
STATUTORY INSTRUMENTS

1992 No. 2929

LOCAL GOVERNMENT, ENGLAND AND WALES
FINANCE

The Local Authorities (Funds) (Wales) Regulations 1992

Made - - - - *23rd November 1992*
Laid before Parliament *24th November 1992*
Coming into force - - *15th December 1992*

The Secretary of State for Wales, in exercise of the powers conferred on him by sections 89(5), 98(3), 99(1) to (4), 140(4), 143(1) and 146(6) of the Local Government Finance Act 1988(1), and of all other powers enabling him in that behalf, hereby makes the following Regulations—

Citation, commencement and extent

1. These Regulations may be cited as the Local Authorities (Funds) (Wales) Regulations 1992 and shall come into force on 15th December 1992. They extend to Wales only.

Interpretation

2.—(1) In these Regulations—

“the 1988 Act” means the Local Government Finance Act 1988;

“the 1992 Act” means the Local Government Finance Act 1992(2);

“the 1989 Regulations” means the Collection Fund (Wales) Regulations 1989(3);

“principal authority”, in relation to a billing authority, means its relevant major precepting authority and the billing authority itself;

“relevant local precepting authority”, in relation to a billing authority, means any community council having power to issue a precept to that billing authority;

“relevant major precepting authority”, in relation to a billing authority, means the county council having power to issue a precept to that billing authority;

(1) 1988 c. 41, section 89(5) was amended by the Local Government and Housing Act 1989 (c. 42), Schedule 5, paragraph 62; section 98(3) was amended and section 99 was substituted, by the Local Government Finance Act 1992 (c. 14), Schedule 10, paragraphs 23 and 24 respectively, in relation to any financial year beginning on or after 1st April 1993.

(2) 1992 c. 14.

(3) S.I.1989/2363, amended by S.I. 1992/653.

“relevant precepting authority”, in relation to a billing authority, means its relevant major precepting authority and each relevant local precepting authority;

“schedule of instalments” means a schedule determined by a billing authority, in accordance with regulation 4 and, where it applies, regulation 6, with respect to the times for and the number and amounts of payments or transfers from its collection fund or its general fund in respect of its liabilities;

“working day” means any day other than a Saturday, Sunday, or bank holiday.

(2) Any reference in these Regulations (however framed) to liabilities in relation to a billing authority is a reference to the liability of a billing authority to—

- (a) pay anything from its collection fund in respect of any precept issued by its relevant major precepting authority under Part I of the 1992 Act, after taking into account any amount credited by that major precepting authority under section 42(4) of that Act,
- (b) pay anything from its collection fund in respect of so much of any surplus in that fund as, in accordance with regulation 11, that billing authority calculates to be its relevant major precepting authority’s share,
- (c) pay anything from its general fund in respect of any precept issued by a relevant local precepting authority under Part I of the 1992 Act, after taking into account any amount credited by that local precepting authority under section 42(4) of that Act,
- (d) transfer anything from its collection fund or its general fund under section 97(1) or (2) of the 1988 Act⁽⁴⁾ (as the case may be), and
- (e) transfer anything from its collection fund or its general fund under section 97(3) or (4) of the 1988 Act (as the case may be) in respect of so much of any surplus or deficit in its collection fund as, in accordance with regulation 11, that billing authority calculates to be its share or calculates must be borne by it.

(3) Any reference in these Regulations to the making of a substitute calculation is a reference to the making of a substitute calculation by a billing authority in accordance with section 32(4) of the 1992 Act.

(4) References in these Regulations to a date or day when an instalment shall become due shall be taken to be references to the date or day (as the case may be) when that instalment shall become payable or transferable (as the case may be).

(5) References in these Regulations to a working day in one month and a working day in another month shall be treated (in relation to each other) as the same working day of a different month if, and only if, both such working days can be identified—

- (a) by the same name of a day in a working week (whether Monday, Tuesday, Wednesday, Thursday or Friday), and also
- (b) by reference to the same position in a month relative to other days of that name (whether the first, second, third or fourth day of that name in a month).

Discharge of a billing authority’s liabilities

3.—(1) Subject to paragraph (2), in relation to each financial year beginning in or after 1993 a billing authority shall in accordance with its schedule of instalments—

- (a) pay to its relevant precepting authorities from its collection fund or its general fund (as the case may be),
- (b) transfer from its collection fund to its general fund and,

(4) Section 97 was substituted by the Local Government Finance Act 1992, Schedule 10, paragraph 22, in relation to any financial year beginning on or after 1st April 1993.

(c) transfer from its general fund to its collection fund,
such amounts, if any, as will discharge its liabilities for that financial year.

(2) The requirement in paragraph (1) to make payments or transfers in accordance with a schedule of instalments does not apply where any of the provisions in paragraphs (3) to (7) apply.

