

Status: Point in time view as at 08/04/2008.

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SCHEDULES

SCHEDULE 12

Section 108.

PAYMENTS TO LOCAL AUTHORITIES BY SECRETARY OF STATE: SCOTLAND

PART I

PAYMENTS TO LOCAL AUTHORITIES

General

- 1 (1) The local authorities—
 - (a) to which revenue support grant is payable; and
 - (b) among whom the distributable amount (within the meaning of paragraph 9 below) of non-domestic rate income is distributed,in respect of a financial year shall be such local authorities as are specified in an order made by the Secretary of State; and different provision may be made for the purposes of sub-paragraphs (a) and (b) of this paragraph in respect of the same authority.
- (2) The amount of revenue support grant payable in respect of a financial year to a local authority so specified shall be such amount as is determined in relation to that authority by order made by the Secretary of State.
- (3) The amount of non-domestic rate income distributed in respect of a financial year to a local authority so specified shall be such part of the distributable amount for that year as is determined in relation to that authority by order made by the Secretary of State.
- (4) Subject to paragraph 4 below, the Secretary of State may at any time by order—
 - (a) make such amendments as he thinks fit to; or
 - (b) revoke; or
 - (c) revoke and replace with a different order,any order made under this paragraph; and any amount of revenue support grant or non-domestic rate income which has been paid and which, in consequence of anything done under this paragraph, falls to be repaid may be recovered by the Secretary of State whenever and however he thinks fit.
- (5) An order under this paragraph shall be known as a local government finance order.
- 2 (1) A local government finance order shall be made only with the consent of the Treasury.
- (2) Before making a local government finance order the Secretary of State shall consult such associations of local authorities as appear to him to be appropriate.
- (3) A local government finance order together with a report of the considerations which led to its provisions shall be laid before the House of Commons but shall have no effect until approved by a resolution of that House.

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Payment of revenue support grant and non-domestic rate income

- 3 Revenue support grant and non-domestic rate income shall be paid to a local authority in such instalments and at such times as the Secretary of State may, with the consent of the Treasury, determine.
- 4 The Secretary of State may determine that the amount of revenue support grant or non-domestic rate income which has been paid to a local authority in respect of a financial year shall be final and, where he does so, he shall have no power to redetermine that amount.

Secretary of State's power on local authority's failure to provide information

- 5 Where under section 199 of the 1973 Act (which provides for reports and returns being made by local authorities and others) the Secretary of State requires a local authority to give information for the purposes of his functions in relation to revenue support grants or non-domestic rate income payable for the financial year 1993-94 or for any subsequent financial year, but that information is not given timeously—
- (a) he may make an estimate as regards any element of the required information; and
 - (b) without prejudice to section 211 of that Act (which makes general provision concerning failure by a local authority to do what is required of them), for the said purposes any such estimate shall be deemed to be information given by the local authority.

PART II

NON-DOMESTIC RATING ACCOUNTS

The accounts

- 6 (1) In accordance with this Part of this Schedule the Secretary of State shall keep, in respect of the financial year 1993-94 and each subsequent financial year, an account (to be called a non-domestic rating account).
- [^{F1}(2) The Scottish Ministers shall send each account kept by them in accordance with subparagraph (1) to the Auditor General for Scotland for auditing.]

Textual Amendments

F1 Sch. 12 para. 6(2) substituted for Sch. 12 para. 6(2)(3) (1.4.2002) by [The Public Finance and Accountability \(Scotland\) Act 2000 \(Consequential Modifications\) Order 2002 \(S.S.I. 2002/176\)](#), [art. 6](#)

Credits and debits

- 7 (1) For each financial year there shall be credited (as items of account) to the account kept for the year any sums received by the Secretary of State in the year under paragraph 11 below.
- (2) Any amounts of non-domestic rate income distributed by the Secretary of State in a financial year under—
- (a) paragraph 3 above;

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- (b) paragraph 11(9) and (10) below; or
 - (c) regulations made under paragraph 12(5) below,
- shall be debited (as items of account) to the account kept for the year
- 8 (1) As soon as is reasonably practicable after the end of each financial year the Secretary of State shall calculate the following—
- (a) the aggregate of the items of account credited to the account kept for the year; and
 - (b) the aggregate of the items of account debited to the account kept for the year.
- (2) If the aggregate mentioned in sub-paragraph (1)(a) above exceeds that mentioned in sub-paragraph (1)(b) above, a sum equal to the excess shall be—
- (a) debited (as an item of account) to the account kept for the year; and
 - (b) credited (as an item of account) to the account kept for the next financial year.
- (3) If the aggregate mentioned in sub-paragraph (1)(b) above exceeds that mentioned in sub-paragraph (1)(a) above, a sum equal to the excess shall be—
- (a) credited (as an item of account) to the account kept for the year; and
 - (b) debited (as an item of account) to the account kept for the next financial year.

