
STATUTORY INSTRUMENTS

1995 No. 2562

LOCAL GOVERNMENT, ENGLAND AND WALES
WALES

The Local Authorities (Precepts) (Wales) Regulations 1995

Made - - - - *2nd October 1995*
Laid before Parliament *5th October 1995*
Coming into force - - *31st October 1995*

The Secretary of State for Wales, in exercise of the powers conferred on him by sections 38(9) and (10) and 63(5), of the Local Government (Wales) Act 1994(1), and of all other powers enabling him in that behalf, hereby makes the following Regulations—

Citation and commencement

1. These Regulations may be cited as the Local Authorities (Precepts) (Wales) Regulations 1995 and shall come into force on 31st October 1995.

Interpretation

2.—(1) In these Regulations—

“the 1992 Act” means the Local Government Finance Act 1992(2);

“the 1992 Regulations” means the Local Authorities (Funds) (Wales) Regulations 1992(3);

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

“relevant major precepting authority”, in relation to a billing authority, means the police authority established under section 3 of the Police Act 1964(4), having power to issue a precept to that billing authority;

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

“schedule of instalments” means:

(1) 1994 c. 19.

(2) 1992 c. 14.

(3) S.I.1992/2929, amended by S.I. 1994/2964.

(4) 1964 c. 48; section 3 was substituted by section 2 of the Police and Magistrates' Courts Act 1994 c. 29.

- (a) a schedule determined, or to be determined, by a billing authority in accordance with regulation 4 and, where it applies, regulation 6, with respect to the times for and the number and amounts of payments from its council fund in respect of its liabilities; and
- (b) in relation to a financial year for which such a schedule has been so determined, means the schedule which currently has effect for that financial year; and

“working day” means any day other than a Saturday, Sunday, or bank holiday.

(2) Any reference in these Regulations (however framed) to liability in relation to a billing authority is a reference to the liability of a billing authority to pay anything from its council fund in respect of any precept issued by a relevant precepting authority under Chapter IV of Part I of the 1992 Act, after taking into account any amount credited against that liability by that relevant precepting authority under section 42(4) of that Act.

(3) References in these Regulations to a working day in one month and a working day in another month shall be treated (in relation to each other) as the same working day of a different month if, and only if, both such working days can be identified

- (a) by the same name of a day in a week (whether Monday, Tuesday, Wednesday, Thursday or Friday), and also
- (b) by reference to the same position in a month relative to other days of that name (whether the first, second, third or fourth day of that name in a month).

Discharge of a billing authority’s liabilities

3.—(1) Subject to paragraph (2), in relation to each financial year beginning in or after 1996 a billing authority shall in accordance with its schedule of instalments pay to its relevant precepting authorities such amounts, if any, as will discharge its liabilities for that financial year.

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

(3) Where—

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

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

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

(5) For the purposes of paragraph (4), any amount paid which—

- (a) was treated in accordance with that paragraph as discharging a billing authority’s liability, but
- (b) was subsequently repaid or credited by the relevant precepting authority concerned under section 42(4) of the 1992 Act,

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

Schedules of instalments

4.—(1) A billing authority shall, in accordance with the rules prescribed in the Schedule to these Regulations, determine a schedule of instalments in relation to each financial year beginning in or after 1996.

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

(3) A billing authority may revoke a schedule of instalments at any time before 31st December in the financial year preceding that to which the schedule will relate.

(4) If a billing authority revokes a schedule of instalments (“the previous schedule”) under paragraph (3) above, it shall make a fresh determination of a schedule of instalments (“the substitute schedule”) for the financial year to which the previous schedule related; and the provisions of these Regulations, including this regulation, shall apply to the determination of a substitute schedule as they applied to the determination of the previous schedule.

Information on schedules of instalments

5.—(1) A billing authority shall, at any time 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, at any time before 1st February 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 the relevant major precepting authority, from time to time amend a schedule of instalments insofar 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 insofar as it relates to relevant local precepting authorities.

