-paragraph (d) the word "or" shall be omitted where it second occurs; and
  - (iii) after paragraph (d) shall be inserted the following paragraph—

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(a) 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).

“(dd) a levying authority withdraws its application for deductions to be made; or”.

#### **Amendment of regulation 5**

5.—(1) Regulation 5 of the principal regulations (appeal) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (3) after the words “any 3 of the Commissioners” shall be added the words “and, if the decision is not unanimous, the decision of the majority shall be the decision of the Tribunal”.

(3) After paragraph (4) shall be added the following paragraph—

“(5) No appeal lies to the Commissioner or Court of Session—

(a) in the case of an appeal to the Commissioner without the leave of the chairman of the tribunal, which decided the appeal or, where he refuses leave, the Commissioner;

(b) in the case of the Court of Session, without the leave of the Commissioner who decided the appeal or if he refuses leave, the Court of Session.”.

#### **Amendment of regulation 6**

6. In paragraph (5) of regulation 6 of the principal regulations (review)—

(a) for the word “given” there shall be substituted the words “by way of revision”; and

(b) the words “a decision” shall be omitted where they second occur.

#### **Amendment of regulation 8**

7.—(1) Regulation 8 of the principal regulations (setting aside on certain grounds) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1)—

(a) after the word “decision” where it first occurs there shall be inserted the words “(including an application for leave to appeal to a Commissioner or the Court of Session)”; and

(b) in sub-paragraph (a) after the word “person” there shall be inserted the words “or tribunal”.

(3) In paragraph (3) for the word “entertained” there shall be substituted the word “made”.

#### **Amendment of regulation 9**

8. In regulation 9(3) of the principal regulations (provisions common to regulation 7 and 8) for the words “any power” there shall be substituted the words “any inherent or other power”.

#### **Amendment of regulation 10**

9. In regulation 10(4) of the principal regulations (manner of making applications or appeals and time limits) after the words “an extension of time” there shall be inserted the words “(except where it is made to a Commissioner)”.

#### **Amendment of regulation 11**

10. In regulation 11(3) of the principal regulations (manner and time for the service of notices etc.)—

(a) in sub-paragraph (a) for the word “the” where it first occurs there shall be substituted the word “an”; and

(b) in sub-paragraph (b) for the word “the” there shall be substituted the word “an”.

## Amendment of Schedule 2

11.—(1) Schedule 2 to the principal regulations (conduct and procedure in relation to appeals and applications) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph 8 (oral hearings) the words “or give such directions with a view to the determination of the case as they think fit” shall be added at the end.

(3) In paragraph 13(1)(a) (oral hearings) after the words “the President of the Social Security Appeal Tribunals” there shall be added the words “and any regional or full-time chairman of appeal tribunals appointed under paragraph 1A of Schedule 10 to the 1975 Act(a)”.

(4) In paragraph 24 (written observations in reply) for “24” there shall be substituted “23”.

(5) In paragraph 25 (directions)—

(a) in sub-paragraph (3) for “(2)” there shall be substituted “(1)”; and

(b) after sub-paragraph (3) there shall be added the following paragraph—

“(4) An application under sub-paragraph (1) shall be made to a Commissioner in writing and shall set out the direction which the applicant is seeking to have made and the grounds for the application.”.

(6) In paragraph 27(3) (oral hearings)—

(a) in head (a) for the words “application, appeal or reference” there shall be substituted the words “application or appeal”;

(b) in head (c) the word “or” shall be omitted; and

(c) after head (c) shall be added the following paragraph—

“(cc) a representative of a trade union, employers’ association or other association which exists to promote the interests and welfare of its members; or”.

(7) After paragraph 28 (summoning of witnesses) shall be inserted the following paragraph—

### “Postponement and adjournment

28A. A Commissioner may of his own motion postpone an oral hearing or adjourn it at any time once it has begun.”.

(8) In paragraph 32 (general powers of a Commissioner)—

(a) in sub-paragraph (a) the word “or” shall be omitted; and

(b) after sub-paragraph (a) shall be added the following paragraph—

“(aa) except where regulation 10(3) applies, extend the time specified in these Regulations for doing any act, notwithstanding that the time specified may have expired; or”.

(9) In paragraph 33 (delegation of functions to nominated officers) in head (c) the words “and setting aside any witness summons made by a nominated officer” shall be added at the end.

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

*Gillian Shephard*  
Parliamentary Under-Secretary of State,  
Department of Social Security

25th January 1990

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(a) Paragraph 1A of Schedule 10 to the Social Security Act 1975 (c.14) was inserted by paragraph 8 of Schedule 8 to the Health and Social Services and Social Security Adjudications Act 1983 (c.41).

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Community Charges (Deductions from Income Support) (Scotland) Regulations 1989 ("the principal regulations") in the following respects—

1. Regulation 2 adds the definitions "married couple", "polygamous marriage" and "unmarried couple" to regulation 1 (interpretation) of the principal regulations;

2. Regulation 5 amends regulation 5 of the principal regulations which deals with appeals to make it clear that where a decision of a Tribunal of Commissioners is not unanimous, the decision shall be that of the majority and it allows for refusal of leave to be dealt with by the tribunal chairman or a Commissioner;

3. Regulation 10 amends Schedule 2, paragraph 13 of the principal regulations which is in that part which deals with oral hearings to provide for the attendance of a regional or full-time chairman of appeal tribunals at oral hearings of social security appeal tribunals as of right; amends paragraph 25 which deals with directions to provide that applications for directions from a Commissioner must be given in writing, stating the grounds for the application; allows a Commissioner of his own motion to postpone or adjourn an oral hearing and for nominated officers to set aside any witness summons made by a nominated officer.

The remaining amendments to the principal regulations are of a minor drafting nature or consequential to the amendments set out above.