EXPLANATORY MEMORANDUM TO THE LOCAL AUTHORITIES (ALTERATION OF REQUISITE CALCULATIONS) (WALES) REGULATIONS 2008

This Explanatory Memorandum has been prepared by the Local Government Finance Division and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

Description

1. These Regulations amend the components of calculations set out in the Local Government Finance Act 1992 ("the 1992 Act") which make provision as to how local authorities and major precepting authorities 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 authority) are to calculate their budget requirements for a financial year and 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 authority) are to calculate the basic amount of their council tax.

3. Similar regulations are 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 Authorities).

Matters of special interest to the Subordinate Legislation Committee

4. These Regulations could not be made until after the Police Grant Report (England and Wales) 2008/09 ("the Police Grant Report"), which is referred to in the Regulations, had been approved by the House of Commons and the Local Government Finance Report (No. 2) 2008-2009 (Final Settlement – Police Authorities), which is referred to in these Regulations, had been approved by the National Assembly for Wales. Due to the nature of police funding in England and Wales (where the settlement for the Welsh police authorities comprises three elements, Revenue Support Grant provided by the Welsh Assembly Government, Police Grant and Floor Funding provided by the Home Office) the Police Grant Report, has to be approved before the Local Government Finance Report can be laid before the National Assembly for Wales. The Police Grant Report was approved by the House of Commons on 4 February 2008 and the Local Government Finance Report (No. 2) 2008-2009 (Final Settlement – Police Authorities) by the Assembly on 19 February 2008.

5. As soon as the Police Grant Report and the Local Government Finance Report (No. 2) 2008-2009 (Final Settlement – Police Authorities) have been approved and any levies have been issued to them, local authorities will be able to calculate their budget requirements and set their council taxes. Billing authorities must calculate their budget requirements and set their council taxes before 11th March

and major precepting authorities must issue their precepts to billing authorities by 1st March. As such it is necessary for the Instrument to breach the 21 day rule to allow authorities time to make the necessary calculations within these statutory limits. The Presiding Officer has been notified of the breach by letter.

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 powers were transferred to the Assembly under the National Assembly for Wales (Transfer of Functions) Order 1999 and are now vested in the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006. These Regulations follow the Negative Resolution procedures.

Purpose and intended effect of the legislation

7. These Regulations omit references to "relevant special grant" from sections 32, 33, 43 and 44 of the Local Government Finance Act 1992 for the financial year beginning 1 April 2008 since no special grants are being defined as relevant special grants for that financial year.

8. They also insert, for the financial year beginning 1 April 2008, for billing (in Wales, county and county borough councils) and major precepting authorities (in Wales, county and county borough councils and police authorities), 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, 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 financial year beginning 1 April 2008. The same definitions also apply to sections 33 and 44 of the 1992 Act.

9. Finally, the Regulations define “floor funding” in section 43 of the 1992 Act by inserting subsection (6F) for the financial year beginning 1 April 2008 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 Home Secretary for the financial year beginning on 1 April 2008 when making the required calculation for that year. The floor funding is added to ensure that the overall increase in central funding for the Police Authorities compared to the last year is 2.5%. This is paid under section 31 of the Local Government Act 2003.

10. This legislation is generally matching Whitehall but with some distinct provision. The distinct provision is that paragraph 9A of Schedule 8 of the Local Government Finance Act 1988 (as amended by the Local Government Act 2003 and the Government of Wales Act 2006) allows the Welsh Ministers to make two separate local government finance reports for a particular year. These separate reports are for local authorities and police authorities.

Implementation

11. It is proposed that this Instrument come into force on 27 February 2008. 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 authorities in setting their budget requirement and council tax for 2008-09. The Local Authorities (Alteration of Requisite Calculations) (Wales) Regulations 2000 ensure that the police grant is taken into account in calculating the budget requirement, but not the additional "floor funding". Equivalent Regulations will come into force in England in February 2008.

Consultation

12. 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 2008 were sent to all Welsh local authorities and police authorities in Wales on 13 February 2008 notifying them of the proposed changes. All authorities affected will be sent a copy of the Regulations after they are made by Welsh Ministers. No comments have been received from any of the Welsh local authorities.

Regulatory Impact Assessment

a. Options

13. 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. Also, we could not ensure that all the central funding provided by the Home Office in the police settlement is taken into account by police authorities in setting their budget requirement and council tax for 2008-09.

- **Make the Legislation** – Implementing the Regulations will ensure that the budget requirement is calculated correctly and consistently for 2008-09 and for police authorities this will ensure consistency of approach with police authorities in England.

b. Benefits

14. The main benefits are that the Local Government Finance Act 1992 will be updated to ensure that the calculation of the budget requirement for 2008-09 is undertaken consistently and correctly.

c. Costs

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

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

d. Competition Assessment

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

e. Post implementation review

18. There is an annual review of these Regulations.