



# Local Government Finance Act 1992

## 1992 CHAPTER 14

### PART IV

#### MISCELLANEOUS

#### *Scottish provisions*

#### 107 Water and sewerage charges.

<sup>F1</sup>(1) .....

(2) The 1980 Act shall have effect subject to the amendments made in Part IV of [<sup>F2</sup>Schedule 11 to this Act].

#### Textual Amendments

**F1** S. 107(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 176(13)(a), **Sch. 14** (with s. 128(8)); S.I. 1996/323, art. 4(1)(b)(c)(d), **Sch. 2**

**F2** Words in s. 107(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 176(13)(b)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(b)(c)**

#### 108 Payments to local authorities by Secretary of State.

(1) The Secretary of State may, in respect of the financial year 1993-94 and each subsequent financial year—

- (a) make grants, (to be known as “revenue support grants”) to local authorities; and
- (b) distribute among local authorities the money recovered by way of non-domestic rates (“non-domestic-rate income”) in that financial year.

(2) Schedule 12 to this Act has effect in relation to revenue support grant and the recovery and distribution of non-domestic rate income.

*Status: Point in time view as at 10/07/2011.*

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### [<sup>F3</sup>108A 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 local authority.
- (2) Where the Secretary of State proposes to make a special grant to one authority he shall, before making the grant, make a determination stating—
  - (a) the authority to which the grant is to be paid;
  - (b) the purpose for which the grant is to be paid; and
  - (c) the amount of the grant which is to be paid or the manner in which that amount is to be calculated.
- (3) Where the Secretary of State proposes to make special grants to more than one authority he shall, before making the grants, make a determination stating—
  - (a) to which authorities they are to be paid;
  - (b) the purpose for which they are to be paid; and
  - (c) either—
    - (i) the amount 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 and the basis upon 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 of the main features of the determination as the Secretary of State considers to be desirable.
- (5) A special grant report shall be laid before the [<sup>F4</sup>Scottish Parliament] and, as soon as is reasonably practicable thereafter, the Secretary of State shall send a copy of it to any authority to which he proposes to make a special grant in accordance with the determination.
- (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 [<sup>F5</sup>Scottish Parliament].
- (7) A special grant report may specify conditions which the Secretary of State may with the consent of the Treasury 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 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.
- (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.]

#### Textual Amendments

**F3** S. 108A inserted (4.1.1995) by 1994 c. 39, s. 167 (with s. 128(8)); S.I. 1995/2850, art. 3(a), Sch. 2

**F4** Words in s. 108A(5) substituted (27.7.2000) by S.I. 2000/2040, art. 2, Sch. para. 14(3)

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**F5** Words in s. 108A(6) substituted (27.7.2000) by S.I. 2000/2040, art. 2, Sch. para. 14(3)

## **109 Council tax grants.**

- (1) If regulations under section 80 above have effect in respect of a financial year the Secretary of State may, with the consent of the Treasury, pay a grant to a [<sup>F6</sup>local] 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.
- (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 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 council tax as it has effect for the financial year concerned.

### **Textual Amendments**

**F6** Words in s. 109(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 176(14) (with s. 128(8)); S.I. 1996/323, art. 4(1)(b)(c)

## **110 Amendments to the 1975 Act in relation to non-domestic rates.**

- (1) After section 7 of the 1975 Act there shall be inserted the following section—

### **“7A Provisions as to setting of non-domestic rates.**

- (1) The Secretary of State shall, in respect of the financial year 1993-94 and each subsequent financial year, prescribe for each local authority a rate which shall be their non-domestic rate in respect of that year.
- (2) Non-domestic rates shall be levied in accordance with section 7 of this Act by each rating authority in respect of lands and heritages—
  - (a) which are subjects (other than part residential subjects) in respect of which there is an entry in the valuation roll, according to their rateable value or, where a rateable value has been prescribed or determined in respect of the lands and heritages under section 128 of the <sup>M1</sup>Local Government Finance Act 1988, according to that rateable value; or
  - (b) which are part residential subjects, according to that part of their rateable value which is shown in the apportionment note as relating to the non-residential use of those subjects or, where a rateable value has been prescribed or determined in respect of the lands and heritages

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under section 128 of the <sup>M2</sup>Local Government Finance Act 1988, according to that part of that rateable value which is so shown in the apportionment note.