(3) Where—

- (a) a substitute precept or calculation has been issued or made in relation to a financial year, and
- (b) that substitute precept or calculation has been issued or made on or after the day of the final instalment to be paid or transferred in accordance with the schedule of instalments in that financial year,

any amounts to be paid or transferred by a billing authority in respect of its liabilities for that financial year which remain to be discharged immediately after the substitute precept or calculation is issued or made shall be paid or transferred as soon as is reasonably practicable after the issue of that precept or making of that calculation.

(4) Subject to paragraph (5), in relation to each financial year beginning in or after 1993 a billing authority shall transfer from its general fund to its collection fund such amounts as will discharge its liability to transfer anything from its general fund under section 97(2) of the 1988 Act at such times and in such instalments as it determines, provided it discharges any such liability within the financial year to which it relates.

(5) Where a billing authority makes a substitute calculation after the end of the financial year to which it relates and becomes liable to transfer an amount under section 97(2) of the 1988 Act, any amounts to be transferred by that authority in respect of its liabilities under that subsection which remain to be discharged immediately after the substitute calculation is made shall be transferred as soon as is reasonably practicable after the making of that calculation.

(6) In relation to each financial year beginning in or after 1993 a billing authority shall in accordance with paragraph (7) discharge its liability to pay anything from its collection fund to its relevant major precepting authority in respect of so much of any surplus in that fund as, in accordance with regulation 11, that billing authority calculates to be that major precepting authority's share as regards that year.

(7) Any amount so calculated as regards the financial year in question shall be paid by a billing authority to its relevant major precepting authority in no more than 12 equal instalments during that financial year, provided either—

- (a) that each instalment shall become due on the last working day of a different month in that financial year, or
- (b) that each instalment shall become due on the same working day of a different month in that financial year.

(8) Any amount paid or transferred by a billing authority in respect of a liability for a financial year, whether or not paid or transferred in accordance with a schedule of instalments or in accordance with any of the provisions in paragraphs (3) to (7), shall be treated as discharging that liability to the extent of the payment or transfer.

(9) For the purposes of paragraph (8), any amount paid or transferred which—

- (a) was treated in accordance with that paragraph as discharging a billing authority's liability, but which
- (b) was subsequently repaid or credited by the relevant precepting authority concerned under section 42 of the 1992 Act, or transferred under regulation 9,

shall, to the extent of the amount repaid or credited or transferred under regulation 9, cease to be treated as discharging that liability.

(10) Any reference in this regulation to an authority's schedule of instalments is a reference to the schedule of instalments determined by the authority in accordance with regulation 4 or, where the authority has amended its schedule in accordance with regulation 6, to its schedule of instalments as it currently has effect.

Schedules of instalments

4.—(1) A billing authority shall, in accordance with the rules prescribed in Schedule 1 to these Regulations, determine a schedule of instalments in relation to each financial year beginning in or after 1993.

(2) A billing authority shall determine a schedule of instalments under paragraph (1) before 31st January in the financial year preceding that to which the schedule will relate.

Information on schedules of instalments

5.—(1) A billing authority shall, before 31st December in the financial year preceding that to which the schedule of instalments will relate, inform each relevant precepting authority of the schedule of instalments which it proposes to determine under regulation 4.

(2) A billing authority shall, on or before 31st January in the financial year preceding that to which the schedule of instalments will relate, inform each relevant precepting authority of the schedule of instalments which it has determined under regulation 4.

(3) A billing authority shall not determine a schedule of instalments under regulation 4 within 21 days of informing each relevant precepting authority under paragraph (1) of the schedule of instalments which it proposes to determine.

Amendment of schedules of instalments

6.—(1) A billing authority may, with the agreement of its relevant major precepting authority, from time to time amend a schedule of instalments insofar as it relates to future payments, and any such amendment shall have effect from such time as is specified in the amendment.

(2) The power under paragraph (1) to amend a schedule of instalments does not extend to the amendment of any provision insofar as it relates to relevant local precepting authorities.

(3) An amended schedule of instalments shall satisfy the requirements of paragraph 1(3) to (5) of Schedule 1 to these Regulations.

Interest on amount of instalments

7.—(1) A billing authority shall pay interest to a relevant precepting authority in respect of any amount which—

- (a) has become payable to that relevant precepting authority in accordance with a schedule of instalments, but
- (b) has not been so paid.

(2) Interest shall be payable under paragraph (1) on the amount outstanding for every day of the period beginning with the day on which the amount was due to be paid and ending with the day before the day on which it is paid.

Calculation of interest on amount of instalments

8.—(1) Interest payable under regulation 7 in respect of an amount outstanding shall be calculated at the rate which is 2 per cent above the highest base rate quoted by any of the reference banks at any time in the period for which that interest is payable.

(2) The interest shall be paid at the same time as the amount outstanding is paid.

(3) For the purposes of paragraph (1), the reference banks are the seven largest institutions—

(a) authorised by the Bank of England under the Banking Act 1987⁽⁵⁾ and

(b) incorporated in and carrying on a deposit-taking business within the United Kingdom, which quote a base rate in sterling.

