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STATUTORY INSTRUMENTS

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**1994 No. 2825**

**LOCAL GOVERNMENT, ENGLAND AND WALES**

The Local Government Changes for  
England (Finance) Regulations 1994

*Made - - - - 4th November 1994*  
*Laid before Parliament 7th November 1994*  
*Coming into force - - 28th November 1994*

The Secretary of State, in exercise of the powers conferred on him by sections 19(1) and (2) and 26(3) to (5) of the Local Government Act 1992<sup>(1)</sup>, and of all other powers enabling him in that behalf, hereby makes the following Regulations:

PART I  
GENERAL

**Citation and commencement**

1. These Regulations may be cited as the Local Government Changes for England (Finance) Regulations 1994 and shall come into force on 28th November 1994.

**Interpretation**

2.—(1) In these Regulations—

“the Act” means the Local Government Act 1992;

“the 1972 Act” means the Local Government Act 1972<sup>(2)</sup>;

“the 1988 Act” means the Local Government Finance Act 1988<sup>(3)</sup>;

“the 1989 Act” means the Local Government and Housing Act 1989<sup>(4)</sup>;

“the 1992 Act” means the Local Government Finance Act 1992<sup>(5)</sup>;

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(1) 1992 c. 19.  
(2) 1972 c. 70.  
(3) 1988 c. 41.  
(4) 1989 c. 42.  
(5) 1992 c. 14.

(2) In Part III of these Regulations—

“abolished authority” means a local authority which is wound up and dissolved by a section 17 order;

“the 1967 Act” means the General Rate Act 1967<sup>(6)</sup>;

“the 1982 Act” means the Local Government Finance Act 1982<sup>(7)</sup>;

“the 1993 Act” means the Leasehold Reform, Housing and Urban Development Act 1993<sup>(8)</sup>;

“designated authority”, in relation to an abolished authority and a provision of these regulations, means—

(a) where there is one successor authority, that authority;

(b) where there are two or more successor authorities, the successor authority specified in a section 17 order as the designated authority in relation to that provision;

“immediately preceding year” means the financial year which immediately precedes the reorganisation date;

“initial year” means the financial year beginning on the reorganisation date;

“new authority” means a new authority established by a section 17 order as a county or district council for an area, but does not include an authority established as described in section 14(6) of the Act;

“preceding year” means any financial year ending before the reorganisation date;

“preliminary period” means the period specified in a section 17 order or, where no such period is specified, the period commencing on the preliminary date, as specified in a section 17 order, and terminating immediately prior to the reorganisation date;

“the reorganisation date” means the date (being 1st April in any year) which is specified in a section 17 order;

“section 17 order” in relation to an authority means an order under section 17 of the Act affecting that authority;

“shadow authority” has the meaning given by the Local Government Changes for England Regulations 1994<sup>(9)</sup>;

“successor authority”, in relation to an abolished authority, means a local authority which is to have from the reorganisation date all the functions (or would have all the functions but for an order under sections 21 or 22 of the Act) in relation to an area which, before that date, were the functions of the abolished authority in relation to that area; and

“working day” means a day other than a Saturday, a Sunday, Christmas day, Good Friday or a day which is a bank holiday in England.

(3) In Part III of these Regulations—

(a) any reference to a relinquishing authority is a reference to a local authority which, by or in consequence of a section 17 order ceases to have functions in relation to a part of its area (in Part III of these Regulations and this paragraph referred to as “the transferred area”) from the reorganisation date; and

(b) any reference to an acquiring authority is a reference to an authority which, by or in consequence of a section 17 order, has from the reorganisation date all the functions which prior to that date were the functions of the relinquishing authority (or would have all the

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<sup>(6)</sup> 1967 c. 9.

<sup>(7)</sup> 1982 c. 32.

<sup>(8)</sup> 1993 c. 28.

<sup>(9)</sup> S.I.1994/867.

functions but for an order under sections 21 or 22 of the Act) in relation to the transferred area.

(4) In Part III of these Regulations any reference to a structural or boundary change shall be construed in accordance with section 14 of the Act.

## PART II

### MODIFICATIONS OF PRIMARY LEGISLATION

#### **Billing authorities and major precepting authorities**

3.—(1) References to a billing authority in any enactment shall, unless the contrary intention appears, include for any financial year an authority which is, by virtue of section 18(1) of the Act (consequences of structural changes etc.), a billing authority for that year for the purposes of Part I of the 1992 Act.

(2) References to a major precepting authority in any enactment shall, unless the contrary intention appears, not include for any financial year an authority which is, by virtue of section 18(1) of the Act, a billing authority for that year for the purposes of Part I of the 1992 Act.

#### **Local Government Act 1972 (c. 70) Principal councils' funds and accounts**

4. After subsection (5) of section 148 of the 1972 Act (principal councils' funds and accounts)(10) there shall be added the following subsections—

“(5A) Subsections (2) and (4) above shall not apply to the council for a county for any financial year for which that council is, by virtue of section 18(1) of the Local Government Act 1992, a billing authority for that year for the purposes of Part I of the Local Government Finance Act 1992.

(5B) For any financial year for which the council for a county is, by virtue of section 18(1) of the Local Government Act 1992, a billing authority for that year for the purposes of Part I of the Local Government Finance Act 1992, subsection (5)(b) above, and not subsection (5) (a), shall apply in the case of the county.”.

#### **Local Government Finance Act 1988 (c. 41) Levies**

5. In section 74 of the 1988 Act (levies)(11), after subsection (2) there shall be inserted the following subsection—

“(2A) The reference in subsection (2) above to the council concerned includes a reference to a council to which the functions of the council concerned in relation to the whole or any part of its area have been transferred by or in consequence of an order under section 17 of the Local Government Act 1992.”.

#### **Collection funds**

6.—(1) In subsection (2) of section 89 of the 1988 Act (collection funds)(12) there shall be inserted at the beginning the words “Subject to subsection (2A) below,”.

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(10) Subsection (5) of section 148 of the 1972 Act was amended by the Local Government (Consequential Amendments) Order 1991 (S.I. 1991/1730).

(11) Section 74 was amended by paragraph 72 of Schedule 13 to the 1992 Act and by paragraph 21 of Schedule 6 to the Local Government (Wales) Act 1994 (c. 19).

