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Local Government Finance Act 1992

1992 CHAPTER 14

PART I

COUNCIL TAX: ENGLAND AND WALES

[^{F1}CHAPTER IVA

LIMITATION OF COUNCIL TAX AND PRECEPTS

VALID FROM 27/07/1999

[^{F1} Designation for year under consideration

Textual Amendments

F1 Chapter 4A (ss. 52A-52Z) inserted (27.7.1999 with effect as mentioned in s. 30(2) of the amending Act.) by 1999 c. 27, s. 30(1), Sch. 1 para. 1

52E Designation.

- (1) This section applies if the Secretary of State designates an authority under section 52D(2)(a) above as regards the year under consideration.
- (2) He shall notify the authority in writing of—
 - (a) the designation;
 - (b) the set of principles determined for the authority under section 52B above;
 - (c) the category in which the authority falls (if he determines categories under section 52B above);
 - (d) the amount which he proposes should be the maximum for the amount calculated by the authority as its budget requirement for the year;

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- (e) the target amount for the year, that is, the maximum amount which he proposes the authority could calculate as its budget requirement for the year without the amount calculated being excessive;
 - (f) the financial year as regards which he expects the amount calculated by the authority as its budget requirement for that year to be equal to or less than the target amount for that year (assuming one to be determined for that year).
- (3) A designation under section 52D(2)(a) above—
- (a) is invalid unless subsection (2) above is complied with;
 - (b) shall be treated as made at the beginning of the day on which the authority receives a notification under that subsection.
- (4) If—
- (a) an authority has been designated under section 52D(2)(a) above, and
 - (b) after the designation is made the authority makes substitute calculations in relation to the year,
- the substitute calculations shall be invalid unless they are made in accordance with section 52I or 52J below (as the case may be).
- (5) Before the end of the period of 21 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 (2)(d) above should be such as the authority states in its notice, or
 - (b) it accepts the maximum amount stated under subsection (2)(d) above.

52F Challenge of maximum amount.

- (1) This section applies if an authority designated under section 52D(2)(a) above informs the Secretary of State by notice in writing under section 52E(5)(a) above.
- (2) After considering any information falling within subsection (3) below the Secretary of State shall either—
 - (a) proceed under subsection (4) below (in which case subsections (5) to (10) below shall also apply), or
 - (b) proceed under subsection (11) below.
- (3) Information falling within this subsection is—
 - (a) information which is supplied by the authority and is of a kind and provided in a form specified by the Secretary of State for the purposes of this section;
 - (b) any other information he thinks is relevant.
- (4) If he proceeds under this subsection the Secretary of State—
 - (a) shall make an order stating the amount which the amount calculated by the authority as its budget requirement for the year is not to exceed;
 - (b) may alter the target amount for the year.
- (5) The following paragraphs apply for the purposes of subsection (4) above—
 - (a) the amount stated under subsection (4)(a) above may not exceed the amount already calculated by the authority as its budget requirement for the year unless in the Secretary of State's opinion the authority failed to comply with section 32 or 43 above (as the case may be) in making the calculation;

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- (b) subject to paragraph (a) above, the amount stated under subsection (4)(a) above may be the same as, or greater or smaller than, that stated in the notice under section 52E(2)(d) above;
 - (c) the Secretary of State may alter the target amount for the year under subsection (4)(b) above only if the amount stated under subsection (4)(a) above is greater or smaller than that stated in the notice under section 52E(2)(d) above.
- (6) In the application of subsection (5)(a) above in relation to the Greater London Authority—
- (a) for the reference to section 43 above there shall be substituted a reference to sections 70 and 71 of the Greater London Authority Act 1999, and
 - (b) at the end there shall be added the words “or he has issued a direction for the year under section 80 of the Greater London Authority Act 1999”.
- (7) An order under this section—
- (a) shall not be made unless a draft of it has been laid before and approved by resolution of the House of Commons;
 - (b) may relate to two or more authorities.
- (8) 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—
- (a) the amount stated in the case of the authority concerned in the order;
 - (b) the altered target amount for the year (if he alters it in the case of the authority concerned).
- (9) When he serves a notice under subsection (8) above on a precepting authority the Secretary of State shall also serve a copy of it on each billing authority to which the precepting authority has power to issue a precept.
- (10) In applying subsection (5)(a) above the Secretary of State shall ignore any calculation for which another has been substituted at the time of designation.
- (11) If the Secretary of State proceeds under this subsection he shall—
- (a) cancel the designation of the authority under section 52D(2)(a) above as regards the year and notify the authority in writing of the cancellation, and
 - (b) nominate the authority under section 52D(2)(b) above;
- and in such a case the designation under section 52D(2)(a) above and the notification under section 52E above shall be treated as not having been made.

