



# Local Government Finance Act 2012

## 2012 CHAPTER 17

An Act to make provision about non-domestic rating; to make provision about grants to local authorities; to make provision about council tax; to make provision about the supply of information for purposes relating to rates in Northern Ireland; and for connected purposes. [31st October 2012]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### *Non-domestic rating*

#### **1 Local retention of non-domestic rates**

- (1) The LGFA 1988 is amended in accordance with subsections (2) to (4).
- (2) After section 59 insert—

##### **“59A Local retention of non-domestic rates**

Schedule 7B (local retention of non-domestic rates) has effect.”

- (3) In section 143 (orders and regulations)—
  - (a) in subsection (3) (application of negative Parliamentary procedure to orders and regulations under the Act), for “(9AA)” substitute “ (9E) ”, and
  - (b) before subsection (10) insert—

“(9C) Any power to make regulations conferred by Schedule 7B (local retention of non-domestic rates) is exercisable by statutory instrument.

- (9D) A statutory instrument containing regulations under any of the following provisions of that Schedule (whether alone or with other

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provision) may not be made unless a draft of the instrument has been laid before and approved by resolution of each House of Parliament—

- (a) paragraph 9 (regulations about payments by billing authorities to major precepting authorities);
- (b) paragraph 11 (regulations about payments by billing authorities to major precepting authorities out of deductions from central share payments);
- (c) paragraph 22 (regulations about calculation of levy payments);
- (d) paragraph 25 (regulations about calculation of safety net payments);
- (e) paragraph 30 (regulations about distribution of remaining balance);
- (f) paragraph 39 or 40 (regulations about designated areas or classes of hereditament), if the regulations contain provision within paragraph 41 (payments to relevant authorities).

(9E) Any other statutory instrument containing regulations under that Schedule is subject to annulment in pursuance of a resolution of either House of Parliament.”

- (4) Schedule 1 (which sets out the Schedule to be inserted as Schedule 7B to the LGFA 1988) has effect.
- (5) In consequence of the amendment made by subsection (3)(a), in Schedule 7 to the Local Government Act 2003 omit paragraph 24(2).
- (6) The amendments made by this section and Schedule 1 have effect in relation to the financial year beginning with 1 April 2013 and subsequent financial years.
- (7) But the Secretary of State may by order made by statutory instrument amend subsection (6) by substituting a later financial year.

## **2 Revenue support grant**

- (1) Schedule 2 (amendment of provisions about revenue support grant) has effect.
- (2) The amendments made by Schedule 2 have effect in relation to the financial year beginning with 1 April 2013 and subsequent financial years.
- (3) But the Secretary of State may by order made by statutory instrument amend subsection (2) by substituting a later financial year.

## **3 Additional grant**

- (1) The LGFA 1988 is amended in accordance with subsections (2) to (4).
- (2) In section 84Q(1) (application of Chapter dealing with grants other than revenue support grant) omit paragraph (a) (which refers to sections 85 and 86).
- (3) Omit sections 85 and 86 (additional grant: England) and the italic heading preceding section 85.
- (4) In section 141 (payments to and from authorities)—
  - (a) in subsection (5)(b) omit “and 86(2)”, and

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- (b) in subsection (7) omit “and 86”.
- (5) The LGFA 1992 is amended in accordance with subsections (6) to (8).
- (6) In section 52ZF (council tax referendums: billing authority's duty to make substitute calculations)—
  - (a) in subsection (3)(a) omit “additional grant,” and
  - (b) omit subsection (4).
- (7) In section 52ZJ (council tax referendums: major precepting authority's duty to make substitute calculations)—
  - (a) in subsection (4)(a) omit “additional grant,” and
  - (b) omit subsection (5).
- (8) In section 69(1) (interpretation of Part 1), in the definition of “additional grant”, for “85(2)” substitute “ 86A(2) ”.
- (9) The Greater London Authority Act 1999 is amended in accordance with subsections (10) and (11).
- (10) In section 86 (calculation of component council tax requirement in relation to Mayor's Office for Policing and Crime)—
  - (a) in subsection (4D)—
    - (i) at the end of paragraph (b) insert “ and ”, and
    - (ii) omit paragraph (d) (additional grant) and the “and” preceding that paragraph, and
  - (b) in subsection (4F)—
    - (i) at the end of paragraph (a) insert “ and ”, and
    - (ii) omit paragraph (c) (report relating to additional grant) and the “and” preceding that paragraph.
- (11) In section 102(2) (aggregate out of which payments to functional bodies are to be made) omit paragraph (b) (additional grant).
- (12) In consequence of the amendments made by subsection (3)—
  - (a) in Schedule 10 to the LGFA 1992 omit paragraph 16, and
  - (b) in Schedule 7 to the Local Government Act 2003 omit paragraph 17.
- (13) The amendments made by this section have effect in relation to the financial year beginning with 1 April 2013 and subsequent financial years.
- (14) But the Secretary of State may by order made by statutory instrument amend subsection (13) by substituting a later financial year.

#### **4 General GLA grant**

- (1) Section 100 of the Greater London Authority Act 1999 (general GLA grant) is amended as follows.
- (2) For subsection (1) (duty to pay general GLA grant to Greater London Authority for each financial year) substitute—
  - “(1) The Secretary of State may pay a grant (to be called “general GLA grant”) to the Authority for a financial year.”

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- (3) In subsection (3) (duty to make determination about general GLA grant for each financial year), after “year” insert “ for which general GLA grant is to be paid ”.
- (4) The amendments made by this section have effect in relation to the financial year beginning with 1 April 2013 and subsequent financial years.
- (5) But the Secretary of State may by order made by statutory instrument amend subsection (4) by substituting a later financial year.

## **5 Local retention of non-domestic rates: further amendments**

- (1) Schedule 3 (local retention of non-domestic rates: further amendments) has effect.
- (2) In that Schedule—
  - (a) Part 1 amends Schedule 8 to the LGFA 1988 so that it applies in relation to Wales only (and makes some related amendments), and
  - (b) Part 2 contains other amendments.
- (3) The amendments made by that Schedule have effect for the financial year beginning with 1 April 2013 and subsequent financial years.
- (4) But the Secretary of State may by order made by statutory instrument amend subsection (3) by substituting a later financial year.

## **6 Definition of domestic property**

- (1) Section 66 of the LGFA 1988 (domestic property) is amended as follows.
- (2) After subsection (2BB) insert—
 

“(2BC) For the purposes of subsection (2B) the relevant person is—

  - (a) where the building or self-contained part is not subject as a whole to a relevant leasehold interest, the person having the freehold interest in the whole of the building or self-contained part; and
  - (b) in any other case, any person having a relevant leasehold interest in the building or self-contained part which is not subject (as a whole) to a single relevant leasehold interest inferior to that interest.”
- (3) In subsection (2C) omit “subsection (2B) and”.
- (4) This section has effect in relation to liability to a non-domestic rate for the financial year beginning with 1 April 2013 and subsequent financial years.

## **7 Payments to and from authorities**

- (1) Section 141 of the LGFA 1988 (power to make regulations about set off of payments to and from receiving authorities) is amended as follows.
- (2) In subsection (5)(b) (power to require provisions of the Act to be read subject to regulations), after “79(2)” insert “ , 84H(2) and 86B(2) ”.
- (3) In subsection (7) (payments to receiving authorities to which regulations may apply)—
  - (a) after “84C” insert “ , 84K, 84N and 86B ”, and

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- (b) for the words from “, paragraphs 12 and 15 of that Schedule” to the end substitute “ and paragraphs 12 and 15 of that Schedule. ”
- (4) In subsection (8) (payments from receiving authorities to which regulations may apply), for “and 84C” substitute “, 84C, 84K and 84N ”.
- (5) The amendments made by this section have effect in relation to the financial year beginning with 1 April 2013 and subsequent financial years.

## **8 Provision of information about non-domestic rates**

- (1) In Schedule 9 to the LGFA 1988, paragraph 2 (collection and recovery) is amended as follows.
  - (2) After sub-paragraph (2)(ge) insert—
    - “(gf) that the payee must publish prescribed information in the prescribed manner,”.
  - (3) In sub-paragraph (2)(h), after “when the payee serves a notice” insert “ or on the request of the ratepayer ”.

### *Council tax*

## **9 Council tax reduction schemes: review**

- (1) The Secretary of State shall make provision for an independent review of all council tax reduction schemes made under the provisions of this Act—
  - (a) to consider their effectiveness, efficiency, fairness and transparency and their impact on the localism agenda, and
  - (b) to make recommendations as to whether such schemes should be brought within universal credit.
- (2) A review under subsection (1) shall take place within three years after this Act comes into effect.

## **10 Council tax reduction schemes**

- (1) For section 13A of the LGFA 1992 (billing authority's power to reduce amount of tax payable) substitute—

### **“13A Reductions by billing authority**

- (1) The amount of council tax which a person is liable to pay in respect of any chargeable dwelling and any day (as determined in accordance with sections 10 to 13)—
  - (a) in the case of a dwelling situated in the area of a billing authority in England, is to be reduced to the extent, if any, required by the authority's council tax reduction scheme (see subsection (2));
  - (b) in the case of a dwelling situated in the area of a billing authority in Wales, is to be reduced to the extent, if any, required by any council tax reduction scheme made under regulations under subsection (4) that applies to that dwelling;

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- (c) in any case, may be reduced to such extent (or, if the amount has been reduced under paragraph (a) or (b), such further extent) as the billing authority for the area in which the dwelling is situated thinks fit.
- (2) Each billing authority in England must make a scheme specifying the reductions which are to apply to amounts of council tax payable, in respect of dwellings situated in its area, by—
    - (a) persons whom the authority considers to be in financial need, or
    - (b) persons in classes consisting of persons whom the authority considers to be, in general, in financial need.
  - (3) Schedule 1A (which contains provisions about schemes under subsection (2)) has effect.
  - (4) The Welsh Ministers may by regulations—
    - (a) require a person or body specified in the regulations to make a scheme specifying the reductions which are to apply to amounts of council tax payable, in respect of dwellings to which the scheme applies, by persons to whom the scheme applies,
    - (b) impose requirements on that person or body regarding the matters which must be included in that scheme, and
    - (c) make other provision for and in connection with such schemes.
  - (5) Schedule 1B (which contains further provisions about regulations under subsection (4) and about schemes under those regulations) has effect.
  - (6) The power under subsection (1)(c) includes power to reduce an amount to nil.
  - (7) The power under subsection (1)(c) may be exercised in relation to particular cases or by determining a class of case in which liability is to be reduced to an extent provided by the determination.
  - (8) No regulations under subsection (4) are to be made unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, the National Assembly for Wales.
  - (9) In this Part “council tax reduction scheme” means a scheme under subsection (2) or regulations under subsection (4).”
- (2) Schedule 4 (amendments relating to council tax reduction schemes) has effect.
  - (3) In that Schedule—
    - (a) Part 1 sets out the Schedules to be inserted as Schedules 1A and 1B to the LGFA 1992, and
    - (b) Part 2 contains other amendments.
  - (4) Each billing authority in England must make a council tax reduction scheme under section 13A(2) of the LGFA 1992 no later than 31 January 2013; and the first financial year to which that scheme relates must be the year beginning with 1 April 2013.
  - (5) But the Secretary of State may by order made by statutory instrument amend subsection (4) by substituting a different date or a later financial year (or both).

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## **11 Power to determine further discounts for certain dwellings**

- (1) In section 11A of the LGFA 1992 (discounts: special provision for England), after subsection (4) insert—

“(4A) For any financial year for which a class of dwellings is prescribed for the purposes of this subsection, a billing authority in England may by determination provide—

- (a) in relation to all dwellings of that class in its area, or
- (b) in relation to such description of dwellings of that class as it may specify in the determination,

that the discount under section 11(2)(a) shall not apply or shall be such percentage (which may be 100) as it may so specify.

(4B) Where a class of dwellings is prescribed for the purposes of subsection (4A) by reference to the period of time for which a condition is met, a billing authority may not, under paragraph (b) of that subsection, specify a description of dwellings of that class by reference (wholly or partly) to a shorter such period.”

- (2) In subsections (1) and (5) of that section, for “or (4)” substitute “, (4) or (4A) ”.
- (3) Regulations may be made for the purposes of the subsection inserted by subsection (1) for a financial year beginning with or after 1 April 2013 (and, if a class of dwelling is prescribed by reference to a period of time for which a condition is met, it does not matter whether the period begins before this section comes into force).

## **12 Power to set higher amount for long-term empty dwellings**

- (1) The LGFA 1992 is amended as follows.

- (2) After section 11A insert—

### **“11B Higher amount for long-term empty dwellings: England**

- (1) For any financial year, a billing authority in England may by determination provide in relation to its area, or such part of its area as it may specify in the determination, that if on any day a dwelling is a long-term empty dwelling—

- (a) the discount under section 11(2)(a) shall not apply, and
- (b) the amount of council tax payable in respect of that dwelling and that day shall be increased by such percentage of not more than 50 as it may so specify.

- (2) The Secretary of State may by regulations prescribe one or more classes of dwelling in relation to which a billing authority may not make a determination under this section.

- (3) A class of dwellings may be prescribed under subsection (2) by reference to such factors as the Secretary of State thinks fit and may, in particular, be prescribed by reference to—

- (a) the physical characteristics of, or other matters relating to, dwellings;
- (b) the circumstances of, or other matters relating to, any person who is liable to the amount of council tax concerned.

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- (4) Where a determination under this section has effect in relation to a class of dwellings—
- (a) the billing authority may not make a determination under section 11A(3), (4) or (4A) in relation to that class, and
  - (b) any determination that has been made under section 11A(3), (4) or (4A) ceases to have effect in relation to that class.
- (5) A billing authority may make a determination varying or revoking a determination under this section for a financial year, but only before the beginning of the year.
- (6) A billing authority which makes a determination under this section must publish a notice of it in at least one newspaper circulating in its area and do so before the end of the period of 21 days beginning with the date of the determination.
- (7) Failure to comply with subsection (6) does not affect the validity of a determination.
- (8) For the purposes of this section, a dwelling is a “long-term empty dwelling” on any day if for a continuous period of at least 2 years ending with that day—
- (a) it has been unoccupied, and
  - (b) it has been substantially unfurnished.
- (9) In determining whether a dwelling is a long-term empty dwelling, no account is to be taken of any one or more periods of not more than 6 weeks during which either of the conditions in subsection (8)(a) and (b) is not met (or neither of them is met).
- (10) The Secretary of State may by regulations substitute a different period, of not less than 6 weeks, for the period which is for the time being specified in subsection (9).”
- (3) In section 11(2) (discounts: no chargeable residents), after “sections 11A” insert “, 11B”.
- (4) In section 11A (discounts: special provision for England), after subsection (4B) (inserted by section 11) insert—
- “(4C) Subsections (3), (4) and (4A) are subject to section 11B(4).”
- (5) In section 13(3) (amounts which may be reduced by regulations), after “section 11, 11A” insert “, 11B”.
- (6) In section 66(2)(b) (matters to be questioned only by judicial review), after “section 8(2), 11A” insert “, 11B”.
- (7) In section 67(2)(a) (functions to be discharged only by authority), after “section 8(2), 11A” insert “, 11B”.
- (8) In Schedule 2 (administration), paragraph 4 (discounts) is amended as follows.
- (9) In sub-paragraph (2), after “discount” (in both places) insert “ or increase”.
- (10) In sub-paragraph (3)—
- (a) after “discount” in the first and third places insert “ or to an increase”;



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- (b) after “discount” in the second and fourth places insert “ or increase ”.
- (11) In sub-paragraph (5)(a), for “is subject to a discount of a particular amount; and” substitute “—
- (i) is subject to a discount of a particular amount, or
  - (ii) is not subject to any increase; and”.
- (12) In sub-paragraph (5)(b), for the words from “is not in fact” to “smaller amount,” substitute “—
- (i) is not in fact subject to any discount, or is subject to a discount of a smaller amount, or
  - (ii) is in fact subject to an increase (whether or not the person is aware of the amount of the increase),”.
- (13) After sub-paragraph (6) insert—
- “(7) In this paragraph, “increase” means an increase under section 11B(1)(b) (higher amount of tax for empty dwellings).”
- (14) In the heading preceding that paragraph, after “Discounts” insert “ and increases ”.
- (15) A determination may be made for the purposes of the section inserted by subsection (2) for a financial year beginning with or after 1 April 2013 (and it does not matter whether the period mentioned in subsection (8) of that section begins before this section comes into force).

PROSPECTIVE

### **13 Mortgage in possession to be liable for council tax**

- (1) In section 6(2) of the LGFA 1992 (persons liable to pay council tax) omit the “or” at the end of paragraph (e) and after that paragraph insert—
- “(ea) in the case of a dwelling situated in the area of a billing authority in England, the person is a mortgagee in possession of the owner's interest in the dwelling; or”.
- (2) This section comes into force on such day as the Secretary of State may by order made by statutory instrument appoint.

### **14 Regulations about powers to require information, offences and penalties**

- (1) The LGFA 1992 is amended as follows.
- (2) After section 14 insert—

#### **“14A Regulations about powers to require information**

- (1) The appropriate authority may by regulations provide for the exercise, for prescribed council tax purposes, of—
- (a) powers to require the provision of information;
  - (b) powers to require a person to enter into arrangements under which access is permitted to the person's electronic records.