(12) Section 89 was amended by paragraph 62 of Schedule 5 to the 1989 Act and paragraph 19 of Schedule 10 to the 1992 Act.

(2) After subsection (2) of that section there shall be inserted the following subsections—

“(2A) In the case of a district council which is established for an area by an order under section 17 of the Local Government Act 1992, the collection fund must be established on the date on which by virtue of the order the structural or boundary change affecting the area comes into force.

(2B) In the case of—

(a) a county council which is established by such an order and to which are transferred by or in consequence of the order the functions of district councils in relation to the county council’s area, or

(b) an existing county council to which are transferred by or in consequence of such an order the functions of district councils in relation to the county council’s area, the collection fund must be established on the date on which by virtue of the order the structural change concerned comes into force.”.

(3) After subsection (5) of that section there shall be inserted the following subsection—

“(6) In this section and section 91 below “structural change” and “boundary change” shall be construed in accordance with section 14 of the Local Government Act 1992.”.

### **General funds**

7.—(1) In subsection (1) of section 91 of the 1988 Act (general funds), after paragraph (a) there shall be inserted the following paragraph—

“(aa) a county council to which have been transferred, by or in consequence of an order under section 17 of the Local Government Act 1992, the functions of district councils in relation to the county council’s area,”.

and accordingly regulation 5(7) of the Local Government Changes for England Regulations 1994 shall not apply in relation to the reference in paragraph a of that subsection to a district council<sup>(13)</sup>.

(2) In subsection (3) of that section there shall be inserted at the beginning the words “Subject to subsection (3A) below,”.

(3) After subsection (3) of that section there shall be inserted the following subsections—

“(3A) In the case of a district council which is established for an area by an order under section 17 of the Local Government Act 1992, the general fund must be established on the date on which by virtue of the order the structural or boundary change affecting the area comes into force.

(3B) In the case of—

(a) a county council which is established by such an order and to which are transferred by or in consequence of the order the functions of district councils in relation to the county council’s area, or

(b) an existing county council to which are transferred by or in consequence of such an order the functions of district councils in relation to the county council’s area, the general fund must be established on the date on which by virtue of the order the structural change comes into force (in this section referred to as “the reorganisation date”).”.

(4) In subsection (4) of that section for the words “after 31 March 1990 shall be paid into its general fund” there shall be substituted the words “on or after the date on which it is required by this section to establish its general fund shall be paid into that fund”.

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(13) S.I. 1994/867.

(5) In subsection (5) of that section for the words “after 31 March 1990 shall be met from its general fund” there shall be substituted the words “on or after the date on which it is required by this section to establish its general fund shall be met from that fund”.

(6) At the end of that section there shall be added the following subsection—

“(8) The assets held in the county fund of a county council such as is referred to in subsection (3B)(b) above immediately before the reorganisation date (other than assets forming part of a trust fund) shall be transferred on that date to its general fund established under this section.”.

### **General funds: supplementary**

8. In subsection (4) of section 92 of the 1988 Act (general funds: supplementary), for the words “section 91(6) or (7)” there shall be substituted the words “section 91(6), (7) or (8)”.

### **Local Government and Housing Act 1989 (c. 42) Fire authorities**

9. In section 39(1) of the 1989 Act (authorities to which Part IV of that Act applies) after paragraph (i) there shall be inserted—

“(ia) a fire authority constituted by a combination scheme made under section 6 of the Fire Services Act 1947 in consequence of an order made under Part II of the Local Government Act 1992.”.

### **Recoupment of subsidy in certain cases**

10. In subsection (1) of section 86 of the 1989 Act (recoupment of subsidy in certain cases), after the words “the authority” there shall be inserted the words “any or, in the case of a local housing authority in England, other authority which subsequently exercises the functions of a local housing authority for any part of the same area”.

### **Local Government Finance Act 1992 (c. 14) Power to designate authorities**

11. In subsection (3) of section 54 of the 1992 Act (power to designate authorities)(14)—

(a) for paragraph (b) there shall be substituted the following paragraph—

“(b) councils of non-metropolitan districts which do not have the functions of county councils;”;

(b) for paragraph (e) there shall be substituted the following paragraphs—

“(e) county councils which do not have the functions of district councils;

(ea) councils of non-metropolitan districts which have the functions of county councils, and county councils which have the functions of district councils;”.

### **Special transitional provisions**

12. In subsection (1) of section 55 of the 1992 Act (special transitional provisions), at the end of paragraph (b) there shall be inserted the words—

“or

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(14) Subsection (3) of section 54 of the 1992 Act has been prospectively amended by paragraph 98 of Schedule 16 to the Local Government (Wales) Act 1994 (c. 19) and section 27(2) of the Police and Magistrates' Courts Act 1994 (c. 29).

- (c) as regards any financial year and any new authority established by an order under section 17 of the Local Government Act 1992 as a county or district council for an area at any time during the period consisting of that year and the preceding financial year.”.

## PART III

### TRANSITIONAL PROVISIONS

#### General Rate Act 1967 Rates: functions of authorities

**13.**—(1) In respect of the continued operation of the 1967 Act<sup>(15)</sup> by virtue of the General Rate Act 1967 and Related Provisions (Savings and Consequential Provision) Regulations 1990 (referred to in this regulation as “the 1990 Regulations”), any functions under the 1967 Act—

- (a) of an abolished authority in respect of hereditaments situated in part of its area for the purposes of, or for purposes connected with, the matters referred to in regulation 3(1)(b) and (c) of the 1990 Regulations shall, from the reorganisation date, be the functions of the successor authority for that part of its area in which the hereditaments are situated;
- (b) of an abolished authority for the purposes of, or for purposes connected with, the matters referred to in regulation 3(1)(a) and (d) of the 1990 Regulations shall, from the reorganisation date, be the functions of the designated authority and any adjustment to any payment referred to in regulation 3(1)(d) of those Regulations which would fall to be made in respect of an abolished authority shall be made in respect of the designated authority; and
- (c) of a relinquishing authority for the purposes of, or for purposes connected with, the matters referred to in regulation 3(1)(a) to (d) of the 1990 Regulations shall, in respect of hereditaments situated in the transferred area, from the reorganisation date continue to be functions of the relinquishing authority in respect of those hereditaments and shall not be functions of the acquiring authority.

