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STATUTORY INSTRUMENTS

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**1993 No. 61**

**LOCAL GOVERNMENT, ENGLAND AND WALES  
FINANCE**

**The National Rivers Authority (Levies) Regulations 1993**

<i>Made</i>	- - - -	<i>14th January 1993</i>
<i>Laid before Parliament</i>		<i>15th January 1993</i>
<i>Coming into force</i>	- -	<i>16th January 1993</i>

The Secretary of State for the Environment, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred on them by sections 74 and 143(1) and (2) of the Local Government Finance Act 1988(1) and section 149(1) and (2) of the Local Government and Housing Act 1989(2) and all other powers enabling them in that behalf, hereby make the following Regulations:

**Title, commencement and interpretation**

1.—(1) These Regulations may be cited as the National Rivers Authority (Levies) Regulations 1993 and shall come into force on 16th January 1993.

(2) In these Regulations—

“the 1976 Act” means the Land Drainage Act 1976(3);

“the 1988 Act” means the Local Government Finance Act 1988;

“the 1992 Act” means the Local Government Finance Act 1992(4);

“the NRA” means the National Rivers Authority;

“district” means a local flood defence district created by a scheme under section 12 of the Water Resources Act 1991(5) or which is treated as such by virtue of section 134(3) of that Act or continues to be so treated under paragraph 14(1) of Schedule 2 to the Water Consolidation (Consequential Provisions) Act 1991(6);

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(1) 1988 c. 41. Section 74 was amended by the Local Government Finance Act 1992 (c. 14), Schedule 13, paragraph 72; the National Rivers Authority is a levying body, within the meaning of section 74, for the purposes of its flood defence functions, by virtue of section 133 of the Water Resources Act 1991 (c. 57).

(2) 1989 c. 42.

(3) 1976 c. 70.

(4) 1992 c. 14.

(5) 1991 c. 57.

(6) 1991 c. 60.

“expenses” of the NRA for a financial year means qualifying expenses ascertained in accordance with section 45(2) of the Land Drainage Act 1976, the reference in that section to sums received otherwise than by virtue of section 46 of that Act being taken as a reference to sums received otherwise than by virtue of any levy issued under these Regulations;

“local council”, in relation to a district, means the council of any county, metropolitan district or London Borough any part of whose area is comprised in that district and, if any part of the City of London is comprised in that district, the Common Council of the City of London.

(3) Any reference in these Regulations to a numbered regulation shall be construed as a reference to the regulation bearing that number in these Regulations.

### **Application**

2. These Regulations apply in relation to any expenses of the NRA or levy in respect of any financial year beginning on or after 1st April 1993.

### **Power to issue levies**

3.—(1) In order to meet its expenses in respect of a district, the NRA may issue to a local council a levy in respect of any financial year in accordance with these Regulations and with sections 46(5) to (8) and 47 of the 1976 Act(7), the references to precepts in the said section 46(5) and (8) and in section 47(1) being taken to be references to levies issued under these Regulations.

(2) When issuing a levy to a local council, the NRA shall notify the council whether the levy or any portion of it relates to part only of the council’s area and, if it does, which part.

### **Issue of levies**

4.—(1) In this regulation “the relevant date” means 15th February in the financial year preceding that in respect of which a levy is issued.

(2) A levy must be issued before the relevant date, but it is not invalid merely because it is issued on or after that date.

(3) This regulation does not apply to a substituted levy issued in accordance with regulation 8.

### **Maximum amount of levies**

5.—(1) A levy issued by the NRA under these Regulations shall be subject to the provisions of section 46(5) to (7) of the 1976 Act, read with this regulation, the reference to precepts in the said section 46(5) being taken to be a reference to levies issued under these Regulations.

(2) For the purposes of a levy issued by the NRA in respect of a district, the estimated penny rate product for a relevant area for a financial year referred to in the said section 46(5) shall be taken to be—

- (a) in respect of the financial year beginning in 1993, the product taken into account for the purpose of the said section 46(5) in respect of the relevant area in the financial year beginning in 1992 increased by 3.6 per cent; and
- (b) in respect of any subsequent financial year, the amount ascertained in accordance with sub-paragraph (a) above in respect of the relevant area, increased or decreased by the

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(7) Sub-sections (5) to (8) of section 46 and section 47 were each amended by the Water Act 1989 (c. 15) Schedule 15, paragraph 1(1); section 46(5) and (6) was amended by section 181 of the Local Government, Planning and Land Act 1980 (c. 65); sections 46(6) and 47(1) were amended by the Water Act 1989, Schedule 15, paragraph 19 and Schedule 27, respectively. These provisions were kept in force by paragraph 2(5) of Schedule 2 to the Water Consolidation (Consequential Provisions) Act 1991 (c. 60) in relation to subordinate legislation made under the Local Government Finance Act 1988 and section 149 of the Local Government and Housing Act 1989 (c. 42) for the purpose of or in connection with the issue of levies by the NRA.

proportion by which the retail prices index for September of the financial year preceding that in respect of which the levy is issued differs from the retail prices index for September 1992.

