
STATUTORY INSTRUMENTS

1992 No. 613

COUNCIL TAX, ENGLAND AND WALES

**The Council Tax (Administration
and Enforcement) Regulations 1992**

<i>Made</i>	- - - -	<i>10th March 1992</i>
<i>Laid before Parliament</i>		<i>11th March 1992</i>
<i>Coming into force</i>	- -	<i>1st April 1992</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 sections 16(3) and 113(1) and (2) of, and paragraphs 1(1), 2(2), (3), (4)(a) to (c) and (5), 3 to 11, 13(1)(a) and (3), 16 and 18 of Schedule 2, paragraphs 1 and 6 of Schedule 3 and paragraphs 1 to 15, and 17 to 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:

PART I

General Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Council Tax (Administration and Enforcement) Regulations 1992 and shall come into force on 1st April 1992.

(2) In these Regulations—

“the Act” means the Local Government Finance Act 1992; and

“demand notice regulations” means regulations under paragraphs 1(1) and 2(4)(e) of Schedule 2 to the Act

Service of notices

2.—(1) Where any notice which is required or authorised by these Regulations to be given to or served on any person falls to be given or served by or on behalf of the Common Council it may be given or served in any manner in which it might be given or served under section 233 of the

(1) 1992 c. 14. See section 116(1) for the definition of “prescribed”.

Local Government Act 1972(2) if the Common Council were a local authority within the meaning of that section.

(2) If the name of any person on whom a notice is to be served in accordance with regulation 3 (information from residents, etc.) or regulation 12 (information relating to exempt dwellings, etc.) cannot after reasonable inquiry be ascertained, the notice may be served by addressing it to “The Resident” or, as the case may be, “The Owner” or “The Managing Agent” of the dwelling concerned (naming the dwelling without further name) or description.

(3) If the name of any person to whom a notice is to be given or on whom a notice is to be served in accordance with any provision of Part V (billing) of these Regulations cannot after reasonable inquiry be ascertained, the notice may be given or served by addressing it to “The Council Tax Payer” of the dwelling concerned (naming the dwelling) without further name or description.

PART II

Information: General

Information from residents, etc.

3.—(1) A person who appears to a billing authority to be a resident, owner or managing agent of a particular dwelling shall supply to the authority such information as fulfils the following conditions—

- (a) it is in the possession or control of the person concerned;
- (b) the authority requests (by notice given in writing) the person concerned to supply it; and
- (c) it is requested by the authority for the purposes of identifying the person who, in respect of any period specified in the notice, is the liable person in relation to the dwelling.

(2) A person on whom such a notice as is mentioned in paragraph (1) is served shall supply the information so requested—

- (a) within the period of 21 days beginning on the day on which the notice was served; and
- (b) if the authority so requires, in the form specified in the request.

(3) In paragraph (1)—

- (a) “managing agent” means any person authorised to arrange lettings of the dwelling concerned; and
- (b) the reference to the liable person is a reference to a person who is liable (whether solely or jointly and severally) to pay to a billing authority, in respect of a particular dwelling, an amount in respect of council tax; and includes a reference to a person who in the opinion of the authority will be so liable

Information from public bodies

4.—(1) A billing authority may, for the purpose of carrying out its functions under Part I of the Act, request (by notice given in writing) a person mentioned in paragraph (3) to supply to it such information as is specified in the notice and does not fall within paragraph (2).

(2) Information falls within this paragraph if—

- (a) the information was obtained by the person concerned, or by a committee of such a person—

(2) 1972 c. 70; subsection (6) was repealed by the Local Government (Miscellaneous Provisions) Act 1976 (c. 57), Schedule 2.

- (i) in its capacity as police authority, or
 - (ii) in its capacity as a constituent council of such an authority,
 - (b) the information was obtained by the person concerned in its capacity as an employer, or
 - (c) the information consists of anything other than the name, address and any past or present place of residence of any person and the dates during which he is known or thought to have resided at that place.
- (3) The persons referred to in paragraph (1) are—
- (a) any other billing authority,
 - (b) any precepting authority,
 - (c) any levying authority,
 - (d) the electoral registration officer for any area in Great Britain, and
 - (e) any community charges registration officer.
- (4) Information requested under paragraph (1) shall be supplied by the person requested to supply it if it is in his possession or control, and it shall be so supplied within 21 days of the day on which the request is made.
- (5) A billing authority may (so far as it does not have the power to do so apart from under this Part) supply relevant information to another billing authority or to a levying authority even if it is not requested to supply the information.
- (6) Information is relevant information for the purposes of paragraph (5) if—
- (a) it was obtained by the first-mentioned authority in exercising its functions under Part I of the Act, and
 - (b) it believes it would be useful to the other authority in exercising its functions under that Part or, in the case of a levying authority, Part II of the Act.
- (7) The reference to a community charges registration officer in sub-paragraph (e) of paragraph (3) shall be construed—
- (a) in relation to such officers in England or Wales, in accordance with section 26 of the Local Government Finance Act 1988(3); and
 - (b) in relation to such officers in Scotland, in accordance with section 12 of the Abolition of Domestic Rates Etc. (Scotland) Act 1987(4).

Information as to deaths

5.—(1) Within 7 days of the registration of the death of any person aged 18 or over, the registrar of births and deaths for the sub-district in which the death occurred shall, in accordance with paragraph (2), supply to any billing authority whose area includes all or part of, or falls within, that sub-district, the following particulars of the death—

- (a) the name and surname of the deceased,
- (b) the date of his death, and
- (c) his usual address.

(2) The registrar shall supply the particulars specified in paragraph (1) either in writing or in a form in which they can be processed by a computer.

(3) 1988 c. 41; section 26 is amended by paragraph 7 of Schedule 5 to the Local Government and Housing Act 1989 (c. 42).

(4) 1987 c. 47.

Use of information by billing authority

6. In carrying out its functions under Part I of the Act, a billing authority may use information obtained under any other enactment provided that it was not obtained—

- (a) by a committee of the authority in its capacity as a police authority; or
- (b) by the authority in its capacity as a constituent council of a police authority.

PART III**Exempt Dwellings, Etc****Information for owners of exempt dwellings, etc.**

7.—(1) Subject to paragraph (5), a billing authority which has received a copy of a proposed list sent to it under section 22(5)(b) of the Act shall, as respects each dwelling shown in the copy which in the opinion of the authority will be a relevant dwelling on the day when the list comes into force, notify the person concerned of the valuation band shown in the copy as applicable to the dwelling.

(2) Where—

- (a) a dwelling is not shown in the copy of a proposed list sent as mentioned in paragraph (1) but is shown in the copy of the list sent to the authority under section 22(7) of the Act; and
- (b) in the opinion of the authority the dwelling was a relevant dwelling on the day when the list came into force,

the authority shall notify the person concerned of the valuation band shown in the list as applicable to the dwelling.

(3) Where—

- (a) the valuation band shown as applicable to a dwelling in the copy of a proposed list sent to a billing authority under section 22(5)(b) of the Act is different from that shown as applicable to it in the copy of the list sent to the authority under section 22(7) of the Act; and
- (b) in the opinion of the authority the dwelling was a relevant dwelling on the day when the list came into force,

the authority shall notify the person concerned of the reason for the difference.

(4) A notification required to be given—

- (a) by paragraph (1), shall be given within the period of 4 months beginning on the day on which the authority received the copy of the proposed list;
- (b) by paragraph (2) or (3), shall be given within the period of 2 months beginning on the day on which the authority received a copy of the list.

(5) If at the time when a person is notified as mentioned in paragraph (3) the authority has not yet given him a notification under paragraph (1), the authority shall not be required to give him such a notification.

(6) For the purposes of this regulation—

- (a) a dwelling is a relevant dwelling on any day if—
 - (i) on the day the dwelling is an exempt dwelling⁽⁵⁾; or

(5) See the Council Tax (Exempt Dwellings) Order 1992 (S.I. 1992/558).

- (ii) in respect of the financial year in which the day falls and the dwelling, the amount set under section 30 of the Act is nil; and
- (b) any reference to the person concerned, in relation to a dwelling, is a reference to the person who would be liable (whether solely or jointly and severally) to pay to the authority an amount in respect of council tax for the particular day if the dwelling were not or had not been a relevant dwelling on that day.

Inquiries as to dwellings

8. A billing authority shall, as regards each financial year commencing with the financial year beginning on 1st April 1993, take reasonable steps to ascertain whether any dwellings in its area will be or were exempt dwellings for any period during the year.

Assumptions as to dwellings

9.—(1) Where, having taken such steps as are referred to in regulation 8, a billing authority has no reason to believe that a particular dwelling will be or was an exempt dwelling for any period during the year, it shall assume, for the purposes of Part V of these Regulations, that the dwelling will be or was a chargeable dwelling for that period.

(2) Where, having taken such steps as are referred to in regulation 8, a billing authority has reason to believe that a particular dwelling will be or was an exempt dwelling for a period during the year, it shall assume, for the purposes of the said Part V, that the dwelling will be or was an exempt dwelling for that period.

Notification of assumption

10.—(1) Subject to paragraphs (5) and (6), a billing authority which has made such an assumption as is mentioned in regulation 9(2) shall, in accordance with paragraph (2), inform the relevant person of the assumption made in his case.

(2) Information shall be given by notice in writing and as soon as reasonably practicable after the assumption has been made.

(3) Subject to paragraph (6), a billing authority shall supply with any notice given in accordance with paragraph (2) a statement—

- (a) specifying the valuation band shown in the authority's valuation list as applicable to the dwelling,
- (b) summarising the effect of any regulations under section 24 of the Act relevant to the making by a person (other than a billing authority) of a proposal for the alteration of that list,
- (c) specifying—
 - (i) where the notice is given after the end of the financial year in which the period to which the assumption relates falls, the amount which, subject to paragraph (4), would have been payable in respect of council tax for that period if the dwelling had been a chargeable dwelling⁽⁶⁾ throughout that period; or
 - (ii) in any other case, the authority's estimate of that amount,
- (d) summarising the classes of dwelling which are for the time being exempt dwellings for the purposes of Chapter I of Part I of the Act, and

(6) See the definition in section 4(2) of the Local Government Finance Act 1992.

- (e) where the amount first set for the financial year in question under section 30 of the Act is nil, that, if the dwelling is or becomes a chargeable dwelling on any day of that year, no council tax will be payable for that year in respect of the dwelling unless an amount is set in substitution for the nil amount.

(4) In determining an amount for the purpose of paragraph (3)(c), the authority shall assume that, as regards each day of the period to which the assumption relates, sections 11 and 12 of the Act, section 131 (council tax benefit) of the Social Security Contributions and Benefits Act 1992(7) and regulations under section 13 of the Act do not apply in the case of the person concerned.

(5) Where, as regards a particular dwelling and period, there is more than one relevant person, nothing in paragraph (1) shall require information to be given, as regards that dwelling and period, to more than one of them.

(6) Information need not be given under this regulation insofar as it would be repetitive of information given to the person concerned in accordance with regulation 7 of these Regulations or any provision of demand notice regulations.

(7) In this regulation, references to the relevant person are references to a person who, in respect of the particular dwelling, would be liable (whether solely or jointly and severally) to pay to the authority an amount in respect of council tax for the period to which the assumption relates if the dwelling were not or had not been an exempt dwelling for that period.

Correction of assumptions

11.—(1) Subject to paragraph (2), where a person—

- (a) has been informed in accordance with paragraph (1) of regulation 10 or as mentioned in paragraph (6) of that regulation of an assumption under regulation 9(2) made in his case; and
- (b) at any time before the end of the financial year following the financial year in respect of which the assumption is made, has reason to believe that the dwelling concerned will not be or was not an exempt dwelling for the period concerned, or will be or was an exempt dwelling for a shorter period,

he shall, within the period of 21 days beginning on the day on which he first has reason so to believe, notify the authority in writing of his belief.

(2) Where persons are jointly and severally liable to pay council tax in respect of the dwelling and period concerned, the duty under paragraph (1) to supply information is a duty of each of them, but is discharged if one of them supplies the information on behalf of both or all of them.

(3) References in paragraphs (1) and (2) to the dwelling and period concerned are to the dwelling and period to which the relevant assumption relates.

Information relating to exempt dwellings, etc.

12.—(1) A person who appears to a billing authority to be a resident, owner or managing agent of a particular dwelling in respect of which an assumption under regulation 9(2) has been made shall supply to the authority such information as fulfils the following conditions—

- (a) it is in the possession or control of the person concerned;
- (b) the authority request (by notice in writing) the person concerned to supply it; and
- (c) it is requested by the authority for the purposes of identifying the person who, in respect of any period specified in the notice, is or will be the relevant person in relation to the dwelling.

(7) 1992 c. 4. Section 131 is amended by the Local Government Finance Act 1992, Schedule 9, paragraph 4.

(2) A person on whom such a notice as is mentioned in paragraph (1) is served shall supply the information so requested—

- (a) within the period of 21 days beginning on the day on which the notice was served; and
- (b) if the authority so requires, in the form specified in the request.

(3) References in this regulation to the relevant person are references to a person who, in respect of the particular dwelling—

- (a) is or will be liable (whether solely or jointly and severally) to pay to the authority an amount in respect of council tax for the period to which the assumption relates; or
- (b) would be so liable if the dwelling were not or had not been an exempt dwelling for that period.

PART IV

Discounts

Interpretation of Part IV

13. In this Part—

- (a) any reference to the chargeable amount is a reference to an amount which a person is liable to pay (whether solely or jointly and severally) in respect of a particular dwelling, to a billing authority in respect of council tax for a financial year and includes, unless the context otherwise requires, an amount which in the opinion of the authority a person will be so liable to pay; and
- (b) any reference to any calculation of the chargeable amount includes a reference to any estimate of the amount.

Ascertainment of entitlement to discount

14. Before making any calculation for the purposes of Part V of these Regulations of the chargeable amount in respect of any dwelling in its area, a billing authority shall take reasonable steps to ascertain whether that amount is subject to any discount under section 11 of the Act or, in the case of a chargeable dwelling in Wales, that section or section 12 of the Act, and if so, the amount of that discount.

Assumptions as to discount

15.—(1) Where, having taken such steps as are referred to in regulation 14, a billing authority has no reason to believe that the chargeable amount for the financial year concerned is subject to a discount, it shall assume, in making any calculation of the chargeable amount for the purposes of Part V of these Regulations, that the chargeable amount is not subject to any discount.

(2) Where, having taken such steps as are referred to in regulation 14, a billing authority has reason to believe that the chargeable amount for the financial year concerned is subject to a discount of a particular amount, it shall assume, in making any such calculation as is mentioned in paragraph (1) above, that the chargeable amount is subject to a discount of that amount.

Correction of discount assumptions

16.—(1) Subject to paragraph (2), where a person—

- (a) has been informed in accordance with any provision of demand notice regulations of an assumption as to discount made in his case; and
- (b) at any time before the end of the financial year following the financial year in respect of which the assumption is made has reason to believe that the chargeable amount is not in fact subject to any discount, or is subject to a discount of a smaller amount,

he shall, within the period of 21 days beginning on the day on which he first has reason so to believe, notify the authority in writing of his belief.

(2) Where persons are jointly and severally liable to pay council tax in respect of the dwelling and period concerned, the duty under paragraph (1) to supply information is a duty of each of them, but is discharged if one of them supplies the information on behalf of both or all of them.

(3) For the purposes of paragraphs (1) and (2), the fact that any person concerned has wholly or partly discharged his liability to pay the amount shall be ignored.

PART V

Billing

Interpretation and application of Part V

17.—(1) In this Part—

“demand notice” means the notice required to be served by regulation 18(1);

“Part II scheme” means a scheme for the payment of the chargeable amount by instalments in accordance with a scheme complying with the requirements of Part II of Schedule 1 to these Regulations;

“relevant valuation band”, in relation to a dwelling, means the valuation band shown as applicable to the dwelling—

- (a) in the billing authority’s valuation list; or
- (b) if no such list is in force, in the copy of the proposed list sent to the authority under section 22(5)(b) of the Act; and

“the relevant year”, in relation to a notice, means the financial year to which the notice relates.

