



# Local Government Finance Act 1988

## 1988 CHAPTER 41

### PART I

#### COMMUNITY CHARGES

##### *Charges*

#### **1 The charges.**

In accordance with this Part, each charging authority shall have rights and duties in respect of the following community charges—

- (a) personal community charges,
- (b) standard community charges, and
- (c) collective community charges.

#### **2 Persons subject to personal community charge.**

(1) A person is subject to a charging authority's personal community charge on any day if—

- (a) he is an individual who is aged 18 or over on the day,
- (b) he has his sole or main residence in the area of the authority at any time on the day, and
- (c) he is not an exempt individual on the day.

[<sup>F1</sup>(1A) But a person cannot be subject to a charging authority's personal community charge on a day which falls before 1 December 1989.]

(2) Schedule 1 below shall have effect to determine whether a person is for the purposes of this section an exempt individual on a particular day.

(3) In deciding whether a person has his sole or main residence in an area, the fact that he does not live in a building is irrelevant.

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- (4) If a person's sole or main residence at a particular time consists of premises, and the premises are situated in the areas of two or more authorities, he shall be treated as having his sole or main residence in the area in which the greater or greatest part of the premises is situated.
- [<sup>F2</sup>(5) Subsection (5A) below applies in the case of a person if—
- (a) he is undertaking a full-time course of education, and
  - (b) for at least some of the time while undertaking the course he is, or proposes to be, resident in England and Wales for the purpose of making attendances in term time in connection with the course.
- (5A) On a day on which he is undertaking the course he shall be treated as having his sole or main residence in—
- (a) the place where he is resident at any time on the day for the purpose of making attendances in term time in connection with the course;
  - (b) if he is not resident in a place for that purpose at any time on the day, the place where he was last resident for that purpose;
  - (c) if he is not resident in a place for that purpose at any time on the day, and he has not been resident in a place for that purpose, the place where he would be taken to have his sole or main residence if this subsection did not apply to him.]
- (6) A person detained in legal custody (other than an individual for the time being exempt) is not to be treated as having his sole or main residence in the place where he is detained.

#### Textual Amendments

- F1** S. 2(1A) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 2\(1\)\(2\)](#)
- F2** S. 2(5)(5A) substituted for s. 2(5) by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 2\(3\)](#)

### 3 Persons subject to standard community charge.

- (1) A person is subject to a charging authority's standard community charge on any day if he has at any time on the day a freehold interest in the whole of a building, and the following conditions are fulfilled as regards the building throughout the day—
- (a) it is situated in the authority's area,
  - (b) it is not the sole or main residence of an individual (construing sole or main residence in accordance with section 2 above),
  - (c) it is domestic property,
  - (d) it is not designated for the purposes of collective community charges of the authority,
  - (e) it is not divided into self-contained parts, and
  - (f) it is not subject (as a whole) to a single relevant leasehold interest.
- (2) A person is subject to a charging authority's standard community charge on any day if he has at any time on the day a relevant leasehold interest in the whole of a building, and the following conditions are fulfilled as regards the building throughout the day—

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- (a) the conditions mentioned in subsection (1)(a) to (e) above, and
  - (b) the condition that it is not subject (as a whole) to a single relevant leasehold interest inferior to his interest.
- (3) A person is subject to a charging authority’s standard community charge on any day if he has at any time on the day a freehold interest in the whole of a self-contained part of a building, and the following conditions are fulfilled as regards the part throughout the day—
- (a) the conditions mentioned in subsection (1)(a) to (d) above, and
  - (b) the condition that it is not subject (as a whole) to a single relevant leasehold interest.
- (4) A person is subject to a charging authority’s standard community charge on any day if he has at any time on the day a relevant leasehold interest in the whole of a self-contained part of a building, and the following conditions are fulfilled as regards the part throughout the day—
- (a) the conditions mentioned in subsection (1)(a) to (d) above, and
  - (b) the condition that it is not subject (as a whole) to a single relevant leasehold interest inferior to his interest.
- (5)<sup>F3</sup> .....
- [<sup>F4</sup>(6) Notwithstanding anything in subsections (1) to (5) above, a person cannot be subject to a charging authority’s standard community charge on a day which falls before 1 December 1989.]

**Textual Amendments**

- F3** S. 3(5) repealed (retrospectively) by [Caravans \(Standard Community Charge and Rating\) Act 1991 \(c. 2\), s. 1\(1\)\(3\)](#)
- F4** S. 3(6) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\), s. 139, Sch. 5 para. 3](#)

**4 Section 3: interpretation.**

- (1) This section applies for the purposes of section 3 above.
- (2) “Interest” means a legal estate.
- (3) A relevant leasehold interest is an interest under a lease or underlease which was granted for a term of 6 months or more and conferred the right to exclusive possession throughout the term.
- (4) [<sup>F5</sup>Subject to subsections (5) and (5B) below,] a building or self-contained part of a building is domestic property if it is used wholly for the purposes of living accommodation.
- [<sup>F6</sup>(5) A building or self-contained part of a building is not domestic property if it is wholly or mainly used in the course of a business for the provision of short-stay accommodation, that is to say accommodation—
  - (a) which is provided for short periods to individuals whose sole or main residence is elsewhere, and
  - (b) which is not self-contained self-catering accommodation provided commercially.

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[ Subsection (5) above does not apply if—

- <sup>F7</sup>(5A) (a) it is intended that within the year beginning with the end of the day in relation to which the question is being considered, short-stay accommodation will be not be provided within the building or part for more than six persons simultaneously; and
- (b) the person intending to provide such accommodation will have his sole or main residence within the building or part throughout any period when such accommodation is to be provided.]

(5B) A building or self-contained part of a building is not domestic property if—

- (a) the relevant person intends that, in the year beginning with the end of the day in relation to which the question is being considered, the whole of the building or self-contained part will be available for letting commercially, as self-catering accommodation, for [<sup>F8</sup>short] periods totalling 140 days or more; and
- (b) on that day his interest in the building or part is such as to enable him so to let it for such periods.

(5C) For the purposes of subsection (5B) above the relevant person is—

- (a) where the property in question is a building and is not subject as a whole to a relevant leasehold interest, the person having the freehold interest in the whole of the building; and
- (b) in any other case, any person having a relevant leasehold interest in the building or self-contained part which is not subject (as a whole) to a single relevant leasehold interest inferior to his interest.]

(6) In construing subsections (4) and (5) above, anything not in use shall be treated as domestic property if it appears that when next in use it will be domestic property.

[<sup>F9</sup>(6A) In this section—

“business” includes—

- (a) any activity carried on by a body of persons, whether corporate or unincorporate, and
- (b) any activity carried on by an institution or other organisation established for charitable purposes only or any persons administering a trust established for charitable purposes only; and

“commercially” means on a commercial basis, and with a view to the realisation of profits.]

(7) The Secretary of State may by order amend, or substitute another definition for, any definition of domestic property for the time being effective for the purposes of section 3 above.

(8) A self-contained part of a building is a part of a building used, or suitable for use, as a separate dwelling.

<sup>F10</sup>(9) . . . . .

<sup>F11</sup>(10) . . . . .

(11) Where a building is situated in the areas of two or more authorities, it and each part of it shall be treated as situated in the area in which the greater or greatest part of the building is situated; <sup>F12</sup> . . . .

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### Textual Amendments

- F5** Words inserted by S.I. 1990/162, **art. 2(2)**
- F6** S. 4(5)–(5C) substituted for s. 4(5) by S.I. 1990/162, **art. 2(3)**
- F7** S. 4(5A) substituted (1. 4. 1991) by S.I. 1991/474, **art. 2(1)**
- F8** Word in s. 4(5B)(a) inserted (1. 4. 1991) by S.I. 1991/474, **art. 2(2)**
- F9** S. 4(6A) inserted by S.I. 1990/162, **art. 2(4)**
- F10** S. 4(9) repealed (retrospectively) by Caravans (Standard Community Charge and Rating) Act 1991 (c. 2), **s. 1(1)(3)**
- F11** S. 4(10) repealed (retrospectively) by Caravans (Standard Community Charge and Rating) Act 1991 (c. 2), **s. 1(1)(3)**
- F12** Words at the end of s. 4(11) repealed (retrospectively) by Caravans (Standard Community Charge and Rating) Act 1991 (c. 2), **s. 1(1)(3)**

## 5 Persons subject to collective community charge.

- (1) A person is subject to a charging authority's collective community charge on any day if—
- (a) he has on the day a qualifying interest in a dwelling situated in the authority's area, and
  - (b) on the day the dwelling is a designated dwelling.

[<sup>F13</sup>(1A) But a person cannot be subject to a charging authority's collective community charge on a day which falls before 1 December 1989.]

- (2) For the purposes of this Part a dwelling is a designated dwelling on a particular day if it is a building, or part of a building, which on the day concerned is designated under this section.
- (3) The registration officer may designate all or part of a building for the purposes of a charging authority's collective community charges if at the time of designation—
- (a) the building is situated in the authority's area,
  - (b) in his opinion the building or part is used wholly or mainly as the sole or main residence of individuals most or all of whom reside there for short periods and are not undertaking full-time courses of education,
  - (c) in his opinion it would probably be difficult to maintain the register in respect of, and collect payments in respect of personal community charges from, individuals who would be subject to such charges of the authority if the designation were not made, and
  - (d) the building does not fall within a description prescribed for the purposes of this paragraph by regulations made by the Secretary of State.
- (4) A registration officer who has designated a building or part may revoke the designation if at the time of revocation the conditions for designation in subsection (3) above are no longer satisfied.
- (5) A designation under this section shall take effect at the end of the period of 7 days beginning with the day on which it is made, and shall cease to have effect at the end of the day (if any) on which it is revoked.
- (6) A person has a qualifying interest in a designated dwelling on a particular day if at any time on the day—

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- (a) he has a freehold interest in the whole dwelling and it is not subject (as a whole) to a single leasehold interest, or
  - (b) he has an interest in the whole dwelling under a lease or underlease and it is not subject (as a whole) to a single inferior leasehold interest.
- (7) “Interest” means a legal estate.
- (8) Where a building is situated in the areas of two or more authorities, it and each part of it (whether or not designated) shall be treated as situated in the area in which the greater or greatest part of the building is situated.

#### Textual Amendments

**F13** S. 5(1A) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 4](#)

### Registers

#### 6 Community charges register.

- (1) The registration officer for a charging authority shall compile, and then maintain, a community charges register for the authority in accordance with this Part.
- (2) A charging authority’s register must be compiled on or before 1 December 1989.
- (3) A charging authority’s register shall contain an item in relation to each community charge of the authority to which a person becomes subject on or after 1 December 1989.
- (4) The item shall state—
  - (a) whether the charge is a personal, a standard or a collective community charge,
  - (b) the person’s name,
  - (c) the day of his becoming subject to the charge and (if applicable) the day of his ceasing to be subject to it, and
  - (d) which (if any) of the days on which he is shown in the register as subject to the charge is a day on which he is undertaking a full-time course of education.
- (5) The item shall also state—
  - (a) in the case of a personal community charge, the address of the residence by virtue of which the person is subject to the charge,
  - (b) in the case of a standard community charge, the address of the property by virtue of which the person is subject to the charge and (if different) his residential address for the time being, and
  - (c) in the case of a collective community charge, the address of the dwelling by virtue of which the person is subject to the charge and (if different) his residential address for the time being.
- (6) The item shall also state, in the case of a standard community charge, the class (if any) which is for the time being specified under section 40 below and into which the property concerned falls.

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- (7) Where a person is subject to a personal community charge, and the place of residence giving rise to the charge has no address, under subsection (5)(a) above the item shall state that place.
- (8) A registration officer's duty to compile and maintain a register in accordance with this Part includes the duty to take reasonable steps to obtain information for that purpose under the powers conferred on him.

#### *Charges and registers: miscellaneous*

### **7 Persons subject to charges: miscellaneous.**

- (1) A person shall by virtue of different residences, or different periods of residence in the same residence, be subject (if at all) to different personal community charges, whether of the same or different authorities.
- (2) If a person becomes and ceases to be exempt under section 2 above he shall be subject (if at all) to different personal community charges by virtue of different periods when he is not exempt.
- (3) A person shall by virtue of different properties, or different periods of having an interest in the same property, be subject (if at all) to different standard community charges, whether of the same or different authorities.
- (4) A person shall by virtue of different dwellings, or different periods of having an interest in the same dwelling, be subject (if at all) to different collective community charges, whether of the same or different authorities.
- (5) The day a person becomes subject to a community charge shall be taken, subject to the rules in section 8(2) and (4) below, to be the first (or only) day on which he is subject to it.
- (6) The day a person ceases to be subject to a community charge shall be taken, subject to the rule in section 8(3) below, to be the last (or only) day on which he is subject to it.

### **8 Registers: miscellaneous.**

- (1) An entry may be made in an authority's register in anticipation of, or after, the occurrence of an event (such as a person's becoming or ceasing to be subject to a community charge of the authority).
- (2) If on any day a person becomes subject to an authority's community charge but a period of more than 2 years (beginning with the day) ends without an entry being made in the register in respect of the charge, he shall be treated as becoming subject to it 2 years before the day on which an entry is made in the register in respect of it.
- (3) If a person becomes subject to an authority's community charge, an entry is made in the register accordingly, he then ceases to be subject to it and a period of more than 2 years (beginning with the day of his ceasing) ends without an entry being made in the register in respect of his ceasing, he shall be treated as having ceased to be subject to the charge 2 years before the day on which an entry is made in the register in respect of his ceasing.

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- (4) If a person in fact becomes and ceases to be subject to an authority's community charge but a period of more than 2 years (beginning with the day of his ceasing) ends without an entry being made in the register in respect of the charge, he shall be treated as not having become subject to it; and subsection (2) above shall have effect subject to this.
- (5) The registration officer may remove from an authority's register an item relating to a community charge of the authority at any time after the end of the period of 2 years beginning with the day on which the register shows the person subject to the charge as having ceased to be subject to it.
- (6) For the purposes of this Part—
  - (a) a day on which a person is shown in a charging authority's register as becoming subject to a community charge of the authority shall be treated as a day on which he is shown in the register as subject to the charge,
  - (b) a day on which a person is shown in a charging authority's register as ceasing to be subject to a community charge of the authority shall not be treated as a day on which he is shown in the register as subject to the charge, and
  - (c) as regards a day on which a person is shown in a charging authority's register as both becoming and ceasing to be subject to the same community charge of the authority, paragraph (b) above shall apply and paragraph (a) shall not.

#### *Collective community charge contributions*

### 9 **Liability to contribute.**

- (1) A period of a day or successive days is a contribution period if it falls within a chargeable financial year and each of the following conditions is fulfilled on each day in the period—
  - (a) an individual is resident in a dwelling,
  - (b) he is a qualifying individual,
  - (c) the dwelling is a designated dwelling, and
  - (d) another person is shown in a charging authority's register as subject to a collective community charge of the authority in respect of the dwelling.
- (2) In respect of the contribution period, the individual shall be liable to pay to the person mentioned in subsection (1)(d) above an amount by way of contribution to the amount he is liable to pay to the authority in respect of the charge as it has effect for the year.
- (3) The amount shall be calculated by—
  - (a) finding the amount to be paid by way of contribution for each day in the contribution period, and
  - (b) aggregating the amounts found under paragraph (a) above.
- (4) The amount to be paid by way of contribution for a day in the contribution period shall be calculated in accordance with the formula—

$$\frac{A}{B}$$



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- (5) A day which falls in the financial year beginning in 1990 shall be ignored in ascertaining a contribution period if, when the day begins, no amount has been set by the authority for its personal community charges for the financial year.
- (6) The liability to pay an amount under this section must be discharged by making a payment or payments in accordance with regulations under Schedule 2 below.

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

C1 S. 9 modified by S.I. 1990/146, reg. 3(1)(c)(3)

## 10 Contributions: interpretation of formula.

- (1) This section applies for the purposes of section 9 above.
- (2) In a case where (when the day concerned begins) no amount has been set by the authority for its personal community charges for the financial year, A is the amount set by the authority for its personal community charges for the previous financial year for its area or (as the case may be) for that part of its area which contains the building constituting or containing the designated dwelling.
- (3) In any other case A is the amount set by the authority for its personal community charges for the financial year for its area or (as the case may be) for that part of its area which contains the building constituting or containing the designated dwelling.
- (4) B is the number of days in the financial year.
- (5) In construing subsection (3) above in relation to a particular day the amount or amounts to be taken shall be the amount or amounts set or last set before the day begins.
- (6) For the purposes of subsections (2) and (3) above the Secretary of State may make regulations containing rules—
  - (a) for treating a building as contained in an authority's area if part only falls within the area;
  - (b) for ascertaining what part of an authority's area contains a building (whether contained in the area in fact or by virtue of the regulations).

## 11 Contributions: further provisions.

- (1) For the purposes of section 9 above—
  - (a) a day on which an individual becomes resident in a dwelling shall be treated as a day on which he is resident in it,
  - (b) a day on which an individual ceases to be resident in a dwelling shall not be treated as a day on which he is resident in it, and
  - (c) as regards a day on which an individual both becomes and ceases to be resident in the same dwelling, paragraph (b) above shall apply and paragraph (a) shall not.
- (2) For the purposes of section 9 above an individual is a qualifying individual on a particular day if—
  - (a) he is aged 18 or over on the day,

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- (b) he is not an exempt individual on the day within the meaning of paragraph 1, 2, 3, 4, 5, 7, 8, 9 or 10 of Schedule 1 below, and
  - (c) the day does not fall within a period in which he is undertaking a full-time course of education.
- (3) An individual shall by virtue of different dwellings, or different periods of residence in the same dwelling, be liable (if at all) to make different payments under section 9 above, whether to the same or different persons.
- (4) If, in an individual's period of residence in a dwelling, different collective community charges arise in respect of it because of a change of person with a qualifying interest, the individual shall be liable (if at all) to make different payments under section 9 above as regards the different charges.
- (5) If an individual is, ceases to be and again becomes a qualifying individual for the purposes of section 9 above he shall be liable (if at all) to make different payments under that section by virtue of different periods when he is a qualifying individual.
- (6) If a period of successive days begins in one chargeable financial year and ends in another it shall be deemed to be as many periods as there are chargeable financial years for which it subsists, and each deemed period shall be deemed to fall within a different year.
- (7) Different contribution periods shall be calculated in accordance with subsections (3) to (6) above.

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

C2 S. 11(4) extended by S.I. 1989/438, reg. 59(4)

*Liability to pay in respect of charges*

**12 Personal community charge.**

- (1) If a person is entered in an authority's register as subject in a chargeable financial year to a personal community charge of the authority, he shall be liable to pay to the authority an amount in respect of the charge as it has effect for the year.
- (2) The amount shall be calculated in accordance with the formula—

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

- (3) A is the amount set by the authority for its personal community charges for the financial year for its area or (as the case may be) for that part of its area which contains the residence by virtue of which the person is shown in the register as subject to the charge.
- (4) B is the number of days which fall within the financial year and on which he is shown in the register as subject to the charge.
- (5) C is the number of days in the financial year.

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- (6) For the purposes of subsection (3) above the Secretary of State may make regulations containing rules—
- (a) for treating a residence which consists of premises as contained in an authority's area if part only falls within the area;
  - (b) for ascertaining what part of an authority's area contains a residence which consists of premises (whether contained in the area in fact or by virtue of the regulations).

### 13 Relief for students.

- (1) This section applies where—
- (a) a person is liable under section 12 above to pay an amount to an authority in respect of a personal community charge as it has effect for a chargeable financial year, and
  - (b) on any day in the period represented by B he is undertaking a full-time course of education.
- (2) If he is undertaking the course on each day of that period, the amount he is liable to pay under that section shall be one fifth of the amount it would be apart from this section.
- (3) If he is not undertaking the course on each day of that period, the amount he is liable to pay under that section shall be determined in accordance with the formula—

$$\left( \frac{P \times A}{C} \right) + \left( \frac{Q \times A}{C} \times \frac{1}{5} \right)$$

- (4) A and C have the meanings given in section 12 above.
- (5) P is the number of days which fall within the financial year and on which—
- (a) he is shown in the register as subject to the charge, and
  - (b) he is not undertaking the course.
- (6) Q is the number of days which fall within the financial year and on which—
- (a) he is shown in the register as subject to the charge, and
  - (b) he is undertaking the course.
- (7) The Secretary of State may by order substitute such proportion as he sees fit for the proportion of one fifth mentioned in subsections (2) and (3) above or for the proportion for the time being mentioned there by virtue of an order under this subsection.
- (8) For the purposes of this section a person shall not be treated as undertaking a full-time course of education on a particular day unless he is shown in the register as undertaking the course on that day.

### [<sup>F14</sup>13A Reduced liability.

- (1) The Secretary of State may make regulations as regards any case where—
- (a) a person is liable to pay an amount to an authority in respect of a personal community charge as it has effect for any chargeable financial year which is prescribed, and
  - (b) prescribed conditions are fulfilled.

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- (2) The regulations may provide that the amount he is liable to pay shall be an amount which—
- (a) is less than the amount it would be apart from the regulations, and
  - (b) is found in accordance with prescribed rules.
- (3) This section applies whether the liability to pay the amount mentioned in subsection (1) above arises under section 12 above or arises under that section read with section 13 above.
- (4) The conditions mentioned in subsection (1) above may be prescribed by reference to such factors as the Secretary of State sees fit; and in particular such factors may include all or any of the following—
- (a) rates for a period before 1 April 1990;
  - (b) the circumstances of, or other matters relating to, the person concerned;
  - (c) an amount relating to the authority concerned and specified, or to be specified, for the purposes of the regulations in a report laid, or to be laid, before the House of Commons;
  - (d) such other amounts as may be prescribed or arrived at in a prescribed manner;
  - (e) the making of an application by the person concerned.
- (5) The rules mentioned in subsection (2) above may be prescribed by reference to such factors as the Secretary of State sees fit; and in particular such factors may include all or any of the factors mentioned in subsection (4)(a) to (d) above.
- (6) Without prejudice to the generality of section 143(2) below, regulations under this section may include—
- (a) provision requiring the Secretary of State to specify in a report, for the purposes of the regulations, an amount in relation to each charging authority;
  - (b) provision requiring him to lay the report before the House of Commons;
  - (c) provision for the review of any prescribed decision of a charging authority relating to the application or operation of the regulations;
  - (d) provision that no appeal may be made to a valuation and community charge tribunal in respect of such a decision, notwithstanding section 23(2) below.
- (7) To the extent that he would not have power to do so apart from this subsection, the Secretary of State may—
- (a) include in regulations under this section such amendments of any social security instrument as he thinks expedient in consequence of the regulations under this section;
  - (b) include in any social security instrument such provision as he thinks expedient in consequence of regulations under this section.
- (8) In subsection (7) above “social security instrument” means an order or regulations made, or failing to be made, by the Secretary of State under the Social Security Act 1986.]

#### Textual Amendments

**F14** S. 13A inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 5](#)

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#### 14 Standard community charge.

- (1) If a person is entered in an authority's register as subject in a chargeable financial year to a standard community charge of the authority, he shall be liable to pay to the authority an amount in respect of the charge as it has effect for the year.
- (2) The amount shall be calculated by—
  - (a) finding the amount to be paid for each day which falls within the financial year and on which he is shown in the register as subject to the charge, and
  - (b) aggregating the amounts found under paragraph (a) above.
- (3) The amount to be paid for a day which falls within the financial year and on which he is shown in the register as subject to the charge shall be calculated in accordance with the formula—

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

- (4) A is the amount set by the authority for its personal community charges for the financial year for its area or (as the case may be) for that part of its area which contains the property by virtue of which he is shown in the register as subject to the charge.
- (5) B is the standard community charge multiplier which by virtue of section 40 below is effective for the financial year for the following properties or class of property (as the case may be)—
  - (a) all properties in the authority's area;
  - (b) the specified class of property to which the relevant property belongs on the day concerned.
- (6) C is the number of days in the financial year.
- (7) For the purposes of subsection (4) above the Secretary of State may make regulations containing rules—
  - (a) for treating a property as contained in an authority's area if part only falls within the area or (in the case of a property which is a self-contained part of a building) if part only of the building falls within the area;
  - (b) for ascertaining what part of an authority's area contains a property (whether contained in the area in fact or by virtue of the regulations).
- (8) For the purposes of subsection (5) above the relevant property—
  - (a) is the property by virtue of which the person is shown in the register as subject to the charge, and
  - (b) belongs to a particular class on a particular day if (and only if) it belongs to the class immediately before the day ends.

#### 15 Collective community charge.

- (1) If a person is entered in an authority's register as subject in a chargeable financial year to a collective community charge of the authority, he shall be liable to pay to the authority an amount in respect of the charge as it has effect for the year.
- (2) The amount shall be found by deducting amount B from amount A.

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- (3) Amount A is the aggregate of the amounts payable (and whether or not paid) to the person by way of contribution to the amount he is liable to pay to the authority in respect of the charge as it has effect for the year.
- (4) Amount B is an amount equal to the relevant proportion of amount A; and the relevant proportion is 5 per cent. or such other proportion as may be prescribed by the Secretary of State by order.

## 16 Joint and several liability: spouses.

- (1) This section applies where—
- a person (the chargeable person) is liable to pay an amount (the chargeable amount) to an authority in respect of a community charge as it has effect for a chargeable financial year,
  - the liability arises under section 12 above [<sup>F15</sup>(or that section read with section 13 or 13A above, or both)] or section 14 above, and
  - on any day in the chargeable period the chargeable person is married to a person (the spouse) who is aged 18 or over on the day.
- (2) In this section “the chargeable period” means the period consisting of the days which fall within the financial year and on which the chargeable person is shown in the register as subject to the charge.
- (3) If, on each day of the chargeable period—
- the chargeable person and the spouse are married to each other, and
  - the spouse is aged 18 or over,
- they shall be jointly and severally liable to pay the chargeable amount.
- (4) In any other case—
- they shall be jointly and severally liable to pay such fraction of the chargeable amount as is represented by

$$\frac{A}{B}$$

, and

- the chargeable person shall be liable to pay the remainder of the chargeable amount.
- (5) A is the number of days which fall within the chargeable period and on which—
- the chargeable person and the spouse are married to each other, and
  - the spouse is aged 18 or over.
- (6) B is the number of days in the chargeable period.
- (7) In a case where—
- the chargeable person and the spouse are jointly and severally liable to pay an amount by virtue of this section,
  - the chargeable person fails to pay all or part of it because of wilful refusal or culpable neglect, and
  - the spouse accordingly pays an amount to the authority,

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the spouse may recover from the chargeable person an amount equal to the amount paid by the spouse to the authority.

- (8) Subject to subsection (7) above, the spouse may not recover from the chargeable person anything by way of contribution to any amount paid by the spouse to the authority by virtue of this section.
- (9) For the purposes of this section people are married to each other if they are a man and woman—
  - (a) who are married to each other and are members of the same household, or
  - (b) who are not married to each other but are living together as husband and wife.
- (10) For the purposes of this section people are not married to each other on a particular day unless they are married to each other throughout the day.

#### Textual Amendments

**F15** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 6](#)

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

**C3** [S. 16\(7\)](#) modified by [S.I. 1990/146](#), [reg. 3\(2\)\(3\)](#)

### 17 **Joint and several liability: management arrangements.**

- (1) This section applies where—
  - (a) a person (the chargeable person) is liable to pay an amount (the chargeable amount) to an authority in respect of a standard or collective community charge as it has effect for a chargeable financial year,
  - (b) on any day in the chargeable period he has a management arrangement with another person (the manager) who is neither the chargeable person’s employee nor (if an individual) aged under 18 on the day, and
  - (c) if the charge is a standard community charge, the chargeable person is a company.
- (2) In this section “the chargeable period” means the period consisting of the days which fall within the financial year and on which the chargeable person is shown in the register as subject to the charge.
- (3) For the purposes of this section a management arrangement is—
  - (a) where the charge is a standard community charge, an arrangement under which the manager is to collect payments for the use of the property in respect of which the charge arises;
  - (b) where the charge is a collective community charge, an arrangement under which the manager is to collect payments for residential accommodation in the designated dwelling in respect of which the charge arises, or amounts by way of contribution in respect of the charge, or both.
- (4) If, on each day of the chargeable period—
  - (a) the management arrangement subsists, and
  - (b) the manager is neither the chargeable person’s employee nor (if an individual) aged under 18,

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they shall be jointly and severally liable to pay the chargeable amount.

(5) In any other case—

- (a) they shall be jointly and severally liable to pay such fraction of the chargeable amount as is represented by

$$\frac{A}{B}$$

, and

- (b) the chargeable person shall be liable to pay the remainder of the chargeable amount.

(6) A is the number of days which fall within the chargeable period and on which—

- (a) the management arrangement subsists, and  
 (b) the manager is neither the chargeable person's employee nor (if an individual) aged under 18.

(7) B is the number of days in the chargeable period.

(8) The manager may recover from the chargeable person an amount equal to any amount paid by the manager to the authority by virtue of this section.

(9) For the purposes of this section a management arrangement subsists on a particular day if it subsists at any time on the day.

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

C4 S. 17(8) modified by S.I. 1990/146, reg. 3(2)(3)

**18 Discharge of liability.**

The liability to pay an amount under any provision of sections 12 to 17 above must be discharged by making a payment or payments in accordance with regulations under Schedule 2 below.

*Miscellaneous*

**19 Co-owners.**

(1) The Secretary of State may make regulations as regards any prescribed case where (apart from the regulations) co-owners would be subject to different standard or collective community charges by virtue of the same property.