(4) For the purposes of paragraph (3), the size of an institution is to be determined by reference to its total consolidated gross assets denominated in sterling, as shown in its audited end-year accounts last published before the period for which interest is payable begins.

(5) In this regulation—

“consolidated gross assets” of an institution is a reference to the gross assets of that institution together with any subsidiary (within the meaning of section 736 of the Companies Act 1985)⁽⁶⁾;

“a deposit-taking business” has the meaning given in section 6 of the Banking Act 1987 but subject to any order under section 7 of that Act.

Substitute calculations under section 32(4) of the 1992 Act

9.—(1) Where—

(a) a billing authority has made a substitute calculation in relation to a financial year, and

(b) an amount transferred under section 97(1) of the 1988 Act from that authority’s collection fund to its general fund in relation to that financial year would not have been transferred in relation to that year had the amount transferable in respect of the last calculation made before the substitute calculation been the same as the amount transferable, if any, in respect of the substitute calculation,

that billing authority shall transfer from its general fund to its collection fund the amount which would not have been so transferred.

(2) Where—

(a) a billing authority has made a substitute calculation in relation to a financial year, and

(b) an amount transferred under section 97(2) of the 1988 Act from that authority’s general fund to its collection fund in relation to that financial year would not have been transferred in relation to that year had the amount transferable in respect of the last calculation made before the substitute calculation been the same as the amount transferable in respect of the substitute calculation,

that billing authority shall transfer from its collection fund to its general fund the amount which would not have been so transferred.

(3) The amount transferred under paragraph (1) or (2), as the case may be, shall be transferred—

(a) if the substitute calculation was made before the end of the financial year to which it relates, in that financial year,

(b) in any other case, on the day on which the substitute calculation is made.

(4) In paragraphs (1) and (2) references to an amount transferable in respect of a calculation are references to the amount which a billing authority which has made calculations in accordance with sections 32 to 36 of the 1992 Act is required to transfer from its collection fund or its general fund under subsection (1) or (2) of section 97 of the 1988 Act, as the case may be.

(5) 1987 c. 22.

(6) 1985 c. 6; section 736 was substituted by section 144(1) of the Companies Act 1989 (c. 40).

Estimation of surpluses and deficits

10.—(1) A billing authority shall, in accordance with the rules prescribed in Part I of Schedule 2 to these Regulations, estimate as regards each financial year beginning in or after 1993 whether there is a surplus or deficit in its collection fund for the preceding financial year and if so, the amount of that surplus or deficit.

(2) A billing authority shall, as regards each financial year beginning in or after 1993, estimate the surplus or deficit under paragraph (1) on 15th January in the preceding financial year.

(3) Where 15th January in a financial year is a Saturday, Sunday or bank holiday the estimate shall be made on the first working day thereafter.

Apportionment of and liability for surpluses and deficits

11.—(1) Any surplus or deficit estimated by a billing authority under regulation 10(1) as regards a financial year beginning in or after 1993 shall, in accordance with the rules prescribed in Part II of Schedule 2 to these Regulations, be shared among or be borne between that authority and its relevant major precepting authority.

(2) A billing authority shall, within 7 working days of the day on which it makes an estimate under regulation 10(1) as regards each financial year beginning in or after 1993, inform its relevant major precepting authority of the amount of any surplus or deficit and the amount equal to so much of any such surplus or deficit as, in accordance with the rules prescribed in Part II of Schedule 2 to these Regulations, that billing authority calculates to be its relevant major precepting authority's share or the amount which must be borne by that major precepting authority.

Discharge of a relevant major precepting authority's liabilities

12.—(1) In relation to each financial year beginning in or after 1993 a relevant major precepting authority shall in accordance with paragraph (2) discharge its liability to pay anything to a billing authority in respect of so much of any deficit in that authority's collection fund as, in accordance with regulation 11, that billing authority calculates must be borne by that major precepting authority as regards that year.

(2) Any amount so calculated as regards the financial year in question shall be paid by a relevant major precepting authority to a billing authority in no more than 12 equal instalments during that financial year, provided either—

- (a) that each instalment shall become due on the last working day of a different month in the financial year, or
- (b) that each instalment shall become due on the same working day of a different month in that financial year.

Holdings and investments

13.—(1) Any sum paid into a billing authority's collection fund which is not immediately required for the purpose of making payments or transfers from that fund shall be—

- (a) held in cash;
- (b) invested in a prescribed investment; or
- (c) transferred to the billing authority's general fund.

(2) Any sum transferred under paragraph (1) from an authority's collection fund to its general fund shall be—

- (a) held in cash;
- (b) invested in a prescribed investment; or

- (c) used for the discharge of the authority's functions.
- (3) A prescribed investment is an investment prescribed in Schedule 3 to these Regulations.
- (4) Where a sum has been transferred to its general fund under paragraph (1), a billing authority shall—
 - (a) immediately retransfer the sum if such a retransfer is required to enable the authority to meet payments or transfers from its collection fund; and
 - (b) otherwise retransfer the sum as and when it thinks fit.

