

1990 No. 70

LOCAL GOVERNMENT, ENGLAND AND WALES

FINANCE

The Levying Bodies (General) Regulations 1990

<i>Made - - - -</i>	<i>22nd January 1990</i>
<i>Laid before Parliament</i>	<i>23rd January 1990</i>
<i>Coming into force</i>	<i>24th January 1990</i>

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), 143(1) and (2) and 146(6) of the Local Government Finance Act 1988 (a), section 149 of the Local Government and Housing Act 1989 (b), and of 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 1990 and shall come into force on 24th January 1990.

(2) In these Regulations—

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

“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 below;

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

“relevant authority”, in relation to a levying body, means a county council or charging 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, 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 charging authority.

Application

2. These Regulations 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.

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 chargeable financial year to meet the expenditure of the levying body in respect of which a relevant precepting power would have been exercisable.

(a) 1988 c.41; sections 74(5) and 143(2) were amended by the Local Government and Housing Act 1989, Schedule 5, paragraphs 53 and 72(2) respectively.

(b) 1989 c.42.

(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, require 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) does not apply—

(a) to a levy issued in respect of the financial year beginning in 1990, 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 below.

Maximum amount of levies

5.—(1) Where a relevant precepting power is 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 may 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 1990, the product of a rate of that amount for an area shall be taken to be the product taken into account for the purposes of determining the relevant limit in respect of the financial year beginning in 1989; 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 1989.

(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) and (4) 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) 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 relevant population for the year in respect of which the levy is issued of 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 below, the relevant population for a financial year of an area is—

- (a) for the whole of an English charging authority's area, 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(a),
- (b) for the whole of a Welsh charging authority's area, the relevant population of the area for the year calculated in accordance with the rules for the time being effective (as regards the year) under regulations under paragraph 5(1) of Schedule 12A to the 1988 Act,
- (c) for the whole of the area of a county, the total of the relevant population for the year, calculated as above, of the charging authority areas falling within that county,
- (d) for part of a charging authority's area, 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 under paragraph 6(2) of Schedule 12A to the 1988 Act,
- (e) for part of the area of a county, the total of the relevant population for the year, calculated as above, of the charging authority areas and, where appropriate, the parts of charging authority areas, falling within that part of that county,

and regulations referred to in sub-paragraphs (b) and (d) above shall have effect for the purposes of this regulation as they have effect for the purposes of section 69 of the 1988 Act(b); but with the substitution for references to that section of references to these Regulations.

Notification of relevant population

7.—(1) This regulation applies where the expenses to be met by levies are required by regulation 6 above 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 charging 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) 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 levying body of the relevant population so communicated.

(3) 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 levying body of the relevant population so calculated.

(4) A notifying authority in respect of part of whose area a levy may be issued 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(6)(d) above, and shall inform the levying body of the relevant population so calculated within 3 working days thereafter.

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

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

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 (apportionment), 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.

(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 applies, 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 5 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) above.

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 base rate quoted from time to time by the Committee of London and Scottish Bankers or, where there is for the time being more than one such rate, the highest of them.

Anticipation of levies: charging authorities

11.—(1) In this regulation—

- (a) “relevant charging authority” means a relevant authority which is a charging authority, and
- (b) in relation to a relevant charging authority, “relevant levying body” means a levying body with power under these Regulations to issue a levy to that authority.

(2) Paragraphs (3) to (6) below apply where—

- (a) at the time when a relevant charging authority makes its calculations under section 95 of the 1988 Act(a) for a financial year, a relevant levying body has not issued a levy to it in respect of that year; and
- (b) that relevant levying body has, in respect of the previous financial year, issued a levy or a precept to, made a levy on, or had its expenses paid by the relevant charging authority.

(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 anticipates will be issued to it by the relevant levying body.

(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 relevant levying body, 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 relevant levying body issues no levy to the relevant charging authority in respect of 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 to the relevant levying body.

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

Anticipation of levies: county councils

12.—(1) In this regulation—

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

(2) Paragraphs (3) to (6) below apply where—

- (a) at the time when a relevant precepting authority estimates its expenditure under section 68(4)(a) of the 1988 Act(c) for a financial year, a relevant levying body has not issued a levy to it in respect of that year, and
- (b) that relevant levying body has, in respect of the previous financial year, issued a levy or a precept to, made a levy on or had its expenses paid by the relevant precepting authority.

(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 anticipates will be issued to it by the relevant levying body.

(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 relevant levying body, 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.

(a) Section 95 was amended by the Local Government and Housing Act 1989, Schedule 5, paragraph 63.

(b) Section 33(4)(a) was amended by the Local Government and Housing Act 1989, Schedule 5, paragraph 15(2).

(c) Section 68(4) was amended by the Local Government and Housing Act 1989, Schedule 5, paragraph 49(3).

(5) If the relevant levying body issues no levy to the relevant precepting authority in respect of 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 to the relevant levying body.

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

Application of section 117 of the 1988 Act

13. 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 charging authority conferred by any of the following orders—

- (a) the Local Government Reorganisation (Debt Administration) (Greater Manchester) Order 1986(b),
- (b) the Local Government Reorganisation (Debt Administration) (Merseyside) Order 1988(c),
- (c) the Local Government Reorganisation (Debt Administration) (South Yorkshire) Order 1986(d),
- (d) the Local Government Reorganisation (Debt Administration) (Tyne and Wear) Order 1986(e),
- (e) the Local Government Reorganisation (Debt Administration) (West Midlands) Order 1986(f),
- (f) the Local Government Reorganisation (Debt Administration) (West Yorkshire) Order 1986(g).

22nd January 1990

Peter Walker
Secretary of State for Wales

22nd January 1990

Chris Patten
Secretary of State for the Environment

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- (a) Section 70(2)(b) was amended by the Local Government and Housing Act 1989, Schedule 5, paragraph 51.
 - (b) S.I. 1986/563.
 - (c) S.I. 1988/452.
 - (d) S.I. 1986/437.
 - (e) S.I. 1986/501.
 - (f) S.I. 1986/553, amended by S.I. 1986/1398.
 - (g) S.I. 1986/471.

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 1990 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 issue of substituted levies (regulation 8), and the payment of levies (regulation 9) and interest thereon (regulation 10). Where a body may issue levies to more than one authority, regulation 6 provides for the method of apportionment and regulation 7 provides, in certain cases, for the supply of information by charging authorities. Regulations 11 and 12 provide for a local authority to anticipate a levy which may be issued to it.

Regulation 13 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.