
STATUTORY INSTRUMENTS

1992 No. 2428

The Local Authorities (Funds) (England) Regulations 1992

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Local Authorities (Funds) (England) Regulations 1992 and shall come into force on 4th November 1992.

(2) These Regulations extend to England only.

Interpretation

2.—(1) In these Regulations—

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

“the 1992 Act” means the Local Government Finance Act 1992;

“principal authority” in relation to a billing authority means any relevant major precepting authority and the billing authority itself;

“the 1989 Regulations” means the Collection Fund (England) Regulations 1989(1);

“relevant local precepting authority” in relation to a billing authority means any local precepting authority having power to issue a precept to that billing authority;

“relevant major precepting authority” in relation to a billing authority means any major precepting authority having power to issue a precept to that billing authority;

“relevant precepting authority” in relation to a billing authority means each relevant major precepting authority and each relevant local precepting authority;

“schedule of instalments” means a schedule determined by a billing authority, in accordance with regulations 4 and 6, with respect to the times for and the number and amounts of payments or transfers from its collection fund or its general fund in respect of its liabilities.

(2) Any reference in these Regulations (however framed) to liabilities in relation to a billing authority is a reference to the liability of a billing authority to—

(a) pay anything from its collection fund in respect of any precept issued by a relevant major precepting authority under Part I of the 1992 Act, after taking into account any amount credited by that major precepting authority under section 42(4) of that Act,

(b) pay anything from its collection fund in respect of so much of any surplus in that fund as, in accordance with regulation 11, that billing authority calculates to be a relevant major precepting authority’s share,

(c) pay anything from its general fund in respect of any precept issued by a relevant local precepting authority under Part I of the 1992 Act, after taking into account any amount credited by that local precepting authority under section 42(4) of that Act,

(d) transfer anything from its collection fund or its general fund under section 97(1) or (2) of the 1988 Act(2) (as the case may be), and

(1) S.I.1989/2336, amended by S.I. 1992/620.

(2) Section 97 was substituted by the Local Government Finance Act 1992, Schedule 10, paragraph 22, in relation to any financial year beginning on or after 1st April 1993.

- (e) transfer anything from its collection fund or its general fund under section 97(3) or (4) of the 1988 Act (as the case may be) in respect of so much of any surplus or deficit in its collection fund as, in accordance with regulation 11, that billing authority calculates to be its share or calculates must be borne by it.

(3) Any reference in these Regulations to the making of a substitute calculation is a reference to the making of a substitute calculation by a billing authority in accordance with section 32(4) of the 1992 Act.

Discharge of a billing authority's liabilities

3.—(1) Subject to paragraph (2), in relation to each financial year beginning in or after 1993 a billing authority shall in accordance with its schedule of instalments—

- (a) pay to its relevant precepting authorities from its collection fund or its general fund (as the case may be),
- (b) transfer from its collection fund to its general fund, and
- (c) transfer from its general fund to its collection fund,

such amounts, if any, as will discharge its liabilities for that year.

(2) The requirement in paragraph (1) to make payments or transfers in accordance with a schedule of instalments does not apply where any of the provisions in paragraphs (3) to (8) apply.

(3) Where—

- (a) a substitute precept or calculation has been issued or made in relation to a financial year, and
- (b) that substitute precept or calculation has been issued or made on or after the day of the final instalment to be paid or transferred in accordance with the schedule of instalments in that year,

any amounts to be paid or transferred by a billing authority in respect of its liabilities for that year which remain to be discharged immediately after the substitute precept or calculation is issued or made shall be paid or transferred as soon as reasonably practicable after the issue of that precept or making of that calculation.

(4) Subject to paragraph (5), in relation to each financial year beginning in or after 1993 a billing authority shall transfer from its general fund to its collection fund such amounts as will discharge its liability to transfer anything from its general fund under section 97(2) of the 1988 Act at such times and in such instalments as it determines, provided it discharges any such liability within the financial year to which it relates.

(5) Where a billing authority makes a substitute calculation after the end of the financial year to which it relates and becomes liable to transfer an amount under subsection (2) of section 97 of the 1988 Act, any amounts to be transferred by that authority in respect of its liabilities under that subsection which remain to be discharged immediately after the substitute calculation is made shall be transferred as soon as reasonably practicable after the making of that calculation.

(6) In relation to each financial year beginning in or after 1994 a billing authority shall in accordance with paragraphs (7) and (8) discharge its liability to pay anything from its collection fund to a relevant major precepting authority in respect of so much of any surplus in that fund as, in accordance with regulation 11, that billing authority calculates to be that major precepting authority's share as regards that year.

(7) Any amount so calculated as regards the financial year in question shall be paid by a billing authority to a relevant major precepting authority in no more than 10 equal instalments during that financial year, provided that—

(a) the first and final instalments are paid in that year no later than 31st May and 31st March respectively, and

(b) there are an equal number of days between each instalment.