The 1989 Regulations

14.—(1) Subject to paragraph (2), the 1989 Regulations shall cease to have effect in relation to any financial year beginning in or after 1993.

- (2) Any sum which—
 - (a) at the end of the financial year beginning in 1992 is held or is invested under regulation 10 of the 1989 Regulations, or
 - (b) before the end of that year has been transferred under that regulation and has not been retransferred under regulation 11 of the 1989 Regulations,

shall with effect from 1st April 1993 be treated as if it is held or is invested or has been transferred under regulation 13 of these Regulations.

SCHEDULE 1

Regulations 4 and 6

RULES FOR DETERMINATION OF SCHEDULES OF INSTALMENTS

PART I

PRINCIPAL AUTHORITIES

1.—(1) A schedule of instalments so far as it relates to principal authorities shall be determined in accordance with this Part of this Schedule.

(2) The schedule of instalments shall be determined so as to require any payments and transfers from a billing authority's collection fund in respect of its liabilities to principal authorities to be made in at least 12 instalments.

(3) The total of the instalments required to be paid by the schedule must discharge that billing authority's liabilities to principal authorities within the financial year to which the schedule relates.

(4) The instalments shall be of the same number and shall become payable and transferable on the same dates in that financial year for each such liability, as determined by the billing authority.

(5) The schedule of instalments shall be determined so as to specify—

- (a) the number of the instalments,
- (b) the amount which each instalment will be as a proportion of the amount of each such liability, and
- (c) the date on which each instalment shall become due.

(6) The reference in sub-paragraph (2) to transfers from a billing authority's collection fund shall be construed, in the case of a liability under section 97(4) of the 1988 Act, as a reference to transfers from that authority's general fund to its collection fund.

2. Where the billing authority determines that 12 instalments are to be paid or transferred in discharge of each liability referred to in paragraph 1(2), the authority shall determine the schedule of instalments so as to require either—

- (a) that each instalment shall become due on the last working day of a different month in the financial year, or
- (b) that each instalment shall become due on the same working day of a different month in that financial year.

3. Where the billing authority determines that more than 12 instalments are to be paid or transferred in discharge of each liability referred to in paragraph 1(2), the authority shall determine the schedule of instalments so as to require that—

- (a) the authority shall pay and transfer the amount of each first instalment in the financial year within 4 weeks of the start of that financial year and the amount of each last instalment within 4 weeks prior to the end of that financial year, and
- (b) there shall be an equal number of working days between each instalment in that financial year.

4.—(1) The schedule of instalments shall be determined so as to require each instalment to represent the amount of the billing authority's undischarged liability to a principal authority, divided by the number of instalments remaining to be paid or transferred immediately before the payment or transfer of the instalment in question.

(2) The amount of the billing authority's undischarged liability to a principal authority is the amount of its liability to that authority for the financial year in which the instalment falls to be paid or transferred, less the amount, if any, by which that liability is treated as discharged under regulation 3.

5. Paragraph 4 shall not apply where paragraph 6 applies.

6.—(1) This paragraph applies where a principal authority has issued a substitute precept under section 42(1) of the 1992 Act or made a substitute calculation.

(2) Subject to sub-paragraphs (4) and (6), the schedule of instalments shall be determined so as to require each instalment paid or transferred to a principal authority after it has issued a substitute precept or made a substitute calculation to be the amount calculated in accordance with sub-paragraph (3).

(3) The amount calculated in accordance with this sub-paragraph shall be calculated by applying the formula—

$$A \times \frac{B}{C}$$

where—

A is the amount which would have been paid or transferred on the date on which the instalment is paid or transferred had the substitute precept not been issued or the substitute calculation not been made (or, where there has been more than one such substitute precept or calculation, the latest such precept or calculation),

B is the amount payable or transferable in respect of the substitute precept or substitute calculation or the latest such precept or calculation,

C is the amount payable or transferable in respect of the previous precept or calculation or the last one to be issued or made before the substitute precept or calculation.

(4) If the amount payable or transferable in respect of the substitute precept or calculation is greater than the amount payable or transferable in respect of the previous precept or calculation or the last one to be issued or made before the substitute precept or calculation, the amount paid or transferred to the principal authority which issued or made that substitute precept or calculation shall in the first instalment paid or transferred to that authority after the issue of that substitute precept or making of that substitute calculation be required to include the additional amount described in sub-paragraph (5).

(5) For the purposes of sub-paragraph (4), the additional amount is the difference between—

(a) the total of—

(i) the amount paid or transferred for the financial year to the principal authority before the issue or making of the substitute precept or calculation, and

(ii) the amount of the instalment calculated in accordance with sub-paragraph (3),

and

(b) the amount which would have been paid or transferred for the financial year to the principal authority on and before the day of the payment or transfer to that authority of the first instalment after the issue of the substitute precept or making of the substitute calculation, had the amount payable or transferable in respect of the previous precept or calculation or the last one to be issued or made before the substitute precept or calculation was issued or made been the same as the amount payable or transferable in respect of the substitute precept or calculation.