Distributable amount

- 9 (1) Before a financial year begins the Secretary of State shall estimate—
- (a) the aggregate of the items of account which will be credited to the account kept for that year; and
 - (b) the aggregate of the items of account which will be debited to the account kept for that year under paragraphs 7(2)(b) and (c) and 8(3)(b) above.
- (2) In making any estimate under sub-paragraph (1) above the Secretary of State may make such assumptions as he thinks fit.
- (3) If the aggregate estimated under sub-paragraph (1)(a) above exceeds the aggregate estimated under sub-paragraph (1)(b) above the Secretary of State shall calculate the amount equal to the difference.
- (4) In any local government finance order in respect of that year the Secretary of State shall specify the amount arrived at under this paragraph (the distributable amount for the year).

PART III

CONTRIBUTION

Non-domestic rating contributions

- 10 (1) The Secretary of State may make regulations containing rules for the calculation of an amount for a financial year in relation to each [F2]local authority (to be called its non-domestic rating contribution for the year).
- (2) Subject to sub-paragraph (3) below, the rules shall be so framed that the amount calculated under them in relation to an authority is broadly the same as the total which would be payable to that authority if there were added—

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- (a) any sum paid to them by way of a contribution in aid made in respect of lands and heritages which, but for [^{F3}section 7 (exemption for visiting forces etc.)], would be liable to non-domestic rates; and
 - (b) the sum which, if the authority acted diligently, would be payable to them in respect of non-domestic rates for that year.
- (3) The Secretary of State may incorporate in the rules provision for deductions (of such extent (if any) as he thinks fit) as regards—
- (a) the operation of—
 - [^{F4}(i) section 24A (lands and heritages partly unoccupied for a short time) of the ^{M1}Local Government (Scotland) Act 1966;]
 - (ii) section 244 (remission of rates on account of poverty) of the 1947 Act; ^{F5} . . .
 - (iii) section 4(5) (reduction and remission of rates payable by charitable and other organisations) of the ^{M2}Local Government (Financial Provisions) (Scotland) Act 1962; [^{F6}and
 - (iv) paragraph 4 of Schedule 2 (discretionary relief for rural settlements) to the Local Government and Rating Act 1997]
 - (b) the costs of collection and recovery; and
 - (c) such other matters (if any) as he thinks fit.
- (4) Regulations under this paragraph in their application to a particular financial year (including regulations amending or revoking others) shall not be effective unless they come into force before 1st January in the preceding financial year.

Textual Amendments

- F2** Word in Sch. 12 para. 10(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 176(19)(a)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(b)(c)**
- F3** Words in Sch. 12 para. 10(2)(a) substituted (1.4.2000) by 1997 c. 29, ss. 33(1), 34(1), **Sch. 3 para. 29(a)**; S.I. 1998/2329, **art. 3(1)(2)**
- F4** Sch. 12 para. 10(3)(a)(i) substituted (31.12.1994 subject to transitional provisions in art. 5 of the commencing S.I.) by 1994 c. 39, s. 180(1), **Sch. 13 para. 176(19)(b)** (with s. 128(8)); S.I. 1994/3150, **arts. 2(a)**
- F5** Word in Sch. 12 para. 10(3)(a)(ii) omitted (1.12.1997) by 1997 c. 29, s. 33(1), **Sch. 3 para. 29(b)(i)**; S.I. 1997/2826, **art. 2(d)**
- F6** Word “and” and Sch. 12 paragraph 10(3)(a)(iv) inserted (1.12.1997) by 1997 c. 29, s. 33(1), **Sch. 3 para. 29(b)(ii)**; S.I. 1997/2826, **art. 2(d)**

Marginal Citations

- M1** 1966 c. 51.
M2 1962 c. 9

- 11 (1) This paragraph applies where regulations under paragraph 10 above are in force in respect of a financial year, and has effect subject to any such regulations.

[^{F7}(2) Before such date in relation to each financial year as the Secretary of State may direct, each relevant authority shall calculate the amount of their non-domestic rating contribution for that year, and shall inform the Secretary of State of the amount so calculated in respect of them; and, for the purposes of this paragraph, “relevant authority” means, in relation to any financial year prior to and including the financial

