

**EXPLANATORY MEMORANDUM TO THE
LOCAL AUTHORITIES (DISCRETIONARY EXPENDITURE LIMITS) (ENGLAND)
ORDER 2005**

2005 No. 419

1. This explanatory memorandum has been prepared by The Office of the Deputy Prime Minister and is laid before Parliament by Command of Her Majesty. It also contains information for the Joint Committee on Statutory Instruments.

2. Description

2. This Order makes provision in relation to the limits for parish councils for expenditure for certain purposes not otherwise authorised. It increases from £5.00 to £5.30 the appropriate sum by which the number of parish electors is multiplied to calculate the expenditure limit for these purposes.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3. This is the first time that the power, contained in paragraph 4 of Schedule 12B to the Local Government Act 2003, to provide for a different appropriate sum to that obtained by the calculation specified in paragraph 3 of Schedule 12B has been exercised.

4. Legislative Background

4. This Order is being made under the powers in paragraph 4 of Schedule 12B to the Local Government Act 1972. Schedule 12B was inserted by section 118 of the Local Government Act 2003.

5. Extent

5. This instrument applies to England only.

6. European Convention on Human Rights

6. Not applicable.

7. Policy background

7.1 This Order makes provision in relation to the limit for parish councils in England for expenditure for certain purposes authorised under section 137 of the Local Government Act 1972, but not otherwise. The policy objective of section 137 is to permit parish councils to incur expenditure on items that are of direct benefit to their area in relation to which no other powers of expenditure exist. Section 137(4) of the 1972 Act provides for limits for such expenditure, and for the method of calculating those limits.

7.2 Section 118 of the Local Government Act 2003 amended section 137(4) of, and inserted Schedule 12B into, the Local Government Act 1972. The amended section 137(4) specifies that the sum, by which the number of electors in the parish must be multiplied to arrive at the limit for expenditure under section 137, must be calculated by reference to Schedule 12B to the 1972 Act.

7.3 The effect of this is to provide for the expenditure limit for these purposes for parish councils in England to be increased each year in line with the increase in the Retail Prices Index (RPI) in the year to the previous September, starting with the figure of £5.00 per elector per financial year. The intention was that £5.00 should be the appropriate sum for the financial year beginning 1st April 2003.

7.4 An inconsistency was, however, identified regarding the first financial year for which the limit was to be uplifted in line with the RPI. The second Local Government Circular on the provisions of the Local Government Act 2003, issued on 17 November 2003, stated that 2004/05 would be the first year in which the limit would be increased. Therefore, the appropriate sum for the financial year beginning 1st April 2004 should have been £5.14, which is £5.00 adjusted in line with the retail prices index. However, the commencement order for the Act (SI 2003/2938) has the effect of setting 2005/06 as the first year for which the indexed increase would apply.

7.5 Ministers subsequently agreed that an Order should be made under the power in paragraph 4 of Schedule 12B to the Local Government Act 1972 that permits the Secretary of State to provide - before the beginning of a financial year - for a different amount than that implied by the RPI uplift to have effect.

7.6 This Order serves that purpose, by allowing the limit to 'catch up' with the amount that would be consistent with the policy intention of the first uplift having effect for 2004/05, rather than for 2005/06. £5.30 is the figure that results from uplifting £5.00 by the increase in the RPI between November 2002 and September 2003 (as if the first uplift had taken place for 2004/05), and then uplifting the resulting amount of £5.14 by the increase in the RPI between September 2003 and September 2004. However, it has no effect on the limit for 2004/05, which remains at £5.00 per elector.

8. Impact

8. A Regulatory Impact Assessment is attached to this memorandum.

9. Contact

9. **Andrew Presland** at the Office of the Deputy Prime Minister, Local Government Finance Division 3F, Zone 5/J5 Eland House, Bressenden Place, London SW1E 5DU, telephone: 020 7944 4166, or e-mail: andrew.presland@odpm.gsi.gov.uk, can answer any queries regarding the instrument.