



Local Government Finance Act 1992

1992 CHAPTER 14

PART I

COUNCIL TAX: ENGLAND AND WALES

CHAPTER IV

PRECEPTS

Preliminary

39 Precepting and precepted authorities

- (1) Each of the following is a major precepting authority for the purposes of this Part, namely—
 - (a) a county council;
 - (b) a metropolitan county police authority;
 - (c) the Northumbria Police Authority;
 - (d) a metropolitan county fire and civil defence authority;
 - (e) the London Fire and Civil Defence Authority; and
 - (f) the Receiver for the Metropolitan Police District.
- (2) Each of the following is a local precepting authority for the purposes of this Part, namely—
 - (a) the sub-treasurer of the Inner Temple;
 - (b) the under-treasurer of the Middle Temple;
 - (c) a parish or community council;
 - (d) the chairman of a parish meeting; and
 - (e) charter trustees.
- (3) A precept may only be issued to an appropriate billing authority.

Status: This is the original version (as it was originally enacted).

- (4) If the whole or part of a billing authority's area falls within a precepting authority's area, it is an appropriate billing authority in relation to the precepting authority to the extent of the area which so falls.

Issue of precepts

40 Issue of precepts by major precepting authorities

- (1) For each financial year a major precepting authority shall issue a precept or precepts in accordance with this section.
- (2) A precept issued to a billing authority under this section must state—
- (a) the amount which, in relation to the year and each category of dwellings in the billing authority's area, has been calculated (or last calculated) by the precepting authority in accordance with sections 43 to 47 below; and
 - (b) the amount which has been calculated (or last calculated) by the precepting authority in accordance with section 48 below as the amount payable by the billing authority for the year.
- (3) Dwellings fall within different categories for the purposes of subsection (2) above according as different calculations have been made in relation to them in accordance with sections 43 to 47 below.
- (4) A major precepting authority shall assume for the purposes of subsection (2) above that each of the valuation bands is shown in the billing authority's valuation list as applicable to one or more dwellings situated in its area or (as the case may be) each part of its area as respects which different calculations have been so made.
- (5) A precept under this section must be issued before 1st March in the financial year preceding that for which it is issued, but is not invalid merely because it is issued on or after that date.
- (6) No such precept may be issued to a billing authority before the earlier of the following—
- (a) the earliest date on which, for the financial year for which the precept is issued, each of the periods prescribed for the purposes of item T in section 33(1) above, item T in section 44(1) below and item TP in section 45(3) below has expired;
 - (b) the earliest date on which, for that year, each billing authority has notified its calculations for the purposes of those items to the precepting authority.
- (7) No such precept may be issued unless the precepting authority has made in relation to the year the calculations required by this Chapter.
- (8) A purported issue of such a precept, if done in contravention of subsection (6) or (7) above, shall be treated as not having occurred.

41 Issue of precepts by local precepting authorities

- (1) For each financial year a local precepting authority may issue a precept in accordance with this section.

- (2) A precept issued to a billing authority under this section must state, as the amount payable by that authority for the year, the amount which has been calculated (or last calculated) by the precepting authority under section 50 below as its budget requirement for the year.
- (3) The Secretary of State may by regulations make provision that a billing authority making calculations in accordance with section 32 above (originally or by way of substitute) may anticipate a precept under this section; and the regulations may include provision as to—
 - (a) the amounts which may be anticipated by billing authorities in pursuance of the regulations;
 - (b) the sums (if any) to be paid by such authorities in respect of amounts anticipated by them; and
 - (c) the sums (if any) to be paid by such authorities in respect of amounts not anticipated by them.
- (4) A precept under this section must be issued before 1st March in the financial year preceding that for which it is issued, but is not invalid merely because it is issued on or after that date.

