



Local Government Policy Division

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Date: 17th December 2010

Dear Consultee

CONSULTATION ON DRAFT REGULATIONS TO BE MADE UNDER PART 2 OF THE LOCAL GOVERNMENT FINANCE BILL - GRANTS TO COUNCILS

The Department is seeking views on the following draft regulations:

- The Local Government (Rates Support Grant) Regulations (Northern Ireland) 2011 (the Rates Support Grant Regulations)
- The Local Government (Specified Bodies) Regulations (Northern Ireland) 2011 (the Specified Bodies Regulations)

Comments should be sent to the Department by **24 February 2011**.

CONTENTS

| | Paragraph |
|---|------------------|
| Aims of the Regulations and Guidance for Part 2 Local Government Finance Bill | 1 |
| Background | 3 |
| Human Rights | 6 |
| Equality | 7 |
| Regulatory Impact Assessment | 8 |
| Rural Proofing | 9 |
| Freedom of Information Act 2000 – Confidentiality of Consultation | 10 |
| Alternative format | 11 |
| Consultation – how to respond | 12 |
| Annex A – Draft Local Government (Rates Support Grant) Regulations (Northern Ireland) 2011 | |
| Annex B – Draft Local Government (Specified Bodies) Regulations (Northern Ireland) 2011 | |
| Annex C – Freedom of Information Act 2000 – confidentially of consultations | |
| Annex D – list of consultees | |

Aims of the Regulations for Part 2 of the Local Government Finance Bill

1. The Department intends to make the Rates Support Grant Regulations in exercise of the powers to be conferred on it by clause 27 of the Local Government Finance Bill ('the Bill'), once enacted.
By virtue of clauses 27(9) and 43 of the Bill, the Rates Support Grant Regulations are subject to draft affirmative procedure.
2. The Department intends to make the Specified Bodies Regulations in exercise of the powers to be conferred on it by clause 28(6) of the Bill, once enacted.
By virtue of clause 43 of the Bill, the Specified Bodies Regulations are subject to negative resolution procedure.

Background

Rates Support Grant Regulations

3. Clause 27 of the Bill makes provision concerning the rates support grant. The Regulations to be made under clause 27 will make provision for the formula to be used for determining the rates support grant. The statutory formula currently used to calculate the resources element of the general grant will be applied, without modification, to the calculation of the rates support grant.

The draft Rates Support Grant Regulations will revoke and replace the Local Government (General Grant) Regulations (Northern Ireland) 2003 (SR 2003 No 58) as amended “the 2003 regulations”.

Policy Intent of the Rates Support Grant (currently the Resources Element of the General Grant)

4. The policy intent of the grant is that it is and will be paid only to those councils whose needs exceed their wealth. There has been no modification to the policy intent from what is currently named the resources element of the general grant to what is being renamed the rates support grant. The formula for setting the rates support grant is designed to measure each council’s wealth base against its needs. Wealth is determined by the value of property in the council district. Needs is determined by adjusting the population estimate for the council district, using factors based on the Northern Ireland Deprivation Measure to address:
- socio-economic disadvantage;
 - the impact of an influx of population into a district; and
 - sparsity.

The overall funding available for this rates support grant is then shared out in proportion to the need as identified by the formula.

Purpose of the Specified Bodies Regulations

5. Clause 28 of the Bill makes provision for reductions in the rates support and de-rating grants. Subsection (6) allows the

Department to defray the expenditure incurred in any financial year by bodies providing services to councils, and to make deductions from the rates support grant and de-rating grant to meet that expenditure. The Department may specify in regulations the bodies for whom such deductions are to be made. Article 6(6) of the 2002 Order makes the same provision for deductions in respect of specified bodies from the general grant.

The draft Local Government (Specified Bodies) Regulations (Northern Ireland) 2011 revoke and replace the Local Government (Specified Bodies) Regulations 2007. As there has been no change to any of the specified bodies, the draft regulations do no more than apply the current arrangement to the two new grants.