(2) Any reference in this Part to the liable person is a reference to a person who is solely liable to pay to a billing authority, in respect of a particular dwelling, an amount in respect of council tax, and includes, unless the context otherwise requires, a reference to a person who in the opinion of the authority will be so liable.

(3) Any reference in this Part to the chargeable amount is a reference to the amount the liable person is or will be liable to pay.

(4) Any reference in this Part to the day on or time at which a notice is issued, is a reference—

- (a) if the notice is served in the manner described in section 233(2) of the Local Government Act 1972 by being left at, or sent by post to, a person’s proper address, to the day on or time at which it is so left or posted, or
- (b) in any other case, to the day on or time at which the notice is served.

(5) This Part applies (amongst other matters) for the making of payments in relation to the chargeable amount for a financial year; but its application as regards a case where persons are or will be jointly and severally liable to pay an amount in respect of council tax for a financial year is subject to the provisions of regulations 27 and 28 (joint and several liability).

(6) The provisions of this Part which provide for the repayment or crediting of any amount or the adjustment of payments due under a notice shall have effect subject to section 31(4) of the Act

The requirement for demand notices

18.—(1) Subject to paragraph (2), for each financial year a billing authority shall serve a notice in writing on every liable person in accordance with regulations 19 to 21.

(2) Where, but for this paragraph, notices would fall to be served in accordance with this Part—

- (a) at the same time; and
- (b) in respect of the same dwelling,

in relation to a financial year, nothing in paragraph (1) shall require a billing authority to serve a notice for that preceding financial year.

(3) If a person is liable in any financial year to pay to the same billing authority different chargeable amounts in respect of different dwellings, a demand notice shall be served in respect of each chargeable amount

Service of demand notices

19.—(1) The demand notice is to be served—

- (a) on or as soon as practicable after the day the billing authority first sets an amount of council tax for the relevant year for the category of dwellings within which the chargeable dwelling to which the notice relates falls; and
- (b) where it requires the payment of instalments, at least 14 days before the day on which the first instalment is due under it.

(2) In this regulation, “category”, in relation to a dwelling, shall be construed in accordance with section 30(4) of the Act.

Demand notices: payments required

20.—(1) If the demand notice is issued before or during the relevant year, the notice shall require the making of payments on account of the amount referred to in paragraph (2).

(2) The amount is—

- (a) the billing authority’s estimate of the chargeable amount, made as respects the relevant year or part, as the case may be, on the assumptions referred to in paragraph (3); or
- (b) where an amount falls to be credited by the billing authority against the chargeable amount, the amount (if any) by which the amount estimated as mentioned in sub-paragraph (a) exceeds the amount falling to be so credited.

(3) The assumptions are—

- (a) that the person will be liable to pay the council tax to which the notice relates on every day after the issue of the notice;
- (b) that, as regards the dwelling concerned, the relevant valuation band on the day the notice is issued will remain the relevant valuation band for the dwelling as regards every day after the issue of the notice;
- (c) if on the day the notice is issued the person satisfies conditions prescribed for the purposes of regulations under section 13 of the Act (and consequently the chargeable amount in his case is less than it would otherwise be), that he will continue to satisfy those conditions as regards every day after the issue of the notice;

- (d) if, by virtue of regulation 9(1), the dwelling to which the notice relates is assumed to be a chargeable dwelling on the day the notice is issued, that it will continue to be a chargeable dwelling as regards every day after the issue of the notice;
 - (e) if, by virtue of regulation 15(1), the chargeable amount is assumed not to be subject to a discount on the day the notice is issued, that it will not be subject to a discount as regards any day after the issue of the notice;
 - (f) if, by virtue of regulation 15(2), the chargeable amount is assumed to be subject to a discount on the day the notice is issued, that it will continue to be subject to the same rate of discount as regards every day after the issue of the notice; and
 - (g) if on the day the notice is issued a determination as to council tax benefit to which the person is entitled is in effect, and by virtue of regulations under section 138(1) of the Social Security Administration Act 1992⁽⁸⁾ the benefit allowed as regards that day takes the form of a reduction in the amount the person is liable to pay in respect of council tax for the relevant year, that as regards every day after that day he will be allowed the same reduction in that amount.
- (4) If the demand notice is issued during the relevant year and the liable person is not liable to pay an amount by way of council tax in respect of the day on which the notice is issued, the demand notice shall require payment of—
- (a) the chargeable amount for the period in the year up to the last day in respect of which he was so liable; or
 - (b) where an amount falls to be credited by the billing authority against that chargeable amount, an amount equal to the amount (if any) by which that chargeable amount exceeds the amount falling to be so credited.
- (5) If the demand notice is issued after the end of the relevant year, it shall require payment of—
- (a) the chargeable amount; or
 - (b) where an amount falls to be credited by the billing authority against the chargeable amount, an amount equal to the amount (if any) by which the chargeable amount exceeds the amount falling to be so credited.

Council tax: payments

21.—(1) Unless—

- (a) an agreement under paragraph (5) in relation to the relevant year has been reached between the billing authority and the liable person before the demand notice is issued, or
- (b) the authority has resolved that a Part II scheme shall have effect for the relevant year as regards dwellings of a class which includes the dwelling in respect of which the chargeable amount falls to be paid,

a notice to which paragraph (1) of regulation 20 applies shall require the amount mentioned in paragraph (2) of that regulation to be paid by instalments in accordance with Part I of Schedule 1 hereto.

(2) Where a billing authority has resolved as mentioned in paragraph (1)(b), a notice to which paragraph (1) of regulation 20 applies shall require the amount mentioned in paragraph (2) of that regulation to be paid by instalments in accordance with the provisions of the authority's Part II scheme.

(3) Where instalments are required to be paid in accordance with a Part II scheme or under Part I of Schedule 1, Part III of that Schedule applies for their cessation or adjustment in the circumstances

⁽⁸⁾ 1992 c. 5; section 138 is amended by the Local Government Finance Act 1992, Schedule 9, paragraph 19.

described in that Part (subject, in the case of payments in accordance with a Part II scheme, to provision included in the scheme pursuant to paragraph 8(6) of Part II of that Schedule).

(4) If an agreement under paragraph (5) in relation to the relevant year has been reached between the billing authority and the liable person before the demand notice is issued, a notice to which paragraph (1) of regulation 20 applies shall require the amount mentioned in paragraph (2) of that regulation to be paid in accordance with that agreement.

(5) A billing authority and a liable person may agree that the amount mentioned in regulation 20(2) which is required to be paid under a notice to which regulation 20(1) applies shall be paid in such manner as is provided by the agreement.

(6) Notwithstanding the foregoing provisions of this regulation, such an agreement may be entered into either before or after the demand notice concerned is issued, and may make provision for the cessation or adjustment of payments, and for the making of fresh estimates, in the event of the estimate mentioned in regulation 20(2) turning out to be wrong; and if it is entered into after the demand notice has been issued, it may make provision dealing with the treatment for the purposes of the agreement of any sums paid in accordance with Part I of Schedule 1 or a Part II scheme before it was entered into.

(7) A notice to which regulation 20(4) or (5) applies shall (as the billing authority determines) require payment of the amount concerned—

- (a) on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it; or
- (b) by instalments of such amounts as are specified in the notice, payable at such intervals and on such day in each interval as is so specified.

Notices: further provision

22. No payment on account of the chargeable amount (whether interim, final or sole) need be made unless a notice served under this Part requires it.

Failure to pay instalments

23.—(1) Subject to paragraph (2), where—

- (a) a demand notice has been served by a billing authority on a liable person,
- (b) instalments in respect of the council tax to which the notice relates are payable in accordance with Part I of Schedule 1 or, as the case may be, a Part II scheme, and
- (c) any such instalment is not paid in accordance with that Schedule or, as the case may be, the relevant scheme,

the billing authority shall serve a notice (“reminder notice”) on the liable person stating—

- (i) the instalments required to be paid,
 - (ii) the effect of paragraph (3) below, and
 - (iii) where the notice is the second such notice as regards the relevant year, the effect of paragraph (4) below.
- (2) Nothing in paragraph (1) shall require the service of a reminder notice—
- (a) where all the instalments have fallen due; or
 - (b) in the circumstances mentioned in paragraphs (3) and (4).

(3) If, within the period of 7 days beginning with the day on which a reminder notice is issued, the liable person fails to pay any instalments which are or will become due before the expiry of that

period, the unpaid balance of the estimated amount shall become payable by him at the expiry of a further period of 7 days beginning with the day of the failure.

(4) If, after making a payment in accordance with a reminder notice which is the second such notice as regards the relevant year, the liable person fails to pay any subsequent instalment as regards that year on or before the day on which it falls due, the unpaid balance of the estimated amount shall become payable by him on the day following the day of the failure.

Payments: adjustments

24.—(1) If the chargeable amount proves to be greater than the estimated amount an additional sum equal to the difference between the two shall, on the service by the billing authority on the liable person of a notice stating the chargeable amount, be due from him to the authority on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it.

(2) If the chargeable amount proves to be less than the estimated amount the billing authority shall notify the liable person in writing of the chargeable amount; and any overpayment of the chargeable amount—

- (a) subject to paragraph (6), shall be repaid if the liable person so requires, or
- (b) in any other case shall (as the billing authority determines) either be repaid or be credited against any subsequent liability of the liable person to make a payment in respect of any council tax of the authority.

(3) If any assumption by reference to which the estimated amount was calculated is shown to be false before the chargeable amount is capable of final determination for the purposes of paragraphs (1) and (2), the billing authority may, and if so required by the liable person shall, make a calculation of the appropriate amount with a view to adjusting the liable person's liability in respect of the estimated amount and (as appropriate) to—

- (a) requiring an interim payment from the liable person if the appropriate amount is greater than the estimated amount, or
- (b) subject to paragraph (6), making an interim repayment to the liable person if the appropriate amount is less than the amount of the estimated amount paid.

(4) The appropriate amount for the purposes of paragraph (3) is the amount which would be required to be paid under a demand notice if such a notice were issued with respect to the relevant year on the day that the notice under paragraph (5) is issued; and more that one calculation of the appropriate amount and interim adjustment may be made under paragraph (3) according to the circumstances.

(5) On calculating the appropriate amount the billing authority shall notify the liable person in writing of it; and a payment required under paragraph (3)(a) shall be due from the liable person to the billing authority on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it.

(6) If the chargeable amount or the appropriate amount is less than the estimated amount in consequence of the liable person ceasing during the relevant year to be liable to make the payment to which the estimated amount relates, and he becomes liable, in respect of a different chargeable dwelling, to make a payment to the same billing authority by way of council tax in respect of the same day as that on which he so ceases, the billing authority may require that the amount of any overpayment mentioned in paragraph (2) or difference mentioned in paragraph (3)(b) shall, instead of being repaid, be credited against his liability in respect of the different dwelling.

(7) In this regulation—

“the appropriate amount” has the meaning given in paragraph (4); and

“the estimated amount” means the amount last estimated under regulation 20(2) for the purposes of a demand notice or any subsequent notice given under paragraph 10 of Schedule 1

prior to the failure mentioned in regulation 23(3), save that if in any case an interim adjustment has been made under paragraph (3), it means in relation to the next payment, repayment or interim adjustment in that case under this regulation (if any) the appropriate amount by reference to which the previous interim adjustment was so made.

Lump sum payments

25.—(1) A billing authority may, subject to the conditions set out in paragraph (2), accept an amount payable in a single lump sum in such cases as it may determine and in satisfaction of any liability of a liable person under a demand notice to which regulation 20(2) applies to pay the estimated amount, being a lump sum which is of an amount determined by the authority and less than the estimated amount.

(2) The conditions are that—

- (a) the determinations under paragraph (1) as to the cases where a lump sum will be accepted and as to the amount of the sum in those cases must be made by the authority on or before the day on which it first sets an amount for the relevant year under section 30 of the Act;
- (b) under those determinations persons liable to pay the same number of instalments in the relevant year must be treated alike, and so that in particular the proportion that the amount of the single lump sum to be accepted in relation to a person bears to the estimated amount payable by him must be the same as that applicable to all other liable persons liable to pay the same number of instalments in the relevant year; and
- (c) for a lump sum to be accepted under those determinations as they have effect in any case—
 - (i) at least two instalments must fall to be paid under the demand notice concerned in accordance with Part I of Schedule 1, a Part II scheme or any agreement under regulation 21(5), and
 - (ii) the single lump sum payment must be made on or before the day on which the first instalment falls due under the notice.

(3) A determination under paragraph (1) may be revoked at any time, and if revoked may (but only on or before the day mentioned in paragraph (2)(a)) be replaced by a fresh determination.

(4) If the chargeable amount proves to be greater than the estimated amount, an additional sum equal to the difference between the two, proportionately reduced in accordance with paragraph (9), shall, on the service by the billing authority on the liable person of a notice stating the chargeable amount, be due from him to the authority on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it.

(5) If the chargeable amount proves to be less than the estimated amount the billing authority shall notify the liable person in writing of the chargeable amount; and any overpayment of the chargeable amount (proportionately reduced in accordance with paragraph (9))—

- (a) shall be repaid if the liable person so requires, or
- (b) in any other case shall (as the billing authority determines) either be repaid or be credited against any subsequent liability of the liable person to make a payment in respect of any council tax of the authority.

(6) If any assumption by reference to which the estimated amount was calculated is shown to be false before the chargeable amount is capable of final determination for the purposes of paragraphs (4) and (5), the billing authority may, and if so required by the liable person shall, make a calculation of the appropriate amount with a view to adjusting the liable person's liability in respect of the estimated amount and (as appropriate) to—

- (a) requiring an interim payment from the liable person (proportionately reduced in accordance with paragraph (9)) if the appropriate amount is greater than the estimated amount, or

- (b) making an interim repayment to the liable person (proportionately reduced in accordance with paragraph (9)) if the appropriate amount is less than the amount of the estimated amount paid.

(7) The appropriate amount for the purposes of paragraph (6) is the amount which would be required to be paid under a demand notice if such a notice were issued with respect to the relevant year on the day that the notice under paragraph (8) is issued; and more than one calculation of the appropriate amount and interim adjustment may be made under paragraph (6) according to the circumstances.

(8) On calculating the appropriate amount the billing authority shall notify the liable person in writing of it; and a payment required under paragraph (6)(a) shall be due from the liable person to the billing authority on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it.

(9) The proportion by reference to which a payment or repayment (or sum to be credited) under paragraph (4), (5) or (6) is to be reduced is to be the proportion determined under paragraph (2) (b) in respect of the lump sum concerned in that case; but in determining whether there has been an overpayment of the chargeable amount or appropriate amount (and the amount of any sum to be repaid or credited before reduction as aforementioned) one payment of the lump sum shall be treated as a payment of the estimated amount in full, and any other proportionately reduced payment or repayment already made shall be treated as not having been so reduced.

(10) In this regulation—

“the appropriate amount” has the meaning given in paragraph (7); and

“the estimated amount” means the amount last estimated under regulation 20(2) for the purposes of a demand notice or any subsequent notice given under paragraph 10 of Schedule 1 prior to the payment of the single lump sum mentioned in paragraph (1) above; save that if in any case an interim adjustment has been made under paragraph (6), in relation to the next payment, repayment or interim adjustment in that case under this regulation (if any) it means (except in paragraph (9)) the appropriate amount by reference to which the previous interim adjustment was so made.

Non-cash payments

26.—(1) A billing authority may, subject to the conditions set out in paragraph (2), accept an amount (“discounted amount”) in such cases as it may determine and in satisfaction of any liability of a person to pay to it any instalment or other payment due under a notice given under this Part, being an amount determined by the authority and less than the amount of the instalment or other payment due.

