

1990 No. 2475

COMMUNITY CHARGES, ENGLAND AND WALES

The Community Charges (Administration and Enforcement) (Amendment) (No. 3) Regulations 1990

<i>Made - - - -</i>	<i>6th December 1990</i>
<i>Laid before Parliament</i>	<i>10th December 1990</i>
<i>Coming into force</i>	<i>31st December 1990</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 upon them by sections 19, 40(4), (11A) and (12), 143(1) and (2) and 146(6) of the Local Government Finance Act 1988(a), 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) (No. 3) Regulations 1990 and shall come into force on 31st December 1990.

(2) In these Regulations “the principal Regulations” means the Community Charges (Administration and Enforcement) Regulations 1989(b).

Application of the Regulations

2. These Regulations apply in relation to financial years beginning on or after 1st April 1991.

Amendment of the principal Regulations

3. The principal Regulations are amended as provided in regulations 4 and 5.

4. For regulation 62 there is substituted the following regulation—

“Standard community charge multipliers

62.—(1) The following are classes of property prescribed for the purposes of section 40(4) of the Act for which the standard community charge multiplier may not exceed 0—

Class A: unoccupied property which requires or is undergoing structural repair works to render it habitable, and unoccupied property with respect to which less than 6 months have elapsed since the day on which such repair works were substantially completed;

(a) 1988 c.41. Schedule 5 to the Local Government and Housing Act 1989 (c.42) makes the following relevant amendments: paragraph 18(3) amends section 40(4), paragraph 18(4) inserts section 40(11A) and paragraph 18(5) amends section 40(12). (b) S.I.1989/438; a relevant amending instrument is S.I.1989/2274.

- Class B:** unoccupied property whose erection is not substantially completed, or which is in the course of structural alteration which has not been substantially completed, and unoccupied property if less than 6 months have elapsed since the day on which its erection or structural alteration was substantially completed;
- Class C:** unoccupied property with respect to which less than 6 months have elapsed since the relevant day;
- Class D:** unoccupied property where—
- (a) the person subject to the standard community charge arising by virtue of it is exempt from the personal community charge in consequence of the provisions of paragraph 1, 8 or 9 of Schedule 1 to the Act or article 2 of the Personal Community Charge (Exemptions) Order 1989(a); and
 - (b) the property was previously his sole or main residence, and for the whole of the period since it last ceased to be such he has been a relevant individual;
- Class E:** unoccupied property where the person subject to the standard community charge arising by virtue of it is subject to the charge in his capacity as personal representative, and with respect to which either no grant of probate or of letters of administration has been made, or less than 6 months have elapsed since the day on which a grant of probate or of letters of administration was made;
- Class F:** property whose occupation is prohibited by law, or which is kept unoccupied by reason of action taken by or on behalf of the Crown or any local or public authority with a view to prohibiting its occupation or to acquiring it;
- Class G:** unoccupied property which is held for the purpose of being available for occupation by a minister of religion as a residence from which to perform the duties of his office;
- Class H:** unoccupied property where—
- (a) the person subject to the standard community charge arising by virtue of the property is an individual who has his sole or main residence in another place which is not a hospital, residential care home, nursing home, mental nursing home or hostel within the meaning of paragraph 8 or 9 of Schedule 1 to the Act(b), and he is so resident there for the purpose of receiving personal care which he requires by reason of old age, disablement, illness, past or present alcohol or drug dependence or past or present mental disorder; and
 - (b) the property was previously his sole or main residence, and for the whole of the period since it last ceased to be such he has been a relevant individual;
- Class I:** unoccupied property where—
- (a) the person subject to the standard community charge arising by virtue of the property (“the chargeable person”) is an individual who has his sole or main residence in another place for the purpose of providing, or better providing, personal care for a person who requires such care by reason of old age, disablement, illness, past or present alcohol or drug dependence or past or present mental disorder; and
 - (b) the property was previously the sole or main residence of the chargeable person and for the whole of the period since it last ceased to be such he has had his sole or main residence in other places for the purpose mentioned in sub-paragraph (a) above;

(a) S.I. 1989/442. (b) The definition of “hostel”, and a substituted definition of “residential care home”, are provided in S.I. 1989/442, article 4.