(2) The regulations may contain—

- (a) provision that as regards the period for which the co-ownership subsists there shall be one charge only, that the co-owners shall be jointly subject to it, and that the registration officer for the charging authority concerned shall enter an item in the register accordingly;



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- (b) provision that the amount payable in respect of the charge concerned as it has effect for a chargeable financial year shall be calculated in a prescribed manner, and that the co-owners shall be jointly and severally liable to pay the amount;
  - (c) provision that, notwithstanding that the co-owners are jointly and severally liable, section 16 or 17 above shall have effect to make a spouse or manager of any of the co-owners jointly and severally liable as well;
  - (d) where the charge concerned is collective, provision as to the person or persons to whom any amount payable under section 9 above is to be paid.
- (3) The regulations may provide that there shall be different charges as regards each of the following—
- (a) the period for which the co-ownership subsists (that is, for which the co-owners concerned are co-owners);
  - (b) any period for which one only of the co-owners has an interest in the building, part of a building or dwelling concerned <sup>F16</sup> . . .;
  - (c) any period for which there is a co-ownership as regards the property concerned but the participants of it do not correspond with those of the co-ownership mentioned in paragraph (a) above (whether because the number of members differs or because any of the personnel differs).
- (4) The regulations may include provision conferring rights of recovery as between parties (whether co-owners, spouses or managers).
- (5) Without prejudice to section 143(2) below, the regulations may include provision amending or adapting provisions of this Part; and in particular the regulations—
- (a) may provide that section 11(4) above shall apply where different charges arise because of the operation of the regulations;
  - (b) may amend or adapt provisions of this Part which themselves confer power to make regulations (such as Schedules 2 and 4).
- (6) References to co-owners include references to persons who together have an interest under a lease or underlease, and references to co-ownership shall be construed accordingly.

#### Textual Amendments

**F16** Words in s. 19(3)(b) repealed (retrospectively) by [Caravans \(Standard Community Charge and Rating\) Act 1991 \(c. 2\), s. 1\(1\)\(3\)](#)

## 20 Contributions in aid.

- (1) Where a person would be subject to a personal community charge but for paragraph 11 of Schedule 1 below, and a contribution in aid of community charges is made in respect of him, the contribution shall be paid to the charging authority to whose charge he would be subject.
- (2) Where a person would be subject to a standard community charge but for the rules as to Crown exemption, and a contribution in aid of community charges is made in respect of him, the contribution shall be paid to the charging authority to whose charge he would be subject.

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## **21 Standard community charge: special cases.**

- (1) Subsection (2) below applies in the case of property provided and maintained by an authority mentioned in subsection (3) below for purposes connected with the administration of justice, police purposes or other Crown purposes.
- (2) Any rules as to Crown exemption which would have applied apart from this subsection shall not prevent—
  - (a) a person being subject to a charging authority's standard community charge by virtue of the property,
  - (b) an entry being made in the register in relation to the charge, or
  - (c) the person being liable to pay in respect of the charge.
- (3) The authorities are—
  - (a) a county council,
  - (b) a district council,
  - (c) a London borough council,
  - (d) the Common Council,
  - (e) a metropolitan county police authority, and
  - (f) the Northumbria Police Authority.

## **22 Administration and penalties.**

- (1) Schedule 2 below (which contains provisions about administration, including collection) shall have effect.
- (2) Schedule 3 below (which contains provisions about civil penalties) shall have effect.
- (3) Schedule 4 below (which contains provisions about the recovery of sums due, including sums due as penalties) shall have effect.

## **23 Appeals.**

- (1) A person aggrieved by any of the matters mentioned in subsection (2) below may appeal to a valuation and community charge tribunal established under Schedule 11 below.
- (2) The matters are—
  - (a) the fact that the person is or is not at any time entered in a charging authority's register as subject to a community charge of the authority,
  - (b) the contents of any item which is contained in a charging authority's register and relates to a charge to which the person is there shown as subject at any time,
  - (c) any designation of an individual as a certification officer under regulations under section 30 below,
  - (d) the fact that such a designation has not been revoked,
  - (e) any estimate, made for the purposes of regulations under Schedule 2 below, of the amount the person is liable to pay in respect of a charging authority's community charge,
  - (f) any designation of an individual as a responsible individual under regulations under Schedule 2 below,
  - (g) the fact that such a designation has not been revoked,

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- (h) the imposition of a penalty on the person under Schedule 3 below,
  - (i) the fact that a relevant dwelling has been designated under section 5 above, and
  - (j) the fact that a designation of a relevant dwelling under that section has not been revoked under that section.
- (3) Subsection (2)(e) above shall not apply where the grounds on which the person concerned is aggrieved fall within such category or categories as may be prescribed by the Secretary of State by regulations.
- (4) Where a penalty is imposed on a person under Schedule 3 below, and he alleges that there is no power in the case concerned to impose a penalty of the amount imposed, he may appeal under subsections (1) and (2)(h) above against the imposition.
- (5) In subsection (2)(i) above “relevant dwelling” means a building, or part of a building, in respect of which the person would be subject to an authority’s collective community charge if the designation were valid.
- (6) In subsection (2)(j) above “relevant dwelling” means a building, or part of a building, in respect of which the person would cease to be subject to an authority’s collective community charge if the revocation were made.

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

C5 S. 23(2)(e) excluded by S.I. 1989/438, reg. 25

**24 Appeals: preliminary steps.**

- (1) No appeal may be made under section 23 above unless—
- (a) the aggrieved person serves a written notice under this section, and
  - (b) one of the conditions mentioned in subsection (4) below is fulfilled.
- (2) A notice under this section must be served on—
- (a) the charging authority concerned, where the grievance relates to an estimate mentioned in section 23(2)(e) above or to the imposition of a penalty by a charging authority;
  - (b) the community charges registration officer concerned, in any other case.
- (3) A notice under this section must state the matter by which and the grounds on which the person is aggrieved.
- (4) The conditions are that—
- (a) the aggrieved person is notified in writing, by the authority on which or officer on whom he served the notice, that the authority or officer believes the grievance is not well founded, but the person is still aggrieved;
  - (b) the aggrieved person is notified in writing, by the authority on which or officer on whom he served the notice, that steps have been taken to deal with the grievance, but the person is still aggrieved;
  - (c) the period of 2 months, beginning with the date of service of the aggrieved person’s notice, has ended without his being notified under paragraph (a) or (b) above.
- (5) Where a notice under this section is served on an authority or officer, it or he shall—

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- (a) consider the matter to which the notice relates;
- (b) include in any notification under subsection (4)(a) above reasons for the belief concerned;
- (c) include in any notification under subsection (4)(b) above a statement of the steps taken.

## **25 Death.**

- (1) The Secretary of State may make such regulations as he sees fit to deal with any case where a person dies and at any time before his death—
  - (a) he was (or is alleged to have been) subject to a charging authority's community charge,
  - (b) he was (or is alleged to have been) liable to pay an amount under section 9 above,
  - (c) he was (or is alleged to have been) liable, as spouse or manager, under section 16 or 17 above, or
  - (d) a penalty was imposed on him under Schedule 3 below.
- (2) Nothing in the following provisions of this section shall prejudice the generality of subsection (1) above.
- (3) The regulations may provide that where before his death a sum has become payable by the deceased but has not been paid his executor or administrator shall be liable to pay the sum and may deduct out of the assets and effects of the deceased any payments made (or to be made).
- (4) The regulations may provide that where before his death a sum in excess of his liability has been paid (whether the excess arises because of his death or otherwise) and has not been repaid or credited his executor or administrator shall be entitled to the sum.
- (5) The regulations may provide for the recovery of any sum which is payable under the regulations and is not paid.
- (6) The regulations may provide that proceedings (whether by way of appeal under section 23 above or otherwise) may be instituted, continued or withdrawn by the deceased's executor or administrator.

## **26 Community charges registration officer.**

- (1) There shall be a community charges registration officer for each charging authority.
- (2) The registration officer for a district council, a London borough council or the Council of the Isles of Scilly shall be the person having responsibility for the administration of its financial affairs under section 151 of the <sup>M1</sup>Local Government Act 1972.
- (3) The registration officer for the Common Council shall be the [<sup>F17</sup>person having responsibility for the administration of certain of the financial affairs of the Council under section 6(1) of the Local Government and Housing Act 1989].
- (4) A charging authority shall provide the registration officer with such staff, accommodation and other resources as are sufficient to allow his functions under this Part to be exercised.

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#### Textual Amendments

**F17** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 7](#)

#### Marginal Citations

**M1** [1972 c. 70](#).

### [<sup>F18</sup> 26A Registration officer: information.

- (1) Subsection (2) below applies where—
  - (a) the Secretary of State serves a notice on a registration officer for a charging authority requiring him to supply to the Secretary of State information specified in the notice,
  - (b) the information is required by the Secretary of State for a purpose other than that of carrying out his functions under this Act, and
  - (c) the information is not personal information.
- (2) The 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) 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 registration officer; and personal information includes any expression of opinion about the individual and any indication of the intentions of any person in respect of the individual.]

#### Textual Amendments

**F18** [S. 26A](#) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 8](#)

### 27 Default powers as to registers.

- (1) If it appears to the Secretary of State that a charging authority's register does not contain items in relation to all community charges of the authority, the Secretary of State may direct the registration officer or the authority (or both) to supply the Secretary of State with such information as he considers necessary to enable him to decide whether his belief is well founded and what action (if any) he should take under subsection (3) below.
- (2) A direction under subsection (1) above—
  - (a) must specify the information to be provided and the period within which it is to be provided;
  - (b) may be amended by another direction under subsection (1) above;
  - (c) may be revoked by a direction under this paragraph.
- (3) If the period specified in a direction under subsection (1) above ends (whether or not the direction has been complied with) and it still appears to the Secretary of State as mentioned in that subsection, he may direct the officer or the authority (or both) to take such steps as the Secretary of State considers appropriate to secure that the

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register contains items in relation to as many of the authority's community charges as practicable; and the steps may involve conducting canvasses or otherwise.

- (4) A direction under subsection (3) above—
- (a) must specify the steps to be taken and the period within which they are to be taken;
  - (b) may include a requirement to make a report or periodic reports to the Secretary of State as to what steps have been taken and the results of taking them;
  - (c) must, if a requirement is included under paragraph (b) above, specify the period within which any report is to be made;
  - (d) may be amended by another direction under subsection (3) above (but without the need for a further direction under subsection (1) above);
  - (e) may be revoked by a direction under this paragraph.

## **28 Default powers as to resources.**

- (1) If it appears to the Secretary of State that a charging authority has failed to comply with section 26(4) above he may direct the authority to supply him with such information as he considers necessary to enable him to decide whether his belief is well founded and what action (if any) he should take under subsection (3) below.
- (2) A direction under subsection (1) above—
  - (a) must specify the information to be provided and the period within which it is to be provided;
  - (b) may be amended by another direction under subsection (1) above;
  - (c) may be revoked by a direction under this paragraph.
- (3) If the authority purports to comply with a direction under subsection (1) above or the period specified in the direction ends without its purporting to comply and (in either case) it still appears to the Secretary of State as mentioned in that subsection, he may direct the authority to provide the registration officer with such staff, accommodation and other resources as the Secretary of State considers sufficient to allow the officer's functions under this Part to be exercised.
- (4) A direction under subsection (3) above—
  - (a) must specify the staff, accommodation and other resources the authority is to provide under the direction and the period within which it is to provide them;
  - (b) may include a requirement to make a report or periodic reports to the Secretary of State as to what steps have been taken to comply with the requirement included under paragraph (a) above and the results of taking them;
  - (c) must, if a requirement is included under paragraph (b) above, specify the period within which any report is to be made;
  - (d) may be amended by another direction under subsection (3) above (but without the need for a further direction under subsection (1) above);
  - (e) may be revoked by a direction under this paragraph.

## **29 Rights of electoral registration officers.**

For the purpose of exercising his functions the electoral registration officer for any area in England and Wales may inspect the register of any charging authority.

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## General

### 30 Students.

- (1) For the purposes of this Part a person shall be treated as undertaking a full-time course of education on a particular day if (and only if) he fulfils such conditions as may be prescribed by regulations made by the Secretary of State.
- [<sup>F19</sup>(1A) For the purposes of this Part a person shall be treated as undertaking a qualifying course of education on a particular day if (and only if) he fulfils such conditions as may be prescribed by regulations made by the Secretary of State.]
- (2) [<sup>F20</sup>Regulations under this section] may include provision that—
- (a) as regards any educational establishment of a prescribed description an individual (to be called a certification officer) may be designated by the appropriate registration officer, or otherwise identified, in accordance with prescribed rules;
  - (b) a certification officer shall at a prescribed time supply to a person who is pursuing or is about to pursue a course at the establishment, and who is of a prescribed description, a certificate in a prescribed form and containing prescribed particulars;
  - (c) conditions prescribed under subsection (1) [<sup>F21</sup>or (1A)] above shall include a condition as to the possession of such a certificate;
  - (d) failure to supply a certificate to a person in accordance with the regulations is actionable by the person concerned as a breach of statutory duty.
- (3) [<sup>F22</sup>Regulations under subsection (1) above] shall include a statement of what courses constitute, in the Secretary of State's opinion, full-time courses of nursing education; but this is without prejudice to the power to provide, or not to provide, that a person undertaking such a course is to be treated as undertaking a full-time course of education for the purposes of this Part.
- [<sup>F23</sup>(3A) Regulations under subsection (1A) above must be so framed that undertaking a course of higher education is not treated as undertaking a qualifying course of education for the purposes of this Part.]
- (4) [<sup>F24</sup>Regulations under this section] may include provision allowing or requiring the appropriate registration officer to revoke a designation of an individual as a certification officer.
- (5) “The appropriate registration officer” means the registration officer for such charging authority as may be prescribed as regards the educational establishment concerned.
- [<sup>F25</sup>(6) A course of higher education is a course of any description mentioned in Schedule 6 to the Education Reform Act 1988.]

#### Textual Amendments

- F19** S. 30(1A) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 9\(2\)](#)
- F20** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 9\(3\)\(a\)](#)
- F21** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 9\(3\)\(b\)](#)

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- F22** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, **Sch. 5 para. 9(4)**
- F23** [S. 30\(3A\)](#) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, **Sch. 5 para. 9(5)**
- F24** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, **Sch. 5 para. 9(6)**
- F25** [S. 30\(6\)](#) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, **Sch. 5 para. 9(7)**

### 31 Interpretation.

- (1) This section applies for the purposes of this Part.
- (2) References to the register, in relation to a charging authority, are to its community charges register.
- (3) References to anything shown in a register on a day are references to what is shown for the day (including what is shown by virtue of a retrospective entry).
- (4) References to the registration officer, in relation to a charging authority, are to the community charges registration officer for the authority.
- (5) The residential address of a person who is a company is the address of the company's registered office.
- (6) References to a building include references to a chalet or hut.
- (7) Whether anything is a caravan at a particular time shall be construed in accordance with Part I of the <sup>M2</sup>Caravan Sites and Control of Development Act 1960.
- (8) If at a particular time a person has no fixed abode (in England and Wales or elsewhere) he shall at that time be treated as having his sole or main residence in the place where he is at the time.
- (9) Section 2(6) above shall not apply to a person to whom subsection (8) above applies at the time concerned.
- (10) The Secretary of State may make regulations containing rules for ascertaining what is to be treated as the greater or greatest part of premises or a building <sup>F26</sup> . . .
- (11) Nothing in a private or local Act passed before this Act shall prevent a person being subject to a community charge or being liable to pay anything in respect of a community charge or anything by way of contribution in respect of a collective community charge.

#### Textual Amendments

- F26** Words in [s. 31\(10\)](#) repealed (retrospectively) by [Caravans \(Standard Community Charge and Rating\) Act 1991 \(c. 2\)](#), **s. 1(1)(3)**

#### Marginal Citations

- M2** 1960 c. 62.



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## PART II

### CHARGES AND MULTIPLIERS

#### Charges

#### **32 Amount for personal community charges.**

- (1) For each chargeable financial year, a charging authority shall set for its personal community charges an amount or amounts in accordance with this section and section 33 below.
- (2) Any amount must be set on or before 1 April on which the financial year for which it is set begins, but is not invalid merely because it is set after that date.
- [<sup>F27</sup>(2A) No amount may be set before the earlier of the following—
  - (a) 1 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 for the financial year for which the amount is set.
- (2B) No amount may be set unless the authority has calculated an amount in relation to the year under section 95(4) below.
- (2C) A purported setting of an amount, if done in contravention of subsection (2A) or (2B) above, shall be treated as not having occurred.]
- (3) In setting any amount the authority must secure (so far as practicable) that the total amount yielded by its community charges for the year is sufficient to provide for the items mentioned in subsection (4) below, to the extent that they are not to be provided for by other means.
- (4) The items are—
  - (a) any precept issued to the authority for the year,
  - (b) the authority's estimate of the aggregate of the payments to be met from its collection fund in the year under section 90(2)(b) to (g) below or section 90(4)(b) and (c) below (as the case may be),
  - (c) the amount calculated (or last calculated) by the authority in relation to the year under section 95(4) below, and
  - (d) the authority's estimate of the amount to be transferred from its collection fund in the year under section 98(4) below.
- (5) In construing subsection (4)(a) above any precept for which another has been substituted shall be ignored.
- [<sup>F28</sup>(6) Where the authority is a relevant charging authority, for the purposes of subsection (2A) above no account shall be taken of any precept capable of being issued to it by a relevant precepting authority.
- (7) For the purposes of subsection (6) above a district council, the Common Council and the Council of the Isles of Scilly are relevant charging authorities, and—
  - (a) in relation to a district council, a relevant precepting authority is any parish or community council, chairman of a parish meeting or charter trustees with power to issue a precept to the district council;

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- (b) in relation to the Common Council, a relevant precepting authority is the sub-treasurer of the Inner Temple or the under-treasurer of the Middle Temple;
- (c) in relation to the Council of the Isles of Scilly, a relevant precepting authority is any parish council or chairman of a parish meeting with power to issue a precept to the Council.]

#### Textual Amendments

**F27** S. 32(2A)–(2C) inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, **Sch. 5 para. 14(2)**

**F28** S. 32(6)(7) inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, **Sch. 5 para. 14(3)**

### 33 Setting of different amounts.

- (1) A charging authority must set one amount for its area under section 32 above, except as provided by the following provisions of this section.
- (2) Where an item mentioned in subsection (3) below relates to a part only of its area, a charging authority must set different amounts for different parts so as to secure (so far as practicable) that the item is provided for only by amounts yielded by such of its community charges as relate to the part, to the extent that the item is not to be provided for by other means.
- (3) The items are—
  - (a) any precept or portion of a precept issued to the authority if the precept or portion is stated to be applicable to a part, and
  - (b) any expenses of the authority which are its special expenses and were taken into account by it in making the calculation (or last calculation) in relation to the year concerned under section 95(2) below.
- (4) For the purposes of subsection (3) above—
  - (a) provided a resolution of a charging authority to the following effect is in force, [<sup>F29</sup>the expenses of meeting a levy or special levy] issued 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,
  - (b) any expenses which a charging authority believes will have to be met out of amounts transferred or to be transferred from its collection fund to its general fund or to the City fund (as the case may be), 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 charging authority believes will have to be met out of amounts transferred or to be transferred from its collection fund to its general fund or to the City fund (as the case may be), 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, . . . <sup>F30</sup>
  - (d) any expenses incurred by a charging 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

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- special expenses provided a resolution of the authority to that effect is in force <sup>F31</sup>; and
- (e) provided a resolution of a charging 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.]
- <sup>F32</sup>(4A) The following rules shall apply to the making of a resolution under subsection (4)(e) above by a charging authority—
- (a) no such resolution may be made unless the body mentioned in subsection (4)(e) above is one in relation to which the charging authority has made under subsection (4)(a) above a resolution which is in force;
- (b) the resolution under subsection (4)(e) above may not be made so as to be in force at any time when that under subsection (4)(a) above is not in force;
- (c) the fact that the resolution under subsection (4)(a) above relates to all the expenses concerned does not mean that the resolution under subsection (4)(e) above must relate to all the expenses concerned;
- (d) the fact that the resolution under subsection (4)(a) above relates to part of the expenses concerned does not mean that the resolution under subsection (4)(e) above must relate to part, or any particular part, of the expenses concerned.]
- (5) A community charge relates to a part of an area if it is—
- (a) a personal community charge arising in respect of a residence contained in the part;
- (b) a standard community charge arising in respect of a building, self-contained part of a building <sup>F33</sup> . . . contained in the part;
- (c) a collective community charge arising in respect of a dwelling constituting or contained in a building which is contained in the part.
- (6) Rules contained in regulations under sections 10(6), 12(6) and 14(7) above shall apply for the purpose of construing subsection (5) above.
- (7) As regards any charging authority the Secretary of State may make directions that, for the purposes of subsection (2) above, the extent (if any) to which an item is to be provided for by other means shall be determined by the authority in accordance with the directions.
- (8) Directions under subsection (7) above—
- (a) must be made in writing;
- (b) may contain rules in accordance with which, or specify factors by reference to which, a determination is to be made;
- (c) may specify (as the extent concerned) an amount in relation to a particular item;
- (d) may relate to one item or to a number of items;
- (e) may contain different provision as to different items;
- (f) may be amended or revoked by other directions under subsection (7) above.
- (9) The power to give directions under subsection (7) above may be exercised differently for different authorities.

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- (10) No directions under subsection (7) above shall have effect in relation to a determination unless they are served on the authority concerned before it makes the determination.
- (11) In construing subsection (3)(a) above any precept for which another has been substituted shall be ignored.

#### Textual Amendments

- F29** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, **Sch. 5 para. 15(2)**
- F30** Word repealed by Local Government and Housing Act 1989 (c. 42, SIF 81:1), ss. 139, 194(4), Sch. 5 para. 15(3), **Sch. 12 Pt. II**
- F31** S. 33(4)(e) and word immediately preceding it inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, **Sch. 5 para. 15(4)**
- F32** S. 33(4A) inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, **Sch. 5 para. 15(5)**
- F33** Words in s. 33(5)(b) repealed (retrospectively) by Caravans (Standard Community Charge and Rating) Act 1991 (c. 2), s. 1(1)(3)

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

- C6** S. 33 modified (18. 2. 1991) by S.I. 1991/241, **arts. 3(4), 4(2)**
- C7** S. 33(4)(a) extended by S.I. 1990/70, **reg. 11(6)**, by S.I. 1990/71, **reg. 12(6)** and by S.I. 1990/118, **reg. 10(6)**
- C8** S. 33(4) applied by S.I. 1990/72, **reg. 14(9)**

### 34 Power to set substituted amounts.

- (1) An authority which has set an amount or amounts for a financial year under section 32 above, this section or section 35 below may set an amount or amounts in substitution.

- [<sup>F34</sup>(2) Any amount set in substitution under this section—
- (a) must be set in accordance with sections 32 and 33 above, ignoring section 32(2) for this purpose, and
  - (b) if set by a special authority as a result of its having set a multiplier in substitution under paragraph 10 of Schedule 7 below, must be set by reference to the multiplier set in substitution.]

- (3) No amount may be set in substitution under this section if it would be greater than that for which it is substituted, except as provided by subsection (4) below.

- (4) Any amount set in substitution under this section may be greater than that for which it is substituted (the old amount) if the setting of the old amount has been quashed because of a failure to fulfil section 32(3) or 33(2) above [<sup>F35</sup>, or if the amount is set by a special authority as a result of its having set a multiplier in substitution under paragraph 10 of Schedule 7 below.].

#### Textual Amendments

- F34** S. 34(2) substituted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, Sch. 5 para. 16(2)

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**F35** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 16\(3\)](#)

### 35 Duty to set substituted amounts.

- (1) Where an authority has set an amount or amounts for a financial year under section 32 or 34 above or under this section and a precept of a relevant authority is then issued to it for the year (originally or by way of substitute) it must as soon as is reasonably practicable after the issue set an amount or amounts in substitution, even if it or any of them is equal to or greater than that for which it is substituted.
  - (2) Each of the following is a relevant authority for the purposes of subsection (1) above—
    - (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, and
    - (f) the Receiver for the Metropolitan Police District.
  - (3) Any amount set in substitution under subsection (1) above must be set in accordance with sections 32 and 33 above, but applying the following rules—
    - (a) section 32(2) shall be ignored for this purpose;
    - (b) the amount must be set by reference to the precept whose issue gives rise to the amount being set;
    - (c) the amount must be set by reference to any [<sup>F36</sup>qualifying] precept issued to the authority for the year since the time when it set (or last set) an amount or amounts for the year under section 32 or 34 above [<sup>F37</sup>or under this section][<sup>F38</sup>or under subsection (6) below];
    - (d <sup>F39</sup> . . . . .
    - [<sup>F40</sup>(da) the amount must be set by reference to the estimates mentioned in section 32(4)(b) and (d) above and made by the authority when it set (or last set) an amount or amounts for the year under section 32 or 34 above;]
    - (e) subject to paragraphs (b) to [<sup>F41</sup>(da)] above, the amount must be set by reference to the information in the authority's possession at the time mentioned in paragraph (c) above.
- [<sup>F42</sup>(3A) In a case where the precept mentioned in subsection (1) above is issued under section 107(2) below, subsection (3) above shall not apply but subsection (3B) below shall apply.
- (3B) In such a case, any amount set in substitution under subsection (1) above must be set in accordance (and only in accordance) with the formula—

$$A - \frac{(B - C)}{D}$$

where A, B, C and D have the meanings given by section 35A below.]

- (4) Where an authority has set an amount or amounts for a financial year under section 32 or 34 above or under this section and it then makes substitute calculations in

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accordance with section 95 below, it must as soon as is reasonably practicable after making the substitute calculations set an amount or amounts in substitution, even if it or any of them is equal to or greater than that for which it is substituted.

(5) Any amount set in substitution under subsection (4) above must be set in accordance with sections 32 and 33 above, but applying the following rules—

- (a) section 32(2) shall be ignored for this purpose;
- (b) the amount must be set by reference to the amount calculated by the authority in relation to the year under section 95(4) below in making the calculations giving rise to the amount being set;
- (c) the amount must be set by reference to any [<sup>F43</sup>qualifying]precept issued to the authority for the year since the time when it set (or last set) an amount or amounts for the year under section 32 or 34 above [<sup>F44</sup>or under this section][<sup>F45</sup>or under subsection (6) below];

[<sup>F46</sup>(ca) the amount must be set by reference to the estimates mentioned in section 32(4)(b) and (d) above and made by the authority when it set (or last set) an amount or amounts for the year under section 32 or 34 above;]

- (d) subject to paragraphs (b) [<sup>F47</sup>to (ca)] above, the amount must be set by reference to the information in the authority's possession at the time mentioned in paragraph (c) above.

[<sup>F48</sup>(5A) In a case where the substitute calculations mentioned in subsection (4) above are made under section 107(1) below, subsection (5) above shall not apply but subsection (5B) below shall apply.

(5B) In such a case, any amount set in substitution under subsection (4) above must be set in accordance (and only in accordance) with—

- (a) the standard formula (set out in subsection (5C) below) in a case where the charging authority referred to in subsection (4) above is not a special authority, or
- (b) the special formula (set out in subsection (5D) below) in a case where the charging authority referred to in subsection (4) above is a special authority.

(5C) The standard formula is—

$$A - \frac{(B - C)}{D}$$

where A, B, C and D have the meanings given by section 35A below.

(5D) The special formula is—

$$A - \frac{((B - C)yE)}{D}$$

where A, B, C, D and E have the meanings given by section 35A below.

(5E) For the purposes of subsections (3)(c) and (5)(c) above a qualifying precept is a precept issued by a precepting authority which is not a relevant authority within the meaning given by subsection (2) above.]

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(6) ..... <sup>F49</sup>

(8) In construing subsections (3)(c) and (5)(c) above any precept for which another has been substituted shall be ignored; <sup>F50</sup> . . .