(2) For the purposes of paragraph (1)(a), anything done by or in relation to an abolished authority in the exercise of its functions pursuant to regulation 3(1)(b) and (c) of the 1990 Regulations in respect of hereditaments situated in part of its area shall be treated as if it had been done by or in relation to the successor authority in relation to the part of its area in which the hereditaments are situated.

(3) For the purposes of paragraph (1)(b), anything done by or in relation to an abolished authority in the exercise of its functions pursuant to regulation 3(1)(a) and (d) of the 1990 Regulations shall be treated as if it had been done by or in relation to the designated authority.

(4) The valuation list for the rating area of an abolished authority shall, on the last working day before the reorganisation date, be deposited by that authority at the offices of the designated authority.

(5) A designated authority shall on or after the reorganisation date provide such assistance as any other successor authority may reasonably require to enable the other successor authority to discharge its functions under the 1967 Act, including providing information about the valuation list, giving access to it and giving effect to any directions which may be given by a valuation officer to cause or direct alterations to be made in that list.

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<sup>(15)</sup> The 1967 Act was repealed in relation to any time after 31st March 1990 by section 117 of and Schedule 13 to the 1988 Act; provisions in the 1967 Act continue to have effect for certain purposes under the General Rate Act 1967 and Related Provisions (Savings and Consequential Provision) Regulations 1990 (S.I. 1990/777); the Local Government Finance (Repeals, Saving and Consequential Amendments) Order 1990 (S.I. 1990/776) and paragraphs 15 to 25 of Schedule 13 to the 1992 Act made amendments to the saved provisions.

### **Local Government Act 1972 Power to incur expenditure for purposes not otherwise authorised**

**14.**—(1) In relation to expenditure incurred under section 137 of the 1972 Act (power of local authorities to incur expenditure for certain purposes not otherwise authorised)(**16**) by an abolished authority, the reference in—

- (a) paragraph (d) of subsection (4B) of that section to any grant received by the authority, and
- (b) paragraph (f)(iii) of that subsection to any grant or other payment to the authority,

shall on or after the reorganisation date be construed as including, respectively, any grant received by, or any grant or other payment to, a successor authority in respect of the abolished authority.

(2) The reference in section 137(7) of the 1972 Act to any statement of accounts prepared by a local authority pursuant to regulations under section 23 of the 1982 Act shall on or after the reorganisation date be construed, in relation to the accounts of an abolished authority, as including any statement of accounts prepared by the designated authority.

### **Financial assistance conditional on provision of information**

**15.** For the purposes of section 137A of the 1972 Act (financial assistance to be conditional on provision of information)(**17**), anything done by or to an abolished authority at any time shall on or after the reorganisation date be treated as having been done by or to the designated authority at that time.

### **Funds of shadow authorities**

**16.**—(1) Subject to paragraph (2), any sums received and payments made by a shadow authority during the preliminary period shall—

- (a) where such an authority is to have the functions of a district council, be paid into and met from a fund to which the provisions of sections 91 and 92 (general funds) of the 1988 Act shall apply as if the authority were a relevant authority and as if in section 91(3) for “1 April 1990” there were substituted a reference to the beginning of the preliminary period and as if in section 91(4) and (5) for “31 March 1990” there were substituted a reference to the beginning of the preliminary period;
- (b) where such an authority is to have the functions of a county council but not those of a district council, be paid into and met from a fund to which the provisions of section 148(4) of the 1972 Act (principal councils' funds and accounts) shall apply as if the authority were a council for a county.

(2) Any sums received and payments made during the preliminary period by a shadow authority as described in paragraph (1)(a) in respect of matters referred to in section 90 (payments to and from collection funds) of the 1988 Act shall be paid into and met from a fund to which the provisions of section 89 of the 1988 Act (collection funds) shall apply as if the authority were a billing authority and as if in section 89(2) for “April 1, 1990” there were substituted a reference to the beginning of the preliminary period.

(3) Section 148(5) of the 1972 Act shall apply to the funds described in paragraphs (1) and (2).

(4) On the reorganisation date assets held in the funds described in paragraphs (1)(a), (1)(b) and (2) shall be transferred respectively to the general fund of the authority, the county fund of the authority and the collection fund of the authority.

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**(16)** Section 137 was amended by section 44 of the Local Government (Miscellaneous Provisions) Act 1982 (c. 30), paragraph 5(4) of Schedule 5 to the 1982 Act, section 3(3) of the Local Government Act 1986 (c. 10) and section 36 of the 1989 Act.

**(17)** Section 137A was inserted by section 37 of the 1989 Act.



### **Local financial returns**

17.—(1) Where an abolished authority has not made a return as required under section 168 of the 1972 Act (local financial returns)(18) for any year, the designated authority shall as soon as is reasonably practicable after the reorganisation date make such a return.

(2) Any return made pursuant to paragraph (1) shall be made separately from any other return made by the designated authority under section 168 of the 1972 Act.

### **Reports and returns**

18. For the purposes of section 230 of the 1972 Act (reports and returns), a designated authority shall on or after the reorganisation date send the Secretary of State such reports and returns in relation to the abolished authority and give him such information with respect to the functions of the abolished authority, as have been required but not supplied before the reorganisation date or as the Secretary of State may require or as may be required by either House of Parliament subsequently.

### **Local Government Finance Act 1982 Functions of designated authorities for preceding years**

19.—(1) Any functions under Part III of the 1982 Act (accounts and audit) exercisable by or in relation to an abolished authority shall be exercisable as regards a preceding year on or after the reorganisation date by or in relation to the designated authority, and, in particular,—

- (a) the designated authority shall ensure that the accounts of the abolished authority are made up and balanced;
- (b) the designated authority may recover any sum or amount which would have been recoverable for the benefit of the abolished authority in accordance with section 20(1) of the 1982 Act (recovery not accounted for etc.)(19).

(2) For the purposes of paragraph (1), anything done by or in relation to an abolished authority in the exercise of its functions under Part III of the 1982 Act shall be treated as if it had been done by or in relation to the designated authority.

