



# Local Government Finance Act 1992

## 1992 CHAPTER 14

### PART I

#### COUNCIL TAX: ENGLAND AND WALES

### CHAPTER III

#### SETTING OF COUNCIL TAX

##### **Modifications etc. (not altering text)**

- C4** Pt. 1 Chs. 3, 4 (ss. 30-52) modified (E.) (1.2.1993) by [S.I. 1993/22, art. 4\(2\)](#)  
Pt. 1 Ch. 3 (ss. 30-38) modified (E.) (1.2.1993) by [S.I. 1993/22, art. 3\(4\)](#)  
Pt. 1 Ch. 3 (ss. 30-38) applied (with modifications) (E.) (15.2.1995) by [S.I. 1995/161, art. 3\(3\)](#)  
Pt. 1 Ch. 3 (ss. 30-38) excluded (E.) (1.8.1995) by [S.I. 1995/1748, reg. 6\(1\)](#)  
Pt. 1 Ch. 3 amended (28.11.1994) by [S.I. 1994/2825, reg. 49](#)  
Pt. 1 Ch. 3 modified (W.) (2.5.2002) by [The Bridgend \(Cynffig, Cornelly and Pyle Communities\) \(Electoral Changes\) Order 2002 \(S.I. 2002/1129\), art. 5\(4\)](#)

##### *Setting of amounts*

### **30 Amounts for different categories of dwellings.**

- (1) For each financial year and each category of dwellings in its area, a billing authority shall, in accordance with subsection (2) below, set an amount of council tax.
- (2) An amount so set shall be calculated by taking the aggregate of—
  - (a) the amount which, in relation to the year and the category of dwellings, has been calculated (or last calculated) by the authority in accordance with sections 32 to 36 below; and
  - (b) any amounts which, in relation to the year and the category of dwellings, have been calculated in accordance with sections 43 to 47 below and have been

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stated (or last stated) in accordance with section 40 below in precepts issued to the authority by major precepting authorities.

- (3) Where the aggregate amount given by subsection (2) above is a negative amount, the amount set shall be nil.
- (4) Dwellings fall within different categories for the purposes of subsections (1) and (2) above according as different calculations have been made in relation to them in accordance with sections 32 to 36 below or sections 43 to 47 below or both.
- (5) A billing authority shall assume for the purposes of subsections (1) and (2) above that each of the valuation bands is shown in its valuation list as applicable to one or more dwellings situated in its area or (as the case may be) each part of its area as respects which different calculations have been so made.
- (6) Any amount must be set before 11th March in the financial year preceding that for which it is set, but is not invalid merely because it is set on or after that date.
- (7) No amount may be set before the earlier of the following—
  - (a) 1st March in the financial year preceding that for which the amount is set;
  - (b) the date of the issue to the authority of the last precept capable of being issued to it (otherwise than by way of substitute) by a major precepting authority for the financial year for which the amount is set.
- (8) No amount may be set unless the authority has made in relation to the year the calculations required by this Chapter.
- (9) A purported setting of an amount, if done in contravention of subsection (7) or (8) above, shall be treated as not having occurred.
- [<sup>F1</sup>(10) Where the major precepting authority in question is the Greater London Authority, subsections (2)(b) and (4) above shall have effect as if the references to sections 43 to 47 below were references to the appropriate Greater London provisions.
- (11) In this section, “the appropriate Greater London provisions” means—
  - (a) sections 85 to 90 of the Greater London Authority Act 1999 and section 47 below; or
  - (b) in the case of calculations by way of substitute, sections 85, 86 and 88 to 90 of, and Schedule 7 to, that Act and section 47 below.]

#### Textual Amendments

- F1** S. 30(10)(11) added (12.1.2000 subject to transitional provisions in Schedule 1, Table 1, of the commencing S.I.) by 1999 c. 29, s. 81 (with Sch. 12 para. 9(1)); S.I. 1999/3434, art. 2, Sch. 1

#### Modifications etc. (not altering text)

- C5** Pt. 1 Ch. 3 (ss. 30-38) modified (E.) (1.2.1993) by S.I. 1993/22, art. 3(4)  
**C6** Pt. 1 Chs. 3, 4 (ss. 30-52) modified (E.) (1.2.1993) by S.I. 1993/22, art. 4(2)

### 31 Substituted amounts.

- (1) Where a billing authority has set amounts for a financial year under section 30 above and at any later time—
  - (a) it makes substitute calculations under section 37 [<sup>F2</sup>, 52I or 52T] below; or

