



# Local Government (Wales) Act 1994

## 1994 CHAPTER 19

### PART IV

#### FINANCE

#### **38 Council funds for new principal councils.**

- (1) Each new principal council shall establish, and then maintain, a fund to be known as their council fund.
- (2) Any sums received by a new principal council shall be paid into their council fund.
- (3) All payments by a new principal council shall be made out of their council fund.
- (4) Subsections (2) and (3) do not apply in relation to any sums to be paid into, or payments to be made out of, a trust fund.
- (5) Section 101(1)(b) of the 1972 Act (delegation) shall not apply as regards the functions of a new principal council in relation to their council fund.
- (6) Each new principal council shall keep accounts of sums paid into, and of payments made out of, their council fund.
- (7) Any account kept only in respect of the general expenses of a new principal council shall be known as their general account and any account kept only in respect of any class of their special expenses shall be known as a special account.
- (8) The Secretary of State may make regulations—
  - (a) requiring assets of a prescribed description which fall within a council fund to be held in a separate fund within the council fund;
  - (b) requiring any fund (other than a trust fund) of a prescribed description which is established by a new principal council to be maintained as a separate fund within their council fund.
- (9) The Secretary of State may by regulations make provision with respect to the liability of new principal councils to make payments from their council funds in respect of

*Changes to legislation: There are currently no known outstanding effects for the Local Government (Wales) Act 1994, Section 38. (See end of Document for details)*

precepts issued under Chapter IV of Part I of the <sup>M1</sup>Local Government Finance Act 1992.

[<sup>F1</sup>(9A) The National Assembly for Wales may by regulations make provision for the sharing among a new principal council and major precepting authorities, in accordance with rules specified in the regulations, of an amount equal to all or part of any deduction that, in accordance with provision under paragraph 4(4A) of Schedule 8 to the Local Government Finance Act 1988 (local retention of rates), falls to be made in calculating the council’s non-domestic rating contribution for a financial year.]

- (10) [<sup>F2</sup>Regulations under subsection (9) or (9A)] may, in particular, include provision—
- (a) that anything falling to be paid must be paid—
    - (i) within a prescribed period; and
    - (ii) in instalments of such amounts, and at such times, as are determined by the billing authority in accordance with prescribed rules;
  - (b) that the billing authority must inform any precepting authorities when instalments will be paid and how they are to be calculated;
  - (c) that if an instalment is not paid to a precepting authority in accordance with the regulations, it is to be entitled to interest on the amount of the instalment;
  - (d) as to the circumstances in which the billing authority is to be treated as having discharged the liability mentioned in subsection (9) [<sup>F3</sup>or any liability arising under subsection (9A)];
  - (e) as to the recovery (by deduction or otherwise) of any excess amount paid by the billing authority to any precepting authority in purported discharge of the liability mentioned in subsection (9) [<sup>F3</sup>or any liability arising under subsection (9A)].

(11) Schedule 12 makes minor and consequential amendments with respect to funds.

[<sup>F4</sup>(12) In subsection (9A) “major precepting authority” has the meaning given by section 39(1) of the Local Government Finance Act 1992.]

#### Textual Amendments

- F1** S. 38(9A) inserted (27.11.2003) by [Local Government Act 2003 \(c. 26\)](#), **ss. 70(7)**, 128; S.I. 2003/3034, **art. 2(1)**, Sch. 1 Pt. 1
- F2** Words in s. 38(10) substituted (27.11.2003) by [Local Government Act 2003 \(c. 26\)](#), **ss. 70(8)(a)**, 128; S.I. 2003/3034, **art. 2(1)**, Sch. 1 Pt. 1
- F3** Words in s. 38(10)(d)(e) inserted (27.11.2003) by [Local Government Act 2003 \(c. 26\)](#), **ss. 70(8)(b)**, 128; S.I. 2003/3034, **art. 2(1)**, Sch. 1 Pt. 1
- F4** S. 38(12) inserted (27.11.2003) by [Local Government Act 2003 \(c. 26\)](#), **ss. 70(9)**, 128; S.I. 2003/3034, **art. 2(1)**, Sch. 1 Pt. 1

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

- C1** S. 38: transfer of functions (1.7.1999) by S.I. 1999/672, **art. 2**, **Sch. 1**

#### Commencement Information

- I1** S. 38 wholly in force at 3.4.1995, see s. 66 and S.I. 1995/852, **art. 6(1)** (subject to **art. 6(2)-(5)**)

#### Marginal Citations

- M1** 1992 c. 14.

**Changes to legislation:**

There are currently no known outstanding effects for the Local Government (Wales) Act 1994, Section 38.