
STATUTORY INSTRUMENTS

1992 No. 474

**COMMUNITY CHARGES, ENGLAND
AND WALES RATING AND VALUATION**

**The Community Charges and Non-Domestic Rating
(Miscellaneous Provisions) Regulations 1992**

<i>Made</i>	- - - -	<i>6th March 1991</i>
<i>Laid before Parliament</i>		<i>6th March 1991</i>
<i>Coming into force</i>	- -	<i>9th March 1991</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 143(1) and (2) and 146(6) of, and paragraph 1, 8(1)(a), 13A and 15(1) and (3) of Schedule 4 and paragraphs 1 and 3(3) of Schedule 9 to, the Local Government Finance Act 1988(1), and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. The Regulations may be cited as the Community Charges and Non-Domestic Rating (Miscellaneous Provisions) Regulations 1992 and shall come into force on 7th March 1992.

Application of Regulations

2.—(1) The amendments made by paragraphs (1)(a) and (c) and (2)(a) of regulation 3 below have effect in relation to the making, on or after the day on which these Regulations come into force of an application for a warrant of Commitment.

(2) The amendments made by paragraphs (1)(b) and (2)(b) of regulation 3 below have effect in relation to any hearing on or after the day on which these Regulations come into force of—

- (a) an application for a liability order.
- (b) an appeal relating to the levy of, or attempt to levy, distress.
- (c) an application for a warrant of commitment,

whether that hearing was commenced before, on or after that day.

(1) 1988 c. 41. Paragraph (ee) was inserted in paragraph 1(1) of Schedule 4 by regulation 60(2) of S.I. 1989/438. Paragraph 13A of Schedule 4 was inserted, and paragraphs 8(1)(a) and 15(3) of that Schedule amended, by section 102 of the Local Government Finance Act 1992 (c. 14).

(3) The amendments made by paragraphs (1)(d) and (2)(c) of regulation 3 below have effect in relation to any warrant of commitment issued on or after the day on which these Regulations come to force.

Amendment of Regulations

3.—(1) The Community Charges (Administration and Enforcement) Regulations 1989**(2)** are amended—

- (a) by the substitution, in paragraph (1) of regulation 41 (commitment to prison), for the words “it appears to the authority that no (or insufficient) goods of the debtor can be found” of the words “the person making the distress reports to the authority that he was unable (for whatever reason) to find any or sufficient goods of the debtor”;
- (b) by the insertion after paragraph (3) of regulation 47 (magistrates' courts) of the paragraphs set out in paragraph (3) below;
- (c) by the substitution, in paragraph (7) of regulation 48 (joint and several liability), for the words “it appears to the authority concerned that no (or insufficient) goods of those persons can be found” of the words “the person making the distress reports to the authority concerned that he was unable (for whatever reason) to find any or sufficient goods of those persons”; and
- (d) by the substitution, for paragraph (ii) in Form C in Schedule 3 (form of warrant of commitment), of the following paragraph—

“(ii) the authority has been unable to levy that amount by distress; and”.

(2) The Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989**(3)** are amended—

- (a) by the substitution, in paragraph (1) of regulation 16 (commitment to prison), for the words “it appears to the authority that no (or insufficient) goods of the debtor can be found” of the words “the person making the distress reports to the authority that he was unable (for whatever reason) to find any or sufficient goods of the debtor”;
- (b) by the insertion after paragraph (3) of regulation 21 (magistrates' courts) of the paragraphs set out in paragraph (4) below; and
- (c) by the substitution, for paragraph (ii) in Form C in Schedule 2 (form of warrant of commitment), of the following paragraph—

“(ii) the authority has been unable to levy that amount by distress; and”.

(3) The paragraphs referred to in paragraph (1)(b) are—

“(4) In any proceedings under regulation 29 (application for liability order), regulation 40 (appeals in connection with distress) or regulation 41 (commitment to prison), a statement contained in a document constituting or forming part of a record compiled by the applicant authority shall be admissible as evidence of any fact stated in it of which direct oral evidence would be admissible.

(5) In proceedings where the applicant authority desires to give a statement in evidence in accordance with paragraph (4), and the document containing that statement is produced by a computer, a certificate—

- (a) identifying the document containing the statement and the computer by which it was produced;

(2) S.I. 1989/438, to which there are amendments not relevant to these Regulations.