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- (b) it is issued with a precept for the year (originally or by way of substitute) by a major precepting authority,
- it shall as soon as reasonably practicable after that time set amounts in substitution so as to give effect to those calculations or that precept.
- (2) Any amount set in substitution under subsection (1) above must be set in accordance with section 30 above, but subsection (6) of that section shall be ignored for this purpose.
- (3) Where a billing authority sets any amount in substitution under subsection (1) above (a new amount), anything paid to it by reference to the amount for which it is substituted (the old amount) shall be treated as paid by reference to the new amount.
- (4) If the old amount exceeds the new amount, the following shall apply as regards anything paid if it would not have been paid had the old amount been the same as the new amount—
- (a) it shall be repaid if the person by whom it was paid so requires;
- (b) in any other case it shall (as the billing authority determines) either be repaid or be credited against any subsequent liability of the person to pay in respect of any council tax set by the authority in accordance with section 30 above.
- (5) Where an authority sets amounts in substitution under subsection (1)(b) above, it may recover from the major precepting authority administrative expenses incurred by it in, or in consequence of, so doing.

#### Textual Amendments

**F2** Words in s. 31 substituted (27.7.1999) by 1999 c. 27, s. 30, **Sch. 1 Pt. II para. 3**

#### Modifications etc. (not altering text)

**C7** Pt. 1 Ch. 3 (ss. 30-38) modified (E.) (1.2.1993) by **S.I. 1993/22, art. 3(4)**

**C8** Pt. 1 Chs. 3, 4 (ss. 30-52) modified (E.) (1.2.1993) by **S.I. 1993/22, art. 4(2)**

### *The requisite calculations*

## **32 Calculation of budget requirement.**

- (1) In relation to each financial year a billing authority shall make the calculations required by this section.
- (2) The authority must calculate the aggregate of—
- (a) the expenditure which the authority estimates it will incur in the year in performing its functions and will charge to a revenue account for the year;
- (b) such allowance as the authority estimates will be appropriate for contingencies in relation to expenditure to be charged to a revenue account for the year;
- (c) the financial reserves which the authority estimates it will be appropriate to raise in the year for meeting its estimated future expenditure;
- (d) such financial reserves as are sufficient to meet so much of the amount estimated by the authority to be a revenue account deficit for any earlier financial year as has not already been provided for; and

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- [<sup>F3</sup>(e) any amounts which it estimates will be transferred from its general fund to its collection fund pursuant to a direction under subsection (5) of section 98 of the 1988 Act and charged to a revenue account for the year, other than (in the case of an authority in England) any amounts which it estimates will be so transferred pursuant to a direction under that subsection relating to the difference between amounts in respect of community charges credited and charged to a revenue account for any earlier financial year.]
- (3) The authority must calculate the aggregate of—
- (a) the sums which it estimates will be payable for the year into its general fund [<sup>F4</sup>or, as the case may be) council fund] and in respect of which amounts will be credited to a revenue account for the year, other than sums which it estimates will be so payable in respect of redistributed non-domestic rates, revenue support grant [<sup>F5</sup>, additional grant [<sup>F6</sup>or relevant special grant or (in the case of the Common Council only) police grant;];
- [<sup>F7</sup>(b) any amounts which it estimates will be transferred from its collection fund to its general fund pursuant to a direction under subsection (4) of section 98 of the 1988 Act and credited to a revenue account for the year, other than (in the case of an authority in England) any amounts which it estimates will be so transferred—
- (i) pursuant to a direction under that subsection relating to the difference between amounts in respect of community charges credited and charged to a revenue account for any earlier financial year; and
- (ii) in the case of the Common Council, pursuant to a direction under that subsection in respect of an amount calculated by reference to the provisional amount of its non-domestic rating contribution under Part II of Schedule 8 to that Act; and]
- (c) the amount of the financial reserves which the authority estimates that it will use in order to provide for the items mentioned in paragraphs (a), (b) and (e) of subsection (2) above.
- [<sup>F8</sup>(3A) In the case of any billing authority in Wales, subsection (3)(a) above does not require the estimation of sums payable into their council fund in respect of council tax or [<sup>F9</sup>non-domestic rates or the grant paid to them under section 88A of the Local Government Finance Act 1988].]
- (4) If the aggregate calculated under subsection (2) above exceeds that calculated under subsection (3) above, the authority must calculate the amount equal to the difference; and the amount so calculated shall be its budget requirement for the year.
- (5) In making the calculation under subsection (2) above the authority must ignore—
- (a) payments which must be met from its collection fund under section 90(2) of the 1988 Act or from a trust fund; and
- (b) subject to subsection (2)(e) above, sums which have been or are to be transferred from its general fund to its collection fund.
- (6) In estimating under subsection (2)(a) above the authority shall take into account—
- (a) the amount of any precept issued to it for the year by a local precepting authority; and
- (b) the amount of any levy or special levy issued to it for the year;
- but (except as provided by regulations under section 41 below or regulations under section 74 or 75 of the 1988 Act) shall not anticipate a precept, levy or special levy not issued.

