

EXPLANATORY MEMORANDUM TO
THE LOCAL AUTHORITIES (ALTERATION OF REQUISITE CALCULATIONS)
(ENGLAND) REGULATIONS 2007

2007 No. 227

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

- 2.1 These Regulations amend the components of calculations set out in the Local Government Finance Act 1992 (“the 1992 Act”) and the Greater London Authority Act 1999 (“the 1999 Act”) which provide how a local authority, major precepting authorities and the Greater London Authority (“GLA”) are to calculate their budget requirements and council tax.

- 2.2 A major precepting authority is an authority that provides services but which does not collect council tax itself (for example a county council in an area where there is a district council, or a combined fire authority). It issues a precept to a billing authority, which then collects council tax on its behalf.

- 2.3 Similar regulations are made each year immediately following the approval by the House of Commons of the annual Police Grant Report.

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

- 3.1 The Department is laying these Regulations before Parliament today. This section explains why the Regulations come into force less than 21 days from the date of laying.

- 3.2 These Regulations could not be made and laid until after the Police Grant Report (England and Wales) 2007/08 (“the Police Grant Report”) and the Local Government Finance Report (England) 2007/2008, which are referred to in the Regulations, had been approved by the House of Commons. The Police Grant Report and the Local Government Finance Report (England) 2007/2008 were approved on 31st January 2007. The Regulations modify the definition of “police grant” in section 32 of the 1992 Act, with reference to the Police Grant Report, for the purposes of the calculation by local authorities of their budget requirement and basic amounts of council tax. The amounts of grant payable under the Police Grant Report affect these calculations.

- 3.3 The Regulations also define “revenue support grant” and “redistributed non-domestic rates” in sections 32, 33, 43 and 44 of the 1992 Act and in sections 85, 88, 89 and 102 of the 1999 Act by reference to those sums payable or received under the Local Government Finance Report (England) 2007/2008. This is to make it clear that sums due to a local authority from the Secretary of State or due to be paid by a local authority to the Secretary of State under an

Amending Report for an earlier financial year should not be treated as amounts of revenue support grant and non-domestic rates and thus excluded from the calculation of budget requirement, but should instead be treated as items within the calculation of budget requirement. This means that an amount payable to a local authority under an Amending Report will reduce that authority's budget requirement and an amount due from a local authority to the Secretary of State will increase that authority's budget requirement.

- 3.4. Local authorities will be able to calculate their budget requirements and set their council taxes (under Chapters III and IV of Part 1 of the 1992 Act, and, in the case of the GLA, under Chapter I of Part 3 of the 1999 Act) as soon as the Police Grant Report and the Local Government Finance Report 2007/2008, have been approved and any levies have been issued to them. In addition, in the case of the GLA, the GLA General Grant determination also has to have been made. Levies under section 74 of the Local Government Finance Act 1988 (c.41) can be issued at any time before 15th February¹, so authorities may be ready to begin calculating their budget requirements and council taxes as soon as the Police Grant Report and the Local Government Finance Report 2007/2008 have been approved.
- 3.5. Billing authorities must calculate their budget requirements and set their council taxes before 11th March (see sections 32(10) and 30(6) of the 1992 Act). The GLA must calculate its budget requirement by the end of February (see Schedule 6, paragraphs 8(7) and 9 of the 1999 Act). Major precepting authorities must issue their precepts to billing authorities by 1st March (see section 40(5) of the 1992 Act.) Allowing 21 days between the laying and coming into force of these Regulations would give authorities very little time in which to make the necessary calculations within these statutory limits. The 6 February was chosen as the date of coming into force of these Regulations to allow authorities the required time.
- 3.6. A draft of the provisions contained in the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2007 was posted on to the Department's website shortly after the provisional Settlement announcement on 28th November 2006 and referred to in the associated letter to local authority Chief Executives. All authorities affected will be sent a copy of the Regulations after they are laid in Parliament.

4. Legislative Background

- 4.1. These Regulations are being made to amend the components of calculations used in the calculation of budget requirements and council tax by authorities as set out in paragraph 2.1 above.
- 4.2. These Regulations omit references to "relevant special grants" from sections 32, 33, 43 and 44 of the 1992 Act and from sections 85, 88, 99 and 102 of the 1999 Act as no special grants are defined as relevant special grants for the financial year beginning on 1st April 2007.

¹ There are a variety of provisions in primary and secondary legislation which specify the 15th February date. See, for example, section 14 of the Norfolk and Suffolk Broads Act 1988 (c.4), regulation 4 of the Levying Bodies (General) Regulations 1992 (S.I. 1992/2903) and regulation 4 of the Environment Agency (Levies) Regulations 1993 (S.I. 1993/61).

- 4.3. These Regulations also amend the definition of “police grant” in sections 32, 33, 43 and 44 of the 1992 Act and in sections 85, 88, 99 and 102 of the 1999 Act so that it refers to the Police Grant Report (England and Wales) 2007/08.
- 4.4. As set out in paragraph 3.3 above, the Regulations also define “revenue support grant” and “redistributed non-domestic rates” in sections 32, 33, 43 and 44 of the 1992 Act and in sections 85, 88, 99 and 102 of the 1999 Act so that those definitions refer to such amounts payable under the Local Government Finance Report (England) 2007/2008.

5. Territorial Extent and Application

- 5.1 This instrument applies in relation to authorities in England.

6. European Convention on Human Rights

Phil Woolas has made the following statement regarding Human Rights:

“In my view the provisions of the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2007 are compatible with the Convention rights.”

7. Policy background

- 7.1 The policy objective of the relevant sections of the 1992 Act is to ensure that local authorities are able to calculate their budget requirements and council taxes accurately, and in a way which is consistent across authorities.
- 7.2 The instrument is important in practical and legal terms because it ensures that the grants and types of expenditure in existence for 2007/08 can be taken into account correctly in the calculations. For example, in the absence of the instrument:
- Expenditure by a police authority funded from police grant payable under the Police Grant Report (England and Wales) 2007/08 would be excluded from the authority's budget requirement. This would be contrary to the policy which is that it should be included for example for when an assessment is made for capping purposes as to whether an authority's budget requirement is excessive.
- 7.3 As stated at paragraph 3.6, a draft of the provisions contained in the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2007 was posted on to the Department's website shortly after the provisional Settlement announcement on 28th November 2006 and referred to in the associated letter to local authority Chief Executives. Written representations were invited by 5th January 2007. No such representations have been received.

8. Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is not significant.

9. **Contact**

Andrew Presland at the Department for Communities and Local Government Tel: 0207 944 4166 or e-mail: Andrew.Presland@communities.gsi.gov.uk can answer any queries regarding the instrument.