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STATUTORY INSTRUMENTS

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**1993 No. 494**

**The Council Tax (Deductions from  
Income Support) Regulations 1993**

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Council Tax (Deductions from Income Support) Regulations 1993 and shall come into force on 1st April 1993.

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

“the Administration Act” means the Social Security Administration Act 1992<sup>(1)</sup>;

“adjudication officer” means an officer appointed in accordance with section 38(1) of the Administration Act;

“application” means an application made under regulation 2 or regulation 3 containing the information specified in regulation 4;

“appropriate appeal court” means the appropriate court as determined in accordance with regulation 10(9) and 10(10);

“authority” means—

(a) in relation to England and Wales, a billing authority, and

(b) in relation to Scotland, a levying authority;

“benefit week” has the meaning prescribed by regulation 2(1) of the Income Support (General) Regulations 1987<sup>(2)</sup>;

“Claims and Payments Regulations” means the Social Security (Claims and Payments) Regulations 1987<sup>(3)</sup>;

“Commissioner” means the Chief or any other Social Security Commissioner appointed in accordance with section 52(1) or (2) of the Administration Act, and includes a Tribunal of three Commissioners constituted in accordance with section 57(1) of that Act;

“debtor”—

(a) in relation to England and Wales, has the same meaning as in paragraph 6 of Schedule 4 to the Local Government Finance Act, and

(b) in relation to Scotland, has the same meaning as in paragraph 6 of Schedule 8 to that Act;

“5 per cent. of the personal allowance for a single claimant aged not less than 25” means, 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 Social Security Contributions and Benefits Act 1992<sup>(4)</sup>;

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

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(1) 1992 c. 5.

(2) S.I. 1987/1967; relevant amending instrument is S.I. 1988/1445.

(3) S.I. 1987/1968.

(4) 1992 c. 5.

“personal allowance for a single claimant aged not less than 25” means the amount specified in paragraph 1(1)(e) of column 2 of Schedule 2 to the Income Support (General) Regulations 1987(5);

“social security office” means an office of the Department of Social Security which is open to the public for the receipt of claims for income support and includes an office of the Department of Employment which is open to the public for the receipt of claims for unemployment benefit;

“tribunal”, except in relation to a Tribunal of three Commissioners, means a social security appeal tribunal constituted in accordance with section 41 of the Administration Act.

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

#### **Application for deductions from income support: England and Wales**

2. Where a liability order has been made against a debtor by a magistrates' court and the debtor is entitled to income support the billing authority concerned may apply to the Secretary of State asking him to deduct sums from any amounts payable to the debtor by way of income support in order 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.

#### **Application for deductions from income support: Scotland**

3. Where a levying authority has obtained a summary warrant or a decree against a debtor in respect of arrears of sums payable under paragraph 1(1) of Schedule 8 to the Local Government Act and the debtor is entitled to income support, the levying authority may, without prejudice to its right to pursue any other means of recovering such arrears, apply to the Secretary of State asking him to deduct sums from any amounts payable to the debtor by way of income support in order to secure the payment of any outstanding sum which is or forms part of the amount in respect of which the summary warrant or decree was granted.

#### **Contents of application**

4.—(1) An application shall contain the following particulars—

- (a) the name and address of the debtor;
- (b) the name and address of the authority making the application;
- (c) the name and place of the court which made the liability order or granted the summary warrant, or decree as the case may be;
- (d) the date on which the liability order was made or the summary warrant or decree granted as the case may be;
- (e) the amount specified in the liability order, summary warrant or decree as the case may be;
- (f) the total sum which the authority wishes to have deducted from income support.

(2) An authority making an application shall serve it on the Secretary of State by sending or delivering it to a social security office.

(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 for that purpose.

### **Reference to adjudication officer**

5.—(1) Where the Secretary of State receives an application from an authority he shall, subject to regulation 8(4), refer it forthwith to an adjudication officer who shall determine whether there is sufficient entitlement to income support to enable the Secretary of State to make any deduction.