42 Substituted precepts

- (1) Where—
 - (a) a precepting authority has issued a precept or precepts for a financial year (originally or by way of substitute); and
 - (b) at any later time it makes substitute calculations under section 49 or 61 or (as the case may be) section 51 below,it shall as soon as reasonably practicable after that time issue a precept or precepts in substitution so as to give effect to those calculations.
- (2) Any precept issued in substitution under subsection (1) above must be issued in accordance with section 40 or (as the case may be) section 41 above, but subsection (5) of section 40 and subsection (4) of section 41 shall be ignored for this purpose.
- (3) Where a precepting authority issues a precept in substitution (a new precept) anything paid to it by reference to the precept for which it is substituted (the old precept) shall be treated as paid by reference to the new precept.
- (4) If the amount stated in the old precept exceeds that of the new precept, the following shall apply as regards anything paid if it would not have been paid had the amount of the old precept been the same as that of the new precept—
 - (a) it shall be repaid if the billing authority by whom it was paid so requires;
 - (b) in any other case it shall (as the precepting authority determines) either be repaid or be credited against any subsequent liability of the billing authority in respect of any precept of the precepting authority.
- (5) Any reference in subsection (4) above to the amount stated in a precept shall be construed, in relation to a precept issued by a major precepting authority, as a reference to the amount stated in the precept in accordance with section 40(2)(b) above.

Status: This is the original version (as it was originally enacted).

Calculations by major precepting authorities

43 Calculation of budget requirement

- (1) In relation to each financial year a major precepting authority shall make the calculations required by this section.
- (2) The authority must calculate the aggregate of—
 - (a) the expenditure the authority estimates it will incur in the year in performing its functions and will charge to a revenue account for the year, other than expenditure which it estimates will be so incurred in pursuance of regulations under section 99(3) of the 1988 Act;
 - (b) such allowance as the authority estimates will be appropriate for contingencies in relation to expenditure to be charged to a revenue account for the year;
 - (c) the financial reserves which the authority estimates it will be appropriate to raise in the year for meeting its estimated future expenditure; and
 - (d) such financial reserves as are sufficient to meet so much of the amount estimated by the authority to be a revenue account deficit for any earlier financial year as has not already been provided for.
- (3) The authority must calculate the aggregate of—
 - (a) the sums which it estimates will be payable to it for the year and in respect of which amounts will be credited to a revenue account for the year, other than sums which it estimates will be so payable in respect of redistributed non-domestic rates, revenue support grant or additional grant or any precept issued by it, or in pursuance of regulations under section 99(3) of the 1988 Act; and
 - (b) the amount of the financial reserves which the authority estimates that it will use in order to provide for the items mentioned in paragraphs (a) and (b) of subsection (2) above.
- (4) If the aggregate calculated under subsection (2) above exceeds that calculated under subsection (3) above, the authority must calculate the amount equal to the difference; and the amount so calculated shall be its budget requirement for the year.
- (5) In estimating under subsection (2)(a) above an authority which is a county council shall take into account the amount of any levy issued to it for the year but (except as provided by regulations under section 74 of the 1988 Act) shall not anticipate a levy not issued.
- (6) For the purposes of subsection (2)(c) above an authority's estimated future expenditure is—
 - (a) that which the authority estimates it will incur in the financial year following the year in question, will charge to a revenue account for the year and will have to defray in the year before the following sums are sufficiently available, namely, sums—
 - (i) which will be payable to it for the year; and
 - (ii) in respect of which amounts will be credited to a revenue account for the year; and
 - (b) that which the authority estimates it will incur in the financial year referred to in paragraph (a) above or any subsequent financial year in performing its functions and which will be charged to a revenue account for that or any other year.

- (7) The Secretary of State may by regulations do one or both of the following—
- (a) alter the constituents of any calculation to be made under subsection (2) or (3) above (whether by adding, deleting or amending items);
 - (b) alter the rules governing the making of any calculation under subsection (2) or (3) above (whether by deleting or amending subsections (5) and (6) above, or either of them, or by adding other provisions, or by a combination of those methods).
- (8) References in this section to expenditure incurred by an authority shall be construed in accordance with section 41(3) of the Local Government and Housing Act 1989.

