

1990 No. 493

LOCAL GOVERNMENT, ENGLAND AND WALES

The Local Government Finance (Payments) (English Authorities) Regulations 1990

<i>Made</i> - - - -	<i>7th March 1990</i>
<i>Laid before Parliament</i>	<i>9th March 1990</i>
<i>Coming into force</i> -	<i>1st April 1990</i>

The Secretary of State for the Environment, in exercise of his powers under sections 140(4), 141, 141A and 143(1) of the Local Government Finance Act 1988(a), and of all other powers enabling him in that behalf, hereby makes the following Regulations:-

Citation and commencement

1. These Regulations may be cited as the Local Government Finance (Payments) (English Authorities) Regulations 1990 and shall come into force on 1st April 1990.

Interpretation

2.—(1) In these Regulations—

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

“charging authority” means an English charging authority.

(2) In Part I of these Regulations “the first relevant provisions” and “the second relevant provisions” have the same meaning as in section 141 of the Act.

(3) In Part II of these Regulations “the first relevant provisions” and “the second relevant provision” have the same meaning as in section 141B of the Act.

(4) In Part II of these Regulations “the charging authority’s relevant amount” means the charging authority’s relevant amount determined under section 141B of the Act.

PART I

CHARGING AUTHORITIES

3.—(1) Paragraphs (2) to (4) below apply in any case where—

(a) the Secretary of State is liable to pay to a charging authority at any time an amount or amounts under one or more of the first relevant provisions, and

(b) that charging authority is liable to pay to him at the same time an amount or amounts under one or more of the second relevant provisions.

(2) If the total of the amount or amounts mentioned in paragraph (1)(a) above exceeds the total of the amount or amounts mentioned in paragraph (1)(b) above, the Secretary of State may set off the latter in paying the former.

(a) 1988 c.41; section 141 was amended, and 141A and 141B inserted, by the Local Government and Housing Act 1989 (c.42), Schedule 5, paragraphs 70 and 71.

(3) If the total of the amount or amounts mentioned in paragraph (1)(b) above exceeds the total of the amount or amounts mentioned in paragraph (1)(a) above, the charging authority shall set off the latter in paying the former.

(4) If the total of the amount or amounts mentioned in paragraph (1)(a) above is the same as the total of the amount or amounts mentioned in paragraph (1)(b) above, no payment need be made in respect of the former or the latter.

4.—(1) Where the Secretary of State exercises his powers under paragraph (2) of regulation 3, any liability of the charging authority which has been set off in accordance with that paragraph, and the part of the liability of the Secretary of State against which that liability has been set off, shall be treated as discharged.

(2) Where a charging authority sets off any amount in accordance with paragraph (3) of regulation 3, any liability of the Secretary of State which is set off in accordance with that paragraph, and the part of the liability of the authority against which that liability has been set off, shall be treated as discharged.

(3) Where in accordance with regulation 3(4) no payment is made by the Secretary of State or the charging authority, their respective liabilities which are taken into account shall be treated as discharged.

PART II

CHARGING AUTHORITIES AND PRECEPTING AUTHORITIES

5.—(1) Paragraphs (2) to (4) apply in any case where—

- (a) the Secretary of State is liable to pay to a charging authority at any time an amount or amounts under one or more of the first relevant provisions, and
- (b) a precepting authority which has power to issue a precept to that charging authority is liable to pay to him at the same time an amount under the second relevant provision.

(2) If the total of the amount or amounts mentioned in paragraph (1)(a) above exceeds the charging authority's relevant amount, the Secretary of State may set off an amount equal to that amount in paying that total.

(3) If the total of the amount or amounts mentioned in paragraph (1)(a) above is equal to or less than the charging authority's relevant amount, no payment need be made in respect of that total.

(4) Where the Secretary of State sets off or refrains from paying an amount under paragraph (2) or (3) above,—

- (a) the Secretary of State's liability to the charging authority shall be treated as discharged to the extent of an amount equal to that amount,
- (b) what the precepting authority is liable to pay to the Secretary of State shall be treated as reduced by an amount equal to that amount, and
- (c) an amount equal to that amount shall be due from the precepting authority to the charging authority.

6.—(1) An amount due from a precepting authority to a charging authority by virtue of regulation 5(4)(c) shall—

- (a) if the charging authority so requires, be paid to the charging authority,
- (b) in any other case, be paid to the charging authority or deducted from an amount payable in respect of a precept of the precepting authority, as the precepting authority determines.

(2) Where an amount due from a precepting authority to a charging authority by virtue of regulation 5(4)(c) is recovered by payment to the charging authority, that authority shall pay into its collection fund an amount equal to the amount paid to it.

(3) Where an amount due from a precepting authority to a charging authority by virtue of regulation 5(4)(c) is recovered by making a deduction from an amount payable in respect of a precept, the charging authority shall retain in its collection fund an amount equal to the amount deducted.

7. Where the Secretary of State is liable to pay to a charging authority at any time an amount or amounts under one or more of the first relevant provisions, for the purposes of section 141A and Part II of these Regulations—

- (a) the amount or amounts shall be treated as reduced by anything he may set off by virtue of Part I of these Regulations, in paying the amount or amounts, and
- (b) he shall be treated as not liable to pay any such amount or amounts if, by virtue of regulations under that section, no payment need be made in respect of the amount or amounts.

PART III GENERAL PROVISIONS

8.—(1) The following provisions of the Act shall be read subject to these Regulations—
section 79(2) and (3)
section 83(1) to (5)
section 86(2) and (3)
paragraph 5(4), (5), (7), (9) and (10) of Schedule 8
paragraph 9(9) and (10) of Schedule 8
paragraph 16 of Schedule 8.

(2) The provisions of the Act mentioned below shall also be read as if references to payments made were to payments which would have been made apart from these Regulations, and as if references to sums received were references to sums which would have been received apart from Part II of these Regulations—
paragraph 2 of Schedule 8.

Signed by authority of the Secretary of State

David Hunt
Minister of State,
Department of the Environment

7th March 1990

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply where the Secretary of State is liable under the Local Government Finance Act 1988 (“the Act”) to make payments to a charging authority, and the charging authority, or a precepting authority which precepts on that charging authority (“an appropriate precepting authority”), is at the same time liable under the Act to make payments to the Secretary of State.

Part I of the Regulations applies to payments liable to be made under the provisions referred to in section 141(7) to (9) of the Act. It provides that where the Secretary of State and a charging authority are liable at the same time to make payments to each other under these provisions, the payer may set off against the amount he pays the amount which is liable to be paid to him.

Part II of these Regulations applies to payments liable to be made under the provisions referred to in section 141B(7) and (8) of the Act. It provides that where the Secretary of State and an appropriate precepting authority are each liable at the same time to make payments under those provisions, the Secretary of State may set off against the amount he pays the charging authority the amount which the appropriate precepting authority is liable to pay to him. The charging authority will recover from the appropriate precepting authority, either by payment by the precepting authority or by deduction from the amount payable to the precepting authority in respect of a precept, the amount set off.