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STATUTORY INSTRUMENTS

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**1990 No. 118**

**RATING AND VALUATION  
LOCAL GOVERNMENT, ENGLAND AND WALES  
FINANCE**

**The National Rivers Authority (Levies) Regulations 1990**

*Made* - - - - 29th January 1990  
*Laid before Parliament* 30th January 1990  
*Coming into force* - - 31st January 1990

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

**Title and commencement**

1. These Regulations may be cited as the National Rivers Authority (Levies) Regulations 1990 and shall come into force on 31st January 1990.

**Interpretation**

2.—(1) In these Regulations, “the principal Act” means the Land Drainage Act 1976(3) and, unless the context otherwise requires—

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

“the Authority” means the National Rivers Authority established by section 1 of the Water Act 1989;

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- (1) 1988 c. 41; section 74 has effect as if the National Rivers Authority were a levying body, within the meaning of that section, for the purposes of its functions by virtue of Chapter III of Part III of the Water Act 1989 (c. 15) (flood defence), by virtue of paragraph 80 of Schedule 25 to that Act. Section 74(5) was amended by the Local Government and Housing Act 1989, Schedule 5, paragraph 53.
- (2) 1989 c. 42.
- (3) 1976 c. 70; Schedules 15 and 27 to the Water Act 1989 amended and repealed certain provisions relevant to these Regulations.

“district” means a local flood defence district which is treated as such by virtue of section 139(2) of the Water Act 1989 or by virtue of section 89(2) of the principal Act, or is created by a scheme made in accordance with section 4 of the principal Act(4);

“expenses” of the Authority for a chargeable financial year means qualifying expenses ascertained in accordance with section 45(2) of the principal Act, the reference in that section to sums received by virtue of section 46 of that Act being taken as a reference to sums received by virtue of any levy issued under these Regulations;

“local council”, in relation to a district, means the council of any county, metropolitan district or London Borough any part of whose area is comprised in that district and, if any part of the City of London is comprised in that district, the Common Council of the City of London.

(2) Any reference in these Regulations to a numbered regulation shall be construed as a reference to the regulation bearing that number in these Regulations.

### **Power to issue levies**

**3.—**(1) In order to meet its expenses in respect of a district, the Authority may, in respect of any chargeable financial year, issue a levy to a local council in accordance with these Regulations and with sections 46(5) to (8) and 47 of the principal Act(5).

(2) When issuing a levy to a local council, the Authority shall notify the council whether the levy or any portion of it relates to part only of the council’s area and, if it does, which part.

### **Issue of levies**

**4.** A levy must be issued before 15th February in the financial year preceding that for which it is issued, but is not invalid merely because it is issued on or after that date.

### **Maximum amount of levies**

**5.—**(1) A levy issued by the Authority under these Regulations shall be subject to the provisions of section 46(5) to (7) of the principal Act, read with this regulation, the reference to precepts in the said section 46(5) being taken to be a reference to levies.

(2) For the purposes of a levy issued by the Authority in respect of a district, the estimated penny rate product for a relevant area for a financial year referred to in the said section 46(5) shall be taken to be—

- (a) in respect of the financial year beginning in 1990, the product taken into account for the purpose of the said section 46(5) in respect of the relevant area in the financial year beginning in 1989; and
- (b) in respect of any subsequent financial year, the amount ascertained in accordance with sub-paragraph (a) above in respect of the relevant area, increased or decreased by the proportion by which the retail prices index for September of the financial year preceding that in respect of which the levy is issued differs from the retail prices index for September 1989.

(3) For the purposes of a levy issued by the Authority in respect of a district, the reference in the said section 46(6) to the estimated penny rate product for a relevant area for a financial year shall

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(4) Section 89(2) was amended by the Water Act 1989, Schedule 15, paragraphs 1(1) and 30(2); section 4 was amended by paragraphs 1(1) and 2 of Schedule 15 and by Schedule 27 to that Act.

(5) Sub-sections (5) to (8) of section 46 and both sub-sections of section 47 were each amended by the Water Act 1989, Schedule 15, paragraph 1(1); section 46(5) and (6) was amended by section 181 of the Local Government, Planning and Land Act 1980 (c. 65); sections 46(6) and 47(1) were amended by the Water Act 1989, Schedule 15, paragraph 19 and Schedule 27, respectively.

be taken to be a reference to the amount for the financial year determined for the relevant area in accordance with paragraph (2) of this regulation.

(4) 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 of expenses**

6.—(1) The Authority shall secure that such of its expenses in respect of a district as are to be met by levies issued by it under these Regulations are borne by the local councils (if more than one) in proportion.

(2) Proportions under paragraph (1) of this regulation shall be determined by reference to the relevant population, for the financial year in respect of which the levies are issued, of each local council's area or (as the case may be) the part which falls within the district.

