

1990 No. 462

COMMUNITY CHARGES, ENGLAND AND WALES

The Personal Community Charge (Exemption for the Severely Mentally Impaired) Order 1990

<i>Made</i> - - - -	<i>6th March 1990</i>
<i>Laid before Parliament</i>	<i>9th March 1990</i>
<i>Coming into force</i>	<i>1st April 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 on them by paragraph 4(4) and (5) of Schedule 1 to the Local Government Finance Act 1988(a) and of all other powers enabling them in that behalf, hereby make the following Order:

Citation and commencement

1. This Order may be cited as the Personal Community Charge (Exemption for the Severely Mentally Impaired) Order 1990 and shall come into force on 1st April 1990.

The severely mentally impaired

2.—(1) Paragraph 4(2) of Schedule 1 to the Local Government Finance Act 1988(b) is amended—

- (a) by deleting paragraph (c);
- (b) by adding after paragraph (f)—
 - “(g) he is entitled for the day to an attendance allowance under section 35 of the Social Security Act 1975(c) ;
 - (h) he would be entitled for the day to such an allowance but for the prescribed conditions as to residence or presence in Great Britain mentioned in subsection (1) of that section(d) , or the requirement for a claim under subsection (4) of that section, or both of those matters;
 - (i) he is entitled for the day to an increase in the rate of his disablement pension under section 61 of that Act(e) (increase where constant attendance needed);
 - (j) he is entitled for the day to a constant attendance allowance under—
 - (i) article 14 of the Personal Injuries (Civilians) Scheme 1983 (f) ; or

(a) 1988 c.41.

(b) Paragraph 4(2) was amended by S.I. 1989/442, article 3.

(c) 1975 c.14; section 35 was amended by the National Health Service Act 1977 (c.49), Schedule 15, paragraph 63, the Social Security Act 1979 (c.18), section 2, the Social Security Act 1980 (c.30), Schedule 1, paragraph 8, the Social Security Act 1988 (c.7), section 1, and the Social Security Act 1989 (c.24), Schedule 8, paragraph 5.

(d) As to the prescribed conditions, *see* regulation 2 of S.I. 1975/598, amended by S.I. 1977/342 and 1679 and 1979/1684.

(e) Section 61 was amended by the Social Security Act 1986 (c.50), Schedule 3, paragraph 6.

(f) S.I. 1983/686.

(ii) article 14 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 (a) (including that provision as applied, whether with or without modifications, by any other instrument).”.

(2) For paragraph 4(3) of Schedule 1 to the Local Government Finance Act 1988 there is substituted—

“(3) A person is severely mentally impaired if he has a severe impairment of intelligence and social functioning (however caused) which appears to be permanent.”.

5th March 1990

Chris Patten
Secretary of State for the Environment

6th March 1990

Peter Walker
Secretary of State for Wales

EXPLANATORY NOTE

(This note is not part of the Order)

Under paragraph 4 of Schedule 1 to the Local Government Finance Act 1988 a person who is severely mentally impaired and who holds a certificate of a registered medical practitioner to that effect is exempt from the personal community charge if one or more of the conditions mentioned in sub-paragraph (2) of that paragraph is satisfied. Those conditions were added to under article 3 of the Personal Community Charge (Exemptions) Order 1989 so as to allow a person to qualify for exemption if he is in receipt of an invalidity pension or an unemployment supplement or allowance. Article 2(1) of this Order adds further conditions so allowing a person to qualify if he is entitled to attendance allowance or constant attendance allowance (or would be entitled to it but for the requirements as to residence or presence in Great Britain or for a claim). It also deletes the condition relating to pensionable age, so that it is no longer possible for a severely mentally impaired person to qualify for exemption merely because he has reached that age.

Article 2(2) substitutes a new definition of severe mental impairment. Under the substitute provision, a person is to be treated as severely mentally impaired if he has a severe impairment of intelligence and social functioning, whatever the cause, provided that it appears to be permanent. It is not necessary that it should have been caused by or involved arrested or incomplete development of mind, or an injury to the brain, as under the previous definition.

(a) S.I. 1983/883; article 14 is applied by S.R. & O. 1944/500; S.I. 1964/1985, 2007 and 2058, the Royal Warrant of 21 December 1964 (1964 III p. 5646; Cmnd 2563), the Order by Her Majesty of 22 December 1964 (1964 III p. 5675; Cmnd 2564), and the Order by Her Majesty of 4 January 1971 (Cmnd 4567).

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