

1990 No. 421 (S.48)

COMMUNITY CHARGES, SCOTLAND

**The Personal Community Charge (Relief) (Scotland)
Regulations 1990**

<i>Made</i> - - - -	<i>2nd March 1990</i>
<i>Laid before Parliament</i>	<i>7th March 1990</i>
<i>Coming into force</i>	<i>28th March 1990</i>

The Secretary of State, in exercise of the powers conferred upon him by sections 9A, 26(1) and 31(3) of the Abolition of Domestic Rates Etc. (Scotland) Act 1987(a), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

PART I

General

Citation and commencement

1. These Regulations may be cited as the Personal Community Charge (Relief) (Scotland) Regulations 1990 and shall come into force on 28th March 1990.

Interpretation

2.—(1) In these Regulations—

“the 1987 Act” means the Abolition of Domestic Rates Etc. (Scotland) Act 1987;

“APCC” and “ARP” mean, respectively, in relation to a local authority,

(a) the assumed personal community charge in respect of the financial year 1989-90, and

(b) the assumed rate poundage in respect of the financial year 1988-89, specified in relation to that local authority in the report referred to in regulation 5; “apportionment note” has the same meaning as in paragraph 2 of Schedule 1 to the 1987 Act;

“community charge benefit” means a benefit under section 31A of the Social Security Act 1986(b);

“community charge rebate” means the rebate in that form in section 28 of the Social Security Act 1986(c);

(a) 1987 c.47; section 9A was inserted by the Local Government and Housing Act 1989 (c.42), section 143; section 26(1) contains a definition of “prescribed” relevant to the exercise of the powers under which these Regulations are made.

(b) 1986 c.50; section 31A was inserted by the Local Government Finance Act 1988 (c.41), Schedule 10, paragraph 6.

(c) 1986 c.50; section 28 of the Act was modified by the Housing Benefit (Social Security Act 1986 Modifications) (Scotland) Regulations 1988 (S.I. 1988/1483) to extend to community charge rebates.

“domestic subjects” shall be construed in accordance with section 2(3) of the 1987 Act(a);

“dwellinghouse” means—

(a) any domestic subjects; and

(b) any part of part residential subjects which are used residentially;

“eligible person” means, in relation to Part II, III or IV of these Regulations, an eligible person within the meaning of that Part as defined respectively in regulation 7(1), 13(1) or 19(1);

“former ratepayer” shall be construed in accordance with regulation 3(1);

“part residential subjects” shall have the same meaning as in section 26(1) of the 1987 Act(b) and references to the residential or non residential use of those subjects shall be construed in accordance with paragraph 11 of Schedule 1 to that Act;

“prescribed financial years” means the financial years 1989-90, 1990-91 and 1991-92;

“rateable value” in relation to a dwellinghouse shall be construed in accordance with regulation 4;

“rating authority” shall be construed in accordance with section 109(1) of the Local Government (Scotland) Act 1973(c);

“regional personal community charge” means the personal community charge imposed by a regional council and “islands personal community charge” and “district personal community charge” have the corresponding meaning;

“register” means a Community Charges Register established under section 13 of the 1987 Act(d);

“set personal community charge” means, in respect of any financial year, the amount of the personal community charge determined or deemed to be determined or redetermined by a local authority in respect of that financial year under section 9 of or paragraphs 3 or 5 of Schedule 3 to the 1987 Act; and

“spouse of a former ratepayer” shall be construed in accordance with regulation 3(3).

(2) Any reference in these Regulations to a person who is liable to pay the personal community charge in respect of a financial year includes—

(a) a person who is jointly and severally liable for that charge by virtue of section 8(7) of the 1987 Act(e); and

(b) a person who is liable only for a part of that personal community charge.

(3) Unless the context otherwise requires, any reference in these Regulations—

(a) to a numbered Part or a numbered regulation is a reference to the Part or, as the case may be, the regulation bearing that number in these Regulations; and

(b) to a numbered paragraph in a regulation is a reference to the paragraph bearing that number in that regulation.

