



# Local Government Finance Act 1988

## 1988 CHAPTER 41

### PART XI

#### MISCELLANEOUS AND GENERAL

##### *General*

#### 138 **Judicial review.**

- (1) The matters mentioned in subsection (2) below shall not be questioned except by an application for judicial review.
- (2) The matters are—
  - <sup>F1</sup>(a) .....
  - <sup>F1</sup>(b) .....
  - <sup>F1</sup>(c) .....
  - <sup>F1</sup>(d) .....
  - (e) a levy issued under regulations under section 74 above,
  - (f) a special levy issued under regulations under section 75 above,
  - <sup>F1</sup>(g) .....
  - (h) the specification of a non-domestic rating multiplier under paragraph 2 of Schedule 7 below,
  - (i) the specification of a non-domestic rating multiplier under paragraph 7 of Schedule 7 below, and
  - (j) the setting by a special authority of a non-domestic rating multiplier under Schedule 7 below, whether originally or by way of substitute.
- [<sup>F2</sup>(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)(e) or (f) or (h) to (j) above, it shall quash the levy, special levy, specification or setting (as the case may be).]

*Status: Point in time view as at 22/08/1996.*

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**Textual Amendments**

- F1** S. 138(2)(a)-(d)(g) repealed (6.3.1992) by 1992 c. 14, s. 117, Sch. 13 para. 76(1), **Sch.14** (with s. 118(1)(2)(4))
- F2** S. 138(3) substituted (6.3.1992) by 1992 c.14, s. 117(1), **Sch. 13 para. 76(2)** (with s. 118(1)(2)(4))

**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—
  - <sup>F3</sup>(a) .....
  - <sup>F3</sup>(b) .....
  - <sup>F3</sup>(c) .....
  - (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.

**Textual Amendments**

- F3** S. 139(2)(a)-(c) repealed (6.3.1992) by 1992 c. 14, s. 117(2), **Sch.14** (with s. 118(1)(2)(4))

**[<sup>F4</sup>139A Information.**

- (1) Subsection (2) below applies where—
  - (a) the Secretary of State serves a notice on a relevant authority or relevant officer requiring it or him to supply to the Secretary of State information specified in the notice,
  - (b) the information is required by the Secretary of State for the purpose of deciding whether to exercise his powers, and how to perform his functions, under this Act, and
  - (c) the information is not personal information.
- (2) The authority or officer shall supply the information required, and shall do so in such form and manner and at such time as the Secretary of State specifies in the notice.
- (3) If an authority or officer fails to comply with subsection (2) above the Secretary of State may assume the information required to be such as he sees fit; and in such a case the Secretary of State may decide in accordance with the assumption whether to exercise his powers, and how to perform his functions, under this Act.
- (4) In deciding whether to exercise his powers, and how to perform his functions, under this Act the Secretary of State may also take into account any other information available to him, whatever its source and whether or not obtained under a provision contained in or made under this or any other Act.
- (5) Each of the following is a relevant authority—
  - (a) a [<sup>F5</sup>billing authority];
  - (b) a precepting authority.

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[ A proper officer (within the meaning of the <sup>M1</sup>Local Government Act 1972) of a <sup>F6</sup>(6) relevant authority is a relevant officer.]

(7) Personal information is information which relates to an individual (living or dead) who can be identified from that information or from that and other information supplied to any person by the authority or officer concerned; and personal information includes any expression of opinion about the individual and any indication of the intentions of any person in respect of the individual.

[ A community charges registration officer shall supply to a billing authority such <sup>F7</sup>(7A) information as fulfils the following conditions—

- (a) it is in his possession or control;
- (b) the authority requests him to supply it; and
- (c) it is requested by the authority for the purpose of complying with subsection (2) above;

and the reference in this subsection to a community charges registration officer shall be construed in accordance with section 26 above.]

<sup>F8</sup>(8) . . . . .]

#### Textual Amendments

- F4** S. 139A inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, **Sch. 5 para. 68**
- F5** Words in s. 139A(5)(a) substituted (6.3.1992) by 1992 c. 14, s. 117(1), **Sch. 13 para. 77(1)** (with s. 118(1)(2)(4))
- F6** S. 139A(6) substituted (6.3.1992) by 1992 c. 14, s. 117(1), **Sch. 13 para. 77(2)** (with s. 118(1)(2)(4))
- F7** S. 139A(7A) inserted (6.3.1992) by 1992 c. 14, s. 117(1), **Sch. 13 para. 77(3)** (with s. 118(1)(2)(4))
- F8** S. 139A(8) repealed (6.3.1992) by 1992 c. 14, s. 117, Sch. 13 para. 77(3), **Sch. 14** (with s. 118(1)(2)(4))

#### Marginal Citations

- M1** 1972 c. 70.

