

**EXPLANATORY MEMORANDUM TO  
THE LOCAL AUTHORITIES (ALTERATION OF REQUISITE CALCULATIONS)  
(ENGLAND) REGULATIONS 2005**

**2005 No. 190**

1. This explanatory memorandum has been prepared by the Office of the Deputy Prime Minister and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

- 2.1 These Regulations amend the components of calculations set out in the Local Government Finance Act 1992 (“the 1992 Act”) and the Greater London Authority Act 1999 (“the 1999 Act”) which provide how a local authority, major precepting authorities and the Greater London Authority (“GLA”) are to calculate their budget requirements and council tax.

- 2.2 A major precepting authority is an authority that provides services but which does not collect council tax itself for example a county council or a combined fire authority. It issues a precept to a billing authority, which then collects council tax on its behalf.

- 2.3 Similar regulations are made each year immediately following the approval by the House of Commons of the annual Police Grant Report.

3. **Matters of special interest to the Joint Committee on Statutory Instruments.**

- 3.1 The Office is laying these Regulations before Parliament today. This section explains why the Regulations come into force less than 21 days from the date of laying.

- 3.2 These Regulations could not be made and laid until after the Police Grant Report (England and Wales) 2005/06 (“the Police Grant Report”), which is referred to in the Regulations, had been approved by the House of Commons. The Police Grant Report was approved on 2<sup>nd</sup> February 2005. The Regulations modify the definition of “police grant” in section 32 of the 1992 Act, with reference to the Police Grant Report, for the purposes of the calculation by local authorities of their budget requirement and basic amounts of council tax. The amounts of grant payable under the Police Grant Report affect these calculations.

- 3.3 Local Authorities will be able to calculate their budget requirements and set their council taxes (under Chapters III and IV of Part 1 of the 1992 Act, and, in the case of the GLA, under Chapter I of Part 3 of the 1999 Act,) as soon as the Police Grant Report and the Local Government Finance Report 2005/2006, have been approved and any levies have been issued to them. In addition, in the case of the GLA, the GLA General Grant determination also has to have been made. Levies under section 74 of the Local Government Finance Act 1988

(c.41) can be issued at any time before 15<sup>th</sup> February, so authorities may be ready to begin calculating their budget requirements and council taxes as soon as the Police Grant Report and the Local Government Finance Report have been approved.

- 3.4. Billing authorities must calculate their budget requirements and set their council taxes before 11<sup>th</sup> March (see sections 32(10) and 30(6) of the 1992 Act). The GLA must calculate its budget requirement by the end of February (see Schedule 6, paragraphs 8(7) and 9 of the 1999 Act). Major precepting authorities must issue their precepts to billing authorities by 1<sup>st</sup> March (see section 40(5) of the 1992 Act.) Allowing 21 days between the laying and coming into force of these Regulations would give authorities very little time in which to make the necessary calculations within these statutory limits. The 5<sup>th</sup> February was chosen as the date of coming into force of these Regulations to allow authorities the required time.
- 3.5. Drafts of the provisions contained in the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2005 were sent to authorities in England on 2<sup>nd</sup> December 2004 notifying them of the proposed changes. All authorities affected will be sent a copy of the Regulations after they are laid in Parliament.

#### 4. **Legislative Background**

- 4.1. These Regulations are being made to amend the components of calculations used in the calculation of budget requirements and council tax by authorities as set out in paragraph 2.1 above.
- 4.2. Sections 32 and 33 of the 1992 Act provide how a billing authority is to calculate its budget requirement and the basic amount of council tax. Section 32 is amended to ensure that expenditure under a business improvement district (“BID”) which is charged to a BID revenue account is not taken into account by a billing authority when setting its budget requirement. This means that such expenditure will not result in an increase in council tax in such areas. A BID is an area in which additional services or improvements of benefit to the local community will be funded by a levy, raised from non-domestic rate payers. The amendments in relation to BIDs are made for financial years commencing on or after 1 April 2005, to avoid the same amendments being made each year.
- 4.3. In addition these Regulations omit references to “relevant special grants” from sections 32, 33, 43 and 44 of the 1992 Act and from sections 85, 88, 99 and 102 of the 1999 Act as no special grants are defined as relevant special grants for the financial year beginning on 1<sup>st</sup> April 2005.
- 4.4. Finally, these Regulations amend the definition of “police grant” in sections 32, 33, 43 and 44 of the 1992 Act and from sections 85, 88, 99 and 102 of the 1999 Act so that it refers to the Police Grant Report (England and Wales) 2005/06.

## 5. **Extent**

5.1 This instrument applies to England.

## 6. **European Convention on Human Rights**

Nick Raynsford has made the following statement under section 19(1)(a) of the Human Rights Act 1988:

“In my view the provisions of the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2005 are compatible with the Convention rights.”

## 7. **Policy background**

7.1 The policy objective of the relevant sections of the 1992 Act is to ensure that local authorities are able to calculate their budget requirements and council taxes accurately, and in a way which is consistent across authorities.

7.2 The instrument is important in practical and legal terms because it ensures that the grants and types of expenditure in existence for 2005/06 can be taken into account correctly in the calculations. For example, in the absence of the instrument:

- Expenditure under a BID would need to be included in the calculated amount of council tax, even though such expenditure is intended to be funded in practice by businesses rather than by council tax payers; and
- Expenditure by a police authority funded from police grant payable under the Police Grant Report (England and Wales) 2005/06 would be excluded from the authority's budget requirement. This would be contrary to the policy which is that it should be included for example for when an assessment is made for capping purposes as to whether an authority's budget requirement is excessive.

7.3 As stated at paragraph 3.5, draft regulations were sent to authorities on 2nd December 2004 as part of the provisional local government finance settlement. Written representations were invited by 11th January 2005 and only one representation was received. This was from the Leicestershire Police Authority which asked whether it was ODPM's intention to take into account in the Regulations changes arising from the Police Grant Report (England and Wales) 2003/04: Amending Report 2005. They were advised that that was not the intention because adjustments in respect of grants for 2003/04 are to be subsumed within the calculation of the budget requirement as set out in section 43 of the 1992 Act and so are not to be treated as part of the income item that is subtracted from the budget requirement when calculating the basic amount of council tax, as set out in section 44 of the 1992 Act.

## 8. **Impact**

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is not significant.

9. **Contact**

Andrew Presland at the Office of the Deputy Prime Minister Tel: 0207 944 4166 or e-mail: Andrew.Presland@odpm.gsi.gov.uk can answer any queries regarding the instrument.

A handwritten signature in black ink that reads "AR Presland". The letters are written in a cursive, slightly slanted style.

**Andrew Presland**

**4th February 2005**