Former ratepayer and spouse of former ratepayer

3.—(1) Any reference in these Regulations to a former ratepayer shall, subject to paragraph (2), be construed as meaning—

(a) a person who paid any amount directly to the rating authority in respect of rates payable for the financial year 1988-89 for the lands and heritages which comprised or included the dwellinghouse referred to in regulation 19(1)(a);

(b) in a case where such rates have not been paid, a person who is liable to pay them;

(c) a person who paid an amount by way of an apportionment of those rates on the acquisition of an interest in the property which comprised or included that dwellinghouse; or

(d) a person who, in respect of a period in the financial year 1988-89, paid in relation to his occupation of that dwellinghouse, rent or sums analogous to rent under a lease

(a) Section 2(3) was amended by the Local Government Finance Act 1988 (c.41), Schedule 13, Part IV; the definition in section 2(3) was amended by S.I. 1987/2179 (now revoked), 1988/1477, 1989/241 and 1477.

(b) The definition of “part residential subjects” in section 26(1) of the 1987 Act has been amended by regulation 6 of S.I. 1988/1477 and regulation 5 of S.I. 1989/241.

(c) 1973 c.65; section 109(1) was amended by the 1987 Act, Schedule 1, paragraph 28.

(d) Section 13 was amended by the Local Government Finance Act 1988 (c.41), Schedule 12, paragraph 22(2) and (3).

(e) Section 8(7) was amended by the Local Government Finance Act 1988, Schedule 12, paragraph 18(7).

or agreement which expressly or by implication provided that he was to pay an amount in respect of rates or otherwise provided that he was not to be responsible for the payment of rates to the rating authority;

but a person shall not be a former ratepayer if the dwellinghouse was exempt from rates for the financial year 1988-89 or if the payment of rates in respect of the dwellinghouse was wholly reduced or remitted under any of the following provisions:-

- (i) section 243A of the Local Government (Scotland) Act 1947(a) (relief of rates in respect of subjects partly occupied for a short time);
- (ii) section 244 of that Act (remission of rates on account of poverty); or
- (iii) section 4 of the Local Government (Financial Provisions etc.) (Scotland) Act 1962(b).

(2) For the purposes of paragraph (1), any payment made by way of a gift or under covenant by a person whose sole or main residence is not that of the beneficiary shall be treated as made by the beneficiary.

(3) Any reference in these Regulations to a spouse of a former ratepayer shall be construed as meaning a person who, on 1 April 1989-

- (a) was married to a former ratepayer and lived together with him or her; or
- (b) being of the opposite sex to the former ratepayer, lived together with him or her as if they were husband and wife.

Rateable value

4.—(1) Any reference in these Regulations to the rateable value of a dwellinghouse shall, subject to the following paragraphs, be construed as a reference to the rateable value which appeared in relation to the lands and heritages which comprised or included the dwellinghouse in the valuation roll in force immediately before 1st April 1989.

(2) Where, by virtue of section 45 of the Water (Scotland) Act 1980(c) (which made provision as to the apportionment of the net annual value of premises occupied partly as a dwellinghouse)-

- (a) the net annual value of any premises was apportioned as between the part occupied as a dwellinghouse and the remainder; and
- (b) the net annual value of each of the parts was shown separately on the valuation roll immediately prior to 1st April 1989;

then the net annual value shown on that valuation roll as apportioned to the part occupied as a dwellinghouse shall be regarded as being the net annual value of the dwellinghouse for the purposes of these Regulations.

(3) Where-

- (a) the dwellinghouse consists of any part of part residential subjects which are used residentially; and
- (b) an apportionment note relating to the lands and heritages consisting of the part residential subjects was included in the valuation roll immediately before 1st April 1989,

then the part of the rateable value shown in that apportionment note as apportioned to the residential use of those lands and heritages shall be regarded as being the rateable value of the dwellinghouse for the purposes of these Regulations.

(4) In the case of any lands and heritages in respect of which a rebate was granted under the Rating (Disabled Persons) Act 1978(d) for the financial year 1988-89, "rateable value" means the notional rateable value by reference to which the rates payable for that year were calculated taking into account the rebate granted under the Act, other than that granted

(a) 1947 c.43; section 243A was inserted by the Rating and Valuation (Amendment) (Scotland) Act 1984 (c.31), section 6.

(b) 1962 c.9; section 4 has been amended by the Local Government (Scotland) Act 1975 (c.30), Schedule 7, the Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c.23), section 5, the Local Government and Planning (Scotland) Act 1982 (c.43), section 5, the Local Government Finance Act 1988 (c.41), Schedule 12, paragraph 7.

