



Local Government and Housing Act 1989

1989 CHAPTER 42

PART IX

MISCELLANEOUS AND GENERAL

Local Government Finance Act 1988, local finance (Scotland) and block grants

139 Local Government Finance Act 1988: amendments

Schedule 5 to this Act (which amends the Local Government Finance Act 1988) shall have effect.

140 Scottish non-domestic rates: interim provisions

- (1) For section 3 of the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (determination of non-domestic rates) there shall be substituted the following section—

“3A Non-domestic rates: interim provisions

- (1) The Secretary of State shall, in respect of each of the financial years specified in subsection (2) below, prescribe for each local authority a rate which shall be their non-domestic rate in respect of that year.
- (2) The financial years referred to in subsection (1) above are those beginning with the financial year 1990-91 and ending with that immediately before the financial year in respect of which the non-domestic rate is first prescribed under section 3B of this Act.
- (3) Non-domestic rates shall be levied in accordance with section 7 of the Local Government (Scotland) Act 1975 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

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- value 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 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.
- (4) 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.”
- (2) Accordingly—
- (a) references (however expressed) in any enactment to the non-domestic rate determined by a local authority under section 3 of the Abolition of Domestic Rates Etc. (Scotland) Act 1987 shall be construed as references to the non-domestic rate prescribed for the local authority under section 3A of that Act;
- (b) in section 109(2) of the Local Government (Scotland) Act 1973 for the words from “non-domestic district rate” onward there shall be substituted the words “information as may reasonably be required for the preparation of demand notes for the purposes of levying the non-domestic district rate”;
- (c) section 110A(2) of the Local Government (Scotland) Act 1973 and section 128(2) of and paragraph 16 of Schedule 12 to the Local Government Finance Act 1988 shall cease to have effect.

141 Scottish non-domestic rate

- (1) For section 3A of the Abolition of Domestic Rates Etc. (Scotland) Act 1987 there shall be substituted the following section—

“3B Unified non-domestic rate

- (1) The Secretary of State shall, in respect of each of the financial years specified in subsection (2) below, prescribe a rate which shall be the non-domestic rate to be levied throughout Scotland in respect of that financial year.
- (2) The financial years referred to in subsection (1) above are those beginning with the first financial year after the coming into force of section 141 of the Local Government and Housing Act 1989.
- (3) Subject to subsection (4) below, the non-domestic rate shall be levied in accordance with section 7 of the Local Government (Scotland) Act 1975 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

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- in respect of the lands and heritages under section 128 of the 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.
- (4) In the application of section 7 of the Local Government (Scotland) Act 1975 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”.
- (2) Accordingly—
- (a) references (however expressed) in any enactment to the non-domestic rate determined by or prescribed in relation to a local authority under section 3 of the Abolition of Domestic Rates Etc. (Scotland) Act 1987 shall be construed as references to the non-domestic rate prescribed under section 3B of that Act;
- (b) in section 109 of the Local Government (Scotland) Act 1973 (rating authorities)—
- (i) for paragraphs (a) and (b) of subsection (1) there shall be substituted the following paragraph—
- “(L) in the case of the non-domestic rate prescribed under section 3B of the Abolition of Domestic Rates Etc. (Scotland) Act 1987, the regional council and the islands council;” and
- (ii) in subsection (2) for the words from “non-domestic district rate” onward there shall be substituted the words “information as may reasonably be required for the preparation of demand notes for the purposes of levying the non-domestic rate”.
- (3) For section 110 of the Local Government (Scotland) Act 1973 (payments by regional councils to district councils in respect of district rates) there shall be substituted the following section—

“110 Division between regional and district councils of amount collected by way of non-domestic rate

The Secretary of State may by regulations provide as to the division among the regional council and the councils of the districts within the area of the regional council of the amount collected by way of the non-domestic rate in that area in respect of a financial year.”

- (4) Section 111(1)(a), (b) and (d) of the Local Government (Scotland) Act 1973 (power to make regulations as to certain matters connected with non-domestic rates) shall cease to have effect.

