
STATUTORY INSTRUMENTS

1992 No. 2789

LOCAL GOVERNMENT, ENGLAND AND WALES
FINANCE

The Transport Levying Bodies Regulations 1992

<i>Made</i>	- - - -	<i>9th November 1992</i>
<i>Laid before Parliament</i>		<i>10th November 1992</i>
<i>Coming into force</i>	- -	<i>1st December 1992</i>

The Secretary of State for Transport, in exercise of the powers conferred by sections 74 and 143(1) and (2) of the Local Government Finance Act 1988(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 Transport Levying Bodies Regulations 1992 and shall come into force on 1st December 1992.

Interpretation

2. In these Regulations—

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

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

“council concerned” means, in relation to a levying body, a council as respects which the levying body would, apart from section 117 of the 1988 Act, have had a relevant precepting power;

“levying body” has the same meaning as in section 74 of the 1988 Act;

“local Act levying body” means a levying body whose relevant precepting power is conferred by a local or private Act;

“relevant Act”, in relation to a levying body, means the Act by which a relevant precepting power is conferred on that body;

(1) 1988 c. 41. Section 74 was amended by the Local Government Finance Act 1992, Schedule 13, paragraph 72 and section 143(2) was amended by the Local Government and Housing Act 1989, Schedule 5, paragraph 72(2).
(2) 1992 c. 14.

“relevant precepting power” means any power under an Act which a levying body would, apart from section 117 of the 1988 Act, have had in respect of the financial year commencing in 1990 to issue a precept to, make a levy on or have its expenses paid by a county council or a charging authority.

Application

3. The levying bodies to which these Regulations apply are—
- (a) the metropolitan county passenger transport authorities established by section 28 of the Local Government Act 1985(3),
 - (b) the local Act levying bodies listed in the Schedule to these Regulations,
 - (c) subject to regulation 14 below, the Tweed Bridges Trust, and
 - (d) any other levying body whose functions consist exclusively of the administration of a bridge or harbour.

Power to issue levies

4.—(1) Each levying body to which these Regulations apply shall have power to issue to a council concerned and in accordance with these Regulations a levy in respect of each chargeable financial year to meet those liabilities and expenses of the levying body to which its relevant precepting power applies.

(2) A levy must state whether it or any portion of it is applicable to all or part of the area of the council concerned to which it is issued and, in the case of a part, what part.

Date of issue of levies

5.—(1) A levy, other than a substituted levy issued under regulation 9 below, shall be issued before 15th February preceding the commencement of the financial year in respect of which it is issued (in this regulation called “the relevant date”), but shall not be invalid merely because it is issued on or after that date.

(2) Where the relevant Act would, apart from section 117 of the 1988 Act, require the levying body to issue a precept, make a levy or provide an estimate of its expenditure to be paid, before a date which is earlier than the relevant date, that earlier date shall be the relevant date for the purposes of paragraph (1) above.

- (3) Paragraph (2) does not apply—
- (a) to a levy issued for the financial year beginning in 1993; or
 - (b) to a levy to which regulation 7(3) applies.

Maximum amount of levies

6.—(1) This regulation applies to a local Act levying body whose relevant precepting power is subject to a limit (in this regulation called “the relevant limit”) imposed by or under the relevant Act on the amount for which it could issue a precept to, make a levy on or seek payment from the council concerned.

(2) Subject to the following provisions of this regulation, any levy which the levying body may issue under these Regulations shall be subject to the relevant limit.

(3) Where the relevant limit is expressed in terms of the product of a rate of a specified amount for the area of the council concerned, or for a specified part of that area, in relation to a financial year, for the purposes of a levy issued in respect of—

- (a) the financial year commencing in 1993, the product of a rate of that amount for that area, or as the case may be, for that part, shall be taken to be the amount ascertained in accordance with regulation 6(3) of the Transport Levying Bodies Regulations 1990⁽⁴⁾ for the purposes of a levy issued in respect of the financial year commencing in 1992, increased by 3.6 per cent, and
- (b) any subsequent financial year, the product of a rate of that amount for that area or part shall be taken to be the amount ascertained in accordance with subparagraph (a) above increased or decreased by such factor as shall be agreed between the levying body and the council concerned (and if more than one, by all the councils concerned) or, in the event that such factor is not so agreed, increased or decreased in proportion to the difference between the retail prices index published for September of the financial year preceding that in respect of which the levy is issued and that index published for September 1992.