(c) 1980 c.45; section 45 was repealed by the 1987 Act, Schedule 6 but only in respect of financial year 1989-90 and subsequent years. See S.I. 1987/1489, Schedule 1.

(d) 1978 c.40.

under section 4(7) of that Act (rating authority's discretion to increase the rebate in certain circumstances).

Report

5.—(1) For the purpose of these Regulations, the Secretary of State shall specify in a report, in relation to each local authority –

- (a) an assumed rate poundage of that authority in respect of the financial year 1988-89; and
- (b) an assumed personal community charge of that authority in respect of the financial year 1989-90.

(2) The report mentioned in paragraph (1) shall be laid before the House of Commons.

Application of the Regulations

6.—(1) These Regulations shall apply to any person in respect of whom the conditions of being an eligible person under Part II, III or IV are satisfied, even although that person has died before the date of coming into force of these Regulations.

(2) These Regulations shall not apply to the personal community water charge(a).

PART II

Rates related relief: sole personal community chargepayer

Persons eligible for relief

7.—(1) In this Part, an "eligible person" means, subject to paragraph (4) and to regulation 11, a person if–

- (a) on 1st April 1989, he was solely or mainly resident in the area of a local authority;
- (b) on that date, he was liable to pay the personal community charge determined by that local authority in respect of the financial year 1989-90;
- (c) on that date, he was the only person–
 - (i) who was solely or mainly resident at the address of the dwellinghouse specified in the register as having been his sole or main residence on that date; and
 - (ii) who was liable to pay the personal community charge on that date;
- (d) he had been solely or mainly resident in that dwellinghouse immediately prior to 1st April 1989; and
- (e) the condition specified in paragraph (2) or, as the case may be, paragraph (3), was fulfilled.

(2) In the case where the dwellinghouse referred to in paragraph (1)(c) is situated in the area of an islands council, the condition specified is that C is greater than R plus £156 where–

- (a) C is whichever is the lower of–
 - (i) the amount of the set personal community charge of that islands council in respect of the financial year 1989-90; or
 - (ii) the amount of the APCC specified in relation to that islands council; and
- (b) R is the product of–
 - (i) the rateable value of the dwellinghouse referred to in paragraph (1)(c); and
 - (ii) the ARP specified in relation to that islands council.

(3) In the case where the dwellinghouse referred to in paragraph (1)(c) is situated in the area of a regional council, the condition specified is that C is greater than R plus £156 where–

- (a) C is the aggregate of D and E;

(a) Section 9A of the 1987 Act, under which these Regulations were made, was disappplied in relation to the personal community water charge by the 1987 Act, Schedule 5, paragraph 11, and by the Community Water Charges (Scotland) Regulations 1988 (S.I. 1988/1538) and the Community Water Charges (Scotland) Amendment Regulations 1989 (S.I. 1989/2362).

- (b) D is whichever is the lower of-
 - (i) the amount of the set personal community charge of that regional council in respect of the financial year 1989-90; or
 - (ii) the amount of the APCC specified in relation to that regional council;
- (c) E is whichever is the lower of-
 - (i) the amount of the set personal community charge of the district council in whose area the dwellinghouse is situated in respect of the financial year 1989-90; or
 - (ii) the amount of the APCC specified in relation to that district council;
- (d) R is the aggregate of S and T;
- (e) S is the product of-
 - (i) the rateable value of the dwellinghouse; and
 - (ii) the ARP specified in relation to that regional council; and
- (f) T is the product of-
 - (i) the rateable value of the dwellinghouse; and
 - (ii) the ARP specified in relation to that district council.

(4) A person shall not be an eligible person under this Part if he is an eligible person under Part IV.

Amount of relief in case of the islands personal community charge

8.—(1) Subject to paragraph (3) and regulation 10, in the case where the dwellinghouse referred to in regulation 7(1)(c) is situated in the area of an islands council, the amount which an eligible person is or was liable to pay in respect of the islands personal community charge in respect of any of the prescribed financial years shall (unless the product of the relevant formula is a negative amount) be calculated as if the islands council had determined—

- (a) for the financial year 1989-90, a personal community charge equal to its set personal community charge for that year less the product of the formula set out in paragraph (2)(a);
- (b) for the financial year 1990-91, a personal community charge equal to its set personal community charge for that year less the product of the formula set out in paragraph (2)(b); and
- (c) for the financial year 1991-92, a personal community charge equal to its set personal community charge for that year less the product of the formula set out in paragraph (2)(c).