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142 Powers to vary incidence of standard community charge: Scotland

In section 10 of the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (liability for and calculation of standard community charge) for subsections (6) and (7) there shall be substituted the following subsections—

“(6) The standard community charge due to a local authority in respect of any premises in respect of any financial year shall be the product of the personal community charge determined in respect of that year by the local authority and—

- (a) where the premises are in a specified class, the standard community charge multiplier determined in respect of that class by the authority; or
- (b) where the premises are not in a specified class, the standard community charge multiplier determined by the authority in relation to such premises,

in respect of that year.

(7) A specified class is one which has been prescribed under this subsection or determined under regulations made under subsection (7F) below.

(7A) A local authority shall determine their standard community charge multiplier or multipliers before such date in each year as is prescribed.

(7B) A standard community charge multiplier must be one of the following, 0, $\frac{1}{2}$, 1, $1\frac{1}{2}$, 2.

(7C) A local authority may resolve that different standard community charge multipliers shall apply in relation to different classes of premises prescribed under subsection (7) above.

(7D) A standard community charge multiplier relating to a class of premises prescribed under subsection (7) above shall not exceed such maximum multiplier as may be prescribed in relation to that class.

(7E) In prescribing classes under subsection (7) above, the Secretary of State may classify premises by reference to such factors as he thinks fit, including, without prejudice to that generality—

- (a) the physical characteristics of premises or any part of them;
- (b) the fact that premises are, or any part of them is, unoccupied;
- (c) the fact that premises are, or any part of them is, occupied for prescribed purposes;
- (d) the fact that premises are, or any part of them is, occupied by persons of prescribed descriptions;
- (e) the circumstances of persons liable to pay the standard community charge.

(7F) The Secretary of State may, by regulations, make provision—

- (a) enabling local authorities or local authorities of such class or classes as he may specify in the regulations—
 - (i) to determine, in relation to their areas, classes of premises additional to those prescribed under subsection (7) above;
 - (ii) to determine different such classes of premises in relation to different parts of their areas; and

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- (iii) to resolve that different standard community charge multipliers shall apply in relation to different classes of premises determined under the regulations, and
 - (b) requiring them, when determining a class or classes under the regulations, to classify premises only by reference to one or more prescribed factors being such factors as the Secretary of State thinks fit.
- (7G) Regulations under subsection (7F) above may make provision enabling the district council to resolve that different standard community charge multipliers shall apply in relation to such different classes of premises as have, in relation to the district, been determined under the regulations by the council of the region in which the district is situated.
- (7H) A regional council may resolve that different standard community charge multipliers shall apply in relation to the same specified class of premises in different districts within the region.”

143 Reduced liability for personal community charges: Scotland

—The following section shall be inserted after section 9 of the Abolition of Domestic Rates Etc. (Scotland) Act 1987—

“9A Reduced liability for personal community charge

- (1) The Secretary of State may make regulations as regards any case where—
 - (a) a person is or was liable to pay, in respect of any time in such financial year as is prescribed, the personal community charge determined by a local authority in respect of that year; and
 - (b) prescribed conditions are fulfilled.
- (2) Regulations under this section may provide that the amount of a person’s liability in respect of personal community charge shall not be such amount as it would be apart from the regulations or, as the case may be, such amount as it was, but instead such smaller amount as is arrived at in accordance with prescribed rules.
- (3) The conditions mentioned in subsection (1) above may be prescribed by reference to such factors as the Secretary of State sees fit; and in particular such factors may include all or any of the following—
 - (a) rates for a period before 1 April 1989;
 - (b) the circumstances of or other matters relating to the person concerned;
 - (c) an amount relating to the local authority concerned and specified, or to be specified, for the purposes of the regulations in a report laid, or to be laid, before the House of Commons;
 - (d) such other amounts as may be prescribed or arrived at in a prescribed manner;
 - (e) the making of an application by the person concerned.
- (4) The rules mentioned in subsection (2) above may be prescribed by reference to such factors as the Secretary of State sees fit; and in particular such factors may include all or any of the factors mentioned in subsection (3)(a) to (d) above.