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- [<sup>F10</sup>(6A) In estimating under subsection (2)(a) above, the Common Council shall take into account the amount of any levy issued to it under section 17 or 62 of the Police Act 1997 (levies issued by the Service Authority for the National Criminal Intelligence Service and the Service Authority for the National Crime Squad) for the year, but (except as provided by an order under either of those sections) shall not anticipate a levy not issued.]
- (7) For the purposes of subsection (2)(c) above an authority's estimated future expenditure is—
- (a) that which the authority estimates it will incur in the financial year following the year in question, will charge to a revenue account for the year and will have to defray in the year before the following sums are sufficiently available, namely—
    - (i) sums which will be payable for the year into its general fund [<sup>F11</sup>or (as the case may be) council fund] and in respect of which amounts will be credited to a revenue account for the year; and
    - (ii) sums which will be transferred as regards the year from its collection fund to its general fund; and
  - (b) that which the authority estimates it will incur in the financial year referred to in paragraph (a) above or any subsequent financial year in performing its functions and which will be charged to a revenue account for that or any other year.
- (8) In making the calculation under subsection (3) above the authority must ignore, subject to paragraph (b) of that subsection, sums which have been or are to be transferred from its collection fund to its general fund.
- [<sup>F12</sup>(8A) Subsections (2)(e), (3)(b), (7)(a)(ii) and (8) above do not apply in relation to a Welsh county council or county borough council.
- (8B) Subsection (5) above shall have effect in relation to a Welsh county council or county borough council as if for paragraphs (a) and (b) there were substituted—
- (a) payments which must be met from a trust fund;
  - (b) payments to be made to the Secretary of State under paragraph 5 of Schedule 8 to the 1988 Act or regulations made under paragraph 5(15) of that Schedule;
  - (c) payments to be made in respect of the amount of any precept issued by a major precepting authority under Part I of this Act (but not payments to be so made in respect of interest on such an amount); and
  - (d) payments to be made to another person in repaying, under regulations under the 1988 Act or Part I of this Act, excess receipts by way of non-domestic rates or council tax."]

(9) The Secretary of State may by regulations do one or both of the following—

    - (a) alter the constituents of any calculation to be made under subsection (2) or (3) above (whether by adding, deleting or amending items);
    - (b) alter the rules governing the making of any calculation under subsection (2) or (3) above (whether by deleting or amending subsections (5) to [<sup>F13</sup>(8B)] above, or any of them, or by adding other provisions, or by a combination of those methods).

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- (10) Calculations to be made in relation to a particular financial year under this section must be made before 11th March in the preceding financial year, but they are not invalid merely because they are made on or after that date.
- (11) References in this section to expenditure incurred by an authority shall be construed in accordance with section 41(3) of the <sup>M1</sup>Local Government and Housing Act 1989.

[<sup>F14</sup>(12) In this section and section 33 below—

“police grant” means so much of the grant payable in accordance with paragraph 3.1 of the relevant police grant report as excludes the amounts shown in columns (b) and (c) of the Table set out below that paragraph;

“relevant special grant” means any of the following grants, that is to say—

- (i) the special grant payable in accordance with paragraphs 4 and 6 of the special grant report for England (Special Grant Report (No. 31)) approved by a resolution of the House of Commons pursuant to section 88B of the 1988 Act <sup>F15</sup> on 5th February 1998; and
- (ii) the special grant payable in accordance with paragraphs 5 and 7 of that special grant report;

and in this subsection “the relevant police grant report” means the police grant report (The Police Grant Report (England and Wales) 1998/99) approved by a resolution of the House of Commons pursuant to section 46 of the Police Act 1996 <sup>F16</sup> on 4th February 1998.]

