

SCHEDULES

SCHEDULE 8

Section 60.

NON-DOMESTIC RATING: POOLING

PART I

NON-DOMESTIC RATING ACCOUNTS

The accounts

- 1 (1) In accordance with this Schedule the Secretary of State shall keep for each chargeable financial year an account (to be called a non-domestic rating account).
- (2) The Secretary of State—
 - (a) shall keep each account in such form as the Treasury may direct, and
 - (b) shall at such time as the Treasury may direct send copies of each account to the Comptroller and Auditor General.
- (3) The Comptroller and Auditor General shall examine, certify and report on any account of which copies are sent to him under sub-paragraph (2) above and shall lay copies of the account and of his report before each House of Parliament.

Credits and debits

- 2 (1) For each chargeable financial year the following shall be credited (as items of account) to the account kept for the year—
 - (a) sums received by the Secretary of State in the year under section 54 above,
 - (b) sums received by him in the year under regulations made under section 59(2) above, and
 - (c) sums received by him in the year under paragraph 5 below.
- (2) For each chargeable financial year the following shall be debited (as items of account) to the account kept for the year—
 - (a) payments made by the Secretary of State in the year under paragraph 5(10) below or under regulations made under paragraph 6(5) below, and
 - (b) payments made by him in the year under paragraph 9, 12, or 13 below (as the case may be).
- 3 (1) As soon as is reasonably practicable after the end of each chargeable financial year the Secretary of State shall calculate the following—
 - (a) the aggregate of the items of account credited to the account kept for the year, and
 - (b) the aggregate of the items of account debited to the account kept for the year.

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

PART II

CONTRIBUTION

Non-domestic rating contributions

- 4 (1) The Secretary of State may make regulations containing rules for the calculation of an amount for a chargeable financial year in relation to each charging authority (to be called its non-domestic rating contribution for the year).
- (2) The rules shall be so framed that the amount calculated under them in relation to an authority is broadly the same as the total which, if the authority acted diligently, would be payable to it in respect of the year under sections 43 and 45 above.
- (3) Sub-paragraph (2) above shall not apply in the case of a special authority, but the rules shall be so framed that the amount calculated under them in relation to the authority is broadly the same as the total which would be payable to it in respect of the year under sections 43 and 45 above if—
 - (a) the authority's non-domestic rating multiplier for the year was equal to the required minimum for the year, and
 - (b) the authority acted diligently.
- (4) For the purposes of sub-paragraph (3) above the required minimum for the year is the required minimum for the year as found for the purposes of paragraph 9(3) of Schedule 7 above.
- (5) The Secretary of State may incorporate in the rules provision for deductions (of such extent as he thinks fit) as regards—
 - (a) the operation of sections 47 and 49 above;
 - (b) costs of collection and recovery;
 - (c) such other matters (if any) as he thinks fit;
 and sub-paragraphs (2) and (3) above shall have effect subject to this.
- (6) Regulations under this paragraph in their application to a particular financial year (including regulations amending or revoking others) shall not be effective unless they come into force before 1 January in the preceding financial year.
- 5 (1) This paragraph applies where regulations under paragraph 4 above are in force for a chargeable financial year.

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- (2) By such time before the year begins as the Secretary of State may direct, a charging authority shall calculate the amount of its non-domestic rating contribution for the year and shall notify the amount to the Secretary of State.
 - (3) If the authority fails to comply with sub-paragraph (2) above or if the Secretary of State believes the amount notified is not likely to have been calculated in accordance with the regulations he may make his own calculation of the amount; and where he makes such a calculation he shall inform the authority why he has done so and shall inform it of the amount calculated.
 - (4) The authority shall be liable to pay to the Secretary of State an amount (the provisional amount) equal to—
 - (a) that calculated and notified under sub-paragraph (2) above, or
 - (b) if sub-paragraph (3) above applies, that calculated by the Secretary of State under it.
 - (5) The authority shall pay the provisional amount during the course of the year, in such instalments and at such times as the Secretary of State may direct.
 - (6) After the year ends the authority shall—
 - (a) calculate the amount of its non-domestic rating contribution for the year,
 - (b) arrange for the calculation and the amount to be certified under arrangements made by the Audit Commission for Local Authorities in England and Wales, and
 - (c) notify the amount to the Secretary of State, and send to him a copy of the certification of the calculation and the amount.
 - (7) If the authority fails to comply with sub-paragraph (6) above by such time as the Secretary of State directs, he may suspend payments which would otherwise fall to be made to the authority under the relevant provisions (within the meaning given by paragraph 6(7) below); but if the authority then complies with the sub-paragraph he shall resume payments falling to be made to the authority under the relevant provisions and make payments to it equal to those suspended.
 - (8) If, at any time after the year ends, the Secretary of State receives notification from an authority under sub-paragraph (6)(c) above he shall—
 - (a) calculate the amount of the difference (if any) between the amount notified and the provisional amount, and
 - (b) if there is a difference, inform the authority of the amount of the difference.
 - (9) If the amount notified under sub-paragraph (6)(c) above exceeds the provisional amount the authority shall pay an amount equal to the difference to the Secretary of State at such time as he may direct.
 - (10) If the amount notified under sub-paragraph (6)(c) above is less than the provisional amount the Secretary of State shall pay an amount equal to the difference to the authority; and the amount shall be paid at such time as he decides with the Treasury's approval.
- 6 (1) Any calculation under paragraph 5 above of the amount of an authority's non-domestic rating contribution for a year shall be made in accordance with the regulations under paragraph 4 above.