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- (5) Without prejudice to the generality of section 31(2) of this Act, regulations under this section may include—
- (a) provision requiring the Secretary of State to specify in a report, for the purposes of the regulations, an amount in relation to each local authority;
 - (b) provision requiring him to lay the report before the House of Commons;
 - (c) provision for the review of any prescribed decision of a local authority relating to the application or operation of the regulations.
- (6) To the extent that he would not have power to do so apart from this subsection, the Secretary of State may—
- (a) include in regulations under this section such amendments of any social security instrument as he thinks expedient in consequence of the regulations under this section;
 - (b) include in any social security instrument such provision as he thinks expedient in consequence of regulations under this section.
- and any such amendments or provision may be deemed by the regulations or, as the case may be, instrument to have come into effect prior to the date of coming into force of the regulations or instrument.
- (7) In subsection (6) above “social security instrument” means an order or regulations made, or falling to be made, by the Secretary of State under the Social Security Act 1986.”

144 Community charge grants: Scotland

The following section shall be inserted after section 23 of the Abolition of Domestic Rates Etc. (Scotland) Act 1987—

“PART IIIA

COMMUNITY CHARGE GRANTS

23A Community charge grants

- (1) If regulations under section 9A have effect in respect of a financial year, the Secretary of State may, with the consent of the Treasury, pay a grant to a local authority in respect of that 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, or otherwise.

(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 the aggregate of—

(c) any amount which, in consequence of the regulations, the local authority might reasonably be expected to lose, or to have lost, by way of payments in respect of community charges in respect of the financial year concerned; and

(d) any administrative expenses the local authority might reasonably be expected to incur, or to have incurred, in respect of the financial year in giving effect to the regulations.”

145 Amendment of Abolition of Domestic Rates Etc. (Scotland) Act 1987 and other enactments: Scotland

Schedule 6 to this Act (which amends the Abolition of Domestic Rates Etc. (Scotland) Act 1987 and other enactments) shall have effect.

146 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 charging authority.

(2) Before making any one or more special grants, the Secretary of State shall make a determination stating, with respect to the special grant or, as the case may be, each of the special grants,—

(a) to which authority it is to be paid,

(b) the purpose for which it is to be paid, and

(c) the amount of the grant,

and that determination 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 as the Secretary of State considers desirable of the main features of the determination.

(3) A special grant report shall be laid before the House of Commons and, as soon as is reasonably practicable after the report has been so laid, the Secretary of State shall send a copy of it to any charging authority to whom a special grant is proposed to be paid in accordance with the determination in the report.

(4) 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 House of Commons.

(5) A special grant report may specify conditions which the Secretary of State, with the consent of the Treasury, intends to impose on the payment of (or of any instalment of) any special grant to which the report relates; and the conditions may require the provision of returns or other information before a payment is made to the local authority concerned or relate to the use of the amount paid, or to the repayment in specified circumstances of all or part of the amount paid, or otherwise.

(6) Without prejudice to compliance with any conditions imposed as mentioned in subsection (5) above, a special grant shall be paid at such time or in instalments of

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such amounts and at such times as the Secretary of State may, with the consent of the Treasury, determine.

- (7) For the purposes of this section each of the following is a charging authority—
- (a) a district council;
 - (b) a London borough council;
 - (c) the Common Council of the City of London; and
 - (d) the Council of the Isles of Scilly.

147 Adjustment of block grant

- (1) This section applies for any year in relation to which, immediately before the passing of this Act, the obligation imposed on the Secretary of State by the paragraph 5 pooling provisions to ascertain the actual amount of the increases and decreases of block grant to be made for the year in accordance with those provisions had not yet arisen.
- (2) As soon as is reasonably practicable after the passing of this Act the Secretary of State shall ascertain, for a year for which this section applies, the amount of the increases and decreases of block grant which ought to be made in accordance with the paragraph 5 pooling provisions.
- (3) Subsection (4), subsection (5) or subsection (6) below (as the case may be) applies where, for the purpose of so ascertaining, the Secretary of State needs to find the amount of a local authority's expenditure in relation to the year or the amount of any part of that expenditure.
- (4) Where the year begins in 1987 or before, he shall find the amount concerned by reference to—
 - (a) figures which relate to the authority's actual expenditure incurred for the year and which were received by him before the relevant date, or
 - (b) if no such figures were received by him before that date, any other information in his possession on that date about the expenditure incurred by the authority for the year.
- (5) Where the year begins in 1988, he shall find the amount concerned by reference to any information in his possession on the relevant date about the expenditure incurred and likely to be incurred by the authority for the year.
- (6) Where the year begins in 1989, he shall find the amount concerned by reference to any information in his possession on the relevant date about the expenditure likely to be incurred by the authority for the year.
- (7) Where the year begins in 1988, and the amount concerned is the amount of the authority's relevant education expenditure for the year, he shall find the amount by reference to—
 - (a) audited accounts which relate to that expenditure, which are in such form as the Secretary of State may specify and which were received by him before the second relevant date; or
 - (b) if no such accounts were received by him before the second relevant date, any information in his possession on the relevant date about that expenditure;
 and subsection (5) above shall have effect subject to the preceding provisions of this subsection.