(2) The conditions are that—

- (a) the discounted amount is paid to the authority otherwise than by either bank notes within the meaning of the Currency and Bank Notes Act 1954(9) or coin; and
- (b) the determinations under paragraph (1) as to the cases where a discounted amount will be accepted and as to the proportion that the amount is to bear to the amount of the instalment or other payment due in those cases must be made by the authority on or before the day on which it first sets an amount for the relevant year under section 30 of the Act.

(3) Subject to paragraph (5), a determination under paragraph (1) may be revoked at any time, and if revoked may (but only on or before the day mentioned in paragraph (2)(b)) be replaced by a fresh determination.

(9) 1954 c. 12.

(4) For the purpose of determining whether an adjustment of any amount paid (whether by way of repayment, crediting or otherwise) falls to be made under this Part where a discounted amount has been accepted, the instalment or other payment by reference to which the discounted amount was accepted shall be treated as having been paid in full; but any amount to be repaid or credited against any subsequent liability in any case shall, insofar as it is attributable to such an instalment or other payment, be reduced in accordance with the proportion determined under paragraph (2)(b) in respect of that case.

(5) Paragraph (4), and the power to revoke under paragraph (3), have effect in any case subject to any agreement to the contrary between the billing authority and the person liable to pay the instalment or other payment concerned.

Joint and several liability

27.—(1) This regulation applies in a case where, in relation to any chargeable dwelling and any day—

- (a) by virtue of section 6(3) or (4)(b), 7(4) or (5), or 8(4) or (5) of the Act, two or more persons; or
- (b) by virtue of section 9(1) of the Act, both the liable person and any other resident of the dwelling to whom he is married (“the spouse”),

are jointly and severally liable to pay council tax in respect of the dwelling and that day.

(2) In a case to which this regulation applies and subject to regulation 28(1), in relation to each day in the chargeable period concerned on which an amount payable in respect of council tax is unpaid, the persons referred to in paragraph (1)(a) or, as the case may be, paragraph (1)(b) shall be jointly and severally liable to pay such fraction of—

- (a) where the day by which all instalments payable under a demand notice in accordance with Part I of Schedule 1 or a Part II scheme are payable has passed, the aggregate amount of those instalments (together with the amount of any excess payable in accordance with paragraph 10(5) of that Schedule),
- (b) where paragraph (3) of regulation 23 applies, the estimated amount mentioned in that paragraph,
- (c) the chargeable amount or appropriate amount stated in a notice given under regulation 24(1) or (5) or 25(4) or (8),
- (d) the amount stated in a notice given under paragraph 9(3) of Schedule 1,
- (e) the amount required to be paid by a demand notice to which regulation 20(4) or (5) applies, or
- (f) the amount stated in a notice given under regulation 31(2),
- (g) any amount payable under an agreement under regulation 21(5),

as is represented by

$$\frac{A}{B}$$

where—

A is the number of days in the chargeable period on which persons are jointly and severally liable, and

B is the number of days in the chargeable period.

(3) Where the fraction

A
B

mentioned in paragraph (2) gives a result of less than 1 and

a person is accordingly solely liable with respect to a part of such an amount as is mentioned in that paragraph and jointly and severally liable in respect of another part, any payment made by the person in respect of it (whether before or after the giving of a notice under regulation 28(1)) shall be treated as being made towards satisfaction of the part for which he is solely liable unless and until his liability in respect of that part is discharged.

(4) References in paragraph (2) to provisions of this Part, and to notices given under such provisions, include references to those provisions (and notices given under those provisions) as applied by paragraph 9(6) of Schedule 1.

(5) For the purposes of this regulation and regulation 28—

“the chargeable period” means the period consisting of the days which fall within the financial year concerned and on which a person is liable to pay council tax; and two persons are married to each other if they are a man and a woman—

- (a) who are married to each other; or
- (b) who are not married to each other but are living together as husband and wife.

(6) Where a billing authority collects a penalty from the liable person in accordance with regulation 29(1)(a), references in paragraph (2) above to an amount do not include references to such part of the amount as is attributable to the penalty; but any payment made by the liable person in respect of the amount shall (unless it is made while the penalty is subject to appeal or arbitration) be treated as being made towards satisfaction of the penalty unless and until his liability in respect of the penalty is discharged.

Joint and several liability: further provision

28.—(1) An amount shall not be payable by a person pursuant to regulation 27(2) unless a notice has been served on him by the billing authority stating the amount; and it shall be due from him to the authority at the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it.

(2) A notice under paragraph (1) may be served before the expiry of the chargeable period; and if on the day such a notice is issued the relevant year has not expired, it shall be assumed that the circumstances concerning any factor which might affect the ratio

A
B

in regulation 27(2) will remain as they stand at the time of issue of the notice; and without prejudice to the generality of the foregoing, the factors include—

- (a) the question whether, in a case to which regulation 27 applies by virtue of section 6(3) or (4)(b), 7(4) or (5), or 8(4) or (5) of the Act, on any day persons will be jointly and severally liable to pay any amount in respect of council tax,
- (b) the question whether, in a case to which regulation 27 applies by virtue of section 9(1) of the Act, the liable person will remain liable to the tax concerned.

(3) If a notice is served under paragraph (1) on such an assumption as is mentioned in paragraph (2), and the assumption is shown to be false, the billing authority shall serve a further notice—

- (a) in the case mentioned in paragraph (2)(a), on each of the persons concerned;
- (b) in the case mentioned in paragraph (2)(b), on the liable person and the spouse,

stating the revised sum for which the person is jointly and severally liable under this regulation, calculated on the assumptions mentioned in paragraph (2) and as if the notice mentioned in that paragraph were the further notice served under this paragraph.

(4) If after a notice is served under paragraph (1) a notice is served—

- (a) in the case mentioned in paragraph (2)(a), on any of the persons concerned;
- (b) in the case mentioned in paragraph (2)(b), on the liable person,

which adjusts an amount mentioned in regulation 27(2), or which otherwise notifies a change of the amounts with respect to which persons have a joint and several liability under that regulation, a further notice shall also be served on each of the other persons concerned or, as the case may be, on the spouse, stating the revised sum for which the person or spouse is jointly and severally liable under the regulation.

(5) If the sum stated in the further notice served under paragraph (3) or (4) is greater than the sum stated in the notice served under paragraph (2), the amount of the difference shall be due from the other person concerned or, as the case may be, the spouse to the billing authority on the expiry of such period (being not less than 14 days) after the day of issue of the further notice as is specified in it.

(6) If the sum stated in the further notice served under paragraph (3) or (4) is less than the sum stated in the notice served under paragraph (1) and there has been an overpayment by the other person concerned or, as the case may be, the spouse, the amount overpaid—

- (a) shall be repaid if the other person or the spouse so requires, or
- (b) in any other case shall (as the billing authority determines) either be repaid or be credited against any subsequent liability of the person or the spouse to make a payment in respect of any council tax of the authority.

(7) Regulation 24(3)(b) applies as if the reference to the liable person includes, insofar as concerns the difference between the joint and several liability under regulation 27(1) of the spouse in respect of the appropriate amount or recalculated amount referred to in those provisions and the amount he has paid in respect of the estimated amount so referred to, a reference to the spouse, and as if the reference to regulation 24(6) were a reference to that provision as applied by paragraph (9) below; and accordingly any requirement which may be made by the liable person under regulation 24(3) for a calculation of the appropriate amount or for a recalculation of the estimated amount (as the case may be) may also be made by the spouse.

(8) In a case where—

- (a) payments have been made by the spouse under regulation 27 or this regulation, and by the liable person, in respect of any amount for which the latter is liable under this Part, and
- (b) a sum would fall to be repaid to the liable person or credited against a liability of his if all of those payments had been made by him,

the sum shall, to the extent that it does not exceed payments made by the spouse, be repaid to or credited in favour of the spouse.

(9) If the circumstances described in regulation 24(6) have arisen, the billing authority may require that any amount of the overpayment or difference mentioned in that provision which might otherwise fall to be repaid to the spouse shall, instead of being repaid, be credited against any prospective liability of the spouse under regulation 27.

Collection of penalties

29.—(1) Subject to paragraphs (2) to (4), where a penalty is payable by a person to a billing authority under any of sub-paragraphs (1) to (3) of paragraph 1 of Schedule 3 to the Act it may be collected, as the authority to which it is payable determines, either—

- (a) by treating the penalty for the purposes of regulations 20 and 21 and Schedule 1 as if it were part of the amount that the person is or will be liable to pay in respect of council tax as regards any demand notice issued pursuant to regulation 20(2) after the penalty is imposed, or
 - (b) by the service by the authority on the person of a notice requiring payment of the penalty on the expiry of such period (being not less than 14 days) after the issue of the notice as is specified in it.
- (2) Where the imposition of a penalty is subject to an appeal or arbitration, no amount shall be payable in respect of the penalty while the appeal or arbitration is outstanding.
- (3) The imposition of a penalty is to be treated as subject to an appeal or arbitration for the purposes of this regulation and regulation 27(6) until such time as the matter is finally disposed of in accordance with regulations under paragraph 4 of Schedule 11 to the Local Government Finance Act 1988 (valuation tribunals) or is abandoned or fails for non-prosecution; and the circumstances in which an appeal is to be treated as failing for non-prosecution include the expiry of any time prescribed under paragraph 8(2)(a) of that Schedule in consequence of which any such appeal would be required to be dismissed by a valuation tribunal.
- (4) A demand notice making provision for the recovery of a penalty which is subject to appeal or arbitration may not be issued under paragraph (1)(a) during the period that the appeal or arbitration concerned is outstanding; and where a penalty becomes subject to appeal or arbitration after the issue of a demand notice which makes such provision, such proportion of the instalments due under it as are attributable to the penalty shall not fall due until the appeal or arbitration is finally disposed of, abandoned or fails for non-prosecution.
- (5) Where an amount has been paid by a person in respect of a penalty which is quashed under paragraph 1(6) of Schedule 3 to the Act or pursuant to the order of a valuation tribunal or the High Court⁽¹⁰⁾, the billing authority which imposed the penalty may allow the amount to him by way of deduction against any other sum which has become due from him under this Part (whether in respect of another penalty or otherwise); and any balance shall be repaid to him.

Appeals in relation to estimates

30. Section 16(1) of the Act shall not apply where the ground on which the person concerned is aggrieved is that any assumption as to the future that is required by this Part to be made in the calculation of an amount may prove to be inaccurate.

Demand notices: final adjustment

- 31.**—(1) This regulation applies where—
- (a) a notice has been issued by a billing authority under this Part requiring a payment or payments to be made by a person in respect of his liability to pay council tax for a financial year or part of a financial year,
 - (b) the payment or payments required to be made are found to be in excess of or less than his liability for the year or the part, and
 - (c) provision for adjusting the amounts required under the notice and (as appropriate) for the making of additional payments or the repaying or crediting of any amount overpaid is not made by any other provision of this Part, of the Act or of any agreement entered into under regulation 21(5).

⁽¹⁰⁾ See paragraphs 10A and 11(2)(d) of Schedule 11 to the Local Government Finance Act 1988, as inserted and substituted respectively by the Local Government Finance Act 1992, Schedule 13, paragraph 88(9) and (11).

(2) The billing authority shall as soon as practicable after the expiry of the year or the part of a year serve a further notice on the person stating the amount of his liability for the year or the part, and adjusting (by reference to that amount) the amounts required to be paid under the notice referred to in paragraph (1)(a).

(3) If the amount stated in the further notice is greater than the amount required to be paid under the notice referred to in paragraph (1)(a), the amount of the difference for which such other provision as is mentioned in paragraph (1)(c) is not made shall be due from the person to the billing authority on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it.

(4) If there has been an overpayment, the amount overpaid for which such other provision as is mentioned in paragraph (1)(c) is not made—

- (a) shall be repaid if the person so requires, or
- (b) in any other case shall (as the billing authority determines) either be repaid or be credited against any subsequent liability of the person to make a payment in respect of any council tax of the authority.

PART VI

Enforcement

Interpretation and application of Part VI

32.—(1) In this Part—

“attachment of allowances order” means an order under regulation 44;

“attachment of earnings order” means an order under regulation 37;

“charging order” means an order under regulation 50;

“debtor” means a person against whom a liability order has been made;

“earnings” means sums payable to a person—

- (a) by way of wages or salary (including any fees, bonus, commission, overtime pay or other emoluments payable in addition to wages or salary or payable under a contract of service); or
- (b) by way of statutory sick pay, earnings,

but, in so far as the following would otherwise be treated as earnings, they shall not be treated as such:

- (i) sums payable by any public department of the Government of Northern Ireland or of a territory outside the United Kingdom;
- (ii) pay or allowances payable to the debtor as a member of Her Majesty’s forces;
- (iii) allowances or benefit payable under the Social Security Acts⁽¹¹⁾;
- (iv) allowances payable in respect of disablement or disability; and
- (v) wages payable to a person as a seaman, other than wages payable to him as a seaman of a fishing boat;

“liability order” means an order under regulation 34; and

“net earnings” in relation to an employment means the residue of earnings payable under the employment after deduction by the employer of—

(11) See the definition in section 116(1) of the Local Government Finance Act 1992.

- (a) income tax;
- (b) primary Class 1 contributions under Part I of the Social Security Contributions and Benefits Act 1992⁽¹²⁾; and
- (c) amounts deductible under any enactment, or in pursuance of a request in writing by the debtor, for the purposes of a superannuation scheme, namely any enactment, rules, deed or other instrument providing for the payment of annuities or lump sum—
 - (i) to the persons with respect to whom the instrument has effect on their retirement at a specified age or on becoming incapacitated at some earlier age, or
 - (ii) to the personal representatives or the widows, relatives or dependants of such persons on their death or otherwise,
 whether with or without any further or other benefits.

(2) In sub-paragraph (v) of the definition of “earnings” in paragraph (1) above expressions used in the Merchant Shipping Act 1894⁽¹³⁾ have the same meanings as in that Act.

(3) Regulations 33 to 53 apply for the recovery of a sum which has become payable to a billing authority under Part V and which has not been paid; but their application in relation to a sum for which persons are jointly and severally liable under that Part is subject to the provisions of regulation 54 (joint and several liability).

(4) References in this Part to a sum which has become payable and which has not been paid include references to a sum forming part of a larger sum which has become payable and the other part of which has been paid

Liability orders: preliminary steps

33.—(1) Subject to paragraph (3), before a billing authority applies for a liability order it shall serve on the person against whom the application is to be made a notice (“final notice”), which is to be in addition to any notice required to be served under Part V, and which is to state every amount in respect of which the authority is to make the application.

(2) A final notice may be served in respect of an amount at any time after it has become due.

(3) A final notice need not be served on a person who has been served under regulation 23(1) with a reminder notice in respect of the amount concerned.

Application for liability order

34.—(1) If an amount which has fallen due under regulation 23(3) or (4) is wholly or partly unpaid, or (in a case where a final notice is required under regulation 33) the amount stated in the final notice is wholly or partly unpaid at the expiry of the period of 7 days beginning with the day on which the notice was issued, the billing authority may, in accordance with paragraph (2), apply to a magistrates' court for an order against the person by whom it is payable.

(2) The application is to be instituted by making complaint to a justice of the peace, and requesting the issue of a summons directed to that person to appear before the court to show why he has not paid the sum which is outstanding.

(3) Section 127(1) of the Magistrates' Courts Act 1980⁽¹⁴⁾ does not apply to such an application; but no application may be instituted in respect of a sum after the period of six years beginning with the day on which it became due under Part V.

⁽¹²⁾ 1992 c. 4.

⁽¹³⁾ 1894 c. 60. The definition of “fishing boat” in section 370 was amended by the Merchant Shipping Act 1970 (c. 36), Schedule 5 and the definition of “seaman” in section 742 was amended by paragraph 4 of Schedule 3 to that Act.

⁽¹⁴⁾ 1980 c. 43.

(4) A warrant shall not be issued under section 55(2) of the Magistrates' Courts Act 1980 in any proceedings under this regulation.