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- (2) The appropriate authority may by regulations make provision about arrangements for access to electronic records for prescribed council tax purposes where the arrangements are entered into otherwise than under a requirement of the kind mentioned in subsection (1)(b).
- (3) The appropriate authority may by regulations—
- (a) make provision about the persons by whom powers conferred by regulations under this section may be exercised;
  - (b) make provision about the persons by whom arrangements under regulations under this section may be made;
  - (c) in particular, make provision for the authorisation by billing authorities of persons to exercise those powers or make those arrangements.
- (4) The provision that may be made by regulations under this section includes, in particular, provision equivalent to—
- (a) provision made by a relevant enactment, or
  - (b) provision that is capable of being made under a relevant enactment, with such modifications as the appropriate authority thinks fit.
- (5) For the purposes of subsection (4), each of the following enactments as it had effect on the day on which the Local Government Finance Act 2012 was passed is a “relevant enactment”—
- (a) section 109A(8) of the Social Security Administration Act 1992 (application of section 109B of that Act to the Crown);
  - (b) section 109B of that Act (powers to require information);
  - (c) section 110A of that Act (authorisations by local authorities to exercise powers of investigation);
  - (d) section 110AA of that Act (power of local authority to require electronic access to information);
  - (e) section 121DA of that Act (interpretation of Part 6 of that Act);
  - (f) section 191 of that Act (interpretation of that Act).
- (6) This section does not affect the operation of Schedule 2 (administration of council tax).
- (7) In this section “council tax purposes” means purposes relating to a person's liability to pay council tax.

#### **14B Regulations about offences**

- (1) The appropriate authority may by regulations provide for the creation of offences that may be committed by a person in prescribed circumstances—
- (a) by intentionally delaying or obstructing a person in the exercise of a power conferred by regulations under section 14A(1);
  - (b) by refusing or failing to comply with any requirement under regulations under section 14A(1)(b) or with the requirements of any arrangements entered into in accordance with such regulations;
  - (c) by refusing or failing, when required to do so by or under this Act or by or under regulations made under this Act, to provide any

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- information or document in connection with a person's liability to pay council tax;
- (d) by making a false statement or representation in connection with such liability;
  - (e) by providing, or causing or allowing to be provided, in connection with such liability, a document or information which is false;
  - (f) by failing to notify, or causing or allowing a person to fail to notify, a matter that is relevant to such liability (including in particular any matter that is required to be notified by or under this Act or by or under regulations made under this Act).
- (2) Regulations under subsection (1)(a), (b) or (c)—
- (a) must provide for an offence under the regulations to be triable only summarily;
  - (b) may not provide for such an offence to be punishable with a fine exceeding level 3 on the standard scale.
- (3) Regulations under subsection (1)(a), (b) or (c)—
- (a) may provide, in a case where a person is convicted of an offence under the regulations and the act or omission constituting the offence continues after the conviction, for the person to be guilty of a further offence and liable on summary conviction to a daily fine;
  - (b) may not provide for the daily fine to exceed £40.
- (4) Regulations under subsection (1)(d), (e) or (f) that create an offence that may only be committed by a person acting dishonestly—
- (a) must provide for the offence to be triable summarily or on indictment;
  - (b) may not provide for the offence to be punishable on summary conviction with imprisonment for a term exceeding 12 months or with a fine exceeding the statutory maximum;
  - (c) may not provide for the offence to be punishable on conviction on indictment with imprisonment for a term exceeding 7 years (and may provide for the offence to be punishable on conviction on indictment with a fine).
- (5) Regulations under this section that create an offence within subsection (4) that may be committed before the date that section 154(1) of the Criminal Justice Act 2003 comes into force may not provide for such an offence committed before that date to be punishable on summary conviction with imprisonment for a term exceeding 6 months.
- (6) Regulations under subsection (1)(d), (e) or (f) that create an offence that may be committed by a person acting otherwise than dishonestly—
- (a) must provide for the offence to be triable only summarily;
  - (b) may not provide for the offence to be punishable with imprisonment for a term exceeding 51 weeks or with a fine exceeding level 5 on the standard scale.
- (7) Regulations under this section that create an offence within subsection (6) that may be committed before the date that section 281(5) of the Criminal Justice Act 2003 comes into force may not provide for such an offence committed before that date to be punishable with imprisonment for a term exceeding 3 months.

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- (8) The appropriate authority may by regulations make provision—
- (a) about defences to an offence under regulations under this section;
  - (b) about the commission by a body corporate of such an offence;
  - (c) about the conduct of proceedings for such an offence;
  - (d) about the time limits for bringing such proceedings;
  - (e) about the determination of issues arising in such proceedings;
  - (f) about other matters of procedure and evidence in relation to such offences.
- (9) The provision that may be made by regulations under this section includes, in particular, provision equivalent to—
- (a) provision made by a relevant enactment, or
  - (b) provision that is capable of being made under a relevant enactment, with such modifications as the appropriate authority thinks fit.
- (10) For the purposes of subsection (9), each of the following enactments as it had effect on the day on which the Local Government Finance Act 2012 was passed is a “relevant enactment”—
- (a) section 111 of the Social Security Administration Act 1992 (offences relating to powers under that Act);
  - (b) section 111A of that Act (dishonest representations for obtaining benefit etc);
  - (c) section 112 of that Act (false representations for obtaining benefit etc.);
  - (d) section 115 of that Act (offences by bodies corporate);
  - (e) section 116 of that Act (legal proceedings);
  - (f) section 121DA of that Act (interpretation of Part 6 of that Act);
  - (g) section 191 of that Act (interpretation of that Act).

#### **14C Regulations about penalties**

- (1) The appropriate authority may by regulations make provision for the imposition of a penalty by a billing authority on a person where in prescribed circumstances—
- (a) that person's act or omission results or could result in the amount of council tax that a person (“P”) is liable to pay being reduced or subject to a discount, and
  - (b) P is not or will not be entitled to that reduction or discount.
- (2) The appropriate authority may by regulations make provision for the imposition of a penalty by a billing authority on a person where in prescribed circumstances—
- (a) that person's act or omission results or could result in a dwelling in respect of which a person (“P”) would otherwise be liable to pay council tax being treated as an exempt dwelling for a period, and
  - (b) the dwelling is not or will not be an exempt dwelling for all or part of that period.
- (3) Regulations under this section must—

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- (a) make provision with the effect that a penalty may only be imposed on a person where the person agrees to the imposition of the penalty as an alternative to criminal proceedings being taken against the person in respect of the act or omission to which the penalty relates,
  - (b) make provision with the effect that a penalty may only be imposed on a person where the person has not been charged with an offence in respect of the act or omission to which the penalty relates, or
  - (c) make provision within paragraph (a) and (b).
- (4) Where—
- (a) regulations under this section specify a sum as a penalty (or a minimum or maximum penalty), and
  - (b) it appears to the Treasury that there has been a change in the value of money since those regulations were made or (as the case may be) the last occasion when an order under this subsection was made,
- the Treasury may by order substitute for that sum such other sum as appears to them to be justified by the change.
- (5) An order under subsection (4) does not apply in relation to any act done or omission which began before the date on which the order comes into force.
- (6) This section does not affect the operation of paragraph 1 of Schedule 3 (penalties).
- (7) The provision that may be made by regulations under this section includes, in particular, provision equivalent to—
- (a) provision made by a relevant enactment, or
  - (b) provision that is capable of being made under a relevant enactment, with such modifications as the appropriate authority thinks fit.
- (8) For the purposes of subsection (7), each of the following is a “relevant enactment”—
- (a) section 115A of the Social Security Administration Act 1992 (penalty as alternative to prosecution);
  - (b) section 115B of that Act (penalty as alternative to prosecution: colluding employers etc);
  - (c) section 115C of that Act (penalties in respect of incorrect statements etc);
  - (d) section 115D of that Act (penalties in respect of failures to disclose information);
  - (e) section 121DA of that Act (interpretation of Part 6 of that Act);
  - (f) section 191 of that Act (interpretation of that Act).
- (9) The reference in subsection (8)—
- (a) to section 115C or 115D of the Social Security Administration Act 1992 is to that section without the repeals in it contained in Part 1 of Schedule 14 to the Welfare Reform Act 2012;
  - (b) to any other provision of that Act is to the provision as it had effect on the day on which the Local Government Finance Act 2012 was passed.

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### **14D Sections 14A to 14C: supplementary**

- (1) In sections 14A to 14C—
  - “the appropriate authority” means—
    - (a) the Secretary of State, in relation to England, and
    - (b) the Welsh Ministers, in relation to Wales;
  - “prescribed”, in relation to regulations made by the Welsh Ministers, means prescribed by such regulations.
- (2) A statutory instrument containing regulations made by the Secretary of State under any of sections 14A to 14C may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (3) A statutory instrument containing regulations made by the Welsh Ministers under any of sections 14A to 14C may not be made unless a draft of the instrument has been laid before and approved by a resolution of the National Assembly for Wales.”
- (3) In section 18(1)(c) (death of person liable for penalty), after “him” insert “ under regulations under section 14C or ”.
- (4) In section 113(3) (application of negative procedure to orders and regulations under the Act), after “except in the case of regulations under section” insert “ 14A, 14B, 14C or ”.
- (5) Schedule 3 (penalties) is amended as follows.
- (6) After paragraph 3(1) (appeals) insert—
  - “(1A) A person (“P”) may appeal to a valuation tribunal if aggrieved by the imposition on P of a penalty under regulations under section 14C, unless P agreed to the imposition of the penalty as an alternative to criminal proceedings being taken against P in respect of the act or omission to which the penalty relates.”
- (7) After paragraph 3(3) insert—
  - “(4) Where a penalty is imposed on a person (“P”) under regulations under section 14C, and P alleges that there is no power in the case concerned to impose a penalty of the amount imposed, P may appeal to a valuation tribunal under this sub-paragraph against the imposition.”
- (8) In paragraph 6(1) and (5) (regulations about collection), after “paragraph 1 or 2 above” insert “ or under regulations under section 14C ”.
- (9) In Schedule 11 to the LGFA 1988 (tribunals), in paragraph 10A(1)(d) (orders), after “under” insert “ regulations under section 14C of or ”.

### **15 Calculation of billing authority's council tax base**

- (1) In section 34 of the LGFA 1992 (calculations to be made in setting council tax: additional calculations where special item relates to part only of billing authority's area), after subsection (4) insert—

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“(5) Regulations under subsection (4) that apply to billing authorities in England may contain different rules for the purposes of calculating item TP in relation to different kinds of special item.”

- (2) In section 45 of the LGFA 1992 (calculations to be made in setting council tax: additional calculations where special item relates to part only of major precepting authority's area), after subsection (5) insert—

“(5A) Regulations under subsection (4) that apply to authorities in England may contain different rules for the purposes of calculating item TP in relation to different kinds of special item.

(5B) Regulations under subsection (4) that make provision by virtue of subsection (5A) may make consequential amendments to this Act.”

## **16 Provision of information about council tax**

- (1) In Schedule 2 to the LGFA 1992, paragraph 2 (collection of council tax) is amended as follows.

- (2) After sub-paragraph (4)(i) (but before the word “and” following that paragraph) insert—

“(ia) that the authority must publish prescribed information in the prescribed manner;”.

- (3) In sub-paragraph (4)(j), after “when it serves a notice” insert “ or on the request of the person ”.

### *Information sharing*

## **17 Power for HMRC to supply information for purposes of council tax**

- (1) Schedule 2 to the LGFA 1992 (administration) is amended as follows.

- (2) After paragraph 15 insert—

“15A

(1) A Revenue and Customs official may supply information which is held by the Revenue and Customs in connection with a function of the Revenue and Customs to a qualifying person for prescribed purposes relating to council tax.

(2) The following are qualifying persons for the purpose of this paragraph—

- (a) a billing authority in England;
- (b) a person authorised to exercise any function of such an authority relating to council tax;
- (c) a person providing services to such an authority relating to council tax.

(3) Information supplied under this paragraph may be used for another prescribed purpose relating to council tax.

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- (4) Information supplied under this paragraph may be supplied to another qualifying person for a prescribed purpose relating to council tax (whether or not that is a purpose for which it was supplied).
- (5) In this paragraph—  
“Revenue and Customs official”,  
“the Revenue and Customs”, and  
“function of the Revenue and Customs”,  
have the same meaning as in section 18 of the Commissioners for Revenue and Customs Act 2005.

## 15B

- (1) A Revenue and Customs official may supply information which is held by the Revenue and Customs in connection with a function of the Revenue and Customs to a qualifying person for prescribed purposes relating to council tax.
- (2) The following are qualifying persons for the purpose of this paragraph—  
(a) a billing authority in Wales;  
(b) a person authorised to exercise any function of such an authority relating to council tax;  
(c) a person providing services to such an authority relating to council tax.
- (3) Information supplied under this paragraph may be used for another prescribed purpose relating to council tax.
- (4) Information supplied under this paragraph may be supplied to another qualifying person for a prescribed purpose relating to council tax (whether or not that is a purpose for which it was supplied).
- (5) In this paragraph—  
“Revenue and Customs official”, “the Revenue and Customs” and  
“function of the Revenue and Customs” have the same meaning as in section 18 of the Commissioners for Revenue and Customs Act 2005;  
“prescribed” means prescribed by regulations made by the Welsh Ministers.
- (6) Regulations under this paragraph must not be made except with the consent of the Commissioners for Her Majesty's Revenue and Customs.
- (7) A statutory instrument containing regulations under this paragraph is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

## 15C

- (1) A Revenue and Customs official may supply information which is held by the Revenue and Customs in connection with a function of the Revenue and Customs to a qualifying person for prescribed purposes relating to council tax.
- (2) The following are qualifying persons for the purpose of this paragraph—  
(a) a local authority;  
(b) a person authorised to exercise any function of such an authority relating to council tax;



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- (c) a person providing services to such an authority relating to council tax.
  - (3) Information supplied under this paragraph may be used for another prescribed purpose relating to council tax.
  - (4) Information supplied under this paragraph may be supplied to another qualifying person for a prescribed purpose relating to council tax (whether or not that is a purpose for which it was supplied).
  - (5) In this paragraph—
    - “Revenue and Customs official”, “the Revenue and Customs” and “function of the Revenue and Customs” have the same meaning as in section 18 of the Commissioners for Revenue and Customs Act 2005;
    - “prescribed” means prescribed by regulations made by the Scottish Ministers.
  - (6) Regulations under this paragraph must not be made except with the consent of the Commissioners for Her Majesty's Revenue and Customs.
  - (7) Regulations under this paragraph—
    - (a) are subject to the negative procedure; and
    - (b) may make—
      - (i) different provision for different purposes, including different provision for different areas or for different authorities, and
      - (ii) such incidental, consequential, transitional or supplementary provision as the Scottish Ministers think necessary or expedient.
- 15D
- (1) A person to whom sub-paragraph (2) applies is guilty of an offence if the person discloses without lawful authority any information—
    - (a) which comes to the person by virtue of paragraph 15A, 15B or 15C, and
    - (b) which relates to a particular person.
  - (2) This sub-paragraph applies to—
    - (a) a qualifying person for the purpose of paragraph 15A, 15B or 15C;
    - (b) a person who is or has been a director, member of the committee of management, manager, secretary or other similar officer of a person within paragraph (a);
    - (c) a person who is or has been an employee of such a person.
  - (3) A person guilty of an offence under this paragraph is liable—
    - (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine, or both;
    - (b) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum, or both.
  - (4) It is not an offence under this paragraph—
    - (a) to disclose information in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be identified from it;

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- (b) to disclose information which has previously been disclosed to the public with lawful authority.
- (5) It is a defence for a person (“D”) charged with an offence under this paragraph to prove that at the time of the alleged offence—
- (a) D believed that D was making the disclosure in question with lawful authority and had no reasonable cause to believe otherwise, or
  - (b) D believed that the information in question had previously been disclosed to the public with lawful authority and had no reasonable cause to believe otherwise.
- (6) For the purposes of this paragraph, “lawful authority” has the meaning given by section 123 of the Social Security Administration Act 1992.
- (7) In relation to an offence under this paragraph committed in England and Wales before the commencement of section 154(1) of the Criminal Justice Act 2003 (increase in maximum term that may be imposed on summary conviction of offence triable either way) the reference in sub-paragraph (3)(b) to 12 months is to be taken as a reference to 6 months.”
- (3) In paragraph 11 (supply of information to authorities: England and Wales), after sub-paragraph (1) insert—
- “(1A) Information may be prescribed under sub-paragraph (1)(d) by reference to—
- (a) how the person concerned came to be in possession or control of the information;
  - (b) the purpose for which it is requested by the authority.”
- (4) In paragraph 12 (supply of information to authorities: Scotland), after sub-paragraph (1) insert—
- “(1A) Information may be prescribed under sub-paragraph (1)(d) by reference to—
- (a) how the person concerned came to be in possession or control of the information;
  - (b) the purpose for which it is requested by the authority.”
- (5) In paragraph 16 (supply of information by authorities), after sub-paragraph (2) insert—
- “(3) Information may be prescribed under sub-paragraph (2)(c) by reference to—
- (a) how the first-mentioned authority obtained the information;
  - (b) the purpose for which the first-mentioned authority believes that the information would be useful to the other authority.”
- (6) In Schedule 11 to the LGFA 1988, in paragraph 8(3)(ea) (regulations about procedure before tribunals)—
- (a) for sub-paragraph (iv) substitute—
    - “(iv) paragraph 15A or 15B of Schedule 2 to the 1992 Act or regulations under that Schedule;”,
  - (b) omit the “or” following that sub-paragraph, and
  - (c) after “1996” insert “ or of information supplied under section 131 of the Welfare Reform Act 2012 for purposes relating to council tax; ”.