#### Textual Amendments

- F3** S. 32(2)(e) substituted (8.2.1994) by S.I. 1994/246, **reg. 3(1)**
- F4** Words in s. 32(3)(a) inserted (3.4.1995 subject to art. 6(2)-(5) of the commencing S.I.) by 1994 c. 19, s. 38(11), **Sch. 12 para. 4(2)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, **art. 6(1)**
- F5** Words in s. 32(3)(a) substituted (8.2.1994) by S.I. 1994/246, **reg.3(2)(a)**
- F6** Words in s. 32(3)(a) substituted (3.2.1995) by S.I. 1995/234, **reg. 2(1)**
- F7** S. 32(3)(b) substituted (8.2.1994) by S.I. 1994/246, **reg. 3(2)(b)**
- F8** S. 32(3A) inserted (3.4.1995 subject to art. 6(2)-(5) of the commencing S.I.) by 1994 c. 19, s. 38(11), **Sch. 12 para. 4(3)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, **art. 6(1)**
- F9** Words in s. 32(3A) substituted (7.2.1996) by S.I. 1996/56, **art. 2(2)**
- F10** S. 32(6A) inserted (31.10.1997) by 1997 c. 50, s. 134(1), **Sch. 9 para. 67**; S.I. 1997/2390, **art. 2(2)(w)** (as amended (1.4.1998) by S.I. 1998/354, **art. 7**)
- F11** Words in s. 32(7)(a)(i) inserted (3.4.1995 subject to art. 6(2)-(5) of the commencing S.I.) by 1994 c. 19, s. 38(11), Sch. 12, para. 4(4) (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, **art. 6(1)**
- F12** S. 32(8A)(8B) inserted (3.4.1995 subject to art. 6(2)-(5) of the commencing S.I.) by 1994 c. 19, s. 38(11), **Sch. 12 para. 4(5)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, **art. 6(1)**
- F13** Word in s. 32(9)(b) substituted (3.4.1995 subject to art. 6(2)-(5) of the commencing S.I.) by 1994 c. 19, s. 38(11), **Sch. 12 para. 4(6)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, **art. 6(1)**
- F14** S. 32(12) substituted (7.2.1998) by S.I. 1998/213, **reg. 2**
- F15** 1988 c.41; section 88B was substituted by paragraph 18 of Schedule 10 to the 1992 Act.
- F16** 1996 c.16.

#### Modifications etc. (not altering text)

- C9** Pt. I Ch. III (ss. 30-38) modified (E.) (1.2.1993) by S.I. 1993/22, **art. 3(4)**

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- C10** Pt. I Chs. III-IV (ss. 30-52) modified (E.) (1.2.1993) by S.I. 1993/22, **art. 4(2)**  
**C11** S. 32 applied (with modifications) (E.) (15.2.1995) by S.I. 1995/161, **art. 3(2)(a)**  
**C12** Power to modify conferred (25.6.1997) by 1997 c. 50, **s. 62(4)**; S.I. 1997/1377, **art. 2(2)(e)**  
**C13** S. 32 modified (E.) (6.2.1999) by S.I. 1999/228, **reg. 2**  
S. 32 modified (5.2.2000) by S.I. 2000/213, **reg. 2**

#### Marginal Citations

- M1** 1989 c. 42.

### 33 Calculation of basic amount of tax.

- (1) In relation to each financial year a billing authority shall calculate the basic amount of its council tax by applying the formula—

$$\frac{R - P}{T}$$

where—

R is the amount calculated (or last calculated) by the authority under section 32(4) above as its budget requirement for the year;

P is the aggregate of the sums which the authority estimates will be payable for the year into its general fund [<sup>F17</sup>or (as the case may be) council fund] in respect of redistributed non-domestic rates, revenue support grant [<sup>F18</sup>, additional grant]<sup>F19</sup> or relevant special grant or (in the case of the Common Council only) police grant;];

T is the amount which is calculated by the authority as its council tax base for the year and, where one or more major precepting authorities have power to issue precepts to it, is notified by it to those authorities (“the major precepting authorities concerned”) within the prescribed period.

- (2) Where the aggregate calculated (or last calculated) by the authority for the year under subsection (2) of section 32 above does not exceed that so calculated under subsection (3) of that section, the amount for item R in subsection (1) above shall be nil.

- <sup>F20</sup>(3) The aggregate of the sums mentioned in item P in subsection (1) above shall be increased or reduced by the amount calculated in accordance with the following formula, according to whether that amount is positive or negative

$$W + X - (Y + Z)$$

where

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W is the amount of any sum which the authority estimates will be transferred in the year from its collection fund to its general fund in accordance with section 97(3) of the 1988 Act;

X in the case of an authority in Wales is nil and, in the case of an authority in England, is (subject to subsection (3A) below) the amount of any sum which the authority estimates will be—

(i) transferred from its collection fund to its general fund pursuant to a direction under section 98(4) of that Act relating to the difference between amounts in respect of community charges credited and charged to a revenue account for any earlier financial year; and

(ii) credited to a revenue account for the year;

Y is the amount of any sum which the authority estimates will be transferred in the year from its general fund to its collection fund in accordance with section 97(4) of that Act;

Z in the case of an authority in Wales is nil and, in the case of an authority in England, is the amount of any sum which the authority estimates will be—

(i) transferred from its general fund to its collection fund pursuant to a direction under section 98(5) of that Act relating to the difference between amounts in respect of community charges credited and charged to a revenue account for any earlier financial year; and

(ii) charged to a revenue account for the year.

