



Local Government Finance Act 1988

1988 CHAPTER 41

PART XI

MISCELLANEOUS AND GENERAL

General

138 Judicial review.

- (1) The matters mentioned in subsection (2) below shall not be questioned except by an application for judicial review.
- (2) The matters are—
 - (a) the setting by a charging authority of an amount or amounts for its personal community charges for a chargeable financial year, whether originally or by way of substitute,
 - (b) the determination by a charging authority of any standard community charge multiplier for properties in its area,
 - (c) a specification by the Secretary of State under section 40 above,
 - (d) a precept issued under this Act, whether originally or by way of substitute,
 - (e) a levy issued under regulations under section 74 above,
 - (f) a special levy issued under regulations under section 75 above,
 - (g) a calculation under section 95(4) above, whether original or by way of substitute,
 - (h) the specification of a non-domestic rating multiplier under paragraph 2 of Schedule 7 below,
 - (i) the specification of a non-domestic rating multiplier under paragraph 7 of Schedule 7 below, and
 - (j) the setting by a special authority of a non-domestic rating multiplier under Schedule 7 below, whether originally or by way of substitute.

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- (3) If on an application for judicial review the court decides to grant relief in respect of any of the matters mentioned in subsection (2)(a) or (d) to (j) above, it shall quash the setting, precept, levy, special levy, calculation or specification (as the case may be).

139 Functions to be discharged only by authority.

- (1) Each of the functions of an authority mentioned in subsection (2) below shall be discharged only by the authority.
- (2) The functions are—
- (a) setting an amount or amounts for the authority's personal community charges for a chargeable financial year, whether originally or by way of substitute,
 - (b) issuing a precept under this Act, whether originally or by way of substitute,
 - (c) making a calculation under section 95(4) above, whether originally or by way of substitute, and
 - (d) setting a non-domestic rating multiplier under Schedule 7 below, whether originally or by way of substitute, in a case where the authority is a special authority.

[^{F1}139A Information.

- (1) Subsection (2) below applies where—
- (a) the Secretary of State serves a notice on a relevant authority or relevant officer requiring it or him to supply to the Secretary of State information specified in the notice,
 - (b) the information is required by the Secretary of State for the purpose of deciding whether to exercise his powers, and how to perform his functions, under this Act, and
 - (c) the information is not personal information.
- (2) The authority or officer shall supply the information required, and shall do so in such form and manner and at such time as the Secretary of State specifies in the notice.
- (3) If an authority or officer fails to comply with subsection (2) above the Secretary of State may assume the information required to be such as he sees fit; and in such a case the Secretary of State may decide in accordance with the assumption whether to exercise his powers, and how to perform his functions, under this Act.
- (4) In deciding whether to exercise his powers, and how to perform his functions, under this Act the Secretary of State may also take into account any other information available to him, whatever its source and whether or not obtained under a provision contained in or made under this or any other Act.
- (5) Each of the following is a relevant authority—
- (a) a charging authority;
 - (b) a precepting authority.
- (6) The community charges registration officer for a charging authority is a relevant officer.
- (7) Personal information is information which relates to an individual (living or dead) who can be identified from that information or from that and other information supplied to any person by the authority or officer concerned; and personal information includes

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any expression of opinion about the individual and any indication of the intentions of any person in respect of the individual.

- (8) This section shall have effect before 1 April 1990 as if after paragraph (b) of subsection (5) above there were inserted—
- (c) the Inner London Education Authority.]

