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S T A T U T O R Y   I N S T R U M E N T S

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1990 No. 201 ,

LOCAL GOVERNMENT, ENGLAND AND WALES

RATING AND VALUATION

The Wimbledon and Putney Commons (Special Levies)  
Regulations 1990

Made ..... 6<sup>th</sup> February 1990

Coming into force 7<sup>th</sup> February 1990

The Secretary of State for the Environment, in exercise of the powers conferred on him by sections 75, 118 and 143(1) and (2) of the Local Government Finance Act 1988(a) and of all other powers enabling him in that behalf, after taking such steps by means of a notice in newspapers as he thinks reasonably practicable to bring the contents of the Regulations to the notice of persons likely to be affected, hereby makes the following Regulations:

Citation, commencement and interpretation

1.-(1) These Regulations may be cited as the Wimbledon and Putney Commons (Special Levies) Regulations 1990, and shall come into force on the day after the day on which they are made.

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(a) 1988 c.41; sections 75 and 118 were amended by the Local Government and Housing Act 1989 (c.42), Schedule 5, paragraphs 55 and 67.

[DET 9958]

(2) In these Regulations -

"the 1871 Act" means the Wimbledon and Putney Commons Act 1871(a);

"the 1988 Act" means the Local Government Finance Act 1988;

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"the 1992 Act" means the Local Government Finance Act 1992;

"the Conservancy Fund" means the Wimbledon and Putney Commons Conservancy Fund;

"the Conservators" means the Wimbledon and Putney Commons Conservators; and

"the relevant councils" means the councils of the London boroughs of Merton, Wandsworth and Kingston (and references to a "relevant council" are to be construed accordingly).

(3) In these Regulations "the levying area" means -

(a) the area occupied by every property for the time being situated within the ambit of Wimbledon Common, or within the distance of three-quarters of a mile from some part of Wimbledon Common, measured along a road or footpath to the nearest gate or door of or connected or used with the property, and giving access from the property to that road or footpath, and

(b) any part of the parish of Putney.

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(a) 1871 c. cciv.

(4) In paragraph (3) "Wimbledon Common" and "parish of Putney" have the same meaning as in section 15 of the 1871 Act; and "property" means any property, whether a residence within the meaning of that section or not.

#### Special Levies

2.--(1) The Conservators shall have power, for any chargeable financial year, to issue in accordance with these Regulations a special levy to each of the relevant councils for the purpose of providing for the items of expenditure mentioned in paragraph (2) below, to the extent that they are not to be provided for by other means.

(2) The items are -

(a) the expenditure the Conservators estimate they will incur in performing their functions in the year and will charge to the Conservancy Fund for the year;

(b) such allowance as the Conservators estimate will be appropriate for contingencies in relation to expenditure to be charged to the Conservancy Fund for the year;

(c) the financial reserves which the Conservators estimate it will be appropriate to raise in the year for meeting the estimated expenditure referred to in paragraph (3); and

(d) such financial reserves for the Conservancy Fund as are sufficient to meet so much of the amount estimated by the Conservators to be a deficit for any earlier financial year as has not already been provided for.

(3) The estimated expenditure referred to in paragraph (2)(c) is -

(a) that which the Conservators estimate that, in the financial year following the year in question, they will incur, will charge to the Conservancy Fund and will have to defray before sums yielded by way of the special levies are sufficiently available; and

(b) that which the Conservators estimate they will incur in the financial year referred to in sub-paragraph (a) or any subsequent financial year in performing their functions and which will be charged to the Conservancy Fund for that or any other year.

(4) The total amount of the special levies issued for the financial year beginning in 1990 shall not exceed £500,000.

(5) The total amount of the special levies for financial years beginning in or after 1991 shall not exceed an amount equal to

$$\frac{A \times B}{C} \quad \text{LEVY - Year } X = \frac{(\text{LEVY Year } X-1) \times (\text{RPI Sept Year } X-1)}{(\text{RPI Sept Year } X-2)}$$

(6) In paragraph (5) -

A is the total amount which the special levies issued for the financial year preceding the financial year concerned may not exceed,

B is the retail prices index for September of the financial year preceding the financial year concerned, and

C is the retail prices index for September of the financial year which precedes that preceding the financial year concerned.

(7) But where the base month for the retail prices index for September of the financial year which precedes that preceding the year concerned differs from that for the index for September of the year which precedes the year concerned, C in paragraph (5) is the figure calculated by the Secretary of State pursuant to paragraph 5(5) of Schedule 7 to the 1988 Act.

(8) The Conservators shall use their best endeavours to secure that any special levy that they propose to issue with respect to a financial year is issued before 15th February in the preceding financial year; but their power to issue a special levy with respect to a financial year shall not be extinguished by virtue of a failure to issue it before that date.

