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STATUTORY INSTRUMENTS

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**1989 No. 2234 (S.147)**

**COMMUNITY CHARGES, SCOTLAND**

**WATER SUPPLY, SCOTLAND**

**The Personal Community Charge (Exemption for the Severely Mentally Impaired) (Scotland) Regulations 1989**

<i>Made</i>	- - - -	<i>30th November 1989</i>
<i>Laid before Parliament</i>		<i>8th December 1989</i>
<i>Coming into force</i>	- -	<i>29th December 1989</i>

The Secretary of State, in exercise of the powers conferred upon him by sections 26(1) and 31(3) of, and paragraph 4(4) to (7) of Schedule 1A to, the Abolition of Domestic Rates Etc. (Scotland) Act 1987( **(1)**) and those sections and that paragraph as read with paragraph 11 of Schedule 5 to that Act( **(2)**) and with the Community Water Charges (Scotland) Regulations 1988( **(3)**) made under that paragraph 11, and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**Citation and Commencement**

1. These Regulations may be cited as the Personal Community Charge (Exemption for the Severely Mentally Impaired) (Scotland) Regulations 1989 and shall come into force on 29th December 1989.

**Interpretation**

2. In these Regulations—

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

“exempt” means exempt from liability to pay the personal community charge and the personal community water charge under paragraph 4 of Schedule 1A to the Act;

“the old definition of severely mentally impaired” means the definition in force immediately before the coming into force of these Regulations;

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- (1) [1987 c. 47](#); section 26(1) contains a definition of “prescribed” relevant to the exercise of the statutory powers under which these Regulations are made; Schedule 1A was inserted by the Local Government Finance Act [1988 \(c. 41\)](#), Schedule 12, paragraph 35; Schedule 1A, paragraph 4 was amended by the Local Government and Housing Act [1989 \(c. 42\)](#), Schedule 6, paragraph 12.
- (2) Paragraph 11 was amended by the Local Government Finance Act 1988, Schedule 12, paragraph 38.
- (3) [S.I.1988/1538](#)

“the new definition of severely mentally impaired” means the definition which is substituted for the old definition of that expression by regulation 4 of these Regulations.

### **Severely Mentally Impaired**

3. Sub-paragraph (2) of paragraph 4 of Schedule 1A to the Act( (4)) (conditions for the severely mentally impaired being exempt from liability for the personal community charge and the personal community water charge) shall be amended as follows:—

- (a) condition (c) shall be deleted; and
- (b) after condition (f), there shall be added the following conditions:—
  - “(g) he is entitled to an attendance allowance under section 35 of the Social Security Act 1975( (5));
  - (h) he is entitled to an increase of the weekly rate of his disablement pension under section 61 of that Act (increase where constant attendance needed);
  - (i) he is entitled to a constant attendance allowance under—
    - (i) article 14 of the Personal Injuries (Civilians) Scheme 1983( (6)), or
    - (ii) article 14 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983( (7)) (including that provision as applied, with or without modifications, by any other instrument);
  - (j) he was, immediately before the coming into force of the Personal Community Charge (Exemption for the Severely Mentally Impaired) (Scotland) Regulations 1989, exempt from liability to pay the personal community charge and the personal community water charge under this paragraph. ”

4. For sub-paragraph (3) of the said paragraph 4 (definition of severe mental impairment), there shall be substituted the following sub-paragraph:—

“(3) A person is severely mentally impaired if he has severe impairment of his intelligence and social functioning from whatever cause which appears to be permanent. ”

### **Medical certificate**

5. Any certificate given for the purposes of sub-paragraph (1)(c) of paragraph 4 of Schedule 1A to the Act before the date of coming into force of these Regulations to a person who, immediately before that date, was exempt from liability to pay the personal community charge and the personal community water charge under the said paragraph 4 shall continue to have effect for those purposes notwithstanding the substitution of another definition of severely mentally impaired by regulation 4 above.

### **Exemption from date prior to coming into force of the Regulations**

- 6. In respect of the financial year 1989–90, a person—
  - (a) who was not within the old definition of severely mentally impaired immediately before the coming into force of these Regulations;
  - (b) who is within the new definition of that expression and is exempt at any time on or after the coming into force of these Regulations and in that financial year; and

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(4) Sub-paragraph (2) was amended by S.I. 1988/1541 (now revoked) and by regulation 4 of and Schedule 1 to S.I. 1989/63  
 (5) 1975 c. 14; section 35 was amended by the Social Security Act 1979 (c. 18), section 2, the Social Security Act 1980 (c. 30), Schedule 1, Part II, paragraph 8, and the Social Security Act 1988 (c. 7), section 1.  
 (6) S.I. 1983/686  
 (7) S.I. 1983/883

- (c) who fulfilled any of the conditions which are now mentioned in paragraph 4(2) of Schedule 1A to the Act on any date in that financial year prior to the coming into force of these Regulations (irrespective of whether or not the condition concerned was then mentioned in that paragraph),

shall be treated as having been exempt as from the earliest date in that financial year in which he fulfilled any of those conditions.

St Andrew's House,  
Edinburgh  
30th November 1989

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

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

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## EXPLANATORY NOTE

(This Note is not part of the Regulations)

These Regulations prescribe certain matters relating to the exemption of persons who are severely mentally impaired from liability to pay the personal community charge and the personal community water charge.

Under paragraph 4 of Schedule 1A to the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c. 47) (“the 1987 Act”) as inserted by paragraph 35 of Schedule 12 to the Local Government Finance Act 1988 (c. 41), a person is exempt from liability to pay the personal community charge if he fulfils one or more conditions mentioned in paragraph 4(2), he is severely mentally impaired within the meaning of paragraph (3) and he is stated to be such in a certificate from a doctor. This paragraph is applied in relation to community water charges by paragraph 11 of Schedule 5 to the 1987 Act. It was also amended by paragraph 12 of Schedule 6 to the Local Government and Housing Act 1989 (c. 42) (“the 1989 Act”).

Regulation 3 of these Regulations further amends the conditions mentioned in paragraph 4(2) of the said Schedule 1A, as amended by the Personal Community Charge (Exemptions) (Scotland) Regulations 1989 (SI 1989/63). This Regulation extends the list of qualifying benefits so as to enable a person to qualify for exemption if he is entitled to attendance allowance or constant attendance allowance. It also deletes the condition relating to pensionable age so that it is no longer possible for a person to qualify for exemption merely because he has reached that age. However, it does enable a person, who was exempt immediately before the coming into force of the Regulations (which would include a person who had qualified because he was, for example, of pensionable age), to continue to be exempt.

Regulation 4 of these Regulations substitutes a new definition for the definition of severe mental impairment in paragraph 4(3) of that Schedule. The new definition defines a person as being severely mentally impaired if he has severe impairment of intelligence and social functioning from whichever cause which appears to be permanent. It does not refer to any specific causes for this condition unlike the previous definition which restricted persons who were severely mentally impaired to persons who had this condition because they were suffering from a state of arrested or incomplete development of mind or an injury to the brain.

Regulation 5 of these Regulations provides that a doctor’s certificate which was given to a person who is suffering from severe mental impairment within the meaning of the old definition in force immediately before the coming into force of these Regulations should continue to have effect notwithstanding the change in the definition.

Regulation 6 provides that, in certain circumstances, a person who is not within the old definition of severely mentally impaired but who comes within the new definition of that expression may be treated as having been exempt from a date prior to the coming into force of the Regulations. This is in pursuance of paragraph 4(7) of Schedule 1A to the 1987 Act, as inserted by paragraph 12 of Schedule 6 to the 1989 Act.