#### Textual Amendments

- F36** Word in s. 35(3)(c) substituted (21. 3. 1991) by Community Charges (Substitute Setting) Act 1991 (c. 8), ss. **1(1)(2)(a)**, 6(3)
- F37** Words in s. 35(3)(c) inserted (21. 3. 1991) by Community Charges (Substitute Setting) Act 1991 (c. 8), ss. **1(1)(2)(a)**, 6(3)
- F38** Words repealed (*prosp.*) by Local Government and Housing Act 1989 (c. 42, SIF 81:1), ss. 194(4), 195(2), **Sch. 12 Pt. II**
- F39** S. 35(3)(d) repealed (21. 3. 1991) by Community Charges (Substitute Setting) Act 1991 (c. 8), ss. 1(1)(2)(b), 5(5), 6(3), **Sch.**
- F40** S. 35(3)(da) inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, **Sch. 5 para. 17(2)**
- F41** Paragraph number substituted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, **Sch. 5 para. 17(3)**
- F42** S. 35(3A)(3B) inserted (21. 3. 1991) by Community Charges (Substitute Setting) Act 1991 (c. 8), ss. **1(1)(3)**, 6(3)
- F43** Word in s. 35(5)(c) inserted (21. 3. 1991) by Community Charges (Substitute Setting) Act 1991 (c. 8), ss. **1(1)(4)**, 6(3)
- F44** Words in s. 35(5)(c) inserted (21. 3. 1991) by Community Charges (Substitute Setting) Act 1991 (c. 8), ss. **1(1)(4)**, 6(3)
- F45** Words repealed (*prosp.*) by Local Government and Housing Act 1989 (c. 42, SIF 81:1, 2), ss. 194(4), 195(2), **Sch. 12 Pt. II**
- F46** S. 35(5)(ca) inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, **Sch. 5 para. 17(4)**
- F47** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, **Sch. 5 para. 17(5)**
- F48** S. 35(5A) - (5E) inserted (21. 3. 1991) by Community Charges (Substitute Setting) Act 1991 (c. 8), ss. **1(1)(5)**, 6(3)
- F49** S. 35(6)(7) repealed by Local Government and Housing Act 1989 (c. 42, SIF 81:1), ss. 139, 194(4), Sch. 5 para. 17(6), **Sch. 12 Pt. II** Note 4
- F50** Words in s. 35(8) repealed (21. 3. 1991) by Community Charges (Substitute Setting) Act 1991 (c. 8), ss. 1(1)(6), 5(5), 6(3), **Sch.**

#### [35A] <sup>F51</sup>Section 35: interpretation.

- (1) For the purposes of section 35(3B) above—
- (a) A is the amount for which the amount is required to be set in substitution under section 35(1) above;
  - (b) B is the amount of the precept for which the precept issued under section 107(2) below is substituted;
  - (c) C is the amount of the precept issued under section 107(2) below;
  - (d) D is the relevant population, for the financial year mentioned in section 35(1) above, of the area of the charging authority there referred to.
- (2) For the purposes of section 35(5C) and (5D) above—

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- (a) A is the amount for which the amount is required to be set in substitution under section 35(4) above;
  - (b) B is the amount calculated under section 95(4) below and for which an amount is substituted in making the substitute calculations under section 107(1) below;
  - (c) C is the amount calculated under section 95(4) below in making the substitute calculations under section 107(1) below;
  - (d) D is the relevant population, for the financial year mentioned in section 35(4) above, of the area of the charging authority there referred to;
  - (e) E is such number, falling between nil and one and expressed as a decimal, as the Secretary of State specifies by order for the purposes of this paragraph and for the special authority and the financial year concerned.
- (3) For the purposes of this section the relevant population of the area of an English charging authority for a financial year is the relevant population, calculated under paragraph 4 of Schedule 12A below, of the area for the year.
- (4) For the purposes of this section the relevant population of the area of a Welsh charging authority for a financial year is the relevant population, calculated under paragraph 5 of Schedule 12A below, of the area for the year.]

#### Textual Amendments

**F51** S. 35A inserted (21. 3. 1991) by [Community Charges \(Substitute Setting\) Act 1991 \(c. 8\)](#), **ss.2, 6(3)**

#### [35B <sup>F52</sup>Substitutions: maximum amounts.

- (1) Subsection (2) below applies where—
- (a) section 35(1) above applies in the case of a charging authority in circumstances where section 35(3) applies,
  - (b) apart from this section, any amount set in substitution under section 35(1) would be greater than the amount for which it is required to be substituted, and
  - (c) subsection (3) below does not prevent subsection (2) below applying.
- (2) In such a case—
- (a) any amount set in substitution under section 35(1) shall be no greater than the amount for which it is required to be substituted, and
  - (b) section 35(3) shall have effect subject to paragraph (a) above.
- (3) Subsection (2) above does not apply where the precept giving rise to the application of section 35(1) is—
- (a) an original precept, or
  - (b) a precept issued in substitution for one quashed because of a failure to fulfil section 68(3) or 69(3) or (4) below.
- (4) Subsection (5) below applies where—
- (a) section 35(4) above applies in the case of a charging authority in circumstances where section 35(5) applies,
  - (b) apart from this section, any amount set in substitution under section 35(4) would be greater than the amount for which it is required to be substituted, and
  - (c) subsection (6) below does not prevent subsection (5) below applying.



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- (5) In such a case—
- (a) any amount set in substitution under section 35(4) shall be no greater than the amount for which it is required to be substituted, and
  - (b) section 35(5) shall have effect subject to paragraph (a) above.
- (6) Subsection (5) above does not apply where the calculations giving rise to the application of section 35(4) are made because a previous calculation under section 95(4) below has been quashed because of a failure to comply with section 95 in making the calculation.]

#### Textual Amendments

**F52** S. 35B inserted (21. 3. 1991) by [Community Charges \(Substitute Setting\) Act 1991 \(c. 8\)](#), [ss.3, 6\(3\)](#)

### [35C <sup>F53</sup>Multiple substitutions.

- (1) Subsection (2) below applies if a charging authority is at any time subject to more than one undischarged duty under the relevant provisions.
- (2) The authority shall discharge each of the duties separately from the other or others, but it may discharge the duties in whatever sequence it thinks fit.
- (3) Subsection (4) below applies if—
  - (a) a charging authority discharges at any time a duty under a relevant provision, and
  - (b) at that time it is subject to one or more undischarged duties under the relevant provisions.
- (4) For the purposes of the excluded provisions, any amount or amounts in fact set in discharge of the duty mentioned in subsection (3)(a) above shall not be regarded as an amount or amounts set for the authority's personal community charges under the relevant provision there mentioned.
- (5) For the purposes of this section the relevant provisions are section 35(1) and (4) above.
- (6) For the purposes of this section the excluded provisions are—
  - (a) sections 10(3) and (5), 12(3) and 14(4) above;
  - (b) sections 36(1) and 39(1) below;
  - (c) any provision of regulations under this or any other Act.]

#### Textual Amendments

**F53** S. 35(C) inserted (21. 3. 1991) by [Community Charges \(Substitute Setting\) Act 1991 \(c. 8\)](#), [ss.4, 6\(4\)](#)

### 36 Substituted amounts: supplementary.

- (1) Where an authority sets any amount in substitution under section 34 or 35 above (a new amount) anything paid to it by reference to the [<sup>F54</sup>old amount] shall be treated as paid by reference to the new amount.

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- (2) But 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 charging authority determines) either be repaid or be credited against any subsequent liability of the person to pay in respect of any community charge of the authority.
- (3) Where an authority sets an amount or amounts in substitution under section 35(1) above it may recover from the precepting authority administrative expenses incurred by it in, or in consequence of, so doing.
- [<sup>F55</sup>(4) For the purposes of this section the old amount is the amount found by—
- (a) taking the amount, or each of the amounts, for which the new amount is substituted (whether directly, or indirectly because of one or more intermediate substitutions),
  - (b) leaving out of account any amount to which section 35C(4) above applies, and
  - (c) taking the amount remaining or (if more than one remains) the last to be set.]

#### Textual Amendments

- F54** Words in s. 36(1) substituted (21. 3. 1991) by [Community Charges \(Substitute Setting\) Act 1991 \(c. 8\), ss. 5\(1\)\(2\), 6\(5\)](#)
- F55** S. 36(4) inserted (21. 3. 1991) by [Community Charges \(Substitute Setting\) Act 1991 \(c. 8\), ss. 5\(1\)\(3\), 6\(5\)](#)

### 37 Power to anticipate precept.

- (1) For the purposes of this section a district council, the Common Council and the Council of the Isles of Scilly are relevant charging authorities, and—
- (a) in relation to a district council, a relevant precepting authority is any parish or community council, chairman of a parish meeting or charter trustees with power to issue a precept to the district council;
  - (b) in relation to the Common Council, a relevant precepting authority is the sub-treasurer of the Inner Temple or the under-treasurer of the Middle Temple;
  - (c) in relation to the Council of the Isles of Scilly, a relevant precepting authority is any parish council or chairman of a parish meeting with power to issue a precept to the Council.
- (2) Subsections (3) to (7) below apply if at the time a relevant charging authority sets an amount or amounts for a financial year under section 32 above a precept for the year has not been issued to it by a relevant precepting authority.
- (3) If a precept for the previous financial year has been issued to it by the precepting authority, in setting an amount or amounts for the financial year under section 32 above the charging authority may include among the items listed in section 32(4) above an amount equal to that payable under the precept (or last precept) issued for the previous financial year; and in such a case section 32(4) shall be read accordingly.
- (4) If the charging authority sets an amount or amounts in substitution for the year under section 34 or 35 above at a time when a precept for the year has not been issued

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to it by the precepting authority, and an amount was included under subsection (3) above, the charging authority shall include among the items listed in section 32(4) above an amount equal to that included under subsection (3) above; and in such a case section 32(4) shall be read accordingly.

- (5) If the precepting authority issues to the charging authority a precept for the year (originally or by way of substitute) then—
  - (a) if subsection (3) above does not apply, or no amount was included under it, the precept shall be treated as not having been issued,
  - (b) if an amount was included under subsection (3) above, and it is equal to or less than the amount of the precept, the amount of the precept shall be treated as equal to the amount included, and
  - (c) if an amount was included under subsection (3) above, and it exceeds the amount of the precept, the amount of the precept shall be treated as equal to its actual amount.
- (6) If the precepting authority issues no precept to the charging authority for the year, the fact that an amount is included under subsection (3) above does not make the charging authority liable to pay anything to the precepting authority.
- (7) If the charging authority sets an amount or amounts in substitution for the year under section 34 or 35 above at a time when a precept for the year has been issued to it by the precepting authority, section 32(4) and 35(3) and (5) above shall be read in accordance with subsection (5) above.
- (8) Where the financial year mentioned in subsection (2) above is that beginning in 1990 this section shall have effect as if subsection (3) read—
  - “(3) The charging authority may include among the items listed in section 32(4) above an amount equal to its estimate of the amount of any precept it expects will be issued to it for the year by the precepting authority; and in such a case section 32(4) shall be read accordingly.”

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

C9 S. 37 modified (18. 2. 1991) by S.I. 1991/241, arts. 3(2), 4(2)

**38 Anticipated precepts: supplementary.**

- (1) References in this section to the charging authority, the precepting authority and the financial year are to the charging authority, the precepting authority and the financial year mentioned in section 37(2) to (7) above.
- (2) Where the charging authority includes under section 37(3) or (4) above an amount equal to that payable under a precept, section 33 above shall have effect as if among the items listed in subsection (3) there were included an amount equal to that payable under the precept, in a case where the precept is stated to be applicable to a part of the authority’s area.
- (3) Where the charging authority includes under section 37(3) or (4) above an amount equal to its estimate of the amount of any precept it expects to be issued, in a case where it expects the precept will relate to a part only of its area section 33 above shall have effect as if—

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- (a) the reference in subsection (2) to an item relating to a part included a reference to an item the authority expects will relate to a part, and
  - (b) among the items listed in subsection (3) there were included an amount equal to the authority's estimate of the amount of the precept it expects will be issued to it in relation to a part.
- (4) If the charging authority sets an amount or amounts in substitution for the year under section 34 or 35 above at a time when a precept for the year has been issued to it by the precepting authority, sections 33 and 35(3) and (5) above shall be read in accordance with section 37(5) above.

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

**C10** S. 38 modified (18. 2. 1991) by S.I. 1991/241, arts. 3(3)(a), 4(2)

**C11** S. 38(2) modified (18. 2. 1991) by S.I. 1991/241, art. 3(3)(b)

**39 Information.**

- (1) An authority which has set an amount or amounts under section 32, 34 or 35 above shall, before the end of the period of 21 days beginning with the day of doing so, publish a notice of the amount or amounts in at least one newspaper circulating in the authority's area.
- (2) Failure to comply with subsection (1) above does not make the setting of an amount or amounts invalid.

*Multipliers*

**40 Standard community charge multipliers.**

- (1) A charging authority shall determine a standard community charge multiplier for properties in its area.
- (2) If the authority sees fit, different multipliers may be determined for properties of different specified classes.
- (3) A specified class is such class as may be specified [<sup>F56</sup>for the purposes of this section by the authority].
- (4) If the Secretary of State so requires by regulations, a multiplier for a [<sup>F57</sup>prescribed] class of property shall not exceed whichever of the following he specifies in the regulations as regards the class, namely, 0, ½, 1 [<sup>F57</sup>and 1½].
- (5) An authority must determine under this section before 1 April 1990.
- (6) Once a multiplier has been determined it shall remain effective for all chargeable financial years until varied (whether to comply with a requirement under subsection (4) above or otherwise).
- (7) A multiplier as it has effect for a given financial year may only be varied before the year begins.

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- (8) Regulations under this section in their application to a particular financial year (including regulations amending or revoking others) shall not be effective unless they come into force before 1 January in the preceding financial year.
- (9) A multiplier must be one of the following, namely, 0, ½, 1, 1½ or 2.
- (10) References to properties are to buildings, self-contained parts of buildings<sup>F58</sup> . . . in respect of which persons are or may become subject to standard community charges of the authority.
- [<sup>F59</sup>(11) A charging authority may specify a class for the purposes of this section by reference only to one or more of the following factors—
- (a) the use to which properties are put or are intended to be put;
  - (b) whether properties are occupied;
  - (c) the period for which properties have been unoccupied;
  - (d) the circumstances, other than financial circumstances, of persons subject to standard community charges;
  - (e) the capacity in which persons are subject to standard community charges;
  - (f) whether properties fall within a class prescribed in regulations under this section.
- [ the periods for which unoccupied properties have previously been occupied;
- [<sup>F60</sup>(g)
- (h) the period for which properties would have been unoccupied if all or some periods of occupation were treated as periods during which the properties were unoccupied;
  - (i) in the case of properties comprised in a deceased's estate, the period which has elapsed since a grant of probate or of letters of administration was made.]
- (11A) The Secretary of State in regulations under this section may prescribe a class by reference to such factors as he sees fit.]
- (12) Without prejudice to the generality of subsection [<sup>F61</sup>(11A)] above, a class may be [<sup>F62</sup>prescribed] by reference to one or more of the following factors—
- (a) the physical characteristics of properties;
  - (b) the fact that properties are unoccupied or are occupied for prescribed purposes or by persons of prescribed descriptions;
  - (c) the circumstances of persons subject to standard community charges.
- [<sup>F63</sup>(13) An authority which has exercised the power to specify classes for the purposes of this section shall, before the end of 21 days beginning with the day of doing so, publish a notice giving details of the exercise of the power in at least one newspaper circulating in the authority's area.
- (14) Failure to comply with subsection (13) above does not invalidate the exercise of the power.
- (15) The power of a charging authority to specify classes for the purposes of this section includes power to amend or revoke a specification made in exercise of the power.
- (16) The Secretary of State may by order amend subsection (11) above by the insertion of such additional factors as he thinks fit.]

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### Textual Amendments

- F56** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 18\(2\)](#)
- F57** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 18\(3\)](#)
- F58** Words in s. 40(10) repealed (retrospectively) by [Caravans \(Standard Community Charge and Rating\) Act 1991 \(c. 2\)](#), [s. 1\(1\)\(3\)](#)
- F59** S. 40(11)(11A) substituted for s. 40(11) by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 18\(4\)](#)
- F60** S. 40(11)(g)–(i) inserted by [S.I. 1990/129](#), [art. 2](#)
- F61** Subsection number substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 18\(5\)](#)
- F62** Word substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s.139, [Sch. 5 para. 18\(5\)](#).
- F63** S. 40(13)–(16) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 18\(6\)](#)

## PART III

### NON-DOMESTIC RATING

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

- C12** Pt. III (ss. 41–67) amended by [S.I. 1990/582](#), [reg. 5\(1\)](#)  
 Pt. III (ss. 41 - 67) amended (25. 9. 1991) by [Atomic Weapons Establishment Act 1991 \(c. 46\)](#), [ss. 3, 6\(2\)](#) Sch. para.9 (with s. 1)  
 Pt. III (ss. 41-67) modified (1.9.1999) by [1998 c. 31, s. 78](#), (with ss. 138(9), 144(6)); [S.I. 1999/2323](#), [art. 2](#), [Sch. 1](#)  
 Pt. III (ss. 41-67) amended (28.11.1994) by [S.I. 1994/2825](#), [regs. 27, 28](#)

#### *Local rating*

### 41 Local rating lists.

- (1) In accordance with this Part the valuation officer for a charging authority shall compile, and then maintain, lists for the authority (to be called its local non-domestic rating lists).
- (2) A list must be compiled on 1 April 1990 and on 1 April in every fifth year afterwards.
- (3) A list shall come into force on the day on which it is compiled and shall remain in force until the next one is compiled five years later.
- (4) Before a list is compiled the valuation officer must take such steps as are reasonably practicable to ensure that it is accurately compiled on 1 April concerned.
- (5) Not later than 31 December preceding a day on which a list is to be compiled the valuation officer shall send to the authority a copy of the list he proposes (on the information then before him) to compile.

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- (6) As soon as is reasonably practicable after receiving the copy the authority shall deposit it at its principal office and take such steps as it thinks most suitable for giving notice of it.
- [<sup>F64</sup>(6A) As soon as is reasonably practicable after compiling a list the valuation officer shall send a copy of it to the authority.
- (6B) As soon as is reasonably practicable after receiving the copy the authority shall deposit it at its principal office.]
- (7) A list must be maintained for so long as is necessary for the purposes of this Part, so that the expiry of the five year period for which it is in force does not detract from the duty to maintain it.
- (8) In compiling and maintaining the list which must be compiled on 1 April 1990, the valuation officer may take into account information obtained under section 82 or 86 of the 1967 Act.

#### Textual Amendments

- F64** S. 41(6A)(6B) inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, Sch. 5 para. 19

VALID FROM 03/04/1995

#### [41A <sup>F65</sup>Local non-domestic rating lists for Welsh billing authorities.

- (1) Every new valuation officer shall, on 1st April 1996, compile a list (“the amalgamated list”) for the new billing authority for which he is appointed, based on the information provided for him under this section.
- (2) The amalgamated list shall contain the information which was included in the local non-domestic rating lists compiled on 1st April 1995 for the old billing authorities (“the current lists”) so far as that information is relevant.
- (3) The amalgamated list shall also include the information which was included in any current list by way of an alteration, so far as that information is relevant.
- (4) A new valuation officer’s amalgamated list shall be treated, for the purposes of this Act, as the local non-domestic rating list for his new billing authority and shall be deemed to have come into force on 1st April 1995.
- (5) Where an amalgamated list contains information which is derived from any alteration made to any list or lists from which it is derived, the amalgamated list shall be treated as having been varied on the date on which the alteration was made.
- (6) Subsections (2) to (6B) of section 41 above shall not apply in relation to an amalgamated list.
- (7) Every valuation officer shall—
- (a) on or before 15th October 1995, provide the appropriate new valuation officer with the information recorded in his local non-domestic rating list as at 30th September 1995, so far as it is relevant; and



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- (b) on 31st March 1996, provide the appropriate new valuation officer with the information recorded in his local non-domestic rating list as at that date, so far as it is relevant.
- (8) A new valuation officer receiving any information under subsection (7)(a) above shall send a copy of it to his new billing authority as soon as is reasonably practicable.
- (9) As soon as is reasonably practicable after compiling an amalgamated list, a new valuation officer shall send a copy of it to his new billing authority.
- (10) A new billing authority receiving a copy of an amalgamated list under subsection (9) above shall, as soon as is reasonably practicable, deposit it at its principal office.
- (11) In this section—
- “old authority” has the same meaning as in the Local Government (Wales) Act 1994;
- “old billing authority” means a billing authority which is an old authority;
- “new billing authority” means a billing authority which is a new principal council;
- “new principal council” has the same meaning as in the Local Government (Wales) Act 1994;
- “valuation officer” means a valuation officer for an old billing authority;
- and
- “new valuation officer” means a valuation officer for a new billing authority.
- (12) For the purposes of this section—
- (a) references to a valuation officer’s local non-domestic rating list are references to the local non-domestic rating list maintained by him under this Act;
- (b) a new valuation officer’s area is the area of the new billing authority for which he is appointed;
- (c) the appropriate new valuation officer, in relation to any information which relates to any hereditament is the new valuation officer for the new billing authority in whose area the hereditament is situated; and
- (d) information is relevant in relation to a new valuation officer, or his area, if it relates to a hereditament which is in his area.]

#### Textual Amendments

**F65** S. 41A inserted (3.5.1995) by 1994 c. 19, s. 37 (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, art. 6(1) (with art. 6(2)-(5))

## 42 Contents of local lists.

- (1) A local non-domestic rating list must show, for each day in each chargeable financial year for which it is in force, each hereditament which fulfils the following conditions on the day concerned—
- (a) it is situated in the authority’s area,
- (b) it is a relevant non-domestic hereditament,



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- (c) at least some of it is neither domestic property nor exempt from local non-domestic rating, and
    - (d) it is not a hereditament which must be shown for the day in a central non-domestic rating list.
  - (2) For each day on which a hereditament is shown in the local list, it must also show whether the hereditament—
    - (a) consists entirely of property which is not domestic, or
    - (b) is a composite hereditament.
  - (3) For each day on which a hereditament is shown in the list, it must also show whether any part of the hereditament is exempt from local non-domestic rating.
  - (4) For each day on which a hereditament is shown in the list, it must also show [<sup>F66</sup>the rateable value of the hereditament]
  - (5) The list must also contain such information about hereditaments shown in it as may be prescribed by the Secretary of State by regulations; and the information so prescribed may include information about the total of the rateable values shown in the list.

#### Textual Amendments

**F66** Words substituted for s. 42(4)(a)(b) by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 20](#)

VALID FROM 19/11/1997

#### [42A] <sup>F67</sup>Rural settlement list.

- (1) Each billing authority shall compile and maintain, in accordance with section 42B below, a list (to be called its rural settlement list).
- (2) A rural settlement list shall have effect for each chargeable financial year and shall identify for each such year any settlements mentioned in subsection (3) below.
- (3) The settlements referred to in subsection (2) above are those which—
  - (a) are wholly or partly within the authority's area,
  - (b) appear to the authority to have had a population of not more than 3,000 on the last 31st December before the beginning of the chargeable financial year in question, and
  - (c) in that financial year are wholly or partly within an area designated by the Secretary of State by order as a rural area for the purposes of this section.
- (4) A rural settlement list must identify the boundaries of each settlement (whether by defining the boundaries or referring to boundaries defined in a map or other document), but if a settlement is not wholly within the area of a billing authority the list need not identify the boundaries outside the authority's area.
- (5) An order under subsection (3)(c) above may provide for designating as a rural area any area for the time being identified by any person, in any manner, specified in the order.

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- (6) Subsection (1) above does not apply to a billing authority in respect of any chargeable financial year for which there are no such settlements as are mentioned in subsection (3) above (and, accordingly, if the authority has compiled a rural settlement list, it shall cease to maintain that list).]

#### Textual Amendments

**F67** S. 42A inserted (19.11.1997) by 1997 c. 29, s. 1, **Sch. 1 para. 1**; S.I. 1997/2752, **art. 2(1)** (with art. 2(2))

VALID FROM 19/11/1997

#### <sup>F68</sup> 42B Preparation and maintenance of lists.

- (1) The billing authority shall, throughout the period of three months preceding the beginning of the first chargeable financial year for which a rural settlement list is to have effect, make available for inspection a draft of the list in the form in which the authority proposes that it should have effect for that year.
- (2) In each chargeable financial year for which a rural settlement list has effect the billing authority shall (if it appears to the authority that section 42A(1) above will apply to the authority in respect of the next chargeable financial year) review the list and consider whether or not, for the next chargeable financial year, any alterations are required to the list in order to give effect to section 42A(2) above.
- (3) If following the review the authority considers that any such alterations are required for that year, it shall, throughout the three months preceding the beginning of that year, make available for inspection a draft of the list in the form in which the authority proposes that it should have effect for that year.
- (4) A billing authority which has compiled a rural settlement list shall make it available for inspection in the form in which the list has effect for each chargeable financial year to which it relates.
- (5) Where a billing authority is required to make any list or draft available for inspection under this section, it shall make the list or draft available at any reasonable hour (and free of charge) at its principal office.]

#### Textual Amendments

**F68** S. 42B inserted (19.11.1997) by 1997 c. 29, s. 1, **Sch. 1 para. 1**; S.I. 1997/2752, **art. 2(1)** (with art. 2(2))

### 43 Occupied hereditaments liability.

- (1) A person (the ratepayer) shall as regards a hereditament be subject to a non-domestic rate in respect of a chargeable financial year if the following conditions are fulfilled in respect of any day in the year—
  - (a) on the day the ratepayer is in occupation of all or part of the hereditament, and

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- (b) the hereditament is shown for the day in a local non-domestic rating list in force for the year.
- (2) In such a case the ratepayer shall be liable to pay an amount calculated by—
- (a) finding the chargeable amount for each chargeable day, and
- (b) aggregating the amounts found under paragraph (a) above.
- (3) A chargeable day is one which falls within the financial year and in respect of which the conditions mentioned in subsection (1) above are fulfilled.
- (4) Subject to subsection (5) below, the chargeable amount for a chargeable day shall be calculated in accordance with the formula—

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

- (5) Where subsection (6) applies the chargeable amount for a chargeable day shall be calculated in accordance with the formula—

$$\frac{A \times B}{C \times 5}$$

- (6) This subsection applies where on the day concerned the ratepayer is a charity or trustees for a charity and the hereditament is wholly or mainly used for charitable purposes (whether of that charity or of that and other charities).
- (7) The amount the ratepayer is liable to pay under this section shall be paid to the charging authority in whose local non-domestic rating list the hereditament is shown.
- (8) The liability to pay any such amount shall be discharged by making a payment or payments in accordance with regulations under Schedule 9 below.

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

**C13** S. 43 applied by S.I. 1990/145, reg. 3(2)(a)

**C14** S. 43 modified by S.I. 1990/608, reg. 7

**C15** S. 43(6) modified by S.I. 1990/145, reg. 3(7)

**44 Occupied hereditaments: supplementary.**

- (1) This section applies for the purposes of section 43 above.
- (2) A is the rateable value shown for the day under section 42(4) above as regards the hereditament . . . <sup>F69</sup>
- (3) . . . <sup>F70</sup>
- (4) Subject to subsection (5) below, B is the non-domestic rating multiplier for the financial year.

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- (5) Where the charging authority is a special authority, B is the authority's non-domestic rating multiplier for the financial year.
- (6) C is the number of days in the financial year.

#### Textual Amendments

- F69** Words repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), ss. 139, 194(4), Sch. 5 para. 21(2), [Sch. 12 Pt. II](#) Note 4
- F70** [S. 44\(3\)](#) repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), ss. 139, 194(4), Sch. 5 para. 21(3), [Sch. 12 Pt. II](#) Note 4

#### [<sup>F71</sup>44A Partly occupied hereditaments.

- (1) Where a hereditament is shown in a charging authority's local non-domestic rating list and it appears to the authority that part of the hereditament is unoccupied but will remain so for a short time only the authority may require the valuation officer for the authority to apportion the rateable value of the hereditament between the occupied and unoccupied parts of the hereditament and to certify the apportionment to the authority.
- (2) The reference in subsection (1) above to the rateable value of the hereditament is a reference to the rateable value shown under section 42(4) above as regards the hereditament for the day on which the authority makes its requirement.
- (3) For the purposes of this section an apportionment under subsection (1) above shall be treated as applicable for any day which—
  - (a) falls within the operative period in relation to the apportionment, and
  - (b) is a day for which the rateable value shown under section 42(4) above as regards the hereditament to which the apportionment relates is the same as that so shown for the day on which the authority requires the apportionment.
- (4) References in this section to the operative period in relation to an apportionment are references to the period beginning—
  - (a) where requiring the apportionment does not have the effect of bringing to an end the operative period in relation to a previous apportionment under subsection (1) above, with the day on which the hereditament to which the apportionment relates became partly unoccupied, and
  - (b) where requiring the apportionment does have the effect of bringing to an end the operative period in relation to a previous apportionment under subsection (1) above, with the day immediately following the end of that period,
 and ending with the first day on which one or more of the events listed below occurs.
- (5) The events are—
  - (a) the occupation of any of the unoccupied part of the hereditament to which the apportionment relates;
  - (b) the ending of the rate period in which the authority requires the apportionment;
  - (c) the requiring of a further apportionment under subsection (1) above in relation to the hereditament to which the apportionment relates;
  - (d) the hereditament to which the apportionment relates becoming completely unoccupied.

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- (6) Subsection (7) below applies where—
- (a) a charging authority requires an apportionment under subsection (1) above, and
  - (b) the hereditament to which the apportionment relates does not fall within a class prescribed under section 45(1)(d) below.
- (7) In relation to any day for which the apportionment is applicable, section 43 above shall have effect as regards the hereditament as if the following subsections were substituted for section 44(2)—
- “(2) A is such part of the rateable value shown for the day under section 42(4) above as regards the hereditament as is assigned by the relevant apportionment to the occupied part of the hereditament.
- (2A) In subsection (2) above “the relevant apportionment” means the apportionment under section 44A(1) below which relates to the hereditament and is treated for the purposes of section 44A below as applicable for the day.”
- (8) Subsection (9) below applies where—
- (a) a charging authority requires an apportionment under subsection (1) above, and
  - (b) the hereditament to which the apportionment relates falls within a class prescribed under section 45(1)(d) below.
- (9) In relation to any day for which the apportionment is applicable, section 43 above shall have effect as regards the hereditament as if the following subsections were substituted for section 44(2)—
- “(2) A is the sum of—
- (a) such part of the rateable value shown for the day under section 42(4) above as regards the hereditament as is assigned by the relevant apportionment to the occupied part of the hereditament, and
  - (b) one half of such part of that rateable value as is assigned by the relevant apportionment to the unoccupied part of the hereditament.
- (2A) In subsection (2) above “the relevant apportionment” means the apportionment under section 44A(1) below which relates to the hereditament and is treated for the purposes of section 44A below as applicable for the day.”
- (10) References in subsections (1) to (5) above to the hereditament, in relation to a hereditament which is partly domestic property or partly exempt from local non-domestic rating, shall, except where the reference is to the rateable value of the hereditament, be construed as references to such part of the hereditament as is neither domestic property nor exempt from local non-domestic rating.]