Textual Amendments

- F1** S. 139A inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 68](#)

140 Separate administration in England and Wales.

- (1) Parts III, V and VII^{F2}, and paragraphs 1 to 4 of Schedule 12A below,] shall be read as applying separately, and be administered separately, in England and Wales.
- (2) In particular, for England and Wales respectively—
- (a) separate central non-domestic rating lists shall be compiled and maintained.
 - (b) separate estimates shall be made under paragraph 5(6) and (7) of Schedule 7 below for the purpose of determining non-domestic rating multipliers,
 - (c) separate non-domestic rating accounts shall be kept,
 - (d) separate revenue support grant reports shall be made,
 - (e) separate distribution reports under section 80 above shall be made, . . . ^{F3}
 - (f) separate principles shall be determined under section 100(4) above ^{F4}and
 - (g) separate reports under Schedule 12A below shall be made.]
- (3) Parts III, V and VII ^{F5}, and paragraphs 1 to 4 of Schedule 12A below,] shall be construed accordingly so that (for instance) references to authorities shall be read as references to those in England or Wales, as the case may be.
- (4) Any power conferred by this Act on the Secretary of State or the Treasury may be exercised differently for England and Wales, whether or not it is exercised separately; and this shall not prejudice the generality of section 143(1) below.

Textual Amendments

- F2** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 69\(2\)](#)
- F3** Word repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), ss. 139, 194(4), [Sch. 5 para. 69\(3\)](#), [Sch. 12 Pt. II](#) Note 4
- F4** S. 140(1)(g) and word immediately preceding it inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 69\(3\)](#)
- F5** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 69\(4\)](#)

141 Payments to and from authorities.

- (1) The Secretary of State may make regulations in relation to any case where—
- (a) he is liable to pay to a receiving authority at any time an amount or amounts under one or more of the first relevant provisions, and

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- (b) the authority is liable to pay to him at the same time an amount or amounts under one or more of the second relevant provisions.
- (2) The regulations may provide that if the total of the amount or amounts mentioned in subsection (1)(a) above exceeds the total of the amount or amounts mentioned in subsection (1)(b) above, he may set off the latter in paying the former.
- (3) The regulations may provide that if the total of the amount or amounts mentioned in subsection (1)(b) above exceeds the total of the amount or amounts mentioned in subsection (1)(a) above, the authority shall set off the latter in paying the former.
- (4) The regulations may provide that if the total of the amount or amounts mentioned in subsection (1)(a) above is the same as the total of the amount or amounts mentioned in subsection (1)(b) above no payment need be made in respect of the former or the latter.
- (5) Without prejudice to section 143(2) below, the regulations may include provision—
 - (a) treating any liability mentioned in subsection (1) above as discharged accordingly;
 - (b) requiring prescribed provisions of this Act (such as sections 79(2) and 86(2)) to be read subject to the regulations;
 - (c) requiring prescribed provisions of this Act (such as paragraph 2 of Schedule 8) to be read as if references to sums received or payments made were to sums or payments which would have been received or made apart from the regulations.
- (6) Each of the following is a receiving authority—
 - (a) a charging authority, and
 - (b) in the application of this section to Wales, a county council.
- (7) The first relevant provisions are sections 83 and 86 above, paragraph 5(10) of Schedule 8 below, regulations made under paragraph 6(5) of that Schedule, and paragraphs 9, 12 and 13 of that Schedule.
- (8) The second relevant provisions are section 83 above and paragraph 5 of Schedule 8 below.
- [^{F6}(9) In the application of this section to England, the second relevant provisions also include section 81 of the Education Reform Act 1988 (recovery from local funds of sums in respect of maintenance grant)]

Textual Amendments

F6 S. 141(9) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 70](#)

[^{F7}141A Payments: further provisions.

- (1) The Secretary of State may make regulations in relation to any case where—
 - (a) he is liable to pay to an English charging authority at any time an amount or amounts under one or more of the first relevant provisions, and
 - (b) a precepting authority which has power to issue a precept to the charging authority is liable to pay to him at the same time an amount under the second relevant provision.

