
STATUTORY INSTRUMENTS

1989 No. 2336

The Collection Fund (England) Regulations 1989

Citation and commencement

1. These Regulations may be cited as the Collection Fund (England) Regulations 1989 and shall come into force on 13th December 1989.

Interpretation

2. In these Regulations—

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

“charging authority” means an English charging authority;

“liabilities” means—

- (a) the liability of a charging authority to pay anything from its collection fund in respect of any precept issued under the Act, after taking into account any amount credited against that liability under section 71(6) of the Act or under regulations made under section 141A of the Act⁽¹⁾, and
- (b) the liability of such an authority to transfer anything from its collection fund under section 97 of the Act;

“relevant parish authority” in relation to a charging authority means—

- (a) a parish council,
- (b) a chairman of a parish meeting, and
- (c) charter trustees

having power to issue a precept to that charging authority;

“relevant precepting authority” in relation to a charging authority means each relevant parish authority and each relevant principal authority and in relation to the Common Council of the City of London includes each Temples authority;

“relevant principal authority” in relation to a charging authority means each precepting authority, other than a relevant parish authority or a Temples authority, which has power to issue a precept to that charging authority, and for the purposes of references in Part I of Schedule 1 to these Regulations to transfers to a relevant principal authority includes the charging authority itself;

“schedule of instalments” means a schedule prepared by a charging authority with respect to the times for and the number and amounts of payments or transfers from its collection fund in respect of its liabilities;

“Temples authority” means—

- (a) the sub-treasurer of the Inner Temple, and
- (b) the under-treasurer of the Middle Temple.

(1) Section 141A of the Act was inserted by the Local Government and Housing Act 1989 (c. 42), Schedule 5, paragraph 71.

Discharge of liabilities

3.—(1) A charging authority shall in accordance with its schedule of instalments in relation to a financial year pay from its collection fund to its relevant precepting authorities, and transfer from its collection fund to its general fund or the City fund (as the case may be), such amount as will meet its liabilities for that year.

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

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

(3) An amount paid or transferred by a charging authority in respect of the amount of its liabilities for a financial year shall be paid—

- (a) if the precept or calculation in respect of which that amount is being paid or transferred was issued or made before the end of that financial year, in that financial year,
- (b) in any other case, as soon as reasonably practicable after the issue of that precept or making of that calculation.

(4) An amount paid or transferred by a charging authority in respect of the amount of its liabilities for a financial year, whether or not paid or transferred in accordance with a schedule of instalments, shall be treated as discharging those liabilities to the extent of the payment or transfer.

(5) For the purposes of paragraph (4), an amount paid or transferred which—

- (a) was treated in accordance with that paragraph as discharging a charging authority's liabilities, but which
- (b) was subsequently repaid or credited by the relevant precepting authority concerned under section 71(6) of the Act, or transferred under regulation 9,

shall, to the extent of the amount repaid or credited or transferred under regulation 9, cease to be treated as discharging those liabilities.

(6) The references in paragraphs (1) and (2) to an authority's schedule of instalments are references to the schedule of instalments determined by the authority in accordance with regulation 4, or where the authority has amended its schedule in accordance with regulation 6, to its schedule of instalments as it currently has effect.

Schedules of instalments

4.—(1) A charging authority shall determine a schedule of instalments in relation to each financial year beginning in or after 1990.

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

(3) Subject to paragraph (4), a charging authority shall determine a schedule of instalments in accordance with the rules prescribed in Schedule 1 to these Regulations.

(4) Where each relevant principal authority agrees before 31st January in the financial year preceding that to which a charging authority's schedule of instalments will relate, a charging authority may determine a schedule of instalments otherwise than in accordance with one or more of the rules prescribed in paragraphs 1 to 5 of Schedule 1 to these Regulations, if the schedule satisfies the conditions specified in the following paragraph.

(5) For the purposes of paragraph (4) and regulation 6(4) the conditions are that the schedule of instalments requires payments or transfers in at least two instalments the total of which will discharge the charging authority's liabilities within the financial year to which it relates.

5.—(1) A charging authority shall, 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 charging authority shall, on or before 31st January 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 charging 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 charging authority may, with the agreement of each relevant principal authority, from time to time amend a schedule of instalments in so far 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 in so far as it relates to relevant parish authorities or the Temples authorities.

(3) Subject to paragraph (4), an amended schedule of instalments shall satisfy the requirements of paragraphs 1 to 5 of Schedule 1 to these Regulations.

(4) A schedule of instalments may be amended otherwise than in accordance with one or more of the rules prescribed in paragraphs 1 to 5 of Schedule 1 to these Regulations, if the amended schedule of instalments satisfies the conditions specified in regulation 4(5).

Interest on amount of instalments

7.—(1) A charging authority shall pay interest to a relevant precepting authority in respect of any amount which—

- (a) has become payable to that 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.

8.—(1) Interest payable under regulation 7 in respect of an amount outstanding shall be calculated as the rate which is 2 per cent above the highest base rate quoted by members of the Committee of London and Scottish Bankers 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.

Calculations under section 95(4) of the Act

9.—(1) Where—

- (a) a charging authority has made a substitute calculation under section 95(4) of the Act(2) in relation to a financial year, and
 - (b) an amount transferred under section 97 of the Act from that authority's collection fund to its general fund or the City fund (as the case may be) in relation to that financial year would not have been so transferred had the result of the previous calculation or the last one made before the substitute calculation been the same as that of the substitute calculation,
- that charging authority shall transfer from its general fund or the City fund to its collection fund the amount which would not have been so transferred.
- (2) The amount transferred under paragraph (1) above shall be transferred–
 - (a) if the substitute calculation was made before the end of the financial year to which it relates, in that financial year,
 - (b) in any other case, on the day on which the substitute calculation is made.

Holdings and investments

10.—(1) Any sum paid into a charging authority's collection fund which is not immediately required for the purpose of making payments or transfers from that fund shall be–

- (a) held in cash;
- (b) invested in a prescribed investment; or
- (c) transferred to the charging authority's general fund or the City fund (as the case may be).

(2) Any sum transferred under paragraph (1) from an authority's collection fund to its general fund or the City fund shall be–

- (a) held in cash;
- (b) invested in a prescribed investment; or
- (c) used for the discharge of the authority's functions.

(3) A prescribed investment is an investment prescribed in Schedule 2 to these Regulations.

11.—(1) Where a sum has been transferred to its general fund or the City fund under regulation 10(1), a charging authority shall–

- (a) immediately retransfer the sum if such a retransfer is required to enable the authority to meet payments or transfers from its collection fund; and
- (b) otherwise retransfer the sum as and when it thinks fit.

(2) Where an amount is retransferred under paragraph (1) there shall be transferred with it an additional sum representing interest on such amount calculated in accordance with regulation 12.

12. Interest on the amount retransferred shall be calculated for the purposes of regulation 11(2) for the period beginning with the date of its transfer from the collection fund under regulation 10 and ending with the day before the day on which the retransfer is made under regulation 11 at the 7 day London Interbank Offer Rate having effect immediately before the end of the day on which the transfer from the collection fund was made.

(2) Section 95 was amended by the Local Government and Housing Act 1989 (c. 42), Schedule 5, paragraph 63.

11th December 1989

Chris Patten
Secretary of State for the Environment