52G Acceptance of maximum amount.

- (1) This section applies if an authority designated under section 52D(2)(a) above informs the Secretary of State by notice in writing under section 52E(5)(b) above.
- (2) 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 as its budget requirement for the year is not to exceed; and the amount stated shall be that stated in the notice under section 52E(2)(d) above.
- (3) When he serves a notice under subsection (2) above on a precepting authority the Secretary of State shall also serve a copy of it on each billing authority to which the precepting authority has power to issue a precept.

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52H No challenge or acceptance.

- (1) This section applies if the period mentioned in section 52E(5) above ends without an authority designated under section 52D(2)(a) above informing the Secretary of State by notice in writing under paragraph (a) or (b) of section 52E(5).
- (2) As soon as is reasonably practicable after the period ends the Secretary of State shall make an order stating the amount which the amount calculated by the authority as its budget requirement for the year is not to exceed; and the amount stated shall be that stated in the notice under section 52E(2)(d) above.
- (3) An order under this section—
 - (a) shall not be made unless a draft of it has been laid before and approved by resolution of the House of Commons;
 - (b) may relate to two or more authorities.
- (4) 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 concerned in the order.
- (5) When he serves a notice under subsection (4) above on a precepting authority the Secretary of State shall also serve a copy of it on each billing authority to which the precepting authority has power to issue a precept.

52I Duty of designated billing authority.

- (1) If a billing authority receives a notice under section 52F(8), 52G(2) or 52H(4) above it shall make substitute calculations in relation to the year in accordance with sections 32 to 36 above, ignoring section 32(10) above for this purpose.
- (2) The substitute calculations shall be made so as to secure—
 - (a) that the amount calculated by the authority as its budget requirement for the year does not exceed that stated in the notice, and
 - (b) that any amount calculated under section 33(1) or 34(2) or (3) above as the basic amount of council tax applicable to any dwelling does not exceed that so calculated in the previous calculations.
- (3) Subsection (2)(b) above does not apply in a case where the amount stated in the notice exceeds that already calculated by the authority as its budget requirement for the year.
- (4) In making substitute calculations under section 33(1) or 34(3) above the authority must use any amount determined in the previous calculations for item P or T in section 33(1) or item TP in section 34(3).
- (5) For the purposes of subsection (4) above the authority may treat any amount determined in the previous calculations for item P in section 33(1) above as increased by the amount of any sum which—
 - (a) it estimates will be payable for the year into its general fund in respect of additional grant, and
 - (b) was not taken into account by it in making those calculations.
- (6) References in this section to the amount stated in the notice are, in the case of a notice under section 52F(8) above, to the amount stated under section 52F(8)(a).

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52J Duty of designated precepting authority.