(5) If, after a summons has been issued in accordance with paragraph (2) but before the application is heard, there is paid or tendered to the authority an amount equal to the aggregate of—

- (a) the sum specified in the summons as the sum outstanding or so much of it as remains outstanding (as the case may be); and
- (b) a sum of an amount equal to the costs reasonably incurred by the authority in connection with the application up to the time of the payment or tender,

the authority shall accept the amount and the application shall not be proceeded with.

(6) The court shall make the order if it is satisfied that the sum has become payable by the defendant and has not been paid.

(7) An order made pursuant to paragraph (6) shall be made in respect of an amount equal to the aggregate of—

- (a) the sum payable, and
- (b) a sum of an amount equal to the costs reasonably incurred by the applicant in obtaining the order.

(8) Where the sum payable is paid after a liability order has been applied for under paragraph (2) but before it is made, the court shall nonetheless (if so requested by the billing authority) make the order in respect of a sum of an amount equal to the costs reasonably incurred by the authority in making the application.

Liability orders: further provision

35.—(1) A single liability order may deal with one person and one such amount (or aggregate amount) as is mentioned in regulation 34(7) and (8) (in which case the order shall be in the form specified as Form A in Schedule 2, or a form to the like effect), or, if the court thinks fit, may deal with more than one person and more than one such amount (in which case the order shall be in the form specified as Form B in that Schedule, or a form to the like effect).

(2) A summons issued under regulation 34(2) may be served on a person—

- (a) by delivering it to him, or
- (b) by leaving it at his usual or last known place of abode, or in the case of a company, at its registered office, or
- (c) by sending it by post to him at his usual or last known place of abode, or in the case of a company, to its registered office, or
- (d) by leaving it at, or by sending it by post to him at, an address given by the person as an address at which service of the summons will be accepted.

(3) The amount in respect of which a liability order is made is enforceable in accordance with this Part; and accordingly for the purposes of any of the provisions of Part III of the Magistrates' Courts Act 1980 (satisfaction and enforcement) it is not to be treated as a sum adjudged to be paid by order of the court.

Duties of debtors subject to liability order

36.—(1) Where a liability order has been made, the debtor against whom it was made shall, during such time as the amount in respect of which the order was made remains wholly or partly unpaid, be under a duty to supply relevant information to the billing authority on whose application it was made.

(2) For the purposes of paragraph (1), relevant information is such information as fulfils the following conditions—

- (a) it is in the debtor’s possession or control;
- (b) the billing authority requests him by notice given in writing to supply it; and
- (c) it falls within paragraph (3).

(3) Information falls within this paragraph if it is specified in the notice mentioned in paragraph (2) (b) and it falls within one or more of the following descriptions—

- (a) information as to the name and address of an employer of the debtor;
- (b) information as to earnings or expected earnings of the debtor;
- (c) information as to deductions and expected deductions from such earnings in respect of the matters referred to in paragraphs (a) to (c) of the definition of “net earnings” in regulation 32 or attachment of earnings orders made under this Part, the Attachment of Earnings Act 1971⁽¹⁵⁾ or the Child Support Act 1991⁽¹⁶⁾;
- (d) information as to the debtor’s work or identity number in an employment, or such other information as will enable an employer of the debtor to identify him;
- (e) information as to sources of income of the debtor other than an employer of his;
- (f) information as to whether another person is jointly and severally liable with the debtor for the whole or any part of the amount in respect of which the order was made.

(4) Information is to be supplied within 14 days of the day on which the request is made.

Making of attachment of earnings order

37.—(1) Where a liability order has been made and the debtor against whom it was made is an individual, the authority which applied for the order may make an order under this regulation to secure the payment of any outstanding sum which is or forms part of the amount in respect of which the liability order was made.

(2) An order under this regulation—

- (a) shall be in the form specified in (and accordingly contain the matters specified in) Schedule 3; and
- (b) shall remain in force until discharged under regulation 41(2) or the whole amount to which it relates has been paid (whether by attachment of earnings or otherwise).

(3) The authority may serve a copy of the order on a person who appears to the authority to have the debtor in his employment; and a person on whom it is so served who has the debtor in his employment shall comply with it.

Deductions under attachment of earnings order

38.—(1) Subject to paragraphs (2) and (3), the sum to be deducted by an employer under an attachment of earnings order on any pay-day shall be—

- (a) where the debtor’s earnings from the employer are payable weekly, a sum equal to the appropriate percentage of the net earnings otherwise payable on that pay-day; and for this purpose the appropriate percentage is the percentage (or percentages) specified in column 2 of Table A in that Schedule 4 in relation to the band in column 1 of that Table within which the net earnings fall;

(15) 1971 c. 32.

(16) 1991 c. 48.

- (b) where his earnings from the employer are payable monthly, a sum equal to the appropriate percentage of the net earnings otherwise payable on that pay-day; and for this purpose the appropriate percentage is the percentage (or percentages) specified in column 2 of Table B in that Schedule 4 in relation to the band in column 1 of that Table within which the net earnings fall;
 - (c) where his earnings from the employer are payable at regular intervals of a whole number of weeks or months, the sum arrived at by—
 - (i) calculating what would be his weekly or monthly net earnings by dividing the net earnings payable to him by the employer on the pay-day by that whole number (of weeks or months, as the case may be),
 - (ii) ascertaining the percentage (or percentages) specified in column 2 of Table A (if the whole number is of weeks) or of Table B (if the whole number is of months) in Schedule 4 opposite the band in column 1 of that Table within which the notional net earnings calculated under paragraph (i) fall, and
 - (iii) calculating the sum which equals the appropriate percentage (or percentages) of the notional net earnings for any of those weeks or months and multiplying that sum by the whole number of weeks or months, as appropriate.
- (2) Where paragraph (1) applies and the amount to be paid to the debtor on any pay-day includes an advance in respect of future pay, the sum to be deducted on that pay-day shall be the aggregate of the amount which would otherwise fall to be deducted under paragraph (1) and—
- (a) where the amount advanced would otherwise have been paid on a single pay-day, the sum which would have been deducted on that pay-day in accordance with paragraph (1) if the amount advanced had not been the amount of net earnings on that day; or
 - (b) where the amount advanced would otherwise have been paid on more than one pay-day, the sums which would have been deducted on each of the relevant pay-days in accordance with paragraph (1) if—
 - (i) an equal proportion of the amount advanced had paid on each of those days; and
 - (ii) the net earnings of the debtor on each of those days had been an amount equal to that proportion.
- (3) Where the amount payable to the debtor on any pay-day is reduced by reason of an earlier advance of pay or by reason of the repayment by the debtor of a loan made to him by his employer for any purpose, the net earnings of the debtor on that day shall, for the purposes of paragraph (1), be the amount defined in regulation 32(1) less the amount of the deduction.
- (4) Subject to paragraphs (5) and (6), where the debtor's earnings from the employer are payable at regular intervals other than at intervals to which paragraph (1) applies, the sum to be deducted on any pay-day shall be arrived at by—
- (a) calculating what would be his daily net earnings by dividing the net earnings payable to him by the employer on the pay-day by the number of days in the interval,
 - (b) ascertaining the percentage (or percentages) specified in column 2 of Table C in Schedule 4 opposite the band in column 1 of that Table within which the notional net earnings calculated under sub-paragraph (a) fall, and
 - (c) calculating the sum which equals the appropriate percentage (or percentages) of the notional daily net earnings and multiplying that sum by the number of days in the interval.
- (5) Where the debtor's earnings are payable as mentioned in paragraph (4), and the amount to be paid to the debtor on any pay-day includes an amount advanced in respect of future pay, the amount of the debtor's notional net earnings under sub-paragraph (a) of that paragraph shall be calculated in accordance with the formula

$$\frac{A + B}{C + D}$$

where:

A is the amount of net earnings payable to him on that pay-day (exclusive of the amount advanced);

B is the amount advanced;

C is the number of days in the period for which the amount of net earnings is payable; and

D is the number of days in the period for which, but for the agreement to pay in advance, the amount advanced would have been payable.

(6) Paragraph (3) applies in relation to paragraph (4) as it applies in relation to paragraph (1).

(7) Where earnings are payable to a debtor by the employer by 2 or more series of payments at regular intervals—

(a) if some or all of the intervals are of different lengths—

(i) for the purpose of arriving at the sum to be deducted, whichever of paragraphs (1), (2), (3), (4), (5) and (6) is appropriate shall apply to the series with the shortest interval (or, if there is more than one series with the shortest interval, such one of those series as the employer may choose), and

(ii) in relation to the earnings payable in every other series, the sum to be deducted shall be 20 per cent. of the net earnings or, where on any pay-day an amount advanced is also paid, 20 per cent. of the aggregate of the net earnings and the amount advanced;

(b) if all of the intervals are of the same length, whichever of paragraphs (1), (2), (3), (4), (5) and (6) is appropriate shall apply to such series as the employer may choose and sub-paragraph (a)(ii) shall apply to every other series, above as it applies in relation to paragraph (1).

(8) Subject to paragraphs (9) and (10), where the debtor's earnings from the employer are payable at irregular intervals, the sums to be deducted on any pay-day shall be arrived at by—

(a) calculating what would be his daily net earnings by dividing the net earnings payable to him by the employer on the pay-day—

(i) by the number of days since earnings were last payable by the employer to him, or

(ii) if the earnings are the first earnings to be payable by the employer to him with respect to the employment in question, by the number of days since he began the employment;

(b) ascertaining the percentage (or percentages) specified in column 2 of Table C of Schedule 4 opposite the band in column 1 of that Table within which the notional net earnings calculated under sub-paragraph (a) fall; and

(c) calculating the sum which equals the appropriate percentage (or percentages) of the daily net earnings and multiplying that sum by the same number as that of the divisor for the purposes of the calculation mentioned in sub-paragraph (a).

(9) Where on the same pay-day there are payable to the debtor by the employer both earnings payable at regular intervals and earnings payable at irregular intervals, for the purpose of arriving at the sum to be deducted on the pay-day under the foregoing provisions of this regulation all the earnings shall be aggregated and treated as earnings payable at the regular interval.

(10) Where there are earnings payable to the debtor by the employer at regular intervals on one pay-day, and earnings are payable by the employer to him at irregular intervals on a different pay-day, the sum to be deducted on each of the pay-days on which the earnings which are payable at irregular intervals are so payable shall be 20 per cent. of the net earnings payable to him on the day.

Attachment of earnings orders: ancillary powers and duties of employers and others served

39.—(1) An employer who deducts and pays amounts under an attachment of earnings order may, on each occasion that he makes such a deduction, also deduct from the debtor’s earnings the sum of one pound towards his administrative costs.

(2) An employer who deducts and pays amounts under an attachment of earnings order shall, in accordance with paragraph (3), notify the debtor in writing of—

- (a) the total amount of the sums (including sums deducted under paragraph (1)) deducted under the order up to the time of the notification; or
- (b) the total amount of the sums (including sums deducted under paragraph (1)) that will fall to be so deducted after that time.

(3) A notification under paragraph (2) must be given at the time that the pay statement given by the employer to the debtor next after a deduction has been made is so given, or if no such statements are usually issued by the employer, as soon as practicable after a deduction has been made.

(4) A person on whom a copy of an attachment of earnings order has been served shall, in accordance with paragraph (5), notify in writing the authority which made the order if he does not have the debtor against whom it was made in his employment or the debtor subsequently ceases to be in his employment.

(5) A notification under paragraph (4) must be given within 14 days of the day on which the copy of the order was served on him or the debtor ceased to be in his employment (as the case may be).

(6) While an attachment of earnings order is in force, any person who becomes the debtor’s employer and knows that the order is in force and by what authority it was made shall notify that authority in writing that he is the debtor’s employer.

(7) A notification under paragraph (6) must be given within 14 days of the day on which the debtor became the person’s employee or of the day on which the person first knows that the order is in force and the identity of the authority by which it was made, whichever is the later

Attachment of earnings orders: duties of debtor

40.—(1) While an attachment of earnings order is in force, the debtor in respect of whom the order has been made shall notify in writing the authority which made it of each occasion when he leaves an employment or becomes employed or re-employed, and (in a case where he becomes so employed or re-employed) shall include in the notification a statement of—

- (a) his earnings and (so far as he is able) expected earnings from the employment concerned,
- (b) the deductions and (so far as he is able) expected deductions from such earnings—
 - (i) in respect of income tax;
 - (ii) in respect of primary Class 1 contributions under Part I of the Social Security Contributions and Benefits Act 1992;
 - (iii) for the purposes of such a superannuation scheme as is mentioned in the definition of “net earnings” in regulation 32(1),
- (c) the name and address of the employer, and
- (d) his work or identity number in the employment (if any).

(2) A notification under paragraph (1) must be given within 14 days of the day on which the debtor leaves or commences (or recommences) the employment (as the case may be), or (if later) the day on which he is informed by the authority that the order has been made.

Attachment of earnings orders: ancillary powers and duties of authority

41.—(1) Where the whole amount to which an attachment of earnings order relates has been paid (whether by attachment of earnings or otherwise), the authority by which it was made shall give notice of the fact to any person who appears to it to have the debtor in his employment and who has been served with a copy of the order.

(2) The authority by which an attachment of earnings order was made may, on its own account or on the application of the debtor or an employer of the debtor, make an order discharging the attachment of earnings order; and if it does so it shall give notice of that fact to any person who appears to it to have the debtor in his employment and who has been served with a copy of the order.

(3) If an authority serves a copy of an attachment of earnings order in accordance with regulation 37(3), it shall (unless it has previously done so) also serve a copy of the order on the debtor

Priority between attachment of earnings orders

42.—(1) Where an employer would, but for this paragraph, be obliged under regulation 37(3) to make deductions on any pay-day under two or more attachment of earnings orders made under this Part, he shall make deductions only with respect to the one which was made first until it ceases to be in force, and shall then deal with the other order or orders in like manner in the order in which they were made.

(2) Where an employer is or would, but for this paragraph, be obliged to comply at any time with an attachment of earnings order made under this Part and an order made under the Attachment of Earnings Act 1971 (“the 1971 Act”) or the Child Support Act 1991(**17**) (“the 1991 Act”)—

- (a) if the order made under the 1971 Act or, as the case may be, the 1991 Act was made first, whilst it is in force he shall comply only with the order made under the 1971 Act or, as the case may be, the 1991 Act, or
- (b) if the attachment of earnings order made under this Part was made first, whilst it is in force the attachable earnings for the purposes of Schedule 3 to the 1971 Act are to be treated as such of the attachable earnings mentioned in paragraph 3 of that Schedule(**18**) as remain after deduction of the amount to be deducted under the order made under this Part.

Attachment of earnings orders: persons employed under the Crown

43.—(1) Where a debtor is in the employment of the Crown and an attachment of earnings order is made in respect of him, for the purposes of this Part—

- (a) the chief officer for the time being of the department, office or other body in which the debtor is employed shall be treated as having the debtor in his employment (any transfer of the debtor from one department, office or body to another being treated as a change of employment); and
- (b) any earnings paid by the Crown or a Minister of the Crown, or out of the public revenue of the United Kingdom, shall be treated as paid by that chief officer.

(2) If any question arises as to what department, office or other body is concerned for the purposes of this regulation, or as to who for those purposes is its chief officer, the question shall be referred to and determined by the Minister for the Civil Service.

(3) A document purporting to set out a determination of the Minister under paragraph (2) and to be signed by an official of the Office of that Minister shall, in any proceedings arising in relation

(17) 1991 c. 48.

(18) Paragraph 3 of Schedule 3 was amended by the Social Security (Consequential Provisions) Act 1975 (c. 18), Schedule 2, paragraph 43, the Social Security Pensions Act 1975 (c. 60), Schedule 5 and the Wages Act 1986 (c. 48), Schedule 4, paragraph 4.

to an attachment of earnings order, be admissible in evidence and be deemed to contain an accurate statement of such a determination unless the contrary is shown.

(4) This Part shall have effect in relation to attachment of earnings orders notwithstanding any enactment passed before 29th May 1970 and preventing or avoiding the attachment or diversion of sums due to a person in respect of services under the Crown, whether by way of remuneration, pension or otherwise.