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## **18 Power for HMRC to supply information for purposes of rates in Northern Ireland**

- (1) A Revenue and Customs official may supply information which is held by the Revenue and Customs in connection with a function of the Revenue and Customs to a qualifying person for prescribed purposes relating to rates.
- (2) The following are qualifying persons—
  - (a) the Department of Finance and Personnel in Northern Ireland (“DFP”);
  - (b) the Northern Ireland Housing Executive (“NIHE”);
  - (c) a person authorised to exercise any function of DFP or NIHE relating to rates;
  - (d) a person providing services to DFP or NIHE relating to rates.
- (3) Information supplied under this section may be used for another prescribed purpose relating to rates.
- (4) Information supplied under this section may be supplied to another qualifying person for a prescribed purpose relating to rates (whether or not that is a purpose for which it was supplied).
- (5) A person to whom subsection (6) applies is guilty of an offence if the person discloses without lawful authority any information—
  - (a) which comes to the person by virtue of this section, and
  - (b) which relates to a particular person.
- (6) This subsection applies to—
  - (a) a qualifying person other than DFP;
  - (b) a person who is or has been a director, member of the committee of management, manager, secretary or other similar officer of a qualifying person;
  - (c) a person who is or has been an employee of a qualifying person.
- (7) A person guilty of an offence under this section is liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine, or both;
  - (b) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum, or both.
- (8) It is not an offence under this section—
  - (a) to disclose information in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be identified from it;
  - (b) to disclose information which has previously been disclosed to the public with lawful authority.
- (9) It is a defence for a person (“D”) charged with an offence under this section to prove that at the time of the alleged offence—
  - (a) D believed that D was making the disclosure in question with lawful authority and had no reasonable cause to believe otherwise, or
  - (b) D believed that the information in question had previously been disclosed to the public with lawful authority and had no reasonable cause to believe otherwise.

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- (10) For the purposes of this section, “lawful authority” has the meaning given by section 117 of the Social Security Administration (Northern Ireland) Act 1992.
- (11) In this section—  
“Revenue and Customs official”, “the Revenue and Customs” and “function of the Revenue and Customs” have the same meaning as in section 18 of the Commissioners for Revenue and Customs Act 2005;  
“rates” has the same meaning as in the Rates (Northern Ireland) Order 1977 (S.I. 1977/2157 (N.I. 28));  
“prescribed” means prescribed by regulations made by DFP.
- (12) Regulations under this section must not be made except with the consent of the Commissioners for Her Majesty's Revenue and Customs.
- (13) The power to make regulations under this section is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
- (14) Regulations under this section are to be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).

### *General*

## **19 Interpretation**

In this Act—

“financial year” means a period of 12 months beginning with 1 April;

“the LGFA 1988” means the Local Government Finance Act 1988;

“the LGFA 1992” means the Local Government Finance Act 1992.

## **20 Power to make transitional, consequential etc provision**

- (1) The Secretary of State may by order made by statutory instrument make such transitory or transitional provision, or savings, as the Secretary of State considers appropriate in connection with the coming into force of any provision of this Act.
- (2) The Secretary of State may by order made by statutory instrument make such consequential provision (including provision amending, repealing or revoking any legislation passed or made before, or in the same Session as, this Act) as the Secretary of State considers appropriate in connection with any provision of this Act.
- (3) A statutory instrument containing an order under subsection (2) that amends or repeals any of the following may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament—  
(a) an Act of Parliament;  
(b) an Act of the Scottish Parliament;  
(c) an Act or Measure of the National Assembly for Wales;  
(d) Northern Ireland legislation as defined in section 24 of the Interpretation Act 1978.
- (4) Any other statutory instrument containing an order under subsection (2) is subject to annulment in pursuance of a resolution of either House of Parliament.

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- (5) The powers under subsections (1) and (2) include power to make different provision for different cases or descriptions of case, including different provision for different areas or different authorities.

## **21 Financial provisions**

There is to be paid out of money provided by Parliament—

- (a) any expenditure incurred by the Secretary of State in consequence of this Act, and
- (b) any increase attributable to this Act in the sums payable under any other Act out of money so provided.

## **22 Extent and short title**

- (1) This Act extends to England and Wales only, subject to subsections (2) and (3).
- (2) Section 17 extends also to Scotland.
- (3) Sections 18 and 20 extend to England and Wales, Scotland and Northern Ireland.
- (4) This Act may be cited as the Local Government Finance Act 2012.

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## SCHEDULES

### SCHEDULE 1

Section 1

#### LOCAL RETENTION OF NON-DOMESTIC RATES

After Schedule 7A to the LGFA 1988 insert—

### “SCHEDULE 7B

Section 59A

#### LOCAL RETENTION OF NON-DOMESTIC RATES

### PART 1

#### MAIN NON-DOMESTIC RATING ACCOUNTS

##### *Main non-domestic rating accounts*

- 1 (1) The Secretary of State must, for each year, keep an account, to be called a “main non-domestic rating account”.
- (2) Each such account must be kept in accordance with the provisions of this Schedule that apply to a main non-domestic rating account.
- (3) The Secretary of State—
  - (a) must keep each such account in such form as the Treasury may direct, and
  - (b) must, at such time as the Treasury may direct, send copies of each such account to the Comptroller and Auditor General.
- (4) The Comptroller and Auditor General—
  - (a) must examine, certify and report on any account of which copies are sent to the Comptroller and Auditor General under sub-paragraph (3), and
  - (b) must arrange for copies of the account and of the Comptroller and Auditor General's report on it to be laid before each House of Parliament.

##### *Credits and debits*

- 2 (1) For each year the following are to be credited (as items of account) to the main non-domestic rating account kept for the year—
  - (a) amounts received by the Secretary of State in the year under section 54 (central rating: liability),
  - (b) amounts received by the Secretary of State in the year under section 59 (contributions in aid),
  - (c) amounts received by the Secretary of State in the year under regulations under section 99(3) (treatment of surplus or deficit in collection fund) that make provision in relation to non-domestic rates,

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- (d) amounts received by the Secretary of State in the year under paragraph 6 (payments in respect of the central share) and amounts received by the Secretary of State in the year under regulations under paragraph 7 (administrative arrangements for such payments),
  - (e) amounts received by the Secretary of State in the year under paragraph 14 (payments following local government finance report),
  - (f) amounts received by the Secretary of State in the year under paragraph 17 (payments following amending report),
  - (g) amounts received by the Secretary of State in the year under regulations under paragraph 33 (transitional protection payments), and
  - (h) amounts received by the Secretary of State in the year under regulations under paragraph 42 (payments following estimates of amounts to be disregarded).
- (2) For each year the following are to be debited (as items of account) to the main non-domestic rating account kept for the year—
- (a) payments made by the Secretary of State in the year under regulations under section 99(3) that make provision in relation to non-domestic rates,
  - (b) payments made by the Secretary of State in the year under regulations under paragraph 7,
  - (c) payments made by the Secretary of State in the year under paragraph 14,
  - (d) payments made by the Secretary of State in the year under paragraph 17,
  - (e) payments made by the Secretary of State in the year under regulations under paragraph 33, and
  - (f) payments made by the Secretary of State in the year under regulations under paragraph 42.
- (3) If a local government finance report for a year has been approved by resolution of the House of Commons, an amount may be debited (as an item of account) to the main non-domestic rating account kept for the year, for use for the purposes of local government in England.
- (4) The amount that may be debited under sub-paragraph (3) for a year may not exceed—
- (a) the total amount credited for the year under sub-paragraph (1)(a), (b), (c), (d) and (h), minus
  - (b) the total amount debited for the year under sub-paragraph (2)(a), (b) and (f).
- (5) The reference in sub-paragraph (3) to use for the purposes of local government in England includes the making of payments under an Act or an instrument made under an Act (whenever passed or made) to—
- (a) billing authorities in England,
  - (b) precepting authorities in England,
  - (c) levying bodies in England (and for this purpose “levying body” has the meaning given by section 74(1)), or
  - (d) bodies to which section 75(1) applies.

*End of year calculations*

- 3 (1) As soon as is reasonably practicable after the end of each year, the Secretary of State must calculate—
- (a) the aggregate of the items of account credited to the main non-domestic rating account kept for the year, and

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- (b) the aggregate of the items of account debited to the main non-domestic rating account kept for the year.
- (2) If the aggregate mentioned in sub-paragraph (1)(a) exceeds that mentioned in sub-paragraph (1)(b), an amount equal to the excess must be—
  - (a) debited (as an item of account) to the main non-domestic rating account kept for the year, and
  - (b) credited (as an item of account) to the main non-domestic rating account kept for the next year.
- (3) If the aggregate mentioned in sub-paragraph (1)(b) exceeds that mentioned in sub-paragraph (1)(a), an amount equal to the excess must be—
  - (a) credited (as an item of account) to the main non-domestic rating account kept for the year, and
  - (b) debited (as an item of account) to the main non-domestic rating account kept for the next year.

## PART 2

### DETERMINATION OF THE CENTRAL AND LOCAL SHARE

#### *Determination of the central and local share*

- 4 The Secretary of State must, for each year and in relation to each billing authority in England, determine—
  - (a) the percentage (“the central share”) that is to be the billing authority's central share for the year for the purposes of Part 3 (payments to the Secretary of State in respect of the central share), and
  - (b) the percentage (“the local share”) that is to be the billing authority's local share for the year for the purposes of Part 4 (payments by billing authorities to major precepting authorities).

#### *Local government finance reports*

- 5 (1) A determination under paragraph 4 must be specified in a report, to be called a “local government finance report”.
- (2) The Secretary of State must lay, or make arrangements for laying, the local government finance report before the House of Commons.
- (3) As soon as is reasonably practicable after a local government finance report is laid before the House of Commons, the Secretary of State must send a copy of the report to each relevant authority.



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### PART 3

#### PAYMENTS TO THE SECRETARY OF STATE IN RESPECT OF THE CENTRAL SHARE

##### *Payments to the Secretary of State in respect of the central share*

- 6 (1) This paragraph applies if a local government finance report for a year is approved by resolution of the House of Commons.
- (2) Each billing authority in England must make a payment for the year to the Secretary of State of an amount equal to the central share of the billing authority's non-domestic rating income for the year.
- (3) For the purposes of this paragraph, an authority's "non-domestic rating income" has the meaning given by regulations made by the Secretary of State.
- (4) The regulations may, in particular, define that term by reference to the total which, if the authority acted diligently, would be payable to it in respect of the year under sections 43 and 45, subject to such adjustments as may be specified in the regulations.
- (5) The regulations may, in particular, make provision for adjustments by reference to changes to the calculation of the amount of a billing authority's non-domestic rating income for an earlier year but not taken into account in that calculation.
- (6) This paragraph is subject to regulations under paragraph 8.

##### *Regulations about administrative arrangements*

- 7 (1) The Secretary of State may by regulations make provision about the administration of payments under paragraph 6.
- (2) The regulations may, in particular, make provision—
- (a) about the time and manner in which a payment under paragraph 6 or under regulations under this paragraph is to be made (including for payment by instalments), and as to the consequences of non-payment;
- (b) about the making of a payment by a billing authority to the Secretary of State or vice versa where—
- (i) a payment under paragraph 6 is made in the course of the year to which it relates, and
- (ii) it is subsequently determined that the amount of the payment required to be made under that paragraph is more or less than that actually made;
- (c) about the making of a payment by a billing authority to the Secretary of State or vice versa where—
- (i) a calculation of a payment under paragraph 6 is made by reference to an estimate of an amount, and
- (ii) it is subsequently determined that the actual amount is more or less than the estimate.

##### *Regulations about deductions from central share payments*

- 8 (1) The Secretary of State may by regulations make provision for the deduction from a payment to be made under paragraph 6 by a billing authority to the Secretary of State of an amount to be determined in accordance with the regulations.

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- (2) The regulations may, in particular, make provision for the determination of an amount to be deducted to be made by reference to the operation in relation to the billing authority of section 47 (discretionary relief).
- (3) The consent of the Treasury is required to regulations under this paragraph.

#### PART 4

##### PAYMENTS BY BILLING AUTHORITIES TO MAJOR PRECEPTING AUTHORITIES

##### *Regulations about payments*

- 9 (1) The Secretary of State may by regulations make provision requiring billing authorities in England to make payments for a year to major precepting authorities in England.
- (2) The regulations must provide that a billing authority is not required to make a payment for a year unless the local government finance report for the year has been approved by resolution of the House of Commons.
- (3) The regulations may, in particular, make provision as to—
  - (a) the billing authorities that are required to make payments under the regulations;
  - (b) the major precepting authorities that are entitled to receive payments under the regulations;
  - (c) the amounts of the payments that are required to be made.
- (4) The regulations may, in particular, make provision for the amount of a payment to be made by a billing authority for a year to be such proportion of its non-domestic rating income for the year as is specified in or determined in accordance with the regulations.
- (5) For the purposes of this paragraph, an authority's "non-domestic rating income" has the meaning given by the regulations.
- (6) The regulations may, in particular, define that term by reference to the total which, if the authority acted diligently, would be payable to it in respect of the year under sections 43 and 45, subject to such adjustments as may be specified in the regulations.
- (7) The regulations may, in particular, make provision for adjustments by reference to changes to the calculation of the amount of a billing authority's non-domestic rating income for an earlier year but not taken into account in that calculation.
- (8) The regulations may not have the effect that the total amount payable by a billing authority under the regulations for a year exceeds the billing authority's local share of its non-domestic rating income for a year.

##### *Regulations about administrative arrangements*

- 10 (1) The Secretary of State may by regulations make provision about the administration of payments under regulations under paragraph 9.
- (2) The regulations may, in particular, make provision—
  - (a) about the making of calculations, and the supply of information to a major precepting authority, by a billing authority in connection with the determination

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- of a payment to be made under regulations under paragraph 9, this paragraph or Part 6 (funds) so far as applying to non-domestic rates;
- (b) about the assumptions and adjustments to be made, and the information to be taken into account, in making such calculations;
  - (c) about the consequences of non-compliance with provision under paragraph (a) or (b);
  - (d) about the time and manner in which a payment under regulations under paragraph 9 or this paragraph is to be made (including for payment by instalments), and as to the consequences of non-payment;
  - (e) about the making of a payment by a billing authority to a major precepting authority or vice versa where—
    - (i) a payment under regulations under paragraph 9 is made in the course of the year to which it relates, and
    - (ii) it is subsequently determined that the amount of the payment required to be made under the regulations is more or less than that actually made;
  - (f) about the making of a payment by a billing authority to a major precepting authority or vice versa where—
    - (i) a calculation of a payment under regulations under paragraph 9 is made by reference to an estimate of an amount, and
    - (ii) it is subsequently determined that the actual amount is more or less than the estimate;
  - (g) for the certification of calculations made, or information supplied to a major precepting authority, by a billing authority in connection with the determination of a payment under regulations under paragraph 9, this paragraph or Part 6 (funds) so far as applying to non-domestic rates;
  - (h) about the consequences where a certified calculation or certified information does not match that made or supplied by the billing authority, including (in particular) about the use of the certified calculation or certified information.
- (3) The regulations may confer power on the Secretary of State to give directions about the certification of calculations or information.

*Payments out of deduction from central share payments*

- 11 (1) The Secretary of State may by regulations make provision for a billing authority to make a payment for a year to one or more major precepting authorities of an amount equal to a proportion of the amount that is to be deducted in accordance with regulations under paragraph 8 from the billing authority's payment under paragraph 6 to the Secretary of State for the year.
- (2) The regulations may make provision about the administration of payments to major precepting authorities under the regulations.
  - (3) The regulations may, in particular, make provision in relation to payments to major precepting authorities of the same kind as the provision that may be made under sub-paragraph (2) of paragraph 10 in relation to payments to major precepting authorities to which that sub-paragraph applies.

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## PART 5

### PRINCIPAL PAYMENTS IN CONNECTION WITH LOCAL RETENTION OF NON-DOMESTIC RATES

#### *Determination of payments*

- 12 (1) The local government finance report for a year must specify the basis (“the basis of calculation”) on which the Secretary of State intends to—
- (a) calculate which relevant authorities are to make payments under this Part of this Schedule to the Secretary of State for the year,
  - (b) calculate which relevant authorities are to receive payments under this Part of this Schedule from the Secretary of State for the year, and
  - (c) calculate the amount of each payment within paragraph (a) or (b).
- (2) Before making the local government finance report for a year, the Secretary of State must notify such representatives of local government as the Secretary of State thinks fit of the general nature of the basis of calculation.