Human Rights

6. The Human Rights Act 1998 implements the European Convention on Human Rights. The 1998 Act makes it unlawful for any public authority to act in a way that is incompatible with these rights. We believe that the proposals in this consultation document are compatible with the Human Rights Act, but would welcome any views that you might have.

Equality

7. Under the terms of section 75 of the Northern Ireland Act 1998, the Department carried out screening for equality impact and is satisfied that the proposed legislation will not lead to discriminatory or negative differential impact on any of the section 75 groups. A copy of the screening form can be viewed on the Department's website.

<http://www.doeni.gov.uk/index/information>

Regulatory Impact Assessment

8. The Department has not conducted a regulatory impact assessment as the proposed legislation does not give rise to any associated costs or savings on business, charities, social economy enterprises or the voluntary sector.

Rural Proofing

9. The Department has assessed the proposed measures and considers that there would be no differential impact in rural areas or on rural communities.

Freedom of Information Act 2000 – Confidentiality of consultations

10. The Department may publish a summary of responses following completion of the consultation process. Your response, and all other responses to the consultation, may

be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. Before you submit your response, please read Annex C on the confidentiality of consultations. It gives guidance on the legal position about any information given by you in response to this consultation.

Alternative format

11. This document may be made available in alternative formats. Please contact us to discuss your requirements, using any of the following methods.

Telephone: 028 9025 6091

Textphone: 028 9054 0642

Facsimile: 028 9025 6080

E-mail: LGPDConsultations@doeni.gov.uk

Consultation – how to respond

12. I would be grateful if you could forward any comments you may have on the proposed legislation to Local Government Policy Division at the address on page one or by e-mail to LGPDConsultations@doeni.gov.uk by Thursday 24th February 2011.

13. This consultation is also available to view at:

http://www.doeni.gov.uk/index/local_government/local_government_consultations.htm

14. This Consultation Document is being circulated to persons and bodies listed in Annex D.

Yours faithfully



John Small
Local Government Policy Division

Draft Regulations laid before the Assembly under section 27(3) of the Local Government Finance Act (Northern Ireland) 2011 for approval

DRAFT STATUTORY RULES OF NORTHERN
IRELAND

2011 No.

LOCAL GOVERNMENT

**The Local Government (Rates Support Grant) Regulations
(Northern Ireland) 2011**

Laid before the Assembly in draft

Made - - - -

Coming into operation -

The Department of the Environment makes the following Regulations in exercise of the powers conferred by section 27 of the Local Government Finance Act (Northern Ireland) 2011^(a).

In accordance with section 44(1) of that Act, the Department has consulted councils, such associations representative of councils, such associations representative of officers of councils and such other persons or bodies as appear to the Department to be appropriate.

Citation and commencement

1. These Regulations may be cited as the Local Government (Rates Support Grant) Regulations (Northern Ireland) 2011 and shall come into operation on 1st April 2011.

Interpretation

2. – (1) In these Regulations—

“employment deprivation scores” means the employment domain scores contained in the Northern Ireland Multiple Deprivation Measure, published in May 2010 by the Department of Finance and Personnel;

“expenditure” means net expenditure (excluding depreciation and bank interest) averaged over the latest three financial years, provided by councils;

“gross penny rate product” means the income that may be raised from one penny of district rates on rateable and derated properties, as determined by the Department on the basis of data provided by the Department of Finance and Personnel;

“income deprivation scores” means the income domain scores contained in the Northern Ireland Multiple Deprivation Measure, published in May 2010 by the Department of Finance and Personnel;

(a) 2011 no. ****

“population” means the population determined by the Department of Finance and Personnel on the basis of mid-year home population estimates for local government districts, and provided by the Department of Finance and Personnel to the Department;

“population density” means the mid-year home population estimates per kilometre squared, provided by the Department of Finance and Personnel;

“private household data” means the number of households within each local government district provided by either the Department of Finance and Personnel or the Northern Ireland Housing Executive;

“tourist bed-nights” means the number of tourists staying in Northern Ireland overnight but excluding Northern Ireland residents, provided by the Northern Ireland Tourist Board; and

“travel to work data” means employment statistics, based on census of employment and labour force surveys, provided by the Department of Enterprise, Trade and Investment.

