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Local Government Finance Act 1992

1992 CHAPTER 14

PART I

COUNCIL TAX: ENGLAND AND WALES

CHAPTER V

LIMITATION OF COUNCIL TAX AND PRECEPTS

Modifications etc. (not altering text)

- C1** Pt. I Ch. V (ss. 53-64) extended (3.4.1995) by 1994 c. 19, s. 66(7), **Sch. 17 Pt. II para. 21(5)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 21(1), 23(2)); S.I. 1995/852, art. 9(1), **Sch. 5**

Preliminary

53 Authorities subject to designation.

- (1) In this Chapter any reference to an authority is a reference to a billing authority or a relevant precepting authority, that is, a major precepting authority other than the Receiver for the Metropolitan Police District.
- (2) In this Chapter any reference to the amount calculated by an authority as its budget requirement for a financial year is a reference to the amount calculated by it in relation to the year—
 - (a) in the case of a billing authority, under section 32(4) above;
 - (b) in the case of a relevant precepting authority, under section 43(4) above.

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Designation

54 Power to designate authorities.

- (1) As regards a financial year the Secretary of State may designate an authority if in his opinion—
 - (a) the amount calculated by it as its budget requirement for the year is excessive; or
 - (b) there is an excessive increase in the amount so calculated over the amount calculated by it as its budget requirement for the preceding financial year.
- (2) A decision whether to designate an authority shall be made in accordance with principles determined by the Secretary of State and, in the case of an authority falling within any of the classes specified in subsection (3) below, those principles shall be the same either—
 - (a) for all authorities falling within that class; or
 - (b) for all of them which respectively have and have not been designated under this Chapter, or (as the case may be) Part VII of the 1988 Act, as regards the preceding financial year.
- (3) The classes are—
 - (a) councils of metropolitan districts;
 - (b) councils of non-metropolitan districts;
 - (c) councils of inner London boroughs;
 - (d) councils of outer London boroughs;
 - (e) county councils;
 - (f) metropolitan county police authorities and the Northumbria Police Authority; and
 - (g) metropolitan county fire and civil defence authorities.
- (4) Subject to subsection (6) below, any reference in subsection (1) above to the amount calculated by a billing authority as its budget requirement for a financial year shall be construed as a reference to the amount so calculated less the aggregate amount for the year of any precepts—
 - (a) issued to it by local precepting authorities; or
 - (b) anticipated by it in pursuance of regulations under section 41 above, which were taken into account by it in making the calculation under section 32(2) above.
- (5) In construing subsection (1) above any calculation for which another has been substituted at the time designation is proposed shall be ignored.
- (6) The Secretary of State may by order provide that subsection (4) above shall not apply in relation to—
 - (a) any financial year specified in the order; or
 - (b) any other financial year in so far as it provides the basis of comparison for the purposes of subsection (1)(b) above in relation to a year so specified.
- (7) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of the House of Commons.

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Modifications etc. (not altering text)

C2 S. 54(4) modified (E.) (1.2.1993) by S.I. 1993/22, art. 3(3)(c)

55 Special transitional provisions.

- (1) The Secretary of State may specify in a report—
 - (a) as regards the financial year beginning in 1993 and any authority; or
 - (b) as regards any subsequent financial year and any authority whose boundaries or functions have changed or will change at any time during the period consisting of that year and the preceding financial year,the relevant notional amount, that is, the amount which in his opinion should be used as the basis of comparison for the purposes of section 54(1)(b) above in place of the basis of comparison there referred to.
- (2) A report under this section—
 - (a) shall contain such explanation as the Secretary of State considers desirable of the calculation by him of the relevant notional amount; and
 - (b) shall be laid before the House of Commons.
- (3) A report under this section may relate to two or more authorities and may be amended by a subsequent report under this section.
- (4) If a report under this section is approved by resolution of the House of Commons, section 54(1)(b) above shall have effect, as regards the year and any authority to which the report relates, as if the relevant notional amount were the basis of comparison there referred to.

56 Designation of authorities.

- (1) If the Secretary of State decides under section 54 above to designate an authority he shall notify it in writing of—
 - (a) his decision;
 - (b) the principles determined under subsection (2) of that section in relation to it; and
 - (c) the amount which he proposes should be the maximum for the amount calculated by it as its budget requirement for the year.
- (2) A designation—
 - (a) is invalid unless subsection (1) above is complied with; and
 - (b) shall be treated as made at the beginning of the day on which the authority receives a notification under that subsection.
- (3) Where—
 - (a) an authority has been designated under this section; and
 - (b) after the designation is made the authority makes substitute calculations in relation to the year,the substitute calculations shall be invalid unless they are made in accordance with section 60 or (as the case may be) section 61 below.

