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# Local Government Finance Act 1992

## 1992 CHAPTER 14

### PART I

#### COUNCIL TAX: ENGLAND AND WALES

#### [<sup>F1</sup>CHAPTER IVA

#### LIMITATION OF COUNCIL TAX AND PRECEPTS

*[<sup>F1</sup> Position after designation under section 52M or 52P*

#### 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](#)

#### **52Q Challenge of maximum amount.**

- (1) This section applies if—
  - (a) an authority designated under section 52M above informs the Secretary of State by notice in writing under subsection (8)(a) of that section, or
  - (b) an authority designated under section 52P above informs the Secretary of State by notice in writing under subsection (8)(a) of that section.
- (2) After considering any information falling within subsection (3) below 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.
- (3) Information falling within this subsection is—

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- (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) The following paragraphs apply for the purposes of subsection (2) above—
- (a) if the authority has already calculated an amount as its budget requirement for the year, the amount stated under subsection (2)(a) above may not exceed the amount already calculated 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;
  - (b) subject to paragraph (a) above, the amount stated under subsection (2)(a) above may be the same as, or greater or smaller than, that stated in the notice under section 52M(4)(b) or 52P(4)(b) above (as the case may be);
  - (c) the Secretary of State may alter the target amount for the year under subsection (2)(b) above only if the amount stated under subsection (2)(a) above is greater or smaller than that stated in the notice under section 52M(4)(b) or 52P(4)(b) above (as the case may be).
- (5) In the application of subsection (4)(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 [F<sup>2</sup>85 and 86] 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 [F<sup>3</sup>95] of the Greater London Authority Act 1999”.
- (6) 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.
- (7) 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).
- (8) When he serves a notice under subsection (7) 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.
- (9) In applying subsection (4)(a) above the Secretary of State shall ignore any calculation for which another has been substituted at the time of designation.

#### Textual Amendments

- F2** Words in s. 52Q(5)(a) substituted (3.7.2000) by 1999 c. 29, s. 136(2), **Sch. 9 para. 4(2)** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **art. 4**
- F3** Word in s. 52Q(5)(b) substituted (3.7.2000) by 1999 c. 29, s. 136(2), **Sch. 9 para. 4(3)** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **art. 4**

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## **52R Acceptance of maximum amount.**

- (1) This section applies if—
  - (a) an authority designated under section 52M above informs the Secretary of State by notice in writing under subsection (8)(b) of that section, or
  - (b) an authority designated under section 52P above informs the Secretary of State by notice in writing under subsection (8)(b) of that section.
- (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 52M(4)(b) or 52P(4)(b) above (as the case may be).
- (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.

## **52S No challenge or acceptance.**

- (1) This section applies if—
  - (a) the period mentioned in section 52M(8) above ends without an authority designated under section 52M above informing the Secretary of State by notice in writing under paragraph (a) or (b) of section 52M(8), or
  - (b) the period mentioned in section 52P(8) above ends without an authority designated under section 52P above informing the Secretary of State by notice in writing under paragraph (a) or (b) of section 52P(8).
- (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 52M(4)(b) or 52P(4)(b) above (as the case may be).
- (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.

## **52T Duty of designated billing authority.**

- (1) This section applies if a billing authority receives a notice under section 52Q(7), 52R(2) or 52S(4) above.
- (2) If it has not made calculations in relation to the year in accordance with sections 32 to 36 above, in making such calculations it shall secure that the amount calculated by it as its budget requirement for the year does not exceed that stated in the notice.

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- (3) If it—
- (a) has made calculations in relation to the year in accordance with sections 32 to 36 above, or
  - (b) has made substitute calculations in relation to the year in accordance with section 37 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.
- (4) 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.
- (5) Subsection (4)(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.
- (6) 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).
- (7) For the purposes of subsection (6) 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.
- (8) References in this section to the amount stated in the notice are, in the case of a notice under section 52Q(7) above, to the amount stated under section 52Q(7)(a).

## **52U Duty of designated precepting authority.**

- (1) This section applies if a major precepting authority receives a notice under section 52Q(7), 52R(2) or 52S(4) above.
- (2) If it has not made calculations in relation to the year in accordance with—
- (a) sections [F<sup>4</sup>85 to 90] of 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),
- in making such calculations it shall secure that the amount calculated by it as its budget requirement for the year does not exceed that stated in the notice.
- (3) Where the authority is the Greater London Authority and—
- (a) it has made calculations in relation to the year in accordance with sections [F<sup>5</sup>85 to 90] of the Greater London Authority Act 1999 and sections 47 and 48 above, or
  - (b) it has made substitute calculations in relation to the year in accordance with sections [F<sup>6</sup>85, 86 and 88 to 90 of and Schedule 7] to the Greater London Authority Act 1999 and sections 47 and 48 above,

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it shall make substitute calculations in relation to the year in accordance with the provisions mentioned in paragraph (b) above.

