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STATUTORY INSTRUMENTS

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**1996 No. 2794**

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

**The National Park Authorities  
(Levies) (England) Regulations 1996**

*Made* - - - - *6th November 1996*  
*Laid before Parliament* *7th November 1996*  
*Coming into force* - - *28th November 1996*

The Secretary of State for the Environment, in exercise of the powers conferred on him by sections 74, 140(4) and 143(1) of the Local Government Finance Act 1988(1) and section 71(6) of the Environment Act 1995(2), and of all other powers enabling him in that behalf, hereby makes the following Regulations—

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the National Park Authorities (Levies) (England) Regulations 1996 and shall come into force on 28th November 1996.

(2) In these Regulations—

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

“the 1992 Act” means the Local Government Finance Act 1992(3);

“the 1995 Act” means the Environment Act 1995;

“National Park authority” means the authority established for a National Park in England by article 3 of the National Park Authorities (England) Order 1996(4);

“relevant authority” means a local authority for a relevant principal area;

“relevant principal area” means any county or district the whole or any part of which is within the area of a National Park in England other than an area in respect of which the council for that

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(1) 1988 c. 41. Section 74 was amended by regulation 5 of the Local Government Changes for England (Finance) Regulations 1994 (S.I. 1994/2825), paragraph 72 of Schedule 13 to the Local Government Finance Act 1992 (c. 14), and paragraph 21 of Schedule 6 to the Local Government (Wales) Act 1994 (c. 19).

(2) 1995 c. 25; under section 71(2) a National Park authority is deemed to be a levying body within the meaning of section 74 of the 1988 Act.

(3) 1992 c. 14.

(4) S.I. 1996/1243.

area is for the time being excluded under paragraph 2(3) of Schedule 7 to the 1995 Act (local authority members) from the councils by whom the local authority members of the National Park authority for that National Park are to be appointed; and “Secretary of State” means the Secretary of State for the Environment.

### **Application**

2. These Regulations apply in relation to any levy of a National Park authority in England to be issued to, or anticipated by, a relevant authority in respect of any financial year beginning on or after 1st April 1997.

### **Issue of levies**

3.—(1) Subject to paragraph (2), a levy shall not be issued by a National Park authority before the Secretary of State has made a determination of the amount of grants which he proposes to make to that authority under section 72 of the 1995 Act (National Park grant) in respect of the financial year in relation to which that levy is to be issued.

(2) Paragraph (1) shall not apply to a National Park authority where the Secretary of State has not made such a determination before 15th January in the financial year preceding the financial year in relation to which the levy is to be issued.

(3) A levy shall be issued before 15th February in the financial year preceding the financial year in respect of which the levy is issued but shall not be invalid merely because it is issued on or after that date.

(4) Paragraph (3) does not apply to a substituted levy issued in accordance with regulation 6.

### **Apportionment**

4.—(1) Where agreement as to apportionment of the amount which is to be raised by the National Park authority in respect of any financial year by way of levies is entered into by all the relevant authorities before the relevant date, the National Park authority shall secure that the amount to be met by levies issued by it under these Regulations is borne by the relevant authorities in that agreed proportion.

(2) Where the relevant authorities have not agreed before the relevant date the proportion of the amount of levies of a National Park authority to be borne by each of those authorities, the National Park authority shall secure that the amount to be met by levies issued by it under these Regulations is borne by the relevant authorities in the relevant proportion.

(3) For the purposes of this regulation, the relevant proportion shall be determined as the proportion which the number of members appointed from each relevant authority bears to the total number of members of the National Park authority.

(4) In this regulation “the relevant date” means 1st December in the financial year preceding the financial year in respect of which the levy is issued<sup>(5)</sup>.

### **Maximum amount of levies**

5.—(1) A National Park authority shall not raise by way of levies issued to any relevant authorities in respect of any financial year an amount in excess of the maximum amount.

(2) In this regulation—

“maximum amount” means the amount calculated by applying the formula  $(A \times \frac{1}{3})$  where—

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(5) The date of 1st December is provided for in section 71(5) of the 1995 Act as the date before which an agreed apportionment must be made.