#### *Calculations following local government finance report*

- 13 (1) This paragraph applies if a local government finance report for a year is approved by resolution of the House of Commons.
- (2) As soon as is reasonably practicable after the report has been approved, the Secretary of State must—
- (a) calculate which relevant authorities are to make payments under this Part of this Schedule to the Secretary of State for the year,
  - (b) calculate which relevant authorities are to receive payments under this Part of this Schedule from the Secretary of State for the year, and
  - (c) calculate the amount of each payment within paragraph (a) or (b).
- (3) Subject as follows, the Secretary of State may, at any time before the end of the year following the year to which the report relates, make one further set of calculations of the kind described in sub-paragraph (2).
- (4) The power to make a further set of calculations under sub-paragraph (3) is not exercisable after the approval by the House of Commons of any amending report made under paragraph 15 in relation to the local government finance report.
- (5) Calculations under this paragraph must be made in accordance with the basis of calculation specified in the report.
- (6) As soon as is reasonably practicable after making calculations under sub-paragraph (2) or (3), the Secretary of State must notify each relevant authority of—
- (a) whether any payments are to be made by the authority to the Secretary of State in accordance with the calculations,
  - (b) whether any payments are to be made to the authority by the Secretary of State in accordance with the calculations, and
  - (c) if any payments are to be made by or to the authority, the amount of each payment.

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*Payments following local government finance report*

- 14 (1) Where calculations under paragraph 13(2) show that a relevant authority is to make a payment to the Secretary of State, the authority must make that payment to the Secretary of State.
- (2) Where calculations under paragraph 13(2) show that the Secretary of State is to make a payment to a relevant authority, the Secretary of State must make that payment to the authority.
- (3) The following provisions apply if calculations (“the revised calculations”) are made under paragraph 13(3) for a year.
- (4) In this paragraph “the original calculations” means the calculations for the year under paragraph 13(2).
- (5) Sub-paragraph (6) applies where—
- (a) a payment the revised calculations show as falling to be made by a relevant authority to the Secretary of State exceeds that shown as falling to be made by the original calculations, or
  - (b) a payment the revised calculations show as falling to be made by the Secretary of State to a relevant authority is less than that shown as falling to be made by the original calculations.
- (6) The authority must make a payment to the Secretary of State of an amount equal to the difference.
- (7) Where the original calculations did not show that a relevant authority was to make a payment to the Secretary of State, but the revised calculations show that the authority is to make a payment to the Secretary of State—
- (a) the authority must make that payment to the Secretary of State, and
  - (b) the authority must make a payment to the Secretary of State of an amount equal to the amount of the payment shown by the original calculations as falling to be made by the Secretary of State to the authority.
- (8) Sub-paragraph (9) applies where—
- (a) a payment the revised calculations show as falling to be made by a relevant authority to the Secretary of State is less than that shown as falling to be made by the original calculations, or
  - (b) a payment the revised calculations show as falling to be made by the Secretary of State to a relevant authority exceeds that shown as falling to be made by the original calculations.
- (9) The Secretary of State must make a payment to the authority of an amount equal to the difference.
- (10) Where the original calculations did not show that the Secretary of State was to make a payment to a relevant authority, but the revised calculations show that the Secretary of State is to make a payment to the authority—
- (a) the Secretary of State must make that payment to the authority, and
  - (b) the Secretary of State must make a payment to the authority of an amount equal to the amount of the payment shown by the original calculations as falling to be made by the authority to the Secretary of State.
- (11) A payment by a relevant authority to the Secretary of State under sub-paragraph (1)—

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- (a) must be made on or before such day in the year to which the local government finance report relates, and in such manner, as the Secretary of State may specify, and
  - (b) if not made on or before that day, is recoverable in a court of competent jurisdiction.
- (12) A payment by the Secretary of State to a relevant authority under sub-paragraph (2) must be made—
- (a) in instalments of such amounts, and
  - (b) at such times in the year to which the local government finance report relates, as the Secretary of State determines with the Treasury's consent.
- (13) A payment by a relevant authority to the Secretary of State under sub-paragraph (6) or (7)—
- (a) must be made on or before such day after the end of the year to which the local government finance report relates, and in such manner, as the Secretary of State may specify, and
  - (b) if not made on or before that day, is recoverable in a court of competent jurisdiction.
- (14) A payment by the Secretary of State to a relevant authority under sub-paragraph (9) or (10) must be made—
- (a) at such time, or
  - (b) in instalments of such amounts and at such times,
- as the Secretary of State determines with the Treasury's consent; but any such time must fall after the end of the year to which the local government finance report relates.

#### *Amending reports*

- 15 (1) After a local government finance report has been made, the Secretary of State may, at any time before the end of the year following the year to which the report relates, make in relation to the report one or more amending reports under this paragraph.
- (2) An amending report under this paragraph must contain amendments to the basis of calculation specified in the local government finance report.
- (3) Before making the report, the Secretary of State must notify such representatives of local government as the Secretary of State thinks fit of the general nature of the amendments the Secretary of State proposes to make.
- (4) The Secretary of State must lay, or make arrangements for laying, the report before the House of Commons.
- (5) As soon as is reasonably practicable after the report is laid before the House of Commons, the Secretary of State must send a copy of the report to each relevant authority.
- (6) Where an amending report under this paragraph has been approved by resolution of the House of Commons, the Secretary of State may not make a subsequent amending report under this paragraph in relation to the same local government finance report.

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*Calculations following amending report*

- 16 (1) This paragraph applies if an amending report for a year made under paragraph 15 is approved by resolution of the House of Commons.
- (2) As soon as is reasonably practicable after the amending report has been approved, the Secretary of State must—
- (a) calculate which relevant authorities are to make payments under this Part of this Schedule to the Secretary of State for the year,
  - (b) calculate which relevant authorities are to receive payments under this Part of this Schedule from the Secretary of State for the year, and
  - (c) calculate the amount of each payment within paragraph (a) or (b).
- (3) Subject as follows, the Secretary of State may make one further set of calculations of the kind described in sub-paragraph (2).
- (4) The power to make a further set of calculations under sub-paragraph (3) is not exercisable after whichever is the later of—
- (a) the end of the year following the year to which the amending report relates, and
  - (b) the end of the period of 3 months beginning with the day on which the amending report is approved by resolution of the House of Commons.
- (5) Calculations under this paragraph must be made in accordance with the basis of calculation specified in the local government finance report as amended by the amending report.
- (6) As soon as is reasonably practicable after making calculations under sub-paragraph (2) or (3), the Secretary of State must notify each relevant authority of—
- (a) whether any payments are to be made by the authority to the Secretary of State in accordance with the calculations,
  - (b) whether any payments are to be made to the authority by the Secretary of State in accordance with the calculations, and
  - (c) if any payments are to be made by or to the authority, the amount of each payment.

*Payments following amending report*

- 17 (1) This paragraph applies if calculations (“the revised calculations”) are made under paragraph 16(2) or (3) for a year.
- (2) In this paragraph “the relevant previous calculations” means the last calculations of the kind referred to in paragraph 13(2) or (3) or 16(2) made for the year.
- (3) Sub-paragraph (4) applies where—
- (a) a payment shown by the revised calculations as falling to be made by a relevant authority to the Secretary of State exceeds that shown as falling to be made by the relevant previous calculations, or
  - (b) a payment shown by the revised calculations as falling to be made by the Secretary of State to a relevant authority is less than that shown as falling to be made by the relevant previous calculations.
- (4) The authority must make a payment to the Secretary of State of an amount equal to the difference.

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- (5) Where the relevant previous calculations did not show that a relevant authority was to make a payment to the Secretary of State, but the revised calculations show that the authority is to make a payment to the Secretary of State—
- (a) the authority must make that payment to the Secretary of State, and
  - (b) the authority must make a payment to the Secretary of State of an amount equal to the amount of the payment shown by the relevant previous calculations as falling to be made by the Secretary of State to the authority.
- (6) Sub-paragraph (7) applies where—
- (a) a payment shown by the revised calculations as falling to be made by a relevant authority to the Secretary of State is less than that shown as falling to be made by the relevant previous calculations, or
  - (b) a payment shown by the revised calculations as falling to be made by the Secretary of State to a relevant authority exceeds that shown as falling to be made by the relevant previous calculations.
- (7) The Secretary of State must make a payment to the authority of an amount equal to the difference.
- (8) Where the relevant previous calculations did not show that the Secretary of State was to make a payment to a relevant authority, but the revised calculations show that the Secretary of State is to make a payment to the authority—
- (a) the Secretary of State must make that payment to the authority, and
  - (b) the Secretary of State must make a payment to the authority of an amount equal to the amount of the payment shown by the relevant previous calculations as falling to be made by the authority to the Secretary of State.
- (9) A payment by a relevant authority to the Secretary of State under this paragraph—
- (a) must be made on or before such day after the end of the year in which the amending report was made, and in such manner, as the Secretary of State may specify, and
  - (b) if not made on or before that day, is recoverable in a court of competent jurisdiction.
- (10) A payment by the Secretary of State to a relevant authority under this paragraph must be made—
- (a) at such time, or
  - (b) in instalments of such amounts and at such times,
- as the Secretary of State determines with the Treasury's consent; but any such time must fall after the end of the year in which the amending report was made.

*Relationship with other provisions*

- 18 This Part is subject to Parts 9 (pooling of authorities) and 10 (designation of areas and classes of hereditament).



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## PART 6

### LEVY ACCOUNTS

#### *Levy accounts*

- 19 (1) The Secretary of State must, for each year, keep an account, to be called a “levy account”.
- (2) Each such account must be kept in accordance with the provisions of this Schedule that apply to a levy account.
- (3) The Secretary of State—
- (a) must keep each such account in such form as the Treasury may direct, and
  - (b) must, at such time as the Treasury may direct, send copies of each such account to the Comptroller and Auditor General.
- (4) The Comptroller and Auditor General—
- (a) must examine, certify and report on any account of which copies are sent to the Comptroller and Auditor General under sub-paragraph (3), and
  - (b) must arrange for copies of the account and of the Comptroller and Auditor General's report on it to be laid before each House of Parliament.

#### *Credits and debits*

- 20 (1) For each year the following are to be credited (as items of account) to the levy account kept for the year—
- (a) amounts received by the Secretary of State in the year under paragraph 24 (levy payments), and
  - (b) amounts received by the Secretary of State in the year under regulations under paragraph 28 (payments on account).
- (2) If a local government finance report for a year has been approved by resolution of the House of Commons, and that report provides for an amount to be credited to the levy account kept for the year, that amount may be credited (as an item of account) to that account.
- (3) For each year the following are to be debited (as items of account) to the levy account kept for the year—
- (a) payments made by the Secretary of State in the year under paragraph 27 (safety net payments),
  - (b) payments made by the Secretary of State in the year under regulations under paragraph 28, and
  - (c) payments made by the Secretary of State in the year under paragraph 30 (distribution of remaining balance).

#### *End of year calculations*

- 21 (1) As soon as is reasonably practicable after the end of each year, the Secretary of State must calculate—
- (a) the aggregate of the items of account credited to the levy account kept for the year, and

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- (b) the aggregate of the items of account debited to the levy account kept for the year.
- (2) If the aggregate mentioned in sub-paragraph (1)(a) exceeds that mentioned in sub-paragraph (1)(b), an amount equal to the excess must be—
  - (a) debited (as an item of account) to the levy account kept for the year, and
  - (b) credited (as an item of account) to the levy account kept for the next year.
- (3) If the aggregate mentioned in sub-paragraph (1)(b) exceeds that mentioned in sub-paragraph (1)(a), an amount equal to the excess must be—
  - (a) credited (as an item of account) to the levy account kept for the year, and
  - (b) debited (as an item of account) to the levy account kept for the next year.

## PART 7

### LEVY PAYMENTS, SAFETY NET PAYMENTS AND DISTRIBUTION OF REMAINING BALANCE

#### *Regulations about calculation of levy payments*

- 22 (1) The Secretary of State may by regulations make provision for calculating—
- (a) whether a relevant authority is required to make a payment under this Part of this Schedule (a “levy payment”) to the Secretary of State for a year, and
  - (b) if so, the amount of the levy payment.
- (2) The regulations must make provision for calculations for a year to be made after the end of that year.
- (3) The regulations may, in particular, make provision for calculations in relation to a relevant authority to be made—
- (a) if the relevant authority is a billing authority, by reference to the total payable to it in respect of the year under sections 43 and 45, subject to such adjustments as may be specified in the regulations;
  - (b) if the relevant authority is a major precepting authority, by reference to the total of the amounts payable in respect of the year under those sections to the billing authorities that are required to make payments to it for the year under regulations under paragraph 9, subject to such adjustments as may be specified in the regulations;
  - (c) by reference to payments of a kind specified in the regulations made to the authority by the Secretary of State;
  - (d) by reference to such other factors as may be specified in the regulations.
- (4) The regulations may, in particular, make provision for adjustments to an amount calculated under provision made under sub-paragraph (3) by reference to changes affecting the calculation of such an amount for an earlier year but not taken into account in that calculation.

#### *Calculation of levy payments*

- 23 (1) The Secretary of State must calculate in relation to each relevant authority—
- (a) whether it is required to make a levy payment for a year, and
  - (b) if so, the amount of that payment.

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- (2) The calculation must be made—
- (a) as soon as is reasonably practicable after the end of the year, or
  - (b) if the authority is subject to a requirement imposed by a direction under paragraph 43 (direction to make calculations or supply information) or by or under regulations under paragraph 44 (regulations about calculations and supply of information) for the purposes of this paragraph, as soon as is reasonably practicable after the time for compliance with that requirement, whichever is the later.
- (3) The calculation must be made in accordance with regulations under paragraph 22.
- (4) As soon as is reasonably practicable after making a calculation in relation to a relevant authority, the Secretary of State must notify that authority of—
- (a) whether, in accordance with the calculation, it is required to make a levy payment for the year, and
  - (b) if so, the amount of that payment in accordance with the calculation.

*Levy payments following calculations*

- 24 (1) If a calculation under paragraph 23 shows that a levy payment is to be made to the Secretary of State by a relevant authority, the authority must make that payment to the Secretary of State.
- (2) The levy payment—
- (a) must be made on or before such day and in such manner as the Secretary of State may specify, and
  - (b) if not made on or before that day, is recoverable in a court of competent jurisdiction.

*Regulations about calculation of safety net payments*

- 25 (1) The Secretary of State may by regulations make provision for calculating—
- (a) whether the Secretary of State is required to make a payment under this Part of this Schedule (a “safety net payment”) to a relevant authority for a year, and
  - (b) if so, the amount of the payment.
- (2) The regulations must make provision for calculations for a year to be made after the end of that year.
- (3) The regulations may, in particular, make provision for calculations in relation to a relevant authority to be made—
- (a) if the relevant authority is a billing authority, by reference to the total payable to it in respect of the year under sections 43 and 45, subject to such adjustments as may be specified in the regulations;
  - (b) if the relevant authority is a major precepting authority, by reference to the total of the amounts payable in respect of the year under those sections to the billing authorities that are required to make payments to it for the year under regulations under paragraph 9, subject to such adjustments as may be specified in the regulations;
  - (c) by reference to payments of a kind specified in the regulations made to the authority by the Secretary of State;
  - (d) by reference to such other factors as may be specified in the regulations.

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- (4) The regulations may, in particular, make provision for adjustments to an amount calculated under provision made under sub-paragraph (3) by reference to changes affecting the calculation of such an amount for an earlier year but not taken into account in that calculation.

*Calculation of safety net payments*

- 26 (1) The Secretary of State must calculate in relation to each relevant authority—
- (a) whether the Secretary of State is required to make a safety net payment to the authority for the year, and
  - (b) if so, the amount of that payment.
- (2) The calculation must be made—
- (a) as soon as is reasonably practicable after the end of the year, or
  - (b) if the authority is subject to a requirement imposed by a direction under paragraph 43 (direction to make calculations or supply information) or by or under regulations under paragraph 44 (regulations about calculations and supply of information) for the purposes of this paragraph, as soon as is reasonably practicable after the time for compliance with that requirement, whichever is the later.
- (3) The calculation must be made in accordance with regulations under paragraph 25.
- (4) As soon as is reasonably practicable after making a calculation under this paragraph in relation to a relevant authority, the Secretary of State must notify that authority of—
- (a) whether, in accordance with the calculation, the Secretary of State is required to make a safety net payment to the authority for the year, and
  - (b) if so, the amount of that payment in accordance with the calculation.
- (5) This paragraph is subject to regulations under paragraph 28 (payments on account).

*Safety net payments following calculations*

- 27 (1) If a calculation under paragraph 26 shows that a safety net payment is to be made by the Secretary of State to a relevant authority, the Secretary of State must make that payment to the authority.
- (2) The safety net payment must be made in instalments of such amounts, and at such times, as the Secretary of State determines with the Treasury's consent.
- (3) This paragraph is subject to regulations under paragraph 28 (payments on account).