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- (2) The regulations may provide that if the total of the amount or amounts mentioned in subsection (1)(a) above exceeds the charging authority's relevant amount the Secretary of State may set off an amount equal to that amount in paying that total.
- (3) The regulations may provide that if the total of the amount or amounts mentioned in subsection (1)(a) above is equal to or less than the charging authority's relevant amount no payment need be made in respect of that total.
- (4) The regulations may provide that where the Secretary of State sets off or refrains from paying an amount under any provision included under subsection (2) or (3) above—
 - (a) the Secretary of State's liability to the charging authority shall be treated as discharged to the extent of an amount equal to that amount,
 - (b) what the precepting authority is liable to pay to the Secretary of State shall be treated as reduced by an amount equal to that amount, and
 - (c) an amount equal to that amount shall be due from the precepting authority to the charging authority.
- (5) The regulations may provide that an amount due from the precepting authority to the charging authority by virtue of provision included under subsection (4)(c) above shall be recoverable by such method as may be prescribed (whether by making a deduction from an amount payable in respect of a precept or otherwise).
- (6) The regulations may provide that—
 - (a) where an amount due from the precepting authority to the charging authority by virtue of provision included under subsection (4)(c) above is recovered by payment to the charging authority, that authority shall pay into its collection fund an amount equal to the amount paid to it;
 - (b) where an amount due from the precepting authority to the charging authority by virtue of provision included under subsection (4)(c) above is recovered by making a deduction from an amount payable in respect of a precept, the charging authority shall retain in its collection fund an amount equal to the amount deducted.
- (7) Without prejudice to section 143(2) below, the regulations may include provision—
 - (a) requiring prescribed provisions of this Act (such as sections 79(2) and 86(2)) to be read subject to the regulations;
 - (b) requiring prescribed provisions of this Act (such as paragraph 2 of Schedule 8) to be read as if references to payments made were to payments which would have been made apart from the regulations.
- (8) Where the Secretary of State is liable to pay to the charging authority at any time an amount or amounts under one or more of the first relevant provisions, for the purposes of this section and regulations under it—
 - (a) the amount or amounts shall be treated as reduced by anything he may set off, by virtue of regulations under section 141 above, in paying the amount or amounts;
 - (b) he shall be treated as not liable to pay any such amount or amounts if, by virtue of regulations under that section, no payment need be made in respect of the amount or amounts.]

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Textual Amendments

F7 Ss. 141A, 141B inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, **Sch. 5 para. 71**

Modifications etc. (not altering text)

C1 S. 141A modified by S.I. 1990/493, **reg. 7**

[^{F8}141B Section 141A: interpretation.

- (1) This section applies for the purposes of section 141A above.
- (2) The charging authority's relevant amount shall be determined by applying the formula—

$$\frac{AyB}{C}$$

- (3) A is the amount mentioned in section 141A(1)(b) above.
- (4) B is the relevant population (calculated by reference to the time mentioned in section 141A(1) above) of the charging authority.
- (5) C is the aggregate of the relevant populations (calculated by reference to the time mentioned in section 141A(1) above) of all charging authorities which fulfil the following conditions—
 - (a) they are authorities to which the precepting authority has power to raise a precept, and
 - (b) they are authorities to which the Secretary of State is liable to pay at the time mentioned in section 141A(1) above an amount or amounts under one or more of the first relevant provisions.
- (6) As regards any particular time the relevant population of a charging authority is the relevant population, calculated under paragraph 4 of Schedule 12A below, of the area of the authority for the financial year in which the time falls.
- (7) The first relevant provisions are sections 83 and 86 above, paragraph 5(10) of Schedule 8 below, regulations made under paragraph 6(5) of that Schedule, and paragraph 9 of that Schedule.
- (8) The second relevant provision is section 81 of the Education Reform Act 1988 (recovery from local funds of sums in respect of maintenance grant).]

Textual Amendments

F8 Ss. 141A, 141B inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, **Sch. 5 para. 71**

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142 Saving for remedies.

No provision of this Act which provides an express remedy shall prejudice any remedy available to a person (apart from that provision) in respect of a failure to observe a provision of this Act; and references here to this Act include references to instruments made under it.