#### Textual Amendments

**F71** S. 44A inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 22](#)

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#### 45 Unoccupied hereditaments: liability.

- (1) A person (the ratepayer) shall as regards a hereditament be subject to a non-domestic rate in respect of a chargeable financial year if the following conditions are fulfilled in respect of any day in the year—
- on the day none of the hereditament is occupied,
  - on the day the ratepayer is the owner of the whole of the hereditament,
  - the hereditament is shown for the day in a local non-domestic rating list in force for the year, and
  - on the day the hereditament falls within a [<sup>F72</sup>class] prescribed by the Secretary of State by regulations.
- (2) In such a case the ratepayer shall be liable to pay an amount calculated by—
- finding the chargeable amount for each chargeable day, and
  - aggregating the amounts found under paragraph (a) above.
- (3) A chargeable day is one which falls within the financial year and in respect of which the conditions mentioned in subsection (1) above are fulfilled.
- (4) Subject to subsection (5) below, the chargeable amount for a chargeable day shall be calculated in accordance with the formula—

$$\frac{A \times B}{C \times 2}$$

- (5) Where subsection (6) below applies the chargeable amount for a chargeable day shall be calculated in accordance with the formula—

$$\frac{A \times B}{C \times 10}$$

- (6) This subsection applies where on the day concerned the ratepayer is a charity or trustees for a charity and it appears that when next in use the hereditament will be wholly or mainly used for charitable purposes (whether of that charity or of that and other charities).
- (7) The amount the ratepayer is liable to pay under this section shall be paid to the charging authority in whose local non-domestic rating list the hereditament is shown.
- (8) The liability to pay any such amount shall be discharged by making a payment or payments in accordance with regulations under Schedule 9 below.
- [<sup>F73</sup>(9) For the purposes of subsection (1)(d) above a class may be prescribed by reference to such factors as the Secretary of State sees fit.
- (10) Without prejudice to the generality of subsection (9) above, a class may be prescribed by reference to one or more of the following factors—
- the physical characteristics of hereditaments;
  - the fact that hereditaments have been unoccupied at any time preceding the day mentioned in subsection (1) above;
  - the fact that the owners of hereditaments fall within prescribed descriptions.]

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#### Textual Amendments

**F72** Word substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 23\(2\)](#)

**F73** [S. 45\(9\)\(10\)](#) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 23\(3\)](#)

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

**C16** [S. 45](#) applied by [S.I. 1990/145](#), [reg. 3\(2\)\(a\)](#)

**C17** [S. 45](#) modified by [S.I. 1990/608](#), [regs. 3, 7\(1\)–\(4\)](#)

**C18** [S. 45\(6\)](#) modified by [S.I. 1990/145](#), [reg. 3\(7\)](#)

### 46 Unoccupied hereditaments: supplementary.

- (1) This section applies for the purposes of section 45 above.
- (2) A is the rateable value shown for the day under section 42(4) above as regards the hereditament . . . <sup>F74</sup>
- (3) Subject to subsection (4) below, B is the non-domestic rating multiplier for the financial year.
- (4) Where the charging authority is a special authority, B is the authority's non-domestic rating multiplier for the financial year.
- (5) C is the number of days in the financial year.

#### Textual Amendments

**F74** Words repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), ss. 139, 194(4), [Sch. 5 para. 24](#), [Sch. 12 Pt II](#) Note 4

### [<sup>F75</sup>46A Unoccupied hereditaments: new buildings.

- (1) Schedule 4A below (which makes provision with respect to the determination of a day as the completion day in relation to a new building) shall have effect.
- (2) Where—
  - (a) a completion notice is served under Schedule 4A below, and
  - (b) the building to which the notice relates is not completed on or before the relevant day,
 then for the purposes of section 42 above and Schedule 6 below the building shall be deemed to be completed on that day.
- (3) For the purposes of subsection (2) above the relevant day in relation to a completion notice is—
  - (a) where an appeal against the notice is brought under paragraph 4 of Schedule 4A below, the day stated in the notice, and
  - (b) where no appeal against the notice is brought under that paragraph, the day determined under that Schedule as the completion day in relation to the building to which the notice relates.



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(4) Where—

- (a) a day is determined under Schedule 4A below as the completion day in relation to a new building, and
- (b) the building is not occupied on that day,

it shall be deemed for the purposes of section 45 above to become unoccupied on that day.

(5) Where—

- (a) a day is determined under Schedule 4A below as the completion day in relation to a new building, and
- (b) the building is one produced by the structural alteration of an existing building,

the hereditament which comprised the existing building shall be deemed for the purposes of section 45 above to have ceased to exist, and to have been omitted from the list, on that day.

(6) In this section—

- (a) “building” includes part of a building, and
- (b) references to a new building include references to a building produced by the structural alteration of an existing building where the existing building is comprised in a hereditament which, by virtue of the alteration, becomes, or becomes part of, a different hereditament or different hereditaments.]

**Textual Amendments**

**F75** S. 46A inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 25](#)

**47 Discretionary relief.**

(1) Where the first and second conditions mentioned in subsections (2) and (3) below are fulfilled for a day which is a chargeable day within the meaning of section 43 or 45 above (as the case may be)—

- (a) the chargeable amount for the day shall be such as is determined by, or found in accordance with rules determined by, the charging authority concerned, and
- (b) sections 43(4) to (6) and 44 above, sections 45(4) to (6) and 46 above, [F76 regulations under section 58 below or any provision of or made under Schedule 7A below] (as the case may be) shall not apply as regards the day.

(2) The first condition is that one or more of the following applies on the chargeable day—

- (a) the ratepayer is a charity or trustees for a charity, and the hereditament is wholly or mainly used for charitable purposes (whether of that charity or of that and other charities);
- (b) the hereditament is not an excepted hereditament, and all or part of it is occupied for the purposes of one or more institutions or other organisations none of which is established or conducted for profit and each of whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts;
- (c) the hereditament is not an excepted hereditament, it is wholly or mainly used for purposes of recreation, and all or part of it is occupied for the purposes of a club, society or other organisation not established or conducted for profit.



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- (3) The second condition is that, during a period which consists of or includes the chargeable day, a decision of the charging authority concerned operates to the effect that this section applies as regards the hereditament concerned.
- (4) A determination under subsection (1)(a) above—
  - (a) must be such that the chargeable amount for the day is less than the amount it would be apart from this section;
  - (b) may be such that the chargeable amount for the day is 0;
  - (c) may be varied by a further determination of the authority under subsection (1)(a) above.
- (5) In deciding what the chargeable amount for the day would be apart from this section the effect of any regulations under section [F77]58 below and of any provision of or made under Schedule 7A below shall be taken into account but anything which has been done or could be done under section 49 below shall be ignored.
- (6) A decision under subsection (3) above may be revoked by a further decision of the authority.
- (7) A decision under subsection (3) above is invalid as regards a day if made after the end of the financial year in which the day falls.
- (8) The Secretary of State may make regulations containing provision—
  - (a) requiring notice to be given of any determination or decision;
  - (b) limiting the power to revoke a decision or vary a determination;
  - (c) as to other matters incidental to this section.
- (9) A hereditament is an excepted hereditament if all or part of it is occupied (otherwise than as trustee) by a charging authority or a precepting authority falling within section 144(2)(a) to (e) or (g) to (j) below.

#### Textual Amendments

**F76** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 26\(2\)](#)

**F77** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 26\(3\)](#)

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

**C19** [S. 47\(2\)\(a\)](#) modified by [S.I. 1990/145](#), [reg. 3\(7\)](#)

## 48 Discretionary relief: supplementary.

- (1) This section applies for the purposes of section 47 above.
- (2) A hereditament not in use shall be treated as wholly or mainly used for charitable purposes if it appears that when next in use it will be wholly or mainly used for charitable purposes.
- (3) A hereditament not in use shall be treated as wholly or mainly used for purposes of recreation if it appears that when next in use it will be wholly or mainly used for purposes of recreation.

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- (4) A hereditament which is wholly unoccupied shall be treated as an excepted hereditament if it appears that when any of it is next occupied the hereditament will be an excepted hereditament.
- (5) If a hereditament is wholly unoccupied but it appears that it or any part of it when next occupied will be occupied for particular purposes, the hereditament or part concerned (as the case may be) shall be treated as occupied for those purposes.

#### 49 Reduction or remission of liability.

- (1) A charging authority may—
  - (a) reduce any amount a person is liable to pay to it under section 43 or 45 above, or
  - (b) remit payment of the whole of any amount a person would otherwise be liable to pay to it under section 43 or 45 above.
- (2) But an authority may not act under this section unless it is satisfied that—
  - (a) the ratepayer would sustain hardship if the authority did not do so, and
  - (b) it is reasonable for the authority to do so, having regard to the interests of persons subject to its community charges.
- (3) The amount as regards which a reduction or remittance may be made under subsection (1) above is the amount the person would be liable to pay (apart from this section) taking account of anything done under section 47 above <sup>F78</sup>, the effect of any regulations under section 58 below, and the effect of any provision of or made under Schedule 7A below.]
- (4) Where an authority acts under this section, section 43 or 45 above shall be construed accordingly as regards the case concerned.

#### Textual Amendments

**F78** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 27](#)

#### 50 Joint owners or occupiers.

- (1) The Secretary of State may make such regulations as he sees fit to deal with any case where (apart from the regulations) there would be more than one owner or occupier of a hereditament or part of land at a particular time.
- (2) Nothing in the following provisions of this section shall prejudice the generality of subsection (1) above.
- (3) The regulations may provide for the owner or occupier at the time concerned to be taken to be such one of the owners or occupiers as is identified in accordance with prescribed rules.
- (4) The regulations may provide that—
  - (a) as regards any time when there is only one owner or occupier, section 43 or 45 above (as the case may be) shall apply;

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- (b) as regards any time when there is more than one owner or occupier, the owners or occupiers shall be jointly and severally liable to pay a prescribed amount by way of non-domestic rate.
- (5) The regulations may include provision that prescribed provisions shall apply instead of prescribed provisions of this Part, or that prescribed provisions of this Part shall not apply or shall apply subject to prescribed amendments or adaptations.

## 51 Exemption.

Schedule 5 below shall have effect to determine the extent (if any) to which a hereditament is for the purposes of this Part exempt from local non-domestic rating.

### *Central rating*

## 52 Central rating lists.

- (1) In accordance with this Part the central valuation officer shall compile, and then maintain, lists (to be called central non-domestic rating lists).
- (2) A list must be compiled on 1 April 1990 and on 1 April in every fifth year afterwards.
- (3) A list shall come into force on the day on which it is compiled and shall remain in force until the next one is compiled five years later.
- (4) Before a list is compiled the central valuation officer must take such steps as are reasonably practicable to ensure that it is accurately compiled on 1 April concerned.
- (5) Not later than 31 December preceding a day on which a list is to be compiled the central valuation officer shall send to the Secretary of State a copy of the list he proposes (on the information then before him) to compile.
- (6) As soon as is reasonably practicable after receiving the copy the Secretary of State shall deposit it at his principal office.
- [<sup>F79</sup>(6A) As soon as is reasonably practicable after compiling a list the central valuation officer shall send a copy of it to the Secretary of State.
- (6B) As soon as is reasonably practicable after receiving the copy the Secretary of State shall deposit it at his principal office.]
- (7) A list must be maintained for so long as is necessary for the purposes of this Part, so that the expiry of the five year period for which it is in force does not detract from the duty to maintain it.

### Textual Amendments

**F79** S. 52(6A)(6B) inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, Sch. 5 para. 28

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### 53 Contents of central lists.

- (1) With a view to securing the central rating en bloc of certain hereditaments, the Secretary of State may by regulations designate a person and prescribe in relation to him [<sup>F80</sup>one or more descriptions] of relevant non-domestic hereditament.
- (2) Where the regulations so require, a central non-domestic rating list must show, for each day in each chargeable financial year for which it is in force, the name of the designated person and, against it, each hereditament (wherever situated) which on the day concerned—
  - (a) is occupied or (if unoccupied) owned by him, and
  - (b) falls within [<sup>F81</sup>any] description prescribed in relation to him.
- (3) For each such day the list must also show against the name of the designated person the rateable value (as a whole) of the hereditaments so shown.
- [<sup>F82</sup>(4) Where regulations are for the time being in force under this section prescribing a description of non-domestic hereditament in relation to a person designated in the regulations (“the previously designated person”), amending regulations altering the designated person in relation to whom that description of hereditament is prescribed may have effect from a date earlier than that on which the amending regulations are made.
- (4A) Where, by virtue of subsection (4) above, the designated person in relation to any description of non-domestic hereditament is changed from a date earlier than the making of the regulations,—
  - (a) any necessary alteration shall be made with effect from that date to a central non-domestic rating list on which any hereditament concerned is shown; and
  - (b) an order making the provision referred to in paragraph 3(2) of Schedule 6 below and specifying a description of hereditament by reference to the previously designated person shall be treated, with effect from that date, as referring to the person designated by the amending regulations.]
- (5) A central non-domestic rating list must also contain such information about hereditaments shown in it as may be prescribed by the Secretary of State by regulations.

#### Textual Amendments

- F80** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\), s. 139, Sch. 5 para. 29\(2\)](#)
- F81** Word substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\), s. 139, Sch. 5 para. 29\(3\)](#)
- F82** [S. 53\(4\)\(4A\)](#) substituted for s. 53(4) by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\), s. 139, Sch. 5 para. 29\(4\)](#)

### 54 Central rating: liability.

- (1) A person (the ratepayer) shall be subject to a non-domestic rate in respect of a chargeable financial year if for any day in the year his name is shown in a central non-domestic rating list in force for the year.
- (2) In such a case the ratepayer shall be liable to pay an amount calculated by—

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- (a) finding the chargeable amount for each chargeable day, and
  - (b) aggregating the amounts found under paragraph (a) above.
- (3) A chargeable day is one which falls within the financial year and for which the ratepayer's name is shown in the list.
- (4) The chargeable amount for a chargeable day shall be calculated in accordance with the formula—

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

- (5) A is the rateable value shown for the day in the list against the ratepayer's name.
- (6) B is the non-domestic rating multiplier for the financial year.
- (7) C is the number of days in the financial year.
- (8) The amount the ratepayer is liable to pay under this section shall be paid to the Secretary of State.
- (9) The liability to pay any such amount shall be discharged by making a payment or payments in accordance with regulations under Schedule 9 below.

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

- C20** S. 54 modified by S.I. 1990/608, regs. 4(2)(7), 7  
S. 54 modified (W.) (31.12.1999) by S.I. 1999/3454, reg. 8(1)

*General*

**55 Alteration of lists.**

- (1) The Secretary of State may make regulations providing that where a copy of a list has been sent under section 41(5) or 52(5) above and the valuation officer alters the list before it comes into force—
- (a) the officer must inform the charging authority or Secretary of State (as the case may be), and
  - (b) the authority or Secretary of State (as the case may be) must alter the deposited copy accordingly.
- (2) The Secretary of State may make regulations about the alteration by valuation officers of lists which have been compiled under this Part, whether or not they are still in force; and subsections (3) to (7) below shall apply for the purposes of this subsection.
- (3) The regulations may include provision that where a valuation officer intends to alter a list with a view to its being accurately maintained, he shall not alter it unless prescribed conditions (as to notice or otherwise) are fulfilled.
- (4) The regulations may include provision—
- (a) as to who (other than a valuation officer) may make a proposal for the alteration of a list with a view to its being accurately maintained,

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- (b) as to the [<sup>F83</sup>manner and] circumstances in which a proposal may be made [<sup>F84</sup>and the information to be included in a proposal],
  - (c) as to the period within which a proposal must be made,
  - (d) as to the procedure for [<sup>F85</sup>and subsequent to the making of] a proposal, and
  - [<sup>F86</sup>(dd) as to the circumstances within which and the conditions upon which a proposal may be withdrawn]
  - (e) requiring the valuation officer to inform other prescribed persons of the proposal in a prescribed manner.
- (5) The regulations may include provision that, where there is a disagreement [<sup>F87</sup>between a valuation officer and another person making a proposal for the alteration of a list—
- (a) about the validity of the proposal; or
  - (b) about the accuracy of the list],
- an appeal may be made to a valuation and community charge tribunal established under Schedule 11 below.
- (6) The regulations may include—
- (a) provision as to the period for which or day from which an alteration of a list is to have effect (including provision that it is to have retrospective effect);
  - (b) provision requiring the list to be altered so as to indicate the effect (retrospective or otherwise) of the alteration;
  - (c) provision requiring the valuation officer to inform prescribed persons of an alteration within a prescribed period;
  - (d) provision requiring the valuation officer to keep for a prescribed period a record of the state of the list before the alteration was made.
- (7) The regulations may include provision as to financial adjustments to be made as a result of alterations, including—
- (a) provision requiring payments to be made,
  - (b) provision requiring repayments to be made together with payments of interest . . . <sup>F88</sup>, and
  - (c) provision as to the recovery (by deduction or otherwise) of sums due.
- [<sup>F89</sup>(7A) The regulations may include provision that—
- (a) where a valuation officer for a charging authority has informed the authority of an alteration of a list a copy of which has been deposited by the authority under section 41(6B) above, the authority must alter the copy accordingly;
  - (b) where the central valuation officer has informed the Secretary of State of an alteration of a list a copy of which has been deposited under section 52(6B) above, the Secretary of State must alter the copy accordingly.]

#### Textual Amendments

**F83** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 30\(2\)\(a\)](#)

**F84** Words added by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 30\(2\)\(a\)](#)

**F85** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 30\(2\)\(b\)](#)

**F86** [S. 55\(4\)\(dd\)](#) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 30\(2\)\(c\)](#)

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- F87** Words and s. 55(5)(a)(b) substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 30\(3\)](#)
- F88** Words repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), ss. 139, 194(4), [Sch. 5 para. 30\(4\)](#), [Sch. 12 Pt. II](#) Note 4
- F89** [S. 55\(7A\)](#) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 30\(5\)](#)

## 56 Valuation and multipliers.

- (1) Schedule 6 below (which contains provisions about valuation for the purposes of this Part) shall have effect.
- (2) Schedule 7 below (which contains provisions about multipliers for the purposes of this Part) shall have effect.

## [<sup>F90</sup>57 Special provision for 1990-95.

Schedule 7A below (which contains special provision for 1990-95) shall have effect.]

### Textual Amendments

- F90** [S. 57](#) substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 31](#)

## 58 Special provision for 1995 onwards.

- (1) In relation to any relevant period the Secretary of State may make regulations under this section.
- (2) The regulations may contain such provisions as are mentioned in subsection (3) below as regards any case which falls within a prescribed description and where—
  - (a) as regards a hereditament or hereditaments the chargeable amount for a chargeable day falls to be determined under section 43, 45 or 54 above, and
  - (b) the day falls within the relevant period concerned.
- (3) The provisions are that—
  - (a) the chargeable amount shall be such as is found in accordance with prescribed rules, and
  - (b) sections 43(4) to (6) and 44 above, sections 45(4) to (6) and 46 above, or section 54(4) to (7) above (as the case may be) shall not apply.
- (4) A chargeable amount found in accordance with rules prescribed under this section may be the same as or different from what it would be apart from the regulations.
- (5) Rules prescribed under this section may be framed by reference to such factors as the Secretary of State thinks fit.
- (6) Without prejudice to section 143(1) below, regulations under this section relating to a relevant period may contain different provision for different relevant financial years.
- (7) Without prejudice to section 143(1) below, regulations under this section may contain different provision in relation to locally listed hereditaments whose rateable value exceeds, and those whose rateable value does not exceed, a prescribed figure; and a



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locally listed hereditament is a hereditament for the time being shown in a local non-domestic rating list.

- (8) Regulations under this section in their application to a particular relevant period shall not be effective unless they come into force before 1 January immediately preceding the period; but this is without prejudice to the power to amend or revoke.
- (9) In making regulations under this section the Secretary of State shall have regard to the object of securing (so far as practicable) that the aggregate amount payable to him and all charging authorities by way of non-domestic rates as regards a particular financial year is the same as it would in his opinion be likely to be apart from the regulations.
- (10) For the purposes of this section—
- (a) a relevant period is a period of five years beginning on any 1 April (other than 1 April 1990) on which lists must be compiled;
  - (b) a relevant financial year, as regards regulations relating to a relevant period, is a financial year falling within the period.

[<sup>F91</sup> **59 Contributions in aid.**

Where a contribution in aid of non-domestic rating is made in respect of a Crown hereditament, the contribution shall be paid to the Secretary of State.]

**Textual Amendments**

**F91** S. 59 substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 32](#)

**60 Pooling.**

Schedule 8 below (which provides for the keeping of non-domestic rating accounts, and for sums to be paid to and by the Secretary of State) shall have effect.

**61 Valuation officers.**

- (1) The Commissioners of Inland Revenue shall appoint—
- (a) a valuation officer for each charging authority, and
  - (b) the central valuation officer.
- (2) The remuneration of, and any expenses incurred by, valuation officers in carrying out their functions under this Part (including the remuneration and expenses of persons, whether or not in the service of the Crown, employed to assist them) shall be paid out of money provided by Parliament.

**62 Administration.**

Schedule 9 below (which contains provisions about administration, including collection and recovery) shall have effect.



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### **63 Death.**

- (1) The Secretary of State may make such regulations as he sees fit to deal with any case where a person dies and at any time before his death he was (or is alleged to have been) subject to a non-domestic rate.
- (2) Nothing in the following provisions of this section shall prejudice the generality of subsection (1) above.
- (3) The regulations may provide that where before his death a sum has become payable by the deceased but has not been paid his executor or administrator shall be liable to pay the sum and may deduct out of the assets and effects of the deceased any payments made (or to be made).
- (4) The regulations may provide that where before his death a sum in excess of his liability has been paid (whether the excess arises because of his death or otherwise) and has not been repaid or credited his executor or administrator shall be entitled to the sum.
- (5) The regulations may provide for the recovery of any sum which is payable under the regulations and is not paid.
- (6) The regulations may provide that proceedings (whether by way of appeal under regulations under section 55 above or otherwise) may be instituted, continued or withdrawn by the deceased's executor or administrator.

#### *Interpretation*

### **64 Hereditaments.**

- (1) A hereditament is anything which, by virtue of the definition of hereditament in section 115(1) of the 1967 Act, would have been a hereditament for the purposes of that Act had this Act not been passed.
- (2) In addition, a right is a hereditament if it is a right to use any land for the purpose of exhibiting advertisements and—
  - (a) the right is let out or reserved to any person other than the occupier of the land, or
  - (b) where the land is not occupied for any other purpose, the right is let out or reserved to any person other than the owner of the land.
- (3) The Secretary of State may make regulations providing that in prescribed cases—
  - (a) anything which would (apart from the regulations) be one hereditament shall be treated as more than one hereditament;
  - (b) anything which would (apart from the regulations) be more than one hereditament shall be treated as one hereditament.
- (4) A hereditament is a relevant hereditament if it consists of property of any of the following descriptions—
  - (a) lands;
  - (b) coal mines;
  - (c) mines of any other description, other than a mine of which the royalty or dues are for the time being wholly reserved in kind;

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- (d) any right of sporting (that is, any right of fowling, of shooting, of taking or killing game or rabbits, or of fishing) when severed from the occupation of the land on which the right is exercisable;
  - (e) any right which is a hereditament by virtue of subsection (2) above.
- (5) Subsection (6) below applies in the case of a hereditament provided and maintained by an authority mentioned in subsection (7) below for purposes connected with the administration of justice, police purposes or other Crown purposes.
- (6) Any rules as to Crown exemption which would have applied apart from this subsection shall not—
- (a) detract from any duty to show the hereditament in a local or central non-domestic rating list,
  - (b) prevent a person being subject to a non-domestic rate as regards the hereditament under section 43, 45 or 54 above, or
  - (c) prevent the person being liable to pay in respect of the rate.
- (7) The authorities are—
- (a) a county council,
  - (b) a district council,
  - (c) a London borough council,
  - (d) the Common Council,
  - (e) a metropolitan county police authority, and
  - (f) the Northumbria Police Authority.
- [<sup>F92</sup>(7A) The Secretary of State may by order provide that subsection (6) above shall also apply in relation to any hereditament of a prescribed class.
- (7B) For the purposes of subsection (7A) above a class may be prescribed by reference to such factors as the Secretary of State sees fit.
- (7C) Without prejudice to the generality of subsection (7B) above, a class may be prescribed by reference to one or more of the following factors—
- (a) the physical characteristics of hereditaments;
  - (b) the fact that hereditaments are unoccupied or are occupied for prescribed purposes or by persons of prescribed descriptions.
- (7D) A hereditament is a Crown hereditament if—
- (a) it is occupied by or on behalf of the Crown for public purposes,
  - (b) though unoccupied, it appears that it will be occupied by or on behalf of the Crown for public purposes when next in occupation, or
  - (c) it is provided and maintained by an authority mentioned in subsection (7) above for purposes connected with the administration of justice, police purposes or other Crown purposes.]

(8) A hereditament is non-domestic if either—

    - (a) it consists entirely of property which is not domestic, or
    - (b) it is a composite hereditament.

(9) A hereditament is composite if part only of it consists of domestic property.

(10) A hereditament shall be treated as wholly or mainly used for charitable purposes at any time if at the time it is wholly or mainly used for the sale of goods donated to

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a charity and the proceeds of sale of the goods (after any deduction of expenses) are applied for the purposes of a charity.

- (11) In subsection (2) above “land” includes a wall or other part of a building and a sign, hoarding, frame, post or other structure erected or to be erected on land.

#### Textual Amendments

**F92** S. 64(7A)–(7D) inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, **Sch. 5 para. 33**

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

**C21** S. 64(10) excluded by S.I. 1990/2329, **reg. 3(3)**

## 65 Owners and occupiers.

- (1) The owner of a hereditament or land is the person entitled to possession of it.
- (2) Whether a hereditament or land is occupied, and who is the occupier, shall be determined by reference to the rules which would have applied for the purposes of the 1967 Act had this Act not been passed (ignoring any express statutory rules such as those in sections 24 and 46A of that Act).
- (3) Subsections (1) and (2) above shall have effect subject to subsections (4) to (9) below.
- (4) Regulations under section 64(3) above may include rules for ascertaining—
  - (a) whether the different hereditaments or the one hereditament (as the case may be) shall be treated as occupied or unoccupied;
  - (b) who shall be treated as the owner or occupier of the different hereditaments or the one hereditament (as the case may be).
- (5) A hereditament which is not in use shall be treated as unoccupied if (apart from this subsection) it would be treated as occupied by reason only of there being kept in or on the hereditament plant, machinery or equipment—
  - (a) which was used in or on the hereditament when it was last in use, or
  - (b) which is intended for use in or on the hereditament.
- (6) A hereditament shall be treated as unoccupied if (apart from this subsection) it would be treated as occupied by reason only of—
  - (a) the use of it for the holding of public meetings in furtherance of a person’s candidature at a parliamentary or local government election, or
  - (b) if it is a house, the use of a room in it by a returning officer for the purpose of taking the poll in a parliamentary or local government election.
- (7) In subsection (6) above “returning officer” shall be construed in accordance with section 24 or 35 of the <sup>M3</sup>Representation of the People Act 1983 (as the case may be).
- (8) A right which is a hereditament by virtue of section 64(2) above shall be treated as occupied by the person for the time being entitled to the right.

[<sup>F93</sup>(8A) In a case where—

- (a) land consisting of a hereditament is used (permanently or temporarily) for the exhibition of advertisements or for the erection of a structure used for the exhibition of advertisements,

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- (b) section 64(2) above does not apply, and
  - (c) apart from this subsection, the hereditament is not occupied,
- the hereditament shall be treated as occupied by the person permitting it to be so used or, if that person cannot be ascertained, its owner.]
- (9) A right of sporting shall be treated as occupied by the owner of the right, whether or not it is let; and “owner” here means the person who is entitled to receive rent (if the right is let) or to exercise the right to let (if the right is not let).

#### Textual Amendments

**F93** S. 65(8A) inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, Sch. 5 para. 34

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

**C22** S. 65 applied (29.4.1996) by 1996 c. 12, s. 2(3)

#### Marginal Citations

**M3** 1983 c. 2.

### [65A <sup>F94</sup>Crown property.

- (1) This Part applies to the Crown as it applies to other persons.
- (2) Accordingly, liability to a non-domestic rate in respect of a hereditament is not affected by the fact that—
  - (a) the hereditament is occupied by the Crown or by a person acting on behalf of the Crown or is used for Crown purposes, or
  - (b) the Crown or a person acting on behalf of the Crown is the owner of the hereditament.
- (3) If (apart from this subsection) any property would consist of two or more Crown hereditaments, the property is to be treated for the purposes of this Part as if it were a single hereditament occupied by such one of the occupiers as appears to the billing authority to occupy the largest part of the property.
- (4) In this section, “Crown hereditament” means a hereditament which—
  - (a) is occupied by a Minister of the Crown or Government department or by any officer or body exercising functions on behalf of the Crown, but
  - (b) is not provided or maintained by a local authority or by a police authority established under section 3 of the <sup>M4</sup>Police Act 1996.
- (5) In this section—
  - (a) references to this Part include any subordinate legislation (within the meaning of the <sup>M5</sup>Interpretation Act 1978) made under it, and
  - (b) “local authority” has the same meaning as in the <sup>M6</sup>Local Government Act 1972, and includes the Common Council of the City of London.
- (6) The Secretary of State may by order amend subsection (4)(b) above so as to alter the persons for the time being referred to there.
- (7) Subsection (3) above does not affect the power conferred by section 64(3) above]

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### Textual Amendments

**F94** S. 65A inserted (*prosp.*) by 1997 c. 29, ss. 3, 34(1)

### Marginal Citations

**M4** 1996 c. 16.

**M5** 1978 c. 30.

**M6** 1972 c. 70.

## 66 Domestic property.

- (1) [<sup>F95</sup>Subject to subsections (2) and (2B) below,] property is domestic if—
- (a) it is used wholly for the purposes of living accommodation,
  - (b) it is a yard, garden, outhouse or other appurtenance belonging to or enjoyed with property falling within paragraph (a) above,
  - (c) it is a private garage [<sup>F96</sup>which either has a floor area of 25 square metres or less or is] used wholly or mainly for the accommodation of a private motor vehicle, or
  - (d) it is private storage premises used wholly or mainly for the storage of articles of domestic use.