44 Calculation of basic amount of tax

- (1) In relation to each financial year a major precepting authority shall calculate the basic amount of its council tax by applying the formula—

$$\frac{R - P}{T}$$

where—

R is the amount calculated (or last calculated) by the authority under section 43(4) above as its budget requirement for the year;

P is the aggregate of the sums which the authority estimates will be payable to it for the year in respect of redistributed non-domestic rates, revenue support grant or additional grant;

T is the aggregate of the amounts which are calculated by the billing authorities to which the authority issues precepts (“the billing authorities concerned”) as their council tax bases for the year for their areas, or (as the case may require) for the parts of their areas falling within the authority’s area, and are notified by them to the authority within the prescribed period.

- (2) Where the aggregate calculated (or last calculated) by the authority for the year under subsection (2) of section 43 above does not exceed that so calculated under subsection (3) of that section, the amount for item R in subsection (1) above shall be nil.
- (3) The aggregate of the sums mentioned in item P in subsection (1) above shall be—
- (a) increased by the aggregate amount of any sums which the authority estimates will be paid to it in the year by billing authorities in accordance with regulations under section 99(3) of the 1988 Act; and
 - (b) reduced by the aggregate amount of any sums which the authority estimates will be paid by it in the year to billing authorities in accordance with such regulations.
- (4) Regulations under section 43(7) above may make such consequential alterations of the constituents of any calculation required by item P in subsection (1) above or subsection (3) above (whether by adding, deleting or amending items) as appear to the Secretary of State to be necessary or expedient.
- (5) The Secretary of State shall make regulations containing rules for making for any year the calculations required by item T in subsection (1) above; and the billing authorities concerned shall make the calculations for any year in accordance with the rules for the time being effective (as regards the year) under the regulations.

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- (6) Regulations prescribing a period for the purposes of item T in subsection (1) above may provide that, in any case where a billing authority fails to notify its calculation to the precepting authority within that period, that item shall be determined in the prescribed manner by such authority or authorities as may be prescribed.
- (7) Any negative amount given by a calculation under subsection (1) above shall be assumed to be nil for the purposes of this Chapter.

45 Additional calculations where special items relate to part only of area

- (1) This section applies where for any financial year an item mentioned in section 46(1) below relates to a part only of a major precepting authority's area; and in this section "special item" means any such item which so relates and "the relevant part", in relation to such an item, means the part concerned.
- (2) The authority shall calculate the basic amount of its council tax for dwellings in a part of its area to which no special item relates by applying the formula—

$$\mathbf{B} - \frac{\mathbf{A}}{\mathbf{T}}$$

where—

B is the amount calculated (or last calculated) by the authority under section 44(1) above as the basic amount of its council tax;

A is the aggregate amount of all special items;

T is the amount determined for item T in section 44(1) above.

- (3) The authority shall calculate the basic amount of its council tax for dwellings in a part of its area to which one or more special items relate by adding to the amount given by the formula in subsection (2) above the aggregate of the amounts which, in relation to each of those special items, are given by the formula—

$$\frac{\mathbf{S}}{\mathbf{TP}}$$

where—

S is (in each case) the amount of the special item;

TP is (in each case) the aggregate of the amounts which are calculated by the billing authorities to which the authority has power to issue precepts as respects the special item ("the billing authorities concerned") as their council tax bases for the year for their areas, or (as the case may require) for the parts of their areas falling within the relevant part, and are notified by them to the authority within the prescribed period.

- (4) The Secretary of State shall make regulations containing rules for making for any year the calculations required by item TP in subsection (3) above; and the billing authorities concerned shall make the calculations for any year in accordance with the rules for the time being effective (as regards the year) under the regulations.
- (5) Regulations prescribing a period for the purposes of item TP in subsection (3) above may provide that, in any case where a billing authority fails to notify its calculation to the precepting authority within that period, that item shall be determined in the prescribed manner by such authority or authorities as may be prescribed.

- (6) Any negative amount given by a calculation under subsection (2) or (3) above shall be assumed to be nil for the purposes of this Chapter.

