
STATUTORY INSTRUMENTS

1995 No. 402

The Local Government Changes For England (Property Transfer and Transitional Payments) Regulations 1995

PART III

TRANSITIONAL PAYMENTS

Interpretation of Part and general provision

13.—(1) In this Part—

“the final accounts” means the accounts of the relevant authority for the final year;

“the accounts date” means the date on which the responsible financial officer signs the statement of accounts prepared in relation to the final accounts⁽¹⁾;

“designated authority” means—

- (a) in a case where there are two or more successor authorities in relation to an abolished authority which are principal councils, the successor authority which is specified in a section 17 order as the designated authority in relation to this Part; and
- (b) in the case of the relinquishing authority and the acquiring authority in relation to a transferred area, the relinquishing authority;

“the final year” means the financial year ending immediately before the reorganisation date;

“participant authority”, in relation to a designated authority, means—

- (i) in a case where the designated authority is one of two or more successor authorities in relation to an abolished authority which are principal councils, any other such successor authority; and
- (ii) in a case where the designated authority is the relinquishing authority in relation to a transferred area, the acquiring authority in relation to that area;

“the relevant authority”, in relation to a designated authority and any participant authority, means—

- (a) where those authorities are successor authorities in relation to an abolished authority, the abolished authority; and
- (b) where the designated authority is the relinquishing authority in relation to a transferred area and the participant authority is the acquiring authority in relation to that area, the relinquishing authority.

(2) Any notice under this Part which sets out calculations made in accordance with Schedule 1 shall include an explanation of the basis on which the amount or value ascribed to each of the items of the formulae in that Schedule was determined.

(1) The statement of accounts is prepared under regulation 7 of the Accounts and Audit Regulations 1983 (S.I.1983/1761; to which there are amendments which are not relevant to these Regulations) and is signed pursuant to regulation 13 of those Regulations.

(3) Any notification by a participant authority under this Part that it disagrees with any calculations made by the designated authority in accordance with Schedule 1 shall state the reasons for the disagreement.

(4) A participant authority may, within one month of service by a designated authority of a notice under this Part, request that authority to supply such information relating to the contents of the notice as may be specified in the request; and the designated authority shall, as soon as is reasonably practicable, supply the information.

Initial calculations

14.—(1) A designated authority—

- (a) within such period as that authority and each participant authority may agree or, failing such agreement, the period of one month beginning with the accounts date, shall make calculations in relation to each participant authority in accordance with Schedule 1; and
- (b) as soon as is reasonably practicable, shall serve on each participant authority a notice setting out the calculations it has made in relation to that authority and any other participant authority.

(2) At any time within the period of two months beginning with the date of service of the notice mentioned in paragraph (1) above, a designated authority may serve on each participant authority one further notice setting out calculations made in accordance with Schedule 1 in substitution for the calculations set out in the first-mentioned notice.

(3) A notice under paragraph (2) above shall include a statement of the designated authority's reasons for serving it.

(4) Not later than the expiry of the period of two months beginning with the date of service of a notice under paragraph (1) or, where a notice has been served under paragraph (2) above, the date of service of that notice ("the relevant period"), each participant authority shall notify the designated authority and any other participant authority in writing whether or not it agrees with the calculations set out in the notice.

(5) Where a participant authority, pursuant to paragraph (4) above, notifies the designated authority that it does not agree with the calculations set out in a notice under paragraph (1) or, as the case may be, paragraph (2) above, the designated authority shall, not later than the expiry of the period of one month beginning with the end of the relevant period, serve on each participant authority a notice which either—

- (a) sets out calculations made in accordance with Schedule 1 in substitution for the calculations set out in the notice under paragraph (1) or, as the case may be, paragraph (2) above; or
- (b) states that the designated authority does not intend to make any such calculations and the reasons for not doing so.