(2) The adjudication officer shall determine there is sufficient entitlement to income support to enable the Secretary of State to make a deduction—

- (a) if the amount payable by way of income support after any deduction to be made under regulation 7 is 10 pence or more;
- (b) if the aggregate amount payable under one or more of the following provisions, namely paragraphs 3(2)(a), 5(6), 6(2)(a), 7(3)(a), 7(5)(a) of Schedule 9 and paragraph 3(5) of Schedule 9A to the Claims and Payments Regulations, together with the amount to be deducted under regulation 7, does not exceed an amount equal to 3 times 5 per cent. of the personal allowance for a single claimant aged not less than 25 years.

(3) The adjudication officer shall determine whether there is sufficient entitlement to income support to enable a deduction to be made, so far as is practicable, within 14 days of receipt of the reference from the Secretary of State.

### **Notification of decision**

6. The Secretary of State shall notify the debtor and the authority concerned in writing of the adjudication officer's decision so far as is practicable within 14 days from the date on which he receives that decision and at the same time he shall notify the debtor of his right of appeal.

### **Deductions from debtor's income support**

7. Where the adjudication officer has determined that there is sufficient entitlement to income support the Secretary of State may deduct a sum equal to 5 per cent. of the personal allowance for a single claimant aged not less than 25 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 or the summary warrant or the decree was granted.

### **Circumstances, time of making and termination of deductions**

8.—(1) The Secretary of State shall make deductions from income support under regulation 7 only if—

- (a) the debtor is entitled to income support throughout any benefit week;
- (b) no deductions are being made in respect of the debtor under any other application; and
- (c) no payments are being made under regulation 2 of the Community Charge (Deductions from Income Support) (Scotland) Regulations 1989 or regulation 2 of the Community Charge (Deductions from Income Support) (No.2) Regulations 1990.

(2) The Secretary of State shall make deductions from income support by reference to the times at which payment of income support is made to the debtor<sup>(6)</sup>.

(3) The Secretary of State shall cease making deductions from income support if—

- (a) there is no longer sufficient entitlement to income support to enable him to make the deduction;
- (b) an authority withdraws its application for deductions to be made; or
- (c) the debt in respect of which he was making the deductions is discharged.

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

(4) Where at any time during which the Secretary of State is making deductions in respect of an application he receives one or more further applications in respect of the debtor from whom the deductions are being made, he shall refer those further applications to the adjudication officer in accordance with the following order of priority, namely, the one bearing the earliest date shall be referred first and each subsequent application shall be referred, one at a time and in date order, only after deductions under any earlier application have ceased.

(5) Payments of sums deducted from income support by the Secretary of State under these Regulations shall be made to the authority concerned, as far as is practicable, at intervals not exceeding 13 weeks.

(6) Where the whole of the amount to which the application relates has been paid, the authority concerned shall, so far as is practicable, give notice of that fact within 21 days to the Secretary of State.

(7) The Secretary of State shall notify the debtor in writing of the total sums deducted by him under any application—

- (a) on receipt of a written request for such information from the debtor; or
- (b) on the termination of deductions made under any such application.

### **Withdrawal of application**

9. An authority may withdraw an application at any time by giving notice in writing to the social security office to which the application was sent or delivered.

### **Appeal**

10.—(1) Where the adjudication officer has decided a question under regulation 5, the debtor may appeal to a tribunal.

(2) Subject to paragraph (5), an appeal lies to a Commissioner from any decision of a tribunal on the grounds that the decision of that tribunal was erroneous in point of law and the persons who may appeal are the debtor and the adjudication officer.

(3) If it appears to the Chief Commissioner or, in the case of his inability to act, to such other of the Commissioners as he may have nominated to act for that purpose, that an appeal falling to be heard by one of the Commissioners involves a question of law of special difficulty, he may direct that the appeal be dealt with, not by that Commissioner alone but by a tribunal consisting of three Commissioners and, if the decision is not unanimous, the decision of the majority shall be the decision of the tribunal.

(4) Subject to paragraph (5), an appeal on a question of law lies to the appropriate appeal court from any decision of a Commissioner and the persons who may appeal are—

- (a) the debtor;
- (b) the adjudication officer; and
- (c) the Secretary of State.

