
STATUTORY INSTRUMENTS

1989 No. 2336

LOCAL GOVERNMENT, ENGLAND AND WALES
FINANCE

The Collection Fund (England) Regulations 1989

Made - - - - *11th December 1989*
Laid before Parliament *12th December 1989*
Coming into force - - *13th December 1989*

The Secretary of State, in exercise of the powers conferred on him by sections 89(5), 98(3), 99(1) to (3), 140(4), 143(1) and 146(6) 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 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(2), 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,

(1) 1988 c. 41; sections 89(5), 98(3) and 99(2) were amended by the Local Government and Housing Act 1989 (c. 42), Schedule 5, paragraphs 62, 64 and 65.

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

- (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.

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⁽³⁾ 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.

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

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.

11th December 1989

Chris Patten
Secretary of State for the Environment

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SCHEDULE 1

Regulations 4 and 6

RULES FOR DETERMINATION OF SCHEDULES OF INSTALMENTS

PART I

principal authorities

1.—(1) The schedule of instalments shall be determined so as to require payments and transfers from a charging authority’s collection fund to relevant principal authorities to be made in at least 10 instalments in each financial year.

(2) Payments and transfers shall be made to each relevant principal authority at the same times.

2.—(1) The schedule of instalments shall be determined so as to require the first instalment to be paid or transferred to relevant principal authorities within 4 weeks of the start of the financial year and of the final instalment to be so paid or transferred within 8 weeks of the end of the financial year.

(2) There shall be an equal number of days between each instalment in a financial year.

(3) For the purpose of the computation of days under sub-paragraph (2) a day which is a Saturday, Sunday, or bank holiday shall be excluded.

3. The schedule of instalments shall be determined so as to require the amount of each instalment which is to be paid or transferred to relevant principal authorities, other than the last instalment in a financial year, to be a number of whole pounds.

4.—(1) The schedule of instalments shall be determined so as to require each instalment to represent the amount of the charging authority’s undischarged liability to a relevant principal authority, divided by the number of instalments remaining to be paid or transferred.

(2) The amount of the charging authority’s undischarged liability to a relevant principal authority is the amount of its liability to the principal authority for the financial year in which the instalment falls to be paid, less the amount, if any, by which that liability is treated as discharged under regulation 3.

(3) The number of instalments remaining to be paid or transferred means the number of instalments remaining to be paid or transferred immediately before the payment or transfer of the instalment in relation to which an amount is determined under sub-paragraph (1).

5.—(1) This paragraph applies where a charging authority determines its schedule of instalments otherwise than in accordance with the rules prescribed in paragraph 4.

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

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

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

where—

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

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not been made (or, where there has been more than one such substitute precept or calculation, the latest such precept or calculation),

B is the amount of the substitute precept or substitute calculation or the latest such precept or calculation,

C is the amount of the previous precept or calculation or the last one to be issued or made before the substitute precept or calculation.

(4) If the amount of the substitute precept or calculation is greater than the amount of the previous precept or calculation or the last one to be issued or made before the substitute precept or calculation, the amount paid or transferred to the relevant principal authority which issued or made that substitute precept or calculation shall in the first instalment paid or transferred to that authority after the issue of that substitute precept or making of that substitute calculation be required to include the additional amount described in 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 or transferred for the financial year to the relevant principal authority before the issue or making of the substitute precept or calculation, and

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

(b) the amount which would have been paid or transferred for the financial year to the relevant principal authority on and before the day of the payment or transfer to that authority of the first instalment after the issue of the substitute precept or making of the substitute calculation, had the amount of the previous precept or calculation or the last one to be issued or made before the substitute precept or calculation was issued or made been the same as the amount of the substitute precept or calculation.

(6) If the amount of the substitute precept or calculation is less than the amount of the previous precept or calculation or the last one to be issued or made before the substitute precept or calculation, the amount paid or transferred to the relevant principal authority in an instalment paid or transferred to that authority after the issue of the substitute precept or making of the substitute calculation by that authority shall not be required to be an amount greater than the amount described in paragraph (7).

(7) For the purposes of sub-paragraph (6), the amount is that necessary for the amount paid or transferred to the relevant principal authority for the financial year on and before the day of the instalment to equal the amount which would have been so paid or transferred had the amount of the previous precept or calculation or the last one to be issued or made before the substitute precept or calculation been the same as the amount of the substitute precept or calculation.

PART II

parish authorities and temples authorities

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

7. The schedule of instalments shall be determined so as to require the amount of each instalment which is to be paid to relevant parish authorities or Temples authorities, other than the last instalment in a financial year, to be a number of whole pounds.

8.—(1) Paragraph 9 shall apply in relation to a relevant parish authority or Temples authority where the amount referred to in sub-paragraph (3) for the financial year to which a schedule of instalments relates is 1 per cent or less of the amount referred to in sub-paragraph (4).