(4) References in paragraph 3(b) above to the retail prices index are references to the general index of retail prices (for all items) published by the Department of Employment or, if that index is not published for any month, to any substituted index or index figures published by that Department.

Apportionment of levies

7.—(1) Where, in the case of a local Act levying body, the relevant Act specifies a proportion in which the amounts of precepts, levies or expenses are to be borne by the councils concerned, the levying body shall secure that the amounts for which levies are issued by it under these Regulations are borne by the councils concerned in that proportion.

(2) Where in the case of a local Act levying body, the relevant Act specifies a limit on the amount of any such precepts, levies or expenses which may be apportioned to any council concerned, that limit shall apply to the amount of any levy issued by the levying body under these Regulations which may be apportioned to that council.

(3) Subject to paragraphs (1) and (2) above, each levying body shall secure that any amounts for which levies are issued by it under these Regulations are borne by the councils concerned (if more than one) in proportion.

(4) Proportions under paragraph (3) above shall be determined—

- (a) in the case of a levy issued by a metropolitan passenger transport authority, in accordance with paragraphs (5) and (6) below, and
- (b) in the case of any other levy issued under these Regulations, in accordance with paragraphs (7) to (11) below.

(5) In the case of a levy issued by a metropolitan county passenger transport authority, proportions under paragraph (3) above shall be determined by reference to the total resident population at the relevant date of the area of each council concerned as estimated by the Registrar General.

(6) For the purposes of paragraph (5) above the relevant date in relation to a levy for a financial year is 30th June in the financial year which commenced two years previously.

(7) Where the relevant Act provides for the amounts of precepts, levies or expenses to be borne by the councils concerned in such proportion as they may agree, the levying body shall secure that the expenses to be met by levies issued by it under these Regulations by reference to that Act are borne by the councils concerned in that agreed proportion or, if no proportion is agreed, in the relevant proportion.

(4) S.I.1990/71.

(8) Where the relevant Act provides for the amounts of precepts, levies or expenses to be borne by the councils concerned in a proportion calculated by reference to population, or the product of a rate, a rateable value or any other factor connected with rating, the levying body shall secure that the expenses to be met by levies issued by it under these Regulations by reference to that Act are borne by the councils concerned in the relevant proportion.

(9) For the purposes of this regulation, the relevant proportion shall be determined by reference to the council tax base for the financial year in respect of which the levy is issued for the area of each council concerned or, as the case may be, the part of that area in respect of which the levy is issued.

(10) For the purposes of this regulation and regulation 8(2), the council tax base for an area or part of an area for a financial year is, subject to paragraph (11),—

- (a) where the levy is issued in respect of the whole of a billing authority's area, the amount calculated by that authority as its council tax base for the year in accordance with the rules for the time being effective (as regards that year) under regulations made under section 33(5) of the 1992 Act;
- (b) where the levy is issued in respect of the whole of the area of a county council, the aggregate of the amounts calculated by the billing authorities to which the county council has the power to issue precepts as their council tax bases for the year for their areas in accordance with the rules for the time being effective (as regards that year) under regulations made under section 44(5) of the 1992 Act;
- (c) where the levy is issued in respect of part of a billing authority's area, the amount calculated by that authority as its council tax base for the year for that part of its area in accordance with the rules for the time being effective (as regards the year) under regulations made under section 34(4) of the 1992 Act; or
- (d) where the levy is issued in respect of part of the area of a county council, the aggregate of the amounts calculated by the billing authorities to which the county council has the power to issue precepts as their council tax bases for the year for their areas, or (as the case may require) for the parts of their areas falling within the part area of the county council to which the levy relates in accordance with the rules for the time being effective (as regards that year) under regulations made under section 45(4) of the 1992 Act.

(11) Where a billing authority has calculated and, where required, notified to a county council within the period prescribed by the Local Authorities (Calculation of Council Tax Base) Regulations 1992(5), its council tax base for its area or the part of its area in respect of which the levy is issued for the purposes of item T in section 33(1) or 44(1) of the 1992 Act or item TP in section 34(3) or 45(3) of that Act the council tax base for its area or part of its area shall be the amount calculated.

Notification of council tax base

8.—(1) This regulation applies where the expenses to be met by levies are required by regulation 7 to be borne in the relevant proportion, and for the purposes of this regulation, a notifying authority, in relation to a levying body, is a billing authority—

- (a) which is a council concerned; or
- (b) to which a county council which is a council concerned has power to issue a precept.

