



# Local Government Finance Act 1992

## 1992 CHAPTER 14

### PART I

#### COUNCIL TAX: ENGLAND AND WALES

### CHAPTER III

#### SETTING OF COUNCIL TAX

##### *The requisite calculations*

#### **35 Special items for purposes of section 34.**

- (1) The items referred to in section 34(1) above are—
- (a) any precept issued to or anticipated by the authority which is or is believed to be applicable to a part of its area and was taken into account by it in making the calculation (or last calculation) in relation to the year under section 32(2) above; and
  - (b) any expenses of the authority which are its special expenses and were taken into account by it in making that calculation.
- (2) For the purposes of subsection (1) above—
- (a) provided a resolution of a billing authority to the following effect is in force, the expenses of meeting a levy or special levy issued to or anticipated by it are its special expenses or (if the resolution relates to some only of those expenses) those to which the resolution relates are its special expenses;
  - (b) any expenses which a billing authority believes will have to be met out of amounts transferred or to be transferred from its collection fund to its general fund, and which arise out of its possession of property held in trust for a part of its area, are its special expenses;
  - (c) any expenses which a billing authority believes will have to be met out of amounts transferred or to be transferred from its collection fund to its general

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- fund, and which relate to a part of its area, are its special expenses provided that expenses of the same kind which relate to another part of its area are to be met out of property held in trust for that part;
- (d) any expenses incurred by a billing authority in performing in a part of its area a function performed elsewhere in its area by the sub-treasurer of the Inner Temple, the under-treasurer of the Middle Temple, a parish or community council or the chairman of a parish meeting are the authority's special expenses unless a resolution of the authority to the contrary effect is in force; and
  - (e) provided a resolution of a billing authority to the following effect is in force, the expenses incurred by it in performing in a part of its area a function performed elsewhere in its area by a body with power to issue a levy or special levy to it are its special expenses or (if the resolution relates to some only of those expenses) those to which the resolution relates are its special expenses.
- (3) The following rules shall apply to the making of a resolution under subsection (2)(e) above by a billing authority—
- (a) no such resolution may be made unless the body mentioned in subsection (2)(e) above is one in relation to which the billing authority has made under subsection (2)(a) above a resolution which is in force;
  - (b) the resolution under subsection (2)(e) above may not be made so as to be in force at any time when that under subsection (2)(a) above is not in force;
  - (c) the fact that the resolution under subsection (2)(a) above relates to all the expenses concerned does not mean that the resolution under subsection (2)(e) above must relate to all the expenses concerned; and
  - (d) the fact that the resolution under subsection (2)(a) above relates to part of the expenses concerned does not mean that the resolution under subsection (2)(e) above must relate to part, or any particular part, of the expenses concerned.
- <sup>F1</sup>(4) Subsection (2) above shall have effect in relation to a Welsh county council or county borough council as if for paragraphs (b) and (c) there were substituted—
- (") any expenses incurred by a billing authority and arising in connection with property which it holds in trust for a part of its area are its special expenses;
  - (c) any expenses incurred by a billing authority which relate to a part of its area and which are of the same kind as expenses which—
    - (i) relate to another part of its area; and
    - (ii) are to be met out of property held in trust for that part;
 are its special expenses;"
- (5) Expenses of a billing authority are not to be treated as its special expenses for the purposes of subsection (1) above if they are expenses of meeting a levy issued to it by, or anticipated by it from—
- <sup>F2</sup>(a) .....
  - <sup>F2</sup>(b) .....<sup>F3</sup> or
  - <sup>F3</sup>(c) a National Park authority in relation to a National Park in Wales.]]

**Textual Amendments**

**F1** S. 35(4)(5) inserted (3.4.1995 subject to art. 6(2) to (5) of the commencing S.I.) by 1994 c. 19, s. 38(11), **Sch. 12 para. 6** (with ss. 54(7), 55(5), Sch. 17 paras. 21(1), 23(2)); S.I. 1995/852, **art. 6(1)**

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- F2** S. 35(5)(a)(b) repealed (1.4.1997) by 1995 c. 25, ss. 120(3), Sch. 10 para. 35, **Sch. 24** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1996/2560, art. 2, **Sch.**
- F3** Word “or” and s. 35(5)(c) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 35** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

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**Modifications etc. (not altering text)**

- C1** Pt. 1 Ch. 3 (ss. 30-38) modified (E.) (1.2.1993) by S.I. 1993/22, **art. 3(4)**
- C2** Pt. 1 Chs. 3, 4 (ss. 30-52) modified (E.) (1.2.1993) by S.I. 1993/22, **art. 4(2)**
- C3** S. 35(2)(a) applied (30.12.1992) by S.I. 1992/3079, **reg. 11(7)**.

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