

# DMG Chapter 79: Payment questions

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## **General rules 79000-79099**

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# Introduction 79000-79008

## Introduction

79000 There are some payment questions that apply only to SPC. This chapter deals with those questions.

79001 Guidance on the other general rules that also apply can be found in other DMG Chapters. For example those governing the

- 1.** time and manner of payment (see DMG Chapter 08)
- 2.** questions of revision (see DMG Chapter 03) or supersession (see DMG Chapter 04)
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- 4.** rights of appeal (see DMG Chapter 06 and Volume 1 Annexes D and E).

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# When entitlement begins 79009-79049

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79009 SPC is a weekly benefit that is normally paid for complete weeks (benefit weeks). It is paid in advance or in arrears depending when the claimant reaches pensionable age and their circumstances at that time (see DMG 08110 et seq).

## Meaning of benefit week

### Payment in advance

79010 Where SPC is paid in advance, benefit week means<sup>1</sup> the period of seven days starting with the day on which SPC is payable to the claimant.

1 SPC Regs, reg 1(2)

### Payment in arrears

79011 Where SPC is paid in arrears, benefit week means<sup>1</sup> the period of seven days ending with the day on which SPC is payable to the claimant.

1 SPC Regs, reg 1(2)

## Date entitlement begins

79012 Entitlement to SPC begins on the first day of the benefit week if that is the day on which SPC is awarded. If SPC is not awarded on the first day of the benefit week, entitlement begins on the first day of the following benefit week<sup>1</sup>.

1 SS (C&P) Regs, reg 16A(1)

79013 Where a person

**1.** was entitled to IS or JSA(IB), ESA(IR) immediately before reaching the qualifying age **and**

**2.** is awarded SPC from the day the qualifying age is reached

entitlement to the GC begins on the day the qualifying age is reached<sup>1</sup>.

1 SS (C&P) Regs, reg 16A(2)

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## **Change of circumstances 79050-79054**

79050 A change in the claimant's circumstances can give grounds to supersede the award<sup>1</sup>. But see DMG Chapter 83 regarding changes during the AIP.

1 SS Act 98, s 9 & 10

79051 The normal rules for superseding a decision are found in DMG Chapter 04.

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### **SPC of less than £1.00 per week**

79055 Where the amount of SPC payable is less than £1.00 per week, the Secretary of State may direct that it is paid at an interval other than weekly. This interval should not exceed 13 weeks<sup>1</sup>.

1 SS (C&P) Regs, reg 26B(5)

### **SPC of less than 10p per week**

79056 SPC is not payable if the amount due is less than 10p per week unless the claimant is in receipt of another benefit (for example RP, IB or SDA) which is payable with SPC<sup>1</sup>.

1 SPC Regs, reg 13

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## Introduction

79100 This section gives guidance on how to calculate part-week payments<sup>1</sup> in SPC claims. The term “part-week” payment has a specific meaning in SPC. Part-week payments must not be confused with payments of SPC which may be made for less than a full week<sup>2</sup> in other circumstances. Guidance on part-week payments is at DMG 79101 et seq. Guidance on payments of SPC for periods of less than a full week in other circumstances is at DMG 79106 et seq.

1 SPC Act 02, Sch 1, para 13; 2 SS CS (D&A) Regs, Sch 3B, para 4(b)

## When part-week payments are appropriate

79101 In SPC, part-week payments can only be made where existing IS, ESA(IR), JSA(IB) or UC claimants become entitled to the GC<sup>1</sup>. Part-week payments should **not** be made in any other circumstances.

1 SPC Regs, reg 13A

79102 Existing IS, ESA(IR), JSA(IB) or UC claimants whose entitlement ends because they reach pensionable age<sup>1</sup>, may decide to claim SPC. Where the IS/ESA(IR)/JSA(IB)/UC was paid in arrears, there will be a gap between the date on which the claimant ceases to be entitled to IS/ESA(IR)/JSA(IB)/UC and the first SPC benefit week.

1 SPC Act, s 17(1)

79103 A payment of the GC for the days between the end of the claimant’s entitlement to IS/ESA(IR)/JSA(IB)/UC and the first day of the SPC benefit week can be made where



**1.** the claimant was entitled to IS, ESA(IR), JSA(IB) or UC immediately before the first day on which the conditions of entitlement to the GC were satisfied **and**

**2.** the claimant is likely to continue to be entitled to the GC throughout the first full benefit week which follows the part-week<sup>1</sup>.

1 SPC Regs, reg 13A(1)

## **Treatment of income for the purpose of making part-week payments**

79104 Income is taken into account for the purposes of calculating part-week payments of the GC<sup>1</sup> (see DMG 79105).

1 SPC Act 02, s 2; SPC Regs, reg 13A

## **Amount of part-week payments**

79105 Where a part-week payment is appropriate, the DM should<sup>1</sup>

**1.** calculate the weekly rate of the GC taking into account any income received for that week **and**

**2.** divide the amount calculated at **1.** by 7 **and**

**3.** multiply the result by the number of days in the part-week **and**

**4.** round any fraction of a penny

**4.1** up if its half a penny or more **or**

**4.2** down if its less than half a penny<sup>2</sup>.

The resulting amount is the amount of GC which is payable in respect of the part-week from the end of the IS, ESA(IR) or JSA(IB) award up to and including the day before the first SPC pay day.

1 SPC Regs, reg 13A(3); 2 SS (C&P) Regs, reg 28(1)

## **Example**

George is in receipt of IS and reaches the qualifying age for SPC on 6.5.10. He ceases to be entitled to IS on 5.5.10. His first full SPC benefit week begins on Monday 10.5.10. George has an occupational pension of £50.00 per week. He has no savings. The DM decides that George's SPC from 10.5.10 will be £82.60 per week (GC of £132.60 less income of £50.00).

The DM decides that George is entitled to GC for the part-week from 6.5.10 to 9.5.10. For the part-week, the DM calculates that 4/7ths of £82.60 (his weekly amount of SPC taking into account his occupational

pension) is payable for the period 6.5.10 to 9.5.10. The total amount paid to George for this period is £47.20.

## **Payments of SPC for less than a full week in other circumstances**

79106 Payments of SPC may be made for a period of less than a full week where<sup>1</sup>

- 1.** a claimant in receipt of SPC is awarded another social security benefit **and**
- 2.** because of the award of the other social security benefit the claimant's benefit week changes or is expected to change.

1 SS CS (D&A) Regs, Sch 3B, para 4(b)

79107 Where a payment of SPC is appropriate for a period of less than a full week and the claimant has an income to be taken into account in that period, the DM should take that income into account in the normal way (see DMG Chapters 85 and 86).

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# Third party deductions 79200-79999

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# Introduction 79200-79299

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## Payment to discharge claimant's liabilities

79200 The DM has discretion to make deductions from specified benefits under the third party deduction scheme and pay these directly to third parties<sup>1</sup>.

1 SS (C&P) Regs, reg 35(1)

79201 Deductions and payments to third parties can be made from specified benefit under the third party deduction scheme if the claimant or partner is liable to pay<sup>1</sup>

1. housing costs (see DMG 79300 et seq)
2. miscellaneous accommodation costs (see DMG 79400 et seq)
3. hostel payments (see DMG 79500 et seq)
4. rent arrears and service charges for fuel and water (see DMG 79550 et seq)
5. fuel costs (see DMG 79600 et seq)
6. water charges (see DMG 79660 et seq)
7. eligible loans (see DMG 79940 et seq)

8. integration loans (see DMG 79985 et seq).

**Note:** SPC is a specified benefit for these purposes<sup>2</sup>.

1 SS (C&P) Regs, Sch 9, para 2(1); 2 Sch 9, para 1

79202 When a decision is made to

1. start **or**

2. stop **or**

3. change

a third party deduction, this will be by way of a supersession of an earlier decision (see DMG Chapter 04).

## Meaning of specified benefit

79203 Specified benefit for the purposes of making deductions in respect of the costs listed at DMG 79201 means<sup>1</sup>

SPC or, where in respect of any period it is paid together with any RP, SP, IB or SDA

1. in a combined payment

2. in part to the claimant and in part to another person in accordance with specified legislation **or**

3. by means of two or more instruments of payment,

SPC and RP, SP, IB or SDA if the SPC alone is insufficient for the purposes of deductions.

1 SS (C&P) Regs, Sch 9, para 1(1) & (2)

79204 Deductions can also be made and paid direct for arrears of CT<sup>1</sup> and CC<sup>2</sup> payable by a claimant or partner (see DMG 79750 and 79770) or for a claimant only, for fines or compensation orders<sup>3</sup> (see DMG 79800). Such deductions are not from specified benefits, but from particular benefits mentioned in regulations. These include SPC.

1 Council Tax (Deductions from Income Support) Regulations 1993, regs 2 & 3; 2 Community Charge (Deductions from IS) (Scotland) Regs 1989, regs 2 & 3; 3 Fines (Deductions from IS) Regs 1992, reg 2(1)

**Note:** Deductions cannot be made for a partner's fine.

## Liability for debt

79205 Deductions and payments to third parties can only be made if the claimant or partner is liable to

pay the debt<sup>1</sup>. For example a claimant or partner will normally be liable for a debt if named on the bill.

1 SS (C&P) Regs, Sch 9, para 2(1)

79206 A debt may be disputed by the claimant or partner. This is a factor for the DM to consider when deciding whether they are liable to pay the debt. Although the Department cannot get involved in the dispute, enquiries should be made of the third party.

79207 Give the claimant the opportunity to provide evidence to support any claim that the debt is not liable to be paid.

79208 Deductions should only be made where there is evidence that the claimant or partner is liable to pay the debt. Outstanding court proceedings brought by the claimant or partner is evidence that liability is in doubt.

79209 - 79219

## **Amount of benefit to be left for claimant**

### **Specified benefit**

79220 The claimant should be left with at least 10p **specified benefit** after third party deductions have been made<sup>1</sup>. No deduction should be made if the claimant would be left with less than 10p. But see DMG 79343 for when the deduction may be adjusted instead of not being made.

1 SS (C&P) Regs, Sch 9, para 2(2)

## **Maximum amount for payment of debts (arrears only)**

79221 There is a maximum amount<sup>1</sup> for payment of **arrears** to third parties. That is 3 x 5% of the IS personal allowance for a single claimant aged 25 or over which would have been payable to the claimant had the claimant been entitled to IS and not SPC, (see DMG Chapter 23) less any housing costs. Arrears deductions include

### **1. arrears of**

**1.1** housing costs

**1.2** rent (which includes arrears of hostel charges)

**1.3** fuel

**1.4** water **and**

### **2. CT (but not CC) **and****

**3. fines and**

**4. ELDS.**

1 SS (C&P) Regs, Sch 9, para 8(1) & para 7C(12)

## **Consent required**

79222 Unless the claimant consents<sup>1</sup> third party deductions cannot be made for

- 1. housing costs arrears**
- 2. rent arrears and service charges for fuel and water**
- 3. fuel costs (including arrears)**
- 4. water charges (including arrears)**
- 5. eligible loans**
- 6. integration loans**

where the total deduction for that item, or any combination of those items, exceeds 25% of the AMG (not including any housing costs) which may be appropriate.

1 SS (C & P) Regs, Sch 9, para 8(2) & para 7C(12)

79223 From 2.10.06 the amount of CTC and CHB entitlement should be added<sup>1</sup> to the AMG when deciding if deductions exceed 25% of the total.