[<sup>F97</sup>(2) Property is not domestic property if it is wholly or mainly used in the course of a business for the provision of short-stay accommodation, that is to say accommodation—

- (a) which is provided for short periods to individuals whose sole or main residence is elsewhere, and
- (b) which is not self-contained self-catering accommodation provided commercially.

[ Subsection (2) above does not apply if—

- <sup>F98</sup>(2A) (a) it is intended that within the year beginning with the end of the day in relation to which the question is being considered, short-stay accommodation will not be provided within the hereditament for more than six persons simultaneously; and
- (b) the person intending to provide such accommodation intends to have his sole or main residence within that hereditament throughout any period when such accommodation is to be provided, and that any use of living accommodation within the hereditament which would, apart from this subsection, cause any part of it to be treated as non-domestic, will be subsidiary to the use of the hereditament for, or in connection with, his sole or main residence.]

(2B) A building or self-contained part of a building is not domestic property if—

- (a) the relevant person intends that, in the year beginning with the end of the day in relation to which the question is being considered, the whole of the building or self-contained part will be available for letting commercially, as self-catering accommodation, for short periods totalling 140 days or more, and
- (b) on that day his interest in the building or part is such as to enable him to let it for such periods.

(2C) For the purposes of subsection (2B) the relevant person is—

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- (a) where the property in question is a building and is not subject as a whole to a relevant leasehold interest, the person having the freehold interest in the whole of the building; and
  - (b) in any other case, any person having a relevant leasehold interest in the building or self-contained part which is not subject (as a whole) to a single relevant leasehold interest inferior to his interest.
- (2D) Subsection (2B) above does not apply where the building or self-contained part is used as the sole or main residence of any person other than a person who is treated as having such a residence there only by virtue of section 2(5A) above [<sup>F99</sup>and on the day in relation to which the question is being considered is not resident in the building or part].]
- [<sup>F100</sup>(3) Subsection (1) above does not apply in the case of a pitch occupied by a caravan, but if in such a case the caravan is the sole or main residence of an individual, the pitch and the caravan, together with any garden, yard, outhouse or other appurtenance belonging to or enjoyed with them, are domestic property]
- [<sup>F101</sup>(4) Subsection (1) above does not apply in the case of a mooring occupied by a boat, but if in such a case the boat is the sole or main residence of an individual, the mooring and the boat, together with any garden, yard, outhouse or other appurtenance belonging to or enjoyed with them, are domestic property.
- (4A) Subsection (3) or (4) above does not have effect in the case of a pitch occupied by a caravan, or a mooring occupied by a boat, which is an appurtenance enjoyed with other property to which subsection (1)(a) above applies]
- (5) Property not in use is domestic if it appears that when next in use it will be domestic.
- (6) [<sup>F102</sup> .....
- (7) Whether anything is a caravan shall be construed in accordance with Part I of the <sup>M7</sup>Caravan Sites and Control of Development Act 1960.
- (8) [<sup>F102</sup> .....
- [<sup>F103</sup>(8A) In this section—
- “business” includes—
  - (a) any activity carried on by a body of persons, whether corporate or unincorporate, and
  - (b) any activity carried on by a charity;
- “commercially” means on a commercial basis, and with a view to the realisation of profits; and
  - “relevant leasehold interest” means an interest under a lease or underlease which was granted for a term of 6 months or more and conferred the right to exclusive possession throughout the term.]
- (9) The Secretary of State may by order amend, or substitute another definition for, any definition of domestic property for the time being effective for the purposes of this Part.

#### Textual Amendments

**F95** Words inserted by [S.I. 1990/162, art. 3\(4\)](#)

**F96** Words inserted by [S.I. 1990/162, art. 3\(2\)\(b\)](#)

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- F97** S. 66 subsections(2)–(2D) substituted for subsection (2) by S.I. 1990/162 art. 3(3)
- F98** S. 66(2A) substituted (1. 4. 1991) by S.I. 1991/474, **art. 3(1)**
- F99** Words at the end of s. 66(2D) added (1.4.1991) by S.I. 1991/474, **art. 3(2)**
- F100** S. 66(3) substituted (*retrospective* to 1.4.1990) by 1996 C. 12, S. 1(2)(4)(5)
- F101** S. 66(4)(4A) substituted for s. 66(4) (*retrospective* to 1.4.1990) by 1996 c. 12, **s. 1(3)(4)(5)**
- F102** S. 66(6)(8) repealed (*retrospectively*) by Caravans (Standard Community Charge and Rating) Act 1991 (c. 2), **s. 1(2)(3)**
- F103** S. 66(8A) inserted by S.I. 1990/162, **art. 3(4)**

#### Marginal Citations

- M7** 1960 c. 62.

## 67 Interpretation: other provisions.

- (1) Unless the context otherwise requires, references to lists are to local and central non-domestic rating lists.
  - (2) Unless the context otherwise requires, references to valuation officers are to valuation officers for charging authorities and the central valuation officer.
  - (3) A right or other property is a hereditament on a particular day if (and only if) it is a hereditament immediately before the day ends.
  - (4) A hereditament is relevant, non-domestic, composite, unoccupied or wholly or partly occupied on a particular day if (and only if) it is relevant, non-domestic, composite, unoccupied or wholly or partly occupied (as the case may be) immediately before the day ends.
  - (5) For the purpose of deciding the extent (if any) to which a hereditament consists of domestic property on a particular day, [<sup>F104</sup>or is a Crown hereditament on a particular day,] or is exempt from local non-domestic rating on a particular day, the state of affairs existing immediately before the day ends shall be treated as having existed throughout the day.
  - (6) A person is the owner, or in occupation of all or part, of a hereditament on a particular day if (and only if) he is its owner or in such occupation (as the case may be) immediately before the day ends.
  - (7) A relevant provision applies on a particular day if (and only if) it applies immediately before the day ends; and for this purpose relevant provisions are sections 43(6), 45(6) and 47(2) above.
  - (8) For the purpose of deciding what is shown in a list for a particular day the state of the list as it has effect immediately before the day ends shall be treated as having been its state throughout the day; and “effect” here includes any effect which is retrospective by virtue of an alteration of the list.
  - (9) A hereditament shall be treated as shown in a central non-domestic rating list for a day if on the day it falls within a class of hereditament shown for the day in the list; and for this purpose a hereditament falls within a class on a particular day if (and only if) it falls within the class immediately before the day ends.
- [<sup>F105</sup>(9A) In subsection (9) above “class” means a class expressed by reference to whether hereditaments—
- (a) are occupied or owned by a person designated under section 53(1) above, and

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- (b) fall within any description prescribed in relation to him under section 53(1).]
- (10) A charity is an institution or other organisation established for charitable purposes only or any persons administering a trust established for charitable purposes only.
- (11) The <sup>M8</sup>1967 Act is the General Rate Act 1967.
- (12) Nothing in a private or local Act passed before this Act shall have the effect that a hereditament is exempt as regards non-domestic rating, or prevent a person being subject to a non-domestic rate, or prevent a person being designated or a description of hereditament being prescribed under section 53 above.
- (13) This section and sections 64 to 66 above apply for the purposes of this Part.

#### Textual Amendments

**F104** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, **Sch. 5 para. 35(2)**

**F105** [S. 67\(9A\)](#) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, **Sch. 5 para. 35(3)**

#### Marginal Citations

**M8** 1967 c. 9.

## PART IV

### PRECEPTS AND LEVIES

#### *Precepts*

#### 68 Precepts to be issued.

- (1) For each chargeable financial year, a precepting authority shall issue a precept or precepts in accordance with this section.
- (2) A precept must be issued before [<sup>F106</sup>1 March] in the financial year preceding that for which it is issued, but is not invalid merely because it is issued on or after that date.
- (3) The precepting authority must secure (so far as practicable) that the total amount yielded by precepts issued by it for a financial year is sufficient to provide for the items mentioned in subsection (4) below, to the extent that they are not to be provided for by other means.
- [<sup>F107</sup>(4) The items are—
- (a) the expenditure the authority estimates it will incur in the year in performing its functions in the year 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 the estimated expenditure referred to in subsection (4A) below; and



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- (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.
- (4A) The estimated expenditure referred to in subsection (4)(c) above is—
- (a) that which the authority estimates that, in the financial year following the year in question, it will incur, will charge to a revenue account and will have to defray before sums yielded by way of precepts are sufficiently available; 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.
- (4B) References in subsections (4) and (4A) above to expenditure incurred by the authority shall be construed in accordance with section 41(3) of the Local Government and Housing Act 1989.]
- (5) In estimating under subsection (4)(a) above a precepting authority which is a county council shall take into account the amount of any levy issued to it for the year but (except as provided by regulations under section 74 below) shall not anticipate a levy not issued.

#### Textual Amendments

**F106** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 49\(2\)](#)

**F107** [S. 68 subsections \(4\)–\(4B\)](#) substituted for subsection (4) by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 49\(3\)](#)

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

**C23** [S. 68\(4\)\(a\)](#) modified by [S.I. 1990/70, reg. 12\(2\)–\(4\)](#), by [S.I. 1990/71, reg. 13\(4\)](#)s. 68(4)(a) and by [S.I. 1990/118, reg. 11\(2\)–\(4\)](#)

**C24** [S. 68\(4\)\(a\)](#) amended by [S.I. 1990/71, reg. 13\(3\)](#)

## 69 Precepted authorities.

- (1) A precept may only be issued to an appropriate charging authority.
- (2) If the whole or part of a charging authority's area falls within a precepting authority's area, it is an appropriate charging authority in relation to the precepting authority to the extent of the area which so falls.
- (3) A precepting authority must secure that such of its general expenses as are to be met by precepts are borne by its appropriate charging authorities (if more than one) in proportion.
- (4) A precepting authority must secure that such of its special expenses as are to be met by precepts are borne by the appropriate charging authority to whose area or part the expenses concerned relate or by all such charging authorities (if more than one) in proportion.
- (5) Proportions under subsection (3) above shall be determined by reference to the relevant population of each charging authority's area or (as the case may be) the part which falls within the precepting authority's area.

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- (6) Proportions under subsection (4) above shall be determined by reference to the relevant population of each area or part to which the expenses concerned relate.
- [<sup>F108</sup>(7) As regards precepts for a particular financial year the relevant population of the area of an English charging authority is the relevant population, calculated under paragraph 4 of Schedule 12A below, of the area for the year.
- (7A) As regards precepts for a particular financial year the relevant population of the area of a Welsh charging authority is the relevant population, calculated under paragraph 5 of Schedule 12A below, of the area for the year.
- (7B) As regards precepts for a particular financial year the relevant population of part of the area of a charging authority is the relevant population, calculated under paragraph 6 of Schedule 12A below, of the part for the year.]
- (8) A precept may be issued to the same authority in respect of both general and special expenses of the precepting authority.
- (9) A precept must state—
- (a) whether it or any portion of it is issued in respect of general expenses,
  - (b) whether it or any portion of it is issued in respect of special expenses, and
  - (c) whether it or any portion of it is applicable to all or part of the area of the authority to which it is issued and, in the case of a part, what part.

#### Textual Amendments

**F108** S. 69 subsections (7)–(7B) substituted for subsection (7) by [Local Government and Housing Act 1989](#) (c. 42, SIF 81:1), s. 139, [Sch. 5 para. 50](#)

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

**C25** S. 69(1)(2) modified (E.) (18. 2. 1991) by [S.I. 1991/241](#), [art. 4\(2\)](#)

## 70 General and special expenses.

- (1) This section applies for the purposes of section 69 above.
- (2) All the expenses of a county council are its general expenses except that—
- (a) if it is the police authority for part only of its area its expenses as police authority are special expenses provided a resolution of the council to that effect is in force,
  - (b) provided a resolution of the council to the following effect is in force, [<sup>F109</sup>the expenses of meeting] a levy issued 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, and
  - (c) if it is a Welsh county council whose library area consists of part of its administrative area, its expenses in exercising its functions as library authority in its library area are its special expenses.
- (3) Expenses which are special by virtue of a resolution under subsection (2)(a) above relate to the part of the council's area for which it is the police authority.
- (4) Expenses which are special by virtue of a resolution under subsection (2)(b) above relate to the part of the council's area in which the levying body carries out functions.

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- (5) Expenses which are special by virtue of subsection (2)(c) above relate to the part of the council's administrative area which consists of its library area.
- (6) All the expenses of each of the following are its general expenses—
  - (a) a metropolitan county police authority,
  - (b) the Northumbria Police Authority,
  - (c) a metropolitan county fire and civil defence authority, and
  - (d) the London Fire and Civil Defence Authority.
- (7) All the expenses of the Receiver for the Metropolitan Police District are his general expenses, except that his expenses relating to the metropolitan police courts and the probation system in the metropolitan police court area are his special expenses.
- (8) Expenses which are special by virtue of subsection (7) above relate to the metropolitan police court area.
- (9) All the expenses of the sub-treasurer of the Inner Temple are his general expenses, and all the expenses of the under-treasurer of the Middle Temple are his general expenses.
- (10) All the expenses of a parish or community council, the chairman of a parish meeting or charter trustees are general expenses.
- (11) "Library area" shall be construed in accordance with the <sup>M9</sup>Public Libraries and Museums Act 1964.

#### Textual Amendments

**F109** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 51](#)

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

**C26** [S. 70\(2\)\(b\)](#) extended by [S.I. 1990/70, reg. 12\(6\)](#) and by [S.I. 1990/71, reg. 13\(6\)](#)

**C27** [S. 70\(2\)\(b\)](#) modified by [S.I. 1990/118, reg. 11\(2\)\(6\)](#)

#### Marginal Citations

**M9** [1964 c. 75.](#)

## 71 Substituted precepts.

- (1) An authority which has issued a precept or precepts for a financial year (originally or by way of substitute) may issue a precept or precepts in substitution.
- (2) Any precept issued in substitution must be issued in accordance with sections 68 to 70 above, ignoring section 68(2) for this purpose.
- (3) No precept may be issued in substitution if its amount would be greater than the amount of that for which it is substituted, except as provided by subsection (4) below.
- (4) The amount of any precept issued in substitution may be greater than the amount of that for which it is substituted (the old precept) if the old precept has been quashed because of a failure to fulfil section 68(3) or 69(3) or (4) above.

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- (5) Where an authority issues a precept in substitution (a new precept) anything paid to it by reference to the precept for which it is substituted (the old precept) shall be treated as paid by reference to the new precept.
- (6) But if the amount of the old precept exceeds that of the new precept, the following shall apply as regards anything paid if it would not have been paid had the amount of the old precept been the same as that of the new precept—
  - (a) it shall be repaid if the charging authority by whom it was paid so requires;
  - (b) in any other case it shall (as the precepting authority determines) either be repaid or be credited against any subsequent liability of the charging authority in respect of any precept of the precepting authority.

## 72 Statement as to payment of precept.

- (1) A precept (whether original or by way of substitute) must state—
  - (a) whether the authority to which it is issued needs to pay anything in respect of the amount of the precept, and
  - (b) if it does, what it needs to pay to the issuing authority.
- (2) The Secretary of State may make regulations providing that prescribed matters are, and other prescribed matters are not, to be taken into account by an authority in preparing a statement under this section.
- (3) The matters which may be prescribed include the effects of sections 37(5) and 71(5) and (6) above and of regulations under section 99 below.

## 73 Information.

- (1) If the Secretary of State so requires by regulations, a charging authority shall supply prescribed information within a prescribed period to any precepting authority which has power to issue a precept to the charging authority.
- (2) Where regulations under Schedule 2 or 9 below impose a duty on a charging authority to supply information to any person, they may also require [<sup>F110</sup>the Secretary of State or] any appropriate precepting authority to supply the charging authority with prescribed information if the Secretary of State considers it to be information the charging authority needs in order to fulfil its duty.
- [<sup>F111</sup>(2A) Where regulations under Schedule 2 or 9 below contain provision about the contents or form of a notice to be served by a charging authority, they may also require the Secretary of State or any appropriate precepting authority to supply the charging authority with prescribed information if the Secretary of State considers it to be information the charging authority needs to ensure that the provision is met.
- (2B) Where any person other than the Secretary of State fails to supply information to a charging authority in accordance with regulations by virtue of subsection (2) or (2A) above he shall be liable to indemnify the authority against any loss or damage which the authority sustains in consequence of the failure.]
- (3) For the purposes of subsection (2) [<sup>F112</sup>or (2A)] above an authority is an appropriate precepting authority in relation to a charging authority if it has power to issue a precept to the charging authority.

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### Textual Amendments

- F110** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, **Sch. 5 para. 52(2)**
- F111** [S. 73\(2A\)\(2B\)](#) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, **Sch. 5 para. 52(3)**
- F112** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, **Sch. 5 para. 52(4)**

### <sup>F113</sup>74 Levies.

- (1) In this section “levying body” means any body which—
- (a) is established by or under an Act,
  - (b) apart from section 117 below would have in respect of the financial year beginning in 1990 power (conferred by or under an Act passed before, or in the same session as, this Act) to issue a precept to, make a levy on or have its expenses paid by a county council or charging authority, and
  - (c) is not a precepting authority, combined police authority, combined fire authority, magistrates’ courts committee or probation committee.
- (2) Whereas a levying body has (by virtue of section 117 below) no such power under the Act concerned in respect of a chargeable financial year, the Secretary of State may make regulations conferring on each levying body power to issue to the council concerned and in accordance with the regulations a levy (to be so called) in respect of any chargeable financial year.
- (3) The regulations may include provision—
- (a) as to when levies are to be issued;
  - (b) imposing a maximum limit on levies;
  - (c) as to apportionment where a body issues levies to more than one council;
  - (d) conferring a power to issue levies by way of substitute for others;
  - (e) as to the payment (in instalments or otherwise) of amounts in respect of which levies are issued;
  - (f) conferring a right to interest on anything unpaid.
- (4) The regulations may include provision—
- (a) that a county council issuing a precept or precepts under this Act (originally or by way of substitute) may anticipate a levy;
  - (b) that a charging authority making calculations under section 95 below (originally or by way of substitute) may anticipate a levy;
  - (c) as to the treatment as special expenses of amounts so anticipated;
  - (d) as to the treatment of any levy actually issued.
- (5) The regulations may include—
- (a) provision equivalent to anything in section 37 above or in sections 68 to 72 above [<sup>F114</sup>or in Schedule 12A below or in regulations under section 73(1) above or in regulations under Schedule 12A below] (subject to such modifications as the Secretary of State thinks fit);
  - (b) provision amending or adapting any provision of this Act in consequence of any provision included under subsection (4) above.

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(6) In this section “Act” includes a private or local Act.

#### Textual Amendments

**F113** S. 74 extended (1. 12. 1991) by [Water Resources Act 1991 \(c. 57\)](#), **ss.133, 225(2)** (with ss. 16(6), 179,, 222(3), 224(1), Sch. 22 para. 1, Sch. 23 para. 6)

**F114** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, **Sch. 5 para. 53**

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

**C28** S. 74 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(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58

**C29** S. 74(2) 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**

#### [<sup>F115</sup>74A Levies: information.

- (1) Where regulations under Schedule 2 or 9 below impose a duty on a charging authority to supply information to any person, they may also require any appropriate levying body to supply the charging authority with prescribed information if the Secretary of State considers it to be information the charging authority needs in order to fulfil its duty.
- (2) For the purposes of subsection (1) above a body is an appropriate levying body in relation to a charging authority if—
  - (a) it has power to issue a levy to the charging authority, or
  - (b) it has power to issue a levy to a county council which has power to issue a precept to the charging authority.]

#### Textual Amendments

**F115** S. 74A inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, **Sch. 5 para. 54**

#### 75 Special levies.

- (1) This section applies as regards any body—
  - (a) which has no power to levy a rate by virtue of regulations under section 118 below, or
  - (b) whose power to levy a rate is modified by regulations under that section.
- (2) The [<sup>F116</sup>appropriate Minister] may make regulations conferring on any such body power to issue in respect of prescribed chargeable financial years and in accordance with the regulations—
  - (a) a special levy (to be so called) to such charging authority as is prescribed as regards the body concerned, or
  - (b) special levies (to be so called) to such charging authorities as are prescribed as regards the body concerned.
- (3) The regulations may include provision as to the body’s expenditure, or the proportion of its expenditure, which may be met from the proceeds of a special levy or special levies.

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- (4) The regulations may include provision—
- (a) as to when special levies are to be issued;
  - (b) imposing a maximum limit on special levies;
  - (c) as to apportionment where a body issues special levies to more than one charging authority;
  - (d) conferring a power to issue special levies by way of substitute for others;
  - (e) as to the payment (in instalments or otherwise) of amounts in respect of which special levies are issued;
  - (f) conferring a right to interest on anything unpaid.
- (5) The regulations may include provision requiring a charging authority to treat as special expenses any expenses needed to meet a special levy issued to it.
- (6) The regulations may include provision—
- (a) that a charging authority making calculations under section 95 below (originally or by way of substitute) may anticipate a special levy;
  - (b) as to the treatment as special expenses of amounts so anticipated;
  - (c) as to the treatment of any special levy actually issued.
- (7) The regulations may include—
- (a) provision equivalent to anything in section 37 above or in sections 68 to 72 above [<sup>F117</sup>or in Schedule 12A below or in regulations under section 73(1) above or in regulations under Schedule 12A below] (subject to such modifications as the [<sup>F118</sup>appropriate Minister] thinks fit);
  - (b) provision amending or adapting any provision of this Act in consequence of any provision included under subsection (6) above.

[<sup>F119</sup>(8) In this section “the appropriate Minister” has the same meaning as in section 118 below.]

#### Textual Amendments

**F116** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 55\(2\)](#)

**F117** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 55\(3\)\(a\)](#)

**F118** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 55\(3\)\(b\)](#)

**F119** S. 75(8) added by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 55\(4\)](#)

#### [<sup>F120</sup>75A Special levies: information.

- (1) Where regulations under Schedule 2 or 9 below impose a duty on a charging authority to supply information to any person, they may also require any appropriate levying body to supply the charging authority with prescribed information if the Secretary of State considers it to be information the charging authority needs in order to fulfil its duty.



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- (2) For the purposes of subsection (1) above a body is an appropriate levying body in relation to a charging authority if it has power to issue a special levy to the charging authority.]

#### Textual Amendments

**F120** S. 75A inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 56](#)

## PART V

### GRANTS

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

**C30** Part V amended (28.11.1994) by [S.I. 1994/2825](#), [reg. 34](#)

#### Introduction

## 76 Interpretation.

- (1) This section applies for the purposes of this Part.
- (2) Each of the following is a receiving authority—
  - (a) a charging authority, and
  - (b) in the application of this Part to Wales, a county council.
- (3) Each of the following is a notifiable authority (and is accordingly entitled to receive certain information and copies of certain documents as provided in this Part)—
  - (a) a charging authority,
  - (b) a county council,
  - (c) a metropolitan county police authority,
  - (d) the Northumbria Police Authority,
  - (e) a metropolitan county fire and civil defence authority,
  - (f) the London Fire and Civil Defence Authority, and
  - (g) the Receiver for the Metropolitan Police District.
- (4) A specified body is any body which provides services for local authorities and is specified in regulations made by the Secretary of State under this subsection; but a body is not a specified body as regards a financial year unless the regulations specifying it are in force before the year begins.
- (5) Before exercising the power to make regulations under subsection (4) above the Secretary of State shall consult such representatives of local government as appear to him to be appropriate.
- (6) Any regulations made under section 2(7) of the <sup>M10</sup>Local Government Act 1974 or section 56(9) of the <sup>M11</sup>Local Government, Planning and Land Act 1980 shall have effect for the purposes of subsection (4) above as if they had been made under it.



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**Marginal Citations**

**M10** 1974 c. 7.

**M11** 1980 c. 65.

77 ..... **F121**

**Textual Amendments**

**F121** S. 77 repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), ss. 139, 194(4), Sch. 5 para. 57(1)(2), **Sch. 12 Pt. II** Note 4

*Revenue support grant*

**78 Revenue support grant.**

- (1) For each chargeable financial year the Secretary of State shall pay a grant (to be called revenue support grant) to receiving authorities and specified bodies in accordance with this Part.
- (2) For each chargeable financial year the Secretary of State shall make a determination under this section.
- (3) A determination shall state—
  - (a) the amount of the grant for the year,
  - (b) what amount of the grant he proposes to pay to receiving authorities, and
  - (c) what amount of the grant he proposes to pay to each specified body.
- (4) Different amounts may be stated under subsection (3)(c) above in relation to different specified bodies.
- (5) Before making a determination the Secretary of State shall—
  - (a) consult such representatives of local government as appear to him to be appropriate, and
  - (b) obtain the Treasury’s consent.
- (6) A determination shall be specified in a report (to be called a revenue support grant report) and the report shall be laid before the House of Commons.
- (7) As soon as is reasonably practicable after the report is laid before the House of Commons the Secretary of State shall send a copy of it to each notifiable authority.

VALID FROM 06/03/1992

**[78A** <sup>F122</sup>**Local government finance reports.**

- (1) A determination under section 78 above shall be specified in a report (to be called a local government finance report).

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- (2) A local government finance report shall also specify the basis (the basis of distribution) on which the Secretary of State proposes to distribute among receiving authorities the amount of revenue support grant which under this Part falls to be paid to such authorities for the financial year to which the report relates (the financial year concerned).
- (3) Before making the report the Secretary of State shall notify to such representatives of local government as appear to him to be appropriate the general nature of the basis of distribution.
- (4) The report shall be laid before the House of Commons.
- (5) As soon as is reasonably practicable after the report is laid before the House of Commons, the Secretary of State shall send a copy of it to each receiving authority.]

#### Textual Amendments

**F122** S. 78A inserted (6.3.1992) by 1992 c. 14, s. 104, **Sch. 10 Pt. II para.10** (with s. 118(1)(2)(4))

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

**C31** s. 78A modified (12.1.2000) (*temp*) by S.I. 1999/3435, **art. 2**

## 79 Effect of report's approval.

- (1) This section applies where in accordance with section 78 above a determination as regards revenue support grant has been made for a financial year and specified in a report which has been laid before the House of Commons.
- (2) If the report is approved by resolution of the House of Commons the Secretary of State shall pay the amount stated in the determination as the amount of the revenue support grant for the year.
- (3) The Secretary of State shall pay to receiving authorities the amount stated in the determination under section 78(3)(b) above, and shall pay to specified bodies the aggregate of the amounts stated in the determination under section 78(3)(c) above.
- (4) The amount falling to be paid to receiving authorities shall be distributed among and paid to them in accordance with sections 80 to 83 below or sections 80 to 84 below (as the case may be).
- (5) The amount to be paid to a particular specified body shall be the amount stated in relation to it under section 78(3)(c) above.
- (6) Where a sum falls to be paid to a specified body by way of revenue support grant it shall be paid at such time, or in instalments of such amounts and at such times, as the Secretary of State determines with the Treasury's consent; and any such time may fall within or after the financial year concerned.

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

**C32** S. 79(2)(3) modified by S.I. 1990/493, **reg. 8(1)** and by S.I. 1990/609, **reg. 5(1)**

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## **80 Distribution reports.**

- (1) The Secretary of State shall make a report containing the basis on which he proposes (subject to any report under section 84 below) to distribute among receiving authorities those amounts of revenue support grant which fall to be paid to such authorities under this Part.
- (2) Before making the report the Secretary of State shall notify to such representatives of local government as appear to him to be appropriate the general nature of its intended contents.
- (3) The report shall be laid before the House of Commons.
- (4) As soon as is reasonably practicable after the report is laid before the House of Commons the Secretary of State shall send a copy of it to each notifiable authority.
- (5) After making the report the Secretary of State may make a further report or reports, and any such report—
  - (a) may replace any previous report under this section, or
  - (b) may amend any previous report under this section.
- (6) A report under subsection (5)(a) above shall contain a revised basis on which the Secretary of State proposes (subject to any report under section 84 below) to distribute the amounts mentioned in subsection (1) above.
- (7) A report under subsection (5)(b) above shall contain amendments to the basis of distribution contained in the report which it amends.
- (8) Subsections (2) to (4) above shall apply to any report under subsection (5) above as they apply to one under subsection (1) above.
- (9) A report under this section shall state the day on which it is to come into force and the first financial year for which it is to operate.

