

*Status: Point in time view as at 03/12/2011.*

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# Local Government Finance Act 1992

## 1992 CHAPTER 14

### PART I **E+W**

#### COUNCIL TAX: ENGLAND AND WALES

### [<sup>F1</sup>CHAPTER 4ZA **E+W**

#### REFERENDUMS RELATING TO COUNCIL TAX INCREASES

#### *[<sup>F1</sup>Excessive increase in council tax by precepting authority*

#### Textual Amendments

**F1** Pt. 1 Ch. 4ZA inserted (3.12.2011) by [Localism Act 2011 \(c. 20\)](#), ss. 72(1), 240(2), [Sch. 5](#); S.I. 2011/2896, art. 2(g) (with art. 3(1)(2))

#### **52ZJ Major precepting authority's duty to make substitute calculations **E+W****

- (1) The major precepting authority must make substitute calculations for the financial year in compliance with this section.
- (2) Substitute calculations made for a financial year by a major precepting authority other than the Greater London Authority comply with this section if—
  - (a) they are made in accordance with sections 42A, 42B and 45 to 48 above,
  - (b) the relevant basic amount of council tax for the year produced by the calculations is not excessive by reference to the principles determined by the Secretary of State under section 52ZC above for the year, and
  - (c) they are made in accordance with this section.
- (3) Substitute calculations made for a financial year by the Greater London Authority comply with this section if—

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- (a) they are made by applying the relevant London provisions and sections 47 and 48 above to the Authority's substitute consolidated council tax requirement for the year, and
  - (b) they are made in accordance with this section.
- (4) In making the substitute calculations, a major precepting authority other than the Greater London Authority must—
- (a) use the amount determined in the previous calculation under section 42A(3) above so far as relating to amounts which the authority estimates it will accrue in the year in respect of redistributed non-domestic rates, revenue support grant, additional grant, special grant or police grant, and
  - (b) use the amount determined in the previous calculation for item T in section 42B(1) above or (where applicable) item TP in section 45(3) above.
- (5) For the purposes of subsection (2) above the authority may treat any amount determined in the previous calculation under section 42A(3) above as increased by the amount of any sum which—
- (a) it estimates it will accrue in the year in respect of additional grant, and
  - (b) was not taken into account by it in making the previous calculation.
- (6) In making the substitute calculations, the Greater London Authority must use any amount determined in the previous calculations for item T in section 88(2) of the Greater London Authority Act 1999 or for item TP2 in section 89(4) of that Act.
- (7) In this Chapter—
- “the relevant London provisions” means sections 88 and (where applicable) 89 of the Greater London Authority Act 1999;
  - “the Authority's substitute consolidated council tax requirement”, in relation to a financial year, means the Authority's substitute consolidated council tax requirement—
    - (a) agreed under Schedule 6 to the Greater London Authority Act 1999, or
    - (b) set out in its substitute consolidated budget as agreed under that Schedule,
 as the case may be.

**52ZK Major precepting authority's duty to notify appropriate billing authorities** E

+W

- (1) The major precepting authority must notify each appropriate billing authority—
- (a) that its relevant basic amount of council tax for a financial year is excessive, and
  - (b) that the billing authority is required to hold a referendum in accordance with this Chapter.
- (2) A notification under this section must include a precept in accordance with the following provisions; but that precept does not have effect for the purposes of Chapters 3 and 4 above except in accordance with sections 52ZO and 52ZP below.
- (3) A precept issued to a billing authority under this section by a major precepting authority other than the Greater London Authority must state—
- (a) the amount which, in relation to the year and each category of dwellings in the billing authority's area, has been calculated by the precepting authority