(2) The formulae referred to in paragraph (1) are—

- (a) $C - (R + \text{£}156)$;
- (b) $C - (R + \text{£}169)$;
- (c) $C - (R + \text{£}182)$;

and, for this purpose, C and R shall be construed in accordance with regulation 7(2)(a) and (b).

(3) Paragraph (1)(b) does not apply to an eligible person unless the calculation under paragraph (1)(a) resulted in a reduction in his liability, and paragraph (1)(c) does not apply to a person unless the calculations under paragraph (1)(a) and (b) both resulted in a reduction in his liability.

Amount of relief in the case of the regional personal community charge

9.—(1) Subject to paragraph (3) and regulation 10, in the case where the dwellinghouse referred to in regulation 7(1)(c) is situated in the area of a regional council, the amount which an eligible person is or was liable to pay in respect of the regional personal community charge in respect of any of the prescribed financial years shall (unless the product of the relevant formula is a negative amount) be calculated as if the regional council had determined—

- (a) for the financial year 1989-90, a personal community charge equal to its set personal community charge for that year less the product of the formula set out in paragraph (2)(a);
- (b) for the financial year 1990-91, a personal community charge equal to its set personal community charge for that year less the product of the formula set out in paragraph (2)(b); and

(c) for the financial year 1991-92, a personal community charge equal to its set personal community charge for that year less the product of the formula set out in paragraph (2)(c).

(2) The formulae referred to in paragraph (1) are—

(a) $C - (R + £156)$;

(b) $C - (R + £169)$;

(c) $C - (R + £182)$;

and for this purpose, C and R shall be construed in accordance with regulation 7(3).

(3) Paragraph (1)(b) does not apply to an eligible person unless the calculation under paragraph (1)(a) resulted in a reduction in his liability, and paragraph (1)(c) does not apply to a person unless the calculations under paragraph (1)(a) and (b) both resulted in a reduction in his liability.

Adjustment in amount of relief

10. Regulations 8 and 9 shall not apply to reduce the amount which an eligible person is or was liable to pay in respect of the personal community charge for any time if the reduction in his liability would occasion a reduction, which is greater, in the amount of the community charge rebate or benefit to which he is or was entitled in relation to that time.

Termination of relief

11.—(1) Subject to paragraph (2), a person shall cease to be an eligible person and regulations 8 and 9 will no longer apply to him as from the date (which may be before or after the date of coming into force of these Regulations) on which—

(a) he dies, or

(b) he ceases to be solely or mainly resident in the dwellinghouse referred to in regulation 7(1)(c).

(2) Paragraph (1)(b) shall not apply in any case where a person ceases to be solely or mainly resident in that dwellinghouse (“the first dwellinghouse”) by reason of any of the following circumstances:—

(a) that the first dwellinghouse has become uninhabitable by reason of fire, storm, flood or other cause, or that it is proposed to carry out major works by way of repair or renovation which make it unreasonable to remain in residence in the dwellinghouse while those works are carried out; or

(b) that the first dwellinghouse is acquired compulsorily;

and becomes solely or mainly resident in another dwellinghouse (“the second dwellinghouse”).

(3) In any case mentioned in paragraph (2), paragraph (1)(b) will apply when the person ceases to be solely or mainly resident in the second dwellinghouse unless he returns to being solely or mainly resident in the first dwellinghouse.

Local government boundary changes

12. Where, after 1st April 1989, an eligible person for the purposes of this Part of the Regulations becomes or became liable to pay a personal community charge imposed by a different local authority than the local authority whose personal community charge he was liable to pay on that date solely in consequence of an order under Part II of the Local Government (Scotland) Act 1973(a) (changes in local government areas), that person shall continue to be entitled to relief under this Part of these Regulations on or after the date when the relevant area is transferred and regulations 8 and 9 above shall continue to apply but as if—

(a) in paragraph (1) of those regulations, for the reference to the islands council or, as the case may be, the regional council, there was substituted a reference to the new local authority; and

(b) the formulae referred to in paragraph (2) of those regulations continue to be calculated by reference to the former local authority.

