



# Local Government Finance Act 1982

## 1982 CHAPTER 32

### PART I

#### RATES, PRECEPTS AND BORROWING

1 .....<sup>F1</sup>

#### Textual Amendments

F1 S. 1 repealed by S.I. 1990/776, art. 3, Sch. 1

#### 2 **Limitation of precepting powers.**

A precepting authority shall not have power—

- (a) to issue a supplementary precept; or
- (b) to issue a precept in respect of any period other than a financial year.

#### 3 **Substituted rates and precepts.**

(1) Subject to subsection (2) below—

- (a) a rating authority may make a rate for a financial year in substitution for a rate previously made by it for that year; and
- (b) a precepting authority may issue a precept in respect of a financial year in substitution for a precept previously issued by it in respect of that year.

(2) The estimated product of a substituted rate or precept shall not exceed the estimated product of the rate or precept for which it is substituted (the “original” rate or precept); and for the purposes of this subsection the product of a substituted rate or precept shall be estimated by reference to the same gross rateable value as the product of the original rate or precept.

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*Changes to legislation: There are currently no known outstanding effects for the Local Government Finance Act 1982, Part I. (See end of Document for details)*

- (3) Section 12(6) of the <sup>M1</sup>General Rate Act 1967 (which requires a precept to be issued or notified before the beginning of a financial year) shall not apply to a precept issued by virtue of subsection (1)(b) above.
- (4) Where a precept is substituted by virtue of this section any authority which has made a rate by reference to the original precept—
- (a) shall under subsection (1)(a) above make a substituted rate by reference to the substituted precept; and
  - (b) shall be entitled to recover from the precepting authority—
    - (i) its administrative expenses in making repayments and allowing credits under subsections (5) and (6) below in respect of the original rate; and
    - (ii) any increase attributable to paragraph (a) above in its rate collection expenses for the financial year;
 and in relation to the substituted rate made pursuant to paragraph (a) above the estimated product of the original rate shall for the purposes of subsection (2) above be treated as reduced by the difference (if any) between the estimated products of the original and the substituted precepts.
- (5) Where a rate or precept is substituted by virtue of this section any sum paid to the rating or precepting authority in respect of the original rate or precept (including any sum paid by way of an instalment or other part payment) shall—
- (a) to the extent to which it would have been payable if the original rate or precept had corresponded to the substituted rate or precept, be treated as paid in respect of the substituted rate or precept; and
  - (b) as to any excess, be repaid if the ratepayer by whom that sum was paid or, as the case may be, the authority to which the precept was issued so requires.
- (6) Where repayment of any amount is not required under subsection (5)(b) above that amount shall, as the rating or precepting authority may determine, either be repaid or—
- (a) in the case of an amount paid in respect of a rate, be credited against any subsequent liability of the ratepayer for rates in respect of the hereditament in question;
  - (b) in the case of an amount paid in respect of a precept, be credited against any subsequent liability of the authority to which the precept was issued in respect of precepts issued to it by the precepting authority.
- (7) Where a person as tenant or licensee of any premises—
- (a) is liable to make payments (whether as part of his rent or otherwise) which vary or may vary according to the rates chargeable in respect of those premises; or
  - (b) is entitled to make deductions from his rent in respect of those rates,
- he shall, where a rate affecting those premises is substituted by virtue of this section, be entitled to recover or, as the case may be, liable to make good so much of any payment or deduction as he would not have been liable or entitled to make if the original rate had corresponded to the substituted rate; and any sum which he is entitled to recover as aforesaid may, without prejudice to any other method of recovery, be deducted by him from any rent payable by him to the person by whom that sum was received.
- (8) This section applies whether or not the original rate or precept was validly made or issued but shall not be construed as authorising the substitution of a rate or precept

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for one made or issued after the passing of this Act in contravention of section 1 or 2 above.

[<sup>F2</sup>(9) Where the original rate or precept has been quashed because it is insufficient to meet the expenditure required to be taken into account under section 2 or 11 of the said Act of 1967, subsection (2) above shall not prevent a substituted rate or precept being made or issued which is sufficient to meet that expenditure.

(10) Where, whether by virtue of this section or otherwise, a precept is issued to a rating authority after it has made a rate for the financial year to which the precept relates, subsection (2) above shall not prevent a substituted rate being made by the authority for giving effect to the precept; and a rating authority which makes a substituted rate by virtue of this subsection shall be entitled to recover from the precepting authority in question any increase in its administrative or rate collection expenses which is attributable to that rate.]

#### Textual Amendments

**F2** S. 3(9)(10) inserted by [Rates Act 1984 \(c. 33, SIF 103:1\)](#), s. 16(1), [Sch. 1 para. 24](#)

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

**C1** S. 3(4): For the words “any authority” there is substituted “or section 8 of the Local Government Finance Act 1987, any authority to which the duty in section 8(1) of that Act does not apply and” by [Local Government Finance Act 1987 \(c. 6, SIF 81:1\)](#), s. 11, [Sch. 4 paras. 6\(1\)\(2\), 12\(1\)](#). By para. 12(1) it is provided that the amendment shall have effect only in relation to rates for, and precepts in respect of, the financial year beginning in 1987.