## **81 Effect of distribution reports.**

- (1) This section applies where in accordance with section 80 above a report has been made and laid before the House of Commons.
- (2) If the report is approved by resolution of the House of Commons it shall come into force on the day stated in the report.
- (3) If the report is made under section 80(1) or (5)(a), on and after the day it comes into force the basis it contains shall have effect as regards revenue support grant payable for all chargeable financial years beginning with the first financial year for which it states it is to operate; but this is subject to the effect of any subsequent report under section 80(5).
- (4) If the report is made under section 80(5)(b), on and after the day it comes into force the basis it amends read subject to the amendments shall have effect as regards revenue support grant payable for all chargeable financial years beginning with the first financial year for which it states it is to operate; but this is subject to the effect of any subsequent report under section 80(5).

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*Changes to legislation:* Local Government Finance Act 1988 is up to date with all changes known to be in force on or before 23 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

## 82 Calculation of sums payable.

- (1) As soon as is reasonably practicable after a revenue support grant report for a financial year has been approved by resolution of the House of Commons, the Secretary of State shall calculate what sum falls to be paid to each receiving authority by way of revenue support grant for the year in accordance with the basis of distribution for the time being effective (as regards grant payable for the year) under section 81 above.
- (2) At any time after making a calculation under subsection (1) above the Secretary of State may make one further calculation of what sum falls to be paid to each receiving authority by way of revenue support grant for the year in accordance with the basis of distribution for the time being effective (as regards grant payable for the year) under section 81 above.
- (3) If the Secretary of State decides that he will leave out of account information received by him after a particular date in making a calculation under subsection (1) or (2) above the calculation shall be made accordingly [<sup>F123</sup>; and he may decide different dates for different kinds of information.]
- (4) Subsection (3) above applies only if the Secretary of State informs each notifiable authority in writing of his decision and of the date [<sup>F124</sup>(or the dates and kinds of information)] concerned; but he may do this at any time before the calculation is made under this section (whether before or after a determination is made for the year under section 78 above).
- (5) As soon as is reasonably practicable after making a calculation under subsection (1) or (2) above the Secretary of State shall—
  - (a) inform each receiving authority of the sum he calculates falls to be paid to it by way of revenue support grant for the year, and
  - (b) inform each authority falling within section 76(3)(b) to (g) above of the sum he calculates falls to be paid by way of revenue support grant for the year to any receiving authority to which it has power to issue a precept.
- (6) Subsection (5)(b) above shall not have effect in the application of this Part to Wales.

### Textual Amendments

**F123** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 58\(2\)](#)

**F124** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 58\(3\)](#)

## 83 Payment of sums.

- (1) Where a calculation is made under section 82(1) above the Secretary of State shall pay to each receiving authority any sum calculated as falling to be paid to it.
- (2) The sum shall be paid in instalments of such amounts, and at such times in the financial year concerned, as the Secretary of State determines with the Treasury's consent.
- (3) Where a calculation is made under section 82(2) above and the sum it shows as falling to be paid to a receiving authority exceeds that shown as falling to be paid to it by the calculation for the financial year concerned under section 82(1) above, the Secretary of State shall pay to the authority a sum equal to the difference.

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- (4) The sum shall be paid at such time, or in instalments of such amounts and at such times, as the Secretary of State determines with the Treasury's consent; but any such time must fall after the end of the financial year concerned.
- (5) Where a calculation is made under section 82(2) above and the sum it shows as falling to be paid to a receiving authority is less than that shown as falling to be paid to it by the calculation for the financial year concerned under section 82(1) above, a sum equal to the difference shall be paid by the authority to the Secretary of State on such day after the end of the financial year concerned as he may specify; and if it is not paid on or before that day it shall be recoverable in a court of competent jurisdiction.

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

- C33** S. 83 modified by S.I. 1990/493, reg. 8(1) and by S.I. 1990/609, reg. 5(1)  
 S. 83(1)-(5) modified (1.4.1993) by S.I. 1992/2996, reg. 4(1)
- C34** S. 83 restricted (1.4.1993) by S.I. 1993/613, reg. 5(1)  
 S. 83 modified (12.1.2000) (*temp*) by S.I. 1999/3435, art. 2

**84 Special provision for transitional years.**

- (1) The Secretary of State may lay before the House of Commons a report containing provision about—
  - (a) the calculation under section 82(1) above for a transitional year, and
  - (b) any calculation under section 82(2) above for such a year;
 and the following provisions of this section shall apply to the report (if any).
- (2) The report shall provide that the basis of distribution in accordance with which such a calculation is to be made shall be the basis which would have applied (apart from the report) but read subject to adjustments set out in the report.
- (3) The report—
  - (a) must be laid before the beginning of the first transitional year;
  - <sup>[F125]</sup>(b) may contain provision for one transitional year, or for more than one, as the Secretary of State thinks fit;
  - (c) may make different provision for different authorities;
  - (d) if it contains provision for more than one transitional year, may make different provision for the different years.]
- (4) As soon as is reasonably practicable after the report is laid before the House of Commons the Secretary of State shall send a copy of it to each notifiable authority.
- (5) If the report has been laid in accordance with this section, and is approved by resolution of the House of Commons, subsection (6) below shall have effect as regards a transitional year <sup>[F126]</sup>for which the report contains provision].
- (6) The basis of distribution in accordance with which—
  - (a) the calculation under section 82(1) above, and
  - (b) any calculation under section 82(2) above, is to be made for the year shall be the basis which would have applied (apart from the report) but read subject to adjustments set out for the year in the report.

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- (7) Subject to subsection (6) above, the provisions of this Act relating to any such calculation shall apply as they apply to a calculation made, or falling to be made, in accordance with an unadjusted basis.
- (8) In deciding whether to lay a report, and in deciding its contents, the Secretary of State may make such assumptions and estimates as he sees fit as to income, expenditure, balances and other matters (financial or otherwise) in relation to receiving authorities and other bodies, whether as regards any transitional year or otherwise.

#### Textual Amendments

**F125** S. 84(3) paras. (b)(c)(d) substituted for paras. (b)(c) by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, **Sch. 5 para. 59(2)**

**F126** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, **Sch. 5 para. 59(3)**

VALID FROM 06/03/1992

### *[<sup>F127</sup>Revenue support grant: amending reports*

#### Textual Amendments

**F127** Ss. 84A-84C and cross heading inserted (6.3.1992) by 1992 c. 14, s. 104, **Sch. 10 Pt. II para.15** (with s. 118(1)(2)(4))

#### **<sup>F128</sup>84A Amending reports.**

- (1) Subject to subsection (6) below, after a local government finance report has been made the Secretary of State may, at any time before the end of the financial year following the financial year concerned, make in relation to the report one or more amending reports under this section.
- (2) An amending report under this section shall contain amendments to the basis of distribution specified in the local government finance report.
- (3) Before making the report the Secretary of State shall notify to such representatives of local government as appear to him to be appropriate the general nature of the amendments which he proposes to make.
- (4) The report shall be laid before the House of Commons.
- (5) As soon as is reasonably practicable after the report is laid before the House of Commons, the Secretary of State shall send a copy of it to each receiving authority.
- (6) Where an amending report under this section has been approved by resolution of the House of Commons, the Secretary of State may not make a subsequent amending report under this section in relation to the same local government finance report.

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### Textual Amendments

**F128** Ss. 84A-84C inserted (6.3.1992) by 1992 c. 14, s. 104, **Sch. 10 Pt. II para.15** (with s. 118(1)(2) (4))

### <sup>F129</sup>**84B Calculation of sums payable under amending reports.**

- (1) As soon as is reasonably practicable after an amending report made under section 84A above has been approved by resolution of the House of Commons, the Secretary of State shall calculate what sum, if any, falls to be paid to each receiving authority by way of revenue support grant for the financial year concerned in accordance with the basis of distribution specified in the local government finance report as amended by the amending report.
- (2) Subject to subsection (3) below, after making a calculation under subsection (1) above the Secretary of State may make one further calculation of what sum, if any, falls to be paid to each receiving authority by way of revenue support grant for the year in accordance with that basis of distribution.
- (3) A calculation may not be made under subsection (2) above after whichever is the later of—
  - (a) the end of the financial year following the financial year concerned, and
  - (b) the end of the period of 3 months beginning with the day on which the amending report is approved by resolution of the House of Commons.
- (4) Subsections (4) to (7) of section 82 above apply in relation to calculations made under subsections (1) and (2) above as they apply in relation to calculations made under subsections (1) and (2) of that section.

### Textual Amendments

**F129** Ss. 84A-84C inserted (6.3.1992) by 1992 c. 14, s. 104, **Sch. 10 Pt. II para.15** (with s. 118(1)(2) (4))

### <sup>F130</sup>**84C Payment of sums under amending reports.**

- (1) This section applies where a calculation (the relevant calculation) is made under section 84B(1) or (2) above in relation to an amending report.
- (2) Where the sum shown by the relevant calculation as falling to be paid to a receiving authority for the financial year concerned exceeds that shown as falling to be paid to it by the relevant previous calculation, the Secretary of State shall pay to the authority a sum equal to the difference.
- (3) The sum shall be paid at such times, or in instalments of such amounts and at such times, as the Secretary of State determines with the Treasury's consent; but any such time must fall after the end of the financial year in which the amending report was made.
- (4) Where the sum shown by the relevant calculation as falling to be paid to a receiving authority for the financial year concerned is less than that shown as falling to be paid



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to it by the relevant previous calculation, a sum equal to the difference shall be paid by the authority to the Secretary of State.

- (5) The sum shall be paid on such day after the end of the financial year in which the amending report was made as the Secretary of State may specify; and if it is not paid on or before that day it shall be recoverable in a court of competent jurisdiction.
- (6) In this section “the relevant previous calculation” means—
- (a) in relation to a calculation made under section 84B(1) above, the calculation under section 82(1) above or, where a further calculation has been made under section 82(2) above, that further calculation;
  - (b) in relation to a calculation made under section 84B(2) above, the calculation made under section 84B(1) above.]

#### Textual Amendments

**F130** Ss. 84A-84C inserted (6.3.1992) by 1992 c. 14, s. 104, **Sch. 10 Pt. II para.15** (with s. 118(1)(2) (4))

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

**C35** S. 84C modified (1.4.1993) by S.I. 1992/2996, **reg. 4(1)**  
S. 84C restricted (1.4.1993) by S.I. 1993/613, **reg. 5(1)**

### *Additional grant*

#### **85 Additional grant.**

- (1) This section applies where a revenue support grant report for a chargeable financial year has been approved by the House of Commons, and before the year ends the Secretary of State forms the view that fresh circumstances affecting the finances of local authorities have arisen since the approval.
- (2) For the year concerned the Secretary of State may pay a grant (to be called additional grant) to receiving authorities in accordance with this Part.
- (3) Where the Secretary of State proposes to pay additional grant for a financial year he shall make a determination under this section.
- (4) A determination shall state—
  - (a) the amount of the grant for the year, and
  - (b) the basis on which he proposes to distribute it among receiving authorities.
- (5) Before making a determination the Secretary of State shall obtain the Treasury’s consent.
- (6) A determination shall be specified in a report and the report shall be laid before the House of Commons.
- (7) As soon as is reasonably practicable after the report is laid before the House of Commons the Secretary of State shall send a copy of it to each notifiable authority.



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## 86 Effect of report's approval.

- (1) This section applies where in accordance with section 85 above a determination as regards additional grant has been made for a financial year and specified in a report which has been laid before the House of Commons.
- (2) If the report is approved by resolution of the House of Commons—
  - (a) the Secretary of State shall pay the amount stated in the determination as the amount of the additional grant for the year, and
  - (b) the amount shall be distributed on the basis stated in the determination.
- (3) Where a sum falls to be paid to a receiving authority by way of additional grant it shall be paid at such time, or in instalments of such amounts and at such times, as the Secretary of State determines with the Treasury's consent; and any such time may fall within or after the financial year concerned.
- (4) The Secretary of State may direct a receiving authority to which he pays any sum by way of additional grant to pay all or such part of the sum as he may specify to such relevant precepting authority or authorities as he may specify.
- (5) For the purposes of subsection (4) above an authority is a relevant precepting authority in relation to a receiving authority if it has power to issue a precept to the receiving authority.
- (6) Subsections (4) and (5) above shall not have effect in the application of this Part to Wales.

### Modifications etc. (not altering text)

C36 S. 86(2)(3) modified by S.I. 1990/493, reg. 8(1) and by S.I. 1990/609, reg. 5(1)

## *Transport grants*

## 87 Transport grants.

- (1) The Secretary of State shall pay to a defined council a grant for a chargeable financial year if he accepts that at least some of its estimated relevant transport expenditure for the year is appropriate to be taken into account for the purposes of this section.
- (2) The amount of the grant shall be a proportion of so much of the council's estimated relevant transport expenditure for the year as he accepts under subsection (1) above.
- (3) The proportion shall be such as is determined for the year by the Secretary of State and shall be the same as regards each council to which a grant is paid for the year under this section.
- (4) A grant under this section shall be paid at such time, or in instalments of such amounts and at such times, as the Secretary of State thinks fit; and any such time need not fall within the financial year concerned.
- (5) In deciding whether to accept any of a council's estimated relevant transport expenditure for a financial year under subsection (1) above, and how much of it to accept, the Secretary of State may have regard to the following matters (in addition to any other matters he thinks fit)—

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- (a) whether the council's relevant transport expenditure for any preceding financial year or years is greater or smaller than its estimated relevant transport expenditure for that year or those years;
  - (b) the extent (if any) to which it is greater or smaller.
- (6) The total accepted under subsection (1) above as regards all defined councils for a particular financial year shall not exceed such amount as is approved by the Treasury for the year.

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

C37 S. 87(5)(a) amended (28.11.1994) by [S.I. 1994/2825](#), [reg. 35](#)

**88 Transport grants: supplementary.**

- (1) This section applies for the purposes of section 87 above.
- (2) Each of the following is a defined council—
- (a) a county council,
  - (b) a metropolitan district council,
  - (c) a London borough council, and
  - (d) the Common Council.
- (3) A council's relevant transport expenditure for a financial year is the expenditure it calculates it incurred in the year in connection with—
- (a) highways or the regulation of traffic (where the council is English), or
  - (b) highways, the regulation of traffic or public transport (where the council is Welsh).
- (4) But in making the calculation expenditure shall be left out of account unless, at the time the calculation is made, it is [<sup>F131</sup>expenditure for capital purposes within the meaning of Pt.IV of the Local Government and Housing Act 1989].
- (5) A council's estimated relevant transport expenditure for a financial year is the expenditure it estimates it will incur in the year in connection with—
- (a) highways or the regulation of traffic (where the council is English), or
  - (b) highways, the regulation of traffic or public transport (where the council is Welsh).
- (6) But in making the estimate expenditure shall be left out of account unless, at the time the estimate is made, it is [<sup>F131</sup>expenditure for capital purposes within the meaning of Pt. IV of the Local Government and Housing Act 1989].

**Textual Amendments**

**F131** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para.](#)

**60**

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### [<sup>F132</sup> Community charge grants]

#### Textual Amendments

**F132** S. 88A inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, Sch. 5 para. 61

#### 88A Community charge grants.

- (1) If regulations under section 13A above have effect as regards a chargeable financial year the Secretary of State may, with the consent of the Treasury, pay a grant to a charging authority as regards that financial year.
- (2) The amount of the grant shall be such as the Secretary of State may with the consent of the Treasury determine.
- (3) A grant under this section shall be paid at such time, or in instalments of such amounts and at such times, as the Secretary of State may with the consent of the Treasury determine.
- (4) In making any payment of grant under this section the Secretary of State may impose such conditions as he may with the consent of the Treasury determine; and the conditions may relate to the repayment in specified circumstances of all or part of the amount paid, or otherwise.
- (5) In deciding whether to pay a grant under this section, and in determining the amount of any such grant, the Secretary of State shall have regard to his estimate of the aggregate of—
  - (a) any amount which, in consequence of the regulations, the authority might reasonably be expected to lose, or to have lost, by way of payments in respect of community charges as they have effect for the financial year concerned, and
  - (b) any administrative expenses the authority might reasonably be expected to incur, or to have incurred, in giving effect to the regulations in their application to the financial year concerned.

VALID FROM 06/03/1992

#### [<sup>F133</sup> 88B Special grants.

- (1) The Secretary of State may, with the consent of the Treasury, pay a grant (in this section referred to as a special grant) in accordance with this section to a relevant authority.
- (2) Where the Secretary of State proposes to make one special grant he shall, before making the grant, make a determination stating with respect to the grant—
  - (a) to which authority it is to be paid,
  - (b) the purpose for which it is to be paid, and
  - (c) the amount of the grant or the manner in which the amount is to be calculated.
- (3) Where the Secretary of State proposes to make two or more special grants to different authorities he shall, before making the grants, make a determination stating with respect to the grants—
  - (a) to which authorities they are to be paid,

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- (b) the purpose for which they are to be paid, and
- (c) either—
  - (i) the amount of the grant which he proposes to pay to each authority or the manner in which the amount is to be calculated, or
  - (ii) the total amount which he proposes to distribute among the authorities by way of special grants and the basis on which he proposes to distribute that amount.
- (4) A determination under subsection (2) or (3) above shall be made with the consent of the Treasury and shall be specified in a report (to be called a special grant report) which shall contain such explanation as the Secretary of State considers desirable of the main features of the determination.
- (5) A special grant report shall be laid before the House of Commons and, as soon as is reasonably practicable after the report has been so laid, the Secretary of State shall send a copy of it to any relevant authority to whom a special grant is proposed to be paid in accordance with the determination in the report.
- (6) No special grant shall be paid unless the special grant report containing the determination relating to the grant has been approved by a resolution of the House of Commons.
- (7) A special grant report may specify conditions which the Secretary of State, with the consent of the Treasury, intends to impose on the payment of (or of any instalment of) any special grant to which the report relates; and the conditions may—
  - (a) require the provision of returns or other information before a payment is made to the relevant authority concerned, or
  - (b) relate to the use of the amount paid, or to the repayment in specified circumstances of all or part of the amount paid, or otherwise.
- (8) Without prejudice to compliance with any conditions imposed as mentioned in subsection (7) above, a special grant shall be paid at such time or in instalments of such amounts and at such times as the Secretary of State may, with the consent of the Treasury, determine.
- (9) For the purposes of this section each of the following is a relevant authority—
  - (a) a receiving authority;
  - (b) a metropolitan county passenger transport authority established by section 28 of the <sup>M12</sup>Local Government Act 1985.]

#### Textual Amendments

**F133** Ss. 88A, 88B substituted (6.3.1992) for s. 88A (which was inserted by 1989 c. 42, s. 139, **Sch. 5 para. 61**) by 1992 c. 14, s. 104, **Sch. 10 Pt. II para.18** (with s. 118(1)(2)(4))

#### Marginal Citations

**M12** 1985 c. 51.

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## PART VI

### FUNDS

#### *Funds*

#### 89 Collection funds.

- (1) Every charging authority shall establish, and then maintain, a fund (to be called its collection fund) in accordance with this Part.
- (2) An authority's collection fund must be established on 1 April 1990.
- (3) Section 101(1)(b) of the <sup>M13</sup>Local Government Act 1972 (delegation) shall not apply as regards the functions of an authority in relation to its collection fund.
- (4) Any sum paid into an authority's collection fund shall be used in [<sup>F134</sup>the making] of payments which are to be met from that fund or of transfers which are to be made from it.
- (5) If not immediately required for the purpose of [<sup>F135</sup>making] those payments or transfers, the sum shall be held, invested or otherwise used in such manner as may be prescribed by regulations made by the Secretary of State.

#### Textual Amendments

**F134** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 62](#)

**F135** Word substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 62](#)

#### Marginal Citations

**M13** [1972 c. 70.](#)

VALID FROM 03/04/1995

#### [89A] <sup>F136</sup>Principal councils in Wales.

This Part does not apply to a Welsh county council or county borough council (for whom provision as to the establishment of a council fund is made by section 38 of the Local Government (Wales) Act 1994).]

#### Textual Amendments

**F136** S. 89A inserted (3.4.1995) by [1994 c. 19, s. 38\(11\)](#), [Sch. 12 para. 2](#) (with [ss. 54\(5\)\(7\)](#), [55\(5\)](#), [Sch. 17 paras. 22\(1\)](#), [23\(2\)](#)); [S.I. 1995/852, art. 6\(1\)](#) (with [arts. 6\(2\)-\(5\)](#))

#### 90 Payments to and from collection funds.

- (1) The following shall be paid into the collection fund of an English charging authority—

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- (a) sums received by the authority in respect of its community charges (but not sums received by way of penalty),
  - (b) sums received by the authority in respect of any non-domestic rate under this Act,
  - (c) sums received by the authority under paragraph 5(10) of Schedule 8 below, regulations made under paragraph 6(5) of that Schedule, or paragraph 9 of that Schedule,
  - (d) sums received by the authority by way of revenue support grant,
  - (e) sums received by the authority by way of additional grant,
  - (f) sums received by the authority as interest on sums held or lent in accordance with section 89(5) above, and
  - (g) any other sums which the Secretary of State specifies are to be paid into an English charging authority's collection fund.
- (2) The following payments shall be met from the collection fund of an English charging authority—
- (a) payments to be made by the authority in respect of the amount of any precept issued under this Act or in respect of interest on such an amount,
  - (b) payments to be made by the authority to the Secretary of State under paragraph 5 of Schedule 8 below,
  - (c) payments to be made by the authority to the Secretary of State under section 83(5) above,
  - (d) payments to be made by the authority to another authority under a direction under section 86(4) above,
  - (e) payments to be made by the authority to another person in repaying, under regulations under this Act, excess receipts by way of community charges or of non-domestic rates,
  - (f) payments to be made by the authority to another person in respect of interest on repayments of excess receipts by way of non-domestic rates, and
  - (g) any other payments which are to be made by the authority to another person and which the Secretary of State specifies are to be met from an English charging authority's collection fund.
- (3) The following shall be paid into the collection fund of a Welsh charging authority —
- (a) sums received by the authority in respect of its community charges (but not sums received by way of penalty),
  - (b) sums received by the authority as interest on sums held or lent in accordance with section 89(5) above, and
  - (c) any other sums which the Secretary of State specifies are to be paid into a Welsh charging authority's collection fund.
- (4) The following payments shall be met from the collection fund of a Welsh charging authority —
- (a) payments to be made by the authority in respect of the amount of any precept issued under this Act or in respect of interest on such an amount,
  - (b) payments to be made by the authority to another person in repaying, under regulations under this Act, excess receipts by way of community charges, and
  - (c) any other payments which are to be made by the authority to another person and which the Secretary of State specifies are to be met from a Welsh charging authority's collection fund.

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- (5) The power to specify under this section—
- (a) includes power to revoke or amend a specification made under the power;
  - (b) may be exercised differently in relation to different authorities.

## 91 General funds.

- (1) For the purposes of this section each of the following is a relevant authority—
- (a) a district council,
  - (b) a London borough council, and
  - (c) the Council of the Isles of Scilly.
- (2) Every relevant authority shall establish, and then maintain, a fund (to be called its general fund) in accordance with this Part.
- (3) An authority’s general fund must be established on 1 April 1990.
- (4) Any sum received by a relevant authority after 31 March 1990 shall be paid into its general fund; but this does not apply to a sum which is to be paid into its collection fund or a trust fund.
- (5) Any payment to be made by a relevant authority after 31 March 1990 shall be met from its general fund; but this does not apply to a payment which is to be met from its collection fund or a trust fund.
- (6) After 31 March 1990 no district council or London borough council shall be required to keep a general rate fund; and the assets held in the general rate fund of such an authority immediately before 1 April 1990 (other than assets forming part of a trust fund) shall be transferred to its general fund on that date.
- (7) After 31 March 1990 the Council of the Isles of Scilly shall not be required to keep any fund known as its general fund and required (apart from this subsection) to be kept under any order made under section 265 of the <sup>M14</sup>Local Government Act 1972; and the assets held in that fund immediately before 1 April 1990 (other than assets forming part of a trust fund) shall be transferred on that date to the Council’s general fund established under this section.

### Marginal Citations

M14 1972 c. 70.

## 92 General funds: supplementary.

- (1) In this section “relevant authority” has the same meaning as in section 91 above.
- (2) The Secretary of State may make regulations—
- (a) about the relationship of a relevant authority’s general fund to its other funds;
  - (b) providing for assets falling within a relevant authority’s general fund to be held in separate funds within the general fund.
- (3) The regulations may provide that any fund established by a relevant authority on or after 1 April 1990, other than its collection fund or a trust fund, is to be maintained as a separate fund falling within its general fund.

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- (4) The regulations may provide that such assets as are transferred to a relevant authority's general fund under section 91(6) or (7) above and fall within a prescribed description shall be held in separate funds falling within the general fund; and the number and composition of the separate funds shall be such as are prescribed.

### **93 The City fund.**

- (1) The Common Council shall establish, and then maintain, a fund (to be called the City fund) in accordance with this Part.
- (2) The City fund must be established on 1 April 1990.
- (3) Any sum received by the Common Council after 31 March 1990 shall be paid into the City fund if it is not a sum which is to be paid into its collection fund or a trust fund and—
- (a) it is received in respect of the general rate, the poor rate or the St. Botolph tithe rate, or
  - (b) it would have fallen to be credited in aid of any of those rates had this Act not been passed.
- (4) Any payment to be made by the Common Council after 31 March 1990 shall be met from the City fund if it is not a payment which is to be met from its collection fund or a trust fund and if, had this Act not been passed, it would have fallen to be met out of—
- (a) the general rate, the poor rate or the St. Botolph tithe rate, or
  - (b) sums which, had this Act not been passed, would have fallen to be credited in aid of any of those rates.
- (5) No sum shall be paid into, and no payment shall be met from, the City fund except in accordance with subsections (3) and (4) above.
- (6) The assets of the Common Council subsisting immediately before 1 April 1990 shall be transferred to the City fund on that date if they are assets—
- (a) subsisting in respect of the general rate, the poor rate or the St. Botolph tithe rate, or
  - (b) representing sums credited in aid of any of those rates.

### **94 The City: further provisions.**

- (1) The Secretary of State may make regulations—
- (a) about the relationship of the City fund to other funds of the Common Council;
  - (b) providing for assets falling within the City fund to be held in separate funds within the City fund;
  - (c) prohibiting the Common Council from establishing funds.
- (2) The regulations may provide that any fund established by the Common Council on or after 1 April 1990, and falling within a prescribed description, is to be maintained as a separate fund falling within the City fund.
- (3) The regulations may provide that such assets as are transferred to the City fund under section 93(6) above and fall within a prescribed description shall be held in separate funds falling within the City fund; and the number and composition of the separate funds shall be such as are prescribed.



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- (4) The regulations may provide that the Common Council shall not establish or maintain on or after 1 April 1990 a fund into which both the following must or may be paid—
  - (a) sums which must be paid into the City fund under section 93(3) above, and
  - (b) other sums.
- (5) The regulations may provide that the Common Council shall not establish or maintain on or after 1 April 1990 a fund from which both the following must or may be met—
  - (a) payments which must be met from the City fund under section 93(4) above, and
  - (b) other payments.

### *Calculations*

#### **95 Calculations to be made by authorities.**

- (1) In relation to each chargeable financial year a charging authority shall make the calculations required by this section.

[<sup>F137</sup>(2) The authority must calculate the aggregate of —

- (a) the expenditure the authority estimates it will incur in the year in performing its functions in the year 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 the estimated expenditure referred to in subsection (2A) below;
- (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
- (e) any amounts it estimates will be charged to a revenue account in respect of the authority's general fund or City fund, as the case may be, by virtue of a transfer,—
  - (i) pursuant to regulations under section 89(5) above, of such an additional sum as is referred to in subsection (3)(d) of section 98 below; or
  - (ii) pursuant to a direction under subsection (5) of that section, of such an amount as is referred to in that subsection.

(2A) The estimated expenditure referred to in subsection (2)(c) above is—

- (a) that which the authority estimates that, in the financial year following the year in question, it will incur, will charge to a revenue account and will have to defray before sums to be transferred as regards that year from its collection fund to its general fund or to the City fund (as the case may be) become sufficiently available; 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.

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- (2B) References in subsections (2) and (2A) above to expenditure incurred by the authority shall be construed in accordance with section 41(3) of the Local Government and Housing Act 1989.]
- (3) The authority must calculate the aggregate of
- [<sup>F138</sup>(a) the sums which it estimates will be payable for the year into its general fund or into the City fund (as the case may be) and in respect of which amounts are to be credited to a revenue account for the year;
  - (b) the amounts which it estimates will be transferred from its collection fund to its general fund or the City fund (as the case may be) pursuant to a direction under section 98(4) below and credited to a revenue account for the year; 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.]
- (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.
- (5) In making the calculation under subsection (2) above the authority must ignore payments which must be met from its collection fund under section 90(2) or (4) above or from a trust fund.
- (6) In estimating under subsection (2)(a) above the authority shall take into account the amount of any levy or special levy issued to it for the year but (except as provided by regulations under section 74 or 75 above) shall not anticipate a levy or special levy not issued.
- (7) In making the calculation under subsection (3) above the authority must ignore sums which [<sup>F139</sup>in accordance with section 97 below] have been or are to be transferred from its collection fund to its general fund or to the City fund (as the case may be).
- (8) 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 (7) above, or any of them, or by adding other provisions, or by a combination of those methods).
- (9) Calculations to be made in relation to a particular financial year under this section must be made before 11 March in the preceding financial year, but they are not invalid merely because they are made on or after that date.