1 SS (C&P) Regs, Sch 9, para 8(4)

79224 - 79226

## **Consent not required**

79227 The claimant's consent is not required if a deduction, or a combination of deductions, for

- 1. CC or CT arrears or**
- 2. fines or**
- 3. current housing costs or**
- 4. hostel charges not included in HB**

makes the total amount deducted exceed 25% of the AMG<sup>1</sup>.

1 SS (C&P) Regs, Sch 9, para 8(2) & (4)

## **Priority between debts**

79228 The claimant may satisfy the criteria for third party deductions for more than one debt. But the amount of benefit may not be enough to meet all those liabilities. The deductions should then be given a particular order of priority<sup>1</sup>.

1 SS (C&P) Regs, Sch 9, para 9

79229 The order of priority is

- 1.** housing costs
- 2.** miscellaneous accommodation costs
- 3.** hostel payments
- 4.** rent arrears and service charges for fuel
- 5.** fuel costs
- 6.** water and sewerage charges
- 7.** CC or CT arrears
- 8.** unpaid fines or compensation orders
- 9.** integration loans<sup>1</sup>
- 10.** eligible loans.

1 SS (C&P) Regs, Sch 9, para 9(1B)(ga)

79230 - 79299



# Third party deductions for housing costs 79300-79399

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## When third party deductions can be made

79300 Housing costs for which the claimant has a liability may be deducted from SPC and paid direct where<sup>1</sup>

1. the claimant or partner is in debt for a housing cost that is included in the AMG **and**
2. it is in the interests of the family to do so.

1 SS (C&P) Regs, Sch 9, para 3(1)

79301 Third party deductions of housing costs can include<sup>1</sup>

1. a deduction for current housing costs **and**
2. an arrears deduction.

1 SS (C&P) Regs, Sch 9, para 3(2)

79302 Third party deductions should be considered for housing costs, if the debt is at least half the amount due yearly<sup>1</sup>.

1 SS (C&P) Regs, Sch 9, para 3(4)(b)

## Interests of the family

79334 It will normally be in the interests of the claimant or their family to introduce third party deductions if there is

1. a history of persistent mis-spending **and**
2. a threat of eviction or repossession **and**
3. no other suitable method of dealing with the debt.

79335 Third party deductions will not normally be in the interests of the claimant or their family if they

1. show evidence of determination to clear the debt **or**
2. undertake to clear the debt themselves.

## Definition of housing costs

79336 For third party deduction purposes housing costs are<sup>1</sup>

1. rent, or ground rent connected to long tenancies

**Note:** Ground rent should only be paid direct when paid with service charges.

2. service charges
3. rent charges, but only when paid with service charges
4. payments under co-ownership schemes
5. payments relating to a tenancy or licence of a Crown tenant.

1 SS (C&P) Regs, Sch 9, para 1

## Service charges

79339 Service charges can be made for many items including fuel and water, but not all such charges are housing costs for the purposes of third party deductions.

79340 A service charge for communal water charges is a housing cost for these purposes<sup>1</sup>. For example a charge to cover the communal supply of water for central heating. But water charges for the claimant's home which are paid with rent are not housing costs for these purposes. They are covered by separate provisions (see DMG 79550).

1 SS (C&P) Regs, Sch 9, para 1 & 3; SPC Regs, Sch 2, para 1(a)

79341 A service charge for fuel paid with rent is also not a housing cost for the purposes of deductions (see DMG 79337 **3**).<sup>1</sup> Deductions for water and fuel charges paid with rent are covered by separate provisions (see DMG 79550 et seq)<sup>2</sup>.

1 SS (C&P) Regs, Sch 9, para 1 & 3; SPC Regs, Sch 2, para 13(2); 2 SS (C&P) Regs, Sch 9, para 5

## Amount of benefit to be left for claimant

79342 The DM determines

1. whether there is enough benefit in payment to make a deduction **and**
2. the specified amount to be deducted.

79343 The amount deducted for housing costs may leave the claimant with less than the minimum amount (see DMG 79220). The amount of the deduction should then be adjusted so that at least 10p of the award is payable to the claimant<sup>1</sup>.

1 SS (C&P) Regs, Sch 9, para 3(3)

## Housing costs payments in arrears

79344 If claimants are in arrears with their housing costs payments, a standard deduction should be made and paid direct with the housing costs. The standard deduction is 5% of the IS personal allowance for a single person aged not less than 25<sup>1</sup>. But deductions should only be made where the DM is satisfied that there are in fact arrears<sup>2</sup> of housing costs. In cases of dispute the DM should give the claimant the opportunity to provide evidence to support any claim that they are not in arrears.

1 SS (C&P) Regs, Sch 9, para 3(2); 2 R(IS) 14/95

79345 - 79399

# Third party deductions for miscellaneous accommodation costs 79400-79499

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## When third party deductions for miscellaneous accommodation costs can be made

79400 Third party deductions for miscellaneous accommodation costs can be made where a claimant<sup>1</sup>

**1.** has an award of SPC **and**

**2.** is living in

**2.1** a care home as defined within specified legislation<sup>2</sup> **or**

**2.2** an independent hospital as defined within specified legislation<sup>3</sup> **or**

**2.3** an Abbeyfield home **or**

**2.4** the Ilford Park Polish Home as defined within specified legislation<sup>4</sup>

1 SS (C&P) Regs, Sch 9, para 4(1)(c); 2 SPC Regs, reg 1(2); 3 reg 1(2);

4 Polish Resettlement Act 1947, s 3(1) & the Sch, Part 2

## Rules for third party deductions

79401 Where the claimant is living in accommodation mentioned at DMG 79400 **2.** a deduction may be made from a specified benefit (see DMG 79203) and paid to the accommodation provider. This can happen where<sup>1</sup>

**1.** the claimant has failed to budget for the charges (for example by not paying their contribution to the provider) **and**

**2.** it is in the interests of the family that third party deductions are made (unless the claimant is living in the Ilford Park Polish Home or a home run by a voluntary organization – see DMG 79402 and 79403).

79402 The claimant may be living in accommodation

**1.** in the Ilford Park Polish Home **or**

**2.** run by a voluntary organization

**2.1** for purposes similar to those for which resettlement units are provided **or**

**2.2** providing facilities for alcoholics or drug addicts.

79403 Where the claimant is living in accommodation described at DMG 79402 part of the specified benefit may be deducted and paid direct to the home or voluntary

organization. In this type of accommodation, failure to budget and the family's interests need not be considered<sup>1</sup>.

1 SS (C&P) Regs, Sch 9, para 4(1)

79404 The amount deducted should be paid over to the person or body to whom the charges for the accommodation are payable.

79405 Where a person enters a care home without any LA involvement the amount deducted must be paid to the home. Where accommodation has been provided by the LA, the payment should be to the LA. This is the case whether the person is in LA or non LA premises. However, if the LA requests it, the amount deducted can be paid to the home. Where the person is in a private home with LA assistance, the DM will need to decide whether to pay the third party deduction to the home or to the LA. When deciding to whom the payment should be made, the DM may wish to consult with the LA.

79406 Third party deductions can be considered only where the claimant has failed to budget for the accommodation charges. They cannot be made because of an expected debt. Nor can they be made where the accommodation provider or claimant requests them simply for administrative convenience.

79407 A claimant may change address and still be in debt to the former home. If so, any third party deductions for the charges to that home must stop. Third party deductions at the new address cannot be considered unless the claimant fails to budget for the new weekly charge.

79408 - 79419

## **Amount deducted**

79420 The amount to be deducted from the GC and paid direct<sup>1</sup> in respect of miscellaneous

accommodation costs is the award of GC less either

1. where the claimant is not living in an independent hospital (see DMG 79400 **2.2**) an amount which when added to any other income of the claimant equals the personal expenses rate (see DMG 79422) **or**
2. in any other case, an amount in respect of the personal expenses rate.

1 SS (C&P) Regs, Sch 9, para 4(2)

79421 The claimant should be left with a minimum of 10p after the deduction has been made<sup>1</sup>.

1 SS (C&P) Regs, para 4(4)

## Personal expenses

79422 [[See DMG Memo 04/21](#)] [[See Memo DMG 7/22](#)] [[See Memo DMG 04/23](#)] [[See DMG Memo 02/24](#)] The amount in respect of personal expenses, referred to in DMG 79420<sup>1</sup> is, for a

1. single person £26.05
2. couple where both members are in such accommodation, £26.05 each
3. polygamous marriage where more than one member is in such accommodation, £26.05 for each member who is in such accommodation.

1 SS (C&P) Regs, Sch 9, para 4(2A); SS Benefits Up-rating Regs 2011

### Example 1

Dorothy lives in a care home. She has an award of GC amounting to £173.75 and has no income. She must have the amount for personal expenses (£26.05). The amount to be paid direct is £147.70 (£173.75 - £26.05).

### Example 2

Ernest lives in a care home and is entitled to SMG of £173.75. His net income is £6.00 per week. The amount to be paid direct is

standard minimum guarantee	£173.75
less income	£6.00
guarantee credit	£167.75

less payment to Ernest  
(personal expenses less income) £20.05

amount to be paid direct £147.70

Ernest keeps a total of £26.05 for his personal expenses made up of his income of £6.00 and SPC of £20.05.

### Example 3

Mildred has a SMG of £173.75 and income of £28.00. Her GC is £145.75 (£173.75 - £28.00). Mildred is paid 10p. The amount paid direct is £145.75. Mildred pays the third party the difference between her income and personal expenses, plus 10p (£28.00 - £26.05 + 10p = £2.05).

79423 - 79429

### Amount deducted - part-weeks

79430 Third party deductions for part-weeks (see DMG 79100 - 79106) can be made for miscellaneous accommodation costs<sup>1</sup>. The amount deducted and paid direct for a part-week depends upon

1. whether the accommodation in which the claimant lives is described at DMG 79420 **1.** or **2.** and
2. whether the claimant has any income.

1 SS (C&P) Regs, Sch 9, para 4(3)

79431 In order to calculate the amount to pay direct to the third party for a part-week, the DM should calculate the amount of SPC due for the part-week and deduct<sup>1</sup>

1. if the claimant has no income, an amount which equals the appropriate proportion of the personal expenses **or**
2. if the claimant has income, an amount equal to the difference between the appropriate proportion of the claimant's income and an appropriate proportion of the amount allowed for personal expenses.

This will result in the claimant retaining a proportion of the weekly personal expenses amount.

1 SS (C&P) Regs, Sch 9, para 4(3A)

### Example 1

Dilys lives in a care home. Her SMG is £173.75 and she has an income of £11.50 per week. She is due a part-week payment for six days.



The DM first calculates the part-week payment (see DMG 79105 et seq) as follows

GC £173.75 (all income is ignored in the part-week), divided by 7 and multiplied by 6 = £148.93 due for the part-week.

The amount of the third party deduction is then calculated as follows

£148.93 (the SPC due for the part-week) - £12.47 (the difference between 6/7ths of £11.50 and 6/7ths of £26.05) = £136.46 This is the amount paid to the third party.

Personal expenses of £12.47 is paid to the claimant.

## **Example 2**

Morris lives in a care home which is provided, owned and managed by the LA. His SMG is £173.75 and he has a weekly income of £15.00. A part-week payment of four days is due when he transfers from IS to SPC. (In these circumstances all income is taken into account in the part-week, see DMG 79105).

The DM first calculates the amount of SPC due for the part week

£158.75 (£173.75 SMG - £15.00 weekly income) divided by 7 and multiplied by 4 (the number of days in the part-week) = £90.72 SPC due for the part-week.

