

SCHEDULE 2

Regulations 10 and 11

RULES FOR ESTIMATION AND APPORTIONMENT OF SURPLUSES AND DEFICITS

PART I

ESTIMATION OF SURPLUSES AND DEFICITS

1.—(1) A billing authority shall as regards the financial year beginning in 1993 estimate whether there is a surplus or deficit in its collection fund for the financial year beginning in 1992, and if so, the amount of that surplus or deficit for that financial year, by calculating the difference between the amount referred to in sub-paragraph (3) and the amount referred to in sub-paragraph (4).

(2) Where the amount referred to in sub-paragraph (3) is—

- (a) more than the amount referred to in sub-paragraph (4), there is a surplus, the amount of which is the difference,
- (b) less than the amount referred to in sub-paragraph (4), there is a deficit, the amount of which is the difference,
- (c) the same as the amount referred to in sub-paragraph (4), there is no surplus or deficit.

(3) The amount referred to in this sub-paragraph is the total of—

- (a) the amount of any opening surplus on the income and expenditure account of the billing authority's collection fund which was brought forward from the financial year beginning in 1991 and was shown in the billing authority's accounts for that financial year as the collection fund income and expenditure account surplus, but if the accounts for that financial year have not been made up and balanced, the billing authority's estimate of any such opening surplus;
- (b) the sum of the billing authority's estimates of the amounts credited or to be credited in accordance with proper practices to its collection fund income and expenditure account for the financial year beginning in 1992 in respect of the following items—
 - (i) any grants payable by the Secretary of State,
 - (ii) community charges,
 - (iii) interest on sums held or invested in accordance with regulation 10 of the 1989 Regulations and amounts representing interest on sums transferred in accordance with that regulation and retransferred in accordance with regulation 11 of those regulations,
 - (iv) transfers to that authority's collection fund in respect of interest pursuant to any direction made by the Secretary of State under section 98(5) of the 1988 Act⁽¹⁾,
 - (v) transfers pursuant to any direction made by the Secretary of State under section 98(4) and (5) of the 1988 Act in respect of community charge benefits, community charge transitional relief reductions and community charge discounts for prompt payment, and
 - (vi) payments in respect of boundary changes made to that authority by any other billing authority pursuant to an agreement or award made under section 68 of the Local Government Act 1972⁽²⁾ which the Secretary of State specifies under section 90 of the 1988 Act⁽³⁾ are to be paid into that authority's collection fund;

(1) Section 98 was amended by the Local Government Finance Act 1992, Schedule 10, paragraph 23, but only in relation to any financial year beginning on or after 1st April 1993.

(2) 1972 c. 70; section 68(6) and (7) was repealed by the Local Government and Housing Act 1989 (c. 42), Schedule 12.

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and

- (c) the sum of the billing authority's estimates of any other amounts credited or to be credited in accordance with proper practices to its collection fund income and expenditure account for the financial year beginning in 1992, including prior year adjustments and amounts credited or to be credited relating to reductions in provision previously made for non-collection of community charges.
- (4) The amount referred to in this sub-paragraph is the total of—
- (a) the amount of any opening deficit on the income and expenditure account of the billing authority's collection fund which was brought forward from the financial year beginning in 1991 and was shown in the billing authority's accounts for that financial year as the collection fund income and expenditure account deficit, but if the accounts for that financial year have not been made up and balanced, the billing authority's estimate of any such opening deficit;
 - (b) the sum of the billing authority's estimates of the amounts charged or to be charged in accordance with proper practices to its collection fund income and expenditure account for the financial year beginning in 1992 in respect of the following items—
 - (i) precepts payable under regulation 3 of the 1989 Regulations,
 - (ii) transfers to that authority's general fund under section 97 of the 1988 Act⁽⁴⁾,
 - (iii) transfers to that authority's general fund in respect of interest pursuant to any direction made by the Secretary of State under section 98(4) of the 1988 Act,
 - (iv) transfers to that authority's general fund in respect of an allowance for interest arising from the temporary investment of collection fund sums pursuant to any direction made by the Secretary of State under section 98(4) of the 1988 Act, and
 - (v) payments in respect of boundary changes made by that authority to any other billing authority pursuant to an agreement or award made under section 68 of the Local Government Act 1972 which the Secretary of State specifies under section 90 of the 1988 Act are to be met from that authority's collection fund;

and

- (c) the sum of the billing authority's estimates of any other amounts charged or to be charged in accordance with proper practices to its collection fund income and expenditure account for the financial year beginning in 1992, including prior year adjustments and amounts charged or to be charged in respect of provision for non-collection of community charges.