Class J: unoccupied property where—

- (a) the person subject to the standard community charge arising by virtue of it is liable to pay an amount in respect of a personal community charge that is determined by reference to section 13 of the Act (relief for students); and
- (b) the property was previously his sole or main residence, and for the whole of the period since it last ceased to be such he has been a relevant individual;

Class K: unoccupied property in relation to which the person subject to the standard community charge arising by virtue of it is the mortgagor (or one of joint mortgagors) and the mortgagee is in possession under the mortgage;

Class L: unoccupied property which—

- (a) is situated within the same curtilage as a building or part of a building which, by reason of it being his sole or main residence, renders the person who is subject to the standard community charge arising by virtue of the unoccupied property subject also to a personal community charge; and
- (b) by reason of its situation in relation to the occupied building or part, is difficult to let separately from it.

(2) The following are classes of property prescribed for the purposes of section 40(4) of the Act for which the standard community charge multiplier may not exceed $\frac{1}{2}$ —

Class M: unoccupied property which does not fall into any of the foregoing classes and where the person subject to the standard community charge arising by virtue of it occupies another property which is for him job-related;

Class N: unoccupied property which does not fall into any of the foregoing classes and in relation to which a condition or limitation requiring (in whatever terms) occupation to be restricted to persons employed or engaged in agriculture has been imposed by virtue of section 70 of the Town and Country Planning Act 1990(a) or an agreement under section 106 of that Act.

(3) The following are classes of property prescribed for the purposes of section 40(4) of the Act for which the standard community charge multiplier may not exceed 1—

Class O: caravans which do not fall into any of the foregoing classes;

Class P: property which does not fall into any of the foregoing classes and which, in consequence of a condition or limitation imposed by virtue of section 70 of the Town and Country Planning Act 1990 or an agreement under section 106 of that Act, may not be occupied throughout the year;

Class Q: unoccupied domestic property which does not fall into any of the foregoing classes and which—

- (a) constitutes a self-contained part of a building of which the whole is not domestic property for the purposes of section 3 of the Act(b); and
- (b) by reason of its situation in relation to a part of the building that is not domestic property, is difficult to let separately from it;

Class R: unoccupied domestic property which does not fall into any of the foregoing classes and which—

- (a) constitutes a self-contained part of a building of which the whole is not domestic property for the purposes of section 3 of the Act; and
- (a) by virtue of a restriction contained in a tenancy agreement relating to the whole of the building made before, or entered into in pursuance of a contract entered into before, 31st January 1991, cannot be used for living accommodation.

(a) 1990 c.8. See also section 2 of the Planning (Consequential Provisions) Act 1990 (c.11) as to the construction of references to comparable provisions of the Town and Country Planning Act 1971 (c.78). (b) See section 4(4) and (6) of the Local Government Finance Act 1988. Section 4(4) was amended by S.I. 1990/162, article 2(2).

- (4) A person is a relevant individual at any time for the purposes of sub-paragraph (b) of the prescription of classes D and H if—
- (a) he is exempt at the time from the personal community charge in consequence of the provisions of paragraph 1, 8 or 9 of Schedule 1 to the Act or article 2 of the Personal Community Charge (Exemptions) Order 1989 (or, as regards periods before persons could become subject to a personal community charge, would have been so exempt if such charges, those provisions and the provisions of article 4 of that Order had then been in effect), or
 - (b) he has his sole or main residence at the time in such other place as is mentioned in sub-paragraph (a) of the prescription of Class H for the purpose of receiving personal care which he requires by reason of the matters so mentioned.
- (5) A person is a relevant individual at any time for the purposes of sub-paragraph (b) of the prescription of Class J if he is liable at the time to pay an amount in respect of a personal community charge that is determined by reference to section 13 of the Act (or, as regards periods before persons could become subject to a personal community charge, would have been liable to pay an amount so determined if such charges, that section and the Personal Community Charge (Students) Regulations 1989(a) had then been in effect and the requirements mentioned in subsection (l) of that section would have been satisfied in relation to him).
- (6) References in this regulation to property are, except where the context otherwise requires, references to the building, self-contained part of a building or caravan in respect of which the standard community charge arises.
- (7) Subject to paragraphs (8) and (9), property is job-related for a person if—
- (a) it is provided for him by reason of his employment or for his spouse by reason of her employment, in any of the following cases—
 - (i) where it is necessary for the proper performance of the duties of the employment that the employee should reside in that property;
 - (ii) where the property is provided for the better performance of the duties of the employment, and it is one of the kinds of employment in the case of which it is customary for employers to provide property for employees;
 - (iii) where, there being a special threat to the employee's security, special security arrangements are in force and the employee resides in the property as part of those arrangements;
 - (b) under a contract entered into at arm's length and requiring him or his spouse to carry on a particular trade, profession or vocation, he or his spouse is bound—
 - (i) to carry on that trade, profession or vocation in property provided by another person (whether under a tenancy or otherwise); and
 - (ii) to live either in that property or in other property provided by that other person.
- (8) If the property is provided by a company and the employee is a director of that or an associated company, paragraph (7)(a)(i) or (ii) shall not apply unless either—
- (a) the employment is as a full-time working director, or
 - (b) the company is non-profit making, that is to say, it does not carry on a trade nor do its functions consist wholly or mainly in the holding of investments or other property, or
 - (c) the company is established for charitable purposes only.
- (9) Paragraph (7)(b) does not apply if the property concerned is in whole or in part provided by any other person or persons together with whom the person or spouse carries on a trade or business in partnership.