(3) For the purposes of this regulation and regulation 7, the relevant population for a financial year is—

- (a) in relation to the area of the council of a metropolitan district or London Borough, or to the City of London, the relevant population of the area for the year, calculated by the Secretary of State under paragraph 4 of Schedule 12A to the 1988 Act<sup>(6)</sup>;
- (b) in relation to the area of an English county council, the aggregate of the relevant populations for the year, calculated by the Secretary of State under paragraph 4 of the said Schedule 12A, of the areas of the charging authorities comprised in the county;
- (c) in relation to the area of a Welsh county council, the aggregate of the relevant populations for the year, calculated by the charging authorities in accordance with the rules for the time being effective (as regards the year) under regulations made under paragraph 5(1) of the said Schedule 12A, of the areas of the charging authorities comprised in the county;
- (d) in relation to part of the area of the council of a metropolitan district or London Borough, or to part of the City of London, the relevant population of that part for the year, calculated in accordance with the rules for the time being effective (as regards the year) under regulations made under paragraph 6(2) of the said Schedule 12A;
- (e) in relation to part of the area of an English county council, the aggregate of the relevant populations for the year of the areas of the charging authorities and of the parts of charging authorities' areas comprised in that part of the county, calculated in the manner described in paragraph (b) above or (as the case may be) paragraph (d) above;
- (f) in relation to part of the area of a Welsh county council, the aggregate of the relevant populations for the year of the areas of the charging authorities and of the parts of charging authorities' areas comprised in that part of the county, calculated in accordance with the rules for the time being effective (as regards the year) under regulations made under paragraphs 5 and 6 of the said Schedule 12A.

(4) Regulations referred to in paragraphs (c), (d) and (f) of the preceding paragraph shall have effect for the purposes of this regulation as they have effect for the purposes of section 69 of the 1988 Act<sup>(7)</sup>.

### **Notification of relevant population**

7.—(1) This regulation applies where the expenses of the Authority in respect of a district are to be borne by more than one local council in accordance with regulation 6.

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(6) Schedule 12A was inserted by the Local Government and Housing Act 1989, Schedule 5, paragraph 74.

(7) Section 69 was amended by the Local Government and Housing Act 1989, Schedule 5, paragraph 50.

(2) For the purposes of this regulation, each of the following is a notifying authority in relation to a district, namely—

- (a) a charging authority which is a local council, and
- (b) any other charging authority to which a county council, being a local council, has power to issue a precept.

(3) An English notifying authority shall, within 3 working days after the relevant population of its area for a year has been communicated to it under paragraph 4(4)(a) of Schedule 12A to the 1988 Act, inform the Authority of the relevant population so communicated.

(4) A Welsh notifying authority shall, within 3 working days after the relevant population of its area for a year has been calculated in accordance with paragraph 5 of Schedule 12A to the 1988 Act, inform the Authority of the relevant population so calculated.

(5) A notifying authority in respect of part of whose area a levy may be issued by the Authority shall, as soon as is reasonably practicable after the relevant population of its area for a year has been communicated or calculated as above, calculate the relevant population of the part for that year in accordance with the rules referred to in regulation 6(3)(d) and (f), and shall inform the Authority of the relevant population so calculated within 3 working days thereafter.

### **Substituted levies**

**8.**—(1) Where the Authority has issued a levy in respect of a district for a financial year (originally or by way of substitute), it may issue a levy in substitution.

(2) A levy issued in substitution shall be issued in accordance with regulations 5 and 6.

(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 a levy issued in substitution (in this regulation called “a new levy”) may be greater than the amount of the levy for which it is substituted (in this regulation called “the old levy”) if the old levy has been quashed because of a failure to fulfil the requirements of regulation 6, but only by so much as is required to enable those requirements to be fulfilled.

(5) Where the Authority 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.

(6) But if the amount of the old levy exceeds that of the new levy—

- (a) the amount in excess shall be repaid if the local council by whom it was paid so requires;
- (b) in any other case, the amount in excess shall (as the Authority determines) either be repaid or be credited against any subsequent liability of the local council in respect of any levy issued by the Authority.

### **Payment of levies**

**9.** A local council to which a levy is issued under these Regulations in respect of a financial year shall pay the amount of the levy to the Authority in that financial year—

- (a) at such time and in such instalments (if any) as may be agreed between the Authority and the council, or
- (b) in default of such agreement,
  - (i) by four equal instalments due on 1st May, 1st July, 1st October and 1st January in the financial year, or
  - (ii) if the levy is issued after 30th April in the financial year, by equal instalments or (as the case may be) by a single payment due on as many of the dates referred to in sub-

paragraph (i) above as remain after the date of issue of the levy or, if none so remain, by a single payment due 30 days after the said date of issue.