Attachment of allowances orders

44.—(1) This regulation applies in relation to an elected member of a relevant billing authority or a relevant precepting authority.

(2) For the purposes of this regulation—

- (a) a relevant billing authority is a billing authority other than the Common Council;
- (b) a relevant precepting authority is a major precepting authority⁽¹⁹⁾ other than the Receiver for the Metropolitan Police District;
- (c) a person is an elected member of a relevant precepting authority other than a county council if he is appointed to the authority by a constituent council of which he is an elected member; and
- (d) references to attachable allowances are references to the allowances referred to in paragraph (7)(b).

(3) Where a liability order has been made and the debtor against whom it was made is a person in relation to whom this regulation applies, the authority which applied for the order may make an order under this regulation to secure the payment of any outstanding sum which is or forms part of the amount in respect of which the liability order was made.

(4) An order under this regulation shall be expressed to be directed to the authority of whom the debtor is an elected member and shall operate as an instruction to the authority to make deductions from attachable allowances payable to the debtor and to pay the sums so deducted to the authority by which the order was made.

(5) An order under this regulation shall remain in force until discharged or the whole sum to which it relates has been paid (whether by attachment of allowances or otherwise).

(6) The sum to be deducted by an authority under an order under this regulation on any day shall be a sum equal to 40 per cent. of the aggregate of attachable allowances payable to the debtor on that day.

(7) Paragraph (3) of regulation 37, paragraphs (1) to (5) of regulation 39 and paragraphs (1) and (2) of regulation 41 shall apply to orders under this regulation as they apply to attachment of earnings orders as if any reference in those paragraphs—

- (a) to an employer or a person having the debtor in his employment, were a reference to such an authority as is mentioned in paragraph (1) above having the debtor as an elected member;
- (b) to the debtor's earnings, were a reference to allowances—
 - (i) payable to the debtor in accordance with a scheme under regulations under section 18 (schemes for basic, attendance and special responsibility allowances for local authority members) of the Local Government and Housing Act 1989⁽²⁰⁾; or

⁽¹⁹⁾ See section 39(1) of the Local Government Finance Act 1992.

⁽²⁰⁾ 1989 c. 42. See the Local Authorities (Members' Allowances) Regulations 1991 (S.I. 1991/351).

- (ii) in the nature of an attendance allowance, payable to the debtor under section 175 (allowances for attending conferences and meetings) of the Local Government Act 1972(21);
- (c) to an attachment of earnings order, were a reference to an order under this regulation.

Distress

45.—(1) Where a liability order has been made, the authority which applied for the order may levy the appropriate amount by distress and sale of the goods of the debtor against whom the order was made.

- (2) The appropriate amount for the purposes of paragraph (1) is the aggregate of—
 - (a) an amount equal to any outstanding sum which is or forms part of the amount in respect of which the liability order was made, and
 - (b) a sum determined in accordance with Schedule 5 in respect of charges connected with the distress.

(3) If, before any goods are seized, the appropriate amount (including charges arising up to the time of the payment or tender) is paid or tendered to the authority, the authority shall accept the amount and the levy shall not be proceeded with.

(4) Where an authority has seized goods of the debtor in pursuance of the distress, but before sale of those goods the appropriate amount (including charges arising up to the time of the payment or tender) is paid or tendered to the authority, the authority shall accept the amount, the sale shall not be proceeded with and the goods shall be made available for collection by the debtor.

(5) The person levying distress on behalf of an authority shall carry with him the written authorisation of the authority, which he shall show to the debtor if so requested; and he shall hand to the debtor or leave at the premises where the distress is levied a copy of this regulation and Schedule 5 and a memorandum setting out the appropriate amount, and shall hand to the debtor a copy of any close or walking possession agreement entered into.

(6) A distress may be made anywhere in England and Wales.

(7) A distress shall not be deemed unlawful on account of any defect or want of form in the liability order, and no person making a distress shall be deemed a trespasser on that account; and no person making a distress shall be deemed a trespasser from the beginning on account of any subsequent irregularity in making the distress, but a person sustaining special damage by reason of the subsequent irregularity may recover full satisfaction for the special damage (and no more) by proceedings in trespass or otherwise.

(8) The provisions of this regulation shall not affect the operation of any enactment which protects goods of any class from distress.

(9) Nothing in the Distress (Costs) Act 1817(22), as extended by the Distress (Costs) Act 1827(23), (which makes provision as to the costs and expenses of the levying of certain distresses) shall apply to a distress under this regulation.

Appeals in connection with distress

46.—(1) A person aggrieved by the levy of, or an attempt to levy, a distress may appeal to a magistrates' court.

(21) 1972 c. 70. Section 175 was amended by section 25 of the Local Government, Planning and Land Act 1980 (c. 65) and by the Local Government and Housing Act 1989, Schedule 11, paragraph 27.

(22) 1817 c. 93.

(23) 1827 c. 17.

(2) The appeal shall be instituted by making complaint to a justice of the peace, and requesting the issue of a summons directed to the authority which levied or attempted to levy the distress to appear before the court to answer to the matter by which the person is aggrieved.

(3) If the court is satisfied that a levy was irregular, it may order the goods distrained to be discharged if they are in the possession of the authority; and it may by order award compensation in respect of any goods distrained and sold of an amount equal to the amount which, in the opinion of the court, would be awarded by way of special damages in respect of the goods if proceedings were brought in trespass or otherwise in connection with the irregularity under regulation 45(7).

(4) If the court is satisfied that an attempted levy was irregular, it may by order require the authority to desist from levying in the manner giving rise to the irregularity.

Commitment to prison

47.—(1) Where a billing authority has sought to levy an amount by distress under regulation 45, the debtor is an individual who has attained the age of 18 years, and 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 on which to levy the amount, the authority may apply to a magistrates' court for the issue of a warrant committing the debtor to prison.

(2) On such application being made the court shall (in the debtor's presence) inquire as to his means and inquire whether the failure to pay which has led to the application is due to his wilful refusal or culpable neglect.

(3) If (and only if) the court is of the opinion that his failure is due to his wilful refusal or culpable neglect it may if it thinks fit—

- (a) issue a warrant of commitment against the debtor, or
- (b) fix a term of imprisonment and postpone the issue of the warrant until such time and on such conditions (if any) as the court thinks just.

(4) The warrant shall be made in respect of the relevant amount; and the relevant amount for this purpose is the aggregate of—

- (a) an amount equal to the appropriate amount mentioned in regulation 45(2) or (as the case may be) so much of it as remains outstanding, and
- (b) a sum of an amount equal to the costs reasonably incurred by the applicant in respect of the application.

(5) The warrant—

- (a) shall state the relevant amount mentioned in paragraph (4),
- (b) may be directed to the authority making the application and to such other persons (if any) as the court issuing it thinks fit, and
- (c) may be executed anywhere in England and Wales by any person to whom it is directed.

(6) If—

- (a) before the issue of a warrant the appropriate amount mentioned in regulation 45(2) (or so much of it as remains outstanding) is paid or tendered to the authority, or
- (b) after the issue of the warrant, the amount stated in it is paid or tendered to the authority,

the authority shall accept the amount concerned, no further steps shall be taken as regards its recovery, and the debtor if committed to prison shall be released.

(7) The order in the warrant shall be that the debtor be imprisoned for a time specified in the warrant which shall not exceed 3 months, unless the amount stated in the warrant is sooner paid; but—

- (a) where a warrant is issued after a postponement under paragraph (3)(b) and, since the term of imprisonment was fixed but before the issue of the warrant, the amount mentioned in paragraph (4)(a) with respect to which the warrant would (but for the postponement) have been made has been reduced by a part payment, the period of imprisonment ordered under the warrant shall be the term fixed under paragraph (3) reduced by such number of days as bears to the total number of days in that term less one day the same proportion as the part paid bears to that amount, and
- (b) where, after the issue of a warrant, a part payment of the amount stated in it is made, the period of imprisonment shall be reduced by such number of days as bears to the total number of days in the term of imprisonment specified in the warrant less one day the same proportion as the part paid bears to the amount so stated.

(8) In calculating a reduction required under paragraph (7) any fraction of a day shall be left out of account; and rule 55(1), (2) and (3) of the Magistrates' Courts Rules 1981⁽²⁴⁾ applies (so far as is relevant) to a part payment as if the imprisonment concerned were imposed for want of sufficient distress to satisfy a sum adjudged to be paid by a magistrates' court

Commitment to prison: further provision

48.—(1) A single warrant may not be issued under regulation 47 against more than one person, and shall be in the form specified as Form C in Schedule 2, or in a form to the like effect.

(2) Where an application under regulation 47 has been made, and after the making of the inquiries mentioned in paragraph (2) of that regulation no warrant is issued or term of imprisonment fixed, the court may remit all or part of the appropriate amount mentioned in regulation 45(2) with respect to which the application related.

(3) Where an application under regulation 47 has been made but no warrant is issued or term of imprisonment fixed, the application may be renewed (except so far as regards any sum remitted under paragraph (2)) on the ground that the circumstances of the debtor have changed.

(4) A statement in writing to the effect that wages of any amount have been paid to the debtor during any period, purporting to be signed by or on behalf of his employer, shall in any proceedings under regulation 47 be evidence of the facts there stated.

(5) For the purpose of enabling inquiry to be made as to the debtor's conduct and means under regulation 47, a justice of the peace may—

- (a) issue a summons to him to appear before a magistrates' court and (if he does not obey the summons) issue a warrant for his arrest, or
- (b) issue a warrant for the debtor's arrest without issuing a summons.

(6) A warrant issued under paragraph (5) may be executed anywhere in England and Wales by any person to whom it is directed or by any constable acting within his police area; and section 125(3) of the Magistrates' Courts Act 1980 applies to such a warrant.

(7) Regulation 47 and this regulation have effect subject to Part I of the Criminal Justice Act 1982⁽²⁵⁾ (treatment of young offenders)

Insolvency

49.—(1) Where a liability order has been made and the debtor against whom it was made is an individual, the amount due shall be deemed to be a debt for the purposes of section 267 of the Insolvency Act 1986⁽²⁶⁾ (grounds of creditor's petition).

⁽²⁴⁾ S.I. 1981/552.

⁽²⁵⁾ 1982 c. 48.

⁽²⁶⁾ 1986 c. 45.

(2) Where a liability order has been made and the debtor against whom it was made is a company, the amount due shall be deemed to be a debt for the purposes of section 122(1)(f) (winding up of companies by the court) or, as the case may be, section 221(5)(b) (winding up of unregistered companies) of that Act.

(3) For the purposes of this regulation the amount due is an amount equal to any outstanding sum which is or forms part of the amount in respect of which the liability order was made.

Charging orders

50.—(1) An application to the appropriate court may be made under this regulation where—

- (a) a magistrates' court has made a liability order pursuant to regulation 34(6),
- (b) the amount mentioned in regulation 34(7)(a) in respect of which the liability order was made is an amount the debtor is liable to pay under Part V, and
- (c) at the time that the application under this regulation is made at least £1000 of the amount in respect of which the liability order was made remains outstanding.

(2) The application which may be made to the appropriate court under this regulation is an application by the authority concerned for an order imposing, on any interest held by the debtor beneficially in the relevant dwelling, a charge for securing the due amount; and the court may make such an order on such application.

(3) For the purposes of paragraph (2)—

- (a) the authority concerned is the authority which applied for the liability order referred to in paragraph (1)(a),
- (b) the relevant dwelling is the dwelling in respect of which, at the time the application for the liability order was made, the debtor was liable to pay council tax,
- (c) the due amount is the aggregate of—
 - (i) an amount equal to any outstanding sum which is or forms part of the amount in respect of which the liability order was made, and
 - (ii) a sum of an amount equal to the costs reasonably incurred by the applicant in obtaining the charging order,
- (d) the appropriate court is the county court for the area in which the relevant dwelling is situated.

Charging orders: further provision

51.—(1) In deciding whether to make a charging order, the court shall consider all the circumstances of the case, and in particular any evidence before it as to—

- (a) the personal circumstances of the debtor, and
- (b) whether any other person would be likely to be unduly prejudiced by the making of the order.

(2) A charging order—

- (a) shall specify the dwelling concerned and the interest held by the debtor beneficially in it, and
- (b) may, as the court thinks fit, be made absolutely or subject to conditions as to the time when the charge is to become enforceable or as to other matters.

(3) A charge imposed by a charging order shall have the like effect and shall be enforceable in the same courts and in the same manner as an equitable charge created by the debtor by writing under his hand.

(4) The court by which a charging order was made may at any time, on the application of the debtor, the authority on whose application the order was made or any person interested in the dwelling, make an order discharging or varying the charging order.

(5) The Land Charges Act 1972(27) and the Land Registration Act 1925(28) shall apply in relation to charging orders as they apply in relation to orders or writs issued or made for the purposes of enforcing judgments; and in section 49(1)(g) of the Land Registration Act 1925, after the words “Local Government Finance Act 1988” there are inserted the words “, or regulations under paragraph 11 of Schedule 4 to the Local Government Finance Act 1992”.

(6) Where a charging order has been protected by an entry registered under the Land Charges Act 1972 or the Land Registration Act 1925, an order under paragraph (4) discharging the charging order may direct that the entry be cancelled.

Relationship between remedies

52.—(1) Where a warrant of commitment is issued against (or a term of imprisonment is fixed in the case of) a person under regulation 47(3), no steps, or no further steps, may be taken under this Part by way of attachment of allowances, attachment of earnings, distress, bankruptcy or charging in relation to the relevant amount mentioned in regulation 47(4).

(2) Steps under this Part by way of attachment of allowances, attachment of earnings, distress, commitment, bankruptcy, winding up or charging may not be taken against a person under a liability order while steps by way of another of those methods are being taken against him under it.

(3) Subject to paragraphs (1) and (2)—

(a) attachment of allowances, attachment of earnings or distress may be resorted to more than once, and

(b) attachment of allowances, attachment of earnings or distress may be resorted to in any order or alternately (or both).

(4) Where a step is taken for the recovery of an outstanding sum which is or forms part of an amount in respect of which a liability order has been made and under which additional costs or charges with respect to the step are also recoverable in accordance with this Part, any sum recovered thereby which is less than the aggregate of the amount outstanding and such additional costs and charges shall be treated as discharging first the costs and charges, the balance (if any) being applied towards the discharge of the outstanding sum.

Magistrates' courts

53.—(1) Justices of the peace for a commission area within which is situated the area of a billing authority shall have jurisdiction to act under the provisions of this Part as respects that authority.

(2) Subject to any other enactment authorising a stipendiary magistrate or other person to act by himself, a magistrates' court shall not under this Part hear a summons, entertain an application for a warrant or hold an inquiry as to means on such an application except when composed of at least two justices.

(3) References to a justice of the peace in regulations 34(2) and 46(2) shall be construed subject to rule 3 of the Justices' Clerks Rules 1970(29) (which authorises certain matters authorised to be done by a justice of the peace to be done by a justices' clerk).

(27) 1972 c. 61; section 6 of the Act was amended by the Supreme Court Act 1981 (c. 54), Schedule 5, and the County Courts Act 1984 (c. 28), Schedule 2, paragraph 18.

(28) 1925 c. 21; section 49(1)(g) was inserted by the Charging Orders Act 1979 (c. 53), section 3(3), and amended by the Drug Trafficking Offences Act 1986 (c. 32), section 39(2), the Criminal Justice Act 1988 (c. 33), Schedule 15, paragraph 6 and regulation 45(5) of the Community Charges (Administration and Enforcement) Regulations 1989 (S.I. 1989/438).

(29) S.I. 1970/231, to which there are amendments not relevant to these Regulations.

(4) In any proceedings under regulation 34 (application for liability order), regulation 46 (appeals in connection with distress) or regulation 47 (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 47 includes a reference to an application made in the circumstances mentioned in regulation 48(3).

Joint and several liability: enforcement

54.—(1) This regulation has effect with respect to the application of regulations 33 to 53 to a sum for which persons are jointly and severally liable under Part V.