(6) If the amount payable or transferable in respect of the substitute precept or calculation is less than the amount payable or transferable in respect of the previous precept or calculation or the last one to be issued or made before the substitute precept or calculation, the amount paid or transferred

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to the principal authority in an instalment paid or transferred to that authority after the issue of the substitute precept or making of the substitute calculation by that authority shall not be required to be an amount greater than the amount described in sub-paragraph (7).

(7) For the purposes of sub-paragraph (6), the amount is that necessary for the amount paid or transferred to the principal authority for the financial year on and before the day of the instalment to equal the amount which would have been so paid or transferred had the amount payable or transferable in respect of the previous precept or calculation or the last one to be issued or made before the substitute precept or calculation been the same as the amount payable or transferable in respect of the substitute precept or calculation.

(8) In this paragraph any reference (however framed) to an amount payable in respect of a precept or transferable in respect of a calculation—

- (a) in the case of an amount payable in respect of a precept, is a reference to the amount stated in a precept issued to the billing authority under section 40(2)(b) of the 1992 Act, and
- (b) in the case of an amount transferable in respect of a calculation, is a reference to the amount which a billing authority which has made calculations in accordance with sections 32 to 36 of the 1992 Act is required to transfer from its collection fund to its general fund under section 97(1) of the 1988 Act.

PART II

LOCAL PRECEPTING AUTHORITIES

7. A schedule of instalments so far as it relates to relevant local precepting authorities shall be determined in accordance with this part of this Schedule.

8.—(1) The amount of a billing authority's liability to each relevant local precepting authority for a financial year shall be discharged by payment from the authority's general fund to be made in not more than 3 instalments, of the same number for each such liability, as determined by the authority, and payable on the same dates for each such liability, as determined by the authority in accordance with the rules prescribed in paragraph 9 or 10.

(2) The schedule of instalments shall be determined so as to specify—

- (a) the number of the instalments,
- (b) the amount which each instalment will be as a proportion of the amount of each such liability, and
- (c) the date in that financial year on which each instalment shall become payable.

(3) The schedule of instalments shall be determined so as to provide that if—

- (a) a relevant local precepting authority issues a substitute precept for a financial year which is greater than the amount of the previous precept to be issued or the last one to be issued, and
- (b) that substitute precept was issued on or after the last working day of a month which is referred to in paragraph 9 or 10 and which applies to that relevant local precepting authority in that financial year, the difference between the liability in respect of that substitute precept and the liability in respect of the previous precept to be issued or the last one to be issued shall not be taken into account for the purpose of determining the amount of the liability to that relevant local precepting authority to be paid in that month.

9.—(1) At least one third of the amount of a billing authority's liability to a relevant local precepting authority for a financial year shall become payable to that local precepting authority on or before—

- (a) the last working day of April in that financial year, or
- (b) the last working day of the month following the month in which a precept for that financial year was issued by that local precepting authority,

whichever is the later.

(2) At least two thirds of that amount shall become payable to that local precepting authority on or before—

- (a) the last working day of August in that financial year, or
- (b) the last working day of the fifth month following the month in which a precept for that financial year was issued by that local precepting authority,

whichever is the later.

(3) The remainder of that amount shall become payable to that local precepting authority on or before—

- (a) the last working day of December in that financial year, or
- (b) the last working day of the ninth month following the month in which a precept for that financial year was issued by that local precepting authority,

whichever is the later.

(4) Sub-paragraphs (1) to (3) shall not apply to the discharge of a billing authority's liabilities to its relevant local precepting authorities for a financial year in relation to which it determines a schedule of instalments in accordance with paragraph 10.

10.—(1) Instead of determining a schedule of instalments in accordance with paragraph 9(1) to (3), the billing authority may determine that schedule in accordance with the provisions of this paragraph.

(2) The amount of a billing authority's liability to a relevant local precepting authority shall become payable on whichever is the later of—

- (a) a date, specified in the schedule of instalments, which is on or before the last working day of September in the financial year, or
- (b) the last working day of the sixth month following the month in which a precept for that financial year is issued by that local precepting authority.

11. References in paragraphs 9 and 10 to a precept for a financial year are references to the last such precept issued by that local precepting authority.

SCHEDULE 2

Regulations 10 and 11

RULES FOR ESTIMATION AND APPORTIONMENT OF SURPLUSES AND DEFICITS

PART I

ESTIMATION OF SURPLUSES AND DEFICITS

1.—(1) A billing authority shall as regards the financial year beginning in 1993 estimate whether there is a surplus or deficit in its collection fund for the financial year beginning in 1992, and if so, the amount of that surplus or deficit for that financial year, by calculating the difference between the amount referred to in sub-paragraph (3) and the amount referred to in sub-paragraph (4).

