
STATUTORY INSTRUMENTS

1993 No. 773

COUNCIL TAX, ENGLAND AND WALES

**The Council Tax (Administration and Enforcement)
(Amendment) (No. 2) Regulations 1993**

<i>Made</i>	- - - -	<i>17th March 1993</i>
<i>Laid before Parliament</i>		<i>17th March 1993</i>
<i>Coming into force</i>	- -	<i>1st April 1993</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 section 113(1) and (2) of, and paragraphs 1, 4, 5, 7, 12, 17 and 19 of Schedule 4 to, the Local Government Finance Act 1992⁽¹⁾, and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Council Tax (Administration and Enforcement) (Amendment) (No. 2) Regulations 1993 and shall come into force on 1st April 1993.

Amendment of Regulations

2. Part VI (enforcement) of the Council Tax (Administration and Enforcement) Regulations 1992⁽²⁾ shall be amended in accordance with the following provisions of these Regulations.

Interpretation and application of Part VI

3. In regulation 32 and, accordingly, in that regulation as set out in Schedule 3—

(a) there is inserted in the definition in paragraph (1) of “net earnings”, after the words “other benefits”, the following—

“; and where an order under regulation 32 (making of attachment of earnings order) of the Community Charges (Administration and Enforcement) Regulations 1989 made before the making of the attachment of earnings order concerned remains in force,

(d) any amount required to be deducted in accordance with that order”⁽³⁾; and

(1) 1992 c. 14.

(2) S.I.1992/613, to which there are amendments not relevant to these Regulations.

(3) S.I. 1989/438; a relevant amending instrument is S.I. 1992/219.

- (b) after the definition of “earnings” there is inserted the following definition—
 ““the Income Support Regulations” means the Council Tax (Deductions from Income Support) Regulations 1993;”(4).

Duties of debtors subject to liability orders

4. In regulation 36, there is inserted in sub-paragraph (c) of paragraph (3), after the words “this Part”, the words “, regulation 32 of the Community Charges (Administration and Enforcement) Regulations 1989”.

Distress

5. In regulation 45, after paragraph (1), there is inserted the following paragraph—
 “(1A) Without prejudice to paragraph (8) below, no person making a distress shall seize any goods of the debtor of the following descriptions—
 (a) such tools, books, vehicles and other items of equipment as are necessary to the debtor for use personally by him in his employment, business or vocation;
 (b) such clothing, bedding, furniture, household equipment and provisions as are necessary for satisfying the basic domestic needs of the debtor and his family.”.

Relationship between remedies

6. In regulation 52—
 (a) in paragraph (1), there is inserted after the word “charging” the words “, or under the Income Support Regulations”;
 (b) in paragraph (2), there is substituted for the words after “may not be taken” the following—
 “in relation to a person against whom a liability order has been made while—
 (a) steps by way of another of those methods are being taken against him under it; or
 (b) deductions are being made under the Income Support Regulations from any amount payable to him by way of income support; or
 (c) an application under regulation 2 of the Income Support Regulations has been made in respect of him to the Secretary of State and remains undetermined.”;
 and
 (c) after paragraph (2) there is inserted the following paragraph—
 “(2A) An application under regulation 2 of the Income Support Regulations may not be made in respect of a person against whom a liability order has been made while steps under this Part are being taken against him for the recovery of an amount equal to any outstanding sum which is or forms part of the amount in respect of which the liability order was made.”.

Joint and several liability: enforcement

7. In regulation 54—
 (a) after paragraph (9) there is inserted the following paragraph—
 “(9A) Where a liability order has been made against persons who are joint taxpayers, and a warrant of commitment is issued against (or a term of imprisonment is fixed in

(4) S.I. 1993/494.

the case of) one of them under regulation 47(3), no steps, or further steps, may be taken under the Income Support Regulations in respect of any of them in relation to the amount mentioned in regulation 47(4).”; and

(b) for paragraph (11) there is substituted the following paragraph—

“(11) Where—

(a) a liability order has been made against two or more joint taxpayers in respect of an amount; and

(b) a charge has arisen as regards one of them under head B of the Table in paragraph 1 of Schedule 5 in respect of that amount,

no further charge may be aggregated for the purposes of regulation 45(2) under that head or head A of that Table in consequence of any subsequent levy or attempted levy against either in respect of that amount; and a charge under head A(i) or charges under that head and head A(ii) against one of them shall be treated for those purposes as a charge or, as the case may be, charges under that head with respect to the other as well as that one.”.

Charges connected with distress

8. For Schedule 5 there is substituted the Schedule set out in the Schedule to these Regulations.

Signed by authority of the Secretary of State for the Environment

16th March 1993

John Redwood
Minister of State,
Department of the Environment

17th March 1993

David Hunt
Secretary of State for Wales

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SCHEDULE

Regulation 8.