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- (4) Before the end of the period of 28 days beginning with the day it receives a notification under this section, an authority may inform the Secretary of State by notice in writing that—
 - (a) for reasons stated in the notice, it believes the maximum amount stated under subsection (1)(c) above should be such as the authority states in its notice; or
 - (b) it accepts the maximum amount stated under subsection (1)(c) above.
- (5) References in the following provisions of this Chapter to a designated authority are to an authority designated under this section.

Maximum amounts

57 Challenge of maximum amount.

- (1) This section applies where a designated authority informs the Secretary of State by notice in writing under section 56(4)(a) above.
- (2) After considering any information he thinks is relevant the Secretary of State shall (subject to subsection (5) below) make an order stating the amount which the amount calculated by the authority as its budget requirement for the year is not to exceed.
- (3) Subject to subsection (4) below, the amount stated under subsection (2) above may be the same as, or greater or smaller than, that stated in the notice under section 56(1)(c) above.
- (4) The amount stated under subsection (2) above may not exceed the amount already calculated by the authority as its budget requirement for the year unless, in the Secretary of State's opinion, the authority failed to comply with section 32 or (as the case may be) section 43 above in making the calculation.
- (5) No order under this section shall be made unless a draft of it has been laid before and approved by resolution of the House of Commons.
- (6) An order under this section may relate to two or more authorities.
- (7) As soon as is reasonably practicable after an order under this section is made the Secretary of State shall serve on the authority (or each authority) a notice stating the amount stated in the case of the authority in the order.
- (8) When he serves a notice under subsection (7) above on a precepting authority the Secretary of State shall also serve a copy of it on each billing authority to which the precepting authority has power to issue a precept.
- (9) In construing subsection (4) above any calculation for which another has been substituted at the time of designation shall be ignored.

58 Acceptance of maximum amount.

- (1) This section applies where a designated authority informs the Secretary of State by notice in writing under section 56(4)(b) above.
- (2) As soon as is reasonably practicable after he receives the notice the Secretary of State shall serve on the authority a notice stating the amount which the amount calculated

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by it as its budget requirement for the year is not to exceed; and the amount stated shall be that stated in the notice under section 56(1)(c) above.

- (3) When he serves a notice under subsection (2) above on a precepting authority, the Secretary of State shall also serve a copy of it on each billing authority to which the precepting authority has power to issue a precept.

59 No challenge or acceptance.

- (1) This section applies where the period mentioned in subsection (4) of section 56 above ends without a designated authority informing the Secretary of State by notice in writing under paragraph (a) or (b) of that subsection.
- (2) As soon as is reasonably practicable after the period ends the Secretary of State shall (subject to subsection (3) below) make an order stating the amount which the amount calculated by the authority as its budget requirement for the year is not to exceed; and the amount stated shall be that stated in the notice under section 56(1)(c) above.
- (3) No order under this section shall be made unless a draft of it has been laid before and approved by resolution of the House of Commons.
- (4) An order under this section may relate to two or more authorities.
- (5) As soon as is reasonably practicable after an order under this section is made the Secretary of State shall serve on the authority (or each authority) a notice stating the amount stated in the case of the authority in the order.
- (6) When he serves a notice under subsection (5) above on a precepting authority, the Secretary of State shall also serve a copy of it on each billing authority to which the precepting authority has power to issue a precept.

Substitute calculations

60 Duty of designated billing authority.

- (1) Where a billing authority has received a notice under section 57(7), 58(2) or 59(5) above, it shall make substitute calculations in relation to the year in accordance with sections 32 to 36 above, ignoring section 32(10) above for this purpose.
- (2) The substitute calculations shall be made so as to secure—
 - (a) that the amount calculated by the authority as its budget requirement for the year does not exceed that stated in the notice; and
 - (b) subject to subsection (3) below, that any amount calculated under section 33(1) or 34(2) or (3) above as the basic amount of council tax applicable to any dwelling does not exceed that so calculated in the previous calculations.
- (3) Subsection (2)(b) above does not apply in any case where the amount stated in the notice exceeds that already calculated by the authority as its budget requirement for the year.
- (4) In making substitute calculations under section 33(1) or 34(3) above, the authority must use any amount determined in the previous calculations for item P or T in section 33(1) above or item TP in section 34(3) above.