### 140 Separate administration in England and Wales.

- (1) [<sup>F9</sup>Parts III and V] shall be read as applying separately, and be administered separately, in England and Wales.
- (2) In particular, for England and Wales respectively—
  - (a) separate central non-domestic rating lists shall be compiled and maintained.
  - (b) separate estimates shall be made under paragraph 5(6) and (7) of Schedule 7 below for the purpose of determining non-domestic rating multipliers,
  - (c) separate non-domestic rating accounts shall be kept,
  - [<sup>F10</sup>(d) separate local government finance reports shall be made, and
  - (e) separate amending reports under section 84A above or paragraph 13 of Schedule 8 below shall be made.]
- (3) [<sup>F11</sup>Parts III and V] 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.

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- (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

- F9** Words in s. 140(1) substituted (6.3.1992) by 1992 c. 14, s. 117(1), **Sch. 13 para. 78(1)** (with s. 118(1)(2)(4))
- F10** S. 140(2)(d)(e) substituted (6.3.1992) for paras. (d)-(g) by 1992 c. 14, s. 117(1), **Sch. 13 para. 78(2)** (with s. 118(1)(2)(4))
- F11** Words in s. 140(3) substituted (6.3.1992) by 1992 c. 14, s. 117(1), **Sch. 13 para. 78(3)** (with s. 118(1)(2)(4))

### 141 Payments to and from authorities.

- (1) The Secretary of State may make regulations in relation to any case where—
- 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
  - 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—
- treating any liability mentioned in subsection (1) above as discharged accordingly;
  - requiring prescribed provisions of this Act (such as sections 79(2) and 86(2)) to be read subject to the regulations;
  - 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.
- [<sup>F12</sup>(6) Each of the following is a receiving authority—
- a billing authority, and
  - a major precepting authority.
- (7) The first relevant provisions are sections 83, 84C and 86 above, paragraph 5(10) and (14) of Schedule 8 below, regulations made under paragraph 5(15) or 6(5) of that Schedule, paragraphs 12 and 15 of that Schedule and section 4 of the <sup>M2</sup>Community Charges (General Reduction) Act 1991.

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(8) The second relevant provisions are sections 83 and 84C above, paragraph 5 of Schedule 8 below, regulations made under sub-paragraph (15) of that paragraph and paragraphs 12 and 15 of that Schedule.]

<sup>F13</sup>(9) .....

**Textual Amendments**

**F12** S. 141(6)-(8) substituted (6.3.1992) by 1992 c. 14, s. 117(1), **Sch. 13 para. 79(1)** (with s. 118(1)(2)(4))

**F13** S. 141(9) repealed (6.3.1992) by 1992 c. 14, s. 117, **Sch. 13 para. 79(2)**, **Sch.14** (with s. 118(1)(2)(4))

**Marginal Citations**

**M2** 1991 c. 9.

<sup>F14</sup>141A.....

**Textual Amendments**

**F14** S. 141A (which was inserted by 1989 c. 42, s. 139, **Sch. 5 para. 71**) repealed (6.3.1992) by 1992 c. 14, s. 117(2), **Sch.14** (with s. 118(1)(2)(4))

<sup>F15</sup>141B.....

**Textual Amendments**

**F15** S. 141B (which was inserted by 1989 c. 42, s. 139, **Sch. 5 para. 71**) repealed (6.3.1992) by 1992 c. 14, s. 117(2), **Sch.14** (with s. 118(1)(2)(4))

**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>F16</sup>the Minister of Agriculture, Fisheries and Food] or the Treasury (as the case may be) to be necessary or expedient.

