

1990 No. 71

LOCAL GOVERNMENT, ENGLAND AND WALES

FINANCE

The Transport Levying Bodies Regulations 1990

<i>Made - - - -</i>	<i>22nd January 1990</i>
<i>Laid before Parliament</i>	<i>23rd January 1990</i>
<i>Coming into force</i>	<i>24th January 1990</i>

The Secretary of State for Transport in exercise of the powers conferred by sections 74 and 143(1) and (2) and 146(6) of the Local Government Finance Act 1988(a) 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 1990 and shall come into force on 24th January 1990.

Interpretation

2. In these Regulations—

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

“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;

“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(b),
- (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.

(a) 1988 c.41; section 74 (and other provisions referred to in that section) was amended by section 139 of, and Schedule 5 to, the Local Government and Housing Act 1989 (c.42).

(b) 1985 c.51.

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 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 1990; 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 1990, 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 product which was or would have been taken into account for the purposes of determining the relevant limit in respect of the financial year commencing in 1989, 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 1989.

(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 by reference to the relevant population of 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.

(5) For the purposes of this regulation, the relevant population for a financial year of the area of a council concerned is—

- (a) for the whole of an English charging authority's area, the relevant population of the area for the year calculated by the Secretary of State under paragraph 4 of Schedule 12A to the 1988 Act (a),
- (b) for the whole of a Welsh charging authority's area, the relevant population of the area for the year calculated in accordance with the rules for the time being effective (as regards the year) under regulations under paragraph 5(1) of Schedule 12A to the 1988 Act,
- (c) for the whole of the area of a county or Greater London, the total of the relevant population for the year, calculated as above, of the charging authority areas falling within that county or Greater London as the case may be,
- (d) for part of a charging authority's area, the relevant population of that part for the year calculated in accordance with the rules for the time being effective (as regards that year) under regulations under paragraph 6(2) of Schedule 12A to the 1988 Act,
- (e) for part of the area of a county or Greater London, the total of the relevant population for the year, calculated as above, of the charging authority areas and, where appropriate, the parts of charging authority areas, falling within that part of that county or Greater London as the case may be,

and regulations referred to in sub-paragraphs (b) and (d) above shall have effect for the purposes of this regulation as they have effect for the purposes of section 69 of the 1988 Act(b) as if they were set out in these Regulations, but with references to this regulation substituted for references to that section.

Notification of relevant population

8.—(1) This regulation applies where amounts for which levies are issued under these Regulations are required by regulation 7(3) above to be borne in proportion, and for the purposes of this regulation a notifying authority, in relation to a levying body, is a charging authority which is a council concerned or to which a county council which is a council concerned has power to issue a precept.

(2) An English notifying authority shall, within 3 working days after the relevant population of its area for a year has been communicated to it under paragraph 4(4)(a) of Schedule 12A to the 1988 Act, inform the levying body of the relevant population so communicated.

(3) A Welsh notifying authority shall, within 3 working days after the relevant population of its area for a year has been calculated in accordance with paragraph 5 of Schedule 12A to the 1988 Act, inform the levying body of the relevant population so calculated.

(4) A notifying authority in respect of part of whose area a levy may be issued shall, as soon as is reasonably practicable after the relevant population of its area for a year has been communicated or calculated as above, calculate the relevant population of the part for that year in accordance with the rules referred to in regulation 7(5)(d) above, and shall inform the levying body of the relevant population so calculated within 3 working days thereafter.

(a) Schedule 12A was inserted by the Local Government and Housing Act 1989, Schedule 5, paragraph 74.
(b) Section 69 was amended by the Local Government and Housing Act 1989, Schedule 5, paragraph 50.

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) above shall be simple interest calculated from day to day at a rate equivalent to 2 per cent above the base rate quoted from time to time by the Committee of London and Scottish Bankers or where there is for the time being more than one such rate, the highest of them.

Anticipation of levies: charging authorities

12.—(1) In this regulation:—

- (a) “charging authority concerned” means a council concerned which is a charging authority; and
- (b) in relation to a charging 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 (6) below apply where—

- (a) at the time when a charging authority concerned makes its calculations under section 95 of the 1988 Act^(a) 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 or, a precept to, made a levy on, or had its expenses paid by the charging authority concerned

(3) A charging authority concerned may, in estimating its expenditure under section 95(2)(a) of the 1988 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 charging authority concerned makes calculations in substitution for the year under section 96 of the 1988 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 charging authority concerned shall, in estimating its expenditure under section 95(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 charging 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 charging authority concerned liable to pay anything to the relevant levying body.

(6) Section 33(4)(a) of the 1988 Act^(b) shall apply in respect of a levy anticipated under this regulation as it applies to a levy which is issued.

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 (6) below apply where—

- (a) at the time when a precepting authority concerned estimates its expenditure under section 68(4)(a) of the 1988 Act^(c) for a financial year, a relevant body has not been 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 or a precept to, made a levy on or had its expenses paid by the precepting authority concerned.

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

^(b) Section 33(4)(a) was amended by the Local Government and Housing Act 1989, Schedule 5, paragraph 15(2).

^(c) Section 68(4) was amended by the Local Government and Housing Act 1989, Schedule 5, paragraph 49(3).

(3) A precepting authority concerned may, in estimating its expenditure under section 68(4)(a) of the 1988 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 71 of the 1988 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 68(4)(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.

(6) Section 70(2)(b) of the 1988 Act(a) shall apply to a levy anticipated under this regulation as it applies to a levy which is issued.

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 7 April 1884 under section 90 of the Roads and Bridges (Scotland) Act 1878(b) 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.

Signed by authority of the Secretary of State for Transport

22nd January 1990

Michael Portillo
Minister of State, Department of Transport

SCHEDULE

LOCAL ACT LEVYING BODIES

Regulation 3(b)

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

(a) Section 70(2)(b) was amended by the Local Government and Housing Act 1989, Schedule 5, paragraph 51.
(b) 1878 c.51.

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 1990 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 charging 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.