

1990 No. 545

COMMUNITY CHARGES, ENGLAND AND
WALES

Community Charges (Deductions from Income
Support) (No. 2) Regulations 1990

Made - - - - 8th March 1990
Laid before Parliament 9th March 1990
Coming into force - 1st April 1990

The Secretary of State for Social Security in exercise of powers conferred by sections 22(3) and 146(6) of, and paragraph 6 of Schedule 4 to, the Local Government Finance Act 1988(a) and of all other powers enabling him in that behalf, after consultation with the Council on Tribunals in accordance with section 10 of the Tribunals and Inquiries Act 1971(b), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Community Charges (Deductions from Income Support) (No. 2) Regulations 1990 and shall come into force on 1st April 1990.

(2) In these Regulations, unless the context otherwise requires—

▶¹◀

“the 1986 Act” means the Social Security Act 1986(c);

▶¹“the 1998 Act” means the Social Security Act 1998;◀

▶¹◀

“appropriate social security office” means an office of the Department of Social Security which is normally open to the public for the receipt of claims for income support and includes an office of the ▶²Department of Education and Employment◀ which is normally open to the public for the receipt of claims for ▶³“assessment period” means the period prescribed by regulation 21 of the UC Regulations;◀

▶²jobseeker’s allowance and income support◀;

▶¹“Commissioner” has the meaning it bears in section 39(1) of the 1998 Act;◀

“couple” means a married or unmarried couple;

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

“5 per cent. of the personal allowance for a single claimant aged not less than 25” and “5 per cent. of the personal allowance for a couple where both members are aged not less than 18” means, in each case, where the percentage is not a multiple of 5 pence, the sum obtained by rounding that 5 per cent. to the next higher such multiple;

“income support” means income support within the meaning of the 1986 Act

▶⁴but does not include any back to work bonus under section 26 of the Jobseekers Act which is paid as income support;◀

▶¹“Jobseeker’s Act” means the Jobseekers Act 1995(d)

“jobseeker’s allowance” means an allowance under Part I of the Jobseekers Act but does not include any back to work bonus under section 26 of that Act which is paid as jobseeker’s allowance;◀

¹Defns. of “the 1975 Act” and “adjudication officer” deleted, defn. of “the 1998 Act” inserted and defn. of “Commissioner” substituted by para. 1 of Sch. 11 to S.I. 1999/3178 as from 29.11.99.
²Words substituted in defn. of “appropriate social security office” in reg. 1(2) by reg. 6(a) of S.I. 1996/2344 as from 7.10.96.
³Defn. of “assessment period” inserted in reg. 1(2) by reg. 14(2) of S.I. 2013/612 as from 29.4.13.

⁴Words added to defn. of “income support” & defns. of “Jobseekers Act” and “jobseeker’s allowance” inserted in reg. 1(2) by reg. 6(b)-(c) of S.I. 1996/2344 as from 7.10.96.

(a) 1988 c. 41. S. 146(6) is cited for the meaning it ascribes to “Prescribed”.
Para. 6 of Sch. 4 was extended by the Jobseekers Act 1995 (c. 18), Sch. 2, para. 18.
(b) 1971 c. 62.
(c) 1986 c. 50.
(d) 1995 c. 18.

“liability order” means an order under regulation 29 of the Community Charges (Administration and Enforcement) Regulations 1989(a);

“married couple” has the meaning ascribed to it in section 20(11) of the 1986 Act;

“payments to third parties” means direct payments to third parties in accordance with Schedule 9 to the Social Security (Claims and Payments) Regulations 1987(b); ▶¹or Schedule 6 to the UC etc. Claims and Payments Regulations, ◀

“polygamous marriage” means a marriage to which section 22B of the Social Security Act 1986 refers(c);

“single debtor” means a debtor who is not a member of a couple;

▶²“state pension credit” means the benefit of that name payable under the State Pension Credit Act 2002; ◀

▶³“tribunal” means an appeal tribunal constituted under Chapter I of Part I of the 1998 Act; ◀ and

▶¹“the UC Regulations” means the Universal Credit Regulations 2013;

“the UC etc. Claims and Payments Regulations” means the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013;

“universal credit” means universal credit under Part 1 of the Welfare Reform Act 2012; ◀

“unmarried couple” has the meaning ascribed to it in section 20(11) of the 1986 Act.

See Sch. 2, para. 23 of S.I. 2010/1907 at page 13.9429 for details of modifications to reg. 2(2) as from 1.10.10.