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- (2) Such a calculation shall be made on the basis of the information before the person making the calculation at the time he makes it; but regulations under paragraph 4 above may include provision requiring a calculation under paragraph 5(2) or (3) above to be made on the basis of that information read subject to prescribed assumptions.
- (3) The power to give a direction under paragraph 5 above—
 - (a) includes power to revoke or amend a direction given under the power;
 - (b) may be exercised differently for different authorities.
- (4) A direction under paragraph 5(5) above is ineffective unless given with the Treasury's consent.
- (5) The Secretary of State may make regulations providing that, once the provisional amount has been arrived at under paragraph 5 above as regards an authority for a financial year and if prescribed conditions are fulfilled, the provisional amount is to be treated for the purposes of that paragraph as being an amount smaller than it would otherwise be.
- (6) Regulations under sub-paragraph (5) above may include—
 - (a) provision as to the re-calculation of the provisional amount, including provision for the procedure to be adopted for re-calculation if the prescribed conditions are fulfilled;
 - (b) provision as to financial adjustments to be made as a result of any re-calculation, including provision for the making of reduced payments under paragraph 5 above or of repayments.
- (7) For the purposes of paragraph 5(7) above the relevant provisions are—
 - (a) paragraph 5(10) above,
 - (b) regulations made under sub-paragraph (5) above, and
 - (c) paragraphs 9, 12 and 13 below.

Recovery

- 7 Where an amount has become payable under any provision of or made under this Part of this Schedule, and it has not been paid, it shall be recoverable in a court of competent jurisdiction.

PART III

DISTRIBUTION

Distributable amount

- 8 (1) Before a chargeable financial year begins the Secretary of State shall estimate—
 - (a) the aggregate of the items of account which will be credited to the account kept for the year, and
 - (b) the aggregate of the items of account which will be debited to the account kept for the year under paragraphs 2(2)(a) and 3(3)(b) above.
- (2) In making any estimate under sub-paragraph (1) above the Secretary of State may make such assumptions as he sees fit.

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- (3) If the aggregate estimated under sub-paragraph (1)(a) above exceeds the aggregate estimated under sub-paragraph (1)(b) above the Secretary of State shall calculate the amount equal to the difference.
- (4) In the revenue support grant report for the year the Secretary of State shall specify the amount arrived at under this paragraph (the distributable amount for the year).

Distribution: England

- 9 (1) This paragraph has effect in the application of this Schedule to England.
- (2) If the revenue support grant report for a chargeable financial year is approved by resolution of the House of Commons, as soon as is reasonably practicable after the report is approved the Secretary of State shall calculate an amount in relation to each charging authority by reference to the formula—

$$\frac{A \times B}{C}$$

- (3) A is an amount equal to the distributable amount for the year.
- (4) B is the relevant population of the authority.
- (5) C is the aggregate of the relevant populations of all charging authorities.
- (6) The relevant population in relation to an authority shall be calculated by—
 - (a) taking the number of those members of the population of the authority's area who fall within such description as is specified in regulations made by the Secretary of State, and
 - (b) making such adjustments (if any) by way of addition or subtraction (or both) as are specified in, or calculated in a manner specified in, the regulations.
- (7) As regards each authority the calculation shall be made to the nearest £100 in accordance with the following rules—
 - (a) where (apart from this sub-paragraph and after taking into account each complete £100) there would be an excess of more than £50, the excess shall be made up to £100, and
 - (b) where (apart from this sub-paragraph and after taking into account each complete £100) there would be an excess of £50 or less, the excess shall be ignored.
- (8) As soon as is reasonably practicable after making the calculation the Secretary of State shall inform each charging authority of the amount which he calculates in relation to it.
- (9) The Secretary of State shall pay to each authority the amount calculated in relation to it.
- (10) The amount shall be paid to the authority during the course of the year concerned, in such instalments and at such times as he decides with the Treasury's approval.

Distribution: Wales

- 10 Paragraphs 11 to 15 below have effect in the application of this Schedule to Wales.