*Regulations about payments on account*

- 28 (1) The Secretary of State may by regulations make provision—
- (a) for a relevant authority to request the Secretary of State to make a calculation before the end of a year of—
    - (i) whether the Secretary of State is likely to be required to make a safety net payment under paragraph 27 to the authority for the year, and
    - (ii) if so, the amount of the payment;
  - (b) about the time at which and the manner in which a request must be made, and the information that must be provided in connection with the request;

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- (c) about the circumstances in which the Secretary of State may or must make a calculation in response to a request;
  - (d) about the making of the calculation, including for the Secretary of State to make the calculation by reference to estimates of any of the amounts mentioned in paragraph 25(3).
- (2) The regulations may make provision—
- (a) about the timing of a calculation in response to a request;
  - (b) about the notification of the results of the calculation to the relevant authority to whom it relates;
  - (c) for the making, as a result of the calculation, of a payment (a “payment on account”) to the authority before the end of the year to which the calculation relates.
- (3) The regulations may, in particular—
- (a) make provision in relation to a calculation that is similar to that made by paragraph 26, or apply that paragraph with modifications in relation to such a calculation;
  - (b) make provision in relation to a payment on account that is similar to that made by paragraph 27, or apply that paragraph with modifications in relation to such a payment.
- (4) The regulations may make provision—
- (a) about the calculation under paragraph 26 to be made in relation to a relevant authority for a year where a payment on account has been made to the authority for the year;
  - (b) for the making of a further payment by the Secretary of State to the authority, or of a payment by the authority to the Secretary of State, as a result of that calculation.

*Calculation of remaining balance on levy account*

- 29 (1) The Secretary of State must, in each year other than the first year for which the levy account is kept, calculate whether there is a remaining balance on the levy account for the year in accordance with sub-paragraphs (2) to (4).
- (2) The calculation must be made as soon as is reasonably practicable after—
- (a) all of the calculations required by paragraph 23(1) (calculations of levy payments) have been made for the previous year,
  - (b) all of the calculations required by paragraph 26(1) (calculations of safety net payments) have been made for the previous year, and
  - (c) all of the calculations required by regulations under paragraph 28 (calculations of safety net payments on account) have been made for the year.
- (3) The calculation must be made as follows—
- Step 1* Calculate the aggregate of the amounts of all of the levy payments calculated for the previous year under paragraph 23(1).
- Step 2* Add any amount credited to the levy account for the year in accordance with paragraph 21(2) (credit from previous year) to the amount found under step 1, or subtract any amount debited to that account in accordance with paragraph 21(3) (debit from previous year) from the amount found under step 1.

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*Step 3* Add to the amount found under steps 1 and 2 any amount credited to the levy account for the year in accordance with paragraph 20(2) (credit in accordance with local government finance report).

*Step 4* Subtract from the amount found under steps 1 to 3 the aggregate of the amounts of all the safety net payments calculated for the previous year under paragraph 26(1).

*Step 5* Subtract from the amount found under steps 1 to 4 the aggregate of all the payments to be made by the Secretary of State under regulations under paragraph 28(4)(b) (adjustments following safety net payment on account).

*Step 6* Add to the amount found under steps 1 to 5 the aggregate of all the payments to be made to the Secretary of State under regulations under paragraph 28(4)(b).

*Step 7* Subtract from the amount found under steps 1 to 6 the aggregate of all the payments on account to be made in the year under regulations under paragraph 28.

- (4) If the amount found under step 7 in sub-paragraph (3) is a positive amount, that is the remaining balance on the levy account for the year.
- (5) Sub-paragraph (6) applies if, in the first year for which the levy account is kept—
  - (a) an amount is credited to the levy account for the year in accordance with paragraph 20(2), and
  - (b) that amount exceeds the aggregate of all the payments on account to be made in the year under regulations under paragraph 28.
- (6) The amount of the excess is to be treated as the remaining balance on the levy account for the year.

#### *Distribution of remaining balance*

- 30 (1) The Secretary of State may determine that an amount equal to the whole or part of the remaining balance on a levy account for a year is to be distributed among one or more relevant authorities (rather than being treated in accordance with paragraph 21(2)).
- (2) The Secretary of State may by regulations make provision about the basis (“the basis of distribution”) on which an amount referred to in sub-paragraph (1) is to be distributed.
- (3) If the Secretary of State makes a determination under sub-paragraph (1), the Secretary of State must calculate what amount (if any) falls to be paid to each relevant authority as its share of the amount referred to in that sub-paragraph.
- (4) The calculations must be made—
  - (a) as soon as is reasonably practicable after the determination is made, and
  - (b) in accordance with the basis of distribution specified in the regulations.
- (5) As soon as is reasonably practicable after making the calculations, the Secretary of State must notify each relevant authority of—
  - (a) whether a payment is to be made by the Secretary of State to the authority out of the amount referred to in sub-paragraph (1), and
  - (b) if such a payment is to be made, the amount of the payment.
- (6) If the calculations show that a payment is to be made by the Secretary of State to a relevant authority, the Secretary of State must make that payment to the authority.
- (7) A payment from the Secretary of State to a relevant authority under this paragraph must be made—

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- (a) at such time, or
  - (b) in instalments of such amounts and at such times,
- as the Secretary of State determines with the Treasury's consent; but any such time must fall within the year to which the remaining balance relates.

*Relationship with other provisions*

- 31 This Part is subject to Parts 9 (pooling of authorities) and 10 (designation of areas and classes of hereditament).

## PART 8

### TRANSITIONAL PROTECTION PAYMENTS

*Regulations about deemed and actual rating income*

- 32 (1) The Secretary of State may by regulations make provision for calculating in accordance with the regulations—
- (a) the total amount which would be payable to a billing authority in England in respect of a year under sections 43 and 45 if—
    - (i) regulations under section 57A (transitional relief following compilation of local rating list) were not in force for the year, and
    - (ii) the authority acted diligently, and
  - (b) the total amount which would be payable to a billing authority in England in respect of a year under sections 43 and 45 if the authority acted diligently.
- (2) The regulations may include provision for adjustments to be made to an amount calculated under provision under sub-paragraph (1).
- (3) The regulations may, in particular, make provision for adjustments to that amount by reference to changes affecting the calculation of such an amount for an earlier year but not taken into account in that calculation.
- (4) In this Part of this Schedule—
- (a) a billing authority's "deemed rating income" for a year means the amount calculated for the authority and the year under provision under sub-paragraph (1)(a) and (2), and
  - (b) a billing authority's "actual rating income" for a year means the amount calculated for the authority and the year under provision under sub-paragraph (1)(b) and (2).

*Regulations about transitional protection payments*

- 33 (1) The Secretary of State may by regulations make provision for the making of a payment (a "transitional protection payment") for a year—
- (a) by the Secretary of State to a billing authority in England, or
  - (b) by a billing authority in England to the Secretary of State.
- (2) The regulations must provide for the amount (if any) of a transitional protection payment in relation to an authority for a year to be calculated by reference to its deemed and actual rating income for the year, so that—

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- (a) if its deemed rating income for a year exceeds its actual rating income for the year, the Secretary of State is to be liable to make a transitional protection payment to the authority for the year of an amount equal to the excess;
  - (b) if its actual rating income for a year exceeds its deemed rating income for the year, the authority is to be liable to make a transitional protection payment to the Secretary of State for the year of an amount equal to the excess;
  - (c) if its deemed rating income for a year is equal to its actual rating income for the year, no transitional protection payment is to be made to or by the authority for the year.
- (3) The regulations may, in particular, make provision—
- (a) about the making of calculations, and the supply of information to the Secretary of State, by a billing authority in connection with the determination of the transitional protection payment (if any) to be made to or by the authority;
  - (b) about the assumptions and adjustments to be made, and the information to be taken into account, in making such calculations;
  - (c) about the consequences of non-compliance with provision under paragraph (a) or (b), including (in particular)—
    - (i) for the making by the Secretary of State of calculations, or of assumptions as to the information that would otherwise have been supplied by the authority;
    - (ii) for the suspension of payments to the authority.
- (4) The regulations may, in particular, make provision—
- (a) for the making by a billing authority or the Secretary of State of a payment on account of a transitional protection payment;
  - (b) for the calculation, where a payment on account has been made, of the amount of the final transitional protection payment (if any) to be made to or by the authority;
  - (c) for the certification of calculations made, or information supplied to the Secretary of State, by a billing authority in connection with the determination of the final transitional protection payment (if any) to be made to or by the authority;
  - (d) about the consequences where a certified calculation or certified information does not match that made or supplied by the authority, including (in particular) about the use of the certified calculation or certified information;
  - (e) about the making of financial adjustments where the final transitional protection payment to be made to or by the authority for the year is different from a payment on account made to or by the authority for the year.
- (5) The regulations may confer power on the Secretary of State to give directions about the certification of calculations or information.
- (6) The regulations may, in particular, make provision about the time and manner in which a payment under the regulations is to be made (including for payment by instalments), and as to the consequences of non-payment.



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## PART 9

### POOLING OF AUTHORITIES

#### *Designation of pool of authorities*

- 34 (1) The Secretary of State may, in accordance with this paragraph, designate two or more relevant authorities as a pool of authorities for the purposes of the provisions of this Schedule applying to such pools (as to which, see paragraphs 36 and 37).
- (2) The Secretary of State may make a designation only if each authority covered by the designation has agreed to it.
- (3) The Secretary of State—
- (a) may revoke a designation (in particular if any condition of the designation is breached), and
  - (b) must do so if any authority covered by the designation asks the Secretary of State to do so.
- (4) Subject to sub-paragraph (5), a designation has effect—
- (a) for the year beginning after it is made, and
  - (b) for each subsequent year, unless previously revoked.
- (5) A designation or revocation has effect for a year only if it is made before the Secretary of State gives the notification for the year required by paragraph 12(2) (notification of general basis of calculation to be specified in local government finance report for year), unless sub-paragraph (6) applies.
- (6) A revocation made after the Secretary of State has given that notification has effect for the year for which the notification was given if—
- (a) it is made in response to a request under sub-paragraph (3)(b) made within the period of 28 days beginning with the date on which the notification was given, and
  - (b) it is made before the local government finance report for that year is laid before the House of Commons.
- (7) After making or revoking a designation, the Secretary of State must notify the authorities covered by the designation.
- (8) A notification under sub-paragraph (7) must be given before or at the same time as the Secretary of State gives the notification required by paragraph 12(2) for the year to which the designation or revocation relates, unless sub-paragraph (9) applies.
- (9) A notification under sub-paragraph (7) of a revocation made in the circumstances described in sub-paragraph (6) must be given as soon as is reasonably practicable after it is made.

#### *Designations subject to conditions*

- 35 (1) A designation under paragraph 34 must be made subject to conditions—
- (a) requiring the authorities to which it relates to appoint a lead authority to exercise the functions specified in the conditions, and
  - (b) requiring the authorities, if the designation is revoked, to take the steps specified in the conditions before the revocation takes effect.

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- (2) A designation under paragraph 34 may be made subject to such other conditions as the Secretary of State thinks fit.
- (3) The Secretary of State may vary a designation by—
  - (a) adding a condition,
  - (b) modifying a condition, or
  - (c) removing a condition (other than one mentioned in sub-paragraph (1)).
- (4) Before varying a designation under sub-paragraph (3), the Secretary of State must consult the authorities covered by the designation.
- (5) After varying a designation under sub-paragraph (3), the Secretary of State must notify those authorities.

*Effect of designation in relation to Part 5*

- 36 (1) Where a designation of a pool of authorities has effect for a year, Part 5 of this Schedule (principal payments in connection with local retention of non-domestic rates) applies in relation to the pool as if—
  - (a) the authorities in the pool were not relevant authorities, but
  - (b) the pool were itself a relevant authority.
- (2) Sub-paragraph (1) does not apply in relation to paragraph 15(5) (duty to send copy of amending report to each relevant authority).
- (3) This paragraph does not prevent—
  - (a) the local government finance report for the year, or an amending report under paragraph 15 in relation to that report, from also making provision in relation to the individual authorities in the pool,
  - (b) the Secretary of State from making calculations based on the local government finance report, or any such amending report, in relation to each of those authorities, or
  - (c) the Secretary of State from notifying the results of the calculations to each of those authorities.
- (4) But paragraphs 14 and 17 (payments following reports) do not apply in relation to such calculations.

*Effect of designation in relation to Part 7*

- 37 (1) Regulations under paragraph 22, 25 or 28 (levy payments, safety net payments and safety net payments on account) may provide for a pool of authorities to be treated as a relevant authority for the purposes of the regulations.
- (2) Such regulations may, in particular, make provision—
  - (a) that is similar to provision which may be made under the paragraph in question apart from sub-paragraph (1) above, or
  - (b) that applies such provision with modifications.
- (3) Where regulations under paragraph 22 apply to a pool of authorities for a year, paragraphs 23 and 24 (calculation and making of levy payments) apply in relation to the authorities and the year as if references in them to a relevant authority were to the pool.

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- (4) Where regulations under paragraph 25 apply to a pool of authorities for a year, paragraphs 26 and 27 (calculation and making of safety net payments) apply in relation to the authorities and the year as if references in them to a relevant authority were to the pool.
- (5) Where a designation of a pool of authorities has effect for a year, paragraph 30 (distribution of remaining balance) applies in relation to the pool as if—
  - (a) the authorities in the pool were not relevant authorities, but
  - (b) the pool were itself a relevant authority.
- (6) Regulations under paragraph 30 may provide for a pool of authorities to be treated as a relevant authority for the purposes of the regulations.
- (7) This paragraph does not prevent—
  - (a) regulations under paragraph 22, 25, 28 or 30 from also making provision in relation to the individual authorities in a pool,
  - (b) the Secretary of State from making calculations under paragraph 23, 26 or 30(3) based on such regulations in relation to each of those authorities, or
  - (c) the Secretary of State from notifying the results of the calculations to each of those authorities.
- (8) But paragraphs 24, 27 and 30(6) (payments following calculations) do not apply in relation to such calculations.

*Further provisions about effect of designation*

- 38 (1) A requirement under Part 5 or 7 of this Schedule in its application by virtue of paragraph 36 or 37 to notify a pool of authorities of any matter is a requirement to notify each authority in the pool of that matter.
- (2) Where by virtue of either of those paragraphs a pool of authorities is required to make a payment to the Secretary of State, each authority in the pool is jointly and severally liable to make that payment.
- (3) Where by virtue of either of those paragraphs the Secretary of State is required to make a payment to a pool of authorities, the payment is to be made to the lead authority appointed in accordance with conditions under paragraph 35(1).

**PART 10**

DESIGNATION OF AREAS AND CLASSES OF HEREDITAMENT

*Designation of areas*

- 39 (1) The Secretary of State may by regulations—
  - (a) designate one or more areas in England (a “designated area”);
  - (b) provide for the calculation in accordance with the regulations, for each year for which the designation has effect and in relation to each billing authority all or part of whose area falls within a designated area, of the amount mentioned in sub-paragraph (2);
  - (c) provide for the calculation of a proportion of that amount in accordance with the regulations;

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- (d) provide for that amount or that proportion to be disregarded for the purposes of calculations under any of the following provisions in its application to the authority for that year—
- (i) paragraph 6 (payments in respect of the central share);
  - (ii) regulations under paragraph 7 (administrative arrangements for payments in respect of the central share);
  - (iii) regulations under paragraph 9 (payments by billing authorities to major precepting authorities);
  - (iv) regulations under paragraph 10 (administrative arrangements for payments by billing authorities to major precepting authorities);
  - (v) paragraph 13 (calculations following local government finance report);
  - (vi) paragraph 16 (calculations following amending report);
  - (vii) paragraph 23 (calculations of levy payments);
  - (viii) paragraph 26 (calculations of safety net payments);
  - (ix) regulations under paragraph 28 (calculations of payments on account);
  - (x) paragraph 30 (calculations relating to distribution of remaining balance).
- (2) Subject as follows, the amount referred to in sub-paragraph (1)(b) is the total amount which, if the authority acted diligently, would be payable to it for the year under sections 43 and 45 in respect of the hereditaments within the designated area.
- (3) The regulations may provide for that amount, or any proportion calculated under sub-paragraph (1)(c), to be adjusted in accordance with the regulations (and references in this paragraph to that amount or proportion include the amount or proportion as adjusted in accordance with such provision).
- (4) The regulations may, in particular, provide for adjustments to that amount or that proportion by reference to changes affecting a calculation under regulations under this paragraph for an earlier year but not taken into account in that calculation.
- (5) The regulations must—
- (a) specify the date on which the designation takes effect, which must be the first day of a year, or
  - (b) provide that the designation is to take effect on the first day of the first year after specified conditions have been met.
- (6) Conditions under sub-paragraph (5)(b) may require compliance with specifications or requirements contained in a document of a specified kind.
- (7) If the regulations make provision under sub-paragraph (5)(b), they must provide that they will cease to have effect at the end of a specified period unless the conditions are met by the end of that period.
- (8) The regulations may specify the years for which the designation has effect.
- (9) If the regulations contain provision under sub-paragraph (8)—
- (a) amendments within sub-paragraph (10) may not be made to the regulations unless (in the case of amendments within paragraph (a), (b) or (c) of that sub-paragraph) the amendments are expressed to come into force after the end of that period, and
  - (b) the regulations may not be revoked unless the revocation is expressed to come into force after the end of that period.