(2) In this regulation, "joint taxpayers" means two or more individuals who are jointly and severally liable to pay an amount in respect of council tax.

(3) A final notice served in accordance with regulation 33 on every person against whom the application for a liability order is to be made may be addressed to two or more joint taxpayers in joint names.

(4) A liability order may be made against one or more joint taxpayers in respect of an amount for which they are jointly and severally liable.

(5) Where a liability order has been made against two or more joint taxpayers, subject to paragraph (6)—

- (a) an attachment of allowances order or an attachment of earnings order may be made against one of them, or different such orders may be made against more than one;
- (b) a distress may be made against one or more of them; and
- (c) a charging order may be made against one of them, or against more than one jointly, or different such orders may be made against more than one of them (as the circumstances require).

(6) Where a liability order has been made against two or more joint taxpayers in respect of an amount, steps by way of any method specified in paragraph (5)—

- (a) may not be taken in respect of one of them while steps by way of that or another of those methods are being taken in respect of another of them; and
- (b) may be taken in respect of one of them notwithstanding that no steps by way of that or another of those methods have been taken in respect of another of them.

(7) Where a distress has been made against two or more joint taxpayers in respect of an amount a warrant of commitment may, subject to paragraph (8), be applied for at any time against one of them or different warrants may be applied for against more than one of them: but no such application may be made in respect of any of them who has not attained the age of 18 years.

(8) Where a liability order has been made against two or more joint taxpayers in respect of an amount, a warrant of commitment may not be applied for unless—

- (a) distress has been made against all of them; and
- (b) the person making the distress reports to the authority that, in relation to each of them, he was unable (for whatever reason) to find any or sufficient goods.

(9) Where a liability order has been made against two or more joint taxpayers in respect of an amount, and a warrant of commitment is issued against (or a term of imprisonment is fixed in the case of) one of them under regulation 47(3), no steps, or no further steps, may be taken against any of them by way of attachment of allowances or earnings, distress, bankruptcy or charging in relation to the amount mentioned in regulation 47(4).

(10) Where a liability order has been made against two or more joint taxpayers in respect of an amount and in making distress against one of them goods jointly owned by both or all of them are found, distress may be levied against those goods with respect to that amount; but in any subsequent proceedings under regulation 47 (commitment), charges arising under Schedule 5 from such a distress shall be treated as charges relating to the person against whose goods the levy was intended to be made when the joint goods were found, and not as charges relating to the other or others.

(11) Where a liability order has been made against two or more joint taxpayers in respect of an amount, paragraph 2(2) of Schedule 5 shall have effect so that if a charge has arisen against one of them under head B of the Table in paragraph 1 of that Schedule as regards a levy in respect of it, no further charge may be aggregated for the purposes of regulation 45(2) under heads A or B in consequence of any subsequent levy or attempted levy against any of them in respect of that amount; and if a charge has arisen under head A against one of them, it shall be treated as a charge under that head with respect to the others as well as that one for the purposes of the calculation of any subsequent charge under heads A or B against any of them.

Repayments

55. A sum which has become payable (by way of repayment) under Part V to a person other than a billing authority but which has not been paid shall be recoverable in a court of competent jurisdiction.

Offences

56.—(1) A person shall be guilty of an offence if, following a request under paragraph (2)(b) of regulation 36, he is under a duty to supply information and—

- (a) he fails without reasonable excuse to supply the information in accordance with that regulation, or
- (b) in supplying information in purported compliance with that regulation he makes a statement which is false in a material particular or recklessly makes a statement which is false in a material particular.

(2) Subject to paragraph (3), a person shall be guilty of an offence if, following the service on him of a copy of an attachment of allowances order or an attachment of earnings order, he is under a duty to comply with the order by virtue of regulation 37(3) (including that provision as applied for the purposes of attachment of allowances orders by regulation 44(7)) and he fails to do so.

(3) It shall be a defence for a person charged with an offence under paragraph (2) to prove that he took all reasonable steps to comply with the order.

(4) A person shall be guilty of an offence if he is under a duty to notify another person under regulation 39(2) and (3) or (4) and (5) (including those provisions as applied for the purposes of attachment of allowances orders by regulation 44(7)), regulation 39(6) and (7) or regulation 40 and—

- (a) he fails without reasonable excuse to notify the other person in accordance with the provision concerned, or
- (b) in notifying the other person in purported compliance with the provision concerned he makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular.

(5) A person guilty of an offence under paragraph (1)(a) or (4)(a) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(6) A person guilty of an offence under paragraph (1)(b), (2) or (4)(b) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Miscellaneous provisions

57.—(1) Any matter which could be the subject of an appeal under section 16 of the Act may not be raised in proceedings under this Part.

(2) If a liability order has been made and by virtue of—

- (a) a notification which is given by the billing authority under regulation 24(2) or (5), 25(5) or (8), 28(3) or (4) or 31(2), or paragraph 9(3) or 10(2)(a) of Schedule 1, or
- (b) section 31(4) of the Act applying in any case,

any part of the amount mentioned in regulation 34(6)(a) in respect of which the order was made would (if paid) fall to be repaid or credited against any subsequent liability, that part shall be treated for the purposes of this Part as paid on the day the notification is given or the amount in substitution is set under section 31(2) of the Act and accordingly as no longer outstanding.

(3) If, after a warrant is issued or term of imprisonment is fixed under regulation 47(3), and before the term of imprisonment has begun or been fully served, a billing authority gives such a notification as is mentioned in paragraph (2)(a) in the case in question, or sets an amount in substitution so that section 31(4) of the Act applies in the case in question, it shall forthwith notify accordingly the clerk of the court which issued the warrant and (if the debtor is detained) the governor or keeper of the prison or place where he is detained or such other person as has lawful custody of him.

(4) If the debtor is treated as having paid an amount under paragraph (2) on any day, and

- (a) that day falls after the completion of the service of a term of imprisonment imposed under regulation 47 in respect of the amount he is treated as having paid, or
- (b) the debtor is serving a term of imprisonment imposed under regulation 47 on that day and the amount he is treated as having paid exceeds the amount of any part payment which, if made, would cause the expiry of the term of imprisonment pursuant to paragraph (7) (b) of that regulation on that day,

the amount mentioned in sub-paragraph (a) or excess mentioned in sub-paragraph (b) shall be paid to the debtor or credited against any subsequent liability of his, as the debtor requires.

PART VII

Miscellaneous

Outstanding liabilities on death

58.—(1) This regulation applies where a person dies and at any time before his death—

- (a) he was (or is alleged to have been) liable to pay council tax under section 6, 7 or 8 of the Act, or
- (b) he was (or is alleged to have been) so liable, as spouse, under section 9 of the Act, or
- (c) a penalty was imposed on him under any of sub-paragraphs (1) to (3) of paragraph 1 of Schedule 3 to the Act.

(2) Where—

- (a) before the deceased's death a sum has become payable by him under Part V or by way of relevant costs in respect of one of the matters mentioned in paragraph (1) but has not been paid, or
- (b) after the deceased's death a sum would, but for his death (and whether or not on the service of a notice), become payable by him under Part V in respect of one of those matters,

his executor or administrator shall, subject to paragraph (3) and to the extent that it is not in excess of the deceased's liability under the Act (including relevant costs payable by him) in respect of the matter, be liable to pay the sum and may deduct out of the assets and effects of the deceased any payments made (or to be made).

(3) Where paragraph (2)(b) applies, the liability of the executor or administrator does not arise until the service on him of a notice requiring payment of the sum.

(4) Where before the deceased's death a sum in excess of his liability under the Act (including relevant costs payable by him) in respect of one of the matters mentioned in paragraph (1) has been paid (whether the excess arises because of his death or otherwise) and has not been repaid or credited under Part V, his executor or administrator shall be entitled to the sum.

(5) Costs are relevant costs for the purposes of paragraphs (2) and (4) if—

- (a) an order or warrant (as the case may be) was made by the court in respect of them before the deceased's death under regulation 34(7)(b) or (8), 47(4)(b) or 50(3)(c)(ii), or
- (b) they are charges connected with distress which may be recovered pursuant to regulation 45(2)(b).

(6) A sum payable under paragraph (2) shall be enforceable in the administration of the deceased's estate as a debt of the deceased and accordingly—

- (a) no liability order need be applied for in respect of it after the deceased's death under regulation 34, and
- (b) the liability of the executor or administrator is a liability in his capacity as such.

(7) Regulation 57(1) applies to proceedings to enforce a liability arising under this regulation as it applies to proceedings under Part VI.

(8) Insofar as is relevant to his liability under this regulation in the administration of the deceased's estate, the executor or administrator may institute, continue or withdraw proceedings (whether by way of appeal under section 16 of the Act or otherwise).

10th March 1992

Michael Heseltine
Secretary of State for the Environment

10th March 1992

David Hunt
Secretary of State for Wales

SCHEDULE 1

Regulation 21

COUNCIL TAX INSTALMENT SCHEMES

PART I

PAYMENT OF THE AGGREGATE AMOUNT: MONTHLY INSTALMENTS

1. This Part does not apply where, as regards the relevant year, instalments are payable in accordance with a Part II scheme.

2.—(1) This paragraph applies where the demand notice is issued on or before 31st December in the relevant year, but has effect subject to paragraph 3 below.

(2) The aggregate amount is to be payable in monthly instalments.

(3) The number of such instalments—

(a) where the notice is issued before the beginning of the relevant year or at any time in the period beginning on the first day of that year and ending on 31st May of that year, shall be 10;

(b) where the notice is issued on or after 1st June in the relevant year, shall be one less than the number of whole months remaining in the relevant year after the issue of the notice.

(4) The months in which the instalments are payable must be uninterrupted, but subject to that are to be such months in the relevant year as are specified in the notice; and the instalments are to be payable on such day in each month as is so specified.

(5) If the aggregate amount divided by the number of instalments gives an amount which is a multiple of a pound, the instalments shall be of that amount.

(6) If the aggregate amount so divided would not give such an amount, all but the first instalment shall be of an amount equal to A and the first instalment shall be of an amount equal to B, where

$$A = \frac{C}{D},$$

rounded up or down (as the case may be) to the nearest pound,

$$B = C - (D - 1) \times A,$$

C is equal to the aggregate amount, and

D is equal to the number of instalments to be paid.

3.—(1) If amounts calculated in accordance with paragraph 2 would produce an amount for an instalment of less than £5, the demand notice may require the aggregate amount to be paid—

(a) where the aggregate amount is less than £10, in a single instalment payable on such day as is specified in the notice, or

(b) where the aggregate amount is equal to or greater than £10, by a number of monthly instalments equal to the greatest whole number by which £5 can be multiplied to give a product which is less than or equal to the aggregate amount.

(2) The months in which the instalments under sub-paragraph (1)(b) are payable must be uninterrupted but subject to that are to be such of the months in which, but for this paragraph, the instalments would have been payable under paragraph 2 as are specified in the demand notice; and the instalments are to be payable on such day in each month as is so specified.

(3) Paragraph 2(5) and (6) applies to instalments under sub-paragraph (1)(b) as it applies to instalments under paragraph 2.

4. Where the demand notice is issued between 1st January and 31st March in the relevant year, the aggregate amount is to be payable in a single instalment on such day as is specified in the notice.

5. In this Part “the aggregate amount” means the amount referred to in regulation 20(2).

PART II

PAYMENT OF THE AGGREGATE AMOUNT: AUTHORITIES' INSTALMENT SCHEMES

6.—(1) Subject to sub-paragraph (2), this Part applies where the demand notice is issued before or during the relevant year.

(2) This Part does not apply where, as regards the relevant year, instalments are payable under Part I of this Schedule.

(3) In this Part “the aggregate amount” means the amount referred to in regulation 20(2).

7. A scheme made by a billing authority for the payment by instalments of the aggregate amount shall comply with the following provisions of this Part.

8.—(1) The scheme shall be expressed to have effect for all financial years commencing with the financial year for which it first has effect unless varied or revoked.

(2) The scheme shall provide—

- (a) that no variation shall affect the operation of the scheme as regards a particular financial year unless the variation is made before the day on which the authority first sets an amount for the year under section 30 of the Act; and
- (b) that it may not be revoked later than the 31st December immediately preceding the financial year from which it is desired that it should cease to have effect.

(3) The scheme shall provide for its application as regards chargeable dwellings in the authority’s area in respect of which the aggregate amount as regards the dwelling and the relevant year falls or, in the opinion of the authority, will fall to be paid by a person by whom an amount by way of rent for that dwelling for periods in that year is or, in the opinion of the authority, will be payable to the authority.

(4) Without prejudice to regulation 21(5), the scheme may provide for its continued application, as regards any period in the relevant year in respect of which rent is not so payable where such period follows a period in respect of which rent is so payable.

(5) The scheme shall provide—

- (a) for the aggregate amount to be payable in instalments;
- (b) subject to sub-paragraph (c), for the number of instalments to be not less than 10 nor more than 52;
- (c) for the first instalment to be required to be paid no earlier than 14 days after on the day on which the demand notice was issued and for the last instalment to be required to be paid before the end of the relevant year but, subject to that, for instalments to be payable on such day in each interval as is specified in the scheme;
- (d) for the determination of the amount of any instalment where the aggregate amount divided by the number of instalments does not give an amount which is a multiple of 10 pence.

(6) The scheme shall provide that where instalments fall to be adjusted in the circumstances mentioned in paragraph 10 of Part III below, the remaining instalments mentioned in sub-paragraph (2) of that paragraph are to be calculated as if references in this Part to the aggregate

amount and to instalments were references to the aggregate amount of the remaining instalments and to the remaining instalments respectively.

PART III

CESSATION AND ADJUSTMENT OF INSTALMENTS

9.—(1) This paragraph applies where the demand notice has been served on a liable person by a billing authority and after its issue the person ceases to be the liable person in respect of the chargeable dwelling and the period to which the notice relates.

(2) Subject to sub-paragraphs (5) and (6), no payments of instalments falling due after the relevant day are payable under the notice.

(3) The billing authority shall on the relevant day or as soon as practicable after that day serve a notice on the liable person stating the amount of his liability in respect of the council tax to which the demand notice relates as it has effect for the period in the relevant year up to the day on which he ceased to be so liable.

(4) If the amount stated under sub-paragraph (3) is less than the aggregate amount of any instalments which have fallen due on or before the relevant day, the difference shall go in the first instance to discharge any liability to pay the instalments (to the extent that they remain unpaid); and any residual overpayment—

- (a) shall be repaid if the liable person so requires, or
- (b) in any other case shall (as the billing authority determines) either be repaid or credited against any subsequent liability of the person to make a payment in respect of any council tax of the authority.

(5) If the amount stated under sub-paragraph (3) is greater than the aggregate amount of any instalments which have fallen due on or before the relevant day, the difference between the two shall be due from the liable person to the billing authority on the expiry of such period (being not less than 14 days) after the day of issue of the notice served under that sub-paragraph as is specified in it.

(6) If this paragraph applies in relation to a demand notice, and after the person ceases to be liable to pay an amount in respect of council tax for the relevant year he again becomes liable to make such a payment, a further notice shall be served on the liable person requiring payments in respect of the council tax as it has effect for the period in the year after he becomes so liable; and regulations 19 to 23 (and, so far as applicable, this Schedule) shall apply to the further notice with respect to that period and the sums payable by the liable person with respect to that period, as if it were a different demand notice.

(7) In this paragraph “the relevant day” means the day on which the person ceases to be liable to make payments in respect of council tax.