- (1) If a major precepting authority receives a notice under section 52F(8), 52G(2) or 52H(4) above it shall make substitute calculations in relation to the year in accordance with—
 - (a) sections 70, 71 and 73 to 75 of and Schedule 6 to the Greater London Authority Act 1999 and sections 47 and 48 above (where the authority is the Greater London Authority), or
 - (b) sections 43 to 48 above (in any other case).
- (2) The substitute calculations shall be made so as to secure—
 - (a) that the amount calculated by the authority as its budget requirement for the year does not exceed that stated in the notice, and
 - (b) that any amount calculated under section 44(1) or 45(2) or (3) above as the basic amount of council tax applicable to any dwelling does not exceed that so calculated in the previous calculations.
- (3) In the application of subsection (2)(b) above in relation to the Greater London Authority—
 - (a) for the reference to section 44(1) above there shall be substituted a reference to section 73(2) of the Greater London Authority Act 1999, and
 - (b) for the reference to section 45(2) or (3) above there shall be substituted a reference to section 74(3) of that Act.
- (4) Subsection (2)(b) above does not apply in a case where the amount stated in the notice exceeds that already calculated by the authority as its budget requirement for the year.
- (5) In making substitute calculations under section 44(1) or 45(3) above the authority must use any amount determined in the previous calculations for item P or T in section 44(1) above or item TP in section 45(3) above.
- (6) In making substitute calculations under section 73(2) or 74(3) of the Greater London Authority Act 1999 the authority must use any amount determined in the previous calculations for item P1 or T in section 73(2) of that Act or for item P2 or item TP2 in section 74(4) of that Act.
- (7) For the purposes of subsection (5) above the authority may treat any amount determined in the previous calculations for item P in section 44(1) above as increased by the amount of any sum which—
 - (a) it estimates will be payable to it for the year in respect of additional grant, and
 - (b) was not taken into account by it in making those calculations.
- (8) For the purposes of subsection (6) above the authority may treat any amount determined in the previous calculations—
 - (a) for item P1 in section 73(2) of the Greater London Authority Act 1999, or
 - (b) for item P2 in section 74(4) of that Act,as increased by the relevant portion of any new additional grant.
- (9) For the purposes of subsection (8) above, “the relevant portion of any new additional grant” means the amount of any additional grant payable to the authority for the year which was not taken into account by the authority in making the previous calculations, but—

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- (a) in the case of item P1, reduced, as may be prescribed, by such sum as the Secretary of State considers represents the portion of the amount which relates to defraying the special item in whole or in part, and
- (b) in the case of item P2, restricted, as may be prescribed, to such sum as the Secretary of State considers represents the portion of the amount which relates to defraying the special item in whole or in part;
- and “special item” has the same meaning in this subsection as in sections 73 and 74 of the Greater London Authority Act 1999 (see section 74(2) of that Act).
- (10) In subsection (9) above, “prescribed” means specified in, or determined in accordance with, either—
- (a) the report under section 85 of the Local Government Finance Act 1988 relating to the amount of additional grant in question, or
- (b) regulations made by the Secretary of State under section 73(3)(b) of the Greater London Authority Act 1999 (in relation to item P1) or under section 74(5)(b) of that Act (in relation to item P2),
- as the Secretary of State may determine for the purposes of paragraph (a) or (b) of subsection (9) and any particular financial year or years.
- (11) References in this section to the amount stated in the notice are, in the case of a notice under section 52F(8) above, to the amount stated under section 52F(8)(a).

52K Failure to substitute.

- (1) This section applies if an authority which has received a notice under section 52F(8), 52G(2) or 52H(4) above fails to comply with section 52I or 52J above (as the case may be) before the end of—
- (a) the period of 35 days beginning with the day on which the authority receives the notice (where it is the Greater London Authority), or
- (b) the period of 21 days beginning with the day on which the authority receives the notice (in any other case).
- (2) In the case of a billing authority, it shall have no power during the period of restriction to transfer any amount from its collection fund to its general fund and sections 97 and 98 of the 1988 Act (transfers between funds) shall have effect accordingly.
- (3) In the case of a major precepting authority, any authority to which it has power to issue a precept shall have no power during the period of restriction to pay anything in respect of a precept issued by it for the year.
- (4) For the purposes of this section 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 52I or 52J above.]

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