EXPLANATORY MEMORANDUM TO
THE LOCAL AUTHORITIES (ALTERATION OF REQUISITE CALCULATIONS) (ENGLAND) REGULATIONS 2006

2006 No. 247

1. This explanatory memorandum has been prepared by the Office of the Deputy Prime Minister and is laid before Parliament by Command of Her Majesty.

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

2. **Description**

   2.1 These Regulations amend the components of calculations set out in the Local Government Finance Act 1992 ("the 1992 Act") and the Greater London Authority Act 1999 ("the 1999 Act") which provide how a local authority, major precepting authorities and the Greater London Authority ("GLA") are to calculate their budget requirements and council tax.

   2.2. A major precepting authority is an authority that provides services but which does not collect council tax itself for example a county council or a combined fire authority. It issues a precept to a billing authority, which then collects council tax on its behalf.

   2.3. Similar regulations are made each year immediately following the approval by the House of Commons of the annual Police Grant Report.

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

   3.1 The Office is laying these Regulations before Parliament today. This section explains why the Regulations come into force less than 21 days from the date of laying.

   3.2. These Regulations could not be made and laid until after the Police Grant Report (England and Wales) 2006/07 ("the Police Grant Report") and the Local Government Finance Report (England) 2006/2007, which are referred to in the Regulations, had been approved by the House of Commons. The Police Grant Report and the Local Government Finance Report (England) 2006/2007 were approved on 6th February 2006. The Regulations modify the definition of "police grant" in section 32 of the 1992 Act, with reference to the Police Grant Report, for the purposes of the calculation by local authorities of their budget requirement and basic amounts of council tax. The amounts of grant payable under the Police Grant Report affect these calculations. The precise reference within the Police Grant Report - to column (a) of paragraph 3.1 - has been inserted as a result of a response to the consultation.

   3.3. The Regulations also define "revenue support grant" and "redistributed non-domestic rates" in sections 32, 33, 43 and 44 of the 1992 Act and in sections 85, 88, 89 and 102 of the Greater London Authority Act 1999 by reference to those sums payable or received under the Local Government Finance Report (England) 2006/2007. This is to make it clear that sums due to a local authority

from the Secretary of State or due to be paid by a local authority to the Secretary of State under an Amending Report for an earlier financial year should not be treated as amounts of revenue support grant and non-domestic rates and excluded from the calculation of budget requirement, but should instead be treated as items within the calculation of budget requirement so that an amount payable to a local authority under an Amending Report will reduce that authority's budget requirement and an amount due from a local authority to the Secretary of State will increase that authority's budget requirement. These changes are being made as a result of a response to the consultation.

3.4. Local authorities will be able to calculate their budget requirements and set their council taxes (under Chapters III and IV of Part 1 of the 1992 Act, and, in the case of the GLA, under Chapter I of Part 3 of the 1999 Act,) as soon as the Police Grant Report and the Local Government Finance Report 2006/2007, have been approved and any levies have been issued to them. In addition, in the case of the GLA, the GLA General Grant determination also has to have been made. Levies under section 74 of the Local Government Finance Act 1988 (c.41) can be issued at any time before 15th February, so authorities may be ready to begin calculating their budget requirements and council taxes as soon as the Police Grant Report and the Local Government Finance Report have been approved.

3.5. Billing authorities must calculate their budget requirements and set their council taxes before 11th March (see sections 32(10) and 30(6) of the 1992 Act). The GLA must calculate its budget requirement by the end of February (see Schedule 6, paragraphs 8(7) and 9 of the 1999 Act). Major precepting authorities must issue their precepts to billing authorities by 1st March (see section 40(5) of the 1992 Act.) Allowing 21 days between the laying and coming into force of these Regulations would give authorities very little time in which to make the necessary calculations within these statutory limits. The 8th February was chosen as the date of coming into force of these Regulations to allow authorities the required time.