(3) An amended schedule of instalments shall satisfy the requirements of paragraph 1(3) and (4) of the Schedule to these Regulations.

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 relevant 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 at 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⁽⁵⁾ 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)⁽⁶⁾;

“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.

The 1992 Regulations

9. The 1992 Regulations shall cease to have effect in relation to any financial year beginning in or after 1996.

(5) 1987 c. 22.

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

SCHEDULE

Regulations 4 and 6

RULES FOR DETERMINATION OF SCHEDULES OF INSTALMENTS

PART I

RELEVANT MAJOR PRECEPTING AUTHORITIES

1.—(1) A schedule of instalments so far as it relates to the relevant major precepting authority shall be determined in accordance with this Part of this Schedule.

(2) The schedule of instalments shall be determined so as to require any payments from a billing authority's council fund in respect of its liability to the relevant major precepting authority ("the liability") to be made in at least 12 instalments.

(3) The total of the instalments required to be paid by the schedule must discharge the liability within the financial year to which the schedule relates.

(4) The schedule of instalments shall be determined so as to specify—

- (a) the number of the instalments,
- (b) the amount which each instalment will be as a proportion of the amount of the liability, and
- (c) the date on which each instalment shall become payable.

2. Where the billing authority determines that 12 instalments are to be paid in discharge of the liability, the authority shall determine the schedule of instalments so as to require either—

- (a) that each instalment shall become payable on the last working day of a different month in the financial year, or
- (b) that each instalment shall become payable on the same working day of a different month in that financial year.

3. Where the billing authority determines that more than 12 instalments are to be paid in discharge of the liability, the authority shall determine the schedule of instalments so as to require that—

- (a) the authority shall pay the amount of the first instalment in the financial year within 4 weeks of the start of that financial year and the amount of the last instalment within 4 weeks prior to the end of that financial year, and
- (b) there shall be an equal number of working days between each instalment in that financial year.

4.—(1) The schedule of instalments shall be determined so as to require each instalment to represent the amount of the billing authority's undischarged liability to the relevant major precepting authority, divided by the number of instalments remaining to be paid immediately before the payment of the instalment in question.

(2) The amount of the billing authority's undischarged liability to the relevant major precepting authority is the amount of the liability for the financial year in which the instalment falls to be paid less the amount, if any, by which the liability is treated as discharged under regulation 3.

(3) This paragraph shall not apply where paragraph 5 applies.

5.—(1) This paragraph applies where the relevant major precepting authority has issued a substitute precept under section 42(1) of the 1992 Act, for the financial year to which the schedule of instalments relates.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(2) Subject to sub-paragraphs (4) and (6), the schedule of instalments shall be determined so as to require each instalment paid to the relevant major precepting authority after it has issued a substitute precept to be the amount calculated in accordance with sub-paragraph (3).

(3) The amount calculated in accordance with this sub-paragraph shall be calculated by applying the formula—

$$A \times \frac{B}{C}$$

where—

A is the amount which would have been paid on the date on which the instalment is paid had the substitute precept not been issued,

B is the amount payable in respect of the substitute precept, and

C is the amount payable in respect of the previous precept.

(4) If the amount payable in respect of the substitute precept is greater than the amount payable in respect of the previous precept, the amount paid to the relevant major precepting authority shall in the first instalment paid after the issue of that substitute precept be required to include the additional amount described in sub-paragraph (5).

(5) For the purposes of sub-paragraph (4), the additional amount is the difference between—

(a) the total of—

(i) the amount paid for the financial year to the relevant major precepting authority before the issue of the substitute precept, and

(ii) the amount of the instalment calculated in accordance with sub-paragraph (3), and

(b) the amount which would have been paid for the financial year to the relevant major precepting authority on and before the day of the payment to that authority of the first instalment after the issue of the substitute precept, had the amount payable in respect of the previous precept been the same as the amount payable in respect of the substitute precept.