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- (2) Where the amount referred to in sub-paragraph (3) is–
- (a) more than the amount referred to in sub-paragraph (4), there is a surplus, the amount of which is the difference,
 - (b) less than the amount referred to in sub-paragraph (4), there is a deficit, the amount of which is the difference,
 - (c) the same as the amount referred to in sub-paragraph (4), there is no surplus or deficit.
- (3) The amount referred to in this sub-paragraph is the total of–
- (a) the amount of any opening surplus on the income and expenditure account of the billing authority’s collection fund which was brought forward from the financial year beginning in 1991 and was shown in the billing authority’s accounts for that financial year as the collection fund income and expenditure account surplus, but if the accounts for that financial year have not been made up and balanced, the billing authority’s estimate of any such opening surplus;
 - (b) the sum of the billing authority’s estimates of the amounts credited or to be credited in accordance with proper practices to its collection fund income and expenditure account for the financial year beginning in 1992 in respect of the following items–
 - (i) any grants payable by the Secretary of State,
 - (ii) community charges,
 - (iii) interest on sums held or invested in accordance with regulation 10 of the 1989 Regulations and amounts representing interest on sums transferred in accordance with that regulation and retransferred in accordance with regulation 11 of those regulations,
 - (iv) transfers to that authority’s collection fund in respect of interest pursuant to any direction made by the Secretary of State under section 98(5) of the 1988 Act(7),
 - (v) transfers pursuant to any direction made by the Secretary of State under section 98(4) and (5) of the 1988 Act in respect of community charge benefits, community charge transitional relief reductions and community charge discounts for prompt payment, and
 - (vi) payments in respect of boundary changes made to that authority by any other billing authority pursuant to an agreement or award made under section 68 of the Local Government Act 1972(8) which the Secretary of State specifies under section 90 of the 1988 Act(9) are to be paid into that authority’s collection fund;
- and
- (c) the sum of the billing authority’s estimates of any other amounts credited or to be credited in accordance with proper practices to its collection fund income and expenditure account for the financial year beginning in 1992, including prior year adjustments and amounts credited or to be credited relating to reductions in provision previously made for non-collection of community charges.
- (4) The amount referred to in this sub-paragraph is the total of–
- (a) the amount of any opening deficit on the income and expenditure account of the billing authority’s collection fund which was brought forward from the financial year beginning in 1991 and was shown in the billing authority’s accounts for that financial year as the collection fund income and expenditure account deficit, but if the accounts for that

(7) Section 98 was amended by the Local Government Finance Act 1992, Schedule 10, paragraph 23, but only in relation to any financial year beginning on or after 1st April 1993.

(8) 1972 c. 70; section 68(6) and (7) was repealed by the Local Government and Housing Act 1989 (c. 42), Schedule 12.

(9) Section 90 was substituted by the Local Government Finance Act 1992, Schedule 10, paragraph 20, but only in relation to any financial year beginning on or after 1st April 1993.

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financial year have not been made up and balanced, the billing authority's estimate of any such opening deficit;

- (b) the sum of the billing authority's estimates of the amounts charged or to be charged in accordance with proper practices to its collection fund income and expenditure account for the financial year beginning in 1992 in respect of the following items—
 - (i) precepts payable under regulation 3 of the 1989 Regulations,
 - (ii) transfers to that authority's general fund under section 97 of the 1988 Act⁽¹⁰⁾,
 - (iii) transfers to that authority's general fund in respect of interest pursuant to any direction made by the Secretary of State under section 98(4) of the 1988 Act,
 - (iv) transfers to that authority's general fund in respect of an allowance for interest arising from the temporary investment of collection fund sums pursuant to any direction made by the Secretary of State under section 98(4) of the 1988 Act, and
 - (v) payments in respect of boundary changes made by that authority to any other billing authority pursuant to an agreement or award made under section 68 of the Local Government Act 1972 which the Secretary of State specifies under section 90 of the 1988 Act are to be met from that authority's collection fund;

and

- (c) the sum of the billing authority's estimates of any other amounts charged or to be charged in accordance with proper practices to its collection fund income and expenditure account for the financial year beginning in 1992, including prior year adjustments and amounts charged or to be charged in respect of provision for non-collection of community charges.

2.—(1) A billing authority shall as regards each financial year beginning in or after 1994 (“the year in question”) estimate whether there is a surplus or deficit in its collection fund for the preceding financial year and, if so, the amount of the surplus or deficit for that financial year, by calculating the difference between the amount referred to in sub-paragraph (3) and the amount referred to in sub-paragraph (4).