(3) Unless the context otherwise requires, any reference in these Regulations to a numbered regulation or Schedule is a reference to the regulation and Schedule bearing that number in the Regulations and any reference in a regulation or Schedule to a numbered paragraph is a reference to the paragraph of that regulation or Schedule having that number.

▶⁴▶⁵**Application for deductions ◀ from income support ▶⁶, ▶¹universal credit ◀ state pension credit ◀ ▶⁷, jobseeker’s allowance or employment and support allowance ◀ ◀**

2.—(1) Where a debtor is entitled to income support ▶⁶, ▶¹universal credit ◀ state pension credit ◀ ▶⁷, jobseeker’s allowance or employment and support allowance ◀, an authority may apply to the Secretary of State by sending an application in respect of the debtor or, where a liability order is made against a couple, in respect of both of the couple, to an appropriate social security office asking the Secretary of State to deduct sums from any amount payable to the debtor, or as the case may be either of the couple by way of income support ▶⁶, ▶¹universal credit ◀ state pension credit ◀ ▶⁸or jobseeker’s allowance ◀.

(2) An application from an authority shall be in writing and shall contain the following particulars—

- (a) the name and address of the debtor or where the liability order is made against a couple, the names and address of both of them;
- (b) the name and place of the court which made the liability order;
- (c) the date when the liability order was made;
- (d) the total amount of the arrears specified in the liability order;
- (e) the total amount which the authority wishes to have deducted from income support ▶⁶, state pension credit ◀ ▶⁷, jobseeker’s allowance or employment and support allowance ◀.

(a) S.I. 1989/438.

(b) S.I. 1987/1968, amended by S.I. 1988/522, 1725, 1989/136 and 1689.

(c) Section 22B was inserted into the Social Security Act 1986 by the Local Government Finance Act 1988 (c. 41), Sch. 10, paragraph 5 and was amended by the Social Security Act 1989 (c. 24), Sch. 8, paragraph 9(3).

¹Words & defns. for “the UC Regs...”, “UC Claims and Payments...” & “Universal Credit” inserted in regs. 1(2) & (2) by regs. 14(3), (4) & 15 of S.I. 2013/612 as from 29.4.13.

²Defn. of “state pension credit” inserted by reg. 35(2) of S.I. 2002/3019 as from 6.10.03

³Defn. of “tribunal” substituted in reg. 1(2) by para. 1(d) of Sch. 11 to S.I. 1999/3178 as from 29.11.99.

⁴Heading to reg. 2 substituted by reg. 7(1) of S.I. 1996/2344 as from 7.10.96 (thereby adding the words “or jobseeker’s allowance”).

⁵Words substituted in heading to reg. 2 and paras. (4) to (6) of reg. 2 omitted by para. 2 of Sch. 11 to S.I. 1999/3178 as from 29.11.99.

⁶Words inserted in heading & paras. (1) & (2)(e) to reg. 2 by reg. 35(3) of S.I. 2002/3019 as from 6.10.03.

⁷Words substituted in heading to reg. 2 and paras. (1) & (2)(e) to reg. 2 by reg. 53(2)(a)-(c) of S.I. 2008/1554 as from 27.10.08.

⁸Words inserted in reg. 2(1) & (2) by reg. 7(3) & (4) of S.I. 1996/2344 as from 7.10.96.

(3) Where it appears to the Secretary of State that an application from an authority gives insufficient particulars to enable the debtor to be identified he may require the authority to furnish such further particulars as may reasonably be required.

▶¹◀

▶²Deductions from debtor's income support ▶³, ▶⁴universal credit,◀ state pension credit◀ ▶⁵, jobseekers allowance or employment and support allowance◀

3.—(1) Subject to paragraph (4) and regulation 4, where the Secretary of State receives an application from an authority in respect of a debtor who is entitled to income support ▶³, state pension credit◀ ▶⁵, income-based jobseeker's allowance or income-related employment and support allowance◀ and the amount payable by way of that benefit, after any deduction under this paragraph, is 10 pence or more, the Secretary of State may deduct a sum from that benefit which is equal to 5 per cent, of the personal allowance—

- (a) set out in paragraph 1(1)(e) of Schedule 2 to the Income Support (General) Regulations 1987 or, as the case may be, of Schedule 1 to the Jobseeker's Allowance Regulations 1996 for a couple where—
 - (i) a liability order is made; and
 - (ii) that benefit is payable.in respect of both members of a couple both of whom are aged not less than 18; and
- (b) in any other case, for a single claimant aged not less than 25 set out in paragraph 1(3)(c) of Schedule 2 to the Income Support (General) Regulations 1987 or, as the case may be, paragraph 1(3)(e) of Schedule 1 to the Jobseeker's Allowance Regulations 1996,

and pay that sum to the authority towards satisfaction of any outstanding sum which is or forms part of the amount in respect of which the liability order was made.