- (4) Where the authority is not the Greater London Authority and it has made—
  - (a) calculations in accordance with sections 43 to 48 above, or
  - (b) substitute calculations in accordance with section 49 above,in relation to the year, it shall make substitute calculations in relation to the year in accordance with sections 43 to 48.
- (5) The substitute calculations required by subsection (3) or (4) 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.
- (6) In the application of subsection (5)(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 [F788(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 [F889(3)] of that Act.
- (7) Subsection (5)(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.
- (8) 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.
- (9) In making substitute calculations under section [F988(2)] or [F1089(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 [F988(2)] of that Act or for item P2 or item TP2 in section [F1189(4)] of that Act.
- (10) For the purposes of subsection (8) 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.
- (11) For the purposes of subsection (9) above the authority may treat any amount determined in the previous calculations—
  - (a) for item P1 in section [F1288(2)] of the Greater London Authority Act 1999, or
  - (b) for item P2 in section [F1389(4)] of that Act,as increased by the relevant portion of any new additional grant.
- (12) For the purposes of subsection (11) 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 [F1488 and 89] of the Greater London Authority Act 1999 (see section [F1589(2)] of that Act).
- (13) In subsection (12) 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 [F1688(3)(b)] of the Greater London Authority Act 1999 (in relation to item P1) or under section [F1789(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 (12) and any particular financial year or years.
- (14) References in this section to the amount stated in the notice are, in the case of a notice under section 52Q(7) above, to the amount stated under section 52Q(7)(a).

#### Textual Amendments

- F4** Words in s. 52U(2)(a) substituted (3.7.2000) by 1999 c. 29, s. 136(2), **Sch. 9 para. 5(2)** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **art. 4**
- F5** Words in s. 52U(3)(a) substituted (3.7.2000) by 1999 c. 29, s. 136(2), **Sch. 9 para. 5(2)** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **art. 4**
- F6** Words in s. 52U(3)(b) substituted (3.7.2000) by 1999 c. 29, s. 136(2), **Sch. 9 para. 5(3)** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **art. 4**
- F7** Word in s. 52U(6)(a) substituted (3.7.2000) by 1999 c. 29, s. 136(2), **Sch. 9 para. 5(4)(a)** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **art. 4**
- F8** Word in s. 52U(6)(b) substituted (3.7.2000) by 1999 c. 29, s. 136(2), **Sch. 9 para. 5(4)(b)** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **art. 4**
- F9** Words in s. 52U(9) substituted (3.7.2000) by 1999 c. 29, s. 136(2), **Sch. 9 para. 5(5)(a)** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **art. 4**
- F10** Word in s. 52U(9) substituted (3.7.2000) by 1999 c. 29, s. 136(2), **Sch. 9 para. 5(5)(b)** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **art. 4**
- F11** Word in s. 52U(9) substituted (3.7.2000) by 1999 c. 29, s. 136(2), **Sch. 9 para. 5(5)(c)** (with Sch. 12 para. 9(2)); S.I. 1999/3434, **art. 4**
- F12** Word in s. 52U(11) substituted (3.7.2000) by 1999 c. 29, s. 136(2), **Sch. 9 para. 5(6)(a)** (with Sch. 12 para. 9(2)); S.I. 1999/3434, **art. 4**
- F13** Word in s. 52U(11) substituted (3.7.2000) by 1999 c. 29, s. 136(2), **Sch. 9 para. 5(6)(b)** (with Sch. 12 para. 9(2)); S.I. 1999/3434, **art. 4**
- F14** Words in s. 52U(12) substituted (3.7.2000) by 1999 c. 29, s. 136(2), **Sch. 9 para. 5(7)(a)** (with Sch. 12 para. 9(2)); S.I. 1999/3434, **art. 4**
- F15** Word in s. 52U(12) substituted (3.7.2000) by 1999 c. 29, s. 136(2), **Sch. 9 para. 5(7)(b)** (with Sch. 12 para. 9(2)); S.I. 1999/3434, **art. 4**
- F16** Word in s. 52U(13)(b) substituted (3.7.2000) by 1999 c. 29, s. 136(2), **Sch. 9 para. 5(8)(a)** (with Sch. 12 para. 9(2)); S.I. 1999/3434, **art. 4**

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**F17** Word in s. 52U(13)(b) substituted (3.7.2000) by 1999 c. 29, s. 136(2), **Sch. 9 para. 5(8)(b)** (with Sch. 12 para. 9(2)); S.I. 1999/3434, **art. 4**

## **52V Failure to make or substitute calculations.**

- (1) This section applies if an authority which has received a notice under section 52Q(7), 52R(2) or 52S(4) above fails before the relevant date to make calculations or substitute calculations which comply with section 52T or 52U above (as the case may be).
- (2) The relevant date is the following date falling in the financial year immediately preceding that as regards which the authority is designated—
  - (a) 11th March, in the case of a billing authority;
  - (b) 1st March, in the case of a major precepting authority.
- (3) 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.
- (4) 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 financial year as regards which the designation concerned was made.
- (5) For the purposes of this section the period of restriction is the period which—
  - (a) begins with the relevant date, and
  - (b) ends at the time (if any) when the authority makes calculations or substitute calculations which comply with section 52T or 52U above.]

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