(3) A successor authority which is not a designated authority shall on or after the reorganisation date provide any information which the designated authority reasonably requires to enable the designated authority to discharge its functions under Part III of the 1982 Act by virtue of paragraph (1), and in particular—

- (a) the designated authority shall have a right of access at all reasonable times to any documents in the possession of any other successor authority which relate to the abolished authority; and
- (b) the designated authority may require any officer or member of any other successor authority, who was an officer or member of the abolished authority at any time, to provide such information or explanation as appears to the designated authority necessary.

### **Accounts subject to audit**

20.—(1) Any accounts of an abolished authority which have not been audited in accordance with Part III of the 1982 Act before the reorganisation date shall be required to be so audited on or after that date.

(2) Section 16(2) of the 1982 Act shall have effect on or after the reorganisation date in relation to the accounts of the abolished authority as if the reference to any officer or member of a body whose

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(18) Section 168 was amended by paragraphs 17 and 18 of Schedule 3 to the Local Government Finance (Repeals, Savings and Consequential Amendments) Order 1990 (S.I. 1990/776) and paragraph 34 of Schedule 13 to the 1992 Act.

(19) Section 20(1) was amended by paragraph 10 of Schedule 4 to the National Health Service and Community Care Act 1990 (c. 19).



accounts are required to be audited and who may be required by the auditor to give information or explanation included any officer or member of a successor authority or a residuary body established by order under section 22 of the Act (residuary bodies).

### **Audit Commission's right to information**

**21.** Section 28(1) of the 1982 Act shall have effect on or after the reorganisation date in relation to the accounts of an abolished authority as if the reference to any officer or member of a body whose accounts are required to be audited and who may be required by the Commission to furnish information included any officer or member of a successor authority or a residuary body established by order under section 22 of the Act (residuary bodies).

### **Prohibition orders**

**22.—**(1) Where, on the last working day before the reorganisation date, a prohibition order under section 25A of the 1982 Act (power of auditor to issue prohibition order)(**20**) has effect in relation to the accounts of an abolished authority—

- (a) the auditor in relation to the accounts of that authority shall, on that date, serve a copy of the order on any successor authority; and
- (b) the prohibition order shall have effect on or after the reorganisation date for the purposes of Part III of the 1982 Act as if it had been issued in relation to the accounts of any such authority.

(2) An auditor in relation to the accounts of a successor authority may on or after the reorganisation date issue a prohibition order under that section if he has reason to believe that, before the reorganisation date, the abolished authority or any officer of the abolished authority has made a decision which involves or would involve the successor authority incurring expenditure which is unlawful or was about to take or has taken a course of action which, if pursued by the successor authority to its conclusion, would be unlawful and likely to cause a loss or deficiency.

### **Local government electors**

**23.** Any reference in Part III of the 1982 Act to a local government elector shall, on or after the reorganisation date, in relation to the accounts of an abolished authority or a relinquishing authority for a preceding year, be treated as a reference to a local government elector for, respectively, the area of any successor authority or the area of the relinquishing authority and any acquiring authority.

### **Local Government Finance Act 1988 Community charges: rights and duties of successor and relinquishing authorities**

**24.—**(1) Any rights and duties under Part I of the 1988 Act (community charges)(**21**) exercisable by or in relation to an abolished authority in connection with a community charge payable to it by virtue of a residence, property or dwelling situated in any part of its area shall be exercisable on or after the reorganisation date by or in relation to the successor authority for that part of the abolished authority's area (referred to in paragraph (3) and regulation 26 as the relevant successor authority).

(2) Any rights and duties under Part I of the 1988 Act exercisable by or in relation to a relinquishing authority in connection with a community charge payable to it by virtue of a residence, property or dwelling situated in the transferred area shall continue to be exercisable on or after that date by the relinquishing authority in relation to those residences, properties or dwellings and shall not be exercisable by the acquiring authority in relation to such residences, properties or dwellings.

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(20) Section 25A was inserted by Schedule 4 to the Local Government Act 1988 (c. 9).

(21) Part I was repealed by Schedule 14 to the 1992 Act but, by section 118(1) of that Act, nothing in that Act affects the operation of the 1988 Act in relation to any financial year beginning before 1st April 1993.

(3) For the purposes of paragraph (1), anything done by or in relation to an abolished authority in the exercise of its functions under Part I of the 1988 Act shall be treated as if it had been done by or in relation to the relevant successor authority.

### **Community charges register**

**25.**—(1) The community charges register or the relevant part of such a register, compiled and maintained in accordance with Part I of the 1988 Act for an abolished authority shall on or after the reorganisation date be the community charges register or part of the register of the successor authority.

(2) For the purposes of paragraph (1), the relevant part of a register compiled for an abolished authority is that part which contains items in respect of residences, properties and dwellings situated in the area of the successor authority.

### **Community charges registration officer**

**26.**—(1) For the purposes of section 26 of the 1988 Act (community charges registration officer), the community charges registration officer for any county council which has the rights and duties of a charging authority by virtue of regulation 24 shall on or after the reorganisation date be the officer having responsibility for the administration of the county council's financial affairs under section 151 of the 1972 Act (financial administration).

(2) Any action or proceeding pending or existing immediately before the reorganisation date by, or against, the community charges registration officer of an abolished authority may be continued, prosecuted and enforced by, or against, the community charges registration officer of the relevant successor authority.

### **Non-domestic rating: functions of successor and relinquishing authorities for preceding years**

**27.**—(1) Subject to regulation 33, any rights and duties under Part III of the 1988 Act (non-domestic rating) exercisable as regards a preceding year by or in relation to an abolished authority in respect of hereditaments situated in any part of its area shall be exercisable on or after the reorganisation date by or in relation to the successor authority for that part of the abolished authority's area (referred to in paragraph (3) as the relevant successor authority).

(2) Any rights and duties under Part III of the 1988 Act exercisable by or in relation to a relinquishing authority in respect of hereditaments situated in the transferred area shall as regards any preceding year continue to be exercisable on or after that date by the relinquishing authority in relation to those hereditaments and shall not be exercisable by the acquiring authority in relation to those hereditaments as regards any preceding year.