▶⁴(1A) Subject to paragraphs (1B), (1C) and (4A) and regulation 4, where the Secretary of State receives an application from an authority in respect of a debtor who is entitled to universal credit, the Secretary of State may deduct an amount from the universal credit payable to the debtor which is equal to 5 per cent. of the appropriate universal credit standard allowance and pay that sum to the authority towards satisfaction of any outstanding sum which is, or forms part of, the amount in respect of which the liability order was made.

(1B) No amount may be deducted under paragraph (1A) where it would reduce the amount of universal credit payable to the debtor to less than 1 penny.

(1C) For the purpose of paragraph (1A), where 5 per cent. of the appropriate universal credit standard allowance results in a fraction of a penny, that fraction is to be disregarded if it is less than half a penny and otherwise it is to be treated as a penny.

(1D) In paragraphs (1A) and (1C), "appropriate universal credit standard allowance" means the appropriate universal credit standard allowance for the debtor for the assessment period in question under regulation 36 of the UC Regulations.◀

(2) Subject to paragraph (3) and regulation 4, where—

- (a) the Secretary of State receives an application from an authority in respect of a debtor who is entitled to contribution-based jobseeker's allowance; and
- (b) the amount of contribution-based jobseeker's allowance payable before any deduction under this paragraph is equal to or more than one-third of the age-related amount applicable to the debtor under section 4(1)(a) of the Jobseeker's Act,

the Secretary of State may deduct a sum from that benefit which is equal to one-third of the age-related amount applicable to the debtor under section 4(1)(a) of the Jobseekers Act and pay that sum to the authority towards satisfaction of any outstanding sum which is or forms part of the amount in respect of which the liability order was made.

¹Words inserted in heading & paras. (1) & (2)(e) to reg. 2 by reg. 35(3) of S.I. 2002/3019 as from 6.10.03.

²Reg. 3 substituted for regs. 2A and 3 by para. 3 of Sch. 11 to S.I. 1999/3178 as from 29.11.99.

³Words inserted in heading & para. (1) of reg. 3 by reg. 35(4) of S.I. 2002/3019 as from 6.10.03.

⁴Words & paras. (1A)-(1D) inserted in reg. 3 by reg. 16 of S.I. 2013/612 as from 29.4.13.

⁵Words in heading to reg. 3 and para. (1) substituted by reg. 53(3)(a) & (b) of S.I. 2008/1554 as from 27.10.08.

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(3) Where the sum that would otherwise fall to be deducted under paragraph (2) includes a fraction of a penny, the sum to be deducted shall be rounded down to the next whole penny.

(4) Before making a deduction under paragraph (1) the Secretary of State shall make any deduction which falls to be made in respect of a liability mentioned in any of the following provisions of the Social Security (Claims and Payments) Regulations 1987–

- (a) regulation 34A(a) (mortgage interest);
- (b) paragraph 3(b) (housing costs) of Schedule 9;
- (c) paragraph 5(c) (rent and certain service charges for fuel) of Schedule 9;
- (d) paragraph 6(d) (fuel costs) of Schedule 9; and
- (e) paragraph 7(e) (water charges) of Schedule 9.

¹Para. (4A) inserted in reg. 3 by reg. 16 of S.I. 2013/612 as from 29.4.13.

►¹(4A) Before making a deduction under paragraph (1A), the Secretary of State must make any deduction which falls to be made in respect of a liability mentioned in paragraph 5(2)(a) to (c) of Schedule 6 to the UC etc. Claims and Payments Regulations.◀

(5) Subject to regulations 5 and 6, a decision of the Secretary of State under this regulation shall be final.

(6) The Secretary of State shall notify the debtor in writing of a decision to make a deduction under this regulation as soon as is practicable and at the same time shall notify the debtor of his right of appeal.◀

Circumstances, time of making and termination of deductions

²Reg. 4(1) substituted by para. 4 of Sch. 11 to S.I. 1999/3178 as from 29.11.99.

³Words substituted in reg. 4(1)(a) & para. 4(1A) & words in reg. 4(2) inserted by reg. 17 of S.I. 2013/612 as from 29.4.13.

⁴Words inserted in paras. (1) & (2) of reg. 4 by reg. 35(5) of S.I. 2002/3019 as from 6.10.03.

⁵Words in reg. 4(1) & (2) substituted by reg. 53(4) of S.I. 2008/1554 as from 27.10.08.