The DM then calculates the amount to pay to the third party as follows

£90.72 (the amount of SPC due for the part-week) - £14.89 (4/7ths of £26.05) = £75.83

£75.83 is the amount paid to the third party. Morris retains personal expenses of £14.89.

79432 - 79499

# Third party deductions for hostel service charges 79500-79549

[Meaning of hostel](#) 79500-79503

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## Meaning of hostel

79500 A hostel is<sup>1</sup> a building other than a care home, independent hospital or Abbeyfield Home which

**1.** is

**1.1** managed or owned by a housing association registered with the Regulator of Social Housing or the Welsh Ministers<sup>2</sup> **or**

**1.2** managed or owned by a housing association registered with the Scottish Ministers<sup>3</sup> **or**

**1.3** operated other than on a commercial basis and funded wholly or partly by a government department or an LA **or**

**1.4** managed by a voluntary organization or charity and provides care, support or supervision for the purpose of

**1.4.a** rehabilitation **or**

**1.4.b** resettlement within the community **and**

**2.** provides accommodation not in separate and self-contained premises and facilities adequate for the needs of those living in the hostel including

**2.1** board **or**

**2.2** water **or**

**2.3** a service charge for fuel **or**

**2.4** meals **or**

**2.5** laundry **or**

**2.6** cleaning (other than communal areas).

**Note:** For definition of independent hospital see guidance at DMG 33327.

1 SS (C&P) Regs, Sch 9, para 1(1); 2 Sch 9, para 1(1)(b)(i); 3 Housing (Scotland) Act 2001, s 57

79501 Voluntary organization means<sup>1</sup> a body that is not a

**1. public authority or**

**2. LA**

whose activities are carried out otherwise than for profit.

1 SS (C&P) Regs, Sch 9, para 1(1)

79502 In deciding if the hostel is managed the DM may find it useful to know

**1. the terms of the lease (if available)**

**2. details of how the hostel is staffed**

**3. who has responsibility for major and minor repairs**

**4. who does the accounts for the hostel.**

79503 Staffing levels may be flexible but should be appropriate to the claimant's needs. Some hostels may be run with few staff. Others may need to be fully staffed with a great deal of administration. The time spent managing the hostel and the quality of care provided is also important.

## **Rules for third party deductions**

79504 Part of the claimant's specified benefit (see DMG 79203) may be deducted and paid direct for hostel charges. This can include a deduction for

**1. current hostel service charges<sup>1</sup> and**

**2. arrears of hostel charges<sup>2</sup>.**

1 SS (C&P) Regs, Sch 9, para 4A; 2 Sch 9, para 5

## **Current charges**

79505 Current hostel service charges can be deducted and paid direct if<sup>1</sup>

the claimant or partner

**1.** is resident in a hostel and has claimed HB in the form of a rent rebate or rent allowance **or**

**2.** is resident in approved premises under specified legislation<sup>2</sup> **and**

**3.** the charge for the hostel or approved premises includes a payment for services<sup>3</sup> as listed in DMG 79500 **2.**

1 SS (C&P) Regs, Sch 9, para 4A(1);

2 Offender Management Act, s 13; 3 SS (C&P) Regs, Sch 9, para 4A(1)(d)

79506 Approved premises in DMG 79505 means<sup>1</sup> accommodation provided for persons granted bail or who have been convicted of offences.

1 Offender Management Act, S 13

79507 The amount to be paid direct is

**1.** determined by<sup>1</sup>

**1.1** the housing authority **or**

**1.2** the DM, where the housing authority has not made a determination

**2.** the total of the amounts deducted (or likely to be deducted) by the LA when determining the eligible rent, for<sup>2</sup>

**2.1** water, sewerage and allied environmental services

**2.2** laundry

**2.3** cleaning (other than communal areas)

**2.4** meals

**2.5** ineligible service charges (for HB)

**2.6** excessive service charges

**2.7** service charge for fuel.

1 SS (C&P) Regs, Sch 9, para 4A(3); 2 para 4A(4)

## **Arrears of hostel charges**

79508 Arrears of hostel charges can be paid direct<sup>1</sup> for both

**1.** arrears of the HB element of the charge **and**

**2.** arrears of those charges mentioned in DMG 79507 **2.**

1 SS (C&P) Regs, Sch 9, para 5

79509 Deductions should only be made where the DM is satisfied that there are in fact arrears<sup>1</sup> of hostel charges. In cases of dispute the DM should give the claimant the opportunity to provide evidence to support any claim that they are not in arrears with the hostel charges.

1 R(IS) 14/95

79510 A deduction can be made and paid direct<sup>1</sup> if

**1.** the claimant is awarded SPC **and**

**2.** the claimant is entitled to HB **and**

**3.** the claimant or partner has arrears of hostel charges that exceed £100<sup>2</sup>.

1 SS (C&P) Regs, Sch 9, para 5(1); 2 Sch 9, para 5(1A)

79511 The amount deducted for arrears and paid direct is fixed at 5% of the IS personal allowance for a single person aged 25 or over. The claimant should be left with a minimum of 10p after the deduction has been made.

79512 - 79549

# Third party deductions for rent and service charges for fuel 79550-79589

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## Definitions

79550 For third party deduction purposes rent<sup>1</sup> includes

1. eligible rent for HB
2. CT
3. water charges
4. fuel service charges for heating, hot water, lighting or cooking
5. furniture charges
6. garage charges
7. service charges
8. ground rent not paid with service charges

as long as they are paid with, or as part of, the eligible rent for HB for the dwelling occupied as the home.

<sup>1</sup> SS (C&P) Regs, Sch 9, para 1

## Rules for third party deductions

79552 Part of the specified benefit (see DMG 79203) may be deducted and paid direct to the landlord for

1. rent arrears
2. fuel service charges
3. water charges

paid with or as part of the rent on the dwelling occupied as the home.

79553 This can happen if<sup>1</sup>

1. the claimant or partner is entitled to HB for rent **and**
2. they have rent arrears of at least four times the full weekly rent, that have built up over a period of
  - 2.1 eight weeks or more and the landlord has requested direct payment **or**
  - 2.2 less than eight weeks and it is in the overriding interests of the claimant or family for direct payment to be made.

1 SS (C&P) Regs, Sch 9, para 5(1) & (3)

79554 Deductions should only be made where the DM is satisfied that the claimant or partner do have rent arrears<sup>1</sup>. In cases of dispute the DM should give the claimant the opportunity to provide evidence to support any claim that they do not have rent arrears.

1 R(IS) 14/95

79555 Arrears of rent in this context does not include<sup>1</sup>

1. the 20% of CT/CC excluded from HB **and**
2. any non-dependant deductions due to be taken from HB in the weeks for which the rent arrears occurred.

1 SS (C&P) Regs, Sch 9, para 5(2); HB (Gen) Regs, regs 74; Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regs 2006, reg 55

### Example 1

Doris is a new SPC claimant who has just been awarded HB. She owes £245 to her landlord which has built up over four months and is for seven separate weeks. Her landlord requests direct payment of the rent arrears. Doris has a non-dependant son Graham who is aged over 18 and earns £100 gross weekly.

Full weekly rent £43.04 (rent £24.50, CT £8.46, water charges £2.08 and fuel service charge £8.00)

Debt £245.00 (built up over four months and for seven separate weeks)

Rent arrears £114.17 (debt **£245** less **£130.83** i.e. non dependants deduction for rent and rates seven weeks x £17.00 = **£119.00** and 20% CT seven weeks x £1.69 = **£11.83**)

Third party deductions are not possible. Rent arrears are not equal to or more than four times the full weekly rent (£43.04 x 4 = **£172.16**).

## Example 2

Frank is a new SPC claimant who owes his landlord £750 for 30 consecutive weeks rent arrears. The landlord requests direct payment. Frank is now getting HB and has a non-dependant daughter over 18 whose gross weekly wage is £100 pw.

Full weekly rent £43.04 (breakdown as in **Example 1**)

Debt £750.00 (built up over nine months and for 30 separate weeks)

Rent arrears £189.30 (debt **£750** less **£560.70** i.e. non dependants deduction for rent and rates 30 weeks x £17 = **£510.00** and 20% CT 30 weeks x £1.69 = **£50.70**).

Third party deductions can be made. Frank is entitled to HB. Rent arrears are more than four times the full weekly rent (£43.04 x 4 = £172.16). Arrears are for more than eight weeks and the landlord has requested that payment be made direct.

79556 - 79558

## Interests of the family

79559 It will normally be in the interests of the claimant or their family to introduce third party deductions if there is

**1.** a threat of



**1.1** eviction **or**

**1.2** repossession **or**

**1.3** disconnection of fuel **or**

**1.4** a court summons **and**

**2.** no other suitable method of dealing with the debt.

79560 Third party deductions will not normally be in the interests of the claimant or their family if they have

**1.** shown evidence of a determination to clear the debt **and**

**2.** undertaken to clear the debt themselves.

79561 Third party deductions should not be considered

**1.** simply because the tenant or landlord has asked for it **or**

**2.** when rent is being withheld or is not being accepted because of a dispute between the claimant and landlord (unless DMG 79554 applies).

79562 Where there is a reluctance to seek eviction, third party deductions may still be considered if the other criteria are met. For example where housing associations specialise in providing accommodation for low income groups who are liable to have budgeting problems.

79563 - 79568

## **Amount deducted for arrears**

79569 The amount deducted for arrears and paid direct is fixed<sup>1</sup> at 5% of the IS personal allowance for a single person aged 25 or over rounded up to the next 5p.

1 SS (C&P) Regs, Sch 9, para 5(1) & (6)

## **Amount deducted for current charges**

79570 The following charges can be paid direct where they are paid with the rent<sup>1</sup>

**1.** fuel service charges **or**

**2.** water charges (see DMG 79700 et seq where water charges are paid with rent in Scotland).

79571 The amount to be paid direct is the amount deducted by the LA when determining the eligible rent for HB. If rent is payable for 50 weeks each year, the amount deducted should be paid direct for 50 weeks. Third party deductions should not be made for the weeks when rent is not payable.

79572 But the claimant should be left with a minimum of 10p after the deduction has been made. Do not make a deduction if less than 10p would be left after the deduction of the whole amount of these charges<sup>1</sup>.

1 SS (C&P) Regs, Sch 9, para 2(2)

79573 Unless the claimant consents<sup>1</sup>, third party deductions cannot be made for both arrears and current charges where the total exceeds 25% of the family's AMG. Any housing costs included in the AMG should not be taken into consideration. From 2.10.06 the amount of CTC and CHB entitlement should be added<sup>2</sup> to the AMG when deciding if deductions exceed 25% of the total.

1 SS (C&P) Regs, Sch 9, para 5; 2 Sch 9, para 8(4)(b)

## **Joint tenants**

79574 If the claimant is a joint tenant calculate the deduction by following DMG 79570 and DMG 79575 et seq.

79575 The deduction for weekly fuel service charges depends on information held by the LA. The DM should find out whether the LA has worked out the actual fuel cost for the property. The deduction is, where the LA has

- 1.** worked out the actual fuel cost - that figure divided by the number of tenants
- 2.** estimated the claimant's fuel costs - the amount of the LA standard deduction from HB.

79576 Where fuel costs have been estimated the amount of the deduction from HB may change if the claimant gives details of their actual costs. The DM should then revise the deduction for weekly fuel service charges.

79577 The deduction may be for current weekly water charges. The deduction is then the charge for the property divided by the number of tenants.