- (2) Where the amount referred to in sub-paragraph (3) is—
 - (a) more than the amount referred to in sub-paragraph (4), there is a surplus, the amount of which is the difference,
 - (b) less than the amount referred to in sub-paragraph (4), there is a deficit, the amount of which is the difference,
 - (c) the same as the amount referred to in sub-paragraph (4), there is no surplus or deficit.
- (3) The amount referred to in this sub-paragraph is the total of—
 - (a) the amount of any opening surplus on the income and expenditure account of the billing authority's collection fund which was brought forward from the financial year (referred to in this paragraph as “the relevant prior year”) beginning two years before the beginning of the year in question and was shown in the billing authority's accounts for the relevant prior year as the collection fund income and expenditure account surplus, but if the accounts for that financial year have not been made up and balanced, the billing authority's estimate of any such opening surplus;
 - (b) the sum of the billing authority's estimates of the amounts credited or to be credited in accordance with proper practices to its collection fund income and expenditure account for the preceding financial year in respect of the following items—
 - (i) council tax,

⁽¹⁰⁾ Section 97 was substituted by the Local Government Finance Act 1992, Schedule 10, paragraph 22, but only in relation to any financial year beginning on or after 1st April 1993.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (ii) transfers pursuant to any direction made by the Secretary of State under section 98(4) and (5) of the 1988 Act in respect of council tax benefits, reductions in amounts of council tax and reductions for lump sum payment of council tax,
- (iii) transfers to that authority's collection fund under section 97(4) of the 1988 Act and payments by its relevant major precepting authority under regulation 12 in respect of an estimated deficit in the billing authority's collection fund for the relevant prior year,
- (iv) transfers to that authority's collection fund under section 97(2) of the 1988 Act, and
- (v) payments in respect of boundary changes made to that authority by any other billing authority pursuant to an agreement or award made under section 68 of the Local Government Act 1972 which the Secretary of State specifies under section 90 of the 1988 Act are to be paid into that authority's collection fund;

and

- (c) the sum of the billing authority's estimates of any other amounts, excluding any amounts in respect of non-domestic rates, credited or to be credited in accordance with proper practices to its collection fund income and expenditure account for the preceding financial year, including prior year adjustments and amounts credited or to be credited relating to reductions in provision previously made for non-collection of council tax.
- (4) The amount referred to in this sub-paragraph is the total of—
- (a) the amount of any opening deficit on the income and expenditure account of the billing authority's collection fund which was brought forward from the relevant prior year and was shown in the billing authority's accounts for that financial year as the collection fund income and expenditure account deficit, but if the accounts for that financial year have not been made up and balanced, the billing authority's estimate of any such opening deficit;
 - (b) the sum of the billing authority's estimates of the amounts charged or to be charged in accordance with proper practices to its collection fund income and expenditure account for the preceding financial year in respect of the following items—
 - (i) precepts payable to its relevant major precepting authority under regulation 3,
 - (ii) transfers to its general fund under section 97(1) of the 1988 Act,
 - (iii) transfers to its general fund under section 97(3) of the 1988 Act and payments to its relevant major precepting authority under regulation 3 in respect of an estimated surplus in the billing authority's collection fund for the relevant prior year, and
 - (iv) payments in respect of boundary changes made by that authority to any other billing authority pursuant to an agreement or award made under section 68 of the Local Government Act 1972 which the Secretary of State specifies under section 90 of the 1988 Act are to be met from that authority's collection fund;

and

- (c) the sum of the billing authority's estimates of any other amounts, excluding any amounts in respect of non-domestic rates, charged or to be charged in accordance with proper practices to its collection fund income and expenditure account for the preceding financial year, including prior year adjustments in respect of council tax and amounts charged or to be charged in respect of provision for non-collection of council tax.

3. In this Part—

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“community charge benefits” means the benefits referred to in section 123(1)(e) of the Social Security Contributions and Benefits Act 1992(11) as that section has effect in respect of a day falling before 1st April 1993;

“community charge discounts for prompt payment” means any discount applicable by virtue of regulations made under paragraphs 5 and 5A of Schedule 2 to the 1988 Act(12),

“community charge transitional relief reductions” means any relief or reduction applicable under any of the following Regulations–

- (a) the Personal Community Charge (Relief) (Wales) Regulations 1990(13),
- (b) the Personal Community Charge (Relief) (Wales) Regulations 1991(14),
- (c) the Personal Community Charge (Relief) (Wales) Regulations 1992(15),

“council tax benefit” means council tax benefit under Part VII of the Social Security Contributions and Benefits Act 1992(16),

“proper practices” has the meaning given in section 66(4) of the Local Government and Housing Act 1989(17),

“reductions in amounts of council tax” means reductions in amounts of council tax payable by virtue of any regulations made under section 13 of the 1992 Act other than the Council Tax (Reductions for Disabilities) Regulations 1992(18),

“reductions for lump sum payment of council tax” means the amounts of any reductions in council tax payable to a billing authority pursuant to regulations made under paragraphs 6 and 7 of Schedule 2 to the 1992 Act.

4. In this Part–

- (a) any reference to accounts being made up and balanced is a reference to the requirement for accounts to be made up and balanced in accordance with regulation 6 of the Accounts and Audit Regulations 1983(19);
- (b) any reference (however framed) to a billing authority’s collection fund income and expenditure account is a reference to a revenue account to which, in accordance with proper practices, are credited or charged, as the case may be, amounts in respect of the authority’s income and expenditure relating to sums paid or to be paid into or payments met or to be met from the authority’s collection fund;
- (c) any references to a billing authority’s estimate in paragraph 1(3) and (4) and paragraph 2(3) and (4) are references to an estimate made by that authority immediately before the date on which that authority is required to estimate whether there is a surplus or deficit in its collection fund under regulation 10.