#### Apportionment and special expenses

3.-(1) The total amount to be yielded by the special levies for a financial year <sup>(beginning on or after 1st April 1993)</sup> shall be apportioned between each relevant council in proportion to the <sup>council tax base</sup> ~~relevant population~~ of the parts of their areas falling within the levying area, as notified to the Conservators pursuant to paragraph (3).

(2) The <sup>council tax base</sup> ~~relevant population~~ of a part of the area of a relevant council falling within the levying area shall be calculated by the relevant council in accordance with the <sup>rules for the time being effective (as regards the year) under regulations</sup> ~~made under section 34(4) of the 1992 Act~~ <sup>population needed to be found for the purposes of section 60 of</sup> the 1988 Act and the special levy were a precept.

(3) Each relevant council shall for every chargeable financial year inform the Conservators of the <sup>council tax base</sup> ~~relevant population~~ so calculated of the part of its area falling within the levying area before 7th February in the preceding financial year, ~~it has not been determined~~

(a) S.I. 1990/68.

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~~Conservators under paragraph 4(1) of Schedule 12A to the 1989 Act~~  
~~in sufficient time to enable it to do so, as soon as practicable~~  
~~after that day;~~ and if after giving such information, but before  
a special levy is first issued to any relevant council with  
respect to the year, the levying area changes (whether in  
consequence of a map being made under section 99 of the 1871 Act  
or otherwise), each relevant council shall (insofar as the change  
would affect the council's calculation of the <sup>council tax base</sup> ~~relevant population~~  
of the part of its area) as soon as practicable recalculate that  
<sup>council tax base</sup> ~~relevant population~~ and inform the Conservators of it.

(4) Where a special levy is issued by the Conservators to a  
relevant council and it is taken into account by the council in  
making its calculation <sup>in accordance with</sup> ~~under~~ section <sup>32</sup> ~~95~~(2) of the 1992 Act(b),  
the council shall treat its expenses needed to meet the levy as  
special expenses relating to the part of its area falling within  
the levying area <sup>for the purposes of sections 34 and 35 of that Act.</sup>

(5) For the purposes of paragraph (4), no account shall be  
taken of any change in the levying area after a special levy is  
first issued to any relevant council with respect to the  
financial year concerned.

Anticipation of special levies

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4.-(1) If, at the time a relevant council makes its  
calculations <sup>in accordance with</sup> ~~under~~ section <sup>33</sup> ~~95~~ of the <sup>1992</sup> ~~1988~~ Act(b) for a financial  
year, a special levy has not been issued to it by the  
Conservators, the council may, in estimating <sup>in accordance with</sup> ~~under~~ section  
<sup>32</sup> ~~95~~(2)(a) of that Act, take into account its estimate of the  
amount of the special levy that it anticipates will be issued to  
it by the Conservators.

(2) Any amount estimated by a relevant council under paragraph

- (a) Schedule 12A was inserted by the Local Government and Housing Act 1989 (c.42), Schedule 5, paragraph 74.
- (b) section 95 was amended by paragraph 63 of that Schedule.

(1) shall be treated as special expenses relating to the part of its area falling within the levying area, as that area subsists at the time the charge is set.

#### Payments under special levies

5.-(1) The amount for which a special levy is issued for a financial year by the Conservators to a relevant council is payable by 10 monthly instalments, the first such instalment being payable on 1st May in the year, and the further 9 on the first day of the succeeding 9 months.

(2) The instalments shall be of equal amount, save that if the amount of the levy expressed in pence is not divisible by the number of instalments, the amount of all but the first instalment shall be rounded to the nearest penny, and the amount of the first instalment shall be adjusted accordingly.

(3) If any sum due under this regulation remains unpaid after the period of 30 days beginning with the day on which it fell due, interest shall be payable on it with respect to every day after that on which it fell due and on which it remains unpaid.

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( )  
(4) The annual rate of such interest payable with respect to any day shall be a rate <sup>equivalent to</sup> 12 per cent. above the <sup>highest</sup> base ~~annual~~ rate ~~for the day quoted~~ <sub>(from time to time by any of the reference banks)</sub>

~~Scottish Bankers, where there is for the time being no~~  
~~reference, the highest or highest of the~~

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(4A) } ->  
(4B) }

(5) If, by virtue of a failure of the Conservators to issue a special levy for a financial year under regulation 2(8) before 15th February in the preceding financial year, insufficient time is available to enable the relevant council concerned to arrange for the first instalment to be paid on 1st May in the year -

(a) the first instalment shall be payable on the first day of a later month, being the first such day on which in the

opinion of the relevant council it is reasonably practicable to arrange for the first instalment to be paid to the Conservators, and

(b) the number of instalments shall be equal to the number of months remaining in the year after the later month mentioned in sub-paragraph (a).

#### Special levies issued in substitution

6.-(1) Where the Conservators have issued a special levy for a financial year (originally or by way of substitute), they may issue a further special levy in substitution.