## **Superseding the third party deduction decision**

79578 When a relevant change of circumstances occurs<sup>1</sup> the DM may supersede the outcome decision

which included the third party deduction decision, for example where the

1. fuel service charge or water charge changes **or**
2. fuel service charge stops being made by the landlord **or**
3. rent arrears are cleared **or**
4. entitlement to specified benefit is reduced below the amount of the deduction plus 10p **or**
5. claimant changes address.

1 SS Act 98, s 10; SS CS (D&A) Regs, reg 6(2)(a)

79579 The DM may decide that deductions for continuing charges only should continue where<sup>1</sup>

1. the rent arrears are cleared **and**
2. it is in the interests of the family to do so.

1 SS (C&P) Regs, Sch 9, para 5(7)

79580 - 79589

## Third party deductions for fuel costs 79590-79659

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### Green Deal

79590 The Department of Energy and Climate Change has made provision for Green Deal plans under specified legislation<sup>1</sup>. The Green Deal plan provides finance for energy efficiency improvements to properties, with no up-front costs. The costs of the improvements are repayable by instalments through a charge on the electricity bills attached to the particular property. A Green Deal plan is essentially a new kind of credit arrangement, offered to customers by private bodies (which must be authorised as Green Deal providers).

<sup>1</sup> Energy Act 2011, s 1

79591 Instalments under a Green Deal plan cannot be deducted from the electricity bill. If a customer falls into arrears, the electricity arrears and the Green Deal arrears should be paid off on a proportional

basis.

79592 From 2.4.13, legislation<sup>1</sup> providing for third party deductions for fuel costs is amended to enable payments made under a Green Deal plan to be deducted from specified benefits and paid direct to the fuel company. Legislation is amended to include Green Deal payments, so that it may form part of both arrears and ongoing consumption (where applicable).

1 SS (C&P) Regs, Sch 9, para 6

## Definition of fuel item

79593 Fuel item<sup>1</sup> means

1. mains gas, including any charges for the reconnection of mains gas **or**
2. mains electricity, including any charges for the disconnection and reconnection of mains electricity and any payments required to be made under a Green Deal plan.

1 SS (C&P) Regs, Sch 9, para 6(8)

79594 - 79599

## Rules for third party deductions

79600 Part of the specified benefit may be deducted for direct payment to the fuel company for mains gas and mains electricity plus any payment required under a Green Deal plan. This can happen if<sup>1</sup>

1. there is a debt (the original debt) for any fuel item and the claimant still needs the fuel in respect of which the debt arose (the relevant fuel) **and**
2. the debt is for an amount not less than the rate of IS personal allowance for a single person aged 25 or over **and**
3. it is in the interests of the claimant or family that third party deductions be made.

**Note:** Whether it appears to be in the interest of the claimant or their family to apply a deduction or not, the claimant must be given the opportunity to make representations regarding whether it is in their interest before deductions are imposed. Any reasons provided must be given consideration prior to a decision being taken.

1 SS (C&P) Regs, Sch 9, para 6(1)

79601 Debt in this context includes disconnection and reconnection costs and any legal costs arising

from that debt.

79602 Third party deductions for fuel should not be made where

**1.** the debt is less than the rate of the IS personal allowance for a single claimant aged 25 or over<sup>1</sup>

**2.** the size of the deduction (including any deduction for arrears)

**2.1** is more than the award of specified benefit **or**

**2.2** would leave the claimant with specified benefit of less than 10p<sup>2</sup>

**3.** the claim will last only a short time, for example where the claimant is due an income which will exceed the AMG

**4.** the debt is the responsibility of a person who has deserted a partner (unless the deserted partner satisfies the criteria for third party deductions).

1 SS (C&P) Regs, Sch 9, para 6(1); 2 Sch 9, para 2(2)

## Interests of the family

79603 It will normally be in the overriding interests of the claimant or their family for third party deductions to be made where

**1.** the debt

**1.1** is unlikely to be paid before disconnection is threatened **or**

**1.2** has resulted in the threat of disconnection **or**

**1.3** has resulted in disconnection **and**

**2.** no other source of fuel is available for the same purpose **and**

**3.** there is no other suitable way of dealing with the debt.

79604 Third party deductions will always be in the interests of the family where there is a risk to health or safety. For example there may be a risk where the family includes

- people over 70
- people who are disabled
- children under 11

- people who are long term sick.

**Note:** This list is not exhaustive.

79605 Do not assume that third party deductions would not be in their interests just because the claimant is single or a member of a couple without young children.

79606 The DM must consider

1. the alternative means of cooking and heating available to the family
2. the availability and value of budget payment arrangements **and**
3. seasonal factors.

79607 Third party deductions will not normally be in the interests of the claimant or their family if

1. they have
  - 1.1 shown evidence of a determination to clear the debt **and**
  - 1.2 undertaken to clear the debt themselves **or**
2. there are other options available to deal with the debt.

### **Example**

Before a deduction is applied the claimant provides information that they will be shortly starting paid employment, or due an amount from an inheritance. The DM is satisfied that a third party deduction is no longer in their interest as they have shown evidence of a willingness and ability to clear the debt.

79608 The claimant may ask for a prepayment meter as an alternative to third party deductions. The fuel company may be willing to install a meter calibrated to recover the arrears. The DM should consider which arrangement would best suit the interests of the family. Only one of these arrangements can be in operation at any time.

## **Amount to be deducted and paid direct**

79609 The amount of the weekly deduction should be

1. **before the debt is cleared** - an amount to pay off the arrears (see DMG 79620)
3. plus an amount to cover current consumption<sup>1</sup> which is subject to an application made by the fuel

supplier and with the claimant's consent<sup>2</sup> (see DMG 79624 & 79625)

**2. after the debt is cleared** - an amount to cover current consumption (see DMG 79624) where appropriate<sup>3</sup>.

1 [SS \(C&P\) Regs, Sch 9, para 6\(2\)](#); 2 [Sch 9, para 6\(3A\)](#); 3 [Sch 9, para 6\(4\)\(b\)](#)

### **Exception to general rules**

79610 A prepayment meter may have been installed or other arrangements made with the fuel board to pay for current consumption<sup>1</sup>. The amount deducted should then be limited to the amount for arrears.

1 SS (C&P) Regs, Sch 9, para 6(2)(b)

### **Amount of SPC left for claimant**

79611 The claimant should be left with a minimum of 10p after deductions have been made<sup>1</sup> (see DMG 79220). Do not make a deduction if less than 10p would be left.

1 SS (C&P) Regs, Sch 9, para 2(2)

79612 - 79619

### **Arrears of fuel - original debt**

79620 There is only one original debt during any period of deductions for an item of fuel<sup>1</sup>. That original debt cannot normally be increased. The exception is where the figure originally given by the fuel company was wrong. The figure used may then be changed and the decision which included the third party deduction superseded<sup>2</sup> (or revised if the new deduction is determined within one month of the previous decision<sup>3</sup>) because the DM's decision will have been given in ignorance of a material fact.

1 SS (C&P) Regs, Sch 9, para 6(1) & (2)(a); 2 SS Act 98, s 10, SS CS (D&A) Regs, reg 6(2)(b);  
3 reg 3(1)(a)

79621 Do not revise the figure used where further debt builds up during a period of deductions. The amount of the original debt can never be revised on the grounds of such a change in circumstances. An adjustment to the continuing consumption is made instead.

79622 The weekly deduction to recover the original debt is fixed at 5% of the IS personal allowance for a single person aged 25 or over, rounded up to the next 5p<sup>1</sup>.

1 SS (C&P) Regs, Sch 9, para 6(2)(a)



79623 Third party deductions for a second fuel item may have to be introduced. The deduction is then 5% for each fuel item subject to the overall limit on deductions for arrears of fuel, that is 2 x 5% of the IS personal allowance for a single claimant aged 25 or over<sup>1</sup>.

1 SS (C&P) Regs, Sch 9, para 6(2)(a)

## Fuel - current consumption

79624 When deductions begin the fuel company will provide an estimate of the average weekly cost of continuing consumption of the relevant fuel, plus any weekly amount that is required to meet any payments under a Green Deal plan<sup>1</sup>. If the estimate is unreasonable or inaccurate the DM should ask for details of the calculation.

1 SS (C&P) Regs, Sch 9, para 6(2)(b)

79625 Periodically the fuel company will

1. recalculate the weekly amount needed to meet continuing consumption **and**
2. notify the DM of any added credit or debit.
3. the DM can increase the deduction amount for continuing consumption if
  - 3.1 the fuel supplier has made an application for the increased deduction **and**
  - 3.2 the claimant has consented to that application <sup>1</sup>

1 [SS \(C&P\) Regs, Sch 9, para 6\(3A\)](#)

79626 The recalculation should be based on the actual cost of past consumption<sup>1</sup>. A customer's own reading may be used but a calculation based on estimated past consumption is not acceptable.

1 [SS \(C&P\) Regs, Sch 9, para 6\(4\)](#)

79627 Where DMG 79625 applies, the DM may adjust

1. the weekly deduction to a new weekly amount for continuing consumption for mains gas or mains electricity plus any payment required under a Green Deal plan **and**
2. that new weekly amount to take into account any added credit or debit over
  - 2.1 a period of 26 weeks **or**
  - 2.2 a longer period if that is reasonable<sup>1</sup>.

**Note:** The claimant's agreement should be obtained if the new total deductions exceed the level mentioned in DMG 79222.

1 SS (C&P) Regs, Sch 9, para 6(4)(a)

79628 If the DM determines that

1. the amount of the deduction should change, a decision to supersede the original decision making the deduction should be made
2. the amount of the deduction should not change, no action to supersede should be taken.

79629 The original debt must not be adjusted to take account of additional credit or debit.

### Example

The original debt has been recovered. The weekly deduction for consumption is £5. In April the fuel company reports that the amount for continuing consumption is £7 and arrears of £60 have accrued.

The DM supersedes the decision and decides it is reasonable to recover the accrued arrears over 52 weeks. The new weekly deduction is

continuing consumption	£7.00
plus adjustment for arrears £60 over 52 weeks	£1.15
total	£8.15.

In December the fuel company reports that the amount for continuing consumption is £6.50 and there is a credit of £20. The new weekly deduction is

continuing consumption	£6.50
less adjustment for credit £20 over 26 weeks	£0.77
total	£5.73.

### Original debt recovered

79630 When the original debt has been cleared the DM may decide to make deductions for continuing consumption<sup>1</sup>. Such deductions are not compulsory.

1 SS (C&P) Regs, Sch 9, para 6(1) & (4)(b)

79631 Deductions for current consumption should continue if it remains in the interests of the family.

The DM should consider

1. whether there are other budgeting methods which might be more appropriate
2. the reasons for the failure to budget - if the debt arose because of persistent bad management and nothing has changed, third party deductions should normally continue
3. any seasonal factors likely to affect the claimant's ability to budget for the next bill if third party deductions stop
4. any representations made by the fuel company.

79632 - 79639

## Joint tenants

79640 A claimant asking for third party deductions for fuel costs may be a joint tenant. If the claimant is liable for the debt the deduction should be

1. the weekly consumption figure (see DMG 79624) divided by the number of people named on the bill (whether they are claimants or not) **and**
2. the fixed amount to pay off any arrears (see DMG 79620).

79641 It is unusual to have more than one name on a fuel bill. If the claimant is the only person named, the other tenants should pay their share of the bill to the claimant. If the claimant is not named on the bill, the claimant is not liable. The claimant should pay a share to the tenant who is named on the bill.

## Priority between fuel debts

79642 The criteria may be met for deductions for both gas and electricity debts. But it may not be possible to implement both deductions. This may happen where, for example, there is not enough specified benefit in payment.