(2) With the exception of the definitions set out in sub-paragraph (1), expressions used in these Regulations and in the Best Value Accounting Code of Practice Northern Ireland (2008 Edition) published by the Chartered Institute of Public Finance and Accountancy shall have the same meaning in these Regulations as in that Code.

Rates support grant

3. The Department shall calculate the amount of rates support grant payable to a council for a financial year, in accordance with the formula described in the Schedule.

4. The Department shall use data, in the formula and measures applied to population to calculate the additional needs of a council, based on the latest information available to the Department in the financial year ending on 31st March 2011 and on 31st March in each successive year.

5. A council shall for each financial year provide the Department with details of expenditure in the form identified in Part III of the Schedule by 30th June of the financial year immediately following that year.

Revocation

6. The following Regulations are hereby revoked:

- (a) the Local Government (General Grant) Regulations (Northern Ireland) 2003(a);
- (b) the Local Government (General Grant) (Amendment) Regulations (Northern Ireland) 2005(b);
- (c) the Local Government (General Grant) (Amendment) Regulations (Northern Ireland) 2006(c);
- (d) the Local Government (General Grant) (Amendment) Regulations (Northern Ireland) 2007(d).

Sealed with the Official Seal of the Department of the Environment on ***

Wesley Shannon

A senior officer of the Department of the Environment

(a) S.R. 2003 No. 58 as amended by S.R. 2005 No. 101, S.R. 2006 No. 39 and S.R. 2007 No 126.
(b) S.R. 2005 No. 101.
(c) S.R. 2006 No. 39
(d) S.R. 2007 No 126

SCHEDULE

Regulation 3

PART I

Rates support grant formula

1. For the purposes of this Schedule—

- (a) a council's wealth means its share of the Northern Ireland gross penny product, as calculated in accordance with this Schedule;
- (b) a council's needs means its share of the Northern Ireland adjusted population (including the additional needs of a council) as calculated in accordance with this Schedule.

2. The formula—

- (a) to determine a council's entitlement to rates support grant—

| Wealth | | Needs | |
|---|---|---|---|
| { Council gross penny rate product } | } | { Council home population adjusted } | } |
| { _____ × } 100 | } | { _____ × } 100 | } |
| { Northern Ireland gross penny rate product } | } | { Northern Ireland home population adjusted } | } |

= Surplus or negative variance

- (b) to calculate the proportion of rates support grant payable to a council, the total of negative variances shall be calculated and each council's negative variance (if any) expressed as a percentage of the total—

| | | |
|---------------------------------------|------------|--|
| Council's negative variance | | |
| _____ | [x 100] | = [percentage] allocation of total grant |
| Total of councils' negative variances | | |

PART II

Measures applied to adjust for additional needs

3. Measures applied to adjust for additional needs are—

- (a) deprivation;
- (b) an influx of additional population; and
- (c) sparsity.

4. Measures, weighted in accordance with paragraph 6, to the extent specified in paragraph 5(1), which shall be applied to population date, to adjust for—

- (a) deprivation, are—
 - (i) income deprivation scores; and
 - (ii) employment deprivation scores;

- (b) an influx of additional population, are—
 - (i) tourist bed-nights; and
 - (ii) travel to work data;
- (c) sparsity, are—
 - (i) population density; and
 - (ii) private household data.

Extent of adjustment

5.—(1) For the purposes of paragraph 4, the extent of adjustment made to the population of a local government district shall be in the same proportion as the total Northern Ireland expenditure on each key service relative to specified needs is to the total Northern Ireland expenditure.

(2) The key services to which sub-paragraph (1) relates are—

- (a) community services;
- (b) economic development;
- (c) waste collection;
- (d) other cleaning; and
- (e) tourism.