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- (10) The amendments mentioned in sub-paragraph (9)(a) are those which have the effect of—
- (a) altering the boundaries of a designated area,
  - (b) where provision made under paragraph (d) of sub-paragraph (1) has the effect that the amount referred to in that paragraph is to be disregarded, providing for a proportion of that amount to be disregarded,
  - (c) where provision made under that paragraph has the effect that a proportion is to be disregarded, reducing that proportion, or
  - (d) reducing the period for which the designation has effect.
- (11) Regulations under this paragraph must specify each area designated by the regulations by means of a plan or map (whether or not each area is specified by any other means).
- (12) An area may be designated by regulations under this paragraph by reference to such factors as the Secretary of State thinks fit.
- (13) The consent of the Treasury is required to regulations under this paragraph.
- (14) In this paragraph “specified” means specified in the regulations.

#### *Designation of classes of hereditament*

- 40 (1) The Secretary of State may by regulations—
- (a) designate one or more classes of hereditaments in England (a “designated class”);
  - (b) provide for the calculation in accordance with the regulations, for each year for which the designation has effect and in relation to each billing authority whose area includes hereditaments within the designated class, of the amount mentioned in sub-paragraph (2);
  - (c) provide for the calculation of a proportion of that amount in accordance with the regulations;
  - (d) provide for that amount or that proportion to be disregarded for the purposes of calculations under any of the following provisions in its application to the authority for that year—
    - (i) paragraph 6 (payments in respect of the central share);
    - (ii) regulations under paragraph 7 (administrative arrangements for payments in respect of the central share);
    - (iii) regulations under paragraph 9 (payments by billing authorities to major precepting authorities);
    - (iv) regulations under paragraph 10 (administrative arrangements for payments by billing authorities to major precepting authorities);
    - (v) paragraph 13 (calculations following local government finance report);
    - (vi) paragraph 16 (calculations following amending report);
    - (vii) paragraph 23 (calculations of levy payments);
    - (viii) paragraph 26 (calculations of safety net payments);
    - (ix) regulations under paragraph 28 (calculations of payments on account);
    - (x) paragraph 30 (calculations relating to distribution of remaining balance).

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- (2) Subject as follows, the amount referred to in sub-paragraph (1)(b) is the total amount which, if the authority acted diligently, would be payable to it for the year under sections 43 and 45 in respect of the hereditaments within the designated class.
- (3) The regulations may provide for that amount, or any proportion calculated under sub-paragraph (1)(c), to be adjusted in accordance with the regulations (and references in this paragraph to that amount or proportion include the amount or proportion as adjusted in accordance with such provision).
- (4) The regulations may, in particular, provide for adjustments to that amount or that proportion by reference to changes affecting a calculation under regulations under this paragraph for an earlier year but not taken into account in that calculation.
- (5) The regulations may include provision imposing duties or conferring powers on valuation officers (whether as regards determinations, certificates or otherwise) for the purpose of the calculation referred to in sub-paragraph (1)(c).
- (6) The regulations—
  - (a) must specify the date on which the designation takes effect (which must be at the beginning of a year), and
  - (b) may specify the years for which the designation has effect.
- (7) A class may be designated by regulations under this paragraph by reference to such factors as the Secretary of State thinks fit.
- (8) Before making regulations under this paragraph the Secretary of State must consult such persons as the Secretary of State thinks fit.
- (9) The fact that this paragraph was not in force when consultation in relation to proposed regulations under it took place is to be disregarded in determining whether there has been compliance with sub-paragraph (8).
- (10) The consent of the Treasury is required to regulations under this paragraph.

*Payments to relevant authorities*

- 41 (1) Regulations under paragraph 39 or 40 may make provision for a billing authority to make a payment for a year to a relevant authority of an amount equal to the whole or part of the amount or proportion that, in relation to the billing authority and the year, is to be disregarded for the purposes of the calculations mentioned in paragraph 39(1)(d) or 40(1)(d) (as the case may be).
- (2) Sub-paragraph (3) applies where the regulations include provision for payments to be made in accordance with sub-paragraph (1) to two or more relevant authorities.
- (3) The regulations may include provision for imposing duties or conferring powers on valuation officers (whether as regards determinations, certificates or otherwise) for the purpose of arriving at the amounts of those payments.
- (4) The regulations may make provision about the administration of payments to relevant authorities under the regulations.
- (5) The regulations may, in particular, make provision in relation to payments to relevant authorities of the same kind as the provision that may be made under sub-paragraph (2) of paragraph 10 in relation to payments to major precepting authorities to which that sub-paragraph applies.

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*Estimates of amounts to be disregarded*

- 42 (1) The Secretary of State may by regulations make provision for—
- (a) calculations of a kind mentioned in paragraph 39(1)(d) or 40(1)(d) to be made on the basis of an estimate of an amount or proportion that is to be disregarded under regulations under that paragraph;
  - (b) for the making of a payment by the Secretary of State to a billing authority or vice versa where it is subsequently determined that the amount or proportion to be disregarded is more or less than the amount of the estimate.
- (2) Regulations under this paragraph may make provision about the administration of payments under the regulations, including as to—
- (a) the time and manner in which a payment is to be made, and
  - (b) the consequences of non-payment.

**PART 11**

SUPPLEMENTARY

*Calculations and supply of information by relevant authorities*

- 43 (1) The Secretary of State may, for the purposes of any provision of or made under this Schedule or Part 6 (funds) so far as applying to non-domestic rates, direct a relevant authority to make calculations, or to supply information to the Secretary of State, in accordance with the direction.
- (2) The direction may require the calculations to be made, or the information to be supplied, before such time as is specified in the direction.
- (3) The direction may require the calculations or information to be certified in accordance with the direction.
- (4) If a relevant authority does not comply with a direction under this paragraph, the Secretary of State may make the calculations that the Secretary of State thinks would have been made, or make assumptions as to the information that would have been supplied, by the authority if it had complied with the direction.
- (5) If the Secretary of State proceeds under sub-paragraph (4), the Secretary of State must notify the authority—
- (a) of that fact, and
  - (b) of the calculations or assumptions that the Secretary of State has made.
- (6) If any calculation or information certified in accordance with a direction under this paragraph does not match that made or supplied by the authority in question, the Secretary of State may use the certified calculation or information.
- (7) If the Secretary of State proceeds under sub-paragraph (6), the Secretary of State must notify the authority of that fact.
- (8) For the purposes of any provision made by or under Part 5 or 7 of this Schedule that applies to pools of authorities, this paragraph has effect as if references to a relevant authority included a reference to such a pool.

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- (9) Where sub-paragraph (5) or (7) applies to a pool of authorities by virtue of sub-paragraph (8), the Secretary of State must notify each relevant authority in the pool of the matters in question.

*Regulations about calculations and supply of information*

- 44 The Secretary of State may by regulations—
- (a) make any provision that could be made by a direction under paragraph 43;
  - (b) make provision for the Secretary of State to give a direction that could be given under that paragraph;
  - (c) make any provision made by that paragraph in relation to a direction under it—
    - (i) in relation to provision made by regulations under this paragraph, or
    - (ii) in relation to a direction given by the Secretary of State under regulations under this paragraph.

*Interpretation of Schedule*

- 45 In this Schedule—
- “actual rating income”, in relation to a billing authority, has the meaning given by paragraph 32(4)(b);
  - “basis of calculation” has the meaning given by paragraph 12(1);
  - “the central share” has the meaning given by paragraph 4;
  - “deemed rating income”, in relation to a billing authority, has the meaning given by paragraph 32(4)(a);
  - “local government finance report” has the meaning given by paragraph 5(1);
  - “the local share” has the meaning given by paragraph 4;
  - “levy account” has the meaning given by paragraph 19(1);
  - “levy payment” has the meaning given by paragraph 22(1);
  - “main non-domestic rating account” has the meaning given by paragraph 1(1);
  - a “pool of authorities” means two or more relevant authorities designated as a pool of authorities under paragraph 34;
  - “relevant authority” means—
    - (a) a billing authority in England, or
    - (b) a major precepting authority in England;
  - “safety net payment” has the meaning given by paragraph 25(1);
  - “year” means a chargeable financial year.”

SCHEDULE 2

Section 2

AMENDMENT OF PROVISIONS ABOUT REVENUE SUPPORT GRANT

- 1 Chapter 2 of Part 5 of the LGFA 1988 (revenue support grant: England) is amended as follows.
- 2 (1) Section 78 (revenue support grant) is amended as follows.
- (2) For subsection (1) (duty to pay grant) substitute—



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- “(1) The Secretary of State may pay a grant (to be called revenue support grant) in accordance with this Chapter for a chargeable financial year—
- (a) to receiving authorities,
  - (b) to specified bodies, or
  - (c) to both.”
- (3) In subsection (2) (duty to make determination about revenue support grant for each chargeable financial year), after “year” insert “ for which revenue support grant is to be paid ”.
- (4) In subsection (3) (content of determination)—
- (a) after paragraph (a) insert—
    - “(aa) whether the Secretary of State proposes to pay grant to receiving authorities,”,
  - (b) at the beginning of paragraph (b) insert “ if so, ”,
  - (c) after paragraph (b) (and before the “and” at the end of that paragraph) insert—
    - “(ba) whether the Secretary of State proposes to pay grant to specified bodies,”, and
  - (d) at the beginning of paragraph (c) insert “ if so, ”.
- 3 (1) Section 78A (local government finance reports) is amended as follows.
- (2) For the heading substitute “ Requirement to specify determination in local government finance report ”.
- (3) In subsection (1) (duty to specify determination under section 78 in local government finance report), for the words from “a report” to “report” substitute “ the local government finance report for the year (as to which, see paragraph 5 of Schedule 7B) ”.
- (4) In subsection (2) (requirement for report to specify basis of distribution of grant to receiving authorities), for “A local government finance report” substitute “ If the determination provides for grant to be paid to receiving authorities, the report ”.
- (5) In subsection (3), for “the report” substitute “ a report to which subsection (2) applies ”.
- (6) Omit subsections (4) and (5) (duty to lay report before House of Commons and to send copies to receiving authorities).
- 4 (1) Section 79 (effect of report's approval) is amended as follows.
- (2) In subsection (3) (duty to pay amounts specified in determination to receiving authorities and specified bodies)—
- (a) for “The Secretary of State” substitute “ If the determination provides for grant to be paid to receiving authorities, the Secretary of State ”, and
  - (b) after “section 78(3)(b) above, and” insert “ , if the determination provides for grant to be paid to specified bodies, the Secretary of State ”.
- (3) In subsection (4) (amount to be paid to receiving authorities), for “The amount” substitute “ Any amount ”.
- (4) In subsection (5) (amount to be paid to particular specified body), for “The amount” substitute “ Any amount ”.

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- 5 (1) Section 82 (calculation of sums payable to receiving authorities by way of revenue support grant) is amended as follows.
- (2) Before subsection (1) insert—
- “(A1) This section applies if—
- (a) in accordance with sections 78 and 78A above a determination as regards revenue support grant has been made for a financial year and specified in a report which has been laid before the House of Commons,
- (b) the determination provides for grant to be paid to receiving authorities, and
- (c) the report is approved by resolution of the House of Commons.”
- (3) In subsection (1) (requirement to calculate sums payable), for the words from “a local government finance report” to “House of Commons” substitute “the report has been approved”.
- 6 In section 84A(1) (power of Secretary of State to make amending reports after local government finance report made), after “local government finance report” insert “that contains a determination under section 78 above”.

## SCHEDULE 3

Section 5

### LOCAL RETENTION OF NON-DOMESTIC RATES: FURTHER AMENDMENTS

#### PART 1

#### AMENDMENTS TO SCHEDULE 8 TO THE LGFA 1988 ETC

##### *LGFA 1988*

- 1 In section 60 of the LGFA 1988 (non-domestic rating: pooling), for “Secretary of State” substitute “Welsh Ministers”.
- 2 Schedule 8 to the LGFA 1988 (non-domestic rating: pooling) is amended as follows.
- 3 (1) Paragraph 1 (non-domestic rating accounts) is amended as follows.
- (2) In sub-paragraph (1), for “Secretary of State” substitute “Welsh Ministers”.
- (3) In sub-paragraph (2)—
- (a) for “Secretary of State” substitute “Welsh Ministers”, and
- (b) in paragraph (b), for “Comptroller and Auditor General” substitute “Auditor General for Wales”.
- (4) Omit sub-paragraph (3).
- (5) In sub-paragraph (4), for “Assembly” substitute “National Assembly for Wales”.
- 4 (1) Paragraph 2 (credits and debits to non-domestic rating accounts) is amended as follows.
- (2) In sub-paragraph (1)—

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- (a) in paragraph (a), for “Secretary of State” substitute “ Welsh Ministers ”, and
  - (b) in each of paragraphs (b) and (c), for “him” substitute “ them ”.
- (3) In sub-paragraph (2)—
- (a) in paragraph (a), for “Secretary of State” substitute “ Welsh Ministers ”, and
  - (b) in paragraph (b), for “him” substitute “ them ”.
- 5 In paragraph 3(1) (end of year calculations), for “Secretary of State” substitute “ Welsh Ministers ”.
- 6 Before paragraph 4 (and after the heading to Part 2 of Schedule 8 but before the heading to that paragraph) insert—

*“Interpretation*

- 3A Any reference in this Part of this Schedule to a billing authority is a reference to a billing authority in Wales.”
- 7 (1) Paragraph 4 (rules as to calculation of billing authority's non-domestic rating contribution) is amended as follows.
- (2) In sub-paragraph (1), for “Secretary of State” substitute “ Welsh Ministers ”.
  - (3) Omit sub-paragraphs (3), (4B) and (4D).
  - (4) In sub-paragraph (5)—
    - (a) for “Secretary of State” substitute “ Welsh Ministers ”,
    - (b) for “he thinks” in both places substitute “ they think ”, and
    - (c) for “sub-paragraphs (2) and (3)” substitute “ sub-paragraph (2) ”.
  - (5) Omit sub-paragraph (5A).
- 8 (1) Paragraph 5 (calculation and payment of billing authority's non-domestic rating contribution) is amended as follows.
- (2) In sub-paragraph (2), for “Secretary of State” in both places substitute “ Welsh Ministers ”.
  - (3) In sub-paragraph (3)—
    - (a) for “Secretary of State believes” substitute “ Welsh Ministers believe ”,
    - (b) for “he may” substitute “ they may ”,
    - (c) for “his” substitute “ their ”,
    - (d) for “he makes” substitute “ they make ”,
    - (e) for “he shall” substitute “ they shall ”, and
    - (f) for “he has” substitute “ they have ”.
  - (4) In sub-paragraph (4), for “Secretary of State” in both places substitute “ Welsh Ministers ”.
  - (5) In sub-paragraph (5), for “Secretary of State” substitute “ Welsh Ministers ”.
  - (6) In sub-paragraph (6)—
    - (a) in paragraph (b), for “Secretary of State” substitute “ Welsh Ministers ”,
    - (b) in paragraph (ba) omit the words from “if it is” in the first place they appear to “authority in Wales”, and

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- (c) in paragraph (c), for sub-paragraphs (i) and (ii) substitute “ under arrangements made by the Auditor General for Wales ”.
- (7) In sub-paragraph (6A)—
- (a) omit “Commission or the”,
  - (b) omit “, as the case may be,”, and
  - (c) for “Secretary of State” substitute “ Welsh Ministers ”.
- (8) In sub-paragraph (7)—
- (a) for “Secretary of State directs” substitute “ Welsh Ministers direct ”, and
  - (b) for “he” in both places substitute “ they ”.
- (9) In sub-paragraph (8)—
- (a) for “Secretary of State receives” substitute “ Welsh Ministers receive ”, and
  - (b) for “he” substitute “ they ”.
- (10) In sub-paragraph (9)—
- (a) for “Secretary of State” substitute “ Welsh Ministers ”, and
  - (b) for “he” substitute “ they ”.
- (11) In sub-paragraph (10)—
- (a) for “Secretary of State” substitute “ Welsh Ministers ”,
  - (b) in paragraph (a)—
    - (i) for “he believes” substitute “ they believe ”, and
    - (ii) for “his” substitute “ their ”, and
  - (c) in paragraph (b)—
    - (i) for “he is” substitute “ they are ”,
    - (ii) for “he decides” substitute “ they decide ”, and
    - (iii) omit “with the Treasury's approval”.
- (12) In sub-paragraph (11)—
- (a) in paragraph (a)—
    - (i) for “Secretary of State has” substitute “ Welsh Ministers have ”, and
    - (ii) for “him” substitute “ them ”, and
  - (b) in paragraph (b), for “Secretary of State” substitute “ Welsh Ministers ”.
- (13) In sub-paragraph (12), for “Secretary of State” substitute “ Welsh Ministers ”.
- (14) In sub-paragraph (13), for “Secretary of State makes” substitute “ Welsh Ministers make ”.
- (15) In sub-paragraph (14)—
- (a) in paragraph (a)—
    - (i) for “Secretary of State” substitute “ Welsh Ministers ”, and
    - (ii) for “he” substitute “ they ”, and
  - (b) in paragraph (b)—
    - (i) for “Secretary of State” substitute “ Welsh Ministers ”,
    - (ii) for “he decides” substitute “ they decide ”, and
    - (iii) omit “with the Treasury's approval”.
- (16) In sub-paragraph (15)—