#### Textual Amendments

**F137** S. 95 subsections (2)–(2B) substituted for subsection (2) by [Local Government and Housing Act 1989](#) (c. 42, SIF 81:1), s. 139, **Sch. 5 para. 63(1)**

**F138** S. 95(3)(a)–(c) substituted by [Local Government and Housing Act 1989](#) (c. 42, SIF 81:1), s. 139, **Sch. 5 para. 63(2)**

**F139** Words inserted by [Local Government and Housing Act 1989](#) (c. 42, SIF 81:1), s. 139, **Sch. 5 para. 63(3)**

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

**C38** S. 95(2) modified by S.I. 1990/72, **reg. 14(2)(3)**

**C39** S. 95(2)(a) amended by S.I. 1990/70, **reg. 11(3)** and by S.I. 1990/71, **reg. 12(3)**

**C40** S. 95(2)(a) modified by S.I. 1990/70, **art. 11(4)**, by S.I. 1990/71, **reg. 12(2)–(4)**, by S.I. 1990/72, **reg. 14(6)** and by S.I. 1990/118, **reg. 10(2)–(4)**

### **96 Substitute calculations.**

- (1) An authority which has made calculations in accordance with section 95 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 that section, ignoring section 95(9) for this purpose.
- (2) None of the substitute calculations shall have any effect if the amount calculated under section 95(4) would exceed that so calculated in the previous calculations.
- (3) But subsection (2) above shall not apply if the previous calculation under section 95(4) has been quashed because of a failure to comply with section 95 in making the calculation.

#### *Transfers between funds*

### **97 Principal transfers between funds.**

An authority which has made calculations in accordance with section 95 above (originally or by way of substitute) shall transfer from its collection fund to its general fund or to the City fund (as the case may be) an amount equal to that calculated (or last calculated) under section 95(4).

### **98 Other transfers between funds.**

- (1) An English charging authority which receives a sum by way of additional grant shall transfer from its collection fund to its general fund or to the City fund (as the case may be) an amount found by deducting B from A; and the Secretary of State may by direction specify the time at which the transfer is to be made.
- (2) A is the sum received by the authority by way of additional grant, and B is such of that sum as the authority pays under a direction under section 86(4) above.
- (3) Regulations under section 89(5) above may include provision that—
  - (a) any sum to which they relate shall be transferred from an authority's collection fund to its general fund or to the City fund (as the case may be);
  - (b) the sum so transferred shall be held, invested or otherwise used in such manner as may be prescribed;
  - (c) a sum equal to the sum transferred shall be transferred to the authority's collection fund from its general fund or from the City fund (as the case may be);
  - (d) together with the sum so transferred an additional sum representing interest . . . <sup>F140</sup> shall be transferred.
- (4) If the Secretary of State directs it to do so, a charging authority shall transfer from its collection fund to its general fund or to the City fund (as the case may be) such an

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amount as is specified in, or calculated in a manner specified in, the direction; and the transfer shall be made at such time as is specified in the direction.

- (5) If the Secretary of State directs it to do so, a charging authority shall transfer to its collection fund from its general fund or from the City fund (as the case may be) such an amount as is specified in, or calculated in a manner specified in, the direction; and the transfer shall be made at such time as is specified in the direction.
- (6) Different directions may be given to different authorities under subsection (1), (4) or (5) above.

#### Textual Amendments

**F140** Words repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), ss. 139, 194(4), [Sch. 5 para. 64](#), [Sch. 12 Pt. II](#) Note 4

### *Regulations about funds*

#### **99 Regulations about funds.**

- (1) The Secretary of State may make regulations about the discharge of the following liabilities of a charging authority—
- (a) the liability to pay anything from its collection fund in respect of any precept, and
  - (b) the liability to transfer anything from its collection fund under section 97 above.
- (2) The regulations may include provision—
- (a) that anything falling to be paid or transferred must be paid or transferred within a prescribed period,
  - (b) that anything falling to be paid or transferred must be paid or transferred in instalments of such amounts, and at such times, as are determined by the charging authority in accordance with prescribed rules,
  - (c) that the charging authority must inform any precepting authorities when instalments will be paid and how they are to be calculated,
  - (d) that if an instalment is not paid to a precepting authority in accordance with the regulations, it is to be entitled to interest on the amount of the instalment <sup>F141</sup> . . . . ,
  - (e) that the charging authority must calculate at a prescribed time and in accordance with prescribed rules the amount available in its collection fund to meet the liabilities mentioned in subsection (1) above,
  - (f) that any deficiency in or excess of such an amount is to be borne as between, or shared among, the charging authority and precepting authorities in accordance with prescribed rules,
  - (g) that the charging authority must inform any precepting authorities of the effects of any calculation and rules mentioned in paragraphs (e) and (f) above,
  - (h) as to the circumstances in which the charging authority is to be treated as having discharged the liabilities mentioned in subsection (1) above,

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- (i) as to the recovery (by deduction or otherwise) of any excess amount paid by the charging authority to any precepting authority in purported discharge of the liability mentioned in subsection (1)(a) above, and
  - (j) as to the transfer back of any excess amount transferred by the charging authority in purported discharge of the liability mentioned in subsection (1) (b) above.
- (3) The Secretary of State may make regulations requiring transfers between funds, or adjustments or assumptions, to be made to take account of any substitute calculation under section 95(4) above.
- (4) The Secretary of State may make regulations providing that sums standing to the credit of a charging authority's collection fund at any time in a financial year must not exceed a total to be calculated in such manner as may be prescribed.
- (5) Regulations under subsection (4) above in their application to a particular financial year (including regulations amending others) shall not be effective unless they come into force before 1 January in the preceding financial year; but this does not affect regulations revoking others.

#### Textual Amendments

**F141** Words repealed by Local Government and Housing Act 1989(c. 42, SIF 81:1), ss. 139, 194(4), Sch. 5 para. 65, Sch. 12 Pt.II Note 4

## PART VII

### LIMITATION OF CHARGES ETC

#### 100 Power to designate authorities.

- (1) As regards a chargeable financial year the Secretary of State may designate a charging authority if in his opinion—
- (a) the amount calculated by it in relation to the year under section 95(4) above is excessive, or
  - (b) there is an excessive increase in the amount so calculated over the amount calculated by it in relation to the preceding financial year under section 95(4).
- (2) As regards a chargeable financial year the Secretary of State may designate a relevant precepting authority if in his opinion—
- (a) the aggregate amount of precepts issued by it for the year is excessive, or
  - (b) there is an excessive increase in that aggregate over the aggregate amount of precepts issued by it for the preceding financial year.
- (3) For the purposes of this Part each of the following is a relevant 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, and
  - (e) the London Fire and Civil Defence Authority.

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- (4) A decision whether to designate an authority shall be made in accordance with principles determined by the Secretary of State and, in the case of an authority falling within any of the classes specified in subsection (5) below, those principles shall be the same either for all authorities falling within that class or for all of them which respectively have and have not been designated under this Part as regards the preceding financial year.
- (5) The classes are—
- (a) county councils,
  - (b) councils of metropolitan districts,
  - (c) councils of non-metropolitan districts,
  - (d) councils of inner London boroughs,
  - (e) councils of outer London boroughs,
  - (f) metropolitan county police authorities and the Northumbria Police Authority, and
  - (g) metropolitan county fire and civil defence authorities.
- (6) In construing subsection (1) above any calculation for which another has been substituted at the time designation is proposed shall be ignored.
- (7) In construing subsection (2) above any precept for which another has been substituted at the time designation is proposed shall be ignored.

## **101 Restriction on power to designate.**

- (1) An English authority shall not be designated under section 100 above as regards a financial year unless the amount calculated by it in relation to the year under section 95(4) above or the aggregate amount of precepts issued by it for the year (as the case may be) is equal to or greater than £15 million or such greater sum not exceeding £35 million as the Secretary of State may specify by order.
- (2) A Welsh authority shall not be designated under section 100 above as regards a financial year unless—
- (a) the Secretary of State has informed it of the sum he calculates under section 82(1) above as falling to be paid to it by way of revenue support grant for the year,
  - (b) he has informed it of the amount he calculates in relation to it for the year under paragraph 12 of Schedule 8 below, and
  - (c) the aggregate of the amounts mentioned in subsection (3) below is equal to or greater than £15 million or such greater sum not exceeding £35 million as he may specify by order.
- (3) The amounts are—
- (a) the amount calculated by the authority in relation to the year under section 95(4) above or the aggregate amount of precepts issued by it for the year (as the case may be),
  - (b) an amount equal to the sum the Secretary of State calculates under section 82(1) above as falling to be paid to it by way of revenue support grant for the year, and
  - (c) the amount he calculates in relation to it for the year under paragraph 12 of Schedule 8 below.

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- (4) If the Secretary of State informs an authority of a sum he calculates under section 82(2) above as falling to be paid to it by way of revenue support grant for the year, it shall not affect the operation of subsection (3)(b) above.
- (5) In construing subsections (1) and (3)(a) above any calculation for which another has been substituted at the time designation is proposed shall be ignored.
- (6) In construing subsections (1) and (3)(a) above any precept for which another has been substituted at the time designation is proposed shall be ignored.

## **102 Designation of authorities.**

- (1) If the Secretary of State decides under section 100 above to designate an authority he shall notify it in writing of—
  - (a) his decision,
  - (b) the principles determined under section 100(4) above in relation to it, and
  - (c) the amount which he proposes should be the maximum for the amount calculated by it in relation to the year under section 95(4) above or the maximum for the aggregate amount of precepts issued by it for the year (as the case may be).
- (2) A designation—
  - (a) is invalid unless subsection (1) above is complied with, and
  - (b) shall be treated as made at the beginning of the day on which the authority receives a notification under that subsection.
- (3) Where a charging authority has been designated under this section, and after the designation is made the authority makes substitute calculations in relation to the year in accordance with section 95 above, the substitute calculations shall be invalid unless they are made under section 107(1) below.
- (4) Where a precepting authority has been designated under this section, and after the designation is made the authority issues any substitute precept for the year, the substitute precept shall be invalid unless it is issued under section 107(2) below.
- (5) Before the end of the period of 28 days beginning with the day it receives a notification under this section, an authority may inform the Secretary of State by notice in writing that—
  - (a) for reasons stated in the notice, it believes the maximum amount stated under subsection (1)(c) above should be such as the authority states in its notice, or
  - (b) it accepts the maximum amount stated under subsection (1)(c) above.
- (6) References in the following provisions of this Part to a designated authority are to an authority designated under this section.

## **103 Transitional years: special provisions.**

- (1) In relation to the power to designate under section 100 above as regards the financial year beginning in 1990, that section shall have effect as if subsection (1)(b) read—
  - “(b) there is an excessive increase in the amount so calculated over the relevant notional amount, that is, the amount which would in the Secretary of State’s opinion have been calculated by the authority in relation to the preceding financial year under section 95(4) on the

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assumption that that year was a chargeable financial year and on such additional assumptions as he thinks fit.”

- (2) In relation to the power to designate under section 100 above as regards the financial year beginning in 1990, that section shall have effect as if subsection (2)(b) read—
  - “(b) there is an excessive increase in that aggregate over the relevant notional aggregate, that is, the amount which would in the Secretary of State’s opinion have been the aggregate amount of precepts issued by the authority for the preceding financial year on the assumption that that year was a chargeable financial year and on such additional assumptions as he thinks fit.”
- (3) In relation to the power to designate under section 100 above as regards the financial year beginning in 1990, that section shall have effect as if in subsection (4) “this Part” read “Part I of the Rates Act 1984”.
- (4) Where the Secretary of State decides under section 100 above to designate an authority as regards the financial year beginning in 1990, subsections (5) and (6) below shall apply.
- (5) Where this subsection applies, section 102 above shall have effect as if the following appeared after subsection (1)(a)—
  - “(aa) where subsection (1A) below applies, the matters there mentioned,”.
- (6) Where this subsection applies, section 102 above shall have effect as if the following appeared after subsection (1)—
  - “(1A) This subsection applies if the decision to designate is made under section 100(1)(b) or (2)(b) above; and the matters referred to in subsection (1)(aa) above are—
    - (a) the relevant notional amount or the relevant notional aggregate (as the case may be), and
    - (b) the additional assumptions made in arriving at that amount or aggregate.”
- (7) If the Secretary of State decides that paragraph 12 of Schedule 8 below is not to have effect in relation to a transitional year, as regards the year section 101 above shall have effect as if in subsections (2)(b) and (3)(c) “12” read “13”.

#### **104 Challenge of maximum amount.**

- (1) This section applies where a designated authority informs the Secretary of State by notice in writing under section 102(5)(a) above.
- (2) If the authority is a charging authority, after considering any information he thinks is relevant the Secretary of State shall (subject to subsection (8) below) make an order stating the amount which the amount calculated by it in relation to the year under section 95(4) above is not to exceed.
- (3) Subject to subsection (4) below, the amount stated under subsection (2) above may be the same as, or greater or smaller than, that stated in the notice under section 102(1)(c) above.
- (4) The amount stated under subsection (2) above may not exceed the amount already calculated by the authority in relation to the year under section 95(4) above unless, in



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the Secretary of State's opinion, the authority failed to comply with section 95 above in making the calculation.

- (5) If the authority is a precepting authority, after considering any information he thinks is relevant the Secretary of State shall (subject to subsection (8) below) make an order stating the amount which the aggregate amount of precepts issued by it for the year is not to exceed.
- (6) Subject to subsection (7) below, the amount stated under subsection (5) above may be the same as, or greater or smaller than, that stated in the notice under section 102(1)(c) above.
- (7) The amount stated under subsection (5) above may not exceed the aggregate amount of precepts already issued by the authority for the year unless, in the Secretary of State's opinion, the authority failed to fulfil section 68(3) or 69(3) or (4) above in issuing any precept.
- (8) The power to make an order under this section 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 the House of Commons.
- (9) An order under this section may relate to two or more authorities.
- (10) As soon as is reasonably practicable after an order under this section is made the Secretary of State shall serve on the authority (or each authority) a notice stating the amount stated in the case of the authority in the order.
- (11) When he serves a notice under subsection (10) above on a precepting authority the Secretary of State shall also serve a copy of it on each charging authority to which the precepting authority has power to issue a precept.
- (12) In construing subsection (4) above any calculation for which another has been substituted at the time of designation shall be ignored.
- (13) In construing subsection (7) above any precept for which another has been substituted at the time of designation shall be ignored.

#### **105 Acceptance of maximum amount.**

- (1) This section applies where a designated authority informs the Secretary of State by notice in writing under section 102(5)(b) above.
- (2) If the authority is a charging authority, as soon as is reasonably practicable after he receives the notice the Secretary of State shall serve on the authority a notice stating the amount which the amount calculated by it in relation to the year under section 95(4) above is not to exceed; and the amount stated shall be that stated in the notice under section 102(1)(c) above.
- (3) If the authority is a precepting authority, as soon as is reasonably practicable after he receives the notice the Secretary of State shall serve on the authority a notice stating the amount which the aggregate amount of precepts issued by it for the year is not to exceed; and the amount stated shall be that stated in the notice under section 102(1)(c) above.
- (4) When he serves a notice under subsection (3) above the Secretary of State shall also serve a copy of it on each charging authority to which the precepting authority has power to issue a precept.

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## **106 No challenge or acceptance.**

- (1) This section applies where the period mentioned in section 102(5) above ends without a designated authority informing the Secretary of State by notice in writing under section 102(5)(a) or (b) above.
- (2) If the authority is a charging authority, as soon as is reasonably practicable after the period ends the Secretary of State shall (subject to subsection (4) below) make an order stating the amount which the amount calculated by it in relation to the year under section 95(4) above is not to exceed; and the amount stated shall be that stated in the notice under section 102(1)(c) above.
- (3) If the authority is a precepting authority, as soon as is reasonably practicable after the period ends the Secretary of State shall (subject to subsection (4) below) make an order stating the amount which the aggregate amount of precepts issued by it for the year is not to exceed; and the amount stated shall be that stated in the notice under section 102(1)(c) above.
- (4) The power to make an order under this section 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 the House of Commons.
- (5) An order under this section may relate to two or more authorities.
- (6) As soon as is reasonably practicable after an order under this section is made the Secretary of State shall serve on the authority (or each authority) a notice stating the amount stated in the case of the authority in the order.
- (7) When he serves a notice under subsection (6) above on a precepting authority the Secretary of State shall also serve a copy of it on each charging authority to which the precepting authority has power to issue a precept.

## **107 Substituted calculations and precepts.**

- (1) A charging authority which has received a notice under section 104(10), 105(2) or 106(6) above shall make substitute calculations in relation to the year in accordance with section 95 above, but—
  - (a) section 95(9) shall be ignored for this purpose, and
  - (b) the calculations shall be made so as to secure that the amount calculated under section 95(4) does not exceed that stated in the notice.
- (2) A precepting authority which has received a notice under section 104(10), 105(3) or 106(6) above shall issue, in substitution for any precept or precepts previously issued by it for the year, a precept or precepts in accordance with sections 68 to 70 above, but—
  - (a) section 68(2) shall be ignored for this purpose, and
  - (b) the amount of the precept, or the aggregate amount of the precepts, issued by the authority for the year under this section shall not exceed that stated in the notice.
- (3) Where calculations are made under subsection (1) above the following provisions apply accordingly—
  - (a) Part II,
  - (b) sections 74, 75, 97, 99 and 100(1)(b) and (6) above, and

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- (c) sections 110(1), 138(2)(g) and 139(2)(c) below.
- (4) Where a precept is issued under subsection (2) above the following provisions apply accordingly—
- (a) sections 32(4) and (5), 33(3) and (11), 35(1)<sup>F142</sup> . . . , 71(5) and (6), 72, 74, 99 and 100(2)(b) and (7) above, and
- (b) sections 110(2), 138(2)(d) and 139(2)(b) below.

#### Textual Amendments

**F142** Words in s. 107(4)(a) repealed (21. 3. 1991) by [Community Charges \(Substitute Setting\) Act 1991](#) (c. 8), ss. 5(4)(5), 6(3), [Sch.](#)

### 108 Failure to substitute.

- (1) Subsection (2) below applies if a charging authority which has received a notice under section 104(10), 105(2) or 106(6) above fails to comply with section 107(1) above before the end of the period of 21 days beginning with the day on which it receives the notice.
- (2) During the period of restriction the authority shall have no power to transfer any amount from its collection fund to its general fund or to the City fund (as the case may be) and sections 97 and 98 above shall have effect accordingly.
- (3) For the purposes of subsection (2) above the period of restriction is the period which—
- (a) begins at the end of the period mentioned in subsection (1) above, and
- (b) ends at the time (if any) when the authority complies with section 107(1) above.
- (4) Subsection (5) below applies if a precepting authority which has received a notice under section 104(10), 105(3) or 106(6) above fails to comply with section 107(2) above before the end of the period of 21 days beginning with the day on which it receives the notice.
- (5) During the period of restriction any authority to which the precepting authority has power to issue a precept shall have no power to pay anything in respect of a precept issued by the precepting authority for the year.
- (6) For the purposes of subsection (5) above the period of restriction is the period which—
- (a) begins at the end of the period mentioned in subsection (4) above, and
- (b) ends at the time (if any) when the precepting authority complies with section 107(2) above.

### 109 Other financial requirements.

- (1) This section applies where an order under section 104 above states in the case of an authority an amount greater than that stated in the notice under section 102(1)(c) above.
- (2) The Secretary of State may decide to impose on the authority concerned such requirements relating to its expenditure or financial management as he thinks appropriate.

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- (3) If he does so decide he shall include a statement of his decision and of the requirements in the notice served on the authority under section 104(10) above.
- (4) The authority shall comply with any such requirements, and shall report to the Secretary of State whenever he directs it to do so on the extent to which they have been complied with.

## 110 Information.

- (1) A charging authority shall notify the Secretary of State in writing of any amount calculated by it under section 95(4) above, whether originally or by way of substitute.
- (2) A relevant precepting authority shall notify the Secretary of State in writing of the amount of any precept issued by it under this Act, whether originally or by way of substitute.
- (3) A notification under subsection (1) or (2) above must be given before the end of the period of seven days beginning with the day on which the calculation is made or the precept is issued (as the case may be).
- (4) The Secretary of State may serve on a charging authority or relevant precepting authority a notice requiring it to supply to him such other information as is specified in the notice and required by him for the purpose of deciding whether to exercise his powers, and how to perform his functions, under this Part.
- (5) The authority shall supply the information required if it is in its possession or control, and shall do so in such form and manner, and at such time, as the Secretary of State specifies in the notice.
- (6) An authority may be required under subsection (4) above to supply information at the same time as it gives a notification under subsection (1) or (2) above or at some other time.
- (7) If an authority fails to comply with subsection (1) or (2) above, or with subsection (5) above, the Secretary of State may decide whether to exercise his powers, and how to perform his functions, under this Part on the basis of such assumptions and estimates as he sees fit.
- (8) In deciding whether to exercise his powers, and how to perform his functions, under this Part 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.

## PART VIII

### FINANCIAL ADMINISTRATION

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

- C41** Pt. VIII (ss. 111-116) applied (*temp.* from 4.5.1995 to 31.3.1996) by S.I. 1995/1042, art. 4(1)  
Pt. VIII (ss. 111-116) applied (with modifications) (4.6.1996) by S.I. 1996/1243, art. 18, Sch. 5 Pt. I para. 4(1)

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Power to make provision about matters of the kind dealt with by Pt. VIII (ss. 111-116) conferred (1.9.1997) by 1997 c. 50, s. 44(1), **Sch. 4** para. (i); S.I. 1997/1930, **art. 3(2)(m)** (with art. 3(3))  
Pt. VIII: power to apply conferred (31.8.2000) by 1997 c. 25, s. 59D(4) (as inserted (31.8.2000) by 1999 c. 22, s. 83(2), (with s. 107, Sch. 14 para. 7(2)); S.I. 2000/1920, **art. 3(b)**

## 111 Interpretation.

- (1) This section applies for the purposes of this Part.
- (2) Each of the following is a relevant authority
  - (a) a county council,
  - (b) a district council,
  - (c) a London borough council,
  - (d) . . . <sup>F143</sup>
  - (e) a metropolitan county police authority,
  - (f) the Northumbria Police Authority,
  - (g) a metropolitan county fire and civil defence authority,
  - (h) the London Fire and Civil Defence Authority,
  - (i) a metropolitan county passenger transport authority,
  - (j) a waste disposal authority,
  - (k) the Council of the Isles of Scilly,
  - (l) a combined police authority, and
  - (m) a combined fire authority.
- (3) The <sup>M15</sup>1972 Act is the Local Government Act 1972 and the <sup>M16</sup>1985 Act is the Local Government Act 1985.
- (4) The commencement day is the day on which this Part comes into force.
- (5) This Part shall come into force at the end of the period of 2 months beginning with the day on which this Act is passed.

### Textual Amendments

**F143** S. 111(2)(d) repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. I**

### Marginal Citations

**M15** 1972 c. 70.

**M16** 1985 c. 51.

## 112 Financial administration as to certain authorities.

- (1) On and after the commencement day each authority mentioned in subsection (2) below shall make arrangements for the proper administration of its financial affairs and shall secure that one of its officers has responsibility for the administration of those affairs.
- (2) The authorities are—
  - (a) any combined police authority, and
  - (b) any combined fire authority.

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### 113 Qualifications of responsible officer.

- (1) On and after the commencement day the person having responsibility for the administration of the financial affairs of a relevant authority under section 151 of the 1972 Act, section 73 of the 1985 Act or section 112 above shall fulfil the requirement in one (or the requirements in each) of the paragraphs of subsection (2) below.
- (2) The requirements are that—
  - (a) he is a member of one or more of the bodies mentioned in subsection (3) below;
  - (b) immediately before the commencement day he had responsibility for the administration of the financial affairs of any of the authorities mentioned in section 111(2)(a) to (k) above under section 151 of the 1972 Act or section 73 of the 1985 Act.
- (3) The bodies are—
  - (a) the Institute of Chartered Accountants in England and Wales,
  - (b) the Institute of Chartered Accountants of Scotland,
  - (c) the Chartered Association of Certified Accountants,
  - (d) the Chartered Institute of Public Finance and Accountancy,
  - (e) the Institute of Chartered Accountants in Ireland,
  - (f) the Chartered Institute of Management Accountants, and
  - (g) any other body of accountants established in the United Kingdom and for the time being approved by the Secretary of State for the purposes of this section.
- (4) The authority mentioned in subsection (2)(b) above need not be the same as that under consideration for the purpose of applying subsection (1) above.

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

C42 S. 113(2)(b) applied (with modifications) (4.6.1996) by S.I. 1996/1243, art. 18, Sch. 5 Pt. I para. 4(2)

### 114 Functions of responsible officer as regards reports.

- (1) On and after the commencement day the person having responsibility for the administration of the financial affairs of a relevant authority under section 151 of the 1972 Act, section 73 of the 1985 Act or section 112 above shall have the duties mentioned in this section, without prejudice to any other functions; and in this section he is referred to as the chief finance officer of the authority.
- (2) The chief finance officer of a relevant authority shall make a report under this section if it appears to him that the authority, a committee or officer of the authority, or a joint committee on which the authority is represented—
  - (a) has made or is about to make a decision which involves or would involve the authority incurring expenditure which is unlawful,
  - (b) has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the authority, or
  - (c) is about to enter an item of account the entry of which is unlawful.
- (3) The chief finance officer of a relevant authority shall make a report under this section if it appears to him that the expenditure of the authority incurred (including expenditure

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it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure.

[<sup>F144</sup>(3A) It shall be the duty of the chief finance officer of a relevant authority, in preparing a report in pursuance of subsection (2) above, to consult so far as practicable—

- (a) with the person who is for the time being designated as the head of the authority's paid service under section 4 of the Local Government and Housing Act 1989; and
- (b) with the person who is for the time being responsible for performing the duties of the authority's monitoring officer under section 5 of that Act.]

(4) Where a chief finance officer of a relevant authority has made a report under this section he shall send a copy of it to—

- (a) the person who at the time the report is made has the duty to audit the authority's accounts, and
- (b) each person who at that time is a member of the authority.

(5) Subject to subsection (6) below, the duties of a chief finance officer of a relevant authority under subsections (2) and (3) above shall be performed by him personally.

(6) If the chief finance officer is unable to act owing to absence or illness his duties under subsections (2) and (3) above shall be performed—

- (a) by such member of his staff as is a member of one or more of the bodies mentioned in section 113(3) above and is for the time being nominated by the chief finance officer for the purposes of this section, or
- (b) if no member of his staff is a member of one or more of those bodies, by such member of his staff as is for the time being nominated by the chief finance officer for the purposes of this section.

(7) A relevant authority shall provide its chief finance officer with such staff, accommodation and other resources as are in his opinion sufficient to allow his duties under this section to be performed.

(8) In this section—

- (a) references to a joint committee are to a committee on which two or more relevant authorities are represented, and
- (b) references to a committee (joint or otherwise) include references to a sub-committee.

#### Textual Amendments

**F144** S. 114(3A) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 66](#)

VALID FROM 07/11/2001

#### [<sup>F145</sup>114A] **Functions of responsible officer as regards reports—local authorities operating executive arrangements**

(1) The person having responsibility under section 151 of the 1972 Act for the administration of the financial affairs of a relevant authority which is operating

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executive arrangements shall have the duties mentioned in this section, without prejudice to any other functions; and in this section he is referred to as the chief finance officer of the authority.

- (2) The chief finance officer of an authority that is referred to in subsection (1) shall make a report under this section to the executive of that authority if it appears to him that, in the course of the discharge of functions of the authority, the executive or a person on behalf of the executive—
- (a) has made or is about to make a decision which involves or would involve the authority incurring expenditure which is unlawful;
  - (b) has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the authority; or
  - (c) is about to enter an item of account the entry of which is unlawful.
- (3) It shall be the duty of the chief finance officer of an authority, in preparing a report in pursuance of subsection (2) above, to consult so far as practicable—
- (a) with the person who is for the time being designated as the head of the authority's paid service under section 4 of the Local Government and Housing Act 1989; and
  - (b) with the person who is for the time being responsible for performing the duties of the authority's monitoring officer under section 5 and 5A of that Act <sup>F146</sup>.
- (4) Where a chief finance officer has made a report under this section he shall send a copy of it to—
- (a) the person who at the time the report is made has the duty to audit the authority's accounts;
  - (b) each person who at that time is a member of the authority; and
  - (c) where the authority has a mayor and council manager executive, the person who at that time is the council manager.
- (5) Subsections (5) and (6) of section 114 shall apply in relation to duties under subsections (2) and (3) of this section as they apply in relation to duties under subsections (2) and (3) of that section.
- (6) A relevant authority shall provide its chief finance officer with such staff, accommodation and other resources as are in his opinion sufficient to allow his duties under this section to be performed.]

#### Textual Amendments

**F145** S. 114A inserted (E.) (11.7.2001) by [S.I. 2001/2237](#), [art. 20\(2\)](#) and inserted (W.) (1.4.2002) by [S.I. 2002/808](#), [art. 19\(2\)](#)

**F146** Section 5A is inserted by article 23(2) of this Order.

### 115 Authority's duties as regards reports.

- (1) This section applies where copies of a report under section 114 above have been sent under section 114(4) above.



