
STATUTORY INSTRUMENTS

1995 No. 401

The Local Government Residuary Body (England) Order 1995

PART V

FINANCIAL PROVISIONS

Interpretation

19. In this Part—

“the 1992 Act” means the Local Government Finance Act 1992⁽¹⁾;

“billing authority” and “major precepting authority” have the same meanings as in the 1992 Act;

“central expenditure” means expenditure of the Residuary Body other than relevant expenditure;

“relevant authority” means an abolished authority any of whose property, rights or liabilities (or related functions) are transferred to the Residuary Body by a relevant instrument;

“relevant area”, in relation to a successor authority, means the area in relation to which that authority, on and after the abolition date, exercises functions which immediately before that date were exercisable by an abolished authority;

“relevant expenditure” means the expenditure of the Residuary Body in connection with all the property, rights or liabilities (or related functions) of abolished authorities transferred to it by relevant instruments; and

“successor authority”, in relation to a relevant authority, means—

- (a) where an order gives effect to a structural change, a principal council to which any functions of the relevant authority are transferred on the abolition date; and
- (b) where an order gives effect to a boundary change, a principal council whose area, on and after that date, includes an area which, before that date, is the whole or any part of the area of the relevant authority.

Power to issue levies

20.—(1) In accordance with the following provisions of this Part and subject to any directions given by the Secretary of State, the Residuary Body may, in respect of a financial year beginning after the abolition date (“the current year”), issue levies to the successor authorities in relation to a relevant authority in respect of any of the following matters for which provision is not otherwise made—

- (a) expenditure which the Residuary Body estimates it will incur in that year in connection with any property, rights or liabilities or related functions which were transferred from the relevant authority to the Residuary Body by a relevant instrument;

(1) 1992 c. 14.

- (b) expenditure incurred by it in that connection in any financial year preceding that year (“a preceding year”);
- (c) such allowance (if any) as the Residuary Body estimates will be appropriate for contingencies in relation to its expenditure for the current year;
- (d) any financial reserves which the Residuary Body estimates it will be appropriate to raise in that year for meeting its estimated future expenditure; and
- (e) such proportion of the Residuary Body’s estimate of its central expenditure for the current year, or its actual central expenditure for a preceding year, as it determines should be borne by those successor authorities.

(2) In making a determination under sub-paragraph (e) of paragraph (1) above, the Residuary Body shall have regard to the proportion which the aggregate of—

- (a) the expenditure which the Residuary Body estimates it will incur in the current year in connection with the matters mentioned in sub-paragraph (a) of that paragraph; and
- (b) the expenditure incurred by it in that connection in any preceding year,

bears to the aggregate of the relevant expenditure which the Residuary Body estimates it will incur in the current year and the relevant expenditure incurred by it in any preceding year.

(3) Where the Secretary of State so directs, the amount of the levies issued under paragraph (1) above shall not exceed such amount as is either specified in the direction or ascertained in accordance with a method of calculation which is so specified; and any such direction shall be given before 31st December in the financial year preceding the current year (“the immediately preceding year”).

(4) Any levies shall be issued before 15th February in the immediately preceding year; but they are not invalid merely because they are issued on or after that date.

(5) Paragraph (4) above does not apply to a substituted levy issued in accordance with article 22.

Apportionment of levies

21.—(1) The amount to be levied by the Residuary Body under article 20(1) on each of the successor authorities in relation to a relevant authority shall be determined by apportioning the total amount to be levied on all those authorities in respect of the year in such proportions as those authorities may agree or, in default of such agreement, the relevant proportions.

(2) For the purposes of this article, the relevant proportion in relation to any successor authority in relation to a relevant authority is the proportion equal to the proportion which the council tax base for the current year of the relevant area in relation to the successor authority bears to the total of the council tax bases for that year of the relevant areas in relation to all such successor authorities.

(3) For the purposes of this article, the council tax base for the current year for the relevant area in relation to a successor authority is—

- (a) Where the authority is a billing authority and the whole of the authority’s area is the relevant area, the amount calculated by the authority as its council tax base for the year in accordance with rules for the time being effective (as regards that year) under regulations made under section 33(5) of the 1992 Act;
- (b) Where the authority is a major precepting authority and the whole of the authority’s area is the relevant area, the aggregate of the amounts calculated by the billing authorities to which the authority has the power to issue precepts (“the relevant billing authorities”) 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 authority is a billing authority and only part of the authority’s area is the relevant area, the amount calculated by the 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 that year) under regulations made under section 34(4) of the 1992 Act; or

- (d) where the authority is a major precepting authority and only a part of the authority's area is the relevant area, the aggregate of the amounts calculated by the relevant billing authorities as their council tax bases for the year for so much of their areas as falls within the relevant area in accordance with rules for the time being effective (as regards that year) under regulations made under section 45(4) of the 1992 Act.