3.6. Drafts of the provisions contained in the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2006 were sent to authorities in England by e-mail on 5 December 2005 notifying them of the proposed changes. The changes referred to in paragraph 3.3 above are changes which were made as a result of consultation, for clarification purposes and are consistent with accounting practice. Local authorities have always been advised to and do treat amounts due under Amending Reports as items to be taken into account in the calculation of their budget requirements. A further draft of the Regulations together with these changes was sent to authorities in England by e-mail on 24 January 2006. Further, all authorities affected will be sent a copy of the Regulations after they are laid in Parliament.

4. Legislative Background

4.1. These Regulations are being made to amend the components of calculations used in the calculation of budget requirements and council tax by authorities as set out in paragraph 2.1 above.

4.2. These Regulations omit references to "relevant special grants" from sections 32, 33, 43 and 44 of the 1992 Act and from sections 85, 88, 99 and 102 of the

1999 Act as no special grants are defined as relevant special grants for the financial year beginning on 1st April 2006.

4.3. These Regulations also amend the definition of "police grant" in sections 32, 33, 43 and 44 of the 1992 Act and in sections 85, 88, 99 and 102 of the 1999 Act so that it refers to the Police Grant Report (England and Wales) 2006/07.

4.4. As set out in paragraph 3.3 above, the Regulations also define "revenue support grant" and "redistributed non-domestic rates" in sections 32, 33, 43 and 44 of the 1992 Act and in sections 85, 88, 99 and 102 of the 1999 Act so that those definitions refer to such amounts payable under the Local Government Finance Report (England) 2006/2007.

5. Extent

5.1 This instrument applies to England.

6. European Convention on Human Rights

Phil Woolas has made the following statement under section 19(1)(a) of the Human Rights Act 1988:

"In my view the provisions of the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2006 are compatible with the Convention rights."

7. Policy background

7.1 The policy objective of the relevant sections of the 1992 Act is to ensure that local authorities are able to calculate their budget requirements and council taxes accurately, and in a way which is consistent across authorities.

7.2 The instrument is important in practical and legal terms because it ensures that the grants and types of expenditure in existence for 2006/07 can be taken into account correctly in the calculations. For example, in the absence of the instrument:

- Expenditure by a police authority funded from police grant payable under the Police Grant Report (England and Wales) 2006/07 would be excluded from the authority's budget requirement. This would be contrary to the policy which is that it should be included for example for when an assessment is made for capping purposes as to whether an authority's budget requirement is excessive.

7.3 As stated at paragraph 3.6, draft regulations were sent to authorities by e-mail on 5 December 2005 as part of the provisional local government finance settlement. Written representations were invited by 11 January 2006 and were received from four local authorities, two of which have resulted in changes to the Regulations, as described at paragraphs 3.2 and 3.3. In particular:

- The City of London asked for the definition of "police grant" to be modified so as to comprise only the Principal Formula element shown in

column (a) of paragraph 3.1 of the Police Grant Report 2006/07. This is a necessary change because the previous wording also inadvertently included some other police grants which were not intended to be included within the definition.

- Shropshire Fire Authority asked for clarification on the correct treatment of amounts of grant relating to the Amending Reports for 2004/05 and 2005/06. As a result, it was decided to modify the draft Regulations to include the clarification in paragraph 3.3, above.

- Wolverhampton City Council also asked for clarification of the correct treatment of amounts of grant relating to the Amending Reports for 2004/05 and 2005/06. Its concerns were also addressed by the modification set out in paragraph 3.3.

- North East Lincolnshire Council asked whether the omission of references to "relevant special grants" referred to at paragraph 4.2, above, made any difference to the calculations that need to be made. The omission of references does, in fact, make no difference to the calculations, but is helpful in that it reinforces the point that there will be no "relevant special grants" for 2006/07.

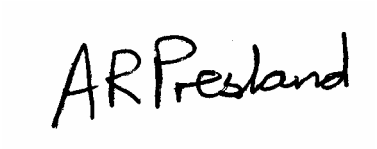
8. **Impact**

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is not significant.

9. **Contact**

Andrew Presland at the Office of the Deputy Prime Minister Tel: 0207 944 4166 or e-mail: Andrew.Presland@odpm.gsi.gov.uk can answer any queries regarding the instrument.



Andrew Presland **7th February 2006**