4.—►²(1) The Secretary of State–

- (a) shall make deductions under ►³regulation 3(1) or (2)◀ only where the debtor is entitled to income support ►⁴, state pension credit◀►⁵, jobseeker's allowance or employment and support allowance◀ throughout any benefit week; and
- (b) shall not determine any application under regulation 2 which relates to a debtor in respect of whom–
 - (i) he is making deductions; or
 - (ii) deductions fall to be made, pursuant to an earlier application under regulation 3 until no deductions pursuant to that earlier application fall to be made.◀

►³(1A) The Secretary of State may make deductions from universal credit under regulation 3(1A) only if–

- (a) the debtor is entitled to universal credit throughout any assessment period; and
- (b) no deductions are being made in respect of the debtor under any other application◀

(2) The Secretary of State shall make deductions from income support ►⁴, ►³universal credit,◀ state pension credit◀►⁵, jobseeker's allowance or employment and support allowance◀ at a time which corresponds to the payment of income support, ►³universal credit◀ state pension credit to the debtor(f) and he shall cease making deductions when–

- (a) a payment to a third party has priority;
- (b) there is sufficient entitlement to income support ►⁴, ►³universal credit,◀ state pension credit◀►⁵, jobseeker's allowance or employment and support allowance◀ to enable him to make the deduction;
- (c) entitlement to income support ►⁴, ►³universal credit,◀ state pension credit◀►⁵, jobseeker's allowance or employment and support allowance◀ ceases;

(a) Reg. 34A was inserted by S.I. 1992/1026.

(b) Para. 3 was amended by S.I. 1992/1026 and 2595, 1995/1613 and 2927 and 1996/1460.

(c) Para. 5 was amended by S.I. 1991/2284, 1992/2595 and 1996/1460.

(d) Para. 6 was amended by S.I. 1991/2284, 1992/2595, 1994/2319 and 1996/1460.

(e) Para. 7 was amended by S.I. 1992/2595, 1993/478, 1994/2319 and 1996/1460.

(f) See Schedule 7 to S.I. 1987/1968.

- (d) an authority withdraws its application for deductions to be made; or
- (e) the debt in respect of which he was making the deductions is discharged.

(3) Payments shall be made to the authority at such intervals as the Secretary of State may decide.

►¹**Revision and supersession**

5. Any decision of the Secretary of State under regulation 3 may be revised under section 9 of the 1998 Act or superseded under section 10 of that Act as though the decision were made under section 8(1)(c) of that Act.

¹Regs. 5 and 6 substituted by para. 5 of Sch. 11 to S.I. 1999/3178 as from 29.11.99.

Appeal

6. Any decision of the Secretary of State under regulation 3 (whether as originally made or as revised under regulation 5) may be appealed to a tribunal as though the decision were made on an award of a relevant benefit (within the meaning of section 8(3) of the 1998 Act) under section 8(1)(c) of the 1998 Act. ◀

►²◀

Revocation

12. The Community Charges (Deductions from Income Support) Regulations 1990(a) are hereby revoked.

²Regs. 7 to 11 revoked by para. 6 of Sch. 11 to S.I. 1999/3178 as from 29.11.99.

Signed by authority of the Secretary of State for Social Security

Gillian Shephard
Parliamentary Under-Secretary of State,
Department of Social Security

8th March 1990

►³◀

³Schs. 1 and 2 revoked by para. 6 of Sch. 11 to S.I. 1999/3178 as from 29.11.99

(a) S.I. 1990/107. [Revoked before coming into force].

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations, which apply to England and Wales only, provide for deductions to be made from income support towards discharging a debt in respect of community charges where an authority (that is, the charging authority) has obtained a liability order against a person (the debtor). They revoke and replace the Community Charges (Deductions from Income Support) Regulations 1990 (S.I. 1990/107).

The Regulations further provide that where the Secretary of State receives a notice from an authority asking him to deduct amounts payable by way of income support, he shall refer the matter to an adjudication officer for the determination of the questions as to whether there is enough income support to make such deduction and in the case where other deductions are being made from income support, the priority of the community charges debts in relation to those (regulation 2). Payment to an authority is to be at such intervals as the Secretary of State may decide.

Provision is also made for appeals by the debtor from the decision of the adjudication officer to a social security appeal tribunal and for further appeal from that by the debtor and the adjudication officer to the Social Security Commissioners and from there by the debtor, adjudication officer and Secretary of State to the Court of appeal.

Incidental provision is made for setting aside decisions, correction of decisions, withdrawal of applications, time limits for making appeals and applications and service of notices and to enable nominated officers to act instead of a Commissioner in certain procedural matters.