46 Special items for purposes of section 45

- (1) The items referred to in section 45(1) above are any expenses of the major precepting authority which are its special expenses and were taken into account by it in making the calculation in relation to the year under section 43(2) above.

- (2) For the purposes of subsection (1) above—

- (a) if a county council is the police authority for part only of its area, its expenses as police authority are special expenses provided a resolution of the council to that effect is in force;
- (b) provided a resolution of a county council to the following effect is in force, the expenses of meeting a levy issued to or anticipated by it are its special expenses or (if the resolution relates to some only of those expenses) those to which the resolution relates are its special expenses;
- (c) if the library area of a Welsh county council consists of part of its administrative area, its expenses in exercising its functions as library authority in its library area are its special expenses; and
- (d) the expenses of the Receiver for the Metropolitan Police District relating to the magistrates' courts in the inner London area and the probation service in that area are his special expenses.

- (3) For the purposes of section 45(1) above—

- (a) expenses which are special by virtue of a resolution under subsection (2)(a) above relate to the part of the council's area for which it is the police authority;
- (b) expenses which are special by virtue of a resolution under subsection (2)(b) above relate to the part of the council's area in which the levying body carries out functions;
- (c) expenses which are special by virtue of subsection (2)(c) above relate to the part of the council's administrative area which consists of its library area; and
- (d) expenses which are special by virtue of subsection (2)(d) above relate to the inner London area.

- (4) In this section—

“inner London area” has the same meaning as in the Justices of the Peace Act 1979;

“library area” shall be construed in accordance with the Public Libraries and Museums Act 1964;

and any reference to magistrates' courts in the inner London area includes references to domestic courts and to youth courts for that area and the City.

47 Calculation of tax for different valuation bands

- (1) The amount to be stated under section 40(2)(a) above for any financial year in respect of any category of dwellings listed in a particular valuation band shall be calculated by applying the formula—

$$A \times \frac{N}{D}$$

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where—

A is the amount calculated (or last calculated) by the major precepting authority for that year under section 44(1) above or, where section 45 above applies, the amount calculated (or last calculated) by it for that year under subsection (2) or (3) of that section in relation to that category of dwellings;

N is the number which, in the proportion set out in section 5(1) above, is applicable to dwellings listed in that valuation band;

D is the number which, in that proportion, is applicable to dwellings listed in valuation band D.

- (2) Dwellings fall within different categories for the purposes of this section according as different calculations have been made in relation to them under section 45 above.

48 Calculation of amount payable by each billing authority

- (1) This section makes provision for calculating the amount required by section 40(2)(b) above to be stated in a precept as the amount payable by a billing authority for any financial year.

- (2) Where an amount calculated (or last calculated) for the year under section 44(1) or 45(2) or (3) above applies to dwellings in the whole of the billing authority's area, the amount payable by that authority shall be calculated by applying the formula—

$$\mathbf{C \times T}$$

where—

C is the amount so calculated;

T is the amount which, in relation to the billing authority, is determined for item T in section 33(1) above.

- (3) Where an amount calculated (or last calculated) for the year under section 44(1) or 45(2) or (3) above applies to dwellings in a part of the billing authority's area, the amount payable by that authority shall be calculated by applying the formula—

$$\mathbf{CP \times TP}$$

where—

CP is the amount so calculated;

TP is the amount which is calculated by the billing authority as its council tax base for the year for the part of its area concerned and is notified by it to the major precepting authority within the prescribed period.

- (4) Where different amounts calculated (or last calculated) for the year under section 45(2) or (3) above apply to dwellings in different parts of the billing authority's area, the amount payable by that authority shall be the aggregate of the amounts which, in relation to each of the amounts so calculated, are given by the formula—

$$\mathbf{CP \times TP}$$

where—

CP is (in each case) the amount so calculated;

TP is (in each case) the amount which is calculated by the billing authority as its council tax base for the year for the part of its area concerned and is notified by it to the major precepting authority within the prescribed period.

