
STATUTORY INSTRUMENTS

1997 No. 2284

The NCIS Service Authority (Levy) Order 1997

Citation and commencement

1. This Order may be cited as the NCIS Service Authority (Levy) Order 1997 and shall come into force on 15th October 1997.

Interpretation

2.—(1) In this Order:

- (a) “the 1996 Act” means the Police Act 1996(1);
- (b) “the 1997 Act” means the Police Act 1997;
- (c) “the Authority” means the NCIS Service Authority;
- (d) “chief officer of police” means—
 - (i) in relation to a police force maintained under section 2 of the 1996 Act, the chief constable,
 - (ii) in relation to the metropolitan police force, the Commissioner of Police of the Metropolis, and
 - (iii) in relation to the City of London police force, the Commissioner of Police for the City of London.
- (e) “NCIS” means the National Criminal Intelligence Service;
- (f) “police authority” means a police authority established under section 3 of the 1996 Act and the Common Council of the City of London;
- (g) “the preceding year” and “the relevant year” have the meanings given by articles 4(1) and 3(1) respectively;

(2) In this Order references to police authorities shall be taken as including references to the Receiver for the metropolitan police district.

Determination of total amount of the levies

3.—(1) Subject to paragraph (2) below, the Authority shall determine each year the total amount of the levies which it proposes to issue under section 17 of the 1997 Act (“the determination”) for the following financial year (“the relevant year”).

(2) Before making the determination the Authority shall, in addition to the matters set out in paragraph 1(4) of Schedule 3 to the 1997 Act, also take account of—

- (a) the expenditure the Authority estimates it will incur in the relevant year in performing its functions (“operating costs”); and
- (b) the estimated expenses and allowances payable to the Authority members under paragraph 17 of Schedule 2 for the relevant year.

(3) For the purpose of paragraph (2)(a) above operating costs shall include any remuneration, including pensions, payable to and in respect of the Authority's officers and employees, the cost of any accommodation occupied by the Authority and the cost of any services provided to the Authority.

Submission of determination to Secretary of State

4.—(1) The chairman of the Authority shall submit the determination to the Secretary of State in writing by 31st October in the financial year preceding the relevant year ("the preceding year").

(2) When submitting the determination to the Secretary of State the chairman of the Authority shall at the same time send a copy of the determination to each chief officer of police and each police authority.

(3) In support of the determination the Authority shall provide the Secretary of State with a summary of its proposed arrangements for the carrying out by NCIS of its functions for the relevant year and the following information—

- (a) a summary of the expenditure which the Authority estimates will be incurred in connection with NCIS in the relevant year;
- (b) any income which it is estimated will be received by way of charges imposed by the Authority under section 19, or gifts under section 20, of the 1997 Act or otherwise in the relevant year;
- (c) the financial reserves of the Authority and the reserves which it estimates it will be appropriate to raise in the relevant year for meeting its estimated future expenditure;
- (d) the current and proposed level of borrowing of the Authority;
- (e) a record of the views of all members of the Authority on the determination;
- (f) the Authority's estimate of its operating costs in the relevant year; and
- (g) the Authority's estimate of the expenses and allowances payable to its members for the relevant year.

(4) In support of its determination the Authority may, in addition to the information required by paragraph (3) above, send the Secretary of State any other information which it believes would assist him in deciding whether to approve the determination.

Consultation on the total amount of levies

5.—(1) Consultation under paragraph 2(3) of Schedule 3 to the 1997 Act shall begin on or before 5th November in the preceding year.

(2) Any representations by any person consulted under paragraph 2(3) of Schedule 3 shall be delivered to the Secretary of State in writing within a period of five weeks beginning with the day on which the Secretary of State consulted that person.

Secretary of State's approval of the determination

6.—(1) Where the Secretary of State approves the determination he shall notify the Authority of his approval by 10th January in the preceding year.

(2) The Secretary of State shall give a copy of any notice sent to the Authority under paragraph 2(1) of Schedule 3 to the 1997 Act to each chief officer of police (in addition to the persons to whom he gives copies in accordance with paragraph 2(4) of that Schedule).

Procedure where the determination is not approved

7.—(1) Where the Secretary of State does not approve the determination he shall notify his decision in writing to the Authority and shall give any direction he considers appropriate by 10th January in the preceding year.

(2) The Secretary of State shall give a copy of any direction given under paragraph 3(6) of Schedule 3 to the 1997 Act to each chief officer of police (in addition to the persons to whom he gives copies in accordance with paragraph 3(6) of that Schedule).