(3) For the purposes of paragraph (1), anything done by or in relation to an abolished authority in the exercise of its functions under Part III of the 1988 Act shall be treated as if it had been done by or in relation to the relevant successor authority.

### **Non-domestic rating: billing authority functions and contribution during the preliminary period**

**28.**—(1) Part III of, and Part II of Schedule 8 to, the 1988 Act (non-domestic rating and contribution) shall have effect during the preliminary period for the purposes of the exercise of any functions under those Parts as regards the initial year by an authority which is the subject of a section 17 order and is on or after the reorganisation date to have the functions of a district council as if the relevant structural or boundary change had come into effect in relation to that authority from the beginning of the preliminary period.

(2) An abolished authority shall not exercise any of the functions of a billing authority under Part III of, and Part II of Schedule 8 to, the 1988 Act as regards the initial year.

#### **Non-domestic rating: rights and duties of acquiring authorities**

**29.** Section 47 of the 1988 Act shall have effect on or after the reorganisation date as regards the initial and any subsequent year as if any decision made or revoked or any determination made or varied by a relinquishing authority in connection with non-domestic rates payable to it in respect of a hereditament situated in the transferred area had been made, revoked or varied by the acquiring authority.

#### **Non-domestic rating: valuation officers**

**30.** Section 61 of the 1988 Act (valuation officers) shall have effect during the preliminary period for the purposes of the appointment of a valuation officer for any authority referred to in section 89(2A) or (2B) of the 1988 Act<sup>(22)</sup> as if the relevant structural or boundary change had come into effect in relation to that authority from the beginning of the preliminary period.

#### **Non-domestic rating: local rating lists and alteration of lists**

**31.—(1)** Subject to paragraph (3), not later than 29th November in the immediately preceding year the valuation officer for any authority referred to in section 89(2A) or (2B) of the 1988 Act shall send to the authority a list of the hereditaments and details in relation to those hereditaments which (on the basis of the information before him) he believes will be the hereditaments and details prescribed or referred to in section 42 of the 1988 Act for the authority on the reorganisation date, and as soon as is practicable after receipt the authority shall deposit the list at its principal office.

(2) Not later than 29th November in the immediately preceding year the valuation officer shall serve a notice on the following authorities of the effect of the alterations which (on the basis of the information then before him) he believes will be the alterations to the authority's local non-domestic rating list for the purposes of Part III of the 1988 Act which are to take effect on the reorganisation date—

- (a) a successor or acquiring authority other than an authority as described in paragraphs (1) or (3); and
- (b) a relinquishing authority,

and as soon as is practicable after receipt the authority shall deposit a copy of the notice at its principal office.

(3) In respect of a successor or acquiring authority which is a district council, or a county council to which are transferred by or in consequence of a section 17 order the functions of district councils in relation to the county council's area, where the reorganisation date is the same as that on which a list is required to be compiled under section 41 of the 1988 Act, the local non-domestic rating list for the authority shall be compiled in accordance with that section.

(4) As soon as is reasonably practicable after the reorganisation date the valuation officer for any relinquishing, successor or acquiring authority shall send to his authority a copy of its list, or notice of the effect of alterations to its list, as the case may be, to take effect on the reorganisation date but otherwise prepared as described in paragraphs (1) or (2) and as soon as is reasonably practicable after receipt of such a list or such notice of alterations to a list the authority shall deposit the list at its principal office or alter the copy of the non-domestic rating list deposited at its principal office as the case may be.

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<sup>(22)</sup> Subsections (2A) and (2B) of the 1988 Act are added by regulation 6(2) of these Regulations.

(5) A list sent in accordance with paragraph (4) shall constitute the local non-domestic rating list of the authority as if the list had been compiled in accordance with section 41 of the 1988 Act and for the purposes of the operation of section 41(2) of that Act the list shall be treated as if it had been compiled on the last 1st April preceding the reorganisation date on which a list falls to be compiled under that section.

#### **Non-domestic rating: local rating list of an abolished authority**

**32.**—(1) The local non-domestic rating list, or the relevant part of such a list, compiled and maintained in accordance with Part III of the 1988 Act for an abolished authority shall on or after the reorganisation date be a local non-domestic rating list, or part of such a list, of the successor authority as if it had been compiled and maintained for that authority.

(2) For the purposes of paragraph (1), the relevant part of a list compiled for an abolished authority is that part which shows hereditaments situated in the area of the successor authority.

#### **Non-domestic rating: contribution and distribution**

**33.**—(1) Any functions under Parts II and III of Schedule 8 to the 1988 Act (contribution and distribution)(**23**) exercisable by or in relation to an abolished authority shall be exercisable as regards a preceding year on or after the reorganisation date by or in relation to the designated authority.

(2) For the purposes of paragraph (1), anything done by or in relation to an abolished authority before the reorganisation date in the exercise of any function under Parts II and III of Schedule 8 to the 1988 Act shall be treated as if it had been done by or in relation to the designated authority.

(3) Paragraph 6(2) of Part II of Schedule 8 to the 1988 Act shall have effect on or after the reorganisation date as if any calculation made under paragraph 5 of that Part of that Schedule by a designated authority of the amount of the abolished authority's non-domestic rating contribution for an immediately preceding year were required to be made on the basis of the information before the abolished authority immediately before the reorganisation date.

(4) A new authority shall, from the beginning of the preliminary period, be treated as a receiving authority for the purposes of Part III of Schedule 8 to the 1988 Act in relation to the initial year.

(5) An abolished authority shall not be treated as a receiving authority for the purposes of Part III of Schedule 8 to the 1988 Act in relation to the initial year.

#### **Grants**

**34.**—(1) Any functions of the Secretary of State or a local authority exercisable under Part V of the 1988 Act (grants)(**24**) by or in relation to an abolished authority in respect of a preceding year shall on or after the reorganisation date be exercisable by or in relation to the designated authority.

(2) For the purposes of paragraph (1), anything done by or in relation to an abolished authority in the exercise of any function under Part V of the 1988 Act shall be treated as if it had been done by or in relation to the designated authority.

(3) A new authority shall, from the beginning of the preliminary period, be treated as a receiving authority for the purposes of Part V of the 1988 Act in relation to the initial year.