143 Orders and regulations.

- (1) The power to make an order or regulations under this Act may be exercised differently in relation to different areas or in relation to other different cases or descriptions of case.
- (2) An order or regulations under this Act may include such supplementary, incidental, consequential or transitional provisions as appear to the Secretary of State [^{F9}the Minister of Agriculture, Fisheries and Food] or the Treasury (as the case may be) to be necessary or expedient.
- (3) Subject to subsections (4) to [^{F10}(9B)] below, the power to make an order or regulations under this Act shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) The power to make regulations under section . . . ^{F11} 58 above shall be exercisable by statutory instrument, and no such regulations shall be made unless a draft of them has been laid before and approved by resolution of each House of Parliament.
- (5) As regards the power to make regulations under section 75 or 118 above [^{F12}other than regulations relating to an internal drainage board], subsection (3) above shall have effect without the words from “subject” to the end.
- (6) As regards the power to make an order under section 101(1) or (2) above or section 150 below, subsection (3) above shall have effect without the words from “subject” to the end.
- (7) The power to make an order under section 104 or 106 above shall be exercisable as there mentioned.
- (8) The power to make an order under paragraph 3 of Schedule 6 below shall be exercisable by statutory instrument, and no such order shall be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.
- (9) The power to make an order under paragraph 5 of Schedule 7 below shall be exercisable as there mentioned.
- [^{F13}(9A) The power to make an order under paragraph 5 of Schedule 7A below shall be exercisable by statutory instrument, and no such order shall be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.
- (9B) The power to make regulations under paragraph 5 or 6 of Schedule 12A below shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.]
- (10) Before he makes regulations under section 75 or 118 above [^{F14}other than regulations relating to an internal drainage board], the Secretary of State shall, by means of a notice in a newspaper or newspapers, take such steps as he thinks reasonably practicable to bring the contents of the proposed regulations to the notice of persons likely to be affected.

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- (11) An order under paragraph 3 of Schedule 6 below shall, if apart from the provisions of this subsection it would be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, proceed in that House as if it were not such an instrument.

Textual Amendments

- F9** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, **Sch. 5 para. 72(2)**
- F10** “(9B)” substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, **Sch. 5 para. 72(3)**
- F11** Words repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), ss. 139, 194(4), **Sch. 5 para. 72(4)**, **Sch. 12 Pt. II** Note 4
- F12** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, **Sch. 5 para. 72(5)**
- F13** **S. 143(9A)(9B)** inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, **Sch. 5 para. 72(6)**
- F14** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, **Sch. 5 para. 72(7)**

144 Interpretation: authorities.

- (1) Each of the following is a charging authority—
- (a) a district council,
 - (b) a London borough council,
 - (c) the Common Council, and
 - (d) the Council of the Isles of Scilly.
- (2) Each of the following is a precepting authority—
- (a) a county council,
 - (b) a metropolitan county police authority,
 - (c) the Northumbria Police Authority,
 - (d) a metropolitan county fire and civil defence authority,
 - (e) the London Fire and Civil Defence Authority,
 - (f) the Receiver for the Metropolitan Police District,
 - (g) the sub-treasurer of the Inner Temple,
 - (h) the under-treasurer of the Middle Temple,
 - (i) a parish or community council,
 - (j) the chairman of a parish meeting, and
 - (k) charter trustees.
- (3) A waste disposal authority is an authority established at any time by an order under section 10(1) of the ^{M1}Local Government Act 1985.
- (4) A combined police authority is a combined police authority established at any time by an amalgamation scheme under the ^{M2}Police Act 1964.
- (5) A combined fire authority is a fire authority constituted at any time by a combination scheme under the ^{M3}Fire Services Act 1947.

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- (6) A charging authority is a special authority if its population on 1 April 1986 was less than 10,000, and its gross rateable value on that date divided by its population on that date was more than #10,000.
- (7) An authority's population on 1 April 1986 is the Registrar General's estimate of its population on that date as certified by him to the Secretary of State for the purposes of the enactments relating to rate support grant; and an authority's gross rateable value on that date is the aggregate of the rateable values on that date of the hereditaments in its area.

