



Local Government (Miscellaneous Provisions) (Scotland) Act 1981

1981 CHAPTER 23

PART II

RATE SUPPORT GRANTS

14 Reduction of rate support grant where local authority's estimated expenditure excessive and unreasonable

In section 5 of the 1966 Act (which among other things provides that an element of rate support grant payable to a local authority may be reduced where the Secretary of State is satisfied that the expenditure of that authority has been excessive and unreasonable)

(a) in subsection (1)—

(i) after paragraph (b) there shall be inserted the following words—

“; or

(c) subject to subsection (1A)(b) below, that in respect of any local authority the total estimated expenses mentioned in section 108(2) of the Local Government (Scotland) Act 1973 are excessive and unreasonable, regard being had to the financial and other relevant circumstances of the area of the authority ;”;

(ii) after the word “ expenditure ” where it occurs for the second time there shall be inserted the words “ or estimated expenses ”; and

(iii) after the words “ a constituent authority of the joint board ” there shall be inserted the words “ , as the case may be ”; and

(b) after subsection (1) there shall be inserted the following subsection—

“(1A) In determining, for the purposes of paragraph (c) of subsection (1) above, whether, in relation to any year, total estimated expenses of

Status: This is the original version (as it was originally enacted).

a local authority are excessive and unreasonable the Secretary of State—

- (a) may (in addition to the matters to which in terms of that paragraph regard must be had) have regard—
 - (i) to expenditure or estimated expenses, in that or any preceding year, of other local authorities which the Secretary of State is satisfied are closely comparable (or as closely comparable as is practicable) with the local authority concerned ;
 - (ii) to general economic conditions; and
 - (iii) to such other financial, economic, demographic, geographical and like criteria as he considers appropriate; and
- (b) may leave out of account such categories of estimated expenses as he thinks fit.”.

15 Redetermination and lowering of regional, general or district rate

In the 1973 Act, after section 108 there shall be inserted the following section—

“108A Power of local authority to determine, new regional, general or district rate.

- (1) Where a local authority have in respect of any financial year determined a rate under section 108 of this Act but the Secretary of State makes and causes to be laid before Parliament, for the reasons mentioned in paragraph (c) of section 5(1) of the Local Government (Scotland) Act 1966, a report as regards them under section 5(1) (reduction of rate support grant because of excessive and unreasonable total estimated expenses), or they have reason to believe that such report may be so laid they may, at any time before the Secretary of State informs them that the reduction specified in such report has been made, reassess the total estimated expenses mentioned in subsection (2) of section 108 and subject to that subsection determine under this subsection in respect of the financial year a rate lower than that determined under section 108.
- (2) If a local authority determine a rate under subsection (1) above, that rate and not the rate determined under the said section 108 shall be their regional, general or district rate (as the case may be) for the financial year and shall be levied accordingly.
- (3) The Secretary of State may by order under this subsection repeal or amend any enactment (including this Act) in so far as that enactment relates to the determination, levy or payment of a regional, general or district rate and such determination, levy or payment is affected by a determination under subsection (1) above.
- (4) An order made under subsection (3) above shall have no effect until approved by resolution of each House of Parliament.
- (5) A reference in this Act (except this section and subsection (1) of section 108) and in any other enactment, whether passed or made before or after the passing of this Act, to such rates as are determined under section 108 of this Act shall

be construed as including a reference to such rates as are determined under subsection (1) above.”.

16 Local authority's estimated expenditure relevant factor in calculating amount of resources element payable to them

In Part II of Schedule 1 to the 1966 Act (which among other things specifies the method of calculating the amount, if any, of the resources element payable to a local authority), in sub-paragraph (a) of paragraph 2 (which, for the purposes of the said calculation allows the Secretary of State, if he is of the opinion that the rate fixed by the local authority is unnecessarily high, to use as multiplicand a lesser figure than the number of pence in the pound of that rate) for the words " of the opinion that the local authority have fixed an unnecessarily high rate, such " there shall be substituted the words—

“, as regards the local authority, satisfied—

- (i) that they have fixed a rate higher than that required to provide the sufficient moneys mentioned in section 108(2) of the Local Government (Scotland) Act 1973 ; or
- (ii) as is mentioned in subsection (1)(c), as read with subsection OA), of section 5 of this Act,

such”.

17 Effect of sections 14 to 16

The amendments made by sections 14 to 16 of this Act have effect as regards rate support grants payable for the year 1981-82 or for any year thereafter.

18 Prohibition of using sums from loans fund to offset reduction of rate support grant or diminution in amount of resources element

- (1) Where under section 5(1) of the 1966 Act the Secretary of State reduces an element of rate support grant payable to a local authority, or where the authority anticipates such a reduction thereunder, the authority shall neither wholly nor partially offset the reduction (or anticipated reduction) with sums advanced from their loans fund:

Provided that such offsetting may nevertheless be permitted by the Secretary of State in any case on such terms and conditions as he considers appropriate.

- (2) Where by virtue of paragraph 2(a) of Part II of Schedule 1 to the 1966 Act the amount of the resources element payable to a local authority is less, or where the authority anticipates that it will thereby be less, than the product of the regional, general or district rate (as the case may be) and the difference between the rate products mentioned in paragraph 1 of that Part, the authority shall neither wholly nor partially offset such effect (or anticipated effect) of the operation of the said paragraph 2(a) with sums advanced from their loans fund ; but the proviso to subsection (1) above shall apply for the purposes of this subsection as that proviso applies for the purposes of that subsection.
- (3) If the Secretary of State is of the opinion that subsection (1) or (2) above, or any term or condition imposed under the proviso thereto, has been contravened the local authority shall, on such opinion being intimated to them, reimburse their loans fund forthwith or within such time as the Secretary of State may allow.

- (4) If an amount was, on or after 23rd. March 1981 but before the coming into force of this section, advanced from the loans fund of a local authority and the Secretary of State is of the opinion that the advance was for a purpose such that there would have been a contravention of subsection (1) or (2) above had those subsections and sections 14, 16 and 17 of this Act been in force, the local authority shall, on such opinion being intimated to them, reimburse their loans fund forthwith or within such time as the Secretary of State may allow.
- (5) In the foregoing provisions of this section, " loans fund " means the loans fund established under Schedule 3 to the 1975 Act.

19 Failure of local authority to supply information timeously

Where under section 199 of the 1973 Act (which provides for reports and returns being made by local authorities and others) the Secretary of State requires a local authority to give information for the purposes of his functions in relation to rate support grants payable for the year 1981-82 or for any year thereafter, but that information is not given timeously, he may make an estimate as regards any element of the required information; and, without prejudice to section 211 of that Act (which makes general provision concerning failure by a local authority to do what is required of them), for the said purposes such estimate shall be deemed information given by the local authority.

20 Interpretation of Part II

In the foregoing provisions of this Part of this Act " year ", and " year " followed by a reference to two calendar years, have the same meanings as in the Local Government (Financial Provisions) (Scotland) Act 1963.