(4) Where a levy is required to be apportioned in the relevant proportions, each successor authority shall, within the period beginning on 1st December and ending on 31st January in the immediately preceding year, inform the Residuary Body of the council tax base for the current year for the relevant area.

(5) In a case falling within paragraph (3)(d) above—

- (a) the successor authority shall, as soon as is practicable after the abolition date, notify the relevant billing authorities of the boundaries of so much of their areas as falls within the relevant area; and
- (b) the relevant billing authorities shall, within the period beginning on 1st December and ending on 31st December in the immediately preceding year, make the calculation mentioned in that sub-paragraph and notify the successor authority of the amount so calculated.

Substitution of levies

22.—(1) Subject to the following provisions of this article, the Residuary Body may issue a levy for the current year in substitution for a levy which it has previously issued for that year (including a levy previously issued in substitution).

(2) Except as provided by paragraph (3) below, no levy may be issued in substitution if its amount would be greater than the amount of the levy for which it is substituted.

(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 has been quashed because of a failure to fulfil the requirements of article 21, but only so far as the new levy is required to be increased to effect a proper apportionment.

(4) Subject to paragraph (5) below, where the Residuary 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.

(5) Where the amount of the old levy exceeds that of the new levy, anything paid which would not have been paid if the amount of the old levy had been the same as that of the new levy—

- (a) shall, if the successor authority by whom it was paid so requires, be repaid; or
- (b) in any other case, shall (as the Residuary Body determines) be repaid or credited against any subsequent liability of the successor authority in respect of any levy issued by the Residuary Body.

Payment of levies

23.—(1) Subject to paragraph (2) below, the amount of a levy issued to a successor authority by the Residuary Body shall (after deducting any amount credited in accordance with article 22(5)(b)) be paid in full by that authority in the current year, at such time and in such instalments (if any) as may be agreed between the Residuary Body and the authority or, in default of such agreement, in five equal instalments, payable respectively by the end of April, June, August, October and December in that year.

(2) No instalment of a levy shall be payable until 30 days after the levy is issued.

Interest on unpaid levies

24.—(1) Where any amount of levy issued by the Residuary Body is not paid by a successor authority by the due date for payment, interest shall be payable by that authority in accordance with paragraph (2) below.

(2) Interest 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) below—

(a) the reference banks are the seven largest institutions—

(i) authorized by the Bank of England under the banking Act⁽²⁾; and

(ii) incorporated in and carrying on a deposit-taking business within the United Kingdom which quote a base rate in sterling; and

(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 in respect of which interest is payable begins

(4) In paragraph (3) above—

“deposit-taking business” has the meaning given in section 6 of the Banking Act 1987 subject to any order under section 7 of that Act; and

the reference to the 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⁽³⁾).

Distribution of capital and other money

25.—(1) Subject to the following provisions of this article, the Residuary Body shall, in accordance with directions given by the Secretary of State, pay to each of the successor authorities in relation to a relevant authority the appropriate proportion of any money for the time being in its hands to which paragraph (2) applies and which is not reserved money.

(2) This paragraph applies to—

(a) all sums received by the Residuary Body in respect of a transfer, pursuant to article 15(1), of any property or rights which were transferred from the relevant authority to the Residuary Body by a relevant instrument; and

(b) any other money which the Residuary Body determines is held for the purposes of or in connection with any property, rights, liabilities or related functions which were so transferred and is no longer required for those purposes or in that connection.

(3) In paragraph (1) above, “reserved money” means any money which the Residuary Body has set aside to meet—

(i) expenditure which it has incurred or will incur for the purposes of or in connection with any property, rights or liabilities or related functions which were transferred from the relevant authority to the Residuary Body by a relevant instrument; or

(ii) payments to be made in connection with any transfers pursuant to article 15(1) (including the costs of such transfers).

(4) For the purpose of any payment under paragraph (1) above—

(2) 1987 c. 22.

(3) 1985 c. 6.

- (a) the appropriate proportion in relation to any successor authority in relation to a relevant authority is the proportion equal to the proportion which the population of the relevant area in relation to that authority bears to the total of the populations of the relevant areas in relation to all such successor authorities; and
- (b) the population of a relevant area shall be taken to be the number estimated by the Registrar General by reference to the latest date in respect of which such an estimate is available.

Borrowing

26.—(1) Subject to any directions given by the Secretary of State, the Residuary Body may, as part of the proper management of its affairs, borrow money for any purpose relevant to its functions.

(2) All money borrowed by the Residuary Body, together with any interest on that money, shall be charged indifferently on all the revenues of the Residuary Body.