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- in accordance with sections 42A, 42B and 45 to 47 above as applied by section 52ZJ above, and
- (b) the amount which has been calculated by the precepting authority in accordance with section 48 above as applied by section 52ZJ above as the amount payable by the billing authority for the year.
- (4) Dwellings fall within different categories for the purposes of subsection (3) above according as different calculations have been made in relation to them as mentioned in paragraph (a) of that subsection.
- (5) A precept issued to a billing authority under this section by the Greater London Authority must state—
- (a) the amount which, in relation to the year and each category of dwellings in the billing authority's area, has been calculated by applying, in accordance with section 52ZJ above, the relevant London provisions and section 47 above to the Authority's substitute consolidated council tax requirement, and
- (b) the amount which has been calculated by the Authority in accordance with section 48 above as applied by section 52ZJ above as the amount payable by the billing authority for the year.
- (6) Dwellings fall within different categories for the purposes of subsection (5) above according as different calculations have been made in relation to them as mentioned in paragraph (a) of that subsection.
- (7) A major precepting authority must assume for the purposes of subsections (3) and (5) above that each of the valuation bands is shown in the billing authority's valuation list as applicable to one or more dwellings situated in its area or (as the case may be) each part of its area as respects which different calculations have been made.
- (8) The Secretary of State must by regulations prescribe a date by which a notification under this section must be made.
- (9) This section does not require the Greater London Authority to notify a billing authority to which this subsection applies unless the Authority's unadjusted relevant basic amount of council tax for the year is excessive.
- (10) Subsection (9) above applies to a billing authority if the special item within the meaning of section 89(2) of the Greater London Authority Act 1999 does not apply to any part of the authority's area.

#### **52ZL Local precepting authority's duty to make substitute calculations** E+W

- (1) The local precepting authority must make substitute calculations for the financial year in compliance with this section.
- (2) Substitute calculations for a financial year comply with this section if—
- (a) they are made in accordance with section 49A above, and
- (b) the relevant basic amount of council tax produced by applying section 52ZX below to the calculations is not excessive by reference to the principles determined by the Secretary of State under section 52ZC above for the year.

#### **52ZM Local precepting authority's duty to notify appropriate billing authority** E+W

- (1) The local precepting authority must notify its appropriate billing authority—

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- (a) that its relevant basic amount of council tax for a financial year is excessive, and
  - (b) that the billing authority is required to hold a referendum in accordance with this Chapter.
- (2) A notification under this section must include a precept in accordance with subsection (3) below; but that precept does not have effect for the purposes of Chapters 3 and 4 above except in accordance with sections 52ZO and 52ZP below.
- (3) The precept must state, as the amount payable by the billing authority for the year, the amount which has been calculated by the local precepting authority under section 49A above as applied by section 52ZL above.
- (4) The Secretary of State must by regulations prescribe a date by which the notification must be made.

#### **52ZN Arrangements for referendum** E+W

- (1) A billing authority that is notified under section 52ZK or 52ZM above must make arrangements to hold a referendum in relation to the precepting authority's relevant basic amount of council tax for the financial year in accordance with this section.
- (2) Where the referendum is one of two or more referendums required to be held in respect of the same calculation, it is to be held on—
- (a) the first Thursday in May in the financial year, or
  - (b) such other date as the Secretary of State may specify by order.
- (3) Otherwise the referendum is to be held on a date decided by the billing authority; but this is subject to subsection (4) below.
- (4) That date must be not later than—
- (a) the first Thursday in May in the financial year, or
  - (b) such other date in that year as the Secretary of State may specify by order.
- (5) An order under subsection (2) or (4) above must be made not later than—
- (a) 1 February in the financial year preceding the year mentioned in paragraph (b) of that subsection, or
  - (b) in the case of an order affecting more than one financial year, 1 February in the financial year preceding the first of those years.
- (6) The persons entitled to vote in the referendum are those who, on the day of the referendum—
- (a) would be entitled to vote as electors at an election for members for an electoral area of the billing authority that falls wholly or partly within the precepting authority's area, and
  - (b) are registered in the register of local government electors at an address that is within both—
    - (i) the precepting authority's area, and
    - (ii) the billing authority's area.
- (7) Subject to subsection (8) below, the billing authority may recover from the precepting authority the expenses that are incurred by the billing authority in connection with the referendum.

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- (8) The Secretary of State may by regulations make provision for cases in which—
- (a) subsection (7) above does not apply, or
  - (b) that subsection applies with modifications.
- (9) In this section—
- “electoral area” means—
- (a) in relation to a district council, a London borough council or the Common Council of the City of London, a ward;
  - (b) in relation to a county council, an electoral division;
  - (c) in relation to the Council of the Isles of Scilly, a parish;
- “register of local government electors” means the register of local government electors kept in accordance with the provisions of the Representation of the People Acts.
- (10) This section is subject to regulations under section 52ZQ below.