(3) For the purposes of a levy issued by the NRA in respect of a district, the reference in the said section 46(6) to the estimated penny rate product for a relevant area for a financial year shall be taken to be a reference to the amount for the financial year determined for the relevant area in accordance with paragraph (2) of this regulation.

(4) References in paragraph (2)(b) above to the retail prices index are references to the general index of retail prices (for all items) published by the Department of Employment or, if that index is not published for any month, to any substituted index or index figures published by that Department.

### **Apportionment of expenses**

6.—(1) The NRA shall secure that such of its expenses in respect of a district as are to be met by levies issued by it under these Regulations are borne by the local councils (if more than one) in proportion.

(2) For the purposes of paragraph (1) above, the proportion shall be determined by reference to the council tax base for the financial year in respect of which the levy is issued (referred to in this regulation as “the year”) for the area of each local council or, as the case may be, the part which falls within the district.

(3) For the purposes of this regulation and regulation 7(3), the council tax base for an area or part of an area for a financial year is, subject to paragraph (4) below,—

- (a) where the levy is issued in respect of the whole of the area of a billing authority which is a local council, the amount calculated by that authority as its council tax base for the year in accordance with the rules for the time being effective (as regards that year) under regulations made under section 33(5) of the 1992 Act;
- (b) where the levy is issued in respect of the whole of the area of a county council, the aggregate of the amounts calculated by the billing authorities to which the county council has the power to issue precepts as their council tax bases for the year for their areas in accordance with the rules for the time being effective (as regards that year) under regulations made under section 44(5) of the 1992 Act;
- (c) where the levy is issued in respect of part of the area of a billing authority which is a local council, the amount calculated by that authority as its council tax base for the year for that part of its area in accordance with the rules for the time being effective (as regards that year) under regulations made under section 34(4) of the 1992 Act; or
- (d) where the levy is issued in respect of part of the area of a county council, the aggregate of the amounts calculated by the billing authorities to which the county council has the power to issue precepts as their council tax bases for the year for their areas, or (as the case may require) for the parts of their areas falling within the part of the area of the county council to which the levy relates, in accordance with the rules for the time being effective (as regards that year) under regulations made under section 45(4) of the 1992 Act.

(4) Where a billing authority has calculated and, where required, notified to a county council within the period prescribed by regulations made under sections 33(1), (5) and (6), 34(4), 44(1), (5) and (6), 45(3) to (5), 48(3) to (6) and 113(1) and (2) of the 1992 Act its council tax base for its area or the part of its area in respect of which the levy is issued for the purposes of item T in section 33(1) or 44(1) of the 1992 Act or item TP in section 34(3) or 45(3) of that Act the council tax base for its area or part of its area shall be the amount so calculated.

### **Notification of council tax base**

7.—(1) This regulation applies where the expenses of the NRA in respect of a district are to be borne by more than one local council in accordance with regulation 6.

(2) For the purposes of this regulation, each of the following is a notifying authority in relation to a district, namely—

- (a) a billing authority which is a local council, and
- (b) any other billing authority to which a county council, being a local council, has power to issue a precept.

(3) A notifying authority shall, within the period beginning on the date of coming into force of these Regulations and ending on 31st January 1993 in respect of the financial year beginning 1st April 1993 and thereafter within the period beginning 1st December and ending on 31st January in each financial year, inform the NRA of the Council tax base, determined in accordance with paragraphs (3) and (4) of regulation 6, for its area, or (as the case may require) the part or parts of its area, in respect of which a levy will be issued or it anticipates that a levy will be issued in the immediately following financial year.

### **Substituted levies**

8.—(1) Subject to the following provisions of this regulation, if the NRA has issued a levy in respect of a district for a financial year under these Regulations (originally or by way of substitute) it may issue a levy in substitution.

(2) No levy may be issued in substitution if its amount would be greater than the amount of the levy for which it is substituted, except as provided by paragraph (3) below.

(3) The amount of a levy issued in substitution (in this regulation called “the new levy”) may be greater than the amount of that for which it is substituted (in this regulation called “the old levy”) if the old levy has been quashed because of a failure to fulfil the requirements of regulation 6, but only so much as is required to enable those requirements to be fulfilled.

(4) Where the NRA issues a new levy, anything paid to it by reference to the old levy shall be treated as paid by reference to the new levy.

(5) But if the amount of the old levy exceeds that of the new levy—

- (a) the amount in excess shall be repaid if the local council by whom it was paid so requires;
- (b) in any other case, the amount in excess shall (as the NRA determines) either be repaid or be credited against any subsequent liability of the local council in respect of any levy issued by the NRA.