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- (5) For the purposes of subsection (4) above, the authority may treat any amount determined in the previous calculations for item P in section 33(1) above as increased by the amount of any sum which—
- (a) it estimates will be payable for the year into its general fund in respect of additional grant; and
 - (b) was not taken into account by it in making those calculations.

61 Duty of designated precepting authority.

- (1) Where a relevant precepting authority has received a notice under section 57(7), 58(2) or 59(5) above, it shall make substitute calculations in relation to the year in accordance with sections 43 to 48 above.
- (2) The substitute calculations shall be made so as to secure—
 - (a) that the amount calculated by the authority as its budget requirement for the year does not exceed that stated in the notice; and
 - (b) subject to subsection (3) below, that any amount calculated under section 44(1) or 45(2) or (3) above as the basic amount of council tax applicable to any dwelling does not exceed that so calculated in the previous calculations.
- (3) Subsection (2)(b) above does not apply in any case where the amount stated in the notice exceeds that already calculated by the authority as its budget requirement for the year.
- (4) In making substitute calculations under section 44(1) or 45(3) above, the authority must use any amount determined in the previous calculations for item P or T in section 44(1) above or item TP in section 45(3) above.
- (5) For the purposes of subsection (4) above, the authority may treat any amount determined in the previous calculations for item P in section 44(1) above as increased by the amount of any sum which—
 - (a) it estimates will be payable to it for the year in respect of additional grant; and
 - (b) was not taken into account by it in making those calculations.

62 Failure to substitute.

- (1) This section applies if an authority which has received a notice under section 57(7), 58(2) or 59(5) above fails to comply with section 60 or (as the case may be) section 61 above before the end of the period of 21 days beginning with the day on which it receives the notice.
- (2) In the case of a billing authority, it shall have no power during the period of restriction to transfer any amount from its collection fund to its general fund and sections 97 and 98 of the 1988 Act (transfers between funds) shall have effect accordingly.
- (3) In the case of a relevant precepting authority, any authority to which it has power to issue a precept shall have no power during the period of restriction to pay anything in respect of a precept issued by it for the year.
- (4) For the purposes of this section the period of restriction is the period which—
 - (a) begins at the end of the period mentioned in subsection (1) above; and

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- (b) ends at the time (if any) when the authority complies with section 60 or 61 above.

Supplemental

63 Separate administration in England and Wales.

- (1) This Chapter shall be read as applying separately, and be administered separately, in England and Wales.
- (2) In particular, for England and Wales respectively separate principles shall be determined under section 54(2) above.
- (3) This Chapter shall be construed accordingly so that (for instance) references to authorities shall be read as references to those in England or Wales, as the case may be.

64 Information for purposes of Chapter V.

- (1) An authority shall notify the Secretary of State in writing of any amount calculated by it as its budget requirement for a financial year, whether originally or by way of substitute.
- (2) A billing authority shall also notify the Secretary of State in writing of the aggregate amount for any financial year of any precepts—
 - (a) issued to it by local precepting authorities; or
 - (b) anticipated by it in pursuance of regulations under section 41 above, which were taken into account by it in making a calculation in relation to the year under section 32(2) above.
- (3) A notification under subsection (1) or (2) above must be given before the end of the period of seven days beginning with the day on which the calculation was made.
- (4) The Secretary of State may serve on an authority a notice requiring it to supply to him such other information as is specified in the notice and required by him for the purpose of deciding whether to exercise his powers, and how to perform his functions, under this Chapter.
- (5) The authority shall supply the information required if it is in its possession or control, and shall do so in such form and manner, and at such time, as the Secretary of State specifies in the notice.
- (6) An authority may be required under subsection (4) above to supply information at the same time as it gives a notification under subsection (1) or (2) above or at some other time.
- (7) If an authority fails to comply with subsection (1) or (2) above, or with subsection (5) above, the Secretary of State may decide whether to exercise his powers, and how to perform his functions, under this Chapter on the basis of such assumptions and estimates as he sees fit.
- (8) In deciding whether to exercise his powers, and how to perform his functions, under this Chapter the Secretary of State may also take into account any other information available to him, whatever its source and whether or not obtained under a provision contained in or made under this or any other Act.

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