- (a) “A” is the amount of grants that the Secretary of State has proposed to make to that National Park authority under section 72 of the 1995 Act (National Park grant) in respect of the financial year to which the levy relates in determinations made before the issue of the levy; or
- (b) in the case where no such determinations have been made before 15th January in the financial year preceding the financial year in relation to which the levy is to be issued—
  - (i) for the purposes of a levy issued in respect of the financial year beginning in 1997, “A” shall be taken to be the aggregate amount of supplementary grants determined before the said 15th January under section 7 of the Local Government Act 1974<sup>(6)</sup> (National Park Supplementary Grant) in respect of the National Park for the financial year beginning in 1996, increased or decreased in proportion to the difference between the retail prices index for September 1996 and the retail prices index for September 1995; and
  - (ii) for the purposes of a levy issued in respect of any subsequent financial year, “A” shall be taken to be the aggregate amount of grants determined before the said 15th January under section 72 of the 1995 Act (National Park grant) in respect of the National Park for the financial year preceding the financial year in relation to which the levy is to be issued, 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 to be issued and the retail prices index for the preceding September; and

“retail prices index” means the general index of retail prices (for all items) published by the Office for National Statistics or, if that index is not published for any month, any substituted index or index figures published by that Office.

### **Substituted levies**

**6.—(1)** Subject to the following provisions of this regulation, a National Park authority 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) 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 for by paragraph (3) below.

(3) 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 is quashed because of a failure to fulfil the requirements of section 71 of the 1995 Act (levies by National Park authorities) but, in a case where the old levy is quashed because of a failure to fulfil the requirements of regulation 4, only so far as the new levy is required to be increased to effect a proper apportionment.

(4) The new levy shall be issued in accordance with these Regulations and in the term “A” in the definition of “maximum amount” in paragraph (2) of regulation 5, the reference to the levy shall be read as meaning the new levy.

(5) Where a National Park 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) 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 the new levy—

- (a) it shall be repaid if the relevant authority by whom it was paid so requires;

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<sup>(6)</sup> 1974 c. 7; section 7 was amended by Schedule 3 to the Local Government Act 1985 (c. 51) and by Schedule 8 to the Environmental Protection Act 1990 (c. 43).

- (b) in any other case it shall (as the National Park authority determines) either be repaid or be credited against any subsequent liability of the relevant authority in respect of any levy issued by the National Park authority.

### **Payment of levies**

7.—(1) A relevant authority to which a levy is issued under these Regulations in respect of a financial year shall pay the amount of the levy to the National Park authority in that financial year—

- (a) at such times and in such instalments (if any) as may be agreed between the National Park authority and the relevant authority; or
- (b) in default of such agreement—
- (i) by four equal instalments payable on the first working day in May, July, October and January in that financial year (“the payment dates”), or
- (ii) if the levy is issued after 30th April in that financial year, by equal instalments payable on as many of the payment dates as remain after 30 days after the date of issue of the levy or, if only one payment date so remains, by a single payment on that payment date or, if no payment date so remains, by a single payment payable 30 days after the date of issue.

(2) References in this regulation to payment of a levy are references to 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 6(6)(b).

(3) For the purposes of this regulation—

“working day” means any day which is not a Saturday, Sunday, Christmas Day, Good Friday or bank holiday in England; and

“bank holiday” means a day which is, or is to be observed as, a bank holiday or a holiday, under the Banking and Financial Dealings Act 1971(7) in England and Wales.

### **Interest on unpaid levies**

8.—(1) Where any amount of a levy issued under these Regulations is not paid by the due date for payment as provided for in regulation 8, the relevant authority shall be liable to pay to the National Park authority interest, calculated in accordance with the following provisions of this regulation, on the amount which remains unpaid after the due date for payment.

(2) Interest payable under paragraph (1) shall be simple interest calculated from day to day on the unpaid amount from the due date of payment until the date when the 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.

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

- (a) the reference banks are the seven largest institutions—
- (i) authorised by the Bank of England under the Banking Act 1987(8); and
- (ii) incorporated in and carrying on a deposit-taking business within the United Kingdom,
- which quote a base rate in sterling, and

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(7) 1971 c. 80.

(8) 1987 c. 22.

- (b) the size of an institution is to be determined by reference to its total consolidated gross assets denominated in sterling, as shown by its audited end-year accounts last published before the period for which interest is payable begins.
- (4) In this regulation—
  - (a) “a deposit-taking business” has the meaning given in section 6 of the Banking Act 1987 (meaning of “deposit-taking business”) but subject to any order under section 7 of that Act (power to amend definitions); and
  - (b) the reference to the consolidated gross assets of that 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<sup>(9)</sup> (“subsidiary”, “holding company” and “wholly-owned subsidiary”)).

