
STATUTORY INSTRUMENTS

1992 No. 2903

**LOCAL GOVERNMENT,
ENGLAND AND WALES FINANCE**

The Levying Bodies (General) Regulations 1992

Made - - - - *19th November 1992*
Laid before Parliament *20th November 1992*
Coming into force - - *11th December 1992*

The Secretary of State for the Environment, in relation to England, and the Secretary of State for Wales, in relation to Wales, in exercise of the powers conferred on them by sections 74, 117(8) and 143(1) and (2) of the Local Government Finance Act 1988⁽¹⁾ and section 149 of the Local Government and Housing Act 1989⁽²⁾ and all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Levying Bodies (General) Regulations 1992 and shall come into force on 11th December 1992.

(2) In these Regulations—

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

“the 1992 Act” means the Local Government Finance Act 1992⁽³⁾;

“levying body” means a levying body (as defined in section 74(1) of the 1988 Act) to which these Regulations apply by virtue of regulation 2;

“relevant Act” in relation to a levying body, means the Act or statutory instrument by which a relevant precepting power was conferred on that body;

“relevant authority”, in relation to a levying body, means a county council or billing authority in respect of which a relevant precepting power would have been exercisable; and

“relevant precepting power”, in relation to a levying body, means any power under any enactment which that body would have had, apart from section 117 of the 1988 Act, in respect of the financial year beginning in 1990 to issue a precept to, make a levy on, or have its expenses paid by a county council or a billing authority.

(1) 1988 c. 41. Section 74 was amended by the Local Government Finance Act 1992, Schedule 13, paragraph 72 and section 143(2) was amended by the Local Government and Housing Act 1989, Schedule 5, paragraph 72(2). See section 146(6) of the 1988 Act for the definition of “prescribed”.

(2) 1989 c. 42.

(3) 1990 c. 14.

Application

2. These Regulations 3 to 11 apply to any levying body (as defined in section 74(1) of the 1988 Act) in respect of which provision is not otherwise made by regulations made (before or after these Regulations) under section 74 of the 1988 Act and in relation to any levy to be issued or anticipated in respect of any financial year beginning on or after 1st April 1993.

Power to issue levies

3.—(1) A levying body may issue to a relevant authority in accordance with these Regulations a levy in respect of any financial year to meet the expenditure of the levying body in respect of which a relevant precepting power would have been exercisable.

(2) When issuing a levy, a levying body must notify the relevant authority whether it or any portion of it relates only to a part of the authority's area and, if it does, which part.

Issue of levies

4.—(1) In this regulation, subject to paragraph (3) below, "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) Where the relevant Act would, apart from section 117 of the 1988 Act, have required the levying body to issue a precept, make a levy or provide an estimate of its expenditure to be paid, before a date which is earlier than the relevant date, that earlier date shall be the relevant date for the purposes of paragraph (2) above.

(4) Paragraph (3) above does not apply—

(a) to a levy issued in respect of the financial year beginning in 1993; or

(b) to levies for amounts which regulation 6 requires to be borne in the relevant proportion.

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

Maximum amount of levies

5.—(1) Where a relevant precepting power was subject to a limit ("the relevant limit") imposed by or under the relevant Act on the whole or part of the amount for which the levying body might issue a precept to, make a levy on, or seek payment from the relevant authority, the whole or such part of the amount of a levy issued by the body under these Regulations by reference to that power shall be subject to the relevant limit.

(2) Where the relevant limit is expressed in terms of the product of a rate of a specified amount in relation to a financial year—

(a) for the purposes of a levy issued in respect of the financial year beginning in 1993, the product of a rate of that amount for that area shall be taken to be the amount ascertained in accordance with regulation 5(2) of the Levying Bodies (General) Regulations 1990⁽⁴⁾ for the purposes of a levy issued in respect of the financial year beginning in 1992, increased by 3.6 per cent.; and

(b) for the purposes of a levy issued in respect of any subsequent financial year, the product of a rate of that amount for that area shall be taken to be the amount ascertained in accordance with sub-paragraph (a) above, increased or decreased in proportion to the difference between the retail prices index for September of the financial year preceding that in respect of which the levy is issued and the retail prices index for September 1992.

(4) S.I.1990/70, amended by S.I. 1992/697.

(3) 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

6.—(1) This regulation applies where the relevant Act provides for the amount of precepts, levies or expenses of a levying body to be borne by more than one relevant authority.

(2) Subject to paragraphs (3), (4) and (8) below, where the relevant Act provides for the manner in which the amounts of precepts, levies or expenses are to be apportioned between the relevant authorities, the levying body shall secure that the expenses to be met by levies issued by it under these Regulations by reference to that Act are borne by the relevant authorities in accordance with that provision.