Secretary of State to give reasons for his direction

8. The Secretary of State, when giving a direction under paragraph 3(1)(b) of Schedule 3 to the 1997 Act, shall give reasons for his decision as to the total amount of the levies and the Authority shall take into account, in its proposed allocation of the resources expected to be available to it, any reasons which are given.

Apportionment of the levies

9. Once the total amount of the levies has been approved by the Secretary of State or, if no such approval has been given, once the Secretary of State has issued a direction under paragraph 3(1) or (2) of Schedule 3 to the 1997 Act, the total amount of the levies shall be apportioned between police authorities in accordance with the Schedule to this Order.

Issuing the levy

10.—(1) The Authority shall, by 15th February in the preceding year, notify in writing each police authority of the total amount of the levies and the levy attributed to that police authority as a result of the apportionment in accordance with the Schedule to this Order.

(2) A levy is not invalid merely because it is issued after 15th February.

Substitution

11.—(1) Subject to the following provisions of this article, when the Authority has issued a levy for a financial year under this Order (originally or by way of substitution) it may issue a levy in substitution.

(2) Except as provided by paragraph (3) below, no levy may be issued in substitution if the amount of the levy issued in substitution (the “new levy”) would be greater than the amount of the levy for which it is substituted (the “old levy”) or if the total amount of the levies issued for the relevant year would be greater than the total amount of the levies approved by the Secretary of State or issued under paragraph 3(1) or (2) of Schedule 3 to the 1997 Act.

(3) The amount of the new levy may be greater than the amount of the old levy if—

- (a) the old levy, or the total amount of the levies issued for the relevant year, has been quashed because of a failure to fulfil the requirements of Schedule 3 or this Order; or
- (b) the new levy is required to be increased to effect a proper apportionment.

(4) 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 police authority by whom it was paid so requires;
- (b) in any other case it shall (as the Authority determines) either be repaid or be credited against any subsequent liability of the police authority in respect of any levy issued by the Authority.

Anticipation

12.—(1) A police authority when making calculations in accordance with section 32 or 43 of the Local Government Finance Act 1992⁽²⁾ (as appropriate) (originally or by way of substitution) for a financial year, may anticipate a levy to be issued to it in accordance with this Order for the relevant year by the Authority in any case where such a levy has not been issued by the Authority to the police authority at the time the calculations are made.

(2) Where, pursuant to paragraph (1) above, a police authority anticipates a levy to be issued by the Authority for the relevant year, the amount of the levy so anticipated shall be equal to the police authority's estimate, at the time the calculations (or last calculation) are made, of the amount of the levy which will be issued to it for the relevant year.

(3) Whether or not a police authority making calculations (originally or by way of substitute) for a financial year anticipates a levy to be issued in accordance with this Order—

- (a) where the Authority issues such a levy to the police authority, the police authority shall pay to the Authority a sum equal to the amount of the levy; and
- (b) where the Authority does not issue such a levy to the police authority, the police authority shall not pay any sum to the Authority in respect of such a levy.

(4) When estimating the amount of levy which will be issued a police authority shall do so on the basis of any information available to it at that time.

Payment of the levy

13.—(1) The amount of a levy issued to a police authority under this Order shall be paid in full by that police authority in the relevant year in respect of which the levy is issued.

(2) Subject to paragraph (4) below, where the levy issued to a police authority for the relevant year is £1 million or more, it shall be paid in ten equal instalments, payable respectively at the end of April, May, June, July, August, September, October, November, December and January in that year.

(3) Subject to paragraph (4) below, where the levy issued to a police authority for the relevant year is less than £1 million, it shall be paid in five equal instalments, payable respectively at the end of April, June, August, October and December in that year.

(4) In relation to the financial year ending with 31st March 1999 the instalment payable at the end of April shall be paid as to one half on 3rd April 1998 and as to the remainder at the end of April 1998.

(5) References in this article to payment of a levy are references to the payment of a levy after the deductions of any amount credited against the liability of the police authority in respect of that levy in accordance with article 11(4) above.

Interest on unpaid levies

14.—(1) Where the levy, or any part of the levy, is not paid by the due date for payment the police authority shall be liable to pay the Authority interest at the rate of 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 highest base rate quoted from time to time by any of the reference banks.

(2) For the purposes of paragraph (1) above—

- (a) the reference banks are the seven largest institutions—
 - (i) authorised by the Bank of England under the Banking Act 1987⁽³⁾; and

(2) 1992 c. 14.

(3) 1987 c. 22.

(ii) incorporated in and carrying on a deposit-taking business within the United Kingdom,

which quote a base rate in sterling;

(b) 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.

(3) In this article—

“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⁾; and “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.

Home Office
19th September 1997

Alun Michael
Minister of State

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