(a) 1973 c.65.

PART III

Rates related relief: two or more personal community charge payers

Persons eligible for relief

13.—(1) In this Part, an “eligible person” means, subject to paragraph (2) and to regulation 16, a person if—

- (a) on 1st April 1989, he was solely or mainly resident in the area of a local authority;
- (b) on that date, he was liable to pay the personal community charge determined by that local authority in respect of the financial year 1989-90;
- (c) on that date, there was another person or there were other persons —
 - (i) who was or were solely or mainly resident at the address of the dwellinghouse specified in the register as having been his sole or main residence on that date; and
 - (ii) who was or were liable to pay the personal community charge on that date;
- (d) he and the other person or persons referred to in subparagraph (c) above had been solely or mainly resident in that dwellinghouse immediately prior to 1st April 1989;
- (e) the condition specified in paragraph (2) or, as the case may be, paragraph (3), of regulation 7 was fulfilled and, for this purpose, any reference in those paragraphs to the dwellinghouse referred to in regulation 7(1)(c) shall be construed as a reference to the dwellinghouse referred to in subparagraph (c) above.

(2) A person shall not be an eligible person under this Part if he is an eligible person under Part IV.

Amount of relief in the case of the islands personal community charge

14.—(1) Subject to paragraph (3) and regulation 16, in the case where the dwellinghouse referred to in regulation 13(1)(c) is situated in the area of an islands council, the amount which an eligible person is or was liable to pay in respect of the islands personal community charge in respect of any of the prescribed financial years shall (unless the product of the relevant formula is a negative amount) be calculated as if the islands council had determined—

- (a) for the financial year 1989-90, a personal community charge equal to its personal community charge for that year less the product of the formula set out in paragraph (2)(a);
- (b) for the financial year 1990-91, a personal community charge equal to its set personal community charge for that year less the product of the formula set out in paragraph (2)(b); and
- (c) for the financial year 1991-92, a personal community charge equal to its set personal community charge for that year less the product of the formula set out in paragraph (2)(c).

(2) The formulae referred to in paragraph (1) are—

- (a) $\frac{2C - (R + \pounds 156)}{E}$;
- (b) $\frac{2C - (R + \pounds 156)}{E} - \pounds 13$;
- (c) $\frac{2C - (R + \pounds 156)}{E} - \pounds 26$;

and, for this purpose—

- (i) C and R shall be construed in accordance with regulation 7(2)(a) and (b), as read with regulation 13(1)(e); and
- (ii) E is the number of persons who were, on 1st April 1989, solely or mainly resident in the dwellinghouse and liable to pay the personal community charge.

(3) Paragraph (1)(b) does not apply to an eligible person unless the calculation under paragraph (1)(a) resulted in a reduction in his liability, and paragraph (1)(c) does not apply to a person unless the calculation under paragraph (1)(a) and (b) both resulted in a reduction in his liability.

Amount of relief in the case of the regional personal community charge

15.—(1) Subject to paragraph (3) and regulation 16, in the case where the dwellinghouse referred to in regulation 13(1)(c) is situated in the area of a regional council, the amount which an eligible person is or was liable to pay in respect of the regional personal community charge in respect of any of the prescribed financial years shall (unless the product of the relevant formula is a negative amount) be calculated as if the regional council had determined—

- (a) for the financial year 1989-90, a personal community charge equal to its personal community charge for that year less the product of the formula set out in paragraph (2)(a);
- (b) for the financial year 1990-91, a personal community charge equal to its set personal community charge for that year less the product of the formula set out in paragraph (2)(b); and
- (c) for the financial year 1991-92, a personal community charge equal to its set personal community charge for that year less the product of the formula set out in paragraph (2)(c).

(2) The formulae referred to in paragraph (1) are—

- (a) $\frac{2C - (R + \pounds156)}{E}$;
- (b) $\frac{2C - (R + \pounds156)}{E} - \pounds13$;
- (c) $\frac{2C - (R + \pounds156)}{E} - \pounds26$;

where—

- (i) C and R shall be construed in accordance with regulation 7(3), as read with regulation 13(1)(e); and
- (ii) E is the number of persons who were, on 1 April 1989, solely or mainly resident in the dwellinghouse and liable to pay the personal community charge.