[<sup>F21</sup>This subsection does not apply in relation to a Welsh county council or county borough council.]

(3A) In the case of the Common Council, item X in subsection (3) above shall also include the amount of any sum which the Common Council estimates will be—

(a) transferred from its collection fund to its City fund pursuant to a direction under section 98(4) of the 1988 Act in respect of an amount calculated by reference to the provisional amount of its non-domestic rating contribution under Part II of Schedule 8 to that Act; and

(b) credited to a revenue account for the year.]

[<sup>F22</sup>(3B) In the case of a Welsh county council or county borough council, the aggregate of the sums mentioned in item P in subsection (1) above shall be reduced by the amount calculated in accordance with the following formula—

$$(J + K) - L$$

J is the council's estimate of the amount by which the aggregate for the year of the chargeable amounts under Part III of the 1988 Act (non-domestic rating) will be less than it would be apart from section 47 of that Act (discretionary relief);

K is the council's estimate of the reductions and remittances which will be made for the year under section 49 of that Act (reduction or remission of liability);



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L is the council's estimate of the deductions which, in pursuance of rules made by virtue of paragraph 4(5)(a) of Schedule 8 to that Act (non-domestic rating contributions), will be made for the year as regards the operation of sections 47 and 49 of that Act.]

<sup>F23</sup>[ In the case of a Welsh county council or county borough council the aggregate of  
<sup>F24</sup>(3C) the sums mentioned in item P in subsection (1) above shall be reduced by an amount calculated by applying the formula–

$$\frac{E \times B \times 0.5}{1 - B} - (E \times B \times 0.5)$$

where–E is the product of the formula set out in subsection (3D) below or, if that is a negative amount, is nil;

B is the proportion of council tax benefit prescribed for the authority for the year.

<sup>F23F24</sup>(3D) E is to be calculated by applying the formula–

$$\frac{R - LP - BX}{1 + (B \times 0.5)}$$

where–R has the same meaning as in subsection (1) above;

LP is the aggregate of the precepts for the year–

(a) issued to the council by local precepting authorities; or

(b) anticipated by the council in pursuance of regulations made under section 41(3) below; which were taken into account by the council in making the calculation required by section 32(2) above;

BX is the guideline budget requirement prescribed for the authority for the year.

B has the same meaning as in subsection (3C) above.]]

- (4) Regulations under section 32(9) above may make such consequential alterations of the constituents of any calculation required by item P in subsection (1) above or subsection (3) above (whether by adding, deleting or amending items) as appear to the Secretary of State to be necessary or expedient.
- (5) The Secretary of State shall make regulations containing rules for making for any year the calculation required by item T in subsection (1) above; and a billing authority shall make the calculation for any year in accordance with the rules for the time being effective (as regards the year) under the regulations.

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- (6) Regulations prescribing a period for the purposes of item T in subsection (1) above may provide that, in any case where a billing authority fails to notify its calculation to the major precepting authorities concerned within that period, that item shall be determined in the prescribed manner by such authority or authorities as may be prescribed.

#### Textual Amendments

- F17** Words in s. 33(1) inserted (3.4.1995 subject to art. 6(2) to (5) of the commencing S.I.) by 1994 c. 19, s. 38(11), **Sch. 12 para. 5(2)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, **art. 6(1)**
- F18** In s. 33(1) the constituents of the calculation required by item P in subsection (1) of s. 33 are altered by the substitution of words (8.2.1994) by S.I. 1994/246, **art. 4(1)**
- F19** Words in item P of s. 33(1) substituted (3.2.1995) by S.I. 1995/234, **reg. 2(1)**
- F20** In s. 33(3) the constituents of the calculation required by item P in subsections (1) and (3) of s. 33 are altered by the substitution of s. 33(3)(3A) for s. 33(3) (8.2.1994) by S.I. 1994/246, **art. 4(2)**
- F21** Words in s. 33(3) inserted (3.4.1995 subject to art. 6(2) to (5) of the commencing S.I.) by 1994 c. 19, s. 38(11), **Sch. 12 para. 5(3)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, **art. 6(1)**
- F22** S. 33(3B) inserted (21.2.1996) by S.I. 1996/335, **art. 2**
- F23** S. 33(3C)(3D) omitted (W.) (29.2.2000) by S.I. 2000/717, **art. 2**
- F24** S. 33(3C)(3D) inserted (16.2.1999) by S.I. 1999/296, **reg. 2**