- (5) The Secretary of State shall make regulations containing rules for making for any year the calculations required by item TP in subsection (3) or (4) above; and the billing authority shall make the calculations for any year in accordance with the rules for the time being effective (as regards the year) under the regulations.
- (6) Regulations prescribing a period for the purposes of item TP in subsection (3) or (4) above may provide that, in any case where the billing authority fails to notify its calculation to the precepting authority within that period, that item shall be determined in the prescribed manner by such authority or authorities as may be prescribed.

49 Substitute calculations

- (1) A major precepting authority which has made calculations in accordance with sections 43 to 48 above in relation to a financial year (originally or by way of substitute) may make calculations in substitution in relation to the year in accordance with those sections.
- (2) None of the substitute calculations shall have any effect if—
 - (a) the amount calculated under section 43(4) above, or any amount calculated under section 44(1) or 45(2) or (3) above as the basic amount of council tax applicable to any dwelling, would exceed that so calculated in the previous calculations; or
 - (b) the authority fails to comply with subsection (3) below in making the substitute calculations.
- (3) 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.
- (4) For the purposes of subsection (3) 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.
- (5) Subsections (2) and (3) above shall not apply if the previous calculations have been quashed because of a failure to comply with sections 43 to 48 above in making the calculations.

Calculations by local precepting authorities

50 Calculation of budget requirement

- (1) In relation to each financial year a local precepting authority shall make the calculations required by this section.
- (2) The authority must calculate the aggregate of—
 - (a) the expenditure the authority estimates it will incur in the year in performing its functions and will charge to a revenue account for the year;
 - (b) such allowance as the authority estimates will be appropriate for contingencies in relation to expenditure to be charged to a revenue account for the year;

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- (c) the financial reserves which the authority estimates it will be appropriate to raise in the year for meeting its estimated future expenditure; and
 - (d) such financial reserves as are sufficient to meet so much of the amount estimated by the authority to be a revenue account deficit for any earlier financial year as has not already been provided for.
- (3) The authority must calculate the aggregate of—
- (a) the sums which it estimates will be payable to it for the year and in respect of which amounts will be credited to a revenue account for the year, other than sums which it estimates will be so payable in respect of any precept issued by it; and
 - (b) the amount of the financial reserves which the authority estimates that it will use in order to provide for the items mentioned in paragraphs (a) and (b) of subsection (2) above.
- (4) If the aggregate calculated under subsection (2) above exceeds that calculated under subsection (3) above, the authority must calculate the amount equal to the difference; and the amount so calculated shall be its budget requirement for the year.
- (5) For the purposes of subsection (2)(c) above an authority's estimated future expenditure is—
- (a) that which the authority estimates it will incur in the financial year following the year in question, will charge to a revenue account for the year and will have to defray in the year before the following sums are sufficiently available, namely, sums—
 - (i) which will be payable to it for the year; and
 - (ii) in respect of which amounts will be credited to a revenue account for the year; and
 - (b) that which the authority estimates it will incur in the financial year referred to in paragraph (a) above or any subsequent financial year in performing its functions and which will be charged to a revenue account for that or any other year.
- (6) References in this section to expenditure incurred by an authority shall be construed in accordance with section 41(3) of the Local Government and Housing Act 1989.

51 Substitute calculations

- (1) A local precepting authority which has made calculations in accordance with section 50 above in relation to a financial year (originally or by way of substitute) may make calculations in substitution in relation to the year in accordance with that section.
- (2) None of the substitute calculations shall have any effect if the amount calculated under section 50(4) above would exceed that so calculated in the previous calculations.
- (3) Subsection (2) above shall not apply if the previous calculation under subsection (4) of section 50 above has been quashed because of a failure to comply with that section in making the calculation.

Supplemental

52 Information for purposes of Chapter IV

If the Secretary of State so requires by regulations, a billing authority shall supply prescribed information within a prescribed period to any precepting authority which has power to issue a precept to the billing authority.