(8) For the purposes of the computation of days under paragraph (7)(b) a day which is a Saturday, Sunday or bank holiday shall be excluded.

(9) Any amount paid or transferred by a billing authority in respect of a liability for a financial year, whether or not paid or transferred in accordance with a schedule of instalments or in accordance with any of the provisions in paragraphs (3) to (8), shall be treated as discharging that liability to the extent of the payment or transfer.

(10) For the purposes of paragraph (9), any amount paid or transferred which—

(a) was treated in accordance with that paragraph as discharging a billing authority's liability, but which

(b) was subsequently repaid or credited by the relevant precepting authority concerned under section 42(2) of the 1992 Act, or transferred under regulation 9,

shall, to the extent of the amount repaid or credited or transferred under regulation 9, cease to be treated as discharging that liability.

(11) Any reference in this regulation to an authority's schedule of instalments is a reference to the schedule of instalments determined by the authority in accordance with regulation 4, or where the authority has amended its schedule in accordance with regulation 6, to its schedule of instalments as it currently has effect.

Schedules of instalments

4.—(1) A billing authority shall determine a schedule of instalments in relation to each financial year beginning in or after 1993.

(2) A billing authority shall determine a schedule of instalments under paragraph (1) before 31st January in the financial year preceding that to which the schedule will relate.

(3) Subject to paragraph (4), a billing authority shall determine a schedule of instalments in accordance with the rules prescribed in Schedule 1 to these Regulations.

(4) Where each relevant major precepting authority agrees before 31st January in the financial year preceding that to which a billing authority's schedule of instalments will relate, a billing authority may determine a schedule of instalments otherwise than in accordance with one or more of the rules prescribed in paragraphs 1 to 5 of Schedule 1 to these Regulations, if the schedule satisfies the conditions specified in the following paragraph.

(5) For the purposes of paragraph (4) and regulation 6(4) the conditions are that the schedule of instalments requires payments or transfers in at least two instalments the total of which will discharge the billing authority's liabilities within the financial year to which it relates.

Information on schedules of instalments

5.—(1) A billing authority shall, before 31st December in the financial year preceding that to which the schedule of instalments will relate, inform each relevant precepting authority of the schedule of instalments which it proposes to determine under regulation 4.

(2) A billing authority shall, on or before 31st January in the financial year preceding that to which the schedule of instalments will relate, inform each relevant precepting authority of the schedule of instalments which it has determined under regulation 4.

(3) A billing authority shall not determine a schedule of instalments under regulation 4 within 21 days of informing each relevant precepting authority under paragraph (1) of the schedule of instalments which it proposes to determine.

Amendment of schedules of instalments

6.—(1) A billing authority may, with the agreement of each relevant major precepting authority, from time to time amend a schedule of instalments in so far as it relates to future payments, and any such amendment shall have effect from such time as is specified in the amendment.

(2) The power under paragraph (1) to amend a schedule of instalments does not extend to the amendment of any provision in so far as it relates to relevant local precepting authorities.

(3) Subject to paragraph (4), an amended schedule of instalments shall satisfy the requirements of paragraphs 1 to 5 of Schedule 1 to these Regulations.

(4) A schedule of instalments may be amended otherwise than in accordance with one or more of the rules prescribed in paragraphs 1 to 5 of Schedule 1 to these Regulations, if the amended schedule of instalments satisfies the conditions specified in regulation 4(5).

Interest on amount of instalments

7.—(1) A billing authority shall pay interest to a relevant precepting authority in respect of any amount which—

- (a) has become payable to that precepting authority in accordance with a schedule of instalments, but
- (b) has not been so paid.

(2) Interest shall be payable under paragraph (1) on the amount outstanding for every day of the period beginning with the day on which the amount was due to be paid and ending with the day before the day on which it is paid.

Calculation of interest on amount of instalments

8.—(1) Interest payable under regulation 7 in respect of an amount outstanding shall be calculated as the rate which is 2 per cent. above the highest base rate quoted by any of the reference banks at any time in the period for which that interest is payable.

(2) The interest shall be paid at the same time as the amount outstanding is paid.

(3) For the purposes of paragraph (1), the reference banks are the seven largest institutions—

- (a) authorised by the Bank of England under the Banking Act 1987⁽³⁾, 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), the size of an institution is to be determined by reference to its total 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)⁽⁴⁾;

(3) 1987 c. 22.

(4) 1985 c. 6; section 736 was substituted by section 144(1) of the Companies Act 1989 (c. 40).

“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.

Calculations under section 32(4) of the 1992 Act

9.—(1) Where—

- (a) a billing authority has made a substitute calculation in relation to a financial year, and
- (b) an amount transferred under section 97(1) of the 1988 Act from that authority’s collection fund to its general fund in relation to that financial year would not have been so transferred had the amount transferable in respect of the last calculation made before the substitute calculation been the same as the amount transferable, if any, in respect of the substitute calculation,

that billing authority shall transfer from its general fund to its collection fund the amount which would not have been so transferred.

