

EXPLANATORY MEMORANDUM TO THE LOCAL AUTHORITIES (ALTERATION OF REQUISITE CALCULATIONS) (WALES) REGULATIONS 2013

This Explanatory Memorandum has been prepared by the Local Government Finance and Public Service Performance Division and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Local Authorities (Alteration of Requisite Calculations) (Wales) Regulations 2013. I am satisfied that the benefits outweigh any costs.

Carl Sargeant AM
Minister for Local Government and Communities

4 February 2013

Description

1. These Regulations amend the components of calculations set out in the Local Government Finance Act 1992 (“the 1992 Act”) which makes provision as to how local authorities and major precepting authorities (Police and Crime Commissioners) are to calculate their budget requirements and council tax.
2. Sections 32 and 43 of the Local Government Finance Act 1992 (“the 1992 Act”) set out respectively how a billing authority (county or county borough council) and a major precepting authority (Police and Crime Commissioners) in Wales are to calculate their budget requirements for a financial year. Sections 33 and 44 of the 1992 Act set out respectively how a billing authority (county or county borough council) and a major precepting authority (Police and Crime Commissioners) are to calculate the basic amount of their council tax.
3. In previous years, similar regulations were made each year following the approval by the House of Commons of the annual Police Grant Report and the approval by the National Assembly for Wales of the annual Local Government Finance Report (No. 2) (Final Settlement – Police and Crime Commissioners). As billing authorities must calculate their budget requirements and set their council tax before 11th March and major precepting authorities (Police and Crime Commissioners) must issue their precepts to billing authorities by 1st March, it was necessary in the past for the instrument to breach the 21 day rule to allow authorities time to make the necessary calculations within the statutory limits.
4. However these Regulations amend the Local Government Finance Act 1992 on a more permanent basis reducing the need to amend the regulations annually as they apply in relation to financial years beginning on and after 1 April 2013 . The Regulations do not mention specifically the Police Grant Report and the Local Government Finance Report No 2 for 2013-14 and therefore it is not necessary to breach the 21 day rule.

Matters of special interest to the Constitutional and Legislative Affairs Committee

5. None.

Legislative Background

6. The powers enabling these Regulations to be made are contained in sections 32(9), 33(4), 43(7), 44(4) and 113(2) of the Local Government Finance Act 1992. These Regulations follow the Negative Resolution procedure.

Purpose and intended effect of the legislation

7. Regulation 2 amends section 32(2)(a) of the 1992 Act to exclude expenditure to be charged to a business improvement district (BID) account from the expenditure that a billing authority must aggregate under section 32(2). Regulation 2 further amends section 32(2) so that an authority is expressly required to take into account any expenditure it expects to incur in the year in

repaying grants or redistributed non-domestic rates (“RNDR”) and also amends section 32(3) so that an authority is expressly required to take into account payments of RNDR and grants that it expects to receive for an earlier financial year. Regulation 2 also amends section 32(3) to exclude BID levy or financial contributions made by a person under section 43 of the Local Government Act 2003 and sums payable by the Welsh Ministers under section 31 of the Local Government Act 2003 in respect of an authority’s council tax reduction scheme from the income that the authority must aggregate under section 32(3). Regulations 2 and 3 replace references to "relevant special grant" in sections 32, 33, 43 and 44 of the Local Government Finance Act 1992 with references to “special grant”.

8. Regulation 2(6) inserts for billing authorities (in Wales, county and county borough councils) and major precepting authorities (in Wales, Police and Crime Commissioners), the definitions of sums payable in respect of additional grant, special grant, sums payable in respect of council tax reduction schemes, redistributed non-domestic rates and revenue support grant. This is to ensure that the amounts of redistributed non-domestic rates and revenue support grant excluded from the budget requirement calculation in those sections relate only to such amounts payable under the respective Local Government Finance Reports for the relevant financial year. The same definitions also apply to sections 33 and 44 of the 1992 Act.
9. In addition, regulations 4 and 5 define “floor funding” in section 43 of the 1992 Act by inserting subsection (6C) and further amend sections 43 and 44 of the 1992 Act, such that major precepting authorities in Wales must take into account any floor funding received from the Secretary of State for any financial year when making the required calculation for that year. The floor funding is added to ensure that the overall reduction in central funding is the same for all Police and Crime Commissioners in England and Wales compared to the last year .

Implementation

10. It is proposed that this Instrument come into force on 28th February 2013. If this legislation is not implemented then the references above would be out of date. In addition, we could not ensure that all the central funding provided by the Home Office in the police settlement is taken into account by Police and Crime Commissioners in setting their budget requirement and council tax for 2013-2014.

Consultation

11. Although there has been no formal consultation on these Regulations, drafts of the provisions contained in the Local Authorities (Alteration of Requisite Calculations) (Wales) Regulations 2013 were sent to all Welsh local authorities and Police and Crime Commissioners in Wales on 8th January 2013 notifying them of the proposed changes. The Regulations were re-drafted in that time to reflect the additional council tax support scheme grant and were re-circulated to all Welsh Authorities. All authorities affected will be issued a copy of the final Regulations after they are made by Welsh Ministers.

Regulatory Impact Assessment

a. Options

12. Details of the proposed changes are set out in the purpose and intended effect of the legislation section. The options of making or not making the Regulations are:

- **Do Nothing** - If the Regulations were not amended then the references to “relevant special grant” would be out of date, as would the definitions of sums payable in respect of redistributed non-domestic rates and revenue support grant in sections 32 and 43 of the 1992 Act. Further, we could not ensure that all the central funding provided by the Home Office in the police settlement is taken into account by Police and Crime Commissioners in setting their budget requirement and council tax for 2013-2014 and councils would not take into account the additional council tax support scheme when calculating their budget requirement.
- **Make the Legislation** – Implementing the Regulations will ensure that the budget requirement is calculated correctly and consistently for 2013-2014 and future years for a local authority (county or county borough council) and a major precepting authority (Police and Crime Commissioners).

b. Benefits

13. The main benefits are that the Local Government Finance Act 1992 will be updated to ensure that the calculation of the budget requirement for 2013-2014 and future years is undertaken consistently and correctly and avoid the need for annual re-drafting of the regulations.

c. Costs

14. There are no financial implications to the Welsh Government as a result of these Regulations. The proposed allocations of revenue support grant to local authorities and Police and Crime Commissioners are set out in the local government finance report each year, which falls to be approved by the National Assembly for Wales.

15. There are no financial implications to local authorities or any other sector arising from these Regulations.

d. Competition Assessment

16. The making of these Regulations has no impact on businesses, charities and/or the voluntary sector.

e. Post implementation review

17. There is an annual review of these Regulations