(4) An abolished authority shall not be treated as a receiving authority for the purposes of Part V of the 1988 Act in relation to the initial year.

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(23) Part II was amended and Part III was substituted by, respectively, paragraphs 6 and 7 of Schedule 10 to the 1992 Act.

(24) Part V was amended by Schedule 5 to the 1989 Act and Schedule 10 to the 1992 Act.

## **Transport grants**

**35.** For the purposes of section 87(5)(a) of the 1988 Act any relevant transport expenditure of an abolished authority or of a relinquishing authority in relation to an area shall on or after the reorganisation date be treated as if it had been the expenditure of respectively the successor authority or the acquiring authority in relation to that area.

## **Financial administration: reports of the chief finance officer of an abolished authority**

**36.**—(1) Where prior to the reorganisation date—

- (a) the chief finance officer of an abolished authority has made a report under section 114 of the 1988 Act (functions of responsible officer as regards reports)(**25**), and
- (b) a meeting in respect of that report has not been held under section 115 of that Act (authority's duties as regards reports) by a date which is 21 days before the reorganisation date,

the chief finance officer of the abolished authority shall on the date which is 21 days before the reorganisation date or, if that is not a working day, on the next working day following that date, send a copy of the report to the chief finance officer of each successor authority.

(2) Where the chief finance officer of the abolished authority makes a report under section 114 of the 1988 Act during the period of 21 days before the reorganisation date he shall send a copy of the report to the chief finance officer of each successor authority.

(3) The chief finance officer of a successor authority shall, as soon as is reasonably practicable after receiving a copy of a report under paragraph (1) or (2), send a copy of it to the person who has the duty to audit the successor authority's accounts and each person who is a member of the successor authority.

(4) The copy of the report sent under paragraph (3) shall be accompanied by a notice stating that if the abolished authority has not held a meeting in respect of the report under section 115 of the 1988 Act before the reorganisation date the successor authority shall hold such a meeting not later than the end of the period of 21 days beginning with that date.

(5) If a meeting in respect of a report such as is mentioned in paragraph (1) or (2) is held by the abolished authority before the reorganisation date its chief finance officer shall, as soon as is reasonably practicable after the meeting, notify the chief finance officer of each successor authority of any decision made at the meeting.

(6) If the abolished authority has not held a meeting in respect of a report such as is mentioned in paragraph (1) or (2) before the reorganisation date, each successor authority shall hold such a meeting not later than the end of the period of 21 days beginning with that date, and, subject to paragraph (7), sections 115 and 116 of that Act (information about meetings) shall apply accordingly.

(7) The prohibition period referred to in section 115 of that Act shall mean the period—

- (a) beginning with the day on which copies of the report are sent under paragraph (3), and
- (b) ending with the first working day to fall after the day (if any) on which the successor authority's consideration of the report under section 115(2) is concluded.

## **Financial administration: reports of the chief finance officer of a designated authority**

**37.**—(1) The duties under section 114 of the 1988 Act of the chief finance officer of a designated authority shall apply to him on or after the reorganisation date, as regards any preceding year, as if references in subsection (3) of that section to expenditure incurred and resources available to an authority included references to expenditure incurred and resources available to the abolished

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(25) Section 114 was amended by paragraph 66 of Schedule 5 to the 1989 Act.

authority, and, subject to paragraphs (2) and (3), sections 114 to 116 of that Act shall apply accordingly.

(2) Where the chief finance officer of the designated authority has made a report under section 114 of that Act concerning the abolished authority he shall send a copy of it to—

- (a) the person who at the time the report is made has the duty to audit the accounts of the abolished authority, and
- (b) each person who at that time is a member of the designated authority.

(3) Where the designated authority proposes to hold a meeting under section 115 of the 1988 Act in respect of a report concerning the abolished authority the chief finance officer of the designated authority shall—

- (a) as soon as is reasonably practicable, notify the person referred to in paragraph (2)(a) of the date, time and place of the proposed meeting; and
- (b) as soon as is reasonably practicable after the meeting is held, notify that person of any decision made at the meeting.

#### **Financial administration: reports of the chief finance officer of a successor or acquiring authority**

**38.**—(1) Subject to paragraph (2), the duties under section 114 of the 1988 Act of the chief finance officer of a successor or acquiring authority shall apply to him on or after the reorganisation date as if references in subsection (2) of that section to decisions made or courses of action taken by an authority included references to decisions made or courses of action taken respectively by the abolished or relinquishing authority and sections 114 to 116 of that Act shall apply accordingly.

(2) Paragraph (1) shall only apply where the chief finance officer of the successor or acquiring authority considers that a decision made or course of action taken respectively by the abolished or relinquishing authority affects the successor or acquiring authority.

#### **Local Government and Housing Act 1989 Duty to prevent debit balance on Housing Revenue Account**

**39.** The duties of an abolished or relinquishing authority under section 76 of the 1989 Act (duty to prevent debit balance on Housing Revenue Account) as regards an initial year shall, in relation to houses and other property which will from the reorganisation date be within the Housing Revenue Account of a successor or acquiring authority, be discharged by the successor or acquiring authority, as the case may be, during the preliminary period.

#### **Special grants**

**40.**—(1) Any functions of the Secretary of State or a local authority exercisable under section 146 of the 1989 Act (special grants)<sup>(26)</sup> by or in relation to an abolished authority shall on or after the reorganisation date be exercisable by or in relation to the designated authority.

(2) For the purposes of paragraph (1), anything done by or in relation to an abolished authority before the reorganisation date in the exercise of any function under section 146 of the 1989 Act shall be treated as if it had been done by or in relation to the designated authority.

#### **Emergency financial assistance to local authorities**

**41.**—(1) Where, before the reorganisation date, the Secretary of State has established a scheme under section 155 of the 1989 Act (emergency financial assistance to local authorities) for the giving

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(26) Section 146 was repealed by Schedule 14 to the 1992 Act.

of financial assistance to an abolished authority, any rights and duties of the authority in relation to the scheme shall on or after the reorganisation date be treated as the rights and duties of the designated authority.

(2) For the purposes of any scheme under section 155 of the 1989 Act which may be established on or after the reorganisation date, any expenditure incurred by the abolished authority before that date shall be treated as having been incurred by the designated authority.