“SCHEDULE 5

CHARGES CONNECTED WITH DISTRESS

1. The sum in respect of charges connected with the distress which may be aggregated under regulation 45(2) shall be as set out in the following Table—

(1) Matter connected with distress	(2) Charge
A For making a visit to premises with a view to levying distress (where no levy is made)—	£15.00.
(i) where the visit is the first or only such visit:	
(ii) where the visit is the second such visit:	£12.50.
B For levying distress:	The lesser of—
	(i) the amount of the costs and fees reasonably incurred; and
	(ii) the relevant amount calculated under paragraph 2(1) with respect to the levy.
C For one attendance with a vehicle with a view to the removal of goods (where, following the levy, goods are not removed):	Reasonable costs and fees incurred.
D For the removal and storage of goods for the purposes of sale:	Reasonable costs and fees incurred.
E For the possession of goods as described in paragraph 2(2)—	£10 per day.
(i) for close possession (the man in possession to provide his own board):	
(ii) for walking possession:	10 pence per day.
F For appraisalment of an item distrained, at the request in writing of the debtor:	Reasonable fees and expenses of the broker appraising.
G For other expenses of, and commission on, a sale by auction—	The auctioneer’s commission fee and out-of-pocket expenses (but not exceeding in aggregate 15 per cent. of the sum realised), together with reasonable costs and fees incurred in respect of advertising.
(i) where the sale is held on the auctioneer’s premises:	
(ii) where the sale is held on the debtor’s premises:	The auctioneer’s commission fee (but not exceeding 7½ per cent. of the sum realised), together with the auctioneer’s out-of-pocket expenses and reasonable costs and fees incurred in respect of advertising.
H Where no sale takes place by reason of payment or tender in the circumstances referred to in regulation 45(4):	Reasonable costs and fees incurred in respect of advertising.

2.—(1) In head B of the Table to paragraph 1, “the relevant amount” with respect to a levy means—

- (a) where the sum due at the time of the levy does not exceed £100, £15;
- (b) where the sum due at the time of the levy exceeds £100, 15 per cent. on the first £100 of the sum due, 4 per cent. on the next £400, 2½ per cent. on the next £1,500, 1 per cent. on the next £8,000 and ¼ per cent. on any additional sum;

and the sum due at any time for these purposes means so much of the amount in respect of which the liability order concerned was made as is outstanding at the time.

(2) An authority takes close or walking possession of goods for the purposes of head E of the Table to paragraph 1 if it takes such possession in pursuance of an agreement—

- (a) to which the debtor is a signatory;
- (b) which is made at the time that the distress is levied; and
- (c) (without prejudice to such other terms as may be agreed) which is expressed to the effect that, in consideration of the authority not immediately removing the goods distrained upon from the premises occupied by the debtor and delaying its sale of the goods, the authority may remove and sell the goods after a later specified date if the debtor has not by then paid the amount distrained for (including charges under this Schedule),

and an authority takes close possession of goods on any day for those purposes if during the greater part of the day a person is left on the premises in physical possession of the goods on behalf of the authority under such an agreement.

3.—(1) Where the calculation under this Schedule of a percentage of a sum results in an amount containing a fraction of a pound, that fraction shall be reckoned as a whole pound.

(2) In the case of dispute as to any charge under this Schedule (other than a charge of a prescribed amount), the debtor or the authority may apply to the district judge of the county court for the district in which the distress is or is intended to be levied for the amount of the charge to be taxed.

(3) On any such application, the district judge may give such directions as to the costs of the taxation as he thinks fit; and any such costs directed to be paid by the debtor to the billing authority shall be added to the sum which may be aggregated under regulation 45(2).

(4) References in the Table to paragraph 1 to costs, fees and expenses include references to amounts payable by way of value added tax with respect to the supply of goods or services to which the costs, fees and expenses relate.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Council Tax (Administration and Enforcement) Regulations 1992 (“the principal Regulations”).

Regulation 3 amends regulation 32(1) of the principal Regulations in two respects. Firstly, it alters the definition of “net earnings” so that, where deductions are being made under an attachment of earnings order in respect of unpaid community charge, account must be taken of the amount deducted in calculating the amount to be deducted under an attachment of earnings order under regulation 37

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of the principal Regulations in respect of unpaid council tax. Secondly, it inserts a definition relevant to the Council Tax (Deductions from Income Support) Regulations 1993, to which reference is made in regulations 52 and 54 of the principal Regulations (as amended by regulations 6 and 7 of these Regulations).

Regulation 4, which amends regulation 36 of the principal Regulations, enables an authority to require a person against whom a liability order for unpaid council tax has been made to provide information about deductions or expected deductions from his earnings under any attachment of earnings order for unpaid community charge made in relation to him.

Regulation 5, which amends regulation 45 of the principal Regulations, protects certain goods of a debtor from seizure and sale following the making of a liability order for unpaid council tax.

Regulation 6, which amends regulation 52 of the principal Regulations, secures that where, following the making of a liability order, deductions from income support are being made, no other method of enforcement can be resorted to.

Regulation 7 amends regulation 54 of the principal Regulations which relates to the application of regulations 33 to 53 where persons are jointly and severally liable to pay an amount in respect of council tax. The amendments reflect the amendments made by regulations 6 and 8.

Regulation 8 substitutes a new Schedule of the charges which may be made for matters connected with distress for unpaid council tax. The principal changes to the charges for distress are—

- (a) the prescription of a charge which varies according to whether a visit where no goods are taken is the first (£15) or second (£12.50). The former provision allowed a charge related to the costs and fees actually incurred, subject to a prescribed maximum;
- (b) an increase from £12.50 to £15 in respect of the maximum charge for distress levied for sums due which at the time of the levy do not exceed £100, and on the first £100 of sums due which exceed that amount;
- (c) a reduction from 45 pence per day to 10 pence per day for taking walking possession of goods;
- (d) an increase from £4.50 per day to £10 per day for taking close possession of goods.