(2) A notifying authority shall, within the period—

- (a) in the financial year commencing on 1st April 1992, beginning on 1st December and ending on 31st January, and
- (b) in each succeeding year, beginning on 1st December and ending on 31st January,

inform a levying body of the council tax base, determined in accordance with paragraphs (10) and (11) of Regulation 7, for its area, or (as the case may require) the part or parts of its area in respect of which a levy will be issued or it anticipates that a levy will be issued in the immediately following financial year.

Substituted levies

9.—(1) Subject to the following provisions of this regulation, a levying body to which these Regulations apply may issue a levy in respect of a financial year in substitution for a levy previously issued by it for that year.

(2) A local Act levying body shall not have power to issue a substituted levy unless, in exercise of its relevant precepting power it could have issued a substituted precept to, made a substituted levy on or required a substituted amount to be paid in respect of its expenses by the council concerned.

(3) No levy shall be issued in substitution if its amount would be greater than the amount of the levy for which it is substituted, except as provided by paragraph (4) below.

(4) The amount of any levy issued to a council concerned 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 has been quashed because of a failure to fulfil the requirements of regulation 7 above as to apportionment, but shall not, when added to the amounts of the levies issued for the financial year by the levying body to the other councils concerned, exceed the total of the amounts of the levies which were first issued for that year by the levying body.

(5) Where a levying body 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) But 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 council concerned by whom it was paid so requires;
- (b) in any other case it shall (as the levying body determines) either be repaid or be credited against any subsequent liability of the council concerned in respect of any levy issued by the levying body.

Payment of levies

10.—(1) Subject to paragraph (2) below, where, in relation to any local Act levying body, the relevant Act makes provision as to the payment (in instalments or otherwise) of the amount of the precept, levy or expenses to which the relevant precepting power applies, the amount of any levy issued by that levying body under these Regulations shall be paid by the council concerned in accordance with that provision.

(2) In any case where, in relation to any local Act levying body, the relevant Act makes provision for payment of the amount of any such precept, levy or expenses within two months of the receipt of the precept, levy or demand for payment of the expenses, the amount of any levy issued by that levying body under these Regulations shall, notwithstanding that provision, be paid by the council concerned within two months of the commencement of the financial year in respect of which the levy is issued.

(3) In any other case, the amount of a levy issued under these Regulations shall be paid in full by the council concerned in the financial year for which the levy is issued by instalments in accordance with the following paragraphs of this regulation.

(4) If the amount of the levy in respect of the financial year in question exceeds £1 million it shall be paid by no less than ten instalments of such amounts and paid at such times as the levying body and the council concerned may agree so as to secure that the whole amount of the levy is paid

before the end of that financial year and in default of such agreement the levy shall be paid by ten equal instalments payable monthly by the end of each of the first ten months of the financial year.

(5) Any other levy is to be paid in no less than five instalments of such amounts and at such times as the levying body and the council concerned may agree so as to secure that the whole amount of the levy is paid before the end of December in the financial year in question and in default of such agreement such a levy shall be paid by five equal instalments payable respectively by the end of April, June, August, October and December in that financial year.

(6) References in this regulation to payment of a levy are references to payment of a levy after deduction of any amount credited against the liability of a council concerned in respect of that levy in accordance with regulation 9(6)(b) above.

Interest on unpaid levies

11.—(1) If the amount of any levy issued under these Regulations or, as the case may be, of any instalment of such a levy is not paid by the due date for payment, the council concerned shall be liable to pay to the levying body interest calculated in accordance with paragraph (2) below on the unpaid amount from that day until the date when payment is made.

(2) Interest payable under paragraph (1) shall be 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.

(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⁽⁶⁾; and

(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.

(4) 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)⁽⁷⁾; 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.

Anticipation of levies: billing authorities

12.—(1) In this regulation—

(a) “billing authority concerned” means a council concerned which is a billing authority; and

(b) in relation to a billing authority concerned, “relevant levying body” means a levying body with power under these Regulations to issue a levy to that authority.

(2) Paragraph (3) to (5) below apply where—

⁽⁶⁾ 1987 c. 22.

⁽⁷⁾ 1985 c. 6; section 736 was substituted by section 144(1) of the Companies Act 1989 (c. 40).