79643 The DM should decide which debt takes priority, taking into account<sup>1</sup>

1. all the circumstances **and**
2. any requests of the claimant.

79644 Priority should be given to whichever fuel is most needed to ensure the health and safety of the claimant or family.

### **Example 1**

Joan lives in a household where heating and cooking are by gas. The DM gives priority to gas.

### **Example 2**

Frank lives with his elderly disabled mother. Cooking is by electric and heating is by gas. The house has open fireplaces which can be used to provide heating. The DM gives priority to electricity.

79645 Where debts other than fuel are involved see DMG 79228.

79646 - 79649

## **Consent of claimant required**

79650 Unless the claimant consents<sup>1</sup>, third party deductions cannot be made where the total deductions exceed 25% of the AMG. Any housing costs included in the AMG should not be taken into consideration. From 2.10.06 the amount of CTC and CHB entitlement should be added to the AMG when deciding if deductions exceed 25% of the total.

1 SS (C&P) Regs, Sch 9, para 6 & 8(4)

## **Superseding the third party deductions decision**

79651 The decision to make deductions should not be superseded and deductions ended solely because the claimant wants to take control of the budgeting.

79652 The DM should supersede the outcome decision which includes the third party deduction decision for fuel costs, when a relevant change of circumstances occurs<sup>1</sup>. For example where

**1.** the average weekly cost estimated for the continuing need was not enough or was too much

**Note:** The claimant's agreement must be obtained if the deduction required stays at or would increase to the level mentioned in DMG 79220.

**2.** the original debt has been cleared and deductions stop, or carry on for current consumption only

**3.** the claimant changes address from one fuel company area to another and the debt is not transferable

**4.** the claimant changes supplier and the debt is not transferable

5. the weekly deduction (including arrears) would leave the claimant with less than 10p
6. the claimant withdraws the agreement permitting deductions in excess of 25% of the AMG
7. the claimant stops receiving a supply of fuel from the fuel company to whom payment is being made.  
This may be because

**7.1** the supply has been disconnected due to meter interference **or**

**7.2** the claimant changes fuel supplier **or**

**7.3** a claimant with deductions for gas may move to a house which is all electric it is no longer in the interests of the family for deductions to continue.

1 SS A Act 92, s 25(1)(b)

79653 - 79659

# Third party deductions for water charges - England and Wales 79660-79699

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## Meaning of water charges

79660 **For England and Wales** water charges means any water or sewerage charges under prescribed legislation<sup>1</sup>. Where these are charged separately or by different water authorities see DMG 79687.

**Note:** The definitions of water charges are different for the purposes of third party deductions from benefit (see DMG 79700 for guidance on water charges for Scotland).

<sup>1</sup> 1 SS (C&P) Regs, Sch 9, para 1(1), Water Industry Act 1991, Part 5, Chapter 1

## Methods of charging

79661 Water charges can be made

1. with rent (see DMG 79550 et seq)
2. by a meter (see DMG 79676)
3. unmetered (see DMG 79671).

## Rules for third party deductions

79662 Part of the specified benefit may be deducted for water charges and paid direct if<sup>1</sup>

1. the claimant or partner is in debt (the original debt) for water charges **and**
2. the DM is satisfied that the claimant or partner has failed to budget for the charges **and**
3. it is in the interests of the claimant or family that third party deductions be made.

**Note:** Whether it appears to be in the interest of the claimant or their family to apply a deduction or not, the claimant must be given the opportunity to make representations regarding whether it is in their interest before deductions are imposed. Any reasons provided must be given consideration prior to a decision being taken.

1 SS (C&P) Regs, Sch 9, para 7(1) & (2)

## Interests of the family

79663 Third party deductions will normally be in the interests of the claimant or the family where there is

1. a threat of a court summons **and**
2. no other suitable way of dealing with the debt.

79664 Third party deductions will not normally be in the interests of the claimant or their family if

1. they have
  - 1.1 shown evidence of a determination to clear the debt **and**
  - 1.2 undertaken to clear the debt themselves **or**
2. there are other options available to deal with the debt.

## Example

Before a deduction is applied the claimant provides information that they will be shortly starting paid employment, or due an amount from an inheritance. The DM is satisfied that a third party deduction is no longer in their interest as they have shown evidence of a willingness and ability to clear the debt.

79665 Third party deductions will always be in the interests of the family where there is a risk to health or safety. For example where the family includes

1. children under 11
2. people over 70
3. people who are disabled
4. people who are long-term sick.

## Amount to be deducted and paid direct

79666 The amount to be deducted and paid direct

1. before the original debt is cleared is<sup>1</sup>

**1.1** the actual or estimated amount for current consumption **and**

**1.2** a fixed amount to clear the original debt equal to 5% of the IS personal allowance for a single person aged 25 or over, rounded up to the next 5p

2. after the original debt is cleared is<sup>2</sup>

**2.1** the actual amount for current consumption (unmetered water) **or**

**2.2** an estimated amount for current consumption (metered water).

1 SS (C&P) Regs, Sch 9, para 7(3) & (5); 2 Sch 9, para 7(6)

79667 The DM should always use the fixed amount in DMG 79666 **1.2** to clear the arrears, even where

1. there is a court order for a greater amount **or**
2. the claimant asks that a higher amount be paid direct.



## Amount of benefit to be left for claimant

79668 The claimant should be left with a minimum of 10p after deductions have been made. Do not make a deduction if less than 10p would be left<sup>1</sup>.

1 SS (C&P) Regs, Sch 9, para 2(2)

79669

## The original debt

79670 Before deductions for water charges can begin the claimant or partner must be in debt<sup>1</sup>. The amount of the debt is the original debt and includes

1. the amount of water and sewerage charges due
2. any legal costs arising from the debt
3. any other costs arising from the debt.

1 SS (C&P) Regs, Sch 9, para 7(1) & (2)

## Unmetered water

### Original debt

79671 There is only one original debt during any period of deductions<sup>1</sup>. That original debt cannot be increased. If the whole of the current year's charge for unmetered water is due it may be included in the original debt. A deduction for current consumption may not then be necessary until the start of the next financial year.

1 SS (C&P) Regs, Sch 9, para 7(1) & (5)(a)

79672 The weekly deduction to recover the original debt is fixed at 5% of the IS personal allowance for a single person aged 25 or over.

### Example 1

In September the water company requests deductions and reports an original debt of £350. This includes the charge for the remaining months in the current financial year. The original debt is £350 and the fixed deduction is made until this amount is repaid. Deductions for current consumption will not start until April of the next year when the annual charge for the next year is billed.

### Example 2

In August the water company requests deductions. They report that debt is accruing on a weekly basis. On the date the DM makes a decision a debt of £120 has accumulated. The original debt is £120 and the fixed deduction is made until this amount is repaid. Deductions for current consumption are also made.

## Consumption

79673 The amount deducted for continuing consumption is the weekly cost necessary to meet the continuing need for water consumption<sup>1</sup>. This is not always the annual charge divided by 52 weeks.

1 SS (C&P) Regs, Sch 9, para 7(5)(b)

## Example

Hilda is paid SPC by DCT. On 12 May the water company requests deductions. They report that there is an outstanding debt for the previous year of £100. The current year's charge is £210 and the water company confirms that none of that has become a debt.

On 10 June the DM decides that deductions can be taken determines the amount of the deduction and supersedes the SPC awarding decision to implement it.

The original debt is £100 and the fixed deduction is made until this amount is repaid. Deductions for current consumption are also made at the rate of £5 pw (£210 current year's charge, divided by the 42 weeks left in the year).

## Annual increases

79674 Following the annual increase in unmetered water charges, the deduction for current consumption should be superseded from the date of the increase<sup>1</sup>. If the water authority or company notify the new annual charge late, or the DM cannot (for operational reasons) supersede on the due date

**1.** supersede the case from the date the charge increases (usually 1st April) **and**

**2.** change the weekly consumption figure by

**2.1** taking off the amount already deducted in the financial year from the new annual charge **and**

**2.2** working out the number of weeks left in the financial year (from the date of the supersession to the end of the year) **and**

**2.3** dividing the amount at **2.1** by the number of weeks at **2.2**.

1 SS Act 98, s 10; 2 SS CS (D&A) Regs, reg 6(2)(a); Sch 3B, para 1

## Example

from 1 April of that year is £200. On 3 July the DM supersedes from 1 April that year and changes the amount for continuing consumption as follows

annual cost from 1 April	£200
less amount already deducted £3 x 13	£39
annual amount outstanding	£161
divided by the number of weeks left	
in the year (3 July to 31 March)	39 weeks
new weekly deduction (rounded up to the nearest penny)	£4.13.

79675 It is not necessary to change the deduction to the original amount at the end of the year. The same formula can be used if the amount is notified late the following year.

## Metered water

### Original debt

79676 There is only one original debt during any period of deductions<sup>1</sup>. That original debt cannot be increased. The weekly deduction to recover the original debt is a fixed amount. That is 5% of the IS personal allowance for a single person aged 25 or over, rounded up to the next 5p.

1 SS (C&P) Regs, Sch 9, para 7(1) & (3)(a)

79677 If arrears build up during a period of deductions an adjustment to the continuing consumption is made. The original debt must not be adjusted to reflect added credits and debits which have built up during a period of deductions.

### Consumption

79678 When deductions begin the water company provides an estimate of the average weekly cost of continuing consumption<sup>1</sup>. Where this is unreasonable or inaccurate the DM should ask for details of the calculation.

1 SS (C&P) Regs, Sch 9, para 7(3)(b)

79679 Periodically the water company will

1. recalculate the weekly amount needed to meet continuing consumption **and**
2. notify any added credit or debit.

79680 The recalculation should be based on the actual cost of past consumption. A customer's own reading may be used. But a calculation based on estimated past consumption is not acceptable.

79681 The DM should<sup>1</sup>

1. supersede the weekly deduction to the new weekly amount for continuing consumption **and**
2. adjust that new weekly amount to recover any added credit or debit over
  - 2.1 a period of 26 weeks **or**
  - 2.2 a longer period if that is reasonable.

1 SS (C&P) Regs, Sch 9, para 7(4)

79682 The original debt must not be adjusted to take account of additional credit or debit.

### Example

Tom is in receipt of SPC. In June he requests deductions for a debt of £90 and continuing consumption. The water company estimate the average weekly cost of continuing consumption is £4. Deductions for current consumption should continue if it remains in the interests of the family.

original debt                      £2.50

Continuing consumption £4.00

Total                                £6.50

In December the water company reports that the amount for continuing consumption is £4.50 and a further debt of £20 has built up. The DM supersedes the deductions and decides it is reasonable to recover the arrears over 26 weeks. The new weekly deduction is

original debt                      £2.50

Continuing consumption        £4.50

adjustment for accrued arrears

£20 over 26 weeks                      £0.77

Total    £7.77

## Original debt recovered

79683 When the original debt has been cleared the DM may decide to make deductions for continuing consumption when it is in the interests of the family to do so<sup>1</sup>. Such deductions apply to both metered and unmetered water.

1 SS (C&P) Regs, Sch 9, para 7(6)

79684 Deductions for current consumption should continue if it remains in the interests of the family.

## Joint tenants

79685 A claimant asking for third party deductions for water charges may be a joint tenant. If the claimant is liable for the debt the deduction should be

1. the actual or estimated weekly cost for consumption divided by the number of people named on the bill, whether they are claimants or not **and**
2. the fixed amount to pay off any arrears (see DMG 79666).