#### **Commutation of, and interest on, periodic payments of grants etc.**

**42.**—(1) Where in relation to an abolished authority—

- (a) before the reorganisation date, the Secretary of State has determined to commute any annual or other periodic payment under section 157 of the 1989 Act (commutation of, and interest on, periodic payments of grants etc.); and
- (b) on that date, the whole or any part of the commuted payment has not been paid,

the payment made by the Secretary of State on or after the reorganisation date shall be made to the designated authority or, if he thinks it appropriate, to the Public Works Loans Commissioners.

(2) Where, after the reorganisation date, it appears to the Secretary of State that a commuted payment made to an abolished authority or, by reference to that authority, to the Public Works Loans Commissioners on or before that date was smaller or greater than it should have been he may on or after the reorganisation date, as the case may require—

- (a) make a payment to the designated authority or to those Commissioners; or
- (b) require a payment to him by the designated authority of such sum as he may direct.

(3) For the purposes of any determination under section 157 of the 1989 Act which may be made on or after the reorganisation date—

- (a) the reference in subsection (1) of that section to expenditure incurred by the local authority shall, in the case of a designated authority, include expenditure incurred by the abolished authority; and
- (b) the reference in subsection (1)(b) of that section to debt of the authority shall, in the case of a designated authority, include debt of the abolished authority.

#### **Community Charges (General Reduction) Act 1991 Compensatory grants**

**43.**—(1) Any rights and duties under section 4 of the Community Charges (General Reduction) Act 1991 (compensatory grants)<sup>(27)</sup> exercisable by or in relation to an abolished authority shall be exercisable on or after the reorganisation date by or in relation to the designated authority.

(2) For the purposes of paragraph (1), anything done by or in relation to an abolished authority shall be treated as having been done by or in relation to the designated authority.

#### **Local Government Finance Act 1992 Council tax: functions of successor and relinquishing authorities for preceding years**

**44.**—(1) Any rights and duties under Chapter I of Part I of the 1992 Act (council tax: main provisions) exercisable as regards a preceding year by or in relation to an abolished authority in respect of dwellings situated in any part of its area shall be exercisable on or after the reorganisation date by or in relation to the successor authority for that part of the abolished authority's area (referred to in paragraph (3) as the relevant successor authority).

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(27) 1991 c. 9.



(2) Any rights and duties under Chapter I of Part I of the 1992 Act exercisable by or in relation to a relinquishing authority in respect of dwellings situated in the transferred area shall as regards any preceding year continue to be exercisable on or after that date by the relinquishing authority in relation to those dwellings and shall not be exercisable by the acquiring authority in relation to those dwellings as regards any preceding year.

(3) For the purposes of paragraph (1), anything done by or in relation to an abolished authority in the exercise of its functions under Chapter I of Part I of the 1992 Act shall be treated as if it had been done by or in relation to the relevant successor authority.

#### **Council tax: listing officers**

**45.** Section 20 of the 1992 Act (listing officers) shall have effect during the preliminary period for the purposes of the appointment of a listing officer for any authority referred to in section 89(2A) or (2B) of the 1988 Act as if the relevant structural or boundary change had come into effect in relation to that authority from the beginning of the preliminary period.

#### **Council tax: valuation lists and alteration of lists**

**46.—(1)** Subject to paragraph (3), not later than 29th November in the immediately preceding year the listing officer for any authority referred to in section 89(2A) or (2B) of the 1988 Act shall send to the authority a list of the dwellings and details in relation to those dwellings which (on the basis of the information before him) he believes will be the dwellings and details prescribed or referred to in section 23 of the 1992 Act for the authority on the reorganisation date and such a list shall constitute the valuation list of that authority for the purposes of Chapter II of Part I of that Act, and as soon as is reasonably practicable after receipt the authority shall deposit the list at its principal office.

(2) Not later than 29th November in the immediately preceding year the listing officer shall serve a notice on the following authorities of the effect of the alterations which (on the basis of the information then before him) he believes will be the alterations to the authority's valuation list for the purposes of Chapter II of Part I of the 1992 Act which are to take effect on the reorganisation date—

- (a) a successor or acquiring authority other than an authority as described in paragraphs (1) or (3); and
- (b) a relinquishing authority,

and as soon as is reasonably practicable after receipt the authority shall deposit the notice at its principal office.

(3) In respect of a successor or acquiring authority which is a district council, or a county council to which are transferred by or in consequence of a section 17 order the functions of district councils in relation to the county council's area, where the reorganisation date is the same date as the date specified in an order made under section 5(4) (b) of the 1992 Act (different amounts for dwellings in different valuation bands) the valuation list for the authority shall be compiled in accordance with that order.

(4) As soon as is reasonably practicable after the reorganisation date the listing officer for any relinquishing, successor or acquiring authority shall send to his authority a copy of its valuation list, or notice of the effect of alterations to its valuation list, as the case may be, to take effect on the reorganisation date but otherwise prepared as described in paragraphs (1) or (2) and as soon as is reasonably practicable after receipt of such a list or such notice of alterations the authority shall deposit the list at its principal office or alter the copy of its valuation list deposited at its principal office as the case may be.

### **Council tax: valuation list of an abolished authority**

47.—(1) The valuation list, or the relevant part of such a list, compiled and maintained in accordance with Chapter II of Part I of the 1992 Act for an abolished authority shall on or after the reorganisation date be the valuation list, or part of such a list, of the successor authority as if it had been compiled and maintained for that authority.

(2) For the purposes of paragraph (1), the relevant part of a list compiled for an abolished authority is that part which shows dwellings situated in the area of the successor authority.

### **Council tax: information about lists**

48. For the purposes of section 28(2) of the 1992 Act (information about lists) a copy of any list deposited by an authority in accordance with regulation 46(4) shall be treated as if it had been deposited by that authority under section 22(8) of that Act.

### **Council tax: main provisions, setting of council tax, issue of precepts**

49.—(1) Chapters I, III and IV of Part I of the 1992 Act (main provisions, setting of council tax and precepts) shall have effect during the preliminary period for the purposes of the exercise of any functions under those Chapters as regards the initial year by or in relation to an authority which is the subject of a section 17 order as if the relevant structural or boundary change had come into effect in relation to that authority from the beginning of the preliminary period.