10.—(1) This paragraph applies where the demand notice has been served on a liable person by a billing authority, the event mentioned in paragraph 9(1) has not occurred in relation to the notice, and

- (a) the notice was so served by reference to an amount set by the billing authority for the relevant year and after the issue of the notice the authority sets a different amount in substitution for that amount under section 31 of the Act;
- (b) the notice was so served on the assumption that, as regards any day in the period to which the notice relates, the dwelling concerned would be or was a chargeable dwelling and the dwelling was not or has ceased to be a chargeable dwelling as regards any day in that period;

- (c) the notice was so served on the assumption that, as regards any day in the period to which the notice relates, the dwelling concerned would be or was in a particular valuation band and the dwelling was not or has ceased to be in that band as regards any day in that period;
 - (d) the notice was so served on the assumption that, as regards any day in the period to which the notice relates, the person would be or was entitled to a discount and he was not or has ceased to be so entitled or was or is entitled to a discount of a smaller amount than had been assumed;
 - (e) the notice was so served on the assumption that, as regards any day in the period to which the notice relates, the person was not or would not be entitled to a discount and he was or is so entitled;
 - (f) the notice was so served on the assumption that, as regards any day in the period to which the notice relates, the person was or would be liable to pay an amount in respect of council tax and, by virtue of regulations under section 13 of the Act, he was or is liable to pay a greater or lesser amount than the amount stated in the notice; or
 - (g) the notice was so served on the assumption that, as regards any day in the period to which the notice relates, the person was or would be entitled to a reduction in the amount he is liable to pay in respect of council tax under regulations made under section 138(1) of the Social Security Administration Act 1992⁽³⁰⁾, and he was or is allowed a larger or smaller reduction than had been so assumed.
- (2) The billing authority shall on or as soon as practicable after the relevant day—
- (a) adjust the instalments (if any) payable on or after the adjustment day (“the remaining instalments”) so that they accord with the amounts mentioned in sub-paragraph (4); and
 - (b) serve a notice on the liable person which is to state—
 - (i) the amount of the revised estimate mentioned in sub-paragraph (3); and
 - (ii) the amount of any remaining instalments.
- (3) The revised estimate is the revised estimate of the billing authority of the amount that the person is liable to pay in respect of council tax for the relevant year, made on the assumptions mentioned in regulation 20(3) and as if the notice mentioned in that provision were the notice referred to in sub-paragraph (2) above.
- (4) The aggregate amount of the remaining instalments payable shall be equal to the amount by which the revised estimate mentioned in sub-paragraph (3) exceeds the aggregate amount of the instalments payable under the demand notice before the adjustment day; and where instalments are payable in accordance with Part I of this Schedule, the amount of each remaining instalment (if there are more than one) shall be calculated in accordance with that Part, as if references in that Part to the aggregate amount and to instalments were references to the aggregate amount of the remaining instalments and to the remaining instalments respectively.
- (5) If the revised estimate mentioned in sub-paragraph (3) exceeds the aggregate amount of the instalments payable under the demand notice before the adjustment day, but no instalments are payable under it on or after that day, the amount of the excess shall be due from the liable person to the billing authority in a single instalment on the expiry of such period (being not less than 14 days) after the day of issue of the notice served under sub-paragraph (2) as is specified in it; and if in any case the revised estimate is less than the aggregate amount of the instalments payable before the adjustment day, any overpayment—
- (a) shall be repaid if the liable person so requires, or

⁽³⁰⁾ 1992 c. 5. Section 138 is amended by the Local Government Finance Act 1992, Schedule 9, paragraph 19.

Status: This is the original version (as it was originally made).

(b) in any other case shall (as the billing authority determines) either be repaid or credited against any subsequent liability of the person to make a payment in respect of any council tax of the authority.

(6) In calculating the aggregate amount of instalments payable under a demand notice before the adjustment day for the purposes of sub-paragraphs (4) and (5) in consequence of the making of a revised estimate under sub-paragraph (3)—

(a) there shall count as so payable any amount in respect of such instalments which has been treated as paid to the authority under section 31(3) of the Act or has been credited under section 31(4) of the Act or (on the occasion of the making of a previous revised estimate under sub-paragraph (3)) under sub-paragraph (5) above; and

(b) there shall not count as so payable any amount in respect of such instalments which has been repaid under that section or under sub-paragraph (5) above.

(7) Where a notice has been given under sub-paragraph (2), in the operation of this paragraph as respects any further notice that may fall to be given under it, references in this paragraph to the demand notice and to amounts in respect of instalments payable under it shall be construed (so far as the context permits) as references to the demand notice, and amounts in respect of instalments payable under the notice, as from time to time previously adjusted under this paragraph.

(8) In this paragraph

“the adjustment day” means the day 14 days after the day the notice served under sub-paragraph (2) is issued; and

“the relevant day” means the day with respect to which the assumption mentioned in sub-paragraph (1) is wrong or the day the amount set in substitution mentioned in sub-paragraph (1)

(a) is so set.

11. More than one adjustment of amounts paid or payable under a demand notice may be made under this Part as the circumstances require.

SCHEDULE 2

Regulations 35(1) and 48(1)

FORMS OF LIABILITY ORDER AND OF WARRANT OF COMMITMENT FORM ALIABILITY ORDER IN RESPECT OF COUNCIL TAX

Status: This is the original version (as it was originally made).

Regulation 34 of the Council Tax (Administration and Enforcement) Regulations 1992

..... Magistrates' Court

Date:

Defendant:

Address:

On the complaint of [name of billing authority] that the sum of £ [] is due from the defendant to the complainant under Part V of the Council Tax (Administration and Enforcement) Regulations 1992 and is outstanding, it is adjudged that the defendant is liable to pay the aggregate amount specified below, and it is ordered that that amount may be enforced in the manner mentioned in Part VI of those Regulations accordingly.

Sum payable and outstanding: £
Costs of complainant: £

Aggregate amount in respect of which the liability order is made: £

Justice of the Peace
[or by order of the Court Clerk of the Court]

FORM LIABILITY ORDER IN RESPECT OF COUNCIL TAX

Regulation 34 of the Council Tax (Administration and Enforcement) Regulations 1992

..... Magistrates' Court

Date:

On the complaint of [name of billing authority] that the sums specified in the Table below are under Part V of the Council Tax (Administration and Enforcement) Regulations 1992 due from the defendants so specified to the complainant and are outstanding, it is adjudged that the defendants are liable to pay the aggregate amounts specified in respect of them in the Table, and it is ordered that those amounts may be enforced in the manner mentioned in Part VI of those Regulations accordingly.

TABLE

Table with 4 columns: Name and address of defendant, Sum payable and outstanding, Costs of complainant, Aggregate amount in respect of which the liability order is made with respect to the defendant.

Justice of the Peace
[or by order of the Court Clerk of the Court]

Status: This is the original version (as it was originally made).

FORM CWARRANT OF COMMITMENT

Regulation 47 of the Council Tax (Administration and Enforcement) Regulations 1992

.....Magistrates' Court

Date:

Defendant:

Address:

A liability order ("the order") was made in respect of the debtor by the [] Magistrates' Court on [] under regulation 34 of the Council Tax (Administration and Enforcement) Regulations 1992 ("the Regulations").

The court is satisfied-

- (i) that the [name of billing authority] ("the authority") sought under regulation 45 of the Regulations to levy by distress the amount then outstanding in respect of which the order was made of [], together with charges determined in accordance with Schedule 5 to the Regulations of [];
- (ii) that the authority has been unable to levy that amount by distress;
- (iii) that the debtor has attained the age of 18 years; and
- (iv) having inquired in the debtor's presence as to his means and as to whether the failure to pay which has led to the application for a warrant of commitment is due to his wilful refusal or culpable neglect, that it was due to such wilful refusal or culpable neglect.

The decision of the court is that the debtor be [committed to prison] [detained] for [] unless the aggregate amount mentioned below in respect of which this warrant is made is sooner paid*.

This warrant is made in respect of-

Amount outstanding (including charges) in respect of which distress was sought:

Costs of commitment of the authority:

Aggregate amount:

And you [name of person or persons to whom warrant is directed] are hereby required to take the debtor and convey him to [name of prison or place of detention] and there deliver the debtor to the [governor][officer in charge] thereof; and you, the [governor][officer in charge], to receive the debtor into your custody and keep the debtor for [period of imprisonment] from the debtor's arrest under this warrant or until the debtor be sooner discharged in due course of law.

Justice of the Peace
[or by order of the Court Clerk of
the Court]

*Note: The period of imprisonment will be reduced as provided by regulation 47(7)(b) of the Regulations if part payment is made of the aggregate amount.

FORM OF ATTACHMENT OF EARNINGS ORDER

Status: This is the original version (as it was originally made).

{Name of billing authority}
Regulation 37 of the Council Tax
(Administration and Enforcement) Regulations 1992

*{Debtor's name
and address}*

{Payroll/Works No.}

*{Billing authority's
reference}*

To any person who has in his employment the person named above.

On *{date}* the *{name}* Magistrates' Court made a liability order under regulation 34 of the Council Tax (Administration and Enforcement) Regulations 1992 against the person named above in respect of an amount of which £*{amount}* is outstanding at the date of the making of this order. This order relates to the outstanding amount.

YOU ARE ORDERED by *{name of billing authority}* to make deductions from the net earnings (as defined in regulation 32 of those Regulations) of the person named above at the times and at the rate specified in regulation 38 of those Regulations. The first such deduction shall be made as soon as reasonably practicable after the service on you of a copy of this order. A copy of regulations 32 and 38, together with regulations 39 to 42 and Schedule 4, are set out at the end of this order.

YOU ARE ALSO ORDERED to pay each sum deducted to *{name of billing authority and address for payments}* within the period of 19 days beginning on the last day of the month in which the deduction was made.

Dated . 199 .
Proper officer of the authority

*Indorsement on copy sent to person appearing to have the debtor in his employment

It appears to *{name of billing authority}* that you have the above-named debtor in your employment. You must notify *{name of billing authority}* in writing within 14 days of the date of service on you of this copy of the order if you do not have the debtor in your employment. You must also notify *{name of billing authority}* in writing within 14 days of the day on which the debtor leaves your employment. Failure to do so may render you liable to a fine.

*Indorsement on copy sent to debtor

This is a copy of an attachment of earnings order served on your employer. If you leave his employment or become employed or re-employed you must notify *{name of billing authority}* in writing within 14 days, giving the particulars specified in regulation 40(1) of the Regulations mentioned in the order. Failure to do so may render you liable to a fine.

Italics indicate words or figures to be inserted.

*Delete whichever indorsement is inapplicable.

REGULATIONS 32 AND 38 TO 42 OF, AND SCHEDULE 4 TO, THE COUNCIL
TAX (ADMINISTRATION AND ENFORCEMENT) REGULATIONS 1992

Interpretation and application of Part VI

32.—(1) In this Part—

“attachment of allowances order” means an order under regulation 44;

“attachment of earnings order” means an order under regulation 37;

“charging order” means an order under regulation 50;

“debtor” means a person against whom a liability order has been made;

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“earnings” means sums payable to a person—

- (a) by way of wages or salary (including any fees, bonus, commission, overtime pay or other emoluments payable in addition to wages or salary or payable under a contract of service); or
- (b) by way of statutory sick pay,

but, in so far as the following would otherwise be treated as earnings, they shall not be treated as such—

- (i) sums payable by any public department of the Government of Northern Ireland or of a territory outside the United Kingdom;
- (ii) pay or allowances payable to the debtor as a member of Her Majesty’s forces;
- (iii) allowances or benefit payable under the Social Security Acts⁽³¹⁾;
- (iv) allowances payable in respect of disablement or disability; and
- (v) wages payable to a person as a seaman, other than wages payable to him as a seaman of a fishing boat;

“liability order” means an order under regulation 34; and

“net earnings” in relation to an employment means the residue of earnings payable under the employment after deduction by the employer of—

- (a) income tax;
- (b) primary Class 1 contributions under Part I of the Social Security Contributions and Benefits Act 1992⁽³²⁾ and
- (c) amounts deductible under any enactment, or in pursuance of a request in writing by the debtor, for the purposes of a superannuation scheme, namely any enactment, rules, deed or other instrument providing for the payment of annuities or lump sum—
 - (i) to the persons with respect to whom the instrument has effect on their retirement at a specified age or on becoming incapacitated at some earlier age, or
 - (ii) to the personal representatives or the widows, relatives or dependants of such persons on their death or otherwise,

whether with or without any further or other benefits.

(2) In sub-paragraph (v) of the definition of “earnings” in paragraph (1) above expressions used in the Merchant Shipping Act 1894⁽³³⁾ have the same meanings as in that Act.

(3) Regulations 33 to 53 apply for the recovery of a sum which has become payable to a billing authority under Part V and which has not been paid; but their application in relation to a sum for which persons are jointly and severally liable under that Part is subject to the provisions of regulation 54 (joint and several liability).

(4) References in this Part to a sum which has become payable and which has not been paid include references to a sum forming part of a larger sum which has become payable and the other part of which has been paid.

Deductions under attachment of earnings order

38.—(1) Subject to paragraphs (2) and (3), the sum to be deducted by an employer under an attachment of earnings order on any pay-day shall be—

⁽³¹⁾ See the definition in section 116(1) of the Local Government Finance Act 1992.

⁽³²⁾ 1992 c. 4.

⁽³³⁾ 1894 c. 60. The definition of “fishing boat” in section 370 was amended by the Merchant Shipping Act 1970 (c. 36), Schedule 5 and the definition of “seaman” in section 742 was amended by paragraph 4 of Schedule 3 to that Act.

- (a) where the debtor's earnings from the employer are payable weekly, a sum equal to the appropriate percentage of the net earnings otherwise payable on that pay-day; and for this purpose the appropriate percentage is the percentage (or percentages) specified in column 2 of Table A in Schedule 4 in relation to the band in column 1 of that Table within which the net earnings fall;
 - (b) where his earnings from the employer are payable monthly, a sum equal to the appropriate percentage of the net earnings otherwise payable on that pay-day; and for this purpose the appropriate percentage is the percentage (or percentages) specified in column 2 of Table B in that Schedule 4 in relation to the band in column 1 of that Table within which the net earnings fall;
 - (c) where his earnings from the employer are payable at regular intervals of a whole number of weeks or months, the sum arrived at by—
 - (i) calculated what would be his weekly or monthly net earnings by dividing the net earnings payable to him by the employer on the pay-day by that whole number (of weeks or months, as the case may be),
 - (ii) ascertaining the percentage or percentages specified in column 2 of Table A (if the whole number is of weeks) or of Table B (if the whole number is of months) in Schedule 4 opposite the band in column 1 of that Table within which the notional net earnings calculated under paragraph (i) fall, and
 - (iii) calculating the sum which equals the appropriate percentage (or percentages) of the notional net earnings for any of those weeks or months and multiplying that sum by the whole number of weeks or months, as appropriate.
- (2) Where paragraph (1) applies and the amount to be paid to the debtor on any pay-day includes an advance in respect of future pay, the sum to be deducted on that pay-day shall be the aggregate of the amount which would otherwise fall to be deducted under paragraph (1) and—
- (a) where the amount advanced would otherwise have been paid on a single pay-day, the sum which would have been deducted on that pay-day in accordance with paragraph (1) if the amount advanced had not been the amount of net earnings on that day; or
 - (b) where the amount advanced would otherwise have been paid on more than one pay-day, the sums which would have been deducted on each of the relevant pay-days in accordance with paragraph (1) if—
 - (i) an equal proportion of the amount advanced had paid on each of those days; and
 - (ii) the net earnings of the debtor on each of those days had been an amount equal to that proportion.
- (3) Where the amount payable to the debtor on any pay-day is reduced by reason of an earlier advance of pay or by reason of the repayment by the debtor of a loan made to him by his employer for any purpose, the net earnings of the debtor on that day shall, for the purposes of paragraph (1), be the amount defined in regulation 32(1) less the amount of the deduction.
- (4) Subject to paragraphs (5) and (6), where the debtor's earnings from the employer are payable at regular intervals other than at intervals to which paragraph (1) applies, the sum to be deducted on any pay-day shall be arrived at by—
- (a) calculating what would be his daily net earnings by dividing the net earnings payable to him by the employer on the pay-day by the number of days in the interval,
 - (b) ascertaining the percentage or percentages specified in column 2 of Table C in Schedule 4 opposite the band in column 1 of that Table within which the notional net earnings calculated under sub-paragraph (a) fall, and
 - (c) calculating the sum which equals the appropriate percentage (or percentages) of the notional daily net earnings and multiplying that sum by the number of days in the interval.