(3) Paragraph (1)(b) does not apply to an eligible person unless the calculation under paragraph (1)(a) resulted in a reduction in his liability, and paragraph (1)(c) does not apply to a person unless the calculations under paragraph (1)(a) and (b) both resulted in a reduction in his liability.

Adjustment in amount of relief

16.—(1) Regulations 14 and 15 shall not apply to reduce the amount which an eligible person is or was liable to pay in respect of the personal community charge for any time if the reduction in his liability would occasion a reduction, which is greater, in the amount of the community charge rebate or benefit to which he is or was entitled in relation to that time.

(2) In relation to persons who are a married or unmarried couple within the meaning of section 20(11) of the Social Security Act 1986(a), paragraph (1) above shall apply as if it referred to a reduction in their liabilities, their joint entitlement to a community charge rebate or benefit and reductions which are together greater.

(3) The operation of regulation 14 or 15 in relation to an eligible person is not affected by any increase or decrease, after 1st April 1989, in the number of persons who are solely or mainly resident in the dwellinghouse and liable for the personal community charge.

Termination of relief

17. Regulation 11 applies in relation to this Part as it applies in relation to Part II but as if there was substituted for any reference to —

- (a) regulations 8 and 9, a reference to regulations 14 and 15; and
- (b) regulation 7(1)(c), a reference to regulation 13(1)(c).

(a) 1986 c.50; section 20(11) was amended by the Local Government Finance Act 1988 (c.41), Schedule 10, paragraph 2.

Local government boundary changes

18. Regulation 12 applies in relation to this Part as it applies in relation to Part II but as if there was substituted for the reference to regulations 8 and 9 a reference to regulations 14 and 15.

PART IV

Relief for the elderly and the disabled

Persons eligible for relief

- 19.—(1) In this Part, an “eligible person” means, subject to regulation 23, a person if—
- (a) on 1st April 1989, he was solely or mainly resident in the area of the local authority at the address of the dwellinghouse specified in the register as having been his sole or main residence on that date;
 - (b) on that date, he was liable to pay the personal community charge determined by that local authority in respect of the financial year 1989-90;
 - (c) on that date, he satisfied one of the three conditions set out in paragraph (2);
 - (d) an application is made by him or on his behalf or, as the case may be, by his executors to the relevant levying authority on or before 1st October 1990 (or such later date as that authority may allow) for community charge relief under this Part; and
 - (e) he, or the person applying on his behalf or, as the case may be, his executors has or have signed a declaration to the effect that he is not or was not a former ratepayer or the spouse of a former ratepayer of the dwellinghouse referred to in subparagraph (a) above.
- (2) The three conditions mentioned in paragraph (1)(c) are that the person—
- (a) if a man, attained the age of 65 on or before 1st April 1989; or
 - (b) if a woman, attained the age of 60 on or before that date; or
 - (c) personally satisfied the additional condition set out in paragraph 12 of Schedule 1 to the Housing Benefit (Community Charge Rebates) (Scotland) Regulations 1988(a).

Amount of relief in the case of the islands personal community charge

20.—(1) Subject to paragraph (2) and regulation 22, in the case where the dwellinghouse referred to in regulation 19(1)(a) is situated in the area of an islands council, the amount which an eligible person is or was liable to pay in respect of the islands personal community charge in respect of any of the prescribed financial years shall (if it is not otherwise less) be calculated as if the islands council had determined—

- (a) for the financial year 1989-90, a personal community charge equal to £156 + Z;
- (b) for the financial year 1990-91, a personal community charge equal to £169 + Z; and
- (c) for the financial year 1991-92, a personal community charge equal to £182 + Z;

where Z is the amount by which the set personal community charge of that islands council for the relevant financial year is higher than the APCC of that islands council.

(2) Paragraph (1)(b) does not apply to an eligible person unless the calculation under paragraph (1)(a) resulted in a reduction in his liability, and paragraph (1)(c) does not apply to a person unless the calculations under paragraph (1)(a) and (b) both resulted in a reduction in his liability.