#### Modifications etc. (not altering text)

- C14** Pt. 1 Ch. 3 (ss. 30-38) modified (E.) (1.2.1993) by S.I. 1993/22, **art. 3(4)**
- C15** Pt. 1 Chs. 3, 4 (ss. 30-52) modified (E.) (1.2.1993) by S.I. 1993/22, **art. 4(2)**
- C16** S. 33(1) modified (E.) (6.2.2007 with application as mentioned in reg. 1(2)(3) of the amending S.I.) by The Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2007 (S.I. 2007/227), **reg. 4**
- C17** S. 33(1) modified (W.) (28.2.2007 with application as mentioned in reg. 1(3) of the amending S.I.) by The Local Authorities (Alteration of Requisite Calculations) (Wales) Regulations 2007 (S.I. 2007/571), **reg. 3**
- C18** S. 33(1) amended (E.) (1.2.2002 with application as mentioned in reg. 1(2)) by The Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2002 (S.I. 2002/155), **reg. 3**  
S. 33(1) modified (E.) (7.2.2003) by The Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2003 (S.I. 2003/195), **reg. 3**  
S.33(1) modified (7.2.2004) by The Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2004 (S.I. 2004/243), **reg. 3**  
S. 33(1) modified (E.) (5.2.2005) by The Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2005 (No. 190) (S.I. 2005/190), {reg. 3}  
S. 33(1) modified (E.) (8.2.2006 with effect as mentioned in reg. 1(3)) by The Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2006 (S.I. 2006/247), **reg. 3**  
S. 33(1) modified (W.) (15.2.2006) by The Local Authorities (Alteration of Requisite Calculations) (Wales) Regulations 2006 (S.I. 2006/344), **reg. 3**
- C19** S. 33(3) amended (30.11.1995) by S.I. 1995/2889, **art. 11(1)(a)**  
S. 33(3) amended (30.11.1995) by S.I. 1995/2889, **art. 11(1)(b)**  
S. 33(3) modified (E.) (6.2.1999) by S.I. 1999/228, **reg. 3**  
S. 33(3) modified (5.2.2000) by S.I. 2000/213, **reg. 3**  
S. 33(3) modified (2.2.2001 with effect as mentioned in reg. 1(3)) by S.I. 2001/216, **reg. 3**

*Status: Point in time view as at 29/02/2000.*

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### 34 Additional calculations where special items relate to part only of area.

- (1) This section applies where for any financial year an item mentioned in section 35(1) below relates to a part only of a billing authority's area; and in this section "special item" means any such item which so relates and "the relevant part", in relation to such an item, means the part concerned.
- (2) The authority shall calculate the basic amount of its council tax for dwellings in a part of its area to which no special item relates by applying the formula—

$$B - \frac{A}{T}$$

where—

B is the amount calculated (or last calculated) by the authority under section 33(1) above as the basic amount of its council tax;

A is the aggregate amount of all special items;

T is the amount determined for item T in section 33(1) above.

- (3) The authority shall calculate the basic amount of its council tax for dwellings in a part of its area to which one or more special items relate by adding to the amount given by the formula in subsection (2) above the aggregate of the amounts which, in relation to each of those special items, are given by the formula—

$$\frac{S}{TP}$$

where—

S is (in each case) the amount of the special item;

TP is (in each case) the amount of the authority's council tax base for the relevant part as calculated by it for the year.

- (4) The Secretary of State shall make regulations containing rules for making for any year any calculation required by item TP in subsection (3) above; and a billing authority shall make the calculation for any year in accordance with the rules for the time being effective (as regards the year) under the regulations.