(2) Where—

- (a) a billing authority has made a substitute calculation in relation to a financial year, and
- (b) an amount transferred under section 97(2) of the 1988 Act from that authority’s general fund to its collection fund in relation to that financial year would not have been so transferred had the amount transferable in respect of the last calculation made before the substitute calculation been the same as the amount transferable in respect of the substitute calculation,

that billing authority shall transfer from its collection fund to its general fund the amount which would not have been so transferred.

(3) The amount transferred under paragraph (1) or (2), as the case may be, shall be transferred—

- (a) if the substitute calculation was made before the end of the financial year to which it relates, in that financial year,
- (b) in any other case, on the day on which the substitute calculation is made.

(4) In paragraphs (1) and (2) references to an amount transferable in respect of a calculation are references to the amount which a billing authority which has made calculations in accordance with sections 32 to 36 of the 1992 Act is required to transfer from its collection fund or its general fund under subsection (1) or (2) of section 97 of the 1988 Act, as the case may be.

Estimation of surpluses and deficits

10.—(1) A billing authority shall in accordance with the rules prescribed in Part I of Schedule 2 to these Regulations estimate as regards each financial year beginning in or after 1993 whether there is a surplus or deficit in its collection fund for the preceding financial year, and if so, the amount of that surplus or deficit.

(2) A billing authority shall estimate the surplus or deficit under paragraph (1)—

- (a) as regards the financial year beginning in 1993, on 15th February 1993,
- (b) as regards a financial year beginning in or after 1994, on 15th January in the preceding financial year.

(3) Where 15th January in a financial year is a Saturday, Sunday or bank holiday the estimate shall be made on the first working day thereafter.

Apportionment of and liability for surpluses and deficits

11.—(1) Any surplus or deficit estimated by a billing authority under regulation 10(1) as regards the financial year beginning in 1993 shall belong solely to, or be borne solely by, that authority.

(2) Any surplus or deficit estimated by a billing authority under regulation 10(1) as regards a financial year beginning in or after 1994 shall, in accordance with the rules prescribed in Part II of Schedule 2 to these Regulations, be shared among, or be borne between, that authority and its relevant major precepting authorities.

(3) A billing authority shall, within 7 working days of the day on which it makes an estimate under regulation 10(1) as regards each financial year beginning in or after 1994, inform its relevant major precepting authorities of the amount of any surplus or deficit and the amount equal to so much of any such surplus or deficit as, in accordance with the rules prescribed in Part II of Schedule 2 to these Regulations, that billing authority calculates to be each relevant major precepting authority's share or the amount which must be borne by each such authority.

Discharge of a relevant major precepting authority's liabilities

12.—(1) In relation to each financial year beginning in or after 1994 a relevant major precepting authority shall in accordance with paragraphs (2) and (3) discharge its liability to pay anything to a billing authority in respect of so much of any deficit in that authority's collection fund as, in accordance with regulation 11, that billing authority calculates must be borne by that major precepting authority as regards that year.

(2) Any amount so calculated as regards the financial year in question shall be paid by a relevant major precepting authority to a billing authority in no more than 10 equal instalments during that financial year, provided that—

- (a) the first and final instalments are paid in that year no later than 31st May and 31st March respectively, and
- (b) there are an equal number of days between each instalment.

(3) For the purposes of the computation of days under paragraph (2)(b) a day which is a Saturday, Sunday or bank holiday shall be excluded.

Holdings and investments

13.—(1) Any sum paid into a billing authority's collection fund which is not immediately required for the purpose of making payments or transfers from that fund shall be—

- (a) held in cash;
- (b) invested in a prescribed investment; or
- (c) transferred to the billing authority's general fund.

(2) Any sum transferred under paragraph (1) from an authority's collection fund to its general fund shall be—

- (a) held in cash;
- (b) invested in a prescribed investment; or
- (c) used for the discharge of the authority's functions.

(3) A prescribed investment is an investment prescribed in Schedule 3 to these Regulations.

(4) Where a sum has been transferred to its general fund under paragraph (1), a billing authority shall—

- (a) immediately retransfer the sum if such a retransfer is required to enable the authority to meet payments or transfers from its collection fund; and

- (b) otherwise retransfer the sum as and when it thinks fit.

The 1989 Regulations

14.—(1) Subject to paragraph (2), the 1989 Regulations shall cease to have effect in relation to any financial year beginning in or after 1993.

(2) Any sum which—

- (a) at the end of the financial year beginning in 1992 is held or is invested under regulation 10 of the 1989 Regulations, or
- (b) before the end of that year has been transferred under that regulation and has not been retransferred under regulation 11 of the 1989 Regulations,

shall with effect from 1st April 1993 be treated as if it is held or is invested or has been transferred under regulation 13 of these Regulations.

Department of the Environment
13th October 1992

Michael Howard
One of Her Majesty's Principal Secretaries of
State