- (3) The rates prescribed under subsection (1) above shall be known—
  - (a) in the case of the regional council, as the non-domestic regional rate;
  - (b) in the case of the district council, as the non-domestic district rate; and
  - (c) in the case of the islands council, as the non-domestic islands rate.
- (4) References (however expressed) in any enactment to the non-domestic rate determined by a local authority shall be construed as references to the non-domestic rate prescribed for the local authority under this section.
- (5) A statutory instrument containing any order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

(2) For section 7A of the 1975 Act there shall be substituted the following section—

**“7B Provisions as to setting of non-domestic rates.**

- (1) The Secretary of State shall, in respect of the financial year following that in which this subsection comes into force and each subsequent financial year, prescribe a rate which shall be the non-domestic rate to be levied throughout Scotland in respect of that financial year.
  - (2) Subject to subsection (3) below, non-domestic rates shall be levied in accordance with section 7 of this Act by each rating authority in respect of lands and heritages in their area, being lands and heritages—
    - (a) which are subjects (other than part residential subjects) in respect of which there is an entry in the valuation roll, according to their rateable value or, where a rateable value has been prescribed or determined in respect of the lands and heritages under section 128 of the <sup>M3</sup>Local Government Finance Act 1988, according to that rateable value; or
    - (b) which are part residential subjects, according to that part of their rateable value which is shown in the apportionment note as relating to the non-residential use of those subjects or, where a rateable value has been prescribed or determined in respect of the lands and heritages under section 128 of the Local Government Finance Act 1988, according to that part of that rateable value which is so shown in the apportionment note.
  - (3) In the application of section 7 of this Act to the levying of the non-domestic rate prescribed under this section, for the words “to which the rate relates” in each of subsections (1) and (2) of that section there shall be substituted the words “of the rating authority”.
  - (4) References (however expressed) in any enactment to the non-domestic rate determined by a local authority shall be construed as references to the non-domestic rate prescribed under this section.
  - (5) A statutory instrument containing any order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.”
- (3) In section 37 (interpretation) of the 1975 Act, in the definition of “non-domestic rate”, for “section 7A” there shall be substituted “section 7B”.

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- (4) For section 9A of the 1975 Act (as inserted by paragraph 13 of Schedule 12 to the 1988 Act) there shall be substituted the following section—

**“9A Interest on rates paid in error.**

- (1) Subject to regulations made under this section—
- (a) where any amount has been paid to a rating authority in respect of rates either—
    - (i) in error; or
    - (ii) in consequence of the entry on to the valuation roll of a valuation which is subsequently reduced,and the rating authority repay the amount, the authority shall also pay to the person to whom the repayment is made interest on the amount; and
  - (b) where any amount has been repaid to any person by a rating authority either—
    - (i) in error; or
    - (ii) in consequence of the entry on to the valuation roll of a valuation which is subsequently increased,and the rating authority recover the amount, the authority may also recover from that person any interest paid on that amount.
- (2) The Secretary of State may by regulations make provision as to—
- (a) the circumstances in which interest is to be payable or recoverable by a rating authority;
  - (b) the rate at which any interest is to be paid, or the manner in which such rate is to be determined; and
  - (c) the date or dates from which, or by reference to which, any payment of interest is to run.
- (3) This section applies to any payments such as are mentioned in subsection (1) which were made—
- (a) after 1st April 1990; and
  - (b) before the coming into force of this section,
- as it applies to such payments made after the coming into force of this section; but does not entitle any person to receive any payment of interest in respect of any such payment made before 1st April 1990.
- (4) Regulations made under this section may provide for the deduction from any sum paid by way of interest under or by virtue of this section of any sum previously paid under or by virtue of any other enactment by way of interest in respect of the same payment.
- (5) Regulations under this section—
- (a) may make different provision in relation to different cases or descriptions of case;
  - (b) may include such transitional provisions as appear to the Secretary of State to be necessary or expedient; and
  - (c) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.”