79686 It is unusual to have more than one name on a bill. If the claimant is the only person named, the other tenants should pay their share of the bill to the claimant. If the claimant is not named on the bill, the claimant is not liable. The claimant should pay a share to the tenant who is named on the bill.

## Priority between debts for water charges

79687 The claimant or partner may be in debt for water and sewerage charges to two water companies. In such a case only one weekly amount should be deducted, with priority being given to water<sup>1</sup>.

1 SS (C&P) Regs, Sch 9, para 7(7)(a) & (b)

79688 Deductions for sewerage debt can begin only when the whole of the original water debt has been cleared<sup>1</sup>. Deductions for current water and sewerage charges can be made at the same time<sup>2</sup>.

1 SS (C&P) Regs, Sch 9, para 7(7)(b); 2 Sch 9, para 7(7)(c)

## **Consent of claimant required**

79689 Unless the claimant consents<sup>1</sup>, no third party deduction can be made for water charges where the total deductions exceed 25% of the family's AMG. Any housing costs included in the AMG should not be taken into consideration (see DMG 79222). From 2.10.06 the amount of CTC and CHB entitlement should be added<sup>2</sup> to the AMG when deciding if deductions exceed 25% of the total.

1 SS (C&P) Regs, Sch 9, para 7(8); 2 Sch 9, para 8(4)

## **Superseding the third party deduction decision**

79690 The DM should supersede the third party deduction decision when a relevant change of circumstances occurs<sup>1</sup>. For example where

- 1.** the original debt is cleared **or**
- 2.** the claimant changes address **or**
- 3.** in the case of a metered water supply, the estimated weekly cost of continuing consumption is not enough or is too much<sup>2</sup> **or**
- 4.** in the case of unmetered charges, the annual charge increases (usually in April).

1 SS Act 98, s 10; 2 SS CS (D&A) Regs, reg 6(2), SS (C&P) Regs, Sch 9, para 7(4)

79691 The claimant's agreement should be obtained if the new total deductions exceed the level mentioned in DMG 79222. Where the claimant has already consented to a total above that level, any increase will require the claimant's further consent.

79692 - 79699

# Third party deductions for water charges - Scotland 79700-79749

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[Water debt only](#) 79710-79749

## Meaning of water charges

79700 For Scotland, water charges means any water or sewerage charges established by Scottish Water under a charges scheme made under prescribed legislation<sup>1</sup>. Water charges can be made

1. with rent **or**
2. by a meter **or**
3. unmetered.

1 SS (C&P) Regs, Sch 9, para 1(1), Water Industry (Scotland) Act 2002, s 29A

79701 In Scotland, LAs have responsibility for the collection and billing of all water charges. Sewerage charges are included in the CT charge and water charges are collected through the council water charge.

79702 Where there is a mixture of water and CT arrears or only CT arrears, the LA treats the arrears for water and CT as a single debt and may request a single third party deduction to cover both items (see DMG 79705).

## Rules for third party deductions

79703 When water charges are paid with, or as part of, rent, third party deductions may be made on the same basis as in England and Wales<sup>1</sup> (see DMG 79550 et seq).

1 SS (C&P) Regs, Sch 9, para 5

79704 Where water charges are not paid with rent, the LA may ask the DM to make deductions to secure payments. Deductions can be made from SPC.

79705 LAs treat arrears of water charges and CT as a single debt. This means that only one weekly

amount should be deducted to cover both items. The amount of that deduction is fixed and is equal to 5% of the IS personal allowance for a single person aged 25 or over (see DMG 79750 et seq for further guidance).

79706 - 79709

## **Water debt only**

79710 LAs in Scotland have the option to apply for a third party deduction for a water debt that has been billed as part of the CT to include an amount for arrears and an amount for ongoing costs to prevent further debt accruing.

79711 Where the application for deduction is for arrears of water only, there is no longer a legal requirement for the LAs to obtain a Summary Warrant or Decree before applying for the third party deduction. These applications will contain a current cost element to enable them to be distinguished from CT applications, where there is still a requirement for a Summary Warrant or Decree.

79712 Applications for third party deductions of water debt only may be accepted from the claimant or LA and should be treated the same as water costs in England and Wales (see DMG 79662 et seq).

79713 - 79749



# Third party deductions for Council Tax 79750-79769

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[Application for deductions](#) 79751-79753

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## Introduction

79750 Deductions for arrears of CT may be made from SPC<sup>1</sup>.

1 Council Tax (Deductions from IS) Regs 93, reg 5(1)(a); Local Government Finance Act 92, Sch 4

## Application for deductions

79751 A billing authority (in Scotland, levying authority) may ask the DM to make deductions for arrears of CT<sup>1</sup> covered by in

1. England and Wales, a liability order<sup>2</sup> **and**
2. Scotland, a summary warrant or a decree.

1 Council Tax (Deductions from IS) Regs 93, regs 2 & 3;

2 Local Government Finance Act 1992, Sch 4, para 3 & Sch 8, para 6

79752 In Scotland the warrant or decree may include an amount for CT and arrears of water charges. Treat any such arrears as a single debt with the CT arrears.

## Contents of application

79753 The DM must be able to identify the claimant from the details on the application for deductions, which should include<sup>1</sup> the

1. name and address of the debtor
2. name and address of the authority making the application
3. name and place of the court concerned
4. date of the order, warrant or decree
5. amount of the specified outstanding arrears
6. total amount the authority wishes to have deducted.

**Note:** The validity of an application is a matter for the DM.

1 Council Tax (Deductions from IS) Regs 93, reg 4

## DM's action

79754 Before deductions can be made the DM must be satisfied that the claimant is a debtor. A person is normally a debtor where there is

1. a liability order against them (in Scotland, a summary warrant or decree) **and**
2. an outstanding sum for which that liability order was made.

79755 The application for deductions should include the details listed at DMG 79753 and can normally be accepted as evidence that the person named is a debtor. This means that in most cases the DM does not need to see the actual liability order or a certificate from the LA showing the amount outstanding.

79756 Where a debt is disputed on reasonable grounds the DM should investigate the matter and may need to see the liability order and LA certificate. Note that a dispute is not on reasonable grounds if claimants simply say that they are not a debtor.

79757 The DM should consider any documentary evidence that may be produced showing that liability is in doubt. Although the Department cannot get involved in any dispute, enquiries should be made to the LA. If the DM is not satisfied that the claimant is a debtor deductions should not be made. If deductions have already started the claim should be revised or superseded<sup>1</sup> and deductions stopped. Normal overpayment action should be taken if appropriate.

### **Example 1**

Mavis is in receipt of SPC. The LA obtains a liability order against her for CT arrears of £300 and makes a written application for deductions to be made from her SPC. Mavis produces an account from the same LA acknowledging that they owe her £100 rather than her owing them anything. The DM is not satisfied that Mavis is a debtor and determines that deductions for CT arrears should not be made.

### **Example 2**

Brian gets SPC and owns two cottages next door to each other. He lives in one cottage and the other is empty. The LA obtains a liability order against him for CT arrears on the empty cottage and makes a written application for deductions to be made. After deductions start Brian produces a copy of a closure order on the empty cottage showing that the cottage was closed as unfit for human habitation. The LA confirms that the cottage was closed and that as a result no CT is owed for it. The DM is not satisfied that Brian is a debtor. The claim is revised and deductions stop. The effective date is the date the deductions commenced.

79758 If the DM is satisfied that the person named is a debtor, the DM then determines

- 1.** whether there is enough benefit for a deduction to be made<sup>1</sup> **and**
- 2.** the priority of deduction<sup>2</sup>, where there is more than one deduction to be made to a third party and not enough benefit in payment to make them all.

1 Council Tax (Deductions from IS) Regs 93, reg 5(1)(b) & (2)(b); 2 SS (C&P) Regs, Sch 9, para 9

## **Can a deduction be made**

79759 A deduction can be made from SPC if the claimant would be left with at least 10p SPC<sup>1</sup>. No deduction should be made if it would leave the claimant with less than 10p SPC.

1 Council Tax (Deductions from IS) Regs 93, reg 5(1)(b)

## **Amount of deduction**

79760 The amount of the deduction is fixed at 5% of the IS personal allowance for a single person aged 25 or over<sup>1</sup>.

## **Other deductions**

79761 Do not make deductions for recovery of CT arrears if deductions are being made for arrears of CC<sup>1</sup>, even where there is enough benefit to do so.

1 Council Tax (Deductions from IS) Regs 93, reg 8(1)(c)

## **Maximum amount of deduction**

79762 There is a maximum amount for payment of arrears to third parties where SPC is in payment. That is 3 x 5% of the IS personal allowance for a single claimant aged 25 or over. The total amount deducted should not exceed this amount<sup>1</sup>.

1 Council Tax (Deductions from IS) Regs 93, reg 5(1)(c)

## **More than one application**

79763 Only one application for deductions can be dealt with at any one time<sup>1</sup>. But more than one application may be received for the same debtor. Or further applications may be received when deductions are already being made for CT. Any such multiple applications should be referred, in date order, to the DM. Further deductions can be made only when deductions on any earlier application have ceased.

1 Council Tax (Deductions from IS) Regs 93, reg 8(1)(b)

79764 - 79769

# Third party deductions for Community Charge 79770-79799

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## Introduction

79770 LAs may request deductions for arrears of CC, where the person owing the debt is a claimant entitled to SPC<sup>1</sup>.

1 Community Charges (Deductions from IS) (No. 2) Regs 90, reg 3;  
Community Charges (Deductions from IS) (Scotland) Regs 89, reg 3

79771 Recoverable sums include any fines imposed because the person has failed to provide information in connection with registration for the charge.

## Application for deductions

79772 Recovery of the arrears can be made if the billing authority (in Scotland, levying authority) has obtained from a court

**1.** in England and Wales, a liability order<sup>1</sup> **and**

**2.** in Scotland, a summary warrant or a decree<sup>2</sup>.

- 1 Community Charges (Deductions from IS) (No. 2) Regs 90, reg 3(1);
- 2 Community Charges (Deductions from IS) (Scotland) Regs 89, reg 3(1)

79773 In Scotland the warrant or decree may include an amount for arrears of water charges. Treat these arrears as a single debt with CC arrears.

## Contents of application

79774 The DM must be able to identify the claimant from the details on the application for deductions, which should include<sup>1</sup> the

1. name and address of the debtor, or where the liability is against a couple, the names and addresses of both of them
2. name and place of the court concerned
3. date of the order, warrant or decree
4. amount of the specified outstanding arrears
5. total amount the authority wishes to have deducted.

**Note:** The validity of an application is a matter for the DM.

- 1 Community Charges (Deductions from IS) (No. 2) Regs 90, reg 2(2);
- Community Charges (Deductions from IS) (Scotland) Regs 89, reg 2(2)

## DM's action

79775 Before deductions can be made the DM must be satisfied that the claimant is a debtor. A person will normally be a debtor where there is

1. a liability order against them (in Scotland, a summary warrant or decree) **and**
2. an outstanding sum for which that liability order was made.

79776 The application for deductions should include the details listed at DMG 79774 and can normally be accepted as evidence that the person named is a debtor. This means that in most cases the DM does not need to see the actual liability order or a certificate from the LA showing the amount outstanding.

79777 Where a debt is disputed on reasonable grounds the DM should investigate the matter and may need to see the liability order and LA certificate. Note that a dispute is not on reasonable grounds if claimants simply say that they are not a debtor.