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- (3) Subject to subsections (4) to [F17(9A)] 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 . . . F18 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 [F19 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 F20 . . . section 150 below, subsection (3) above shall have effect without the words from “subject” to the end.
- F21(7) . . . . .
- (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.
- [F22(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.
- F21(9B) . . . . .]
- (10) Before he makes regulations under section 75 or 118 above [F23 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.
- (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	
<b>F16</b>	Words inserted by <a href="#">Local Government and Housing Act 1989 (c. 42, SIF 81:1)</a> , s. 139, <b>Sch. 5 para. 72(2)</b>
<b>F17</b>	Words in s. 143(3) substituted (6.3.1992) by <a href="#">1992 c. 14, s. 117(1)</a> , <b>Sch. 13 para. 80(1)</b> (with s. 118(1)(2)(4))
<b>F18</b>	Words repealed by <a href="#">Local Government and Housing Act 1989 (c. 42, SIF 81:1)</a> , ss. 139, 194(4), <a href="#">Sch. 5 para. 72(4)</a> , <b>Sch. 12 Pt. II</b> Note 4
<b>F19</b>	Words inserted by <a href="#">Local Government and Housing Act 1989 (c. 42, SIF 81:1)</a> , s. 139, <b>Sch. 5 para. 72(5)</b>
<b>F20</b>	Words in s. 143(6) ceased to have effect (25. 9. 1991) by <a href="#">Local Government Finance and Valuation Act 1991 (c. 51)</a> , <b>ss. 1(2)(b)(3)</b> , 7(5) and expressed to be repealed (6.3.1992) by <a href="#">1992 c. 14, s. 117</a> , <a href="#">Sch. 13 para. 80(2)</a> , <b>Sch.14</b> (with s. 118(1)(2)(4))

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- F21** S. 143(7)(9B) repealed (6.3.1992) by 1992 c. 14, s. 117, Sch. 10 para. 80(3), **Sch.14** (with s. 118(1)(2)(4))
- F22** S. 143(9A)(9B) inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, **Sch. 5 para. 72(6)**
- F23** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, **Sch. 5 para. 72(7)**

#### 144 Interpretation: authorities.

(1) Each of the following is a charging authority—

- (a) a district council,
- (b) a London borough council,
- (c) the Common Council, and
- (d) the Council of the Isles of Scilly.

[<sup>F24</sup>(2) “Billing authority”, “precepting authority”, “major precepting authority” and “local precepting authority” have the same meaning as in Part I of the Local Government Finance Act 1992.]

(3) A waste disposal authority is an authority established at any time by an order under section 10(1) of the <sup>M3</sup>Local Government Act 1985.

<sup>F25</sup>(4) . . . . .

(5) A combined fire authority is a fire authority constituted at any time by a combination scheme under the <sup>M4</sup>Fire Services Act 1947.

(6) A [<sup>F26</sup>billing 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.

#### Textual Amendments

- F24** S. 144(2) substituted (6.3.1992) by 1992 c. 14, s. 117(1), **Sch. 13 para. 81(1)** (with s. 118(1)(2)(4))
- F25** S. 144(4) repealed (E.W.) (22.8.1996) by 1996 c. 16, ss. 103(3), 104(1), **Sch. 9 Pt. I**
- F26** Words in s. 144(6) substituted (6.3.1992) by 1992 c. 14, s. 117(1), **Sch. 13 para. 81(2)** (with s. 118(1)(2)(4))

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

- C1** S. 144(1) applied (E.W.) (6.3.1992) by 1992 c. 14, **s. 27(8)** (with s. 118(1)(2)(4))

#### Marginal Citations

- M3** 1985 c. 51.
- M4** 1947 c. 41.

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**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>F27</sup> 145A.....

**Textual Amendments**

**F27** S. 145A (which was inserted by 1989 c. 42, s. 139, **Sch. 5 para. 73**) repealed (6.3.1992) by 1992 c. 14, s. 117(2), **Sch.14** (with s. 118(1)(2)(4))

**146 Interpretation: other provisions.**

<sup>F28</sup>(1).....

- (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>F29</sup>(5A) Unless the context otherwise requires, “information” includes accounts, estimates and returns.]
- (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**

**F28** S. 146(1) repealed (6.3.1992) by 1992 c. 14, s. 117, **Sch. 13 para. 82, Sch.14**

**F29** 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.



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- (2) An order under this section may in particular make provision for amending, repealing or revoking (with or without savings) any provision of an Act passed before or in the same session as this Act, or of an instrument made under an Act before the passing of this Act, and for making savings or additional savings from the effect of any amendment or repeal made by this Act.
- (3) Any provision that may be made under this section shall be in addition and without prejudice to any other provision of this Act.
- (4) No other provision of this Act shall be construed as prejudicing the generality of the powers conferred by this section.
- (5) In this section “Act” includes a private or local Act.

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

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

**148 Finance.**

- (1) There shall be paid out of money provided by Parliament—
  - (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.

**150 Commencement: Scotland.**

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

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

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

**151 Extent.**

- (1) Part X of this Act, section 150 above, Part II of Schedule 12 below, and Part IV of Schedule 13 below, extend to Scotland only.

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

## **152 Citation.**

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

**Status:**

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**Changes to legislation:**

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