Amount of relief in the case of the regional personal community charge

21.—(1) Subject to paragraph (2) and regulation 22, in the case where the dwellinghouse referred to in regulation 19(1)(a) is situated in the area of a regional council, the amount which an eligible person is or was liable to pay in respect of the regional personal community charge

(a) S.I. 1988/1890.

in respect of any of the prescribed financial years shall (if it is not otherwise less) be calculated as if the regional council had determined—

- (a) for the financial year 1989-90, a personal community charge equal to £156 + Z;
- (b) for the financial year 1990-91, a personal community charge equal to £169 + Z; and
- (c) for the financial year 1991-92, a personal community charge equal to £182 + Z;

where Z is the aggregate of—

- (i) the amount by which the set personal community charge of that regional council for the relevant financial year is higher than the APCC of that regional council; and
- (ii) the amount by which the set personal community charge of the district council in whose area that dwellinghouse is situated for the relevant financial year is higher than the APCC of that district council.

(2) Paragraph (1)(b) does not apply to an eligible person unless the calculation under paragraph (1)(a) resulted in a reduction in his liability, and paragraph (1)(c) does not apply to a person unless the calculations under paragraph (1)(a) and (b) both resulted in a reduction in his liability.

Adjustment in amount of relief

22. Regulation 16(1) and (2) apply in relation to this Part as they apply in relation to Part III but as if there was substituted, for the reference to regulations 14 and 15, a reference to regulations 20 and 21.

Termination of relief

23. Regulation 11 applies in relation to this Part as it applies in relation to Part II but as if there was substituted for any reference to —

- (a) Regulations 8 and 9, a reference to regulations 20 and 21; and
- (b) regulation 7(1)(c), a reference to regulation 19(1)(a).

Local government boundary changes

24. Regulation 12 applies in relation to this Part as it applies in relation to Part II but as if there was substituted for the reference to regulations 8 and 9 a reference to regulations 20 and 21.

PART V

Supplementary Provisions

Provision of information

25. A levying authority may, for the purpose of considering whether a person is an eligible person within the meaning of Part II, III or IV, by written notice request that person or, as the case may be, his executors (or any person making an application for the purposes of Part IV on behalf of such a person) to furnish to the authority within such period, not being less than 21 days, as it may reasonably specify, such information specified in the notice as it may reasonably request of that person or those executors to assist it in considering that question.

26. A levying authority which determines that regulation 10, 16 or 22 applies in the case of a person shall furnish the person in question with a statement of the effect of that regulation and the reasons for deciding that it applies in his case.

Reasons for decision

27. Where a levying authority makes a decision relating to the application or the operation of these Regulations in relation to any person, the authority shall, if requested in writing by the person or, as the case may be, his executors so affected, provide him or them with a written statement of the decision and the reasons for it; and the statement shall be dated and sent

within 14 days from the date on which it is requested or as soon as it is reasonably practicable thereafter.

Review

28.—(1) Any person in relation to whom a levying authority makes a decision relating to the application or operation of these Regulations or, as the case may be, his executors may request a review of that decision by the Review Board appointed by that levying authority and constituted in accordance with regulation 69(3) of and Schedule 6 to the Community Charge Benefits (General) Regulations 1989(a) (“the 1989 Regulations”).

(2) Any request in terms of paragraph (1) shall be by notice which shall set out the grounds upon which a review is requested.

(3) Regulations 70(2) to (9) and 71(4) and (5) of the 1989 Regulations shall apply, with the necessary modifications, for the purposes of a review under these Regulations as they apply for the purposes of a further review under the 1989 Regulations.

(4) A levying authority shall comply with any decision of its Review Board.

St. Andrew's House, Edinburgh
2nd March 1990

James Douglas-Hamilton
Parliamentary Under Secretary of State,
Scottish Office

(a) S.I. 1989/1321.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision, in Scotland, for reducing, in certain circumstances, a person's liability to pay the personal community charge for the financial years 1989-90, 1990-91 and 1991-92.

The Secretary of State is required, for the purposes of these Regulations, to lay before Parliament a report specifying, in relation to each local authority an assumed rate poundage for the financial year 1988-89 and an assumed personal community charge for the financial year 1989-90 (regulation 5). These assumed figures are used for the purpose of identifying the persons who may be eligible for relief and the amount of the relief under Parts II to IV of the Regulations.

These Regulations apply to any person who meets the conditions for being an eligible person under Part II, III or IV of the Regulations, even although that person may have died before the coming into force of the Regulations (regulation 6(1)).