(6) A participant authority may, within the period of two months beginning with the date of service of a notice under paragraph (5) above, notify the designated authority and any other participant authority in writing that it disagrees with any substitute calculations set out in the notice or, where the notice does not set out such calculations, in respect of the calculations set out in the notice under paragraph (1) or, as the case may be, paragraph (2) above.

Further calculations

15.—(1) As soon as is reasonably practicable after the conclusion of the audit of the final accounts, a designated authority shall make calculations in relation to each participant authority in accordance with Schedule 1 and shall serve on each such authority a notice setting out the calculations it has made in relation to that authority and any other participant authority.

(2) A participant authority may, not later than the expiry of the period of two months beginning with the date of service of the notice under paragraph (1) above, notify the designated authority and any other participant authority in writing that it disagrees with the calculations set out in the notice.

Calculations following determination of differences

16.—(1) As soon as is reasonably practicable after the determination under regulation 19 of a difference notified under regulation 14(6) or 15(2), a designated authority shall, subject to paragraph (2) below, make calculations in relation to each participant authority in accordance with Schedule 1 and shall serve on each such authority a notice setting out the calculations it has made in relation to that authority and any other participant authority.

(2) Where amounts or values are ascribed in the determination to any items of the formulae in Schedule 1, the designated authority shall ascribe those amounts or values to those items when making the calculations required by paragraph (1) above.

Payments by or to the designated authority

17.—(1) Subject to paragraph (2) below—

(a) where the amount calculated in relation to a participant authority in accordance with the formula in paragraph 8 of Schedule 1 is a positive amount, the designated authority shall pay to the participant authority a sum equal to that amount; and

(b) where the amount so calculated is a negative amount, the participant authority shall pay to the designated authority a sum equal to that amount expressed as a positive amount.

(2) Where notification has been given by a participant authority under regulation 14(6) or 15(2) that it disagrees with any calculations made by the designated authority, any sum required, by virtue of paragraph (1) above, to be paid by that authority, any other participant authority or the designated authority in respect of those calculations shall be reduced by 20%.

(3) Any sum payable by virtue of paragraph (1) above shall be paid on or before—

(a) such date as the authority by whom (“the paying authority”) and the authority to whom (“the payee authority”) the payment is to be made may have agreed during the period of two months beginning with the date of service of the notice setting out the calculations which give rise to the liability to pay; or

(b) failing such agreement, the day (other than a Saturday, a Sunday or a Bank Holiday) which falls two weeks after the end of that period.

(4) Where the authorities concerned so agree, any liability to pay a sum by virtue of this Part may be discharged, in whole or in part, by the transfer to the payee authority of investments held by the paying authority.

(5) At any time after the reorganisation date, the designated authority or a participant authority may each make a payment on account to the other in respect of any sum which the authority estimates it will be liable to pay to the other in consequence of calculations to be made in accordance with paragraph 6 of Schedule 1.

Interest

18.—(1) The paying authority shall pay interest to the payee authority in respect of any sum which has become payable by virtue of this Part and has not been paid by the due date.

(2) Interest payable under paragraph (1) above—

(a) shall be calculated in accordance with such method as may be agreed between the paying authority and the payee authority or, failing such agreement, shall be simple interest calculated on the unpaid amount in respect of the period beginning with the due date and

ending with the day before the day on which the sum is paid at a rate equivalent to two per cent. above the highest base rate quoted by any of the reference banks at any time during that period; and

(b) shall be paid at the same time as the sum is paid.

(3) For the purposes of paragraph (2) above, the reference banks are the seven largest institutions—

(a) authorised by the Bank of England under the Banking Act 1987(2); and

(b) incorporated in and carrying on a deposit-taking business within the United Kingdom, which quote a base rate in sterling.

(4) For the purposes of paragraph (3) above, the size of an institution is to be determined by reference to its 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.

(5) 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);

“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;

“the due date” for payment of a sum is a reference to the date on or before which the sum is required to be paid; and

“sum” includes a reference to a part of a sum.