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#### Commencement Information

- II** S. 110 partly in force; s. 110 not in force at Royal Assent see s. 119(2)(a); s. 110(1)(4) in force at 1.10.1992 by S.I. 1992/2183, **art. 2(a)** (with **art. 3**); s. 110(2)(3) in force at 31.3.1995 by S.I. 1995/3152, **art. 2** (with **art. 4**)

#### Marginal Citations

- M1** 1988 c. 41.  
**M2** 1988 c. 9.  
**M3** 1988 c. 41.

### 111 Statutory and other references to rateable values etc.

(1) Where—

- (a) in any deed relating to heritable property executed before 1st April 1989 there is any provision which apportions any liability according to the assessed rental or, as the case may be, the gross annual, net annual or rateable value of any properties; and
- (b) all the properties involved in the apportionment appear in the valuation roll in force immediately before 1st April 1989; and
- (c) one or more of the properties constitute dwellings,

then, with effect from 1st April 1989, any reference to the assessed rental or, as the case may be, to any of those values in any such deed shall, unless the context otherwise requires, be construed as a reference to the net annual value or, as the case may be, to the gross annual, net annual or rateable value which appears in relation to any of those properties in the valuation roll in force immediately before that date.

(2) Where in any document executed before 1st April 1989 there is a reference to the assessed rental or, as the case may be, to the gross annual, net annual or rateable value of any property which—

- (a) constitutes a dwelling; and
- (b) appears in the valuation roll in force immediately before 1st April 1989,

then, with effect from that date that reference shall, unless the context otherwise requires, be construed as a reference to the net annual value or, as the case may be, to the gross annual, net annual or rateable value which appears in relation to that property in the valuation roll in force immediately before that date.

(3) Subject to subsection (4) below, where in any enactment (including an enactment contained in a subordinate instrument) there is a reference to the gross annual value, net annual value or rateable value of any property which constitutes a dwelling, then, with effect from 1st April 1989, that reference shall, unless the context otherwise requires, be construed as a reference to the gross annual value, net annual value or rateable value—

- (a) subject to subsection (6) below, which appears in relation to that property in the valuation roll in force immediately before that date; or
- (b) subject to subsection (7) below, in the case of such property which does not come into existence or occupancy as a dwelling until after that date, which would have appeared in the roll in respect of it had it been in existence or occupancy as such immediately before that date.

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- (4) Where in any enactment (including an enactment contained in a subordinate instrument or an enactment which falls to be construed in accordance with subsection (3) above) there is a reference to a rate or rateable value or to any factor connected with rating, or valuation for rating, the Secretary of State may make regulations providing that the reference shall instead be such as is prescribed.
- (5) Regulations may provide as mentioned in subsection (4) above—
  - (a) as regards such enactment, or enactments of such description, as may be prescribed;
  - (b) in such way as the Secretary of State thinks fit (whether by amending enactments or otherwise).
- (6) Where, before or after 1st April 1989, there is a material change of circumstances, within the meaning of section 37(1) of the 1975 Act—
  - (a) in relation to any such property as is mentioned in subsection (3)(a) above; and
  - (b) in respect of which no alteration has been made to the valuation roll in force immediately before that date,references in that subsection to the gross annual, net annual or rateable value of that property which appears in the roll in force immediately before that date shall be construed as references to the gross annual, net annual or rateable value which would have so appeared had that roll been altered to take account of that material change of circumstances.
- (7) Where there is a material change of circumstances, within the meaning of section 37(1) of the 1975 Act, in relation to any such property as is mentioned in subsection (3) (b) above, references in that subsection to the gross annual, net annual or rateable value of that property which would have appeared in respect of it in the roll in force immediately before 1st April 1989 shall be construed as references to the gross annual, net annual or rateable value which would have so appeared had that material change of circumstances been taken into account.
- (8) The assessor shall, at the request of any person and on payment of such fee as may be prescribed, certify—
  - (a) what would have appeared in the valuation roll in force immediately before 1st April 1989 as the gross annual value, net annual value or rateable value of any such property as is mentioned in subsection (3)(b) above; or
  - (b) what would have appeared in that roll as the gross annual value, net annual value or rateable value of any such property as is mentioned in subsection (3) above had that roll been altered to take account of any material change of circumstances, within the meaning of section 37(1) of the 1975 Act, occurring before or after that date.
- (9) An appeal shall lie—
  - (a) against any certificate issued by the assessor under subsection (8) above; or
  - (b) against any refusal by the assessor to issue a certificate under that subsection, and the provisions of the Valuation Acts in regards to appeals and complaints shall apply, subject to such modifications and adaptations as may be prescribed, for the purposes of this subsection.
- (10) Without prejudice to section 35 of the <sup>M4</sup>Lands Valuation (Scotland) Act 1854 (which relates to the preservation of valuation rolls by the Keeper of the Records of Scotland), the assessor for each valuation area shall retain a copy of the valuation roll in force