(3) Where the relevant Act provides for the amounts of precepts, levies or expenses to be borne by the relevant authorities in such proportion as those authorities may agree, the levying body shall secure that the expenses to be met by levies issued by it under these Regulations by reference to that Act are borne by the relevant authorities in that agreed proportion or, if no proportion is agreed, in the relevant proportion.

(4) Subject to paragraph (8) below, where the relevant Act provides for the amounts of precepts, levies or expenses to be borne by the relevant authorities in a proportion calculated by reference to population, or the product of a rate, a rateable value or any other factor connected with rating, the levying body shall secure that the expenses to be met by levies issued by it under these Regulations by reference to that Act are borne by the relevant authorities in the relevant proportion.

(5) For the purposes of this regulation, the relevant proportion shall be determined by reference to the council tax base for the financial year in respect of which the levy is issued for the area of each relevant authority or, as the case may be, the part of that area in respect of which the levy is issued.

(6) For the purposes of this regulation and regulation 7(2), the council tax base for an area or part of an area for a financial year is, subject to paragraph (7) below,—

- (a) where the levy is issued in respect of the whole of a billing authority's area, 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 a billing authority's area, 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.

(7) Where a billing authority has calculated and, where required, notified to a county council within the period prescribed by the Local Authorities (Calculation of Council Tax Base) Regulations

1992(5), 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.

(8) A levying body shall secure that the expenses to be met by levies issued by it under these Regulations by reference to the relevant precepting power conferred by section 48 or 88 of the Local Government Act 1985(6) are borne by the relevant authorities in a proportion calculated by reference to the total resident population of the area of each relevant authority on 30th June in the financial year beginning two years before the beginning of the financial year in respect of which the levy is issued, as estimated by the Registrar General.

Notification of council tax base

7.—(1) This regulation applies where the expenses to be met by levies are required by regulation 6 to be borne in the relevant proportion, and for the purposes of this regulation, a notifying authority, in relation to a levying body, is a billing authority—

- (a) which is a relevant authority; or
- (b) to which a county council which is a relevant authority has power to issue a precept.

(2) A notifying authority shall, within the period prescribed in paragraph (3) below, inform a levying body of the council tax base, determined in accordance with paragraphs (6) and (7) 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.

(3) The period is—

- (a) in relation to a levy which will be issued or is anticipated in respect of the financial year beginning on 1st April 1993, the period beginning on the day after these Regulations come into force and ending on 31st January 1993;
- (b) in relation to a levy which will be issued or is anticipated in respect of a financial year beginning on or after 1st April 1994, the period beginning on 1st December and ending on 31st January in the preceding financial year.

Substituted levies

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

(2) A levying body shall not have power to issue a substituted levy unless, in exercise of its relevant precepting power, it could have issued a substituted precept to, made a substituted levy on, or required a substituted amount to be paid in respect of expenses by the relevant authority.

(3) 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 (4) below.

(4) The amount of any levy issued in substitution (“the new levy”) may be greater than the amount of that for which it is substituted (“the old levy”) if the old levy has been quashed because of a failure to fulfil the requirements of regulation 6, but only so far as the new levy is required to be increased to effect a proper apportionment.

(5) Where a levying body 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) S.I. 1992/612, amended by S.I. 1992/1742.

(6) 1985 c. 51. Section 48 was amended by section 105 of the 1992 Act.

(6) But if the amount of the old levy exceeds that of the new levy, the following shall apply as regards anything paid if it would not have been paid had the amount of the old levy been the same as that of the new levy—

- (a) it shall be repaid if the relevant authority by whom it was paid so requires;
- (b) in any other case it shall (as the levying body determines) either be repaid or be credited against any subsequent liability of the relevant authority in respect of any levy issued by the levying body.

Payment of levies

9.—(1) Where the relevant Act makes provision as to the payment (in instalments or otherwise) of the amount of the precept, levy or expenses to which the relevant precepting power applied, the amount of any levy issued under these Regulations by reference to that power shall be paid by the relevant authority in accordance with that provision.

(2) In any other case, the amount of a levy issued under these Regulations shall be paid in full by the relevant authority in the financial year in respect of which the levy is issued, at such time and in such instalments (if any) as may be agreed between the levying body and the relevant authority or, in default of such agreement, in five equal instalments, payable respectively by the end of April, June, August, October and December in that financial year, provided however that no instalment shall be payable until 30 days after the levy is issued.

(3) References 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 relevant authority in respect of that levy in accordance with regulation 8(6)(b).

Interest on unpaid levies

10.—(1) Where the relevant Act makes provision as to the payment of interest on any amount of a precept, levy or expenses to which the relevant precepting power applies which is not paid by the due date for payment, the relevant authority shall be liable to pay to the levying body interest in accordance with that provision on the amount of a levy issued under these Regulations by reference to that power which remains unpaid after the due date for payment.