#### Modifications etc. (not altering text)

**C20** Pt. 1 Ch. 3 (ss. 30-38) modified (1.2.1993) by [S.I. 1993/22, art. 3\(4\)](#)

**C21** Pt. 1 Chs. 3, 4 (ss. 30-52) modified (E.) (1.2.1993) by [S.I. 1993/22, art. 4\(2\)](#)

*Status: Point in time view as at 29/02/2000.*

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### **35 Special items for purposes of section 34.**

- (1) The items referred to in section 34(1) above are—
- (a) any precept issued to or anticipated by the authority which is or is believed to be applicable to a part of its area and was taken into account by it in making the calculation (or last calculation) in relation to the year under section 32(2) above; and
  - (b) any expenses of the authority which are its special expenses and were taken into account by it in making that calculation.
- (2) For the purposes of subsection (1) above—
- (a) provided a resolution of a billing authority to the following effect is in force, the expenses of meeting a levy or special levy issued to or anticipated by it are its special expenses or (if the resolution relates to some only of those expenses) those to which the resolution relates are its special expenses;
  - (b) any expenses which a billing authority believes will have to be met out of amounts transferred or to be transferred from its collection fund to its general fund, and which arise out of its possession of property held in trust for a part of its area, are its special expenses;
  - (c) any expenses which a billing authority believes will have to be met out of amounts transferred or to be transferred from its collection fund to its general fund, and which relate to a part of its area, are its special expenses provided that expenses of the same kind which relate to another part of its area are to be met out of property held in trust for that part;
  - (d) any expenses incurred by a billing authority in performing in a part of its area a function performed elsewhere in its area by the sub-treasurer of the Inner Temple, the under-treasurer of the Middle Temple, a parish or community council or the chairman of a parish meeting are the authority's special expenses unless a resolution of the authority to the contrary effect is in force; and
  - (e) provided a resolution of a billing authority to the following effect is in force, the expenses incurred by it in performing in a part of its area a function performed elsewhere in its area by a body with power to issue a levy or special levy to it are its special expenses or (if the resolution relates to some only of those expenses) those to which the resolution relates are its special expenses.
- (3) The following rules shall apply to the making of a resolution under subsection (2)(e) above by a billing authority—
- (a) no such resolution may be made unless the body mentioned in subsection (2)(e) above is one in relation to which the billing authority has made under subsection (2)(a) above a resolution which is in force;
  - (b) the resolution under subsection (2)(e) above may not be made so as to be in force at any time when that under subsection (2)(a) above is not in force;
  - (c) the fact that the resolution under subsection (2)(a) above relates to all the expenses concerned does not mean that the resolution under subsection (2)(e) above must relate to all the expenses concerned; and
  - (d) the fact that the resolution under subsection (2)(a) above relates to part of the expenses concerned does not mean that the resolution under subsection (2)(e) above must relate to part, or any particular part, of the expenses concerned.
- [<sup>F25</sup>(4) Subsection (2) above shall have effect in relation to a Welsh county council or county borough council as if for paragraphs (b) and (c) there were substituted—

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- (") any expenses incurred by a billing authority and arising in connection with property which it holds in trust for a part of its area are its special expenses;
  - (c) any expenses incurred by a billing authority which relate to a part of its area and which are of the same kind as expenses which—
    - (i) relate to another part of its area; and
    - (ii) are to be met out of property held in trust for that part;are its special expenses;"
- (5) Expenses of a billing authority are not to be treated as its special expenses for the purposes of subsection (1) above if they are expenses of meeting a levy issued to it by, or anticipated by it from—
- <sup>F26</sup>(a) .....
  - <sup>F26</sup>(b) ..... [<sup>F27</sup> or
  - <sup>F27</sup>(c) a National Park authority in relation to a National Park in Wales.]]

#### Textual Amendments

- F25** S. 35(4)(5) inserted (3.4.1995 subject to art. 6(2) to (5) of the commencing S.I.) by 1994 c. 19, s. 38(11), **Sch. 12 para. 6** (with ss. 54(7), 55(5), Sch. 17 paras. 21(1), 23(2)); S.I. 1995/852, **art. 6(1)**
- F26** S. 35(5)(a)(b) repealed (1.4.1997) by 1995 c. 25, ss. 120(3), Sch. 10 para. 35, **Sch. 24** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1996/2560, **art. 2**, **Sch.**
- F27** Word "or" and s. 35(5)(c) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 35** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

#### Modifications etc. (not altering text)

- C22** Pt. 1 Ch. 3 (ss. 30-38) modified (E.) (1.2.1993) by S.I. 1993/22, **art. 3(4)**
- C23** Pt. 1 Chs. 3, 4 (ss. 30-52) modified (E.) (1.2.1993) by S.I. 1993/22, **art. 4(2)**
- C24** S. 35(2)(a) applied (30.12.1992) by S.I. 1992/3079, **reg. 11(7)**.