- (a) at the time when a billing authority concerned makes its calculations under section 32 of the 1992 Act for a financial year, a relevant levying body has not issued a levy to it in respect of that year; and
- (b) that relevant levying body has, in respect of the previous financial year, issued a levy to the billing authority concerned.

(3) A billing authority concerned may, in estimating its expenditure under section 32(2)(a) of the 1992 Act, take into account its estimate of the amount of the levy that it anticipates will be issued to it by the relevant levying body.

(4) If the billing authority concerned makes calculations in substitution for the year under section 37 of the 1992 Act at a time when a levy in respect of that year has not been issued to it by the relevant levying body, and an amount was taken into account under paragraph (3) above, the billing authority concerned shall, in estimating its expenditure under section 32(2)(a) of that Act, take into account an amount equal to that taken into account under paragraph (3) above.

(5) If the relevant levying body issues no levy to the billing authority concerned in respect of the year, the fact that an amount has been taken into account under paragraph (3) above does not make the billing authority concerned liable to pay anything to the relevant levying body.

Anticipation of levies: county councils

13.—(1) In this regulation—

- (a) “precepting authority concerned” means a council concerned which is a county council, and
- (b) in relation to a precepting authority concerned, “relevant levying body” means a levying body with power under these Regulations to issue a levy to that authority.

(2) Paragraphs (3) to (5) below apply where—

- (a) at the time when a precepting authority concerned estimates its expenditure under section 43(2)(a) of the 1992 Act for a financial year, a relevant levying body has not issued a levy to it in respect of that year, and
- (b) that relevant levying body has, in respect of the previous financial year, issued a levy to the precepting authority concerned.

(3) A precepting authority concerned may, in estimating its expenditure under section 43(2)(a) of the 1992 Act, take into account its estimate of the amount of the levy that it anticipates will be issued to it by the relevant levying body.

(4) If the precepting authority concerned issues a precept for the year in substitution under section 42 of the 1992 Act at a time when a levy in respect of that year has not been issued to it by the relevant levying body, and an amount was taken into account under paragraph (3) above, the precepting authority concerned shall, in estimating its expenditure under section 43(2)(a) of that Act, take into account an amount equal to that taken into account under paragraph (3) above.

(5) If the relevant levying body issues no levy to the precepting authority concerned in respect of the year, the fact that an amount has been taken into account under paragraph (3) above does not make the precepting authority concerned liable to pay anything to the relevant levying body.

Application to Tweed Bridges Trust

14. In their application to the Tweed Bridges Trust these Regulations shall have effect—

- (a) as if the Determination made by the Secretary of State on 7th April 1884 under section 90 of the Roads and Bridges (Scotland) Act 1878(8) were a local or private Act, and

- (b) insofar as the power of the said Trust under the said Determination to have its expenses paid by a council concerned would, apart from section 117 of the 1988 Act, be exercisable in England.

Revocation

15.—(1) Subject to paragraph (2) below, the Transport Levying Bodies Regulations 1990 are hereby revoked.

(2) Those Regulations shall continue to have effect in relation to levies issued or anticipated in accordance with them in respect of a financial year beginning before 1st April 1993.

Signed by authority of the Secretary of State for Transport

9th December 1992

Roger Freeman
Minister of State,
Department of Transport

SCHEDULE

Regulation 3(b)

LOCAL ACT LEVYING BODIES

Chichester Harbour Conservancy
Humber Bridge Board
The Langstone Harbour Board
The Littlehampton Harbour Board

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations confer a general power on certain transport bodies (regulation 3) to issue levies to local authorities for the purpose of meeting their expenses in respect of financial years beginning in or after 1993 where, but for section 117 of the Local Government Finance Act 1988, they would have a statutory power to require the authorities to pay those expenses.

The Regulations include provisions as to when levies are to be issued (regulation 5), the maximum amount of certain levies (regulation 6), the issue of substituted levies (regulation 9), and the payment of levies (regulation 10) and interest thereon (regulation 11). Where a body may issue levies to more than one authority regulation 7 provides for the method of apportionment and regulation 8 provides, in certain cases, for the supply of information by billing authorities. Regulations 12 and 13 provide for a local authority to anticipate a levy which may be issued to it. Different provision is made for different bodies according to the terms of the Act or instrument conferring the specific power.

Regulation 15 revokes the Transport Levying Bodies Regulations 1990 subject to a transitional provision.