### **Anticipation of levies**

- 9.—(1) In this regulation—
- (a) “authority” means a relevant authority; and
  - (b) “relevant National Park authority”, in relation to an authority, means a National Park authority with power to issue a levy to that authority.

(2) An authority making calculations in accordance with section 32 or 43 of the 1992 Act<sup>(10)</sup> (calculation of budget requirement), originally or by way of substitute, for the financial year beginning on 1st April 1997 may anticipate a levy to be issued, in accordance with these Regulations, to it for that year by a relevant National Park authority in a case where such a levy has not been issued to it by the relevant National Park authority at the time when those calculations are made except that, in a case where the relevant National Park authority has not later than 29th December 1996 given notice in writing to the authority of its intention to issue a levy to the authority for that financial year, the authority shall anticipate such a levy.

(3) An authority making calculations in accordance with that section 32 or 43, originally or by way of substitute, for any other financial year may anticipate a levy to be issued to it in accordance with these Regulations for that year by a relevant National Park authority in any case where—

- (a) such a levy has not been issued by the relevant National Park authority to the authority at the time when those calculations are made; and
- (b) the relevant National Park authority issued a levy to the authority for the preceding financial year.

(4) Subject to paragraph (5) below, where pursuant to paragraph (2) or (3) above, an authority anticipates a levy to be issued by a relevant National Park authority for the year, the amount of the levy anticipated shall be equal to the authority’s estimate at the time the calculations (or last calculations) are made of the amount of the levy which it considers likely will be issued to it for the year by the relevant National Park authority; and in estimating that amount the authority shall have regard to “A”, the amount of grants calculated in accordance with regulation 5(2), in respect of that year.

(5) Where a levy has previously been anticipated by the authority for the purposes of the calculations for a financial year, the amount of the levy which may be anticipated by the authority for the purposes of any substitute calculations for that year shall be equal to the amount previously anticipated.

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(9) 1985 c. 6. Section 736 was substituted by section 144(1) of the Companies Act 1989 (c. 40).

(10) Section 32 of the 1992 Act was amended by paragraph 4 of Schedule 12 to the Local Government (Wales) Act 1994 and by the Local Authorities (Alteration of Requisite Calculations and Funds) Regulations 1994 (S.I. 1994/246), the Local Authorities (Alteration of Requisite Calculations and Funds) Regulations 1995 (S.I. 1995/234) and the Local Authorities (Alteration of Requisite Calculations) Regulations 1996 (S.I. 1996/175). Section 43 of the 1992 Act was amended by S.I. 1994/246 and S.I. 1995/234.

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(6) Notwithstanding that an authority making calculations (originally or by way of substitute) for a financial year anticipated a levy to be issued in accordance with these Regulations to it by a relevant National Park authority—

- (a) where the relevant National Park authority issues such a levy to the authority, the authority shall pay to the relevant National Park authority a sum equal to the amount of the levy; and
- (b) where the relevant National Park authority does not issue such a levy to the authority, the authority shall not be liable to pay any sum to the relevant National Park authority only by virtue of having anticipated a levy from the relevant National Park authority.

Signed by authority of the Secretary of State for the Environment

Department of the Environment  
6th November 1996

*David Curry*  
Minister of State,

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## EXPLANATORY NOTE

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

These Regulations provide for the issue of levies by a National Park authority for a National Park in England. Such National Park authorities were established by the National Park Authorities (England) Order 1996 (S.I.1996/1243). By virtue of section 71(1) of the Environment Act 1995, National Park authorities may issue a levy to any principal authority the whole or part of whose area falls within a National Park area and which is entitled to appoint a local authority member of the National Park authority. These are county councils and district councils. The Regulations apply to the issue of levies by such National Park authorities to meet their expenses in respect of financial years beginning on or after 1st April 1997.

The Regulations include provisions as to the issue of levies (regulation 3), apportionment (regulation 4), the maximum amount of levies (regulation 5), the issuing of substituted levies (regulation 6), the payment of levies (regulation 7) and interest on unpaid levies (regulation 8).

Regulation 9 provides for a local authority to anticipate a levy which may be issued to it by a National Park authority.