(3) S.I. 1989/1058, to which there are amendments not relevant to these Regulations.

- (b) containing a statement that at all material times the computer was operating properly, or if not, that any respect in which it was not operating properly or was out of operation was not such as to affect the production of the document or the accuracy of its contents;
- (c) giving such explanation as may be appropriate of the content of the document; and
- (d) purporting to be signed by a person occupying a responsible position in relation to the operation of the computer,

shall be admissible as evidence of anything which is stated in it to the best of the signatory's information and belief

(6) In paragraph (4) above, "statement" includes any representation of fact, whether made in words or otherwise; and the reference to an application under regulation 41 includes a reference to an application made in the circumstances mentioned in regulation 42(3)."

(4) The paragraphs referred to in paragraph (2)(b) are—

"(4) In any proceedings under regulation 12 (application for liability order), regulation 15 (appeals in connection with distress) or regulation 16 (commitment to prison), a statement contained in a document constituting or forming part of a record compiled by the applicant authority shall be admissible as evidence of any fact stated in it of which direct oral evidence would be admissible.

(5) In proceedings where the applicant authority desires to give a statement in evidence in accordance with paragraph (4), and the document containing that statement is produced by a computer, a certificate—

- (a) identifying the document containing the statement and the computer by which it was produced;
- (b) containing a statement that at all material times the computer was operating properly, or if not, that any respect in which it was not operating properly or was out of operation was not such as to affect the production of the document or the accuracy of its contents;
- (c) giving such explanation as may be appropriate of the content of the document; and
- (d) purporting to be signed by a person occupying a responsible position in relation to the operation of the computer,

shall be admissible as evidence of anything which is stated in it to the best of the signatory's information and belief.

(6) In paragraph (4) above, "statement" includes any representation of fact, whether made in words or otherwise; and the reference to an application under regulation 16 includes a reference to an application made in the circumstances mentioned in regulation 17(3)."

6th March 1992

Michael Heseltine
Secretary of State for the Environment

6th March 1992

David Hunt
Secretary of State for Wales

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend, in similar terms, regulations 41 and 47 of, and Schedule 3 to, the Community Charges (Administration and Enforcement) Regulations 1989 (“the Administration Regulations”) and regulations 16 and 21 of, and Schedule 2 to, the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (“the Collection Regulations”). They also amend regulation 48(7) of the Administration Regulations.

The amendments to regulation 41 of the Administration Regulations and regulation 16 of the Collection Regulations relate to procedures prior to the making by a charging authority of an application to a magistrates' court for the issue of a warrant of commitment in respect of unpaid community charges or non-domestic rates where the amount outstanding cannot be levied by seizure and sale of the debtor's goods. The effect of the amendments is to make clear that an authority may apply for the issue of a warrant irrespective of the reason for the failure of the attempt to levy.

The amendments to regulation 47 of the Administration Regulations and regulation 21 of the Collection Regulations insert new paragraph (4) to (6). They relate to the procedure to be followed in magistrates' courts on the hearing of—

- (a) a charging authority's application for a liability order to enforce payment of community charges or non-domestic rates;
- (b) an appeal by a person aggrieved by a seizure and sale, or attempted seizure and sale, of his goods in payment of a sum due to charging authority under such an order;
- (c) a charging authority's application to commit to prison a person against whom a liability order has been made and in respect of whom a seizure and sale or attempted seizure and sale of goods has not resulted in the recovery of the sum due.

The effect of the new paragraphs (4) and (5) is to permit the court to admit as evidence certain statements which would otherwise be admissible only by direct oral evidence. In relation to statements contained in documents produced by a computer, other statements relating to, amongst other matters, the operation of the relevant computer at the material time, are also admissible where they are contained in a certificate. Paragraph (6) defines “statement” for these purposes and makes it clear that paragraph (4) applies where an application to commit is renewed on the ground that the debtor's circumstances have changed.

The amendment to regulation 48(7) of the Administration Regulations makes provision for cases of joint and several liability comparable to that made for cases of sole liability by the amendment to regulation 41.

The amendments to Form C in Schedule 3 to the Administration Regulations and Form C in Schedule 2 to the Collection Regulations relate to the form of warrants of commitment and reflect the amendments to regulation 41 of the Administration Regulations and regulation 16 of the Collection Regulations.