### **Payment of levies**

9.—(1) A local council to which a levy is issued under these Regulations in respect of a financial year shall pay the amount of the levy to the NRA in that financial year—

- (a) at such time and in such instalments (if any) as may be agreed between the NRA and the council, or
- (b) in default of such agreement,
  - (i) by four equal instalments due on 1st May, 1st July, 1st October and 1st January in the financial year, or
  - (ii) if the levy is issued after 30th April in the financial year, by equal instalments or (as the case may be) by a single payment due on as many of the dates referred to in subparagraph (i) above as remain after the date of issue of the levy or, if none so remain, by a single payment due 30 days after the said date of issue.

(2) Reference in this regulation to payment of a levy are references to the payment of a levy after the deduction of any amount credited against the liability of the local council in respect of that levy in accordance with regulation 8(5)(b).

#### **Anticipation of levies: billing authorities**

**10.**—(1) In this regulation, “authority” means a local council which is a billing authority.

(2) An authority making calculations in accordance with section 32 of the 1992 Act (“the calculations”), originally or by way of substitute, for a financial year (“the year”) may anticipate a levy to be issued in accordance with these Regulations to it for the year by the NRA in any case where—

- (a) such a levy has not been issued by the NRA to the authority at the time the calculations are made; and
- (b) the NRA issued a levy under the National Rivers Authority (Levies) Regulations 1990<sup>(8)</sup> or these Regulations for the preceding financial year.

(3) Subject to paragraph (4) below, where, pursuant to paragraph (2) above, the authority anticipates a levy to be issued by the NRA for the year, the amount of the levy so anticipated shall be equal to the authority’s estimate, at the time the calculations (or last calculations) are made, of the amount of the levy which it considers likely will be issued to it for the year by the NRA.

(4) Where a levy has previously been anticipated by the authority for the purposes of a calculation for the year, the amount of the levy which may be anticipated by the authority for the purposes of any substitute calculations for the year shall be equal to the amount previously anticipated.

(5) Whether or not an authority making calculations (originally or by way of substitute) for a financial year anticipates a levy to be issued in accordance with these Regulations to it by the NRA—

- (a) where the NRA issues such a levy to the authority, the authority shall pay to the NRA a sum equal to the amount of the levy; and
- (b) where the NRA does not issue such a levy to the authority, the authority shall not pay any sum to the NRA in respect of such a levy.

#### **Anticipation of levies: county councils**

**11.**—(1) A county council making calculations in accordance with section 43 of the 1992 Act (“the calculations”), originally or by way of substitute, for a financial year (“the year”) may anticipate a levy to be issued to it for the year by the NRA in any case where—

- (a) such a levy has not been issued by the NRA to the county council at the time the calculations are made; and
- (b) the NRA issued a levy under the National Rivers Authority (Levies) Regulations 1990 or these Regulations for the preceding financial year.

(2) Subject to paragraph (3) below, where, pursuant to paragraph (1) above, the county council anticipates a levy to be issued by the NRA for the year, the amount of the levy so anticipated shall be equal to the county council’s estimate, at the time the calculations (or last calculations) are made, of the amount of the levy which it considers likely will be issued to it for the year by the NRA.

(3) Where a levy has previously been anticipated by the county council for the purposes of the calculations for the year, the amount of the levy which may be anticipated by the county council for the purposes of any substitute calculations for the year shall be equal to the amount previously anticipated.

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(8) [S.I. 1990/118](#).

- (4) Whether or not a county council making calculations (originally or by way of substitute) for a financial year anticipates a levy to be issued in accordance with these Regulations to it by the NRA—
- (a) where the NRA issues such a levy to the county council, the county council shall pay to the NRA a sum equal to the amount of the levy; and
  - (b) where the NRA does not issue such a levy to the county council, the county council shall not pay any sum to the NRA in respect of such a levy.

**Revocation**

**12.**—(1) Subject to paragraph (2) below, the National Rivers Authority (Levies) Regulations 1990 (“the 1990 Regulations”) are hereby revoked.

(2) The 1990 Regulations shall continue to have effect in relation to levies issued or anticipated in accordance with those Regulations in respect of a financial year beginning before 1st April 1993.

13th January 1993

*Michael Howard*  
Secretary of State for the Environment

14th January 1993

*David Hunt*  
Secretary of State for Wales

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations confer on the National Rivers Authority a power to issue levies to certain local authorities for the purpose of meeting the Authority's expenses in respect of local flood defence districts in respect of financial years beginning in or after 1993.

The Regulations supersede the National Rivers Authority (Levies) Regulations 1990 which are revoked subject to a saving (regulation 12).

The Regulations include provisions as to when levies are to be issued (regulation 4), the maximum amount of certain levies (regulation 5), the issue of substituted levies (regulation 8), and the payment of levies (regulation 9). Where a district comprises areas of more than one local authority, regulation 6 provides a method of apportionment of the expenses that are to be raised by levies. Regulation 7 provides for the supply of information by certain local authorities to the NRA. Regulations 10 and 11 provide for local authorities to anticipate a levy which may be issued to them.