(2) Where the relevant Act makes such provision as is mentioned in paragraph (1) above, but does not prescribe the rate of interest payable, interest payable under paragraph (1) shall be simple interest calculated from day to day on the unpaid amount from the due date for payment until the date when payment is made at a rate equivalent to 2 per cent. above the highest base rate quoted from time to time by any of the reference banks.

(3) For the purposes of paragraph (2) above—

- (a) the reference banks are the seven largest institutions—
 - (i) authorised by the Bank of England under the Banking Act 1987(7); and
 - (ii) incorporated in and carrying on a deposit-taking business within the United Kingdom;

which quote a base rate in sterling;

- (b) the size of an institution is to be determined by reference to its total consolidated gross assets denominated in sterling, as shown in its audited end-year accounts last published before the period for which interest is payable begins.

(4) In this regulation—

“consolidated gross assets” of an institution is a reference to the gross assets of that institution together with any subsidiary (within the meaning of section 736 of the Companies Act 1985)⁽⁸⁾; and

“a deposit taking business” has the meaning given in section 6 of the Banking Act 1987 but subject to any order under section 7 of that Act.

Anticipation of levies

11.—(1) In this regulation—

- (a) an “authority” means a billing authority or county council; and
- (b) a “relevant levying body”, in relation to an authority, means a levying body with power under these Regulations to issue a levy to that authority.

(2) An authority making calculations in accordance with section 32 or, as the case may be, 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 in accordance with these Regulations to it for the year by a relevant levying body in any case where—

- (a) such a levy has not been issued by the relevant levying body to the authority at the time the calculations are made; and
- (b) the relevant levying body issued a levy 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 a relevant levying body for the year, the amount of the levy so anticipated shall be equal to the authority’s estimate, at the time the calculation (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 relevant levying body.

(4) Where a levy has previously been anticipated by the authority for the purposes of the calculations 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 a relevant levying body—

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

Application of section 117 of the 1988 Act

12. Section 117 of the 1988 Act (rates and precepts: abolition) shall not have effect in relation to the power of any body to have its expenses paid by a billing authority conferred by any of the following orders—

- (a) the Local Government Reorganisation (Debt Administration) (Greater Manchester) Order 1986⁽⁹⁾;
- (b) the Local Government Reorganisation (Debt Administration) (Merseyside) Order 1988⁽¹⁰⁾;

⁽⁸⁾ 1985 c. 6; section 736 was substituted by section 144(1) of the Companies Act 1989 (c. 40).

⁽⁹⁾ S.I. 1986/563.

⁽¹⁰⁾ S.I. 1988/542.

- (c) the Local Government Reorganisation (Debt Administration) (South York shire) Order 1986(11);
- (d) the Local Government Reorganisation (Debt Administration) (Tyne and Wear) Order 1986(12);
- (e) the Local Government Reorganisation (Debt Administration) (West Midlands) Order 1986(13);
- (f) the Local Government Reorganisation (Debt Administration (West Yorkshire) Order 1986(14).

Revocation

13.—(1) Subject to paragraph (2) below, the Levying Bodies (General) Regulations 1990 and the Levying Bodies (General) (Amendment) Regulations 1992(15) are hereby revoked.

(2) The Regulations referred to in paragraph (1) above 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.

18th November 1992

Michael Howard
Secretary of State for the Environment

19th November 1992

David Hunt
Secretary of State for Wales

(11) S.I. 1986/437.

(12) S.I. 1986/501.

(13) S.I. 1986/553, amended by S.I. 1986/1398.

(14) S.I. 1986/471.

(15) S.I. 1992/697.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations confer a general power on bodies to issue levies to local authorities for the purpose of meeting their expenses in respect of financial years beginning in or after 1993 where, but for section 117 of the Local Government Finance Act 1988, they would have a statutory power to require the authorities to pay those expenses.

The Regulations include provisions as to when levies are to be issued (regulation 4), the maximum amount of certain levies (regulation 5), the apportionment of levies between authorities (regulation 6) and the supply of information to a levying body making an apportionment by reference to the council tax base (regulation 7). The Regulations also make provision as to the issue of substituted levies (regulation 8), and the payment of levies (regulation 9) and interest thereon (regulation 10). Regulation 11 provides for a local authority to anticipate a levy which may be issued to it.

Regulation 12 provides for the continuance of existing arrangements whereby certain metropolitan district councils may recover their expenses in connection with debt administration arising from the abolition of metropolitan county councils.

Regulation 13 revokes the Levying Bodies (General) Regulations 1990 and the Levying Bodies (General) (Amendment) Regulations 1992 subject to a savings provision.