(6) If the amount payable in respect of the substitute precept is less than the amount payable in respect of the previous precept, the amount paid to the relevant major precepting authority in an instalment paid after the issue of the substitute precept by that authority shall not be required to be an amount greater than the amount described in sub-paragraph (7).

(7) For the purposes of sub-paragraph (6), the amount is that necessary for the amount paid to the relevant major precepting authority for the financial year on and before the day of the instalment to equal the amount which would have been so paid had the amount payable in respect of the previous precept been the same as the amount payable in respect of the substitute precept.

(8) Where the relevant major precepting authority has issued more than one substitute precept for the financial year to which the schedule of instalments relates—

(a) references in this paragraph to a substitute precept shall be construed as references to the latest substitute precept, and

(b) references to the previous precept shall be construed as references to the last precept to be issued before the latest substitute precept.

(9) In this paragraph any reference (however framed) to an amount payable in respect of a precept is a reference to the amount stated in a precept issued to the billing authority, under section 40(2)(b) of the 1992 Act.

PART II

LOCAL PRECEPTING AUTHORITIES

6. A schedule of instalments so far as it relates to relevant local precepting authorities shall be determined in accordance with this Part of this Schedule.

7.—(1) The amount of a billing authority's liability to each relevant local precepting authority for a financial year shall be discharged by payment from the billing authority's council fund to be made in not more than 3 instalments, of the same number for each such liability, as determined by the authority, and payable on the same dates for each such liability, as determined by the authority in accordance with the rules prescribed in paragraph 8.

(2) The schedule of instalments shall be determined so as to specify—

- (a) the number of the instalments,
- (b) the amount which each instalment will be as a proportion of the amount of each such liability, and
- (c) the date in that financial year on which each instalment shall become payable.

(3) The schedule of instalments shall be determined so as to provide that if—

- (a) a relevant local precepting authority issues a substitute precept for a financial year which is greater than the amount of the previous precept to be issued or the last one to be issued, and
- (b) that substitute precept was issued on or after the last working day of a month which is referred to in paragraph 8 and which applies to that relevant local precepting authority in that financial year, the difference between the liability in respect of that substitute precept and the liability in respect of the previous precept to be issued or the last one to be issued shall not be taken into account for the purpose of determining the amount of the liability to that relevant local precepting authority to be paid in that month.

8.—(1) At least one third of the amount of a billing authority's liability to a relevant local precepting authority for a financial year shall become payable to that local precepting authority on or before—

- (a) the last working day of April in that financial year, or
- (b) the last working day of the month following the month in which a precept for that financial year was issued by that local precepting authority,

whichever is the later.

(2) At least two thirds of that amount shall become payable to that local precepting authority on or before—

- (a) the last working day of August in that financial year, or
- (b) the last working day of the fifth month following the month in which a precept for that financial year was issued by that local precepting authority,

whichever is the later.

(3) The remainder of that amount shall become payable to that local precepting authority on or before—

- (a) the last working day of December in that financial year, or
- (b) the last working day of the ninth month following the month in which a precept for that financial year was issued by that local precepting authority,

whichever is the later.

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(4) References in this paragraph to a precept for a financial year are references to the last such precept issued by the local precepting authority concerned.

Signed by authority of the Secretary of State for Wales

Gwilym Jones
Parliamentary Under Secretary of State, Welsh
Office

2nd October 1995

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply only to Wales. They make provision for the discharge by a billing authority of its liabilities to pay amounts in respect of precepts from its council fund.

Regulation 3 makes provision for a billing authority to make certain payments in accordance with a schedule of instalments and otherwise, and for the circumstances in which certain liabilities of the authority are to be treated as discharged.

Regulations 4 and 5, together with the Schedule, make provision for a billing authority to determine a schedule of instalments in accordance with prescribed rules. Regulation 6 allows a schedule of instalments to be amended. Regulations 7 and 8 make provision as to the payment of interest where amounts payable in accordance with a schedule of instalments are not paid.

Regulation 9 provides that the Local Authorities (Funds) (Wales) Regulations 1992 cease to have effect in relation to any financial year beginning in or after 1996.