## **52ZO Effect of referendum** E+W

- (1) The precepting authority must inform the Secretary of State of the result of the referendum or (as the case may be) each of them.
- (2) Subsection (3) below applies if—
  - (a) in a case where one referendum is held in respect of the precepting authority's relevant basic amount of council tax for the financial year, that amount is approved by a majority of persons voting in the referendum, or
  - (b) in a case where two or more referendums are held in respect of that amount, that amount is approved by a majority of persons voting in all of those referendums taken together.
- (3) The precepting authority's calculations that include that amount or (as the case may be) from which that amount was derived continue to have effect for the year for the purposes of this Act.
- (4) Subsections (5) and (6) below apply if—
  - (a) in a case where one referendum is held in respect of the precepting authority's relevant basic amount of council tax for a financial year, that amount is not approved by a majority of persons voting in the referendum, or
  - (b) in a case where two or more referendums are held in respect of that amount, that amount is not approved by a majority of persons voting in all of those referendums taken together.
- (5) Any precept issued to a billing authority under section 52ZK or 52ZM above as part of a notification that triggered the referendum has effect as a precept issued to that billing authority for the year for the purposes of Chapter 3 above.
- (6) Where the precept was issued to a billing authority by a local precepting authority under section 52ZM above, section 36A above has effect in relation to the billing authority as if it required the authority to make calculations in substitution on the basis of the precept (rather than permitting it to do so).
- (7) In the case of a major precepting authority other than the Greater London Authority, section 30 above has effect by virtue of subsection (5) above in relation to that precept as if—

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- (a) references to amounts calculated under Chapter 4 above were to amounts calculated as mentioned in section 52ZJ(2) above, and
  - (b) the reference to the amount stated in accordance with section 40 above were to the amount stated in accordance with section 52ZK(3)(b) above.
- (8) In the case of the Greater London Authority, section 30 above has effect by virtue of subsection (5) above in relation to that precept as if—
- (a) references that are to be read as amounts calculated under Chapter 1 of Part 3 of the Greater London Authority Act 1999 were to amounts calculated as mentioned in section 52ZJ(3) above, and
  - (b) the reference to the amount stated in accordance with section 40 above were to the amount stated in accordance with 52ZK(5)(b) above.
- (9) If the precepting authority has already issued a precept for the financial year (originally or by way of substitute) to the billing authority—
- (a) subsections (3) and (4) of section 42 above apply to the precept within subsection (5) above as they apply to a precept issued in substitution under that section, but
  - (b) the references in those subsections to the amount of the new precept are to be read as references to the amount stated in the precept within subsection (5) above in accordance with section 52ZK(3)(b) or (5)(b) above.

#### **52ZP Failure to hold referendum** E+W

- (1) This section applies if a billing authority that is required to be notified by a precepting authority under section 52ZK or 52ZM above fails to hold a referendum in accordance with this Chapter.
- (2) Subsections (3) to (6) below apply if the precepting authority has failed to notify the billing authority in accordance with section 52ZK or 52ZM above.
- (3) The precepting authority must issue a precept for the year to the billing authority in accordance with that section; and such a precept has effect for the purposes of Chapter 3 above.
- (4) During the period of restriction no billing authority to which the precepting authority has power to issue a precept has power to pay anything in respect of a precept issued by the precepting authority for the year.
- (5) In subsection (4) above “the period of restriction” means the period—
  - (a) beginning with the date on which the referendum would have been required to be held or (as the case may be) the latest date on which it could have been held if the notification had been made, and
  - (b) ending with the date (if any) when the precepting authority complies with subsection (3) above.
- (6) Where a precept under subsection (3) above is issued to a billing authority by a local precepting authority, section 36A above has effect in relation to the billing authority as if it required the authority to make calculations in substitution on the basis of the precept (rather than permitting it to do so).
- (7) If the precepting authority has notified the billing authority in accordance with section 52ZK or 52ZM above, the precept issued to the billing authority under

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section 52ZK or 52ZM above as part of the notification has effect as a precept issued to that billing authority for the year for the purposes of Chapter 3 above.

- (8) Where the precept was issued to a billing authority by a local precepting authority under section 52ZM above, section 36A above has effect in relation to the billing authority as if it required the authority to make calculations in substitution on the basis of the precept (rather than permitting it to do so).
- (9) Subsections (7) to (9) of section 52ZO above apply to a precept within subsection (3) or (7) above as they apply to a precept within subsection (5) of that section.]

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