(11) 1992 c. 4; section 123 was amended by the Local Government Finance Act 1992, Schedule 9, paragraph 1 but by virtue of section 118(4) of that Act the amendment does not affect the operation of section 123 in relation to any community charge benefit in respect of a day falling before 1st April 1993.

(12) Paragraph 5 was substituted, and paragraph 5A was inserted, by the Local Government and Housing Act 1989, Schedule 5, paragraph 11.

(13) S.I. 1990/288.

(14) S.I. 1991/212, amended by S.I. 1991/835.

(15) S.I. 1992/210.

(16) Part VII was amended by the Local Government Finance Act 1992, Schedule 9.

(17) 1989 c. 42.

(18) S.I. 1992/554.

(19) S.I. 1983/1761, to which there are amendments not relevant to these Regulations.

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PART II

APPORTIONMENT OF SURPLUSES AND DEFICITS

5.—(1) A billing authority shall calculate in accordance with this Part of this Schedule as regards each financial year beginning in or after 1993 how the surplus or deficit estimated in accordance with Part I of this Schedule for the preceding financial year (“the year”) is to be shared among or borne between the authority and its relevant major precepting authority.

(2) The amount of any surplus which is to be the billing authority’s share or of any deficit which is to be borne by that authority for the year shall be calculated by applying the formula—

$$D \times \frac{E}{E + F}$$

where, subject to sub-paragraph (4),—

D is the amount of the surplus or deficit, as the case may be, estimated by the authority in accordance with Part I of this Schedule for the year,

E is the amount calculated (or last calculated) by the authority under section 97(1) of the 1988 Act for the year, and where the amount so calculated (or last calculated) is a negative amount, E is nil.

F is the amount stated by the relevant major precepting authority in a precept issued (or last issued) to the authority for the year under section 40(2)(b) of the 1992 Act.

(3) The amount of any surplus which is to be the relevant major precepting authority’s share or of any deficit which is to be borne by that authority for the year shall be calculated by applying the formula—

$$D \times \frac{F}{E + F}$$

where, subject to sub-paragraph (4), D, E and F have the same meanings as in sub-paragraph (2).

(4) Where the year is the financial year beginning in 1992—

E is the amount calculated (or last calculated) by the authority under section 95(4) of the 1988 Act for the year, and if no amount has been so calculated, E is nil.

F is the amount of the precept issued (or last issued) by the relevant major precepting authority to the authority for the year under section 68 or 71 (as the case may be) of the 1988 Act.

SCHEDULE 3

Regulation 13

PRESCRIBED INVESTMENTS

The investments prescribed in this Schedule are—

- (a) a deposit with the Bank of England or an institution authorised under Part I of the Banking Act 1987⁽²⁰⁾;
- (b) a deposit with a building society incorporated (or deemed to be incorporated) under the Building Societies Act 1986⁽²¹⁾;
- (c) if the deposit is repayable at not more than 7 days notice, a deposit with a body (other than the billing authority) which is for the time being specified in paragraph 12 or 13 of Schedule 2 to the Banking Act 1987.

⁽²⁰⁾ 1987 c. 22.

⁽²¹⁾ 1986 c. 53.

23rd November 1992

David Hunt
Secretary of State for Wales

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply only to Wales. They make provision for the discharge by a billing authority of its liabilities to pay amounts in respect of precepts from its collection and general funds and to make transfers between those funds to meet its estimated expenses. They also make provision for the apportionment between a billing authority and its major precepting authority of any estimated surplus or deficit in a billing authority's collection fund.

Regulation 3 makes provision for a billing authority to make certain payments and transfers from its collection and general funds in accordance with a schedule of instalments and otherwise, and for the circumstances in which certain liabilities of the authority are to be treated as discharged.

Regulations 4 and 5, together with Schedule 1, make provision for a billing authority to determine a schedule of instalments in accordance with prescribed rules. Regulation 6 allows a schedule of instalments to be amended. Regulations 7 and 8 make provision as to the payment of interest where amounts payable in accordance with a schedule of instalments are not paid.

Regulation 9 makes provision as to certain transfers where a billing authority has recalculated its budget requirement for the year. Regulations 10 and 11, together with Schedule 2, provide for the estimation and apportionment of, and liability for, a surplus or deficit in a billing authority's collection fund.

Regulation 12 provides for a major precepting authority to make payments to a billing authority where that precepting authority is liable for part of a collection fund deficit.

Regulation 13, together with Schedule 3, make provision as to the holding, investment and use of sums paid into a billing authority's collection fund.

Regulation 14 provides, subject to a transitional provision, that the Collection Fund (Wales) Regulations 1989 cease to have effect in relation to any financial year beginning in or after 1993.