**C2** S. 3(4)–(6) applied by [Norfolk and Suffolk Broads Act 1988 \(c. 4, SIF 81:1\)](#), [ss. 14\(12\), 23\(2\), 27\(2\)](#)

**C3** S. 3(5): After the words “this section” there is inserted the words “or section 8 of the Local Government Finance Act 1987” by [Local Government Finance Act 1987 \(c. 6, SIF 81:1\)](#), s. 11(1), [Sch. 4 paras. 6\(1\)\(3\), 12\(1\)](#). By para. 12(1) it is provided that the amendment shall have effect only in relation to rates for, and precepts in respect of, the financial year beginning in 1987.

**C4** S. 3(7): After the words “this section” there is inserted the words “or section 8 of the Local Government Finance Act 1987” by [Local Government Finance Act 1987 \(c. 6, SIF 81:1\)](#), s. 11(1), [Sch. 4 paras. 6\(1\)\(3\), 12\(1\)](#). By para. 12(1) it is provided that the amendment shall have effect only in relation to rates for, and precepts in respect of, the financial year beginning in 1987.

#### Marginal Citations

**M1** 1967 c. 9.

## 4 Proceedings in respect of rates and precepts.

(1) The validity of a precept shall not be questioned except by an application for judicial review; and the validity of a rate shall not be questioned except as aforesaid on any of the grounds mentioned in subsection (2) below.

(2) The grounds referred to in subsection (1) above in the case of a rate are—

- (a) that any part of it was made for financing expenditure which the rating authority could not lawfully incur;
- (b) that it was made by reference to a precept which was wholly or partly invalid; or
- (c) any other ground not based on facts relating to a particular hereditament or to the inclusion or exclusion of any particular person in or from the rate.

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- (3) If on an application for judicial review the court decides to grant relief in respect of a rate on any of the grounds mentioned in subsection (2) above or in respect of a precept it shall quash the rate or precept whether the ground of invalidity relates to the whole or only to a part of it.
- (4) Subsection (1) above is without prejudice to the making of an application for judicial review in any case in which it could be made apart from that subsection.
- (5) Section 7 of the <sup>M2</sup>General Rate Act 1967 (appeal against rate) shall have effect subject to the foregoing provisions of this section, and accordingly the court shall not under that section amend or quash a rate except in relation to a particular hereditament.

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

**C5** S. 4 extended by [London Regional Transport Act 1984 \(c. 32, SIF 126\), s. 14\(7\)](#)

**C6** S. 4 excluded by [Airports Act 1986 \(c. 31, SIF 9\), ss. 34\(2\), 85\(4\)](#)

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**Marginal Citations**

**M2** 1967 c. 9.

- 5 (1) ..... **F3**
- (2) ..... **F4**

**Textual Amendments**

**F3** S. 5(1) repealed (with savings in S.I. 1990/431, [Sch. 1 para. 1\(a\)](#)) by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\), ss. 194\(2\), 195\(2\), Sch. 12 Pt. I](#)

**F4** S. 5(2)(3) repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\), ss. 1, 102, Sch. 17](#)

- 6 ..... **F5**

**Textual Amendments**

**F5** S. 6 repealed by [S.I. 1990/776, art. 3, Sch. 1](#)

**7 Interpretation and commencement of Part I.**

- (1) In this Part of this Act—
  - “financial year” means a period of twelve months beginning with 1st April;
  - “gross rateable value”, in relation to a rating or precepting authority, means the aggregate of the rateable values of the hereditaments in the authority’s area;
  - “precepting authority” means an authority having power to issue a precept either to a rating authority or to a county council;
  - “rate” means a general rate except that—
    - (a) in the case of the City of London, it includes the poor rate; and

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- (b) in the case of the Inner Temple and the Middle Temple, it means any rate in the nature of a general rate levied in the Inner Temple or the Middle Temple, as the case may be;
- “rating authority” means any authority having power to make a rate under section 1 of the <sup>M3</sup>General Rate Act 1967;
- “supplementary precept” means a precept which is issued by a precepting authority—
- (a) in respect of (or of part of) a financial year in respect of which it has already issued a precept; and
- (b) by way of addition to and not in substitution for that previous precept.
- (2) Sections 1 to 3 and 6(1) and (3) above have effect in relation to any financial year beginning on or after 1st April 1982.
- (3) Schedule 1 to this Act shall have effect in connection with the coming into force of sections 1 and 2 above.

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**Marginal Citations**

**M3** 1967 c. 9.

**Status:**

Point in time view as at 01/10/1994.

**Changes to legislation:**

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