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- year 1995-96, a regional or islands council and, in relation to financial years after that year, a local authority.]
- (3) The authority shall be liable to pay to the Secretary of State an amount (the “provisional amount”) equal to that calculated and [F8 notified by them] under sub-paragraph (2) above.
 - (4) The authority shall pay the provisional amount during the course of the year, in such instalments and at such times as the Secretary of State may with the consent of the Treasury direct.
 - (5) Within such period after the year ends as the Secretary of State may direct the authority shall—
 - (a) calculate, in such manner as may be prescribed, the amount of its non-domestic rating contribution for the year;
 - (b) notify the amount so calculated to the Secretary of State; and
 - (c) arrange for the calculation and the amount to be certified under arrangements made by the Commission for Local Authority Accounts in Scotland.
 - (6) The Commission shall send a copy of the certification of the calculation and the amount to the Secretary of State.
 - (7) When the Secretary of State receives notification from an authority under sub-paragraph (5)(b) above he shall—
 - (a) calculate the amount of the difference (if any) between that amount (the “notified amount”) and the provisional amount; and
 - (b) if there is a difference, inform the authority of the amount of the difference.
 - (8) If the notified amount exceeds the provisional amount the authority shall pay an amount equal to the difference to the Secretary of State at such time as he may direct.
 - (9) If the notified amount is less than the provisional amount the Secretary of State shall pay an amount equal to the difference to the authority; and the amount shall be paid at such time as he decides with the Treasury’s approval.
 - (10) When the Secretary of State receives notification of the certified amount from the Commission under sub-paragraph (6) above he shall inform the authority of the amount of any difference between the certified amount and the notified amount, and sub-paragraphs (8) and (9) above shall apply in relation to differences between the certified amount and the notified amount as they apply in relation to differences between the provisional amount and the notified amount.
 - (11) If the authority fail to comply with sub-paragraph (5) above the Secretary of State may suspend payments which would otherwise fall to be made to the authority under—
 - (a) paragraph 3 above;
 - (b) sub-paragraph (9) or (10) above; or
 - (c) regulations made under paragraph 12(5) below,but if the authority then comply with the sub-paragraph he shall resume payments falling to be made to the authority under those provisions and make payments to them equal to those suspended.
 - (12) Where the Secretary of State has suspended payments under sub-paragraph (9) above by reason of the authority’s failure to make the calculation required under

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sub-paragraph (5)(a) above in the manner prescribed, for the purposes of sub-paragraph (10) above sub-paragraphs (8) and (9) above shall apply to differences between the provisional amount and the certified amount as they apply to differences between the provisional amount and the notified amount.

Textual Amendments

- F7** Sch. 12 para. 11(2) substituted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 176(19)(c)** (with s. 128(8)); S.I. 1994/2850, **art. 3(c)(xiii)**
- F8** Words in Sch. 12 para. 11(3) substituted (4.1.1995) by 1994 c. 39, s. 180(1), Sch. 13 para. 176(19)(d) (with s. 128(8)); S.I. 1994/2850, **art. 3(c)(xiii)**

Modifications etc. (not altering text)

- C1** Sch. 12 para. 11(2) modified (31.12.1996) by S.I. 1996/3070, **reg. 4.**
- C2** Sch. 12 para. 11(5)(a) explained (31.12.1996) by S.I. 1996/3070, **reg. 9**

- 12 (1) Any calculation under paragraph 11 above of the amount of an authority's non-domestic rating contribution for a year shall be made on the basis of the information before the person making the calculation at the time he makes it; but regulations under paragraph 10 above may include provision—
- (a) requiring a calculation under paragraph 11(2) above to be made on the basis of that information read subject to prescribed assumptions;
 - (b) enabling a calculation under paragraph 11(5)(a) above to be made without taking into account any information as regards which the following conditions are satisfied—
 - (i) it is not reasonably practicable for the person making the calculation to take it into account; and
 - (ii) it was received by the authority after a prescribed date (which may be before or after the end of the year in question).
- (2) Regulations under paragraph 10 above may incorporate in the rules provision for adjustments to be made in the calculation of the amount of an authority's non-domestic rating contribution under paragraph 11(2) or (5) above, being adjustments to take account of relevant changes affecting the amount of the authority's non-domestic rating contribution for an earlier year.
- (3) For the purposes of sub-paragraph (2) above, a change is a relevant change if it results from a decision, determination or other matter which (whether by reason of the time at which it was taken, made or occurred or otherwise) was not taken into account by the authority in the calculation under paragraph 11(5) above of the amount of their non-domestic rating contribution for the earlier year in question.
- (4) The power to give directions under paragraph 11 above—
- (a) includes power to revoke or amend a direction given under the power;
 - (b) may be exercised differently for different authorities.
- (5) The Secretary of State may make regulations providing that, once the provisional amount has been arrived at under paragraph 11 above as regards an authority for a financial year and if prescribed conditions are fulfilled, the provisional amount is to be treated for the purposes of that paragraph as being an amount smaller than it would otherwise be.
- (6) Regulations under sub-paragraph (5) above may include—

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- (a) provision as to the re-calculation of the provisional amount, including provision for the procedure to be adopted for re-calculation if the prescribed conditions are fulfilled;
- (b) provision as to financial adjustments to be made as a result of any re-calculation, including provision for the making of reduced payments under paragraph 11 above or of repayments.

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