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- 11 (1) As soon as is reasonably practicable after the distributable amount for a chargeable financial year has been arrived at, the Secretary of State shall calculate how much of it he proposes to pay to county councils (the county share for the year) and how much of it he proposes to pay to district councils (the district share for the year).
- (2) The calculation shall be made in accordance with the basis of division for the time being effective (as regards the year) under paragraph 15 below.
- (3) In the revenue support grant report for the year the Secretary of State shall specify the county and district shares.

- 12 (1) If the revenue support grant report for a chargeable financial year is approved by resolution of the House of Commons, as soon as is reasonably practicable after the report is approved the Secretary of State shall calculate an amount in relation to each county council and each district council by reference to the formula—

$$\frac{A \times B}{C}$$

- (2) In the case of a county council A is an amount equal to the county share for the year and C is the aggregate of the relevant populations of all county councils.
- (3) In the case of a district council A is an amount equal to the district share for the year and C is the aggregate of the relevant populations of all district councils.
- (4) B is the relevant population of the council.
- (5) The relevant population in relation to a council shall be calculated by—
- (a) taking the number of those members of the population of the council's area who fall within such description as is specified in regulations made by the Secretary of State, and
 - (b) making such adjustments (if any) by way of addition or subtraction (or both) as are specified in, or calculated in a manner specified in, the regulations.
- (6) As regards each council the calculation shall be made to the nearest £100 in accordance with the following rules—
- (a) where (apart from this sub-paragraph and after taking into account each complete £100) there would be an excess of more than £50, the excess shall be made up to £100, and
 - (b) where (apart from this sub-paragraph and after taking into account each complete £100) there would be an excess of £50 or less, the excess shall be ignored.
- (7) As soon as is reasonably practicable after making the calculation the Secretary of State shall inform each county council and each district council of the amount which he calculates in relation to it.
- (8) The Secretary of State shall pay to each council the amount calculated in relation to it.
- (9) The amount shall be paid to the council during the course of the year concerned, in such instalments and at such times as he decides with the Treasury's approval.
- 13 (1) This paragraph has effect in relation to a transitional year.
- (2) If the revenue support grant report for the year is approved by resolution of the House of Commons, as soon as is reasonably practicable after the report is approved

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the Secretary of State shall decide whether paragraph 12 above is to have effect in relation to the year.

- (3) If he decides that it is not to have effect he shall as soon as is reasonably practicable calculate—
 - (a) what amount of the county share for the year he proposes to pay to each county council, and
 - (b) what amount of the district share for the year he proposes to pay to each district council.
- (4) The calculations may be made by reference to such factors as the Secretary of State thinks fit.
- (5) As soon as is reasonably practicable after making the calculations the Secretary of State shall inform each county council and each district council of the amount which he calculates in relation to it.
- (6) The Secretary of State shall pay to each council the amount calculated in relation to it.
- (7) The amount shall be paid to the council at such time, or in instalments of such amounts and at such times, as the Secretary of State decides with the Treasury's approval; but any such time must fall within the year concerned.
- 14 (1) The Secretary of State shall make a report containing the basis on which he proposes to divide the distributable amount for a chargeable financial year between county councils (on the one hand) and district councils (on the other).
- (2) Before making the report the Secretary of State shall notify to such representatives of local government as appear to him to be appropriate the general nature of its intended contents.
- (3) The report shall be laid before the House of Commons.
- (4) As soon as is reasonably practicable after the report is laid before the House of Commons the Secretary of State shall send a copy of it to each county council and each district council.
- (5) After making the report the Secretary of State may make a further report or reports, and any such report—
 - (a) may replace any previous report under this paragraph, or
 - (b) may amend any previous report under this paragraph.
- (6) A report under sub-paragraph (5)(a) above shall contain a revised basis on which the Secretary of State proposes to divide the distributable amount.
- (7) A report under sub-paragraph (5)(b) above shall contain amendments to the basis contained in the report which it amends.
- (8) Sub-paragraphs (2) to (4) above shall apply to any report under sub-paragraph (5) above as they apply to one under sub-paragraph (1) above.
- (9) A report under this paragraph shall state the day on which it is to come into force and the first financial year for which it is to operate.
- 15 (1) This paragraph applies where in accordance with paragraph 14 above a report has been made and laid before the House of Commons.

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- (2) If the report is approved by resolution of the House of Commons it shall come into force on the day stated in the report.
- (3) If the report is made under paragraph 14(1) or (5)(a), on and after the day it comes into force the basis it contains shall have effect as regards all chargeable financial years beginning with the first financial year for which it states it is to operate; but this is subject to the effect of any subsequent report under paragraph 14(5).
- (4) If the report is made under paragraph 14(5)(b), on and after the day it comes into force the basis it amends read subject to the amendments shall have effect as regards all chargeable financial years beginning with the first financial year for which it states it is to operate; but this is subject to the effect of any subsequent report under paragraph 14(5).

Recovery

- 16 Where an amount has become payable under any provision of this Part of this Schedule, and it has not been paid, it shall be recoverable in a court of competent jurisdiction.