### **Anticipation of levies: charging authorities**

**10.**—(1) In this regulation “relevant charging authority” means a local council which is a charging authority.

(2) Paragraphs (3) to (6) below apply where at the time when a relevant charging authority makes its calculations under section 95 of the 1988 Act<sup>(8)</sup> for a financial year, the Authority has not issued to it a levy in respect of a district for that year.

(3) A relevant charging authority may, in estimating its expenditure under section 95(2)(a) of the 1988 Act, take into account its estimate of the amount of the levy that it expects will be issued to it by the Authority.

(4) If the relevant charging authority makes calculations for the year in substitution under section 96 of the 1988 Act at a time when a levy in respect of that year has not been issued to it by the Authority and an amount was taken into account under paragraph (3) above, the relevant charging authority shall, in estimating its expenditure under section 95(2)(a) of that Act, take into account an amount equal to that taken into account under paragraph (3) above.

(5) If the Authority issues no levy to the relevant charging authority in respect of a district for the year, the fact that an amount has been taken into account under paragraph (3) above does not make the relevant charging authority liable to pay anything in respect of that district to the Authority.

(6) Section 33(4)(a) of the 1988 Act<sup>(9)</sup> shall apply in relation to the levy anticipated under this regulation as it applies in relation to a levy which is issued.

### **Anticipation of levies: county councils**

**11.**—(1) In this regulation, “relevant precepting authority” means a local council which is a county council.

(2) Paragraphs (3) to (6) below apply where, at the time when a relevant precepting authority estimates its expenditure under section 68(4)(a) of the 1988 Act<sup>(10)</sup> for a financial year, the Authority has not issued to it a levy in respect of a district for that year.

(3) A relevant precepting authority may, in estimating its expenditure under section 68(4)(a) of the 1988 Act, take into account its estimate of the amount of the levy that it expects will be issued to it by the Authority.

(4) If the relevant precepting authority issues a precept for the year in substitution under section 71 of the 1988 Act at a time when a levy in respect of that year has not been issued to it by the Authority, and an amount was taken into account under paragraph (3) above, the relevant precepting authority shall, in estimating its expenditure under section 68(4)(a) of that Act, take into account an amount equal to that taken into account under paragraph (3) above.

(5) If the Authority issues no levy to the relevant precepting authority in respect of a district for the year, the fact that an amount has been taken into account under paragraph (3) above does not make the relevant precepting authority liable to pay anything in respect of that district to the Authority.

(6) Section 70(2)(b) of the 1988 Act<sup>(11)</sup> shall apply in relation to the levy anticipated under this regulation as it applies in relation to a levy which is issued.

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<sup>(8)</sup> Section 95 was amended by the Local Government and Housing Act 1989, Schedule 5, paragraph 63.

<sup>(9)</sup> Section 33(4)(a) was amended by the Local Government and Housing Act 1989, Schedule 5, paragraph 15(2).

<sup>(10)</sup> Section 68(4) was amended by the Local Government and Housing Act 1989, Schedule 5, paragraph 49(3).

<sup>(11)</sup> Section 70(2)(b) was amended by the Local Government and Housing Act 1989, Schedule 5, paragraph 51.

### **Modification of the principal Act**

12. In respect of the financial year beginning in 1990 and subsequent financial years—
- (a) in sections 46(8) and 47(1) of the principal Act, the references to precepts shall be taken to be references to levies issued under these Regulations;
  - (b) in section 110(1) of the principal Act, the reference to rating authorities shall be taken to be a reference to charging authorities;
  - (c) in section 110(1) and (2) of the principal Act, the references to amounts due under sections 45 to 47 of that Act shall be taken to be amounts due in respect of levies issued under these Regulations.

29th January 1990

*Chris Patten*  
Secretary of State for the Environment

29th January 1990

*Peter Walker*  
Secretary of State for Wales

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations confer a power on the National Rivers Authority (“the Authority”) to raise revenue, in order to meet its expenses in respect of local flood defence districts, by the issue of levies to certain local authorities in respect of the financial year 1990/91 and subsequent financial years. This power to issue levies replaces a power to issue precepts to local authorities under section 46 of the Land Drainage Act 1976.

The Regulations include provisions as to when levies must be issued (regulation 4), the maximum amount of levies (regulation 5), the issue of substituted levies (regulation 8) and the payment of levies (regulation 9). Where a district comprises areas of more than one local authority, regulation 6 requires the Authority to issue levies to all those local authorities and provides a method of apportionment of the expenses of the district that are to be raised by levies. Regulation 7 requires local authorities to provide information to the Authority for the purpose of that apportionment. Regulations 10 and 11 provide for a local authority to anticipate the issue to it of a levy, for the purpose of its estimation of its expenses. The Regulations also provide that certain duties of the Authority and of local authorities under the Land Drainage Act 1976 apply in relation to the issue or treatment of levies, as they apply in the case of precepts (regulation 12).