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- (a) for “Secretary of State makes” substitute “ Welsh Ministers make ”, and
  - (b) in paragraph (a), for “Secretary of State” substitute “ Welsh Ministers ”.
- 9 (1) Paragraph 6 (further provisions as to calculation and payment of billing authority's non-domestic rating contribution) is amended as follows.
  - (2) In sub-paragraph (2), for “Secretary of State” substitute “ Welsh Ministers ”.
  - (3) Omit sub-paragraph (4).
  - (4) In sub-paragraph (5), for “Secretary of State” substitute “ Welsh Ministers ”.
- 10 (1) Paragraph 8 (interpretation of Part 3 of Schedule 8) is amended as follows.
  - (2) In sub-paragraph (1), for the words from “any billing authority” to the end substitute “  
\_\_\_\_\_”
    - (a) any billing authority in Wales, or
    - (b) any major precepting authority in Wales.”
  - (3) In sub-paragraph (2) omit “78A or”.
  - (4) Omit sub-paragraph (4).
- 11 (1) Paragraph 9 (calculation of distributable amount) is amended as follows.
  - (2) In sub-paragraph (1), for “Secretary of State” substitute “ Welsh Ministers ”.
  - (3) In sub-paragraph (2)—
    - (a) for “Secretary of State” substitute “ Welsh Ministers ”, and
    - (b) for “he sees” substitute “ they see ”.
  - (4) In sub-paragraphs (3) and (4), for “Secretary of State” substitute “ Welsh Ministers ”.
- 12 In paragraph 9A (application of Part 3 to years where two local government finance reports prepared for Wales), in sub-paragraphs (1)(a) and (3)(a) omit “in relation to Wales”.
- 13 (1) Paragraph 10 (requirement for local government finance report to specify basis of distribution) is amended as follows.
  - (2) In sub-paragraph (1), for “Secretary of State proposes” substitute “ Welsh Ministers propose ”.
  - (3) In sub-paragraph (2)—
    - (a) for “Secretary of State” substitute “ Welsh Ministers ”, and
    - (b) for “him” substitute “ them ”.
- 14 (1) Paragraph 11 (calculation of sums payable to receiving authorities out of distributable amount) is amended as follows.
  - (2) In sub-paragraph (1)(b), for “House of Commons” substitute “ Assembly ”.
  - (3) In sub-paragraph (2), for “House of Commons” substitute “ Assembly ”.
  - (4) In sub-paragraphs (3) and (4), for “Secretary of State” substitute “ Welsh Ministers ”.
  - (5) In sub-paragraph (5), for “House of Commons” substitute “ Assembly ”.
  - (6) In sub-paragraph (6)—
    - (a) for “Secretary of State decides” substitute “ Welsh Ministers decide ”,

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- (b) for “he” in both places substitute “ they ”, and
  - (c) for “him” substitute “ them ”.
- (7) In sub-paragraph (7)—
- (a) for “Secretary of State informs” substitute “ Welsh Ministers inform ”,
  - (b) for “his” substitute “ their ”, and
  - (c) for “he” substitute “ they ”.
- (8) In sub-paragraph (8)—
- (a) for “Secretary of State” substitute “ Welsh Ministers ”, and
  - (b) for “he calculates” substitute “ they calculate ”.
- 15 (1) Paragraph 12 (payment of sums to receiving authorities out of distributable amount) is amended as follows.
- (2) In sub-paragraph (1), for “Secretary of State” substitute “ Welsh Ministers ”.
- (3) In sub-paragraph (2)—
- (a) for “Secretary of State determines” substitute “ Welsh Ministers determine ”, and
  - (b) omit “with the Treasury's consent”.
- (4) In sub-paragraph (3), for “Secretary of State” substitute “ Welsh Ministers ”.
- (5) In sub-paragraph (4)—
- (a) for “Secretary of State determines” substitute “ Welsh Ministers determine ”, and
  - (b) omit “with the Treasury's consent”.
- (6) In sub-paragraphs (5) and (6), for “Secretary of State” substitute “ Welsh Ministers ”.
- 16 (1) Paragraph 13 (making of amending report in relation to local government finance report) is amended as follows.
- (2) In sub-paragraph (1), for “Secretary of State” substitute “ Welsh Ministers ”.
- (3) In sub-paragraph (3)—
- (a) for “Secretary of State” substitute “ Welsh Ministers ”,
  - (b) for “him” substitute “ them ”, and
  - (c) for “he proposes” substitute “ they propose ”.
- (4) In sub-paragraph (4), for “House of Commons” substitute “ Assembly ”.
- (5) In sub-paragraphs (5) and (6)—
- (a) for “House of Commons” substitute “ Assembly ”, and
  - (b) for “Secretary of State” substitute “ Welsh Ministers ”.
- 17 (1) Paragraph 14 (calculation of sums payable to receiving authorities following amending report) is amended as follows.
- (2) In sub-paragraph (1)—
- (a) for “House of Commons” substitute “ Assembly ”, and
  - (b) for “Secretary of State” substitute “ Welsh Ministers ”.
- (3) In sub-paragraph (2), for “Secretary of State” substitute “ Welsh Ministers ”.

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- (4) In sub-paragraph (3)(b), for “House of Commons” substitute “ Assembly ”.
- 18 (1) Paragraph 15 (payments following amending report) is amended as follows.
- (2) In sub-paragraph (2), for “Secretary of State” substitute “ Welsh Ministers ”.
- (3) In sub-paragraph (3)—
- (a) for “Secretary of State determines” substitute “ Welsh Ministers determine ”, and
- (b) omit “with the Treasury’s consent”.
- (4) In sub-paragraphs (4) and (5), for “Secretary of State” substitute “ Welsh Ministers ”.

*Non-Domestic Rating Act 1992 (c. 46)*

- 19 The Non-Domestic Rating Act 1992 is amended as follows.
- 20 (1) Section 4 (which modifies Schedule 8 to the LGFA 1988, and which applies with modifications for the financial year beginning in 1995 and subsequent financial years by virtue of section 3 of the Non-Domestic Rating Act 1994) is amended as follows.
- (2) In the sub-paragraph (3A) set out in subsection (1)(b)—
- (a) for “Secretary of State” substitute “ Welsh Ministers ”, and
- (b) in paragraph (b), for “he considers” substitute “ they consider ”.
- (3) In the sub-paragraph (3B) set out in subsection (1)(b)—
- (a) for “Secretary of State” substitute “ Welsh Ministers ”, and
- (b) for “he thinks” substitute “ they think ”.
- 21 In section 5 (which modifies Schedule 8 to the LGFA 1988, and which applies to the financial year beginning in 1995 and subsequent financial years by virtue of section 3 of the Non-Domestic Rating Act 1994), in the paragraph (d) set out in subsection (1)(b), for “him” in both places substitute “ them ”.

*Consequential revocation and repeal*

- 22 In consequence of the amendments made by this Part of this Schedule—
- (a) in Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999/672), in the entry for the Local Government Finance Act 1988 omit the words from “The functions of the Comptroller and Auditor General” to “before the Assembly.”, and
- (b) in Schedule 7 to the Local Government Act 2003 omit paragraph 26(3).

**PART 2**

OTHER AMENDMENTS

*LGFA 1988*

- 23 The LGFA 1988 is amended as follows.
- 24 (1) Section 90 (payments to and from collection funds) is amended as follows.

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- (2) In subsection (1)(b), after “major precepting authority” insert “ or the Secretary of State ”.
- (3) In subsection (1), for paragraph (d) (and the “and” at the end of that paragraph) substitute—
- “(d) sums received by the authority under any of the following provisions of Schedule 7B (local retention of non-domestic rates) that are of a kind specified by the Secretary of State as falling to be paid into a billing authority's collection fund—
- (i) paragraph 14(2) (payments by Secretary of State following local government finance report);
- (ii) paragraph 14(9) or (10) (payments by Secretary of State following revised calculation);
- (iii) paragraph 17(7) or (8) (payments by Secretary of State following amending report),
- (da) sums received by the authority—
- (i) under provision made by regulations under paragraph 7 of Schedule 7B (regulations about administration of payments in respect of the central share),
- (ii) under provision made by regulations under paragraph 10 of that Schedule (administration of payments by billing authorities to major precepting authorities) by virtue of sub-paragraph (2)(e) or (f) of that paragraph (reconciliation payments),
- (iii) under provision made by regulations under paragraph 11 of that Schedule (regulations about payments by billing authorities to major precepting authorities out of deductions from the central share),
- (iv) under provision made by regulations under paragraph 33 of that Schedule (transitional protection payments),
- (v) under provision made by regulations under paragraph 39 or 40 of that Schedule (designation of areas or classes of hereditament) by virtue of paragraph 41 of that Schedule (payments by billing authorities to relevant authorities), or
- (vi) under provision made by regulations under paragraph 42 of that Schedule (payments by Secretary of State following estimates of amounts relating to designated areas or classes), and”.
- (4) In subsection (2)(b), after “major precepting authority” insert “ or the Secretary of State ”.
- (5) In subsection (2), for paragraph (c) substitute—
- “(c) payments to be made by the authority under any of the following provisions of Schedule 7B that are of a kind specified by the Secretary of State as falling to be met from a billing authority's collection fund—
- (i) paragraph 14(1) (payments to Secretary of State following local government finance report);
- (ii) paragraph 14(6) or (7) (payments to Secretary of State following revised calculation);



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- (iii) paragraph 17(4) or (5) (payments to Secretary of State following amending report),
  - (ca) payments made by the authority—
    - (i) under paragraph 6, or under provision made by regulations under paragraph 7, of Schedule 7B (payments in respect of the central share),
    - (ii) under provision made by regulations under paragraph 9 of that Schedule (payments by billing authorities to major precepting authorities),
    - (iii) under provision made by regulations under paragraph 10 of that Schedule (administration of payments by billing authorities to major precepting authorities) by virtue of sub-paragraph (2)(e) or (f) of that paragraph (reconciliation payments),
    - (iv) under provision made by regulations under paragraph 11 of that Schedule (regulations about payments by billing authorities to major precepting authorities out of deductions from the central share),
    - (v) under provision made by regulations under paragraph 33 of that Schedule (transitional protection payments),
    - (vi) under provision made by regulations under paragraph 39 or 40 of that Schedule (designation of areas or classes of hereditament) by virtue of paragraph 41 of that Schedule (payments by billing authorities to relevant authorities), or
    - (vii) under provision made by regulations under paragraph 42 of that Schedule (payments to Secretary of State following estimates of amounts relating to designated areas or classes),”.
- 25 (1) Section 97 (principal transfers between funds) is amended as follows.
- (2) After subsection (2) insert—
- “(2A) The Secretary of State may by regulations make provision requiring a billing authority to transfer from its collection fund to its general fund such amounts as may be specified in or determined in accordance with the regulations by reference to—
- (a) sums received by the authority in respect of non-domestic rates under this Act, and
  - (b) sums received by the authority under or by virtue of Schedule 7B (local retention of non-domestic rates) and required to be paid into its collection fund by virtue of provision made by or under section 90(1)(d) or (da).
- (2B) The Secretary of State may by regulations make provision requiring a billing authority to transfer from its general fund to its collection fund such amounts as may be specified in or determined in accordance with the regulations by reference to sums received by the authority in respect of non-domestic rates under this Act.”
- (3) Omit subsection (4A).
- 26 (1) Section 99 (regulations about funds) is amended as follows.

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- (2) In subsection (1)(b), for “97(1), (3) or (4A) above” substitute “ 97(1) or (3) or regulations under section 97(2A) above ”.
- (3) In subsection (1)(c), after “97(2) or (4) above” insert “ or regulations under section 97(2B) above ”.
- (4) In subsection (3)—
- (a) in paragraph (b)(i), for “major precepting authorities” substitute “ one or more relevant authorities ”,
  - (b) in paragraph (c), for “any major precepting authorities” substitute “ prescribed relevant authorities ”, and
  - (c) in each of paragraphs (d) and (f), for “major precepting authority” substitute “ relevant authority ”.
- (5) Omit subsections (3A) and (3B).
- (6) Before subsection (4) insert—
- “(3C) In subsection (3) “relevant authority” means—
- (a) a major precepting authority, or
  - (b) the Secretary of State.
- (3D) Regulations under subsection (3) may make separate provision in relation to council tax and non-domestic rates, with the effect that—
- (a) more than one estimate is to be made by a billing authority of whether there is a deficit or surplus in its collection fund for a financial year and, if so, of the amount of the deficit or surplus,
  - (b) each estimate takes into account different amounts to be paid into or met from that fund, and
  - (c) each estimate has different consequences as to the payments to be made, or other functions to be exercised, by the billing authority, major precepting authorities or the Secretary of State.”
- 27 In section 140(2) (separate administration of Parts 3 and 4 in England and Wales)—
- (a) at the end of paragraph (a) insert “ , and ”, and
  - (b) omit paragraphs (c) and (e).
- 28 (1) Section 141 (payments to and from authorities) is amended as follows.
- (2) In subsection (5)(c), after “such as” insert “ paragraph 2 of Schedule 7B or ”.
- (3) In subsection (7), before “paragraph 5(10) and 14 of Schedule 8 below” insert “ regulations under section 99(3) above, regulations made under paragraph 7 of Schedule 7B below, paragraphs 14(2), (9) and (10), 17(7) and (8) and 27(1) of that Schedule, regulations made under paragraph 28 of that Schedule, paragraph 30(6) of that Schedule, regulations made under paragraph 33 of that Schedule, regulations made under paragraph 42 of that Schedule, ”.
- (4) In subsection (8), before “paragraph 5 of Schedule 8 below” insert “ regulations under section 99(3) above, paragraph 6 of Schedule 7B below, regulations made under paragraph 7 of that Schedule, paragraphs 14(1), (6) and (7), 17(4) and (5) and 24(1) of that Schedule, regulations made under paragraph 28 of that Schedule, regulations made under paragraph 33 of that Schedule, regulations made under paragraph 42 of that Schedule, ”.

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29 In section 144(2) (definition of “billing authority” etc), at the end insert “ ; but, in the case of references to a billing authority in Part 2 of Schedule 8, this is subject to paragraph 3A of that Schedule. ”

*LGFA 1992*

30 In Schedule 13 to the LGFA 1992 (minor and consequential amendments) omit paragraph 78(2).

*Audit Commission Act 1998 (c. 18)*

F131 .....

**Textual Amendments**

**F1** Sch. 3 para. 31 repealed (1.4.2015) by [Local Audit and Accountability Act 2014 \(c. 2\)](#), s. 49(1), [Sch. 1 Pt. 2](#); S.I. 2015/841, art. 3(a) (with arts. 5-8, Sch.) (as amended (27.6.2016) by S.I. 2016/675, art. 2)

*Local Government Act 2003 (c. 26)*

32 The Local Government Act 2003 is amended as follows.

33 In section 70 (local retention of rates) omit subsections (4) to (6).

34 In Schedule 7 (minor and consequential amendments) omit paragraph 22(a).

SCHEDULE 4

Section 10

AMENDMENTS RELATING TO COUNCIL TAX REDUCTION SCHEMES

**PART 1**

SCHEDULES TO BE INSERTED INTO THE LGFA 1992

1 After Schedule 1 to the LGFA 1992 insert—

“SCHEDULE  
1A

Section 13A

COUNCIL TAX REDUCTION SCHEMES: ENGLAND

*Interpretation*

1 In this Schedule—

- (a) “scheme” means council tax reduction scheme under section 13A(2), and
- (b) in relation to a scheme, “the authority” means the billing authority which made the scheme or is under a duty to make it.

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*Matters to be included in schemes*

- 2 (1) A scheme must state the classes of person who are to be entitled to a reduction under the scheme.
- (2) The classes may be determined by reference to, in particular—
  - (a) the income of any person liable to pay council tax to the authority in respect of a dwelling;
  - (b) the capital of any such person;
  - (c) the income and capital of any other person who is a resident of the dwelling;
  - (d) the number of dependants of any person within paragraph (a) or (c);
  - (e) whether the person has made an application for the reduction.
- (3) A scheme must set out the reduction to which persons in each class are to be entitled; and different reductions may be set out for different classes.
- (4) A reduction may be—
  - (a) a discount calculated as a percentage of the amount which would be payable apart from the scheme,
  - (b) a discount of an amount set out in the scheme or to be calculated in accordance with the scheme,
  - (c) expressed as an amount of council tax to be paid (lower than the amount which would be payable apart from the scheme) which is set out in the scheme or is to be calculated in accordance with it, or
  - (d) the whole amount of council tax (so that the amount payable is nil).
- (5) A scheme must state the procedure by which a person may apply for a reduction under the scheme.
- (6) A scheme must state the procedure by which a person can make an appeal under section 16 against any decision of the authority which affects—
  - (a) the person's entitlement to a reduction under the scheme, or
  - (b) the amount of any reduction to which the person is entitled.
- (7) A scheme must state the procedure by which a person can apply to the authority for a reduction under section 13A(1)(c).
- (8) The Secretary of State may by regulations prescribe other requirements for schemes.
- (9) Regulations under sub-paragraph (8) may in particular—
  - (a) require other matters to be included in a scheme;
  - (b) prescribe classes of person which must or must not be included in a scheme;
  - (c) prescribe reductions, including minimum or maximum reductions, which must be applicable to persons in prescribed classes;
  - (d) prescribe requirements which must be met by the procedure mentioned in sub-paragraph (5).
- (10) Regulations under sub-paragraph (8) may in particular set out provision to be included in a scheme that is equivalent to—

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- (a) provision made by a relevant enactment, or
  - (b) provision that is capable of being made under a relevant enactment, with such modifications as the Secretary of State thinks fit.
- (11) Subject to compliance with regulations under sub-paragraph (8), a scheme may make provision that is equivalent to—
- (a) provision made by a relevant enactment, or
  - (b) provision that is capable of being made under a relevant enactment, with such modifications as the authority thinks fit.
- (12) For the purposes of sub-paragraphs (10) and (11), each of the following enactments as it had effect on the day on which the Local Government Finance Act 2012 was passed is a “relevant enactment”—
- (a) sections 131 to 133 of the Social Security Contributions and Benefits Act 1992 (council tax benefit);
  - (b) sections 134 to 137 of that Act (general provisions about income-related benefits) so far as applying in relation to council tax benefit;
  - (c) section 1 of the Social Security Administration Act 1992 (entitlement to benefit dependent on claim) so far as applying in relation to council tax benefit;
  - (d) section 6 of that Act (regulations about council tax benefit administration);
  - (e) sections 32 to 34 of the Welfare Reform Act 2007 (benefit for persons taking up employment) so far as applying in relation to council tax benefit.

