EXPLANATORY MEMORANDUM TO
THE COUNCIL TAX LIMITATION (MAXIMUM AMOUNTS) (ENGLAND) ORDER 2008

2008 No. [DRAFT]

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before the House of Commons by Command of Her Majesty.

This memorandum contains information for the Select Committee on Statutory Instruments.

2. Description

2.1 This draft Order relates to the "capping" of the budget requirement of Lincolnshire police authority.

2.2 It states the amount which this authority must not exceed as their budget requirement for 2008-09, following their designation by the Secretary of State.

3. Matters of special interest to the Select Committee on Statutory Instruments

3 This is the third occasion on which the powers conferred by section 52F (challenge of maximum amount) of the Local Government Finance Act 1992 ("the 1992 Act") are proposed to be exercised. Section 52F was inserted by the Local Government Act 1999 ("the 1999 Act"). These powers replaced provisions previously in Chapter 5 of the 1992 Act which were repealed by the 1999 Act. The first occasion on which section 52F of the 1992 Act was used was in 2004 (see the Council Tax Limitation (England) (Maximum Amounts) Order 2004 (S.I. 2004/1908)) and it was last used in 2005 (see the Council Tax Limitation (England) (Maximum Amounts) Order 2005 (S.I. 2005/2032)).

4. Legislative Background

4.1 This draft Order is subject to the affirmative resolution procedure. It is laid before the House of Commons under section 52F(7) of the 1992 Act.

4.2 Sections 52A to 52Z of the 1992 Act were inserted by section 30 of, and Schedule 1 to, the 1999 Act.

5. Extent

5 This draft Order extends to England and Wales but applies only to the authority in England specified in paragraph 2.1 above.

6. European Convention on Human Rights

6 The Minister of State for Local Government, John Healey, proposes to make the following statement:

"In my view the provisions of the Council Tax Limitation (Maximum Amounts) (England) Order 2008 are compatible with the Convention rights."

7. Policy background

7.1 The Minister of State for Local Government, John Healey, announced, in an oral statement to the House of Commons on 27 March 2008, that the Government intended to take action against authorities whose budget requirements for 2008-09 were excessive in accordance with the principles set out in the Minister's statement.

7.2 Accordingly, the Secretary of State designated seven police authorities and one local authority under section 52D(2)(a) (designation or nomination) of the 1992 Act.

7.3 In the light of challenges which the designated authorities made, under section 52F of the 1992 Act, to the maximum budget requirements proposed by the Secretary of State, the Secretary of State has cancelled the designation of one local authority and three police authorities and nominated them instead under sections 52L (nomination) and 52N (no designation after nomination). She has nominated three authorities in 2008-09 and designated them for following year action under sections 52L and 52M (designation after nomination). She proposes to proceed with the designation of Lincolnshire police authority for 2008-09, but with a maximum budget requirement higher than that proposed by the Secretary of State when the authority was originally designated under section 52D(2)(a).

8. Impact

8.1 An Impact Assessment has not been prepared for this draft Order as the Secretary of State cannot make assumptions as to which services and activities may be affected when an authority calculates a lower budget requirement.

8.2 The impact on the public sector is a reduction in the budget requirement of the affected authority of £15,985,879 in 2008-09. It will be for this authority to decide which services and activities will be affected when it sets a lower budget requirement.

9. Contact

Richard Harries at the Department for Communities and Local Government, Tel: 020 7944 6680 or e-mail: richard.harries@communities.gsi.gov.uk with any queries regarding the Order.

June 2008