

Status: Point in time view as at 18/11/2003.

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SCHEDULES

SCHEDULE 12

PAYMENTS TO LOCAL AUTHORITIES BY SECRETARY OF STATE: SCOTLAND

PART III

CONTRIBUTION

Non-domestic rating contributions

- 10 (1) The Secretary of State may make regulations containing rules for the calculation of an amount for a financial year in relation to each [^{F1}local] authority (to be called its non-domestic rating contribution for the year).
- (2) Subject to sub-paragraph (3) below, the rules shall be so framed that the amount calculated under them in relation to an authority is broadly the same as the total which would be payable to that authority if there were added—
- (a) any sum paid to them by way of a contribution in aid made in respect of lands and heritages which, but for [^{F2}section 7 (exemption for visiting forces etc.)], would be liable to non-domestic rates; and
 - (b) the sum which, if the authority acted diligently, would be payable to them in respect of non-domestic rates for that year.
- (3) The Secretary of State may incorporate in the rules provision for deductions (of such extent (if any) as he thinks fit) as regards—
- (a) the operation of—
 - [^{F3}(i) section 24A (lands and heritages partly unoccupied for a short time) of the ^{M1}Local Government (Scotland) Act 1966;]
 - (ii) section 244 (remission of rates on account of poverty) of the 1947 Act; ^{F4} . . .
 - (iii) section 4(5) (reduction and remission of rates payable by charitable and other organisations) of the ^{M2}Local Government (Financial Provisions) (Scotland) Act 1962; [^{F5}and
 - (iv) paragraph 4 of Schedule 2 (discretionary relief for rural settlements) to the Local Government and Rating Act 1997]
 - (b) the costs of collection and recovery; and
 - (c) such other matters (if any) as he thinks fit.
- (4) Regulations under this paragraph in their application to a particular financial year (including regulations amending or revoking others) shall not be effective unless they come into force before 1st January in the preceding financial year.

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Textual Amendments

- F1** Word in Sch. 12 para. 10(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 176(19)(a)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(b)(c)**
- F2** Words in Sch. 12 para. 10(2)(a) substituted (1.4.2000) by 1997 c. 29, ss. 33(1), 34(1), **Sch. 3 para. 29(a)**; S.I. 1998/2329, **art. 3(1)(2)**
- F3** Sch. 12 para. 10(3)(a)(i) substituted (31.12.1994 subject to transitional provisions in art. 5 of the commencing S.I.) by 1994 c. 39, s. 180(1), **Sch. 13 para. 176(19)(b)** (with s. 128(8)); S.I. 1994/3150, **arts. 2(a)**
- F4** Word in Sch. 12 para. 10(3)(a)(ii) omitted (1.12.1997) by 1997 c. 29, s. 33(1), **Sch. 3 para. 29(b)(i)**; S.I. 1997/2826, **art. 2(d)**
- F5** Word “and” and Sch. 12 paragraph 10(3)(a)(iv) inserted (1.12.1997) by 1997 c. 29, s. 33(1), **Sch. 3 para. 29(b)(ii)**; S.I. 1997/2826, **art. 2(d)**

Marginal Citations

- M1** 1966 c. 51.
M2 1962 c. 9

- 11 (1) This paragraph applies where regulations under paragraph 10 above are in force in respect of a financial year, and has effect subject to any such regulations.
- [^{F6}(2) Before such date in relation to each financial year as the Secretary of State may direct, each relevant authority shall calculate the amount of their non-domestic rating contribution for that year, and shall inform the Secretary of State of the amount so calculated in respect of them; and, for the purposes of this paragraph, “relevant authority” means, in relation to any financial year prior to and including the financial year 1995-96, a regional or islands council and, in relation to financial years after that year, a local authority.]
- (3) The authority shall be liable to pay to the Secretary of State an amount (the “provisional amount”) equal to that calculated and [^{F7}notified by them] under subparagraph (2) above.
- (4) The authority shall pay the provisional amount during the course of the year, in such instalments and at such times as the Secretary of State may with the consent of the Treasury direct.
- (5) Within such period after the year ends as the Secretary of State may direct the authority shall—
- (a) calculate, in such manner as may be prescribed, the amount of its non-domestic rating contribution for the year;
 - (b) notify the amount so calculated to the Secretary of State; and
 - (c) arrange for the calculation and the amount to be certified under arrangements made by the Commission for Local Authority Accounts in Scotland.
- (6) The Commission shall send a copy of the certification of the calculation and the amount to the Secretary of State.
- (7) When the Secretary of State receives notification from an authority under subparagraph (5)(b) above he shall—
- (a) calculate the amount of the difference (if any) between that amount (the “notified amount”) and the provisional amount; and
 - (b) if there is a difference, inform the authority of the amount of the difference.