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- (8) In making payments of block grant after the passing of this Act, the Secretary of State shall adjust amounts paid so as to take account, so far as practicable, of increases and decreases ascertained under subsection (2) above.
- (9) As regards anything done after the passing of this Act for a year for which this section applies, the paragraph 5 pooling provisions shall have effect—
- (a) with the omission of paragraph 5(2) of Schedule 10 to the 1980 Act, and
 - (b) with such other modifications as result from this section.
- (10) In this section—
- “local authority”, in relation to any year, means any body which for that year is a local authority for the purposes of Part VI of the 1980 Act;
 - “the 1980 Act” means the Local Government, Planning and Land Act 1980;
 - “the paragraph 5 pooling provisions” means paragraph 5 of Schedule 10 to the 1980 Act and regulations made under that paragraph (adjustment of block grant);
 - “the relevant date” means 1st February 1989 and “the second relevant date” means 1st October 1989;
 - “year” means a period of twelve months beginning with 1st April.
- (11) For the purposes of this section an authority’s relevant education expenditure for the year beginning in 1988 is its expenditure which—
- (a) was incurred in the year, and
 - (b) was incurred by way of payments falling within regulation 3(3)(d) or (e) of the Block Grant (Education Adjustments) (England) Regulations 1987.

148 Rate support grant, 1985/86

The Rate Support Grant Supplementary Report (England) (No. 4) 1985/86 (which was approved by a resolution of the House of Commons on 19th January 1989) shall have effect, and be deemed always to have had effect, as if, in Annex VI (principles for calculating grant-related poundages), for the formula set out in paragraph 4 (grant-related poundages for total expenditure at or above the threshold level) there were substituted—

$$\text{GRP} = \text{GRP at GRE} + 0.69\text{p} \times \text{threshold amount}$$

$$+ 0.8625\text{p} \times \left(\frac{\text{total expenditure} - \text{GRE}}{\text{population}} - \text{threshold amount} \right)$$

149 Statutory references to rating

- (1) In the case of a provision which is made by or under any enactment and refers to a rate or a rateable value or any other factor connected with rating, the Secretary of State may make regulations—
- (a) providing that the reference shall instead be to some other factor (whether or not connected with rating); or
 - (b) providing for the factor to be amended (whether by limiting its operation or in any other way);

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and this section shall have effect in place of section 119 of the Local Government Finance Act 1988.

- (2) Regulations under this section—
- (a) may make provision in such manner as the Secretary of State thinks fit (whether by amending provisions or otherwise);
 - (b) may provide for a factor expressed by reference to valuation, rent, a premium, the length of a lease, anything connected with rating, or any other matter whatever;
 - (c) may provide for a factor expressed by reference to a combination of matters (whether expressed in terms of a formula or otherwise);
 - (d) may provide for a factor which includes a method of adjustment (whether by reference to indexation or otherwise);
 - (e) may make provision with respect to the resolution of disputes (whether by a court or otherwise); and
 - (f) may contain such supplementary, incidental, consequential or transitional provisions as appear to the Secretary of State to be necessary or expedient.
- (3) A factor expressed by reference to rent may be by reference to ground rent, rent of premises at a market rate, rent as limited by law, or otherwise.
- (4) Nothing in this section shall be construed as limiting the power conferred by section 14 of the Interpretation Act 1978 to revoke, amend or vary regulations previously made under this section.
- (5) In this section “enactment” means an enactment contained in Schedule 10 to this Act, or in any other Act whether passed before or in the same Session as this Act; and for this purpose “Act” includes a private or local Act.
- (6) Without prejudice to the generality of the powers conferred by this section, section 37 of the Landlord and Tenant Act 1954 (which provides for compensation by reference to rateable values) shall be amended in accordance with Schedule 7 to this Act.