### 36 Calculation of tax for different valuation bands.

- (1) The amount to be taken into account under section 30(2)(a) above for any financial year in respect of a category of dwellings listed in a particular valuation band shall be calculated by applying the formula—

$$A \times \frac{N}{D}$$

where—

A is the amount calculated (or last calculated) by the billing authority for that year under section 33(1) above or, where section 34 above applies, the amount calculated (or last calculated) by it for that year under subsection (2) or (3) of that section in relation to that category of dwellings;

N is the number which, in the proportion set out in section 5(1) above, is applicable to dwellings listed in that valuation band;

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D is the number which, in that proportion, is applicable to dwellings listed in valuation band D.

- (2) Dwellings fall within different categories for the purposes of this section according as different calculations have been made in relation to them under section 34 above.

#### Modifications etc. (not altering text)

- C25** Pt. 1 Ch. 3 (ss. 30-38) modified (E.) (1.2.1993) by [S.I. 1993/22, art. 3\(4\)](#)  
 Pt. 1 Ch. 3 (ss. 30-38) applied (with modifications) (E.) (15.2.1995) by [S.I. 1995/161, art.3\(3\)](#)  
 Pt. 1 Ch. 3 (ss. 30-38) excluded (1.8.1995) by [S.I. 1995/1748, reg. 6\(1\)](#)  
**C26** Pt. 1 Chs. 3, 4 (ss. 30-52) modified (E.) (1.2.1993) by [S.I. 1993/22, art. 4\(2\)](#)

### 37 Substitute calculations.

- (1) An authority which has made calculations in accordance with sections 32 to 36 above in relation to a financial year (originally or by way of substitute) may make calculations in substitution in relation to the year in accordance with those sections, ignoring section 32(10) above for this purpose.
- (2) None of the substitute calculations shall have any effect if—
- the amount calculated under section 32(4) above, or any amount calculated under section 33(1) or 34(2) or (3) above as the basic amount of council tax applicable to any dwelling, would exceed that so calculated in the previous calculations; or
  - the billing authority fails to comply with subsection (3) below in making the substitute calculations.
- (3) In making substitute calculations under section 33(1) or 34(3) above, the billing authority must use any amount determined in the previous calculations for item P or T in section 33(1) above or item TP in section 34(3) above.
- (4) For the purposes of subsection (2)(a) above, one negative amount shall be taken to exceed another if it is closer to nil (so that minus £1 shall be taken to exceed minus £2).
- (5) For the purposes of subsection (3) above, the billing authority may treat any amount determined in the previous calculations for item P in section 33(1) above as increased by the amount of any sum which—
- it estimates will be payable for the year into its general fund [<sup>F28</sup>or (as the case may be) council fund] in respect of additional grant; and
  - was not taken into account by it in making those calculations.
- (6) Subsections (2) and (3) above shall not apply if the previous calculations have been quashed because of a failure to comply with sections 32 to 36 above in making the calculations.

#### Textual Amendments

- F28** Words inserted in s. 37(5)(a) (3.4.1995 subject to art. 6(2) to (5) of the commencing S.I.) by [1994 c. 19, s. 38\(11\), Sch. 12 para. 7](#) (with [ss. 54\(5\)\(7\), 55\(5\), Sch. 17 paras. 21\(1\), 23\(2\)](#)); [S.I. 1995/852, art. 6\(1\)](#)

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**Modifications etc. (not altering text)**

**C27** Pt. 1 Ch. 3 (ss. 30-38) modified (E.) (1.2.1993) by [S.I. 1993/22](#), [art. 3\(4\)](#)

**C28** Pt. 1 Chs. 3, 4 (ss. 30-52) modified (E.) (1.2.1993) by [S.I. 1993/22](#), [art. 4\(2\)](#)

*Supplemental*

**38 Information for purposes of Chapter III.**

- (1) If the Secretary of State so requires by regulations, a precepting authority shall supply prescribed information within a prescribed period to any billing authority to which it has power to issue a precept.
- (2) A billing authority which has set amounts in accordance with section 30 above (originally or by way of substitute) shall, before the end of the period of 21 days beginning with the day of doing so, publish a notice of the amounts in at least one newspaper circulating in the authority's area.
- (3) Failure to comply with subsection (2) above does not make the setting of amounts invalid.

**Modifications etc. (not altering text)**

**C29** Pt. 1 Ch. 3 (ss. 30-38) modified (E.) (1.2.1993) by [S.I. 1993/22](#), [art. 3\(4\)](#)

**C30** Pt. 1 Chs. 3, 4 (ss. 30-52) modified (E.) (1.2.1993) by [S.I. 1993/22](#), [art. 4\(2\)](#)

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