(5) No appeal lies—

- (a) to the Commissioner from a decision of a tribunal without the leave of the chairman of the tribunal which gave the decision or, if he refuses leave, without the leave of a Commissioner, or
- (b) to the appropriate appeal court from a decision of a Commissioner, without the leave of the Commissioner who decided the case, or if he refuses, without the leave of the appropriate appeal court.

(6) Where in any case it is impracticable, or it would be likely to cause undue delay, for an application for leave to appeal against a decision of a tribunal to be determined by the person who was the chairman of that tribunal, that application shall be determined by any other person qualified under section 41(4) of the Administration Act to act as a chairman of tribunals.

(7) In a case where the Chief Commissioner considers that it is impracticable, or would be likely to cause undue delay, for an application for leave to appeal to the appropriate appeal court to be determined by the Commissioner who decided the case, that application shall be determined—

(a) where the decision was a decision of an individual Commissioner, by the Chief Commissioner or a Commissioner selected by the Chief Commissioner, and

(b) where the decision was a decision of a Tribunal of Commissioners, by a differently constituted Tribunal of Commissioners selected by the Chief Commissioner.

(8) If the office of Chief Commissioner is vacant, or if the Chief Commissioner is unable to act, paragraph (7) shall have effect as if the expression “the Chief Commissioner” referred to such other of the Commissioners as may have been nominated to act for the purpose either by the Chief Commissioner or, if he has not made such a nomination, by the Lord Chancellor.

(9) On an application to a Commissioner for leave under this regulation it shall be the duty of the Commissioner to specify as the appropriate court—

(a) the Court of Appeal if it appears to him that the relevant place is in England and Wales; and

(b) the Court of Session if it appears to him that the relevant place is in Scotland;

except that if it appears to him, having regard to the circumstances of the case and in particular to the convenience of the persons who may be parties to the proposed appeal, that he should specify a different court mentioned in paragraphs (a) and (b) above as the appropriate court, it shall be his duty to specify that court as the appropriate court.

(10) In paragraph (9) “the relevant place”, in relation to an application for leave to appeal from a decision of a Commissioner, means the premises where the tribunal whose decision was the subject of the Commissioner’s decision usually exercises its functions.

## **Review**

**11.—**(1) Any decision under these Regulations of an adjudication officer, a tribunal or a Commissioner may be reviewed at any time by an adjudication officer if—

(a) the officer is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact; or

(b) there has been a relevant change of circumstances since the decision was given.

(2) Any decision of an adjudication officer may be reviewed by an adjudication officer on the grounds that the decision was erroneous in point of law.

(3) A question may be raised with a view to review under this regulation by means of an application in writing to an adjudication officer, stating the grounds of the application.

(4) On receipt of any such application, the adjudication officer shall take it into consideration and, so far as is practicable, dispose of it within 14 days of its receipt.

(5) A decision given by way of revision or a refusal to review under this regulation shall be subject to appeal in the same manner as an original decision and regulation 10(1) and Schedule 2 shall apply with the necessary modification in relation to a decision given on review as they apply to the original decision on a question.

### **Correction of accidental errors**

**12.**—(1) Subject to regulation 14, accidental errors in any decision or record of a decision made under regulations 5, 10 and 11 and Schedule 2 may at any time be corrected by the person or tribunal by whom the decision was made or a person or tribunal of like status.

(2) A correction made to, or to the record of, a decision shall be deemed to be part of the decision, or of that record, and written notice of it shall be given as soon as is practicable to every party to the proceedings.

### **Setting aside decisions on certain grounds**

**13.**—(1) Subject to regulation 14, on an application made by a party to the proceedings, a decision, made under regulations 5, 10 and 11 and Schedule 2 by an adjudication officer, a tribunal or a Commissioner (“the adjudicating authority”), together with any determination given on an application for leave to appeal to a Commissioner, or the appropriate appeal court against such a decision may be set aside by the adjudicating authority which gave the decision or an authority of like status, in a case where it appears just to set that decision aside on the grounds that

- (a) a document relating to the proceedings in which the decision was given was not sent to, or was not received at an appropriate time by a party to the proceedings or the party’s representative or was not received at the appropriate time by the person or tribunal who gave the decision;
- (b) in the case of an appeal to a tribunal or an oral hearing before a Commissioner a party to the proceedings in which the decision was given or the party’s representative was not present at the hearing relating to the proceedings; or
- (c) the interests of justice so require.