Population Adjustment Methodology

6. The Department shall adjust population to address—

- (a) deprivation in a local government district, by taking the following steps—
 - (i) application of the employment scores with a 50 percent weighting and income scores with a 50 percent weighting, making an adjustment of the proportion that community services expenditure is to total expenditure;
 - (ii) application of the employment scores with a 100 percent weighting, making an adjustment for each of the proportion that economic development expenditure is to total expenditure;
 - (iii) application of the income scores with a 50 percent weighting, making an adjustment of the proportion that tourism expenditure is to total expenditure;
- (b) an influx of additional population into a local government district, by taking the following steps—
 - (i) application of tourist bed-nights factors with a 50 percent weighting, making an adjustment of the proportion that tourism expenditure is to total expenditure;
 - (ii) application of tourist bed-nights factors with a 50 percent weighting and travel to work factors with a 50 percent weighting, making an adjustment of the proportion that other cleaning expenditure is to total expenditure; and
- (c) sparsity in a local government district, by taking the following step—
 - application of mid-year population density data with a 25 percent weighting and private household data with a 75 percent weighting, making an adjustment of the proportion that waste collection expenditure is to total expenditure.

7. The total adjustment which the Department shall make to the home population of a local government district shall be the sum of the results, which may be positive or negative, of the adjustments made in accordance with paragraphs 6(a), 6(b) and 6(c).

PART III

EXPENDITURE PRO FORMA

NET EXPENDITURE (i.e. EXCLUDING ALL CAPITAL RELATED EXPENDITURE)

| | Key Services | Net Expenditure | Capital Charges (Depreciation) | Amortisation of Capital Grants | Adjusted Net Expenditure |
|----|--|-----------------|--------------------------------|--------------------------------|--------------------------|
| | Column A | Column B | Column C | Column D | Column E |
| 1 | Net cost of services | | | | |
| 2 | Net Bank Interest +/- | | NOT APPLICABLE | NOT APPLICABLE | |
| 3 | Adjusted Net Cost of Services (Sub-total rows 1 and 2) | | | | |
| 4 | Tourism | | | | |
| 5 | Community Services | | | | |
| 6 | Other Cleaning | | | | |
| 7 | Waste Collection | | | | |
| 8 | Economic Development | | | | |
| 9 | Other Services (row 3 minus sum of rows 4 to 8) | | | | |
| 10 | TOTALS | | | | |

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the formula for determining the rates support grant payable by the Department of the Environment to district councils under section 27 of the Local Government Finance Act (Northern Ireland) 2011 (c ****) (“the Act”).

The Act repealed Articles 3 to 5 of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 2002) and replaced the resources element of the general grant with the rates support grant

These Regulations enable the Department of the Environment (“the Department”) to determine the amount of rates support grant payable to councils.

Regulation 3 advises that the Department shall calculate the amount of the rates support grant in accordance with the statutory formula described in the Schedule to the Regulations. This is the same formula that was previously used to calculate the amount of the resources element of the general grant under provision of the Local Government (General Grant) Regulations (Northern Ireland) 2003 (as amended).

Regulation 4 requires the Department to use data in the formula based on the latest information available to it on 31st March of each financial year

Regulation 5 requires each council to provide the Department with details of expenditure in the form directed by the Department by 30th June of the financial year immediately following that year.

Regulation 6 revokes the Local Government (General Grant) Regulations (Northern Ireland 2003 (as amended).

DRAFT STATUTORY RULES OF NORTHERN
IRELAND

2011 No.

LOCAL GOVERNMENT

**The Local Government (Specified Bodies) Regulations
(Northern Ireland) 2011**

Made - - - - - ***

Coming into force - - - - - ***

The Department of the Environment makes the following Regulations in exercise of the powers conferred by section 28(6) of the Local Government Finance Act (Northern Ireland) 2011(a).

In accordance with sections 28(7) and 44 (1) of that Act, the Department has consulted councils, such associations representative of councils, such associations representative of officers of councils, and such other persons or bodies as appear to the Department to be appropriate.

Citation and commencement

1. These Regulations, which may be cited as the Local Government (Specified Bodies) Regulations (Northern Ireland) 2011, shall come into operation on 1st April 2011.

Specified bodies

2. The following bodies are hereby specified for the purpose of section 28(6) of the Local Government Finance Act (Northern Ireland) 2011—

- (a) Employers' Organisation for Local Government;
- (b) Northern Ireland Joint Council for Local Government Services;
- (c) Joint Negotiating Committee for Clerks/Chief Executives of Local Authorities in Northern Ireland;
- (d) Local Government Training Group;
- (e) Local Authorities' Co-ordinators of Regulatory Services; and
- (f) Local Government International Bureau.