(a) S.I. 1989/443, amended by S.I. 1989/2274 and 1990/1986.

(10) In this regulation—

- (a) a company is an associated company of another if one of them has control of the other or both are under the control of the same person;
- (b) “director”, “full-time working director” and “control”, in relation to a body corporate, have the same meanings as they have in section 168(8) to (10) and (12) of the Income and Corporation Taxes Act 1988(a); and
- (c) references to the spouse of a person shall be taken to include references to a person of the opposite sex who is living with the other as that person’s husband or wife.

(11) Property is unoccupied at any time—

- (a) for the purposes of classes D to I, K to M and Q and R, if at the time no one lives there;
- (b) for the purposes of classes A to C and N, if at the time no one lives there and the property is substantially unfurnished;
- (c) for the purposes of Class J, if at the time—
 - (i) no one lives there; or
 - (ii) it is occupied only by the person who is subject to the standard community charge arising by virtue of it.

(12) In this regulation “the relevant day” with respect to unoccupied property means the day on which the property concerned was last occupied (which is to be determined by reference to paragraph (11)(b)), save that where property which was unoccupied becomes occupied on any day and becomes unoccupied again at the expiry of a period of less than 6 weeks beginning with that day, for the purpose of determining the relevant day (and only for that purpose) the property shall be treated as having remained unoccupied during that period.”.

5. In regulation 59 (co-owners) of the principal Regulations, paragraph (5) is amended—

- (a) by the substitution for the words “mentioned in Class D, FB or FC” of the words “mentioned in Class D, H or I”; and
- (b) by the substitution for the words “prescription of class D, FB or FC” of the words “prescription of Class D, H or I”.

6th December 1990

Michael Heseltine
Secretary of State for the Environment

6th December 1990

David Hunt
Secretary of State for Wales

(a) 1988 c. 1.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend regulation 59(5) and consolidate, incorporating further amendments, regulation 62 of the Community Charges (Administration and Enforcement) Regulations 1989. They have effect in relation to financial years beginning on or after 1st April 1991.

The effect of the amendments to regulation 62 is to extend the cases where charging authorities must set a standard community charge multiplier of 0, to introduce circumstances in which charging authorities must set a multiplier no greater than $\frac{1}{2}$ and to extend the cases where charging authorities must set a multiplier no greater than 1. In relation to two other classes of case, the period within which no standard community charge is payable is extended from three to six months. In relation to three other classes of case, a 12 month time limit is removed.

The new cases where a multiplier of 0 must be set relate to unoccupied property where the person subject to the standard community charge is exempt from the personal community charge because he is in detention or pays a reduced personal community charge because he is a student; where the property has been vacated by the mortgagor in favour of the mortgagee who is in possession under the mortgage; and where the property is within the same curtilage as an occupied property and is difficult to let on that account.

The new cases where the multiplier may not exceed $\frac{1}{2}$ relate to unoccupied property where the person who is subject to the standard charge occupies other accommodation which is related to his job and to unoccupied property which is subject to a restriction permitting occupation only by persons employed or engaged in agriculture.

The new cases where the multiplier may not exceed 1 relate to unoccupied domestic property which forms part of a larger property of which part is in non-domestic use and the domestic property is difficult to let because of its situation in relation to the non-domestic part or cannot be let because of a prohibition imposed before 31st January 1991.

Regulation 59, which relates to co-owners, is amended as a consequence of the amendments to regulation 62.

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