#### *Preparation of a scheme*

- 3 (1) Before making a scheme, the authority must (in the following order)—
- (a) consult any major precepting authority which has power to issue a precept to it,
  - (b) publish a draft scheme in such manner as it thinks fit, and
  - (c) consult such other persons as it considers are likely to have an interest in the operation of the scheme.
- (2) The fact that this paragraph was not in force when any step described in sub-paragraph (1) was taken is to be disregarded in determining whether there has been compliance with that sub-paragraph.
- (3) Having made a scheme, the authority must publish it in such manner as the authority thinks fit.
- (4) The Secretary of State may make regulations about the procedure for preparing a scheme.
- (5) Regulations under sub-paragraph (4) may in particular—
- (a) require the authority to produce documents of a particular description in connection with the preparation of a scheme;
  - (b) include requirements as to the form and content of documents produced in connection with the preparation of a scheme;
  - (c) include requirements (in addition to sub-paragraphs (1)(b) and (3)) about the manner in which such documents must be published;

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- (d) require the authority to make copies of such documents available for inspection by members of the public, or to supply copies of such documents to them;
- (e) include provision about the making of reasonable charges for the supply of copies of such documents to members of the public.

*Default scheme*

- 4 (1) The Secretary of State must by regulations prescribe a scheme (“the default scheme”) for the purposes of this paragraph.
- (2) The first financial year to which the default scheme relates must be the year beginning with 1 April 2013 (or such other year as is specified in section 10(4) of the Local Government Finance Act 2012).
- (3) The default scheme must comply with the requirements of—
- (a) paragraph 2(1) to (7), and
  - (b) any regulations under paragraph 2(8).
- (4) The default scheme may in particular make provision that is equivalent to—
- (a) provision made by a relevant enactment, or
  - (b) provision that is capable of being made under a relevant enactment, with such modifications as the Secretary of State thinks fit.
- (5) For the purposes of sub-paragraph (4), each of the following enactments as it had effect on the day on which the Local Government Finance Act 2012 was passed is a “relevant enactment”—
- (a) sections 131 to 133 of the Social Security Contributions and Benefits Act 1992 (council tax benefit);
  - (b) sections 134 to 137 of that Act (general provisions about income-related benefits) so far as applying in relation to council tax benefit;
  - (c) section 1 of the Social Security Administration Act 1992 (entitlement to benefit dependent on claim) so far as applying in relation to council tax benefit;
  - (d) section 6 of that Act (regulations about council tax benefit administration);
  - (e) sections 32 to 34 of the Welfare Reform Act 2007 (benefit for persons taking up employment) so far as applying in relation to council tax benefit.
- (6) The default scheme is to take effect, in respect of dwellings situated in the area of a billing authority, if the authority fails to make a scheme on or before 31 January 2013 (or such other date as is specified in section 10(4) of the Local Government Finance Act 2012).
- (7) If the default scheme takes effect in the area of a billing authority, this Part applies to the default scheme as if it had been made by the authority.

*Revisions to and replacement of scheme*

- 5 (1) For each financial year, each billing authority must consider whether to revise its scheme or to replace it with another scheme.

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- (2) The authority must make any revision to its scheme, or any replacement scheme, no later than 31 January in the financial year preceding that for which the revision or replacement scheme is to have effect.
- (3) The Secretary of State may by order amend sub-paragraph (2) by substituting a different date.
- (4) If any revision to a scheme, or any replacement scheme, has the effect of reducing or removing a reduction to which any class of persons is entitled, the revision or replacement must include such transitional provision relating to that reduction or removal as the authority thinks fit.
- (5) Paragraph 3 applies to an authority when revising a scheme as it applies to an authority when making a scheme.
- (6) References in this Part to a scheme include a replacement scheme.

*Arrangements to deal with shortfall in council tax receipts*

- 6 (1) In this paragraph “scheme authority” means, in relation to a scheme and a year—
  - (a) the billing authority which made the scheme, and
  - (b) any major precepting authority with power to issue a precept to that billing authority in relation to that year.
- (2) Two or more scheme authorities may make arrangements which are to have effect if, as a result of the operation of the scheme—
  - (a) there is a deficit in the billing authority's collection fund for that year, or
  - (b) the billing authority estimates that there will be such a deficit.
- (3) Arrangements under this paragraph may include—
  - (a) the making of payments by one scheme authority to another scheme authority;
  - (b) the variation of any payment or instalment of a payment which is required to be made under regulations under section 99 of the 1988 Act (regulations about funds) that make provision in relation to council tax.

*Provision of information to the Secretary of State*

- 7 (1) The Secretary of State may serve on a billing authority in England a notice requiring it to supply to the Secretary of State such information as is specified in the notice and required by the Secretary of State for the purpose of exercising, or of deciding whether to exercise, any function relating to schemes.
- (2) The authority must supply the information required if it is in its possession or control, and must do so in such form and manner and at such time as the Secretary of State specifies in the notice.
- (3) If an authority fails to comply with sub-paragraph (2), the Secretary of State may exercise the function on the basis of such assumptions and estimates as the Secretary of State thinks fit.

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- (4) In exercising, or deciding whether to exercise, any function relating to schemes, the Secretary of State may also take into account any other available information, whatever its source and whether or not obtained under a provision contained in or made under this or any other Act.

*Guidance*

- 8 In exercising any function relating to schemes, a billing authority must have regard to any guidance issued by the Secretary of State.

*Transitional provision*

- 9 (1) The Secretary of State may by regulations make such transitional provision regarding the commencement of schemes as the Secretary of State thinks fit.
- (2) Such provision may include, in particular, provision for and in connection with treating a person who is or was in receipt of council tax benefit, or who makes or has made a claim for that benefit, as having made an application for a reduction under a scheme.

SCHEDULE 1A

Section 13A

COUNCIL TAX REDUCTION SCHEMES: WALES

*Interpretation*

- 1 In this Schedule—
- (a) “the regulations” means regulations under section 13A(4);
  - (b) “scheme” means council tax reduction scheme under the regulations;
  - (c) “specified” means specified in the regulations;
  - (d) “specified authority” means a person or body required by the regulations to make a scheme (and, in relation to a particular scheme, means the authority which made the scheme or is under a duty to make it).

*Application of schemes*

- 2 (1) The regulations may—
- (a) prescribe, for each scheme that is to be made, the dwellings to which that scheme is to apply;
  - (b) require each scheme to state the dwellings to which it is to apply.
- (2) The regulations may prescribe—
- (a) the date by which each scheme is to be made, and
  - (b) the first financial year to which it must relate.



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### *Persons entitled to reductions*

- 3 (1) The regulations may prescribe—
- (a) classes of person who are to be entitled to a reduction under schemes;
  - (b) classes of person who must not be entitled to a reduction under schemes.
- (2) The regulations may—
- (a) allow specified authorities to determine (subject to regulations under sub-paragraph (1)) classes of person who are to be entitled to a reduction under schemes, or
  - (b) provide that specified authorities may not determine such classes.
- (3) The regulations may require each scheme to state the classes of person (prescribed under sub-paragraph (1)(a) or determined under sub-paragraph (2)(a)) who are to be entitled to a reduction under the scheme.
- (4) Any class of person prescribed under sub-paragraph (1)(a) may be determined by reference to, in particular, the matters listed in sub-paragraph (7).
- (5) The regulations may require any class of person determined under sub-paragraph (2)(a) to be determined by reference to specified matters (which may include those listed in sub-paragraph (7)).
- (6) If the regulations do not require a class of person to be determined as mentioned in sub-paragraph (5), the specified authority may determine that class by reference to, in particular, the matters listed in sub-paragraph (7).
- (7) Those matters are—
- (a) whether the Welsh Ministers consider, or the specified authority considers, any person to be in financial need;
  - (b) the income of any person liable to pay council tax in respect of any dwelling to which a scheme is to apply;
  - (c) the capital of any such person;
  - (d) whether any such person is in receipt of any specified benefit;
  - (e) the income and capital of any other person who is a resident of the dwelling, or whether any such person is in receipt of any specified benefit;
  - (f) the number of dependants of any person within paragraph (b) or (e);
  - (g) whether the person has made an application for the reduction.

### *Reductions*

- 4 (1) The regulations may prescribe reductions, including minimum and maximum reductions, to which persons in each class (whether prescribed under paragraph 3(1)(a) or determined under paragraph 3(2)(a)) are to be entitled under schemes.
- (2) The regulations may—

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- (a) allow specified authorities to determine (subject to regulations under sub-paragraph (1)) reductions to which persons in each class set out in the scheme are to be entitled, or
  - (b) provide that specified authorities may not determine such reductions.
- (3) The regulations may require each scheme to set out the reductions (whether prescribed under sub-paragraph (1) or determined under sub-paragraph (2) (a)) to which persons in each class set out in the scheme are to be entitled.
- (4) Different reductions may be set out for different classes.
- (5) A reduction under a scheme may be—
- (a) a discount calculated as a percentage of the amount which would be payable apart from the scheme,
  - (b) a discount of an amount set out in the scheme or to be calculated in accordance with the scheme,
  - (c) expressed as an amount of council tax to be paid (lower than the amount which would be payable apart from the scheme) which is set out in the scheme or is to be calculated in accordance with it, or
  - (d) the whole amount of council tax (so that the amount payable is nil).

*Other matters*

- 5 (1) The regulations may require each scheme to state—
- (a) the procedure by which a person may apply for a reduction under the scheme;
  - (b) the procedure by which a person can make an appeal under section 16 against any decision which affects the person's entitlement to a reduction under the scheme or the amount of any reduction to which the person is entitled;
  - (c) the procedure by which a person can apply to the relevant billing authority for a reduction under section 13A(1)(c).
- (2) In sub-paragraph (1)(c), the relevant billing authority for any dwelling to which the scheme applies is the billing authority in whose area the dwelling is situated.
- (3) The regulations may prescribe requirements which must be met by the procedure mentioned in sub-paragraph (1)(a) or (b).
- 6 (1) The regulations may—
- (a) require other matters to be included in schemes;
  - (b) allow schemes to make provision that is equivalent to provision made by a relevant enactment, or provision that is capable of being made under a relevant enactment, with such modifications as specified authorities think fit;
  - (c) prescribe the procedure which a specified authority must follow when making a scheme (including requirements regarding consultation and other steps to be taken before and after making the scheme);
  - (d) require or allow functions conferred by the regulations to be exercised by specified authorities jointly with other authorities;

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- (e) prescribe a default scheme which is to take effect, if a specified authority fails to make a scheme in accordance with the regulations, in respect of dwellings to which that scheme would have applied;
  - (f) impose requirements on specified authorities relating to the review, revision or replacement of schemes;
  - (g) enable specified authorities to make reasonable charges for the supply of copies of documents relating to schemes;
  - (h) require specified authorities to provide to the Welsh Ministers information about schemes.
- (2) In particular, the regulations may under sub-paragraph (1)(a) set out provision to be included in schemes, and a default scheme prescribed under sub-paragraph (1)(e) may make provision, that is equivalent to—
- (a) provision made by a relevant enactment, or
  - (b) provision that is capable of being made under a relevant enactment, with such modifications as the Welsh Ministers think fit.
- (3) For the purposes of sub-paragraphs (1)(b) and (2), each of the following enactments as it had effect on the day on which the Local Government Finance Act 2012 was passed is a “relevant enactment”—
- (a) sections 131 to 133 of the Social Security Contributions and Benefits Act 1992 (council tax benefit);
  - (b) sections 134 to 137 of that Act (general provisions about income-related benefits) so far as applying in relation to council tax benefit;
  - (c) section 1 of the Social Security Administration Act 1992 (entitlement to benefit dependent on claim) so far as applying in relation to council tax benefit;
  - (d) section 6 of that Act (regulations about council tax benefit administration);
  - (e) sections 32 to 34 of the Welfare Reform Act 2007 (benefit for persons taking up employment) so far as applying in relation to council tax benefit.

#### *Transitional provision*

- 7 (1) The regulations may make such transitional provision regarding the commencement of schemes as the Welsh Ministers think fit.
- (2) Such provision may include, in particular, provision for and in connection with treating a person who is or was in receipt of council tax benefit, or who makes or has made a claim for that benefit, as having made an application for a reduction under a scheme.

#### *Guidance*

- 8 In exercising any function relating to schemes, a specified authority must have regard to any guidance issued by the Welsh Ministers.”

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## PART 2

### OTHER AMENDMENTS

#### *LGFA 1988*

2 In Part 1 of Schedule 11 to the LGFA 1988 (the Valuation Tribunal for England), after paragraph A18 insert—

*“Power for member of First-tier Tribunal to act as member of the Tribunal*

- A18A (1) A member of the First-tier Tribunal (an “FTT member”) may act as a member of the Valuation Tribunal for England.
- (2) An FTT member may only act as a member of the Tribunal—
- (a) at the request of the President and with the approval of the Senior President of Tribunals,
  - (b) in relation to an appeal that relates, in whole or in part, to a council tax reduction scheme made or having effect as if made by a billing authority in England, and
  - (c) if the FTT member is not disqualified from being, or acting as, a member of the Tribunal.
- (3) A request under sub-paragraph (2)(a)—
- (a) may relate to a particular appeal or to appeals of a particular kind,
  - (b) may be made only if the President thinks that FTT members are likely to have particular expertise that is relevant to the determination of the appeal, or to appeals of the kind, to which it relates.
- (4) An approval under sub-paragraph (2)(a) may relate to a particular appeal or to appeals of a particular kind.
- (5) The President may withdraw a request at any time; and an FTT member acting as a Tribunal member in response to a request must cease to do so if it is withdrawn.
- (6) References in this Schedule and in regulations made under paragraph A19 to a member of the Tribunal include an FTT member acting as a member of the Tribunal.
- (7) But sub-paragraph (6) does not apply—
- (a) to paragraph A7, A8, A9, A10 or A12 (which make provision about the appointment and removal of, numbers of, and payments to, members of the Tribunal);
  - (b) to regulations under paragraph A19, if and to extent that the regulations provide that it does not apply.
- (8) The Valuation Tribunal Service may make payments to the Lord Chancellor in respect of the expenditure incurred by the Lord Chancellor in paying remuneration, allowances or expenses to an FTT member whilst acting as a member of the Tribunal.

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(9) In this paragraph—

- (a) references to an appeal include a review by the Tribunal of a decision made by it on an appeal,
- (b) “council tax reduction scheme” has the same meaning as in Part 1 of the Local Government Finance Act 1992 (see section 13A(9) of that Act).”

*LGFA 1992*

3 The LGFA 1992 is amended as follows.

4 In section 10(1) (basic amount payable), for “13” substitute “ 13A ”.

5 (1) Section 66 (matters to be questioned only by judicial review) is amended as follows.

(2) After subsection (2)(b) insert—

“(ba) a council tax reduction scheme, or any revision of such a scheme;”.

(3) In subsection (3), for “(b) to (e)” substitute “ (b) or (c) to (e) ”.

6 In section 67 (functions to be discharged only by authority), after subsection (2) (a) insert—

“(aa) making or revising a council tax reduction scheme under section 13A(2);”.

7 (1) In Schedule 2 (administration), paragraph 21 (application of Schedule to cases where section 13A applies) is amended as follows.

(2) For sub-paragraph (1) substitute—

“(1) This paragraph applies where—

- (a) a billing authority in England or a specified authority (within the meaning of Schedule 1B) in Wales makes a council tax reduction scheme, or
- (b) a billing authority exercises the power under section 13A(1)(c) by determining a class of case in which liability is to be reduced.”

(3) In sub-paragraphs (2) and (3), after “Where” insert “ the scheme or ”.

*Local Government Act 2003 (c. 26)*

8 The Local Government Act 2003 is amended as follows.

9 Omit section 76 (insertion of section 13A of the LGFA 1992).

10 In section 105(2)(aa) (functions of the Valuation Tribunal Service: payments to members of the Valuation Tribunal for England), after “A14” insert “ or A18A(8) ”.

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**Changes to legislation:**

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