Revocation

3. The General Grant (Specified Bodies) Regulations (Northern Ireland) 2007(b) are hereby revoked.

(a) 2011 c[??].
(b) S.R. 2007 No. 85

Sealed with the Official Seal of the Department of the Environment on ***

Wesley Shannon

A senior officer of the Department of the Environment

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations which are made under section 28(6) of the Local Government Finance Act (Northern Ireland) 2011 (2011 c.****) (“the Act”) specify the bodies in respect of which the Department may make deductions from a district council’s rates support grant and de-rating grant for expenditure incurred by those bodies in providing services for a district council..

Article 6(6) of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 2002 (NI 3) (“the 2002 Order”), which has been repealed and replaced by section 28(6) of the Act, made similar provision with respect to the general grant payable to councils. The general grant was made up of two elements, the resources element and the de-rating element. The Act replaces the general grant with two new grants, the rates support grant and the de-rating grant, which are calculated on the same basis as the resources element and the de-rating element of the general grant.

Regulation 2 of these Regulations specifies those bodies providing a service to a council for which deduction from the rates support grant and deduction from the de-rating grant payable to that council can be made.

Regulation 3 of these Regulations revokes the General Grant (Specified Bodies) Regulations (Northern Ireland) 2007.

The Freedom of Information Act 2000 – confidentiality of consultations

1. The Department may publish a summary of responses following completion of the consultation process. Your response, and all other responses to the consultation, may be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. Before you submit your response, please read the paragraphs below on the confidentiality of consultations and they will give you guidance on the legal position about any information given by you in response to this consultation.
2. The Freedom of Information Act gives the public a right of access to any information held by a public authority, namely, the Department in this case. This right of access to information includes information provided in response to a consultation. The Department cannot automatically consider as confidential information supplied to it in response to a consultation. However, it does have the responsibility to decide whether any information provided by you in response to this consultation, including information about your identity, should be made public or be treated as confidential.
3. This means that information provided by you in response to the consultation is unlikely to be treated as confidential, except in very particular circumstances. The Lord Chancellor's Code of Practice on the Freedom of Information Act provides that:

- the Department should only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of the Department's functions and it would not otherwise be provided;
 - the Department should not agree to hold information received from third parties "in confidence" which is not confidential in nature; and
 - acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.
4. For further information about confidentiality of responses please contact the Information Commissioner's Office (or see website at: <http://www.informationcommissioner.gov.uk>).

List of Consultees

List of Consultees

All Northern Ireland District Councils

arc21

Association for Public Service Excellence

Association of Local Government Finance Officers

Belfast Solicitors Association

Chief Local Government Auditor

Civil Law Reform Division

Community Relations Council

Confederation of British Industry

Equality Commission for NI

Federation of Small Businesses

Food Standards Agency

HM Council of County Court Judges

HM Revenue & Customs

Human Rights Commission

Judge McKibbin District Judge (Magistrates Court)

Law Centre (NI)

Local Government Staff Commission

MEPs

Ministry of Defence

MLAs

MPs

National Association of Councillors

NI Association of Citizens Advice Bureaux

NI Chamber of Commerce and Industry

NIC/ICTU

NILGA

Northern Ireland Chamber of Trade

Northern Ireland Court Service

Northern Ireland Judicial Appointments Commission

Northern Ireland Ombudsman

NWRWVG

Participation & the Practice of Rights Project

School of Law

Secretary - Catholic Bishops of Northern Ireland

SOLACE

Staff Commission for Education & Library Boards

SWaMP

The British Chambers of Commerce

The Executive Council of the Inn of Court of NI

The General Consumer Council for Northern Ireland

The Law Society of NI

The NI Council for Voluntary Action

The Queens University of Belfast – School of Law

University of Ulster - School of Law

In addition, the Executive Summary has been issued to all Section 75 groups currently included on the Department's consultation list.