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(5) Where the debtor's earnings are payable as mentioned in paragraph (4), and the amount to be paid to the debtor on any pay-day includes an amount advanced in respect of future pay, the amount of the debtor's notional net earnings under sub-paragraph (a) of that paragraph shall be calculated in accordance with the formula—

$$\frac{A - B}{C + D}$$

where

A is the amount of net earnings payable to him on that pay-day (exclusive of the amount advanced);

B is the amount advanced;

C is the number of days in the period for which the amount of net earnings is payable; and

D is the number of days in the period for which, but for the agreement to pay in advance, the amount advanced would have been payable.

(6) Paragraph (3) applies in relation to paragraph (4) as it applies in relation to paragraph (1).

(7) Where earnings are payable to a debtor by the employer by 2 or more series of payments at regular intervals—

(a) if some or all of the intervals are of different lengths—

(i) for the purpose of arriving at the sum to be deducted, whichever of paragraphs (1), (2), (3), (4), (5) and (6) is appropriate shall apply to the series with the shortest interval (or, if there is more than one series with the shortest interval, such one of those series as the employer may choose), and

(ii) in relation to the earnings payable in every other series, the sum to be deducted shall be 20 per cent. of the net earnings or, where on any pay-day an amount advanced is also paid, 20 per cent. of the aggregate of the net earnings and the amount advanced;

(b) if all of the intervals are of the same length, whichever of paragraphs (1), (2), (3), (4), (5) and (6) is appropriate shall apply to such series as the employer may choose and sub-paragraph (a)(ii) shall apply to every other series,

and paragraph (3) shall apply in relation to sub-paragraph (a)(ii) above as it applies in relation to paragraph (1).

(8) Subject to paragraphs (9) and (10), where the debtor's earnings from the employer are payable at irregular intervals, the sums to be deducted on any pay-day shall be arrived at by—

(a) calculating what would be his daily net earnings by dividing the net earnings payable to him by the employer on the pay-day—

(i) by the number of days since earnings were last payable by the employer to him, or

(ii) if the earnings are the first earnings to be payable by the employer to him with respect to the employment in question, by the number of days since he began the employment;

(b) ascertaining the percentage (or percentages) specified in column 2 of Table C of Schedule 4 opposite the band in column 1 of that Table within which the notional net earnings calculated under sub-paragraph (a) fall; and

(c) calculating the sum which equals the appropriate percentage (or percentages) of the daily net earnings and multiplying that sum by the same number as that of the divisor for the purposes of the calculation mentioned in sub-paragraph (a).

(9) Where on the same pay-day there are payable to the debtor by the employer both earnings payable at regular intervals and earnings payable at irregular intervals, for the purpose of arriving

at the sum to be deducted on the pay-day under the foregoing provisions of this regulation all the earnings shall be aggregated and treated as earnings payable at the regular interval.

(10) Where there are earnings payable to the debtor by the employer at regular intervals on one pay-day, and earnings are payable by the employer to him at irregular intervals on a different pay-day, the sum to be deducted on each of the pay-days on which the earnings which are payable at irregular intervals are so payable shall be 20 per cent. of the net earnings payable to him on the day.

Attachment of earnings orders: ancillary powers and duties of employers and others served

39.—(1) An employer who deducts and pays amounts under an attachment of earnings order may, on each occasion that he makes such a deduction, also deduct from the debtor's earnings the sum of one pound towards his administrative costs.

(2) An employer who deducts and pays amounts under an attachment of earnings order shall, in accordance with paragraph (3), notify the debtor in writing of—

- (a) the total amount of the sums (including sums deducted under paragraph (1)) deducted under the order up to the time of the notification; or
- (b) the total amount of the sums (including sums deducted under paragraph (1)) that will fall to be so deducted after that time.

(3) A notification under paragraph (2) must be given at the time that the pay statement given by the employer to the debtor next after a deduction has been made is so given, or if no such statements are usually issued by the employer, as soon as practicable after a deduction has been made.

(4) A person on whom a copy of an attachment of earnings order has been served shall, in accordance with paragraph (5), notify in writing the authority which made the order if he does not have the debtor against whom it was made in his employment or the debtor subsequently ceases to be in his employment.

(5) A notification under paragraph (4) must be given within 14 days of the day on which the copy of the order was served on him or the debtor ceased to be in his employment (as the case may be).

(6) While an attachment of earnings order is in force, any person who becomes the debtor's employer and knows that the order is in force and by what authority it was made shall notify that authority in writing that he is the debtor's employer.

(7) A notification under paragraph (6) must be given within 14 days of the day on which the debtor became the person's employee or of the day on which the person first knows that the order is in force and the identity of the authority by which it was made, whichever is the later.

Attachment of earnings orders: duties of debtors

40.—(1) While an attachment of earnings order is in force, the debtor in respect of whom the order has been made shall notify in writing the authority which made it of each occasion when he leaves an employment or becomes employed or re-employed, and (in a case where he becomes so employed or re-employed) shall include in the notification a statement of—

- (a) his earnings and (so far as he is able) expected earnings from the employment concerned,
- (b) the deductions and (so far as he is able) expected deductions from such earnings—
 - (i) in respect of income tax;
 - (ii) in respect of primary Class 1 contributions under Part I of the Social Security Contributions and Benefits Act 1992;
 - (iii) for the purposes of such a superannuation scheme as is mentioned in the definition of "net earnings" in regulation 32(1),
- (c) the name and address of the employer, and

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(d) his work or identity number in the employment (if any).

(2) A notification under paragraph (1) must be given within 14 days of the day on which the debtor leaves or commences (or recommences) the employment (as the case may be), or (if later) the day on which he is informed by the authority that the order has been made.

Attachment of earnings orders: ancillary powers and duties of authority

41.—(1) Where the whole amount to which an attachment of earnings order relates has been paid (whether by attachment of earnings or otherwise), the authority by which it was made shall give notice of the fact to any person who appears to it to have the debtor in his employment and who has been served with a copy of the order.

(2) The authority by which an attachment of earnings order was made may, on its own account or on the application of the debtor or an employer of the debtor, make an order discharging the attachment of earnings order; and if it does so it shall give notice of that fact to any person who appears to it to have the debtor in his employment and who has been served with a copy of the order.

(3) If an authority serves a copy of an attachment of earnings order in accordance with regulation 37(3), it shall (unless it has previously done so) also serve a copy of the order on the debtor.

Priority between attachment of earnings orders

42.—(1) Where an employer would, but for this paragraph, be obliged under regulation 37(3) to make deductions on any pay-day under two or more attachment of earnings orders made under this Part, he shall make deductions only with respect to the one which was made first until it ceases to be in force, and shall then deal with the other order or orders in like manner in the order in which they were made.

(2) Where an employer is or would, but for this paragraph, be obliged to comply at any time with an attachment of earnings order made under this Part and an order made under the Attachment of Earnings Act 1971 (“the 1971 Act”)(**34**) or the Child Support Act 1991 (“the 1991 Act”)(**35**)—

- (a) if the order made under the 1971 Act or, as the case may be, the 1991 Act was made first, whilst it is in force he shall comply only with the order made under the 1971 Act or, as the case may be, the 1991 Act, or
- (b) if the attachment of earnings order made under this Part was made first, whilst it is in force the attachable earnings for the purposes of Schedule 3 to the 1971 Act are to be treated as such of the attachable earnings mentioned in paragraph 3 of that Schedule(**36**) as remain after deduction of the amount to be deducted under the order made under this Part.

(34) 1971 c. 32.

(35) 1991 c. 48.

(36) Paragraph 3 of Schedule 3 was amended by the Social Security (Consequential Provisions) Act 1975 (c. 18), Schedule 2, paragraph 43, the Social Security Pensions Act 1975 (c. 60), Schedule 5 and the Wages Act 1986 (c. 48), Schedule 4, paragraph 4.

SCHEDULE 4

DEDUCTIONS TO BE MADE UNDER ATTACHMENT OF EARNINGS ORDER

TABLE A

DEDUCTIONS FROM WEEKLY EARNINGS

(1) Net earnings	(2) Deduction rate %
Not exceeding £35	0
Exceeding £35 but not exceeding £65	3
Exceeding £65 but not exceeding £90	5
Exceeding £90 but not exceeding £110	7
Exceeding £110 but not exceeding £175	12
Exceeding £175 but not exceeding £250	17
Exceeding £250	17 in respect of the first £250 and 50 in respect of the remainder

TABLE B

DEDUCTIONS FROM MONTHLY EARNINGS

(1) Net earnings	(2) Deduction rate %
Not exceeding £152	0
Exceeding £152 but not exceeding £260	3
Exceeding £260 but not exceeding £360	5
Exceeding £360 but not exceeding £440	7
Exceeding £440 but not exceeding £700	12
Exceeding £700 but not exceeding £1,000	17
Exceeding £1,000	17 in respect of the first £1,000 and 50 in respect of the remainder

TABLE C

DEDUCTIONS FROM DAILY EARNINGS

(1) Net earnings	(2) Deduction rate %
Not exceeding £5	0
Exceeding £5 but not exceeding £9	3
Exceeding £9 but not exceeding £13	5

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(1) Net earnings	(2) Deduction rate %
Exceeding £13 but not exceeding £16	7
Exceeding £16 but not exceeding £25	12
Exceeding £25 but not exceeding £36	17
Exceeding £36	17 in respect of the first £36 and 50 in respect of the remainder

SCHEDULE 5

Regulation 45(2)(b)

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 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 (whether the levy is made or not):	Reasonable costs and fees incurred, but not exceeding an amount which, when aggregated with charges under this head for any previous visits made with a view to levying distress in relation to an amount in respect of which the liability order concerned was made, is not greater than the relevant amount calculated under paragraph 2(1) with respect to the levy.
B. For levying distress:	An amount (if any) which, when aggregated with charges under head A for any visits made with a view to levying distress in relation to an amount in respect of which the liability order concerned was made, is equal to the relevant amount calculated under paragraph 2(1) with respect to the levy.
C. For the removal and storage of goods for the purpose of sale:	Reasonable costs and fees incurred.
D. For the possession of goods as described in paragraph 2(3)—	£4.50 per day.
(i) for close possession (the man in possession to provide his own board);	
(ii) for walking possession:	45p per day.
E. For appraisalment of an item distrained, at the request in writing of the debtor:	Reasonable fees and expenses of the broker appraising.
F. 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),

(1) Matter connected with distress	(2) Charge
(i) where the sale is held on the auctioneer's premises:	together with reasonable costs and fees incurred in respect of advertising.
(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.
G. For other expenses incurred in connection with a proposed sale where there is no buyer in relation to it:	Reasonable costs and fees incurred.

2.—(1) In heads A and B of the Table to paragraph 1, “the relevant amount” with respect to a visit or a levy means—

- (a) where the sum due at the time of the visit or of the levy (as the case may be) does not exceed £100, £12.50,
- (b) where the sum due at the time of the visit or of the levy (as the case may be) exceeds that amount, 12½ 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) Where a charge has arisen under head B with respect to an amount, no further charge may be aggregated under heads A or B in respect of that amount.

(3) An authority takes close or walking possession of goods for the purposes of head D of the Table to paragraph 1 if it takes such possession in pursuance of an agreement which is made at the time that the distress is levied and which (without prejudice to such other terms as may be agreed) 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 is in close possession of goods on any day for these 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, the amount of the charge shall be taxed.

(3) Such a taxation shall be carried out by the district judge of the county court for the district in which the distress is or is intended to be levied, and he 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 make provision for the administration and enforcement of council tax in England and Wales under the Local Government Finance Act 1992 and related matters.

Regulation 2, in Part I, applies section 233 of the Local Government Act 1972 to the service of notices by or on behalf of the Common Council of the City of London under the Regulations and provides for the service of certain notices on persons whose name cannot, after reasonable enquiry, be ascertained.

Part II (regulations 3 to 6) is concerned with the giving and obtaining of information relevant to council tax. Relevant information may be exchanged between billing authorities in England and Wales and between those authorities and Scottish levying authorities.

Part III (regulations 7 to 12) relates primarily to exempt dwellings. Regulation 7 makes provision for cases where, because a dwelling is exempt or the billing authority has set a nil amount of council tax, no demand notice will be issued under Part V of the Regulations. It requires information to be given as to the valuation band shown as applicable to dwellings in proposed and final valuation lists and the reasons for any change of band between the proposed list and the final list. Regulation 8 requires billing authorities to take reasonable steps to ascertain whether dwellings in their area are chargeable or exempt. Regulation 9 provides for the assumptions which they are required to make after taking such steps. Regulation 10 requires authorities to notify persons of the assumptions made in their case. Regulation 11 requires persons who have received such notification to inform their billing authority when they have reason to believe that the status of their dwelling has changed. Regulation 12 enables a billing authority to obtain information sufficient to identify the person or persons who would be liable to pay council tax if the dwelling in question was not an exempt dwelling.

Part IV (regulations 13 to 16) relates to discounts. Regulation 14 requires billing authorities to take reasonable steps to ascertain discount entitlements and regulation 15 provides for the assumptions which they are required to make after taking such steps. Regulation 16 requires persons who have been notified in accordance with regulations for purposes connected with Part V of these Regulations of any discount assumption made in their case, to inform their billing authority when they have reason to believe that they are no longer entitled to a discount or that they are entitled to a discount of a lesser amount than that assumed.

Part V (regulations 17 to 31) is principally concerned with the billing of persons liable to council tax. It requires, amongst other matters, billing authorities to serve demand notices each year on liable persons (regulations 18 to 22) identifying the payments to be made in respect of council tax, and provides for the making of certain of such payments by instalments during the year (Part I of Schedule 1). Regulation 21 and Part II of Schedule 1 enable billing authorities to make schemes for payment by instalments in cases where rent is payable to them in respect of the dwelling concerned. Where a person fails to pay an instalment in accordance with Part I of Schedule 1 or a scheme under Part II of that Schedule, in certain cases the unpaid balance of the billing authority's estimate of the chargeable amount for the year concerned will become payable immediately (regulation 23). Regulations 25 and 26 make provision for reduced amounts where there are lump sum or non-cash payments.

Regulations 27 and 28 provide for the billing of persons who are jointly and severally liable to pay council tax. Regulations 29 to 31 make provision for the collection of penalties imposed under paragraph 1 of Schedule 3 to the Act, restrict the grounds of appeal to a valuation tribunal with

respect to estimates, and require the final adjustment of amounts payable under notices given under the Regulations.

Part VI (regulations 32 to 57) is concerned with the enforcement of sums due under Part V. Amounts payable to a billing authority which are unpaid are recoverable under a liability order made by a magistrates' court (regulation 34) following the making of which the billing authority may request certain information of the debtor as to his employment or income (regulation 36), make an attachment of earnings order (regulations 37 to 43 and Schedules 3 and 4), an attachment of allowances order (regulation 44), levy distress (regulation 45 and Schedule 5), apply for the commitment of the debtor to prison (regulations 47 and 48), prove the debt in insolvency (regulation 49), or apply for a charging order (regulation 50). Regulation 53 contains provisions about the admissibility of computer-generated evidence before magistrates' courts in proceedings under Part VI. Regulation 54 applies the relevant provisions of Part VI, with modifications, to cases of joint and several liability. Amounts payable by way of repayment are recoverable in a court of competent jurisdiction (regulation 55).

Regulation 56 makes provision for offences in the event of failure of the debtor to supply information, or of an employer to comply with an attachment of earnings order or to provide certain information relevant to the order or to an attachment of allowances order (or to deductions under such orders) in accordance with the Regulations. Regulation 57 precludes matters which can be raised by way of appeal to a valuation tribunal under section 16 of the Act being raised in proceedings for recovery under Part VI, and provides for the case where the amounts required under a notice under Part V are adjusted after a liability order has been made.

Part VII (regulation 58) makes provision for the enforcement of outstanding liabilities and other aspects of administration with respect to council tax or penalties which remain outstanding on death.