2.—(1) A billing authority shall as regards each financial year beginning in or after 1994 ("the year in question") estimate whether there is a surplus or deficit in its collection fund for the preceding financial year and, if so, the amount of the surplus or deficit for that financial year, by calculating the difference between the amount referred to in sub-paragraph (3) and the amount referred to in sub-paragraph (4).

- (2) Where the amount referred to in sub-paragraph (3) is—
- (a) more than the amount referred to in sub-paragraph (4), there is a surplus, the amount of which is the difference,
 - (b) less than the amount referred to in sub-paragraph (4), there is a deficit, the amount of which is the difference,

(3) Section 90 was substituted by the Local Government Finance Act 1992, Schedule 10, paragraph 20, but only in relation to any financial year beginning on or after 1st April 1993.

(4) Section 97 was substituted by the Local Government Finance Act 1992, Schedule 10, paragraph 22, but only in relation to any financial year beginning on or after 1st April 1993.

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- (c) the same as the amount referred to in sub-paragraph (4), there is no surplus or deficit.
- (3) The amount referred to in this sub-paragraph is the total of–
- (a) the amount of any opening surplus on the income and expenditure account of the billing authority’s collection fund which was brought forward from the financial year (referred to in this paragraph as “the relevant prior year”) beginning two years before the beginning of the year in question and was shown in the billing authority’s accounts for the relevant prior year as the collection fund income and expenditure account surplus, but if the accounts for that financial year have not been made up and balanced, the billing authority’s estimate of any such opening surplus;
 - (b) the sum of the billing authority’s estimates of the amounts credited or to be credited in accordance with proper practices to its collection fund income and expenditure account for the preceding financial year in respect of the following items–
 - (i) council tax,
 - (ii) transfers pursuant to any direction made by the Secretary of State under section 98(4) and (5) of the 1988 Act in respect of council tax benefits, reductions in amounts of council tax and reductions for lump sum payment of council tax,
 - (iii) transfers to that authority’s collection fund under section 97(4) of the 1988 Act and payments by its relevant major precepting authority under regulation 12 in respect of an estimated deficit in the billing authority’s collection fund for the relevant prior year,
 - (iv) transfers to that authority’s collection fund under section 97(2) of the 1988 Act, and
 - (v) payments in respect of boundary changes made to that authority by any other billing authority pursuant to an agreement or award made under section 68 of the Local Government Act 1972 which the Secretary of State specifies under section 90 of the 1988 Act are to be paid into that authority’s collection fund;
- and
- (c) the sum of the billing authority’s estimates of any other amounts, excluding any amounts in respect of non-domestic rates, credited or to be credited in accordance with proper practices to its collection fund income and expenditure account for the preceding financial year, including prior year adjustments and amounts credited or to be credited relating to reductions in provision previously made for non-collection of council tax.
- (4) The amount referred to in this sub-paragraph is the total of–
- (a) the amount of any opening deficit on the income and expenditure account of the billing authority’s collection fund which was brought forward from the relevant prior year and was shown in the billing authority’s accounts for that financial year as the collection fund income and expenditure account deficit, but if the accounts for that financial year have not been made up and balanced, the billing authority’s estimate of any such opening deficit;
 - (b) the sum of the billing authority’s estimates of the amounts charged or to be charged in accordance with proper practices to its collection fund income and expenditure account for the preceding financial year in respect of the following items–
 - (i) precepts payable to its relevant major precepting authority under regulation 3,
 - (ii) transfers to its general fund under section 97(1) of the 1988 Act,
 - (iii) transfers to its general fund under section 97(3) of the 1988 Act and payments to its relevant major precepting authority under regulation 3 in respect of an estimated surplus in the billing authority’s collection fund for the relevant prior year, and
 - (iv) payments in respect of boundary changes made by that authority to any other billing authority pursuant to an agreement or award made under section 68 of the Local

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Government Act 1972 which the Secretary of State specifies under section 90 of the 1988 Act are to be met from that authority's collection fund;

and

- (c) the sum of the billing authority's estimates of any other amounts, excluding any amounts in respect of non-domestic rates, charged or to be charged in accordance with proper practices to its collection fund income and expenditure account for the preceding financial year, including prior year adjustments in respect of council tax and amounts charged or to be charged in respect of provision for non-collection of council tax.