(2) A special levy issued in substitution must be issued in accordance with regulations 2 and 3, but ignoring regulation 2(8), and ignoring also (for the purposes of apportionment and the attribution of special expenses) any change in the levying area (whether in consequence of a map made under section 99 of the 1871 Act or otherwise) after an original levy was first issued to any relevant council with respect to the financial year concerned.

(3) No special levy may be issued in substitution if its amount would be greater than the amount of that for which it is substituted, except as provided by paragraph (4).

(4) The amount of any special levy issued in substitution may be greater than the amount of that for which it is substituted ("the old levy") if the old levy has been quashed because of a failure to fulfil regulation 2 or 3.

(5) Where the Conservators issue a special levy in substitution ("the new levy"), anything paid to it by reference to the special levy for which it is substituted ("the old levy") shall be treated as paid by reference to the new levy.

(6) If the amount of the old levy exceeds that of the new levy, the following shall apply as regards anything paid if it would not have been paid had the amount of the old levy been the same as that of the new levy -

(a) it shall be repaid if the relevant council by whom it was paid so requires, or

(b) in any other case it shall (as the Conservators determine) either be repaid or credited against any subsequent liability of the council in respect of any special levy of the Conservators;

and the amount of any remaining instalments payable under regulation 5 shall be adjusted accordingly.

(7) If the amount of the new levy exceeds that of the old levy, the amount of the difference between any amount paid by reference to the old levy and the amount of the new levy shall be payable in accordance with regulation 5 as if the amount of the difference were the amount of an original levy issued when the new levy is issued.

(8) Regulation 5(3) and (4) (interest on late payment) applies to payments under a substitute levy as it applies to payments under an original levy.

#### Abolition of the Conservators' rate

7.-(1) With effect from 1st April 1990 the 1871 Act is amended in accordance with this regulation for the purposes of the abolition of the Conservators' power to levy a rate as regards any time on or after that date and for supplementary and consequential purposes (including the amendment of the qualifications of those entitled to be electors).

(2) The following provisions are repealed -

- ✓ section 5;
- ✓ section 16;
- ✓ sections 74 to 78;
- ✓ sections 100 and 101;
- ✓ the second and fourth Schedules.

(3) Section 3 is amended by inserting after the definition of "the deposited plans" and "the deposited road maps" -

✓ ""Special levy" means a special levy under the Wimbledon and Putney Commons (Special Levies) Regulations 1990."

(4) Section 15 is amended -

✓ (a) by substituting for the words from "every tenant or occupier" to "(that is to say,)" the words "every person registered as a local government elector under the Representation of the People Act 1983(a), who would accordingly be entitled to vote if the election were a local government election and whose residence (or place treated as his residence) for that purpose is -";

✓ (b) by omitting subsection (1); and

✓ (c) in subsection (2), by substituting for the words "the dwelling-house" (in both places where they occur) the words "the residence".

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(a) 1983 c.2.

(5) Section 17 is amended by omitting the words "showing the number of votes to which each elector is entitled,".

(6) Section 18 is amended -

(a) by omitting the words " ,hour, and place"; and

(b) by substituting for the words from "(including the" to "of proxies,)" the words ", including the giving of other notices, the manner in which voting is conducted (whether by postal votes or otherwise), the use (if at all) of proxies, and the inspection of lists of electors,".

(7) For section 23 there is substituted -

"23. At each election every elector shall be entitled to give one vote to as many candidates as there are Conservators to be elected, and the election shall be determined by a majority of votes of the electors voting.".

(8) In section 24 the words "at the meeting" are omitted.

(9) For section 30(6) of the Act there is substituted -

"(6) References to ratepayers shall (so far as the context permits) be construed as references to persons for the time being qualified as electors of Conservators.".

(10) In sections 80 and 82, for the word "rates" there is substituted the words "special levies".

(11) In section 94, the word "rate," is omitted.

(12) In section 99, the words from ", and the liability to rates" to the end of the section are omitted.

(13) In section 102, the words from "and for the better execution" to "for the purposes thereof," are omitted.

#### Transitional provisions

8.-(1) Nothing in regulation 7 shall prejudice the power of the Conservators to order payment of and recover any rate made as regards any time before 1st April 1990.

(2) The Conservators in office immediately before 1st April 1990 shall not, by virtue only of the amendments made to the Act by regulation 7 with respect to the qualifications of those entitled to be electors under the 1871 Act, cease to hold office pursuant to section 28 of that Act.

(3) If an election to fill a casual vacancy is held under section 29 of the 1871 Act after 31st March 1990 but before the next following ordinary election of Conservators, so that the list of electors prepared for the last ordinary election is used, the provisions of that Act governing the election, and the eligibility of a person as an elector and as a candidate, shall have effect as if regulation 7 had not come into force.

(4) As regards special levies for the calendar financial year beginning in 1990, the references in regulations 2(8) and 5(5) to 15th February shall be treated as references to 22nd February, and the reference in regulation 3(3) to 7th February as a reference to 14th February.

Chris Patten

6th February 1990

Secretary of State for the Environment