Part II

Part II of the Regulations is concerned with rates related relief where there is only one person who was solely or mainly resident in a dwellinghouse on 1st April 1989 and who was liable for the personal community charge on that date. Regulation 7 specifies the conditions which require to be met for a person to be eligible for relief under that Part ("eligible person"). One of the conditions is that—

- (a) in the case where the dwellinghouse is situated in the area of an islands council, the assumed personal community charge of that islands council (or, if lower, its actual charge) for 1989-90 exceeds the "rates bill" plus £156; and
- (b) in the case where the dwellinghouse is situated in the area of a regional council, the aggregate of the assumed personal community charges for that regional council and the relevant district council (or, if lower, their actual charges) for 1989-90 is greater than the aggregate of their "rates bills" plus £156.

The "rates bill" for this purpose is generally the rateable value of the dwellinghouse immediately before 1st April 1989 (with adjustments in certain cases) multiplied by the assumed rate poundage of the local authority concerned.

Regulations 8 and 9 make provision for the amount of relief depending upon whether the dwellinghouse is situated in the area of an islands council or of a regional council. They provide, in brief, that what an eligible person is or was liable to pay in respect of the islands personal community charge or, as the case may be, the regional personal community charge for 1989-90 is to be calculated as if the actual personal community charge determined by that council had been reduced by the difference between the amounts referred to in (a) or, as the case may be, (b) above. The relief for 1990-91 and 1991-92 is calculated in a similar manner except that it is reduced by £13 per year.

Relief is not available under Part II to a person who would be or would have been worse off because of the effect on his entitlement to community charge rebate or benefit under social security legislation (regulation 10), nor is it available to elderly persons or disabled persons if they are eligible for the higher relief provided by Part IV of the Regulations (regulation 7(4)).

Relief ceases when the eligible person dies or is no longer solely or mainly resident in the dwellinghouse, except in certain cases (regulation 11).

Special provision is made as respects the effect of local government boundary changes (regulation 12).

Part III

Part III of the Regulations provide for rates related relief where there were two or more persons solely or mainly resident in a dwellinghouse on 1st April 1989 who were liable for the personal community charge on that date. Regulation 13 specifies the conditions which require to be met for a person to be eligible for relief under that Part ("eligible person").

The main difference between relief under Part II and relief under Part III is that the total amount of relief is calculated under Part III by reference to twice the assumed (or, if lower, the actual) personal community charge, and the resulting amount divided by the number of persons who were solely or mainly resident in the dwellinghouse on 1st April 1989 and were liable to pay the personal community charge on that date. The amount of relief available in the case of any eligible person is the resulting share (regulations 14 and 15).

The same exceptions and limitations apply as in the case of relief under Part II (regulations 16 to 18).

Part IV

Part IV of the Regulations provides for relief for the elderly and disabled. The persons eligible for relief are defined in regulation 19. Relief is only available under Part IV on application. An applicant or his executors must declare that he was not a ratepayer in 1988-89 or did not pay rent in a case where the landlord had responsibility for rates and that he was not the spouse of a former ratepayer or rent payer.

Regulations 20 and 21 make provision for the amount of relief depending upon whether the dwellinghouse in which the eligible person was solely or mainly resident is in the area of an islands council or a regional council. In brief, what an eligible person is or was liable to pay in respect of the islands personal community charge or, as the case may be, the regional personal community charge, for 1989-90 is to be calculated as if

- (a) the personal community charge determined by the islands council had been £156 plus any amount by which its actual charge for that year exceeds its assumed personal community charge; or
- (b) the personal community charge determined by the regional council had been £156 plus any amount by which the aggregate of the actual amounts determined by that regional council and the relevant district council for that year exceeds the aggregate of their assumed personal community charges.

The amount of the relief for 1990-91 and 1991-92 is calculated in a similar manner but it is reduced by £13 per year. There are similar restrictions and limitations as in the case of relief under Part II and III.

Part V

Part V of the Regulations contains supplementary provisions. They enable a levying authority to request information (regulation 25) and require it, when making a decision relating to the application or operation of the Regulations, to give reasons for its decision if so requested (regulation 27). The Regulations also make provision for the review of such decisions by a Review Board appointed under the Community Charge Benefits (General) Regulations 1989 (S.I. 1989/1321) (regulation 28).