79778 The DM should consider any documentary evidence that may be produced showing that liability is in doubt. Although the Department cannot get involved in any dispute, enquiries should be made to the LA. If the DM is not satisfied that the claimant is a debtor deductions should not be made. If deductions have already started the claim should be revised or superseded<sup>1</sup> and deductions stopped. Normal overpayment action should be taken if appropriate.

1 SS Act 98, ss 9 & 10; SS CS (D&A) Regs, regs 3 & 6

### **Example 1**

Ruby is in receipt of SPC. The LA obtains a liability order against her for CC arrears of £200 and makes a written application for deductions to be made from Ruby's SPC. Ruby produces an account from the same LA acknowledging that they owe her £50 rather than her owing them anything. The DM is not satisfied that Ruby is a debtor and determines that deductions for CC arrears should not be made.

### **Example 2**

Derek gets SPC. A written application for deductions to be made to recover arrears of CC is received from the LA. A copy of a bill for accrued arrears is enclosed, which the LA state is outstanding. After deductions start, Derek produces a receipt from the council showing that the debt was paid in full a month ago. The LA confirms that the bill was paid in full and that there are no arrears outstanding. The DM is not satisfied that Derek is a debtor. The claim is revised and deductions stop. The effective date is the date deductions commenced.

79779 If the DM is satisfied that the person named is a debtor, the DM must then determine<sup>1</sup>

- 1.** whether there is enough benefit for a deduction to be made<sup>2</sup> **and**
- 2.** the priority of deduction<sup>3</sup>, where the claimant has other debts to be recovered by deduction from SPC.

1 R(IS) 3/92; 2 Community Charges (Deductions from IS) (No. 2) Regs 90, reg 3(1) & (2); Community Charges (Deductions from IS) (Scotland) Regs 89, reg 3(1) & (2);  
3 Community Charges (Deductions from IS) (No. 2) Regs 90, reg 3(4);  
Community Charges (Deductions from IS) (Scotland) Regs 89, reg 3(4)

## **Can a deduction be made?**

79780 A deduction can be made from SPC if the claimant would be left with at least 10p<sup>1</sup>. Do not make a deduction if it would leave the claimant with SPC of less than 10p.

1 Community Charges (Deductions from IS) (No. 2) Regs 90, reg 3(1);  
Community Charges (Deductions from IS) (Scotland) Regs 89, reg 3(1)

## Amount deducted - single debtor

79781 The amount of the deduction is fixed<sup>1</sup> at 5% of the IS personal allowance for a single person aged 25 or over.

1 Community Charges (Deductions from IS) (No. 2) Regs 90, reg 3(1)(b);  
Community Charges (Deductions from IS) (Scotland) Regs 89, reg 3(1)(b)

## Amount deducted - couples

79782 The debtor may be one of a couple who receive SPC. The amount to be deducted depends on who is named in the liability order. But if the partner is the only debtor no deductions can be made.

79783 Where the liability order is against the claimant only, the amount to be deducted is the same as for a single debtor. That is<sup>1</sup> 5% of the IS personal allowance for a single person aged 25 or over.

1 Community Charges (Deductions from IS) (No. 2) Regs 90, reg 3(1)(b);  
Community Charges (Deductions from IS) (Scotland) Regs 89, reg 3(2)(b)

79784 Where the liability order is against both members of a couple and SPC is payable for both of them, the amount deducted is 5% of the IS personal allowance for a couple where both are aged 18 or over<sup>1</sup>.

1 Community Charges (Deductions from IS) (No. 2) Regs 90, reg 3(1)(a);  
Community Charges (Deductions from IS) (Scotland) Regs 89, reg 3(1)(a)

79785 - 79789

## Maximum amount of deduction

79790 The recovery of CC arrears is not subject to the limit imposed on deductions for other debts owed to third parties<sup>1</sup>. The sole criterion is whether there is enough benefit to enable deductions to be made.

1 SS (C&P) Regs, Sch 9, para 8 (1) & (2)

## Order of priority

79791 There may not be enough benefit to enable deductions to be made for arrears of CC and other debts. The order of priority in DMG 79229 should then be followed<sup>1</sup>.

1 Community Charges (Deductions from IS) (No. 2) Regs 90, reg 3(4);



## **More than one application**

79792 Only one application for deductions can be dealt with at any one time<sup>1</sup>. But more than one application may be received for the same debtor. Or further applications may be received when deductions are already being made for CC. Any such multiple applications, should be referred in date order, to the DM. Further deductions can be made only when deductions on any earlier application have ceased.

1 Community Charges (Deductions from IS) (No. 2) Regs 90, reg 4(1)(b);  
Community Charges (Deductions from IS) (Scotland) Regs, 89, reg 4(1)(b)

79793 - 79799

# Third party deductions for fines 79800-79939

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## Introduction

79800 A court<sup>1</sup> may, after enquiring into an offender's means, find that the offender is claiming SPC. The court may then request deductions for payment of an offender's fines, costs, compensation order or confiscation order imposed under specified legislation<sup>2</sup>. Deductions may be made from SPC.

1 Fines (Deductions from IS) Regs 92, reg 4(1); 2 Proceeds of Crime Act 2002

## Applications for deductions

79801 An application can be made by<sup>1</sup> any

1. magistrates court or fines officer in England and Wales
2. court in Scotland.

1 Fines (Deductions from IS) Regs 92, reg 2(1)

79802 Fines officer<sup>1</sup> means the officer of the court responsible for enforcing payment of the sum due.

1 Fines (Deductions from IS) Regs 92, reg 1(2)

79803 A new offence has been created<sup>1</sup> for failing to provide information essential to make a deduction from benefit application. This offence can only be established where the offender fails to provide prescribed information<sup>2</sup> and is applicable in England and Wales only.

79804 From 18.12.04 legislation is amended<sup>1</sup> so that the court may require that the offender provide

1. their full name
2. their full address
3. their date of birth
4. their National Insurance number **and**
5. the name of the benefits to which they are entitled.

1 Fines (Deductions from IS) Regs 92, reg 2A

**Note:** In this context benefits means SPC.

79805 A court can transfer a fine, costs, confiscation order or compensation order to another court. The receiving court is then responsible for recovery and may apply for third party deductions. However, in some cases a court can retain responsibility for collection of the fine when the offender moves outside the area. An application can include more than one fine or compensation order, or combination of both. All requests must be made in writing.

79806 In Scotland the DM can make deductions only where

1. the offender has defaulted in paying the fine, compensation order, or an instalment of either<sup>1</sup> **and**
2. at the time of application by the court the offender is aged 18 or over<sup>2</sup> **and**
3. the offender is entitled to SPC throughout any benefit week<sup>3</sup> **and**
4. no deductions are being made in respect of the offender under any other application<sup>4</sup>.

1 Fines (Deductions from IS) Regs 92, reg 7(2)(c); 2 reg 7(2)(a); 3 reg 7(1)(a) & (2)(b); 4 reg 7(1)(b)

79807 From 27.3.06 in England and Wales, the legislation has been modified<sup>1</sup> to

1. allow deductions to be made from benefits for the purpose of recovering a fine with the consent of the offender, whether or not he is in default
2. allow the fines officer as well as the court to apply to the Secretary of State for deductions to be made
3. allow the automatic application for deductions from benefit either immediately by the court (if the offender is an existing defaulter), or by the fines officer upon first default on payment terms agreed with the court

4. enable the fines officer to apply for deductions from benefits as a further step in enforcing a fine against a persistent defaulter, if it is appropriate to do so at that stage in the enforcement process (eg if the offender has gone onto benefits since the original repayment terms were set).

1 Fines (Deductions from IS) Regs 92, reg 3(1)(g)

79808 From 3.7.06 in England and Wales, DMs need to be aware that third party deductions for fines can be considered without the offender's consent or existing default in cases where there is an element of compensation in the court order<sup>1</sup>.

1 Courts Act 2003, Sch 5, para 7A

### **Contents of application**

79809 The DM must be able to identify the claimant from the details on the application for deductions, which should include<sup>1</sup>

1. the name, address and if known the date of birth of the offender
2. the date when the fine was imposed or the compensation order made
3. the name and address of the court concerned
4. the amount of the fine or compensation order
5. the date on which the application is made
6. the date on which the court enquired into the offender's means
7. whether the offender has defaulted in paying the fine, compensation order or any instalment of either.

**Note:** The validity of an application is a matter for the DM.

1 Fines (Deductions from IS) Regs 92, reg 3

### **DMs action**

79810 The DM should determine<sup>1</sup>

1. whether there is enough benefit to allow a deduction to be made **and**
2. the priority of the deduction **and**
3. the maximum amount of third party deductions.

1 Fines (Deductions from IS) Regs 92, reg 4(1)

79811 The court can withdraw an application at any time.

## Can a deduction be made

79812 A deduction can be made from SPC if the claimant would be left with at least 10p<sup>1</sup>. No deduction should be made if it would leave the claimant with SPC of less than 10p.

1 Fines (Deductions from IS) Regs 92, reg 4(1)(b)

## Amount of deduction

79813 The rate of deduction for a fine or compensation order is a flat rate of £5.00 or, where there is insufficient benefit to support a £5.00 deduction, a standard rate of 5% of the IS personal allowance for a single person aged 25 or over should be applied<sup>1</sup>.

1 Fines (Deductions from IS) Regs 92, reg 4(1)

**Note:** The flat rate of £5.00 is a statutory amount that will not be routinely updated.

## Maximum amount of deduction

79814 There is a maximum amount for payment to third parties where SPC is in payment. That is 3 x 5% of the IS personal allowance for a single claimant aged 25 or over<sup>1</sup>. The total amount deducted should not exceed that amount.

1 Fines (Deductions from IS) Regs 92, reg 4(1)

### Example 1

John receives SPC of £50.00 per week. He already has a third party deduction for gas arrears but there is enough benefit to accommodate an increased fines deduction.

Available benefit - £50.00

Third party deduction gas arrears - £2.90

Third party deduction fine - £5.00

### Example 2

Mary receives SPC of £45.00 per week. She has deductions for arrears of gas and water. In this case there is not enough benefit to take an increased fines deduction so the standard rate would apply.

Available benefit - £45.00

Third party deduction gas arrears - £2.90

Third party deduction water arrears - £2.90

Third party deduction fine - £2.90

### **Example 3**

Cyril receives SPC of £44.00 per week. He has deductions for arrears and consumption of gas. He has not consented to deductions exceeding 25% of his AMG. In this case there is enough benefit to take an increased fines deduction so the increased rate would apply.

Available benefit - £44.00

Third party deduction gas arrears - £2.90

Third party deduction gas consumption - £5.00

Third party deduction fine - £5.00

Even though the higher level of fines deduction takes the total level of deductions to over 25% of his AMG, his consent is not required<sup>1</sup>.

1 SS (C&P) Regs, Sch 9, para 8(2)

### **Further applications**

79815 Further applications may be received when deductions are already being made for fines or an existing application may be withdrawn by the court to add on further fines debts and a new application made for a revised amount. Further deductions can be made only when deductions on any earlier application have ceased<sup>1</sup>, or the court has withdrawn the application.

1 Fines (Deductions from IS) Regs 92, reg 7(5)

79816 - 79939

# Third party deductions for eligible loan deduction scheme 79940-79984

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## Introduction

79940 The ELDS was introduced from 27.12.06. It is a scheme whereby repayment of some loans made to claimants by certain lenders can be made by deductions from benefit.

79941 The purpose of ELDS is to make low cost loans more accessible to those on low incomes who may not be able to use mainstream financial services. It aims to achieve this by reducing the debt recovery risk of lending to low income customers.

79942 In practice deductions will be the responsibility of Debt Management and will be processed at Debt Centre Washington.