(2) An abolished authority shall not exercise any of the functions of a billing authority or a major precepting authority under Chapters I, III or IV of Part I of the 1992 Act as regards the initial year.

### **Non-domestic rating: duty to consult ratepayers**

50. Section 65 of the 1992 Act (duty to consult ratepayers) shall have effect during the preliminary period for the purposes of consultation under that section as regards the initial year by or in relation to an authority which is the subject of a section 17 order as if the relevant structural or boundary change had come into effect in relation to that authority from the beginning of the preliminary period.

### **Local Government Act 1992 Citizen's charter provisions**

51.—(1) The duties under sections 1 and 2 of the Act (publication of information as to standards of performance) of an abolished authority as regards any preceding year shall, on or after the reorganisation date, be the duties of the designated authority.

(2) The designated authority shall discharge its duties pursuant to paragraph (1) separately from its other duties under those sections of that Act.

(3) As regards any preceding year, the functions of the Audit Commission under sections 1, 2 and 7 of that Act (section 7: publication of information by the Audit Commission) in relation to an abolished authority shall, from the reorganisation date, be exercised as if the designated authority were the abolished authority.

### **Duty to consider auditor's report or recommendation**

52.—(1) This regulation applies where before the reorganisation date an auditor's report or a written recommendation by an auditor as described in section 5 (1) (a) or (b) of the Act has been sent to an abolished authority in connection with the audit of that authority's accounts.

(2) Anything done by or in relation to an abolished authority in respect of such a report or recommendation shall be treated on or after the reorganisation date as if it had been done by or in relation to the designated authority.

(3) Where the abolished authority has not before the reorganisation date considered the report or recommendation in accordance with sections 5 and 6 of the Act the abolished authority shall send the report or recommendation to the designated authority on the last working day before the reorganisation date and the designated authority shall consider the report or recommendation in accordance with sections 5 and 6 of the Act save that if any time limit for such consideration has expired prior to the reorganisation date the designated authority shall consider the report or recommendation as soon as is reasonably practicable after that date and in any event within 4 months from the reorganisation date.

### **Leasehold Reform, Housing and Urban Development Act 1993 Levy on disposals**

**53.**—(1) Where the conditions in paragraph (3) are satisfied, an acquiring or designated authority shall be liable to pay a levy in accordance with section 136 of the 1993 Act to the Secretary of State of an amount equal to that which the relinquishing or abolished authority would have paid had it received the actual or notional capital receipt.

(2) Accordingly, the provisions made by and under section 136 of the 1993 Act in relation to the administration and payment of the levy shall apply to the acquiring or designated authority as they would have applied to the relinquishing or abolished authority.

(3) The conditions are—

- (a) a relinquishing or abolished authority makes a qualifying disposal as defined in section 136(1) of the 1993 Act; and
- (b) on or after the reorganisation date an acquiring or designated authority receives an actual or notional receipt which, if it had been received by the authority making the disposal, would have been included in “CR” as defined in section 136(3) of the 1993 Act.

### **General provisions Grants and Contributions**

**54.**—(1) Where before the reorganisation date the Secretary of State has paid grant to an abolished authority under section 70(2) of the Local Government, Planning and Land Act 1980<sup>(28)</sup> (grants in respect of caravan sites for gypsies) or has paid contributions to an abolished authority under section 516 of the Housing Act 1985<sup>(29)</sup> (contributions by Secretary of State) or sections 96 or 132 of the 1989 Act (contributions by the Secretary of State) any rights and duties of the authority in relation to the grant or contributions shall on or after the reorganisation date be treated as the rights and duties of the designated authority.

(2) For the purposes of paragraph (1) anything done by or in relation to the abolished authority in connection with the grant or contributions shall be treated on or after the reorganisation date as if it had been done by or in relation to the designated authority.

### **Assistance to successor and acquiring authorities**

**55.** During the preliminary period and the initial year each successor authority shall provide to any other successor authority, and a relinquishing authority shall provide to an acquiring authority, and each acquiring authority shall provide to any other acquiring authority in respect of the same

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(28) 1980 c. 65.

(29) 1985 c. 68. Section 516 was repealed by section 194 of and Schedule 12 to the Local Government and Housing Act 1989 but with savings provided for in the Local Government and Housing Act 1989 (Commencement No. 8 and Transitional Provisions) Order 1990, S.I. 1990/1274 (c. 36), for applications made and approved before 1st July 1990.

relinquishing authority, such information and assistance as the successor or acquiring authority, as the case may be, requires to enable it to discharge any functions transferred to it under these Regulations.

**Assistance to the chief finance officer of a successor or acquiring authority**

**56.** A person who during the preliminary period is the chief finance officer of an abolished or relinquishing authority shall during that period provide such assistance to the chief finance officer of respectively any successor or acquiring authority as such chief finance officer reasonably requires to enable him to discharge any functions referred to in regulations 36, 37 and 38 and shall provide the same assistance during any part of the initial year in which that person is an officer of a successor authority or continues to be an officer of the relinquishing authority, as the case may be.

Signed by authority of the Secretary of State

Department of the Environment  
4th November 1994

*David Curry*  
Minister of State,

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

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## EXPLANATORY NOTE

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

Part II of the Local Government Act 1992 makes provision for local government changes in England. The Local Government Commission for England makes recommendations to the Secretary of State about such changes and where recommendations for change are made the Secretary of State may make an order giving effect to those recommendations.

These Regulations make incidental, consequential, transitional and supplementary provision of general application for the purposes of and in consequence of such orders and deal with finance matters.

The Regulations make amendments to primary legislation concerning principal councils funds and accounts, councils who may be subject to a levy, billing authorities and major precepting authorities, fire authorities constituted by a combination scheme, grants and Housing Revenue Account subsidy, and designation and special transitional provisions in relation to limitation of council tax and precepts.

The Regulations make transitional provisions in relation to general rates, community charge, non-domestic rates and council tax. They also contain transitional provisions concerning funds and accounts, including the Housing Revenue Account. The Regulations make transitional provisions concerning grants and make general advice and assistance provisions for the purposes of the Regulations.