(2) An application under this regulation shall be made in accordance with regulation 15 and Schedule 1.

(3) Where an application to set aside is made under paragraph (1) every party to the proceedings shall be sent a copy of the application and shall be afforded a reasonable opportunity of making representations on it before the application is determined.

(4) Notice in writing of a determination on an application to set aside a decision shall be given to every party to the proceedings as soon as may be practicable and the notice shall contain a statement giving the reasons for the determination.

(5) For the purpose of determining under these Regulations an application to set aside a decision, there shall be disregarded regulation 16(1) which deems any notice or other document required or authorised to be given or sent to any person to have been given or sent if it was sent by post to that person’s last known notified address.

### **Provisions common to regulations 12 and 13**

**14.**—(1) In calculating any time specified in Schedule 1 there shall be disregarded any day falling before the day on which notice was given of a correction of a decision or the record thereof pursuant to regulation 12 or on which notice is given that a determination of a decision shall not be set aside following an application under regulation 13, as the case may be.

(2) There shall be no appeal against a correction made under regulation 12 or a refusal to make such a correction or against a determination under regulation 13.

(3) Nothing in regulation 12 or 13 shall be construed as derogating from any inherent or other power to correct errors or set aside decisions which is exercisable apart from these Regulations.

### **Manner of making applications or appeals and time limits**

**15.**—(1) Any application or appeal set out in Column (1) of Schedule 1 shall be made or given by sending or delivering it to the appropriate office within the specified time.

(2) In this regulation—

(a) “appropriate office” means the office specified in Column (2) of Schedule 1 opposite the description of the relevant application or appeal listed in Column (1); and

(b) “specified time” means the time specified in Column (3) of that Schedule opposite the description of the relevant application or appeal so listed.

(3) The time specified by this regulation and Schedule 1 for the making of any application or appeal (except an application to the chairman of a tribunal for leave to appeal to a Commissioner) may be extended for special reasons, even though the time so specified may already have expired, and any application for an extension of time under this paragraph shall be made to and determined by the person to whom the application or appeal is sought to be made or, in the case of a tribunal, its chairman.

(4) An application under paragraph (3) for an extension of time (except where it is made to a Commissioner) which has been refused may not be renewed.

(5) Any application or appeal set out in Column (1) of Schedule 1 shall be in writing and shall contain:—

(a) the name and address of the appellant or applicant;

(b) the particulars of the grounds on which the appeal or application is to be made or given; and

(c) his address for service of documents if it is different from that in sub-paragraph (a);

and in the case of an appeal to the Commissioner, but subject to paragraph 21(2) of Schedule 2, the notice of appeal shall have annexed to it a copy of the determination granting leave to appeal and a copy of the decision against which leave to appeal has been granted.

(6) Where it appears to an adjudication officer, or chairman of a tribunal, or Commissioner that an application or appeal which is made to him, or to the tribunal, gives insufficient particulars to enable the question at issue to be determined, he may require, and in the case of a Commissioner, direct that the person making the application or appeal shall furnish such further particulars as may reasonably be required.

(7) The conduct and procedure in relation to any application or appeal shall be in accordance with Schedule 2.

### **Manner and time for the service of notices etc.**

**16.**—(1) Any notice or other document required or authorised to be given or sent to any person under these Regulations shall be deemed to have been given or sent if it was sent by post properly addressed and pre-paid to that person at his ordinary or last notified address.

(2) Any notice or other document required or authorised to be given or sent to an appropriate social security office or office of the clerk to a tribunal shall be treated as having been so given or sent on the day that it is received in the appropriate social security office or office of the clerk to the tribunal.

(3) Any notice or document required to be given, sent or submitted to, or served on, a Commissioner—

(a) shall be given, sent or submitted to an office of the Social Security Commissioners;

(b) shall be deemed to have been given, sent or submitted if it was sent by post properly addressed and pre-paid to an office of the Social Security Commissioners.

Signed by authority of the Secretary of State for Social Security.

5th March 1993

*Ann Widdecombe*  
Parliamentary Under-Secretary of State,  
Department of Social Security