79943 The benefits from which deductions can be made are CA, IB, RP, IS, JSA, ESA and SPC. Guidance on deductions from CA, IB and RP can be found in DMG Chapter 8, for IS and JSA in DMG Chapter 33 and for ESA in DMG Chapter 46.

79944 - 79949

## Definitions

### Borrower

79950 “Borrower” means<sup>1</sup> a person who

**1.** has (either alone or jointly) entered into a loan agreement

**1.1** with an eligible lender **and**

**1.2** in respect of an eligible loan **and**

**2.** is entitled to an eligible benefit.

1 SS (C&P) Regs, Sch 9, para 7C(1)

### Eligible benefit

79951 “Eligible benefits” are<sup>1</sup> CA, IB, RP, IS, JSA, ESA and SPC.

1 SS (C&P) Regs, Sch 9, para 7C(2)

### Eligible lender

79952 “Eligible lender” means<sup>1</sup>

**1.** credit union within the meaning of specified legislation<sup>2</sup> **or**

**2.** one of the following bodies provided it is licensed under specified legislation<sup>3</sup>

**2.1** an Industrial or Provident Society registered under specified legislation<sup>4</sup> **or**

**2.2** a charitable institution within the meaning of specified legislation<sup>5</sup> **or**

**2.3** a body entered on the Scottish Charity Register under specified legislation<sup>6</sup>

**3.** a community interest company within the meaning of specified legislation<sup>7</sup>

which may be determined by the Secretary of State as an appropriate body to which repayments of loans may be made on behalf of borrowers.

1 SS (C&P) Regs, Sch 9, para 7C(1); 2 Credit Unions Act 1979, s 1; 3 Consumer Credit Act 1974;

4 Industrial and Provident Societies Act 1965, s 1; 5 Charities Act 1992, s 58(1);

6 Charities and Trustee Investment (Scotland) Act 2005, s 3;

7 Companies (Audit, Investigations and Community Enterprise) Act 2004, Part 2



## Eligible loan

79953 An “eligible loan” is<sup>1</sup> a loan made to a borrower by a lender who was, at the time the loan was made, an eligible lender. This **does not** include loans

1. which are secured by a charge or pledge
2. which are for the purposes of business or self-employment
3. which are made by means of a credit card.

1 SS (C&P) Regs, Sch 9, para 7C(1)

## Loan agreement

79954 “Loan agreement” means<sup>1</sup> an agreement between the eligible lender and the borrower in respect of an eligible loan.

1 SS (C&P) Regs, Sch 9, para 7C(1)

79955 - 79957

## Deductions from benefit

79958 A DM may make deductions from an eligible benefit where the following conditions<sup>1</sup> are satisfied

1. the borrower has failed to make payments as agreed with the eligible lender for a period of 13 weeks before the date of the application and payments have not resumed
2. the borrower has given written permission to the eligible lender to provide to the Secretary of State personal data within the meaning of specified legislation<sup>2</sup>
3. the eligible lender has agreed that no interest or other charge will be added to the amount owed at the date of the application
4. no sum is being deducted from eligible benefit under the ELDS<sup>3</sup>
5. no sum is being deducted from the borrower’s eligible benefit at the date of application to recover an overpayment under specified legislation<sup>4</sup>
6. no sum is being deducted from the borrower’s eligible benefit at the date of application to recover a social fund award<sup>5</sup>.

1 SS (C&P) Regs, Sch 9, para 7C(4); 2 Data Protection Act 1998, s 1;  
3 SS (C&P) Regs, Sch 9, para 7C(4); 4 SS A Act 92, s 71(8); 5 s 78

79959 The Secretary of State will notify both the borrower and the eligible lender in writing of a decision to make deductions from benefit<sup>1</sup>.

1 SS (C&P) Regs, Sch 9, para 7C(5)

79960 The Secretary of State may only make deductions if the borrower is entitled<sup>1</sup> to an eligible benefit (see DMG 79951) throughout a benefit week.

1 SS (C&P) Regs, Sch 9, para 7C(6)

### **Prevention of duplicate deductions**

79961 No deduction will be made from an eligible benefit (see DMG 79951) where the borrower is in receipt of

**1.** UC or

**2.** new style ESA or

**3.** new style JSA

unless the amount of benefit at **1.**, **2.** or **3.** is insufficient to meet the deductions<sup>1</sup>.

1 SS (C&P) Regs, Sch 9, para 7C(6A)

### **Example**

Charles is entitled to SPC of £73.70 per week and new style JSA of £71.70 per week. The DM receives an application from an eligible lender for deductions under

ELDS and decides that deductions should be taken from Charles' new style JSA as the rate of deduction is £3.60 and there is sufficient new style JSA in payment to meet the deduction.

79962 - 79964

### **Deductions - priority order**

79965 Unlike other third party deductions, deductions for eligible loans may be taken from CA, IB, RP, IS, ESA and JSA (see DMG Chapter 8 and Chapter 33) in addition to SPC, as different policy objectives apply to the ELDS. However legislation<sup>1</sup> specifies the order of the benefits from which deductions are taken.

79966 The DM should not take deductions from CA if the borrower is in receipt of another eligible benefit unless that benefit is

**1.** IB or RP and is insufficient for the deduction to be made **or**

**2.** IS, JSA, ESA or SPC and the amount is insufficient to meet the deduction plus 10p<sup>1</sup>.

1 SS (C&P) Regs, Sch 9, para 7C(7)

79967 The DM should not take deductions from IB or RP if the claimant receives IS, JSA, ESA or SPC unless that benefit is insufficient to meet the deduction plus 10p<sup>1</sup>.

1 SS (C&P) Regs, Sch 9, para 7C(8)

79968 - 79969

### **Amount of the deduction**

79970 The rate of deduction for ELDS is a fixed amount equal to 5% of the IS personal allowance for a single claimant aged over 25<sup>1</sup> rounded up to the nearest multiple of 5p.

1 SS (C&P) Regs, Sch 9, para 7C(3)

### **Example 1**

Denis is entitled to RP at £85.00 pw and SPC of £15.00 pw. The DM receives an application from an eligible lender for deductions under the ELDS. The DM decides that deductions should not be taken from RP because as the rate of deduction is £3.00 (07/08 rates) there is sufficient SPC in payment to enable the deduction to be made.

### **Example 2**

Judith is entitled to RP of £85.00 pw and SPC of £1.80 pw. The DM decides that deductions can be taken from Judith's RP as there is insufficient SPC to make the deduction of £3.00 pw (07/08 rates).

### **Notification**

79971 The DM must notify the borrower and the eligible lender in writing of the decision to make ELDS deductions<sup>1</sup>.

## **Circumstances in which deductions will cease**

79972 The Secretary of State shall cease making ELDS deductions if<sup>1</sup>

- 1.** there is no longer sufficient entitlement to an eligible benefit to enable deductions to be made
- 2.** entitlement to all eligible benefits has ceased
- 3.** a sum is deducted from the borrower's eligible benefit to recover overpaid benefit under specified legislation<sup>2</sup>
- 4.** the eligible lender notifies the Secretary of State that he no longer wants to accept payment by deductions
- 5.** the liability to make payment on the loan has ceased
- 6.** the lender has ceased to be an eligible lender
- 7.** the borrower no longer resides in GB.

1 SS (C&P) Regs, Sch 9, para 7C(9); 2 SS A Act 92, s 71

79973 - 79976

## **Payments of amounts deducted**

79977 Payments of sums deducted will be made to the eligible lender<sup>1</sup>.

1 SS (C&P) Regs, Sch 9, para 7C(10)

79978 The Secretary of State will notify the borrower in writing of the total sums deducted<sup>1</sup>

- 1.** when a written request for this information is received from the borrower **or**
- 2.** on the termination of deductions.

1 SS (C&P) Regs, Sch 9, para 7C(11)

## **Maximum amount of deductions**

79979 There is a maximum amount<sup>1</sup> for payment of arrears to third parties. That is 3 x 5% of the IS personal allowance for a single claimant aged 25 or over which would have been payable to the claimant

had the claimant been entitled to IS and not SPC. The total amount deducted should not exceed this amount (see DMG 79221).

1 SS (C&P) Regs, Sch 9, para 8(1)

### **Consent of claimant required**

79980 Unless the claimant consents<sup>1</sup>, no third party deduction can be made for an eligible loan where the total deductions exceed 25% of the family's AMG including CTC and CHB. Any housing costs included in the AMG should not be taken into consideration (see DMG 79222).

1 SS (C&P) Regs, Sch 9, para 8(2)

### **Priority between debts**

79981 The priority order<sup>1</sup> listed at DMG 79229 should be followed.

1 SS (C&P) Regs, Sch 9, para 9(1B)(h)

79982 - 79984

# Third party deductions for integration loan scheme 79985-79999

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## Introduction

79985 The Integration Loan Scheme is a Home Office designed initiative to help individuals and their dependants settle into the community following a decision to grant them refugee status or humanitarian protection in the UK. The initiative is intended to provide interest free loans<sup>1</sup> to buy goods and services which will assist integration (eg essential household items, training) to certain groups.

1 The Integration Loans for Refugees and Others Regulations 2007, SI 2007 No 1598

79986 The Integration Loan Scheme replaces the refugee back payment scheme which ceased on 14.6.07. The new scheme commenced on 11.6.07.

79987 The Home Office will deal with loan applications and decide who is eligible and the amount to be awarded. Payment of the loan and subsequent recovery action will be undertaken by Debt Management.

79988 Deductions from specified benefits for the Integration Loan Scheme will be subject to normal third party deduction rules on individual and maximum amounts (see DMG 79222) and will be included in the priority order (see DMG 79229).

## Definitions

### Integration loan

79989 “Integration loan which is recoverable by deductions” means<sup>1</sup> an integration loan made under specified legislation<sup>2</sup> which is recoverable from the recipient by deductions from specified benefits<sup>3</sup>.

1 SS (C&P) Regs, Sch 9, para 1(1); 2 The Integration Loans for Refugees and Others Regs 2007;

## **Specified benefit**

79990 Specified benefit<sup>1</sup> has the meaning described in DMG 79203.

1 SS (C&P) Regs, Sch 9, para 1

## **Deductions from benefit**

79991 From 31.7.07 deductions can be made from specified benefits for integration loans.

## **Amount of the deduction**

79992 The rate of deduction for the Integration Loan Scheme is a fixed amount equal to 5% of the IS personal allowance for a single claimant aged over 25<sup>1</sup> rounded up to the nearest multiple of 5p, including where the loan is a joint loan.

1 SS (C&P) Regs, Sch 9, para 7D

79993 Couples may take out a joint loan and so have joint liability for repayment of the debt. If the couple separate, deductions can be taken from either partner. The Home Office will be responsible for deciding the liability of joint loan applicants who separate.

79994 The claimant should be left with at least 10p specified benefit after third party deductions have been made<sup>1</sup>. No deduction should be made if it would leave the claimant with less than 10p.

1 SS (C&P) Regs, Sch 9, para 2(2)

79995 - 79996

## **Consent**

79997 Unless the claimant consents<sup>1</sup>, no third party deduction can be made for an integration loan where the total deductions exceed 25% of the family's AMG. Any housing costs included in the AMG should not be taken into consideration (see DMG 79222).

1 SS (C&P) Regs, Sch 9, para 8(2)

## Priority between debts

79998 The priority order<sup>1</sup> listed at DMG 79229 should be followed.

1 SS (C&P) Regs, Sch 9, para 9(1B)(ga)

79999