

EXPLANATORY MEMORANDUM TO
THE LOCAL AUTHORITIES (ALTERATION OF REQUISITE CALCULATIONS)
(ENGLAND) REGULATIONS 2009

2009 No. 206

1. This explanatory memorandum has been prepared by Communities and Local Government and is laid before Parliament by Command of Her Majesty.

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

2. **Purpose of the instrument**

- 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 billing authorities, 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 exercises local government functions but does not collect council tax itself (for example a county council in an area where there is a district 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 and Local Government Finance Reports.

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

- 3.1 The Department 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) 2009/10 (“the Police Grant Report”) and the Local Government Finance Report (England) 2009/2010 (“the Local Government Finance Report”), which are referred to in the Regulations, had been approved by the House of Commons. The Police Grant Report and the Local Government Finance Report were approved on 4th February 2009.

- 3.3 The Regulations modify the definition of “police grant” in section 32 of the 1992 Act by reference to the Police Grant Report. The altered definition also applies to sections 33, 43 and 44 of the 1992 Act and corresponding provisions in the 1999 Act. The amounts of grant payable under the Police Grant Report affect the calculation by authorities of their budget requirements and basic amounts of council tax for 2009/10.

3.4 The Regulations also define “revenue support grant” and “redistributed non-domestic rates” in sections 32, 33, 43 and 44 of the 1992 Act and in sections 85 and 102 of the 1999 Act by reference to sums payable or received under the Local Government Finance Report. In particular, this makes clear that any sums due to a local authority from the Secretary of State, or due to be paid by a local authority to the Secretary of State, under an amending report (see section 84A of the Local Government Finance Act 1988 (c.41)) for an earlier financial year should not be treated as amounts of revenue support grant and non-domestic rates and so should be included in an authority’s calculation of its budget requirement for 2009/10.

3.5 Authorities will be able to calculate their budget requirements and set their levels of council tax (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, 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 can be issued at any time before 15th February¹, 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.

3.6 Billing authorities must calculate their budget requirements and set their levels of council tax before 11th March (see respectively 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 1st 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 10th February was chosen as the date of coming into force of these Regulations to allow authorities the required time.

4. Legislative Context

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 These Regulations omit references to “relevant special grants” from sections 32, 33, 43 and 44 of the 1992 Act and from sections 85, 88, 89 and 102 of the 1999 Act as no special grants are defined as relevant special grants for the financial year beginning on 1st April 2009.

4.3 These Regulations also amend the definition of “police grant” in sections 32, 33, 43 and 44 of the 1992 Act and in section 99 of the 1999 Act so that that definition refers to the Police Grant Report.

¹ There are a variety of provisions in primary and secondary legislation which specify the 15th February date. See, for example, section 14 of the Norfolk and Suffolk Broads Act 1988 (c.4), regulation 4 of the Levying Bodies (General) Regulations 1992 (S.I. 1992/2903) and regulation 4 of the Environment Agency (Levies) Regulations 1993 (S.I. 1993/61).

4.4 As set out in paragraph 3.4 above, the Regulations also define “revenue support grant” and “redistributed non-domestic rates” in sections 32, 33, 43 and 44 of the 1992 Act and in sections 85 and 102 of the 1999 Act so that those definitions refer to such amounts payable under the Local Government Finance Report (England) 2009/2010.

5. Territorial Extent and Application

5.1 This instrument applies in relation to authorities in England only.

6. European Convention on Human Rights

6.1 The Minister for Local Government, John Healey, has made the following statement regarding Human Rights:

“In my view the provisions of the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2009 are compatible with the Convention rights.”

7. Policy background

- *What is being done and why*

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 2009/10 can be taken into account correctly in the calculations. For example, in the absence of the instrument:

- Expenditure by a police authority funded from police grant payable under the Police Grant Report 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.

- *Consolidation*

7.3 These Regulations only apply in relation to the financial year beginning on the 1st April 2009. They do not amend or modify any other statutory instrument. It follows that consolidation is not a relevant issue.

8. Consultation outcome

8.1 A draft of the Regulations was posted on the Department's website shortly after the announcement of the consultation on the provisional Local Government Finance Report, along with a letter asking for representations on the draft Regulations. No representations were received.

9. Guidance

9.1 Each financial year the Department publishes a guide to the Local Authorities (Alteration of Requisite Calculations) (England) Regulations which are applicable for that year. The guide briefly explains the purpose and effect of the relevant Regulations. It also includes the up-to-date text of the provisions of the 1992 and 1999 Acts which are amended by the Regulations. The Department plans to publish a similar guide to the Regulations for this financial year in the near future

10. Impact

10.1 The impact on business, charities or voluntary bodies is nil.

10.2 The impact on the public sector is not significant.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The approach adopted in these Regulations has been used for many years. The Department consults on that approach each financial year by publishing a copy of the draft Regulations at about the same time as the consultation on the provisional Local Government Finance Report for the same year. The Department will continue to monitor the operation of the Regulations, and consult on any proposed changes to its approach as and when necessary.

13. Contact

James Caddick at Communities and Local Government Tel: 0208 566 0794 or email: James.Caddick@communities.gsi.gov.uk can answer any queries regarding the instrument.