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- (2) The authority shall consider the report at a meeting where it shall decide whether it agrees or disagrees with the views contained in the report and what action (if any) it proposes to take in consequence of it.
- (3) The meeting must be held not later than the end of the period of 21 days beginning with the day on which copies of the report are sent.
- (4) Section 101 of the 1972 Act (delegation) shall not apply to the duty under subsection (2) above where the authority is one to which that section would apply apart from this subsection.
- (5) If the report was made under section 114(2) above, during the prohibition period the course of conduct which led to the report being made shall not be pursued.
- (6) If the report was made under section 114(3) above, during the prohibition period the authority shall not enter into any new agreement which may involve the incurring of expenditure (at any time) by the authority.
- (7) If subsection (5) above is not complied with, and the authority makes any payment in the prohibition period as a result of the course of conduct being pursued, it shall be taken not to have had power to make the payment (notwithstanding any obligation to make it under contract or otherwise).
- (8) If subsection (6) above is not complied with, the authority shall be taken not to have had power to enter into the agreement (notwithstanding any option to do so under contract or otherwise).
- (9) In this section “the prohibition period” means the period—
  - (a) beginning with the day on which copies of the report are sent, and
  - (b) ending with the first business day to fall after the day (if any) on which the authority’s consideration of the report under subsection (2) above is concluded.
- (10) If subsection (3) above is not complied with, it is immaterial for the purposes of subsection (9)(b) above.
- (11) The nature of the decisions made at the meeting is immaterial for the purposes of subsection (9)(b) above.
- (12) In subsection (9)(b) above “business day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England and Wales.

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

- C43** S. 115 applied (with modifications) (28.11.1994) by S.I. 1994/2825, **reg. 37(1)**  
S. 115 applied (conditionally) (28.11.1994) by S.I. 1994/2825, **reg. 36(6)**  
S. 115 amended (28.11.1994) by S.I. 1994/2825, **reg. 36(7)**

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VALID FROM 08/05/2000

**[<sup>F147</sup>115A] Duties of Mayor of London and London Assembly as regards reports.**

- (1) This section applies where copies of a report under section 114 above by the chief finance officer of the Greater London Authority have been sent under section 114(4) above.
- (2) The Mayor shall consider the report preparatory to making the decisions under subsection (6) below.
- (3) The Assembly shall consider the report at a meeting where it shall decide—
  - (a) whether it agrees or disagrees with the views contained in the report; and
  - (b) what action (if any) it recommends that the Mayor should take in consequence of it.
- (4) The meeting must be held not later than the end of the period of 21 days beginning with the day on which the copies of the report are sent.
- (5) The Mayor must attend the meeting.
- (6) After the meeting, the Mayor shall decide—
  - (a) whether he agrees or disagrees with the views contained in the report; and
  - (b) what action (if any) he proposes to take in consequence of it.
- (7) In making any decision under subsection (6) above, the Mayor shall take account of any views or recommendations of the Assembly at the meeting.
- (8) The Mayor must make the decisions under subsection (6) above before the end of the period of 14 days beginning with the day on which the meeting of the Assembly concludes.
- (9) Any functions of the Mayor under this section must be exercised by the Mayor personally.
- (10) Section 54 of the 1999 Act (discharge of Assembly functions by committees etc) shall not apply in relation to any function of the Assembly under this section.
- (11) In this section—
 

“the Assembly” means the London Assembly;

“the Mayor” means the Mayor of London.]

**Textual Amendments**

- F147** S. 115A inserted (8.5.1999 for certain purposes 3.7.2000 in so far as not already in force) by 1999 c. 29, s. 131(9) (with Sch. 12 para. 9(1)); S.I. 1999/3434, arts. 3, 4

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VALID FROM 11/07/2001

**[<sup>F148</sup>115B] Duties of executive as regards reports**

- (1) This section applies where copies of a report under section 114A above have been sent under section 114A(4) above.
- (2) The executive of the authority (within the meaning of Part II of the Local Government Act 2000) shall consider the report at a meeting where it shall decide whether it agrees or disagrees with the views contained in the report and what action (if any) it proposes to take in consequence of it.
- (3) The meeting must be held not later than the end of the period of 21 days beginning with the day on which copies of the report are sent.
- (4) During the prohibition period the course of conduct which led to the report being made shall not be pursued.
- (5) If subsection (4) above is not complied with, and the executive makes any payment in the prohibition period as a result of the course of conduct being pursued, the executive shall be taken not to have had power to make the payment (notwithstanding any obligation to make it under contract or otherwise).
- (6) As soon as practicable after the executive has concluded its consideration of the chief finance officer's report, the executive shall prepare a report which specifies—
  - (a) what action (if any) the executive has taken in response to the chief finance officer's report;
  - (b) what action (if any) the executive proposes to take in response to the chief finance officer's report and when the executive proposes to take that action; and
  - (c) the reasons for taking the action specified in the executive's report or, as the case may be, for taking no action.
- (7) As soon as practicable after the executive has prepared a report under subsection (6), the executive shall arrange for a copy of it to be sent to—
  - (a) the person who at the time the report is made has the duty to audit the authority's accounts;
  - (b) each person who at that time is a member of the authority; and
  - (c) the chief finance officer of the authority.
- (8) In this section—
  - (a) “chief finance officer” has the same meaning as in section 114A; and
  - (b) “the prohibition period” means the period—
    - (i) beginning with the day on which copies of the chief finance officer's report are sent; and
    - (ii) ending with the first business day to fall after the day (if any) on which the executive's consideration of the report under subsection (2) above is concluded.
- (9) If subsection (3) above is not complied with, it is immaterial for the purposes of subsection (8)(b)(ii) above.

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(10) The nature of the decisions made at the meeting is immaterial for the purposes of subsection (8)(b)(ii) above.

(11) In subsection (8)(b)(ii) above “business day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England.]

#### Textual Amendments

F148 S. 115B inserted (E.) (11.7.2001) by S.I. 2001/2237, art. 21(1)

#### F149 116 Information about meetings.

- (1) Where it is proposed to hold a meeting under section 115 above the authority’s proper officer shall as soon as is reasonably practicable notify its auditor of the date, time and place of the proposed meeting.
- (2) As soon as is reasonably practicable after a meeting is held under section 115 above the authority’s proper officer shall notify its auditor of any decision made at the meeting.
- (3) For the purposes of this section an authority’s proper officer is the person to whom the authority has for the time being assigned responsibility to notify its auditor under this section.
- (4) For the purposes of this section an authority’s auditor is the person who for the time being has the duty to audit its accounts.

#### Textual Amendments

F149 S. 116 applied (with modifications) (28.11.1994) by S.I. 1994/2825, reg. 37(1)

## PART IX

### EXISTING RATES, PRECEPTS AND GRANTS

#### 117 Rates and precepts: abolition.

- (1) The <sup>M17</sup>General Rate Act 1967 shall not have effect as regards any time after 31 March 1990.
- (2) As regards any time after 31 March 1990 the Common Council shall have no power to make or levy a rate under section 15 or 18 of the <sup>M18</sup>City of London (Union of Parishes) Act 1907, the <sup>M19</sup>City of London (Tithes and Rates) Act 1910 or section 68(1) of the <sup>M20</sup>London Government Act 1963 (general rate, poor rate and St. Botolph tithe rate).
- (3) Neither the sub-treasurer of the Inner Temple nor the under-treasurer of the Middle Temple shall have power to make or levy a rate as regards any time after 31 March 1990.
- (4) No precepting authority shall have power to issue a precept in respect of a chargeable financial year, except as provided by this Act.

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- (5) In subsection (6) below “levying body” means any body which—
- (a) is established by or under an Act,
  - (b) apart from subsection (6) below would have in respect of the financial year beginning in 1990 power (conferred by or under an Act passed before, or in the same session as, this Act) to issue a precept to, make a levy on or have its expenses paid by a county council or charging authority, and
  - (c) is not a precepting authority, combined police authority, combined fire authority, magistrates’ courts committee or probation committee.
- (6) In respect of any chargeable financial year no levying body shall have power under the Act concerned to issue a precept to, make a levy on or have its expenses paid by the council concerned.
- (7) In subsections (5) and (6) above “Act” includes a private or local Act.
- (8) The Secretary of State may make regulations providing that the preceding provisions of this section shall have effect subject to prescribed savings.

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

**C44** S. 117 excluded by S.I. 1990/70, **reg. 13**

S. 117 restricted (11.12.1992) by S.I. 1992/2903, **reg.12**

**C45** S. 117(1) excluded by S.I. 1989/440, **art. 6(2)(4)** and S.I. 1990/777, **regs. 3, 4(1)**

**C46** S. 117(6) excluded by S.I. 1990/777, **reg. 4(2)**

**Marginal Citations**

**M17** 1967 c. 9.

**M18** 1907 c. cx1.

**M19** 1910 c. xxx.

**M20** 1963 c. 33.

**118 Rates: power to abolish or modify.**

- (1) This section applies as regards any body—
- (a) which is established by or under an Act,
  - (b) which as regards the financial year beginning in 1989 has power (conferred by or under an Act) to levy a rate by reference to the value or yearly value of property, and
  - (c) which is not a charging authority

[<sup>F150</sup>and, in the case of an internal drainage board, there shall be disregarded for the purposes of paragraph (b) above any agreement under section 81 of the Land Drainage Act 1976 under which the board have agreed that no drainage rate will be levied on occupiers or owners of certain rateable hereditaments].

- (2) The [<sup>F151</sup>appropriate Minister] may by regulations provide as mentioned in one of the following paragraphs as regards any such body—
- (a) that the body shall have no power to levy the rate as regards any time specified in the regulations and falling after 31 March 1990;

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- (b) that the body’s power to levy the rate as regards any time specified in the regulations and falling after 31 March 1990 shall be modified in a manner specified in the regulations.
- (3) Regulations providing as mentioned in subsection (2)(b) above as regards a body may include provision—
  - (a) as to the property (or description of property) in respect of which the rate may be levied and the property (or description of property) in respect of which the rate may not be levied;
  - (b) as to the body’s expenditure, or the proportion of its expenditure, which may be met from the proceeds of the rate.
- (4) Regulations may provide as mentioned in this section in such way as the [F151 appropriate Minister] thinks fit (whether by amending provisions or otherwise).
- (5) In this section “Act” includes a private or local Act [F152 and “the appropriate minister” means—
  - (a) as respects any internal drainage board whose district is wholly within England, the Minister of Agriculture, Fisheries and Food;
  - (b) as respects any internal drainage board whose district is partly in England and partly in Wales, that Minister and the Secretary of State acting jointly; and
  - (c) as respects any other body, the Secretary of State.]

**Textual Amendments**

**F150** Words added by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, **Sch. 5 para. 61(7)**

**F151** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, **Sch. 5 para. 67(2)**

**F152** Definition added by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, **Sch. 5 para. 67(3)**

119 ..... F153

**Textual Amendments**

**F153** S. 119 repealed and superseded by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), ss. 149, 194(4), **Sch. 12 Pt. II**

**120 Refund of overpayments.**

Section 9(2) of the 1967 Act (restrictions on refund of overpayments) shall have effect, and be deemed always to have had effect, as if after paragraph (b) there were inserted—

- “; or
- (c) if the amount paid was charged in accordance with the understanding generally prevailing at the time when the payment was demanded about the application of the relevant statutory provisions.”

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## 121 Valuation according to tone of list.

- (1) Where for the purposes of section 20 of the 1967 Act a hereditament is valued on the basis of the assumptions specified in subsection (1) of that section (basis of valuation for the purposes of a proposal to alter a valuation list to be consistent with the tone of the list), no account shall be taken of a change to which this subsection applies unless it is one which—
  - (a) affects the physical state or physical enjoyment of the hereditament, or
  - (b) affects the physical state of the locality in which the hereditament is situated or, though it does not affect the physical state of the locality, is nonetheless physically manifest there.
- (2) Subsection (1) above applies to any change in the state of the hereditament or the state of the locality in which the hereditament is situated which has occurred since the time by reference to which the value of the hereditament is to be ascertained, other than one relating to a factor which is a relevant factor within the meaning of that section.
- (3) This section shall have effect in relation to any proposal made on or after 10 March 1988 which is outstanding on the passing of this Act but shall not have effect in relation to any proposal made before 10 March 1988.

## 122 Rating of statutory water undertakings.

- (1) The following section shall be substituted for section 31 of the 1967 Act—

### “31 Statutory water undertakings.

- (1) The rateable values of the hereditaments in any rating district which are occupied, otherwise than as dwellings, for the water purposes of a statutory water undertaking (hereafter in this section and in Schedule 4 to this Act referred to as “water hereditaments” of the undertaking) shall be ascertained in accordance with the provisions of the said Schedule 4.
  - (2) For the purposes of subsection (1) of this section, a hereditament is occupied for the water purposes of a statutory water undertaking if it is occupied for the purposes of any of the undertakers’ functions with respect to the supply of water.
  - (3) In this section and the said Schedule 4, references to statutory water undertakers shall be construed in accordance with section 11(6) of the <sup>M21</sup>Water Act 1973 (and references to statutory water undertakings shall be construed accordingly).”
- (2) This section shall have effect in relation to any proposal made on or after 10 March 1988 which is outstanding on the passing of this Act but shall not have effect in relation to any proposal made before 10 March 1988.

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### Marginal Citations

M21 1973 c. 37.



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### 123 Rating amendments: miscellaneous.

- (1) This subsection applies to a proposal for an alteration of a valuation list which, if made, would have the effect of rating as a non-water hereditament of a statutory water undertaking a hereditament which—
  - (a) was previously so rated but ceased to be so rated by virtue of an alteration made on or after 4 December 1987,
  - (b) was occupied for the purposes of the undertaking at the time of the proposal in pursuance of which the earlier alteration was made, and
  - (c) was not at that time occupied for the purposes of the undertakers' functions with respect to the supply of water.
- (2) This subsection applies to a proposal for an alteration of a valuation list which—
  - (a) would, if made, have the effect of reversing an alteration of the list made on or after 11 February 1988, and
  - (b) would not fall to be made but for section 121 above.
- (3) Where in the case of a proposal to which subsection (1) or (2) above applies there has been, since the making of the proposal in pursuance of which the earlier alteration was made, such a change of circumstances in relation to the hereditament to which the proposal relates as is mentioned in any of paragraphs (a) to (h) of section 68(4) of the 1967 Act, the change of circumstances shall be disregarded for the purposes of dealing with the proposal.
- (4) This subsection applies to an alteration of a valuation list which—
  - (a) is made in pursuance of a proposal to which subsection (1) above applies, or
  - (b) has the effect of reversing an alteration of the list made on or after 11 February 1988 and would not have fallen to be made but for section 121 above.
- (5) An alteration to which subsection (4) above applies shall be deemed to have had effect—
  - (a) if the earlier alteration was made in pursuance of a proposal made before 10 March 1988, from that date, and
  - (b) if the earlier alteration was made in pursuance of a proposal made on or after 10 March 1988, from the date that the earlier alteration had effect,
 notwithstanding in either case that the date from which the alteration is deemed to have had effect differs from the date provided by section 79(1) of the 1967 Act.
- (6) For the purposes of subsection (1) above, a hereditament is rated as a non-water hereditament of a statutory water undertaking if its value is ascertained otherwise than in accordance with the provisions of Schedule 4 to the 1967 Act.
- (7) In this section, the reference in subsection (1)(c) to statutory water undertakers is a reference to a water authority or statutory water company within the meaning of the <sup>M22</sup>Water Act 1973 and “statutory water undertaking” shall be construed accordingly.
- (8) In this section and sections 120 to 122 above—
  - (a) “the 1967 Act” means the <sup>M23</sup>General Rate Act 1967,
  - (b) “valuation list” has the meaning assigned by section 115(1) of that Act, and
  - (c) references to the date on which a proposal is made are references to the date on which the proposal is served on the valuation officer or, where the proposal is made by the valuation officer, is served on the occupier of the hereditament to which the proposal relates.



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#### Marginal Citations

M22 1973 c. 37.

M23 1967 c. 9.

### 124 Rate support grant: abolition.

- (1) No payments by way of rate support grant shall be made for a financial year beginning in or after 1990.
- (2) The Secretary of State may by order repeal any enactment relating to rate support grant.
- (3) If a sum paid to an authority under any provision repealed under subsection (2) above is less than the amount which should have been paid to it under the provision, the Secretary of State shall calculate the amount equal to the difference and pay a sum equal to that amount to the authority.
- (4) If a sum in excess of an amount payable to an authority has been paid under any provision repealed under subsection (2) above, the Secretary of State shall calculate the amount equal to the excess and a sum equal to that amount shall be due from the authority to the Secretary of State.
- (5) If the Secretary of State decides that a sum due under subsection (4) above is to be recoverable by deduction he may deduct a sum equalling (or sums together equalling) that sum from anything the authority is entitled to receive from him (whether by way of revenue support grant or otherwise).
- (6) If the Secretary of State decides that a sum due under subsection (4) above is to be recoverable by payment it shall be payable on such day as he may specify; and if it is not paid on or before that day it shall be recoverable in a court of competent jurisdiction.
- (7) The Secretary of State may decide that a sum due under subsection (4) above is to be recoverable partly by deduction and partly by payment, and in such a case subsections (5) and (6) above shall have effect with appropriate modifications.
- (8) The Secretary of State may decide differently under subsections (5) to (7) above as regards sums due from different authorities or as regards sums due from the same authority in respect of different financial years.

### 125 Transport grants: abolition.

Section 6(1) to (7) of the <sup>M24</sup>Local Government Act 1974 (supplementary grants for transport purposes) shall not have effect for a financial year beginning in or after 1990.

#### Marginal Citations

M24 1974 c. 7.

### 126 Variation of multipliers in supplementary reports.

- (1) In section 61 of the <sup>M25</sup>Local Government, Planning and Land Act 1980 (in this section referred to as “the 1980 Act”) subsection (4A) (which was inserted by paragraph 10

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of Schedule 1 to the <sup>M26</sup>Rate Support Grants Act 1986 and restricts the scope for the variation of multipliers in supplementary reports) shall cease to have effect.

- (2) If it appears to the Secretary of State that, in a supplementary report under section 61 of the 1980 Act for any year (whether beginning before or after the passing of this Act), he should specify a fresh determination of a multiplier, in place of the determination thereof (in this section referred to as “the earlier determination”) specified in the Rate Support Grant Report or any supplementary report for the year in question, he may make the fresh determination (and any calculation required by section 2(4) of the Rate Support Grants Act 1986) on the basis of such information, assumptions and determinations as he thinks appropriate.
- (3) Without prejudice to the generality of subsection (2) above, in the exercise of his discretion under that subsection the Secretary of State may disregard any information received or determination made after such time or times as appear to him to be appropriate.
- (4) Expressions used in subsections (2) and (3) above have the same meaning as in Part VI of the 1980 Act and any reference in this section to a multiplier is a reference to a multiplier determined or purported to be determined in exercise of the power conferred by section 59 of the 1980 Act.
- (5) In subsection (4) above the reference to section 59 of the 1980 Act includes a reference to paragraph 5(1) of Schedule 2 to the <sup>M27</sup>Local Government Finance Act 1982 (which makes corresponding provision for the Receiver for the Metropolitan Police District).
- (6) Nothing in this section shall be taken to prejudice the generality of the powers of the Secretary of State under subsections (4) and (5) of section 65 of the 1980 Act (powers in relation to matters as to which there is no or no sufficient information and in relation to information which is not submitted in accordance with the requirements of subsection (1) of that section).

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

**C47** S. 126(2) modified by [Rate Support Grants Act 1988 \(c. 51, SIF 81:1\)](#), **s. 1(7)(8)**

**C48** S. 126(2) amended by [Rate Support Grants Act 1988 \(c. 51, SIF 81:1\)](#), **s. 2(5)**

**C49** S. 126(2) excluded by [Rate Support Grants Act 1988 \(c. 51, SIF 81:1\)](#), **s. 3(8)**

#### **Marginal Citations**

**M25** 1980 c. 65.

**M26** 1986 c. 54.

**M27** 1982 c. 32.

## **127 London Regional Transport grants: amendment.**

- (1) No levy under section 13 of the <sup>M28</sup>London Regional Transport Act 1984 (contribution to expenditure on grants) shall be made in respect of any time after 31 March 1990.
- (2) The Secretary of State may make regulations providing that subsection (1) above shall have effect subject to prescribed savings.

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### Marginal Citations

M28 1984 c. 32.

## PART X

### SCOTLAND

#### 128 Levying of rates.

(1) [<sup>F154</sup>The non-domestic] rate levied by a rating authority in respect of lands and heritages for any financial year beginning on or after 1st April 1990 shall be levied according to such rateable value—

- (a) as is prescribed by the Secretary of State by regulations made under this section; or
- (b) as is determined in such manner and by reference to such considerations as may be prescribed by such regulations,

and such regulations may make different provision as regards [<sup>F155</sup>different areas and] different classes of lands and heritages and for different financial years.

[<sup>F156</sup>(1A) The considerations referred to in paragraph (b) of subsection (1) above shall be such as the Secretary of State thinks fit and may, without prejudice to that generality, include considerations which otherwise would not relate to the determination of the rateable value of lands and heritages.

(1B) The classification of lands and heritages for the purposes of subsection (1) above shall be by reference to such factors as the Secretary of State thinks fit and may, without prejudice to that generality, include the circumstances of persons by whom rates are payable.

(1C) Regulations made under this section may, in relation to lands and heritages which are part residential subjects (within the meaning of the Abolition of Domestic Rates Etc. (Scotland) Act 1987), provide for the apportionment of the rateable value prescribed or determined under this section in respect of the subjects as between the residential and non-residential use of the subjects.

(1D) A rateable value prescribed or determined under this section in respect of any lands and heritages shall be the rateable value of the lands and heritages for the purpose of the levying of the non-domestic rate but not for any other purposes.]

(2) . . . <sup>F157</sup>

(3) . . . <sup>F158</sup>

### Textual Amendments

**F154** Words expressed to be inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 145, [Sch. 6 para. 7\(a\)\(i\)](#)

**F155** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 145, [Sch. 6 para. 7\(a\)\(ii\)](#)

**F156** [S. 128\(1A\)–\(1D\)](#) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 145, [Sch. 6 para. 7\(b\)](#)

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**F157** S. 128(2) repealed by Local Government and Housing Act 1989 (c. 42, SIF 81:1), ss. 140(2)(c), 194(4), **Sch. 12 Pt. II**  
**F158** S. 128(3) repealed by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 145, **Sch. 6 para. 7(c)**

**129 Exemption from personal charge.**

- (1) In the Abolition of Domestic Rates Etc. (Scotland) Act 1987, section 8 (liability for personal community charge) shall be amended as follows.
- (2) For subsections (8) and (9) there shall be substituted the following subsection—
  - “(8) A person is exempt from liability to pay the personal community charge in respect of any time in a financial year if he is, at that time, a person such as is described in Schedule 1A to this Act.”

**PART XI**

MISCELLANEOUS AND GENERAL

**130**— ..... **F159**  
**132.**

**Textual Amendments**  
**F159** Ss. 130–132 repealed by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 194(2), **Sch. 12 Pt. I**

*Other miscellaneous provisions*

**133 Community charges: cross-border information.**

- (1) The Secretary of State may make regulations providing that any person mentioned in subsection (2) below shall supply to a community charges registration officer for an English or Welsh charging authority such information as fulfils the following conditions—
  - (a) it is in the possession or control of the person concerned,
  - (b) the registration officer requests the person concerned to supply it,
  - (c) it is requested by the registration officer for the purpose of carrying out his functions under Part I, and
  - (d) it does not fall within any prescribed description of information which need not be supplied.
- (2) The persons are—
  - (a) the community charges registration officer for a Scottish region or islands area,
  - (b) a Scottish regional council or islands council, and
  - (c) the assessor or electoral registration officer for any area in Scotland.

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- (3) The Secretary of State may make regulations providing that any person mentioned in subsection (4) below shall supply to a community charges registration officer for a Scottish region or islands area such information as fulfils the following conditions—
- (a) it is in the possession or control of the person concerned,
  - (b) the registration officer requests the person concerned to supply it,
  - (c) it is requested by the registration officer for the purpose of carrying out his functions under the <sup>M29</sup>Abolition of Domestic Rates Etc. (Scotland) Act 1987, and
  - (d) it does not fall within any prescribed description of information which need not be supplied.
- (4) The persons are—
- (a) the community charges registration officer for an English or Welsh charging authority,
  - (b) an English or Welsh charging authority, and
  - (c) the electoral registration officer for any area in England and Wales.
- (5) Regulations under this section may include provision that the information is to be supplied in a prescribed form and within a prescribed period of the request being made.

#### Marginal Citations

M29 1987 c. 47.

### 134 Duty to consult ratepayers.

- (1) A relevant authority shall consult under this section persons or bodies appearing to it to be representative of persons subject to non-domestic rates under sections 43 and 45 above as regards hereditaments situated in the authority's area.
- (2) Consultations must be made as to each chargeable financial year, and must be about the authority's proposals for expenditure (including capital expenditure) in that financial year; and the Secretary of State may by regulations prescribe matters which are to be treated as expenditure for this purpose.
- (3) Each of the following is a relevant authority—
- (a) a charging authority;
  - (b) a precepting authority which falls within section 144(2)(a) to (e) below.
- (4) The duty to consult as to a financial year shall be performed—
- (a) where the authority is a charging authority, before it makes calculations (otherwise than by way of substitute) in relation to the financial year under section 95 above;
  - (b) where the authority is a precepting authority, before it issues the first precept to be issued by it for the financial year.
- (5) In performing the duty to consult, an authority shall have regard to any guidance issued by the Secretary of State concerning—
- (a) persons or bodies to be regarded for the purposes of this section as representative of persons subject to non-domestic rates under sections 43 and 45 above as regards hereditaments situated in the authority's area, and

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(b) the timing and manner of consultations under this section.

- (6) An authority shall make available to persons or bodies it proposes to consult under this section such information as may be prescribed by regulations made by the Secretary of State and is in its possession or control; and it shall do so in such form and manner, and at such time, as the regulations may prescribe.

### 135 Social security.

Schedule 10 below (which amends the <sup>M30</sup>Social Security Act 1986 so as to make provision for benefits in respect of community charges in England and Wales and Scotland) shall have effect.

#### Marginal Citations

M30 1986 c. 50.

### 136 Tribunals.

Schedule 11 below (which contains provisions about the establishment of, and other matters relating to, valuation and community charge tribunals) shall have effect.

### 137 Amendments.

Schedule 12 below (which contains amendments) shall have effect.

#### 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

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- (j) the setting by a special authority of a non-domestic rating multiplier under Schedule 7 below, whether originally or by way of substitute.
- (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.

### **[<sup>F160</sup>139] 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.



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- (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 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

**F160** 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<sup>F161</sup>, 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—
- separate central non-domestic rating lists shall be compiled and maintained.
  - separate estimates shall be made under paragraph 5(6) and (7) of Schedule 7 below for the purpose of determining non-domestic rating multipliers,
  - separate non-domestic rating accounts shall be kept,
  - separate revenue support grant reports shall be made,
  - separate distribution reports under section 80 above shall be made, . . . <sup>F162</sup>
  - separate principles shall be determined under section 100(4) above <sup>F163</sup> and
  - separate reports under Schedule 12A below shall be made.]
- (3) Parts III, V and VII <sup>F164</sup>, 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

**F161** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 69\(2\)](#)

**F162** 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

**F163** 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\(3\)](#)

**F164** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 69\(4\)](#)



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## **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
  - (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.
- [<sup>F165</sup>(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**

**F165** S. 141(9) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 70](#)

## **[<sup>F166</sup>141A Payments: further provisions.**

- (1) The Secretary of State may make regulations in relation to any case where—

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- (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.
- (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;

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- (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.]

**Textual Amendments**

**F166** 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)**

**C50** S. 141A modified by S.I. 1990/493, **reg. 7**

[<sup>F167</sup>**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**

**F167** 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 [<sup>F168</sup>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 [<sup>F169</sup>(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 . . . <sup>F170</sup> 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 [<sup>F171</sup>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.
- [<sup>F172</sup>(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 [<sup>F173</sup>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

- F168** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, **Sch. 5 para. 72(2)**
- F169** “(9B)” substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, **Sch. 5 para. 72(3)**
- F170** 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
- F171** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, **Sch. 5 para. 72(5)**
- F172** **S. 143(9A)(9B)** inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, **Sch. 5 para. 72(6)**
- F173** 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 district council,
  - a London borough council,
  - the Common Council, and
  - the Council of the Isles of Scilly.
- (2) Each of the following is a precepting authority—
- a county council,
  - a metropolitan county police authority,
  - the Northumbria Police Authority,
  - a metropolitan county fire and civil defence authority,
  - the London Fire and Civil Defence Authority,
  - the Receiver for the Metropolitan Police District,
  - the sub-treasurer of the Inner Temple,
  - the under-treasurer of the Middle Temple,
  - a parish or community council,
  - the chairman of a parish meeting, and
  - charter trustees.
- (3) A waste disposal authority is an authority established at any time by an order under section 10(1) of the <sup>M31</sup>Local Government Act 1985.
- (4) A combined police authority is a combined police authority established at any time by an amalgamation scheme under the <sup>M32</sup>Police Act 1964.
- (5) A combined fire authority is a fire authority constituted at any time by a combination scheme under the <sup>M33</sup>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

- M31** 1985 c. 51.  
**M32** 1964 c. 48.  
**M33** 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.

#### [<sup>F174</sup>145A] Interpretation: relevant population.

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

#### Textual Amendments

- F174** 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.

[<sup>F175</sup>(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

**F175** 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)

**C51** 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—
  - (a) any expenses of the Secretary of State incurred in consequence of this Act, and
  - (b) 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)

**C52** 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.



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