Marginal Citations

- M1 1985 c. 51.
- M2 1964 c. 48.
- M3 1947 c. 41.

145 Interpretation: financial years etc.

- (1) Chargeable financial years are financial years beginning in 1990 and subsequent years.
- (2) Transitional years are financial years beginning in 1990, 1991, 1992 and 1993; and the first transitional year is that beginning in 1990.
- (3) A financial year is a period of 12 months beginning with 1 April.

[^{F15}145A Interpretation: relevant population.

Schedule 12A below (which contains provisions about relevant population) shall have effect.]

Textual Amendments

- F15 S. 145A inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, Sch. 5 para. 73

146 Interpretation: other provisions.

- (1) Unless the context otherwise requires, a precept is a precept under this Act.
- (2) Unless the context otherwise requires, a levy is a levy under regulations made under section 74 above, and a levying body is a body with power to issue a levy under those regulations.
- (3) A special levy is a special levy under regulations made under section 75 above.
- (4) The Common Council is the Common Council of the City of London.
- (5) The Inner Temple and the Middle Temple shall be taken to fall within the area of the Common Council.

[^{F16}(5A) Unless the context otherwise requires, "information" includes accounts, estimates and returns.]

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- (6) “Prescribed”, in the context of an order or regulations, means prescribed by the order or regulations.
- (7) This section and sections 144 and 145 above apply for the purposes of this Act.

Textual Amendments

F16 S. 146(5A) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 75](#)

147 Power to make supplementary provision.

- (1) The Secretary of State may at any time by order make such supplementary, incidental, consequential or transitional provision as appears to him to be necessary or expedient for the general purposes or any particular purposes of this Act or in consequence of any of its provisions or for giving full effect to it.
- (2) An order under this section may in particular make provision for amending, repealing or revoking (with or without savings) any provision of an Act passed before or in the same session as this Act, or of an instrument made under an Act before the passing of this Act, and for making savings or additional savings from the effect of any amendment or repeal made by this Act.
- (3) Any provision that may be made under this section shall be in addition and without prejudice to any other provision of this Act.
- (4) No other provision of this Act shall be construed as prejudicing the generality of the powers conferred by this section.
- (5) In this section “Act” includes a private or local Act.

Modifications etc. (not altering text)

C2 S. 147 amended by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 25 para. 80\(2\)](#), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 57\(6\), 58](#)

148 Finance.

- (1) There shall be paid out of money provided by Parliament—
- any expenses of the Secretary of State incurred in consequence of this Act, and
 - any increase attributable to this Act in the sums payable out of money so provided under any other enactment.
- (2) Any sums received by the Secretary of State in consequence of this Act shall be paid into the Consolidated Fund.

149 Repeals.

The enactments mentioned in Schedule 13 below are repealed to the extent specified in column 3, but subject to any provision at the end of any Part of that Schedule.

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150 Commencement: Scotland.

The provisions of this Act which extend only to Scotland shall come into force on such day as the Secretary of State may by order appoint; and different days may be so appointed for different provisions or for different purposes.

Modifications etc. (not altering text)

C3 Power of appointment conferred by s. 150 fully exercised: [S.I. 1988/1456](#), 1990/573

151 Extent.

- (1) Part X of this Act, section 150 above, Part II of Schedule 12 below, and Part IV of Schedule 13 below, extend to Scotland only.
- (2) Sections 133, 135, 137, 143, 144(1), 145, 146(6) and (7), 147, 148 and 149 above, this section, section 152 below, Schedule 10 below, and Part III of Schedule 12 below, extend to England and Wales and Scotland.
- (3) Subject to subsections (1) and (2) above, this Act extends to England and Wales only.

152 Citation.

This Act may be cited as the Local Government Finance Act 1988.

Status:

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