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immediately before 1st April 1989 for the purposes of this Act; and the copy so retained shall be made available for public inspection at the assessor’s offices during ordinary business hours.

[<sup>F7</sup>(10A) For the purposes of subsection (10) above, on and after 1st April 1996 the valuation roll which an assessor for a valuation area constituted under section 27 of the Local Government etc. (Scotland) Act 1994 is required to retain shall be the valuation roll for every valuation area existing before that date any part of which lies within his valuation area.]

(11) Where the net annual value of any property does not appear, or would not have appeared, in the valuation roll in force immediately before 1st April 1989, references in this section to the appearance in that roll of the net annual value of that property shall be taken as references to the appearance of its rateable value.

(12) For the purposes of this section “gross annual value”, “net annual value” and “rateable value” shall continue to be construed in accordance with the provisions of section 6 of the 1956 Act as those provisions had effect immediately before 1st April 1989.

<p><b>Textual Amendments</b></p> <p><b>F7</b> .S. 111(10A) inserted (1.4.1996) by 1994 c. 39, s. 180(1), <b>Sch. 13 para. 176(15)</b> (with s. 128(8)); S.I. 1996/323, <b>art. 4(b)(c)</b></p>
<p><b>Marginal Citations</b></p> <p><b>M4</b> 1854 c. 91.</p>

**112 Council tax and community charges: restrictions on voting.**

(1) This section applies at any time to a member of a local authority, or a member of a committee of a local authority or of a joint committee of two or more local authorities (including in either case a sub-committee), if at that time—

- (a) a sum falling within paragraph 1(1)(a) of Schedule 8 to this Act (including a sum falling within that paragraph by virtue of paragraph 11 of Schedule 11 to this Act) has become payable by him and has remained unpaid for at least two months; or
- (b) a sum falling within paragraph—
  - (i) 4 or 5 of Schedule 2 (collection etc. of community charges); or
  - (ii) 11 of Schedule 5 (as read with the said paragraphs 4 and 5),
 to the 1987 Act has become payable by him and has remained unpaid for at least three months.

(2) Subject to subsection (4) below, if a member to whom this section applies is present at a meeting of the authority or committee at which any of the following matters is the subject of consideration, namely—

- (a) the setting of council tax under section 93(1)(a) above;
- (b) the substitute setting of council tax under section 94(1) above;
- (c) a reduced or deemed setting under paragraph 3 of Schedule 7 to this Act;
- <sup>F8</sup>(d) .....



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- (e) the exercise of any functions under Schedule 2, 3 or 8 or paragraph 11 of Schedule 11 to this Act, or Schedule 2 or paragraph 11 of Schedule 5 to the 1987 Act,

he shall at the meeting and as soon as practicable after its commencement disclose the fact that this section applies to him and shall not vote on any question with respect to the matter.

- (3) If a person fails to comply with subsection (2) above, he shall be guilty of an offence, and shall for each offence be liable on summary conviction to a fine not exceeding level 3 on the standard scale, unless he proves that he did not know—
- (a) that this section applied to him at the time of the meeting; or
- (b) that the matter in question was the subject of consideration at the meeting.
- (4) Subsections (1) to (3) of section 41 (removal or exclusion of disability) of the 1973 Act shall apply in relation to this section and any disability imposed by it as they apply in relation to section 38 (provision as to disability of members of authorities from voting) of that Act and any disability imposed by that section.

#### Textual Amendments

**F8** s. 112(2)(d) repealed (19.2.1996 subject to S.I. 1996/323, **art. 2(2)**) by 1994 c. 39, ss. 180(2), **Sch. 14**. (with s. 128(8)); S.I. 1996/323, **art. 2(1)(b)(d)(iii)**

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**Changes to legislation:**

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