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- (8) If the notified amount exceeds the provisional amount the authority shall pay an amount equal to the difference to the Secretary of State at such time as he may direct.
- (9) If the notified amount is less than the provisional amount the Secretary of State shall pay an amount equal to the difference to the authority; and the amount shall be paid at such time as he decides with the Treasury's approval.
- (10) When the Secretary of State receives notification of the certified amount from the Commission under sub-paragraph (6) above he shall inform the authority of the amount of any difference between the certified amount and the notified amount, and sub-paragraphs (8) and (9) above shall apply in relation to differences between the certified amount and the notified amount as they apply in relation to differences between the provisional amount and the notified amount.
- (11) If the authority fail to comply with sub-paragraph (5) above the Secretary of State may suspend payments which would otherwise fall to be made to the authority under—
- (a) paragraph 3 above;
 - (b) sub-paragraph (9) or (10) above; or
 - (c) regulations made under paragraph 12(5) below,
- but if the authority then comply with the sub-paragraph he shall resume payments falling to be made to the authority under those provisions and make payments to them equal to those suspended.
- (12) Where the Secretary of State has suspended payments under sub-paragraph (9) above by reason of the authority's failure to make the calculation required under sub-paragraph (5)(a) above in the manner prescribed, for the purposes of sub-paragraph (10) above sub-paragraphs (8) and (9) above shall apply to differences between the provisional amount and the certified amount as they apply to differences between the provisional amount and the notified amount.

Textual Amendments

- F6** Sch. 12 para. 11(2) substituted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 176(19)(c)** (with s. 128(8)); S.I. 1994/2850, **art. 3(c)(xiii)**
- F7** Words in Sch. 12 para. 11(3) substituted (4.1.1995) by 1994 c. 39, s. 180(1), Sch. 13 para. 176(19)(d) (with s. 128(8)); S.I. 1994/2850, **art. 3(c)(xiii)**

Modifications etc. (not altering text)

- C1** Sch. 12 para. 11(2) modified (31.12.1996) by S.I. 1996/3070, **reg. 4.**
- C2** Sch. 12 para. 11(5)(a) explained (31.12.1996) by S.I. 1996/3070, **reg. 9**

- 12 (1) Any calculation under paragraph 11 above of the amount of an authority's non-domestic rating contribution for a year shall be made on the basis of the information before the person making the calculation at the time he makes it; but regulations under paragraph 10 above may include provision—
- (a) requiring a calculation under paragraph 11(2) above to be made on the basis of that information read subject to prescribed assumptions;
 - (b) enabling a calculation under paragraph 11(5)(a) above to be made without taking into account any information as regards which the following conditions are satisfied—

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- (i) it is not reasonably practicable for the person making the calculation to take it into account; and
 - (ii) it was received by the authority after a prescribed date (which may be before or after the end of the year in question).
- (2) Regulations under paragraph 10 above may incorporate in the rules provision for adjustments to be made in the calculation of the amount of an authority's non-domestic rating contribution under paragraph 11(2) or (5) above, being adjustments to take account of relevant changes affecting the amount of the authority's non-domestic rating contribution for an earlier year.
- (3) For the purposes of sub-paragraph (2) above, a change is a relevant change if it results from a decision, determination or other matter which (whether by reason of the time at which it was taken, made or occurred or otherwise) was not taken into account by the authority in the calculation under paragraph 11(5) above of the amount of their non-domestic rating contribution for the earlier year in question.
- (4) The power to give directions under paragraph 11 above—
 - (a) includes power to revoke or amend a direction given under the power;
 - (b) may be exercised differently for different authorities.
- (5) The Secretary of State may make regulations providing that, once the provisional amount has been arrived at under paragraph 11 above as regards an authority for a financial year and if prescribed conditions are fulfilled, the provisional amount is to be treated for the purposes of that paragraph as being an amount smaller than it would otherwise be.
- (6) Regulations under sub-paragraph (5) above may include—
 - (a) provision as to the re-calculation of the provisional amount, including provision for the procedure to be adopted for re-calculation if the prescribed conditions are fulfilled;
 - (b) provision as to financial adjustments to be made as a result of any re-calculation, including provision for the making of reduced payments under paragraph 11 above or of repayments.

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