(2) In any other case paragraph 10 shall apply.

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(3) The amount referred to in this sub-paragraph is the amount of the liability of the charging authority in respect of a precept which has been issued to it by the relevant parish authority or Temples authority in question at the time the charging authority sets an amount or amounts for the year under section 32 of the Act⁽⁴⁾, or (if no such precept has been issued) the amount included among the items listed in section 32(4) of the Act in relation to that authority under section 37(3) of the Act.

(4) The amount referred to in this sub-paragraph is the total of—

- (a) the amount of the liabilities of the charging authority in respect of the precepts which have at the time at which it sets an amount or amounts in accordance with section 32 of the Act been issued to it under the Act for the financial year,
- (b) the amount of the liabilities of the charging authority in respect of the amount which has at that time been calculated (or last calculated) under section 95(4) of the Act for the financial year, and
- (c) the amount which at that time the charging authority has included pursuant to section 37(3) of the Act for the financial year among the items listed in section 32(4) of the Act.

9.—(1) In a case to which this paragraph applies, the schedule of instalments shall be determined so as to require that if the relevant parish authority or Temples authority issued a precept by the time at which the charging authority set an amount or amounts in accordance with section 32 of the Act—

- (a) at least 50 per cent of the charging authority’s liability to that authority will be paid to that authority within 1 month of the start of the financial year in respect of which the precept was issued, and
- (b) the remainder of the charging authority’s liability to that authority will be paid to that authority within 6 months of the start of that financial year.

(2) In any other case to which this paragraph applies, the schedule of instalments shall be determined so as to require that at least 50 per cent of the charging authority’s liability to the relevant parish authority or Temples authority will be paid to that authority within 1 month of the issue to it of a precept by that authority, and the remainder of the charging authority’s liability to that authority will be paid to that authority within 6 months of the issue to the charging authority of that precept.

10.—(1) In a case to which this paragraph applies, the schedule of instalments shall be determined so as to require that if the relevant parish authority or Temples authority has issued a precept by the time at which the charging authority set an amount or amounts in accordance with section 32 of the Act—

- (a) at least 50 per cent of the charging authority’s liability to that authority will be paid to that authority within 3 months of the start of the financial year in respect of which the precept was issued, and
- (b) the remainder of the charging authority’s liability to that authority will be paid to that authority within 9 months of the start of that financial year.

(2) In any other case to which this paragraph applies, the schedule of instalments shall be determined so as to require that at least 50 per cent of the charging authority’s liability to the relevant parish authority or Temples authority will be paid to that authority within 3 months of the issue to it of a precept by that authority, and the remainder of the charging authority’s liability to that authority will be paid to that authority within 9 months of the issue to the charging authority of that precept.

11. The schedule of instalments shall be determined so as to provide that if—

(4) Section 32 was amended by the Local Government and Housing Act 1989 (c. 42), Schedule 5, paragraph 14.

- (a) a relevant parish authority or Temples 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 day of a 1 or 3 month period which is prescribed in paragraph 9 or 10 and which applies to that relevant parish authority or Temples 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 parish authority or Temples authority to be paid in that 1 or 3 month period.

SCHEDULE 2

Regulation 10

PRESCRIBED INVESTMENTS

The investments prescribed in this Schedule are–

- (a) a deposit with the Bank of England or an institution authorised under Part I of the Banking Act 1987⁽⁵⁾;
- (b) a deposit with a building society incorporated (or deemed to be incorporated) under the Building Societies Act 1986⁽⁶⁾;
- (c) if the deposit is repayable at not more than 7 day's notice, a deposit with a body (other than the charging authority) which is for the time being specified in paragraph 12 or 13 of Schedule 2 to the Banking Act 1987.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Under Part VI of the Local Government Finance Act 1988 charging authorities are required to maintain collection funds. Into those funds must be paid receipts from community charges, from non-domestic rates and from revenue support grant. From those funds charging authorities must meet precepts from other authorities and their own demands, calculated under section 95 of the Act, in respect of their estimated expenses.

These Regulations, which are made under Part VI of the Local Government Finance Act 1988, make provision about the discharge by charging authorities of their liabilities in respect of precepts and in respect of transfers under section 97 of the Act to meet their estimated expenses.

Regulation 3 makes provision for a charging authority to make certain payments and transfers from its collection fund in accordance with a schedule of instalments and for the circumstances in which certain liabilities of the authority are to be treated as discharged.

(5) 1987 c. 22.

(6) 1986 c. 53.

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Regulations 4 and 5, together with Schedule 1, provide that a charging authority shall determine a schedule of instalments, and make provision as to the rules in accordance with which it is normally to do so. Regulation 6 provides for schedules 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.

Regulations 9 to 12, together with Schedule 2, make provision as to certain transfers, as to the holding, investment and use of sums paid into a charging authority's collection fund, and as to the payment into the fund of amounts representing interest on those sums.