3. In this Part—

“community charge benefits” means the benefits referred to in section 123(1)(e) of the Social Security Contributions and Benefits Act 1992(5) as that section has effect in respect of a day falling before 1st April 1993;

“community charge discounts for prompt payment” means any discount applicable by virtue of regulations made under paragraphs 5 and 5A of Schedule 2 to the 1988 Act(6),

“community charge transitional relief reductions” means any relief or reduction applicable under any of the following Regulations—

- (a) the Personal Community Charge (Relief) (Wales) Regulations 1990(7),
- (b) the Personal Community Charge (Relief) (Wales) Regulations 1991(8),
- (c) the Personal Community Charge (Relief) (Wales) Regulations 1992(9),

“council tax benefit” means council tax benefit under Part VII of the Social Security Contributions and Benefits Act 1992(10),

“proper practices” has the meaning given in section 66(4) of the Local Government and Housing Act 1989(11),

“reductions in amounts of council tax” means reductions in amounts of council tax payable by virtue of any regulations made under section 13 of the 1992 Act other than the Council Tax (Reductions for Disabilities) Regulations 1992(12),

“reductions for lump sum payment of council tax” means the amounts of any reductions in council tax payable to a billing authority pursuant to regulations made under paragraphs 6 and 7 of Schedule 2 to the 1992 Act.

4. In this Part—

- (a) any reference to accounts being made up and balanced is a reference to the requirement for accounts to be made up and balanced in accordance with regulation 6 of the Accounts and Audit Regulations 1983(13);
- (b) any reference (however framed) to a billing authority's collection fund income and expenditure account is a reference to a revenue account to which, in accordance with proper practices, are credited or charged, as the case may be, amounts in respect of the

(5) 1992 c. 4; section 123 was amended by the Local Government Finance Act 1992, Schedule 9, paragraph 1 but by virtue of section 118(4) of that Act the amendment does not affect the operation of section 123 in relation to any community charge benefit in respect of a day falling before 1st April 1993.

(6) Paragraph 5 was substituted, and paragraph 5A was inserted, by the Local Government and Housing Act 1989, Schedule 5, paragraph 11.

(7) S.I. 1990/288.

(8) S.I. 1991/212, amended by S.I. 1991/835.

(9) S.I. 1992/210.

(10) Part VII was amended by the Local Government Finance Act 1992, Schedule 9.

(11) 1989 c. 42.

(12) S.I. 1992/554.

(13) S.I. 1983/1761, to which there are amendments not relevant to these Regulations.

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authority's income and expenditure relating to sums paid or to be paid into or payments met or to be met from the authority's collection fund;

- (c) any references to a billing authority's estimate in paragraph 1(3) and (4) and paragraph 2(3) and (4) are references to an estimate made by that authority immediately before the date on which that authority is required to estimate whether there is a surplus or deficit in its collection fund under regulation 10.

PART II

APPORTIONMENT OF SURPLUSES AND DEFICITS

5.—(1) A billing authority shall calculate in accordance with this Part of this Schedule as regards each financial year beginning in or after 1993 how the surplus or deficit estimated in accordance with Part I of this Schedule for the preceding financial year ("the year") is to be shared among or borne between the authority and its relevant major precepting authority.

(2) The amount of any surplus which is to be the billing authority's share or of any deficit which is to be borne by that authority for the year shall be calculated by applying the formula—

$$D \times \frac{E}{E + F}$$

where, subject to sub-paragraph (4),—

D is the amount of the surplus or deficit, as the case may be, estimated by the authority in accordance with Part I of this Schedule for the year,

E is the amount calculated (or last calculated) by the authority under section 97(1) of the 1988 Act for the year, and where the amount so calculated (or last calculated) is a negative amount, E is nil.

F is the amount stated by the relevant major precepting authority in a precept issued (or last issued) to the authority for the year under section 40(2)(b) of the 1992 Act.

(3) The amount of any surplus which is to be the relevant major precepting authority's share or of any deficit which is to be borne by that authority for the year shall be calculated by applying the formula—

$$D \times \frac{F}{E + F}$$

where, subject to sub-paragraph (4), D, E and F have the same meanings as in sub-paragraph (2).

(4) Where the year is the financial year beginning in 1992—

E is the amount calculated (or last calculated) by the authority under section 95(4) of the 1988 Act for the year, and if no amount has been so calculated, E is nil.

F is the amount of the precept issued (or last issued) by the relevant major precepting authority to the authority for the year under section 68 or 71 (as the case may be) of the 1988 Act.