



Local Government Finance Act 1988

1988 CHAPTER 41

PART II

CHARGES AND MULTIPLIERS

Charges

32 Amount for personal community charges.

- (1) For each chargeable financial year, a charging authority shall set for its personal community charges an amount or amounts in accordance with this section and section 33 below.
- (2) Any amount must be set on or before 1 April on which the financial year for which it is set begins, but is not invalid merely because it is set after that date.

[^{F1}(2A) No amount may be set before the earlier of the following—

- (a) 1 March in the financial year preceding that for which the amount is set;
- (b) the date of the issue to the authority of the last precept capable of being issued to it for the financial year for which the amount is set.

(2B) No amount may be set unless the authority has calculated an amount in relation to the year under section 95(4) below.

(2C) A purported setting of an amount, if done in contravention of subsection (2A) or (2B) above, shall be treated as not having occurred.]

(3) In setting any amount the authority must secure (so far as practicable) that the total amount yielded by its community charges for the year is sufficient to provide for the items mentioned in subsection (4) below, to the extent that they are not to be provided for by other means.

(4) The items are—

- (a) any precept issued to the authority for the year,

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- (b) the authority's estimate of the aggregate of the payments to be met from its collection fund in the year under section 90(2)(b) to (g) below or section 90(4)(b) and (c) below (as the case may be),
 - (c) the amount calculated (or last calculated) by the authority in relation to the year under section 95(4) below, and
 - (d) the authority's estimate of the amount to be transferred from its collection fund in the year under section 98(4) below.
- (5) In construing subsection (4)(a) above any precept for which another has been substituted shall be ignored.
- [^{F2}(6) Where the authority is a relevant charging authority, for the purposes of subsection (2A) above no account shall be taken of any precept capable of being issued to it by a relevant precepting authority.
- (7) For the purposes of subsection (6) above a district council, the Common Council and the Council of the Isles of Scilly are relevant charging authorities, and—
- (a) in relation to a district council, a relevant precepting authority is any parish or community council, chairman of a parish meeting or charter trustees with power to issue a precept to the district council;
 - (b) in relation to the Common Council, a relevant precepting authority is the sub-treasurer of the Inner Temple or the under-treasurer of the Middle Temple;
 - (c) in relation to the Council of the Isles of Scilly, a relevant precepting authority is any parish council or chairman of a parish meeting with power to issue a precept to the Council.]

Textual Amendments

- F1** S. 32(2A)–(2C) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 14\(2\)](#)
- F2** S. 32(6)(7) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 14\(3\)](#)

33 Setting of different amounts.

- (1) A charging authority must set one amount for its area under section 32 above, except as provided by the following provisions of this section.
- (2) Where an item mentioned in subsection (3) below relates to a part only of its area, a charging authority must set different amounts for different parts so as to secure (so far as practicable) that the item is provided for only by amounts yielded by such of its community charges as relate to the part, to the extent that the item is not to be provided for by other means.
- (3) The items are—
- (a) any precept or portion of a precept issued to the authority if the precept or portion is stated to be applicable to a part, and
 - (b) any expenses of the authority which are its special expenses and were taken into account by it in making the calculation (or last calculation) in relation to the year concerned under section 95(2) below.
- (4) For the purposes of subsection (3) above—

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- (a) provided a resolution of a charging authority to the following effect is in force, [^{F3}the expenses of meeting a levy or special levy] issued to 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,
- (b) any expenses which a charging authority believes will have to be met out of amounts transferred or to be transferred from its collection fund to its general fund or to the City fund (as the case may be), and which arise out of its possession of property held in trust for a part of its area, are its special expenses,
- (c) any expenses which a charging authority believes will have to be met out of amounts transferred or to be transferred from its collection fund to its general fund or to the City fund (as the case may be), and which relate to a part of its area, are its special expenses provided that expenses of the same kind which relate to another part of its area are to be met out of property held in trust for that part, . . . ^{F4}
- (d) any expenses incurred by a charging authority in performing in a part of its area a function performed elsewhere in its area by the sub-treasurer of the Inner Temple, the under-treasurer of the Middle Temple, a parish or community council or the chairman of a parish meeting are the authority's special expenses provided a resolution of the authority to that effect is in force [^{F5}; and
- (e) provided a resolution of a charging authority to the following effect is in force, the expenses incurred by it in performing in a part of its area a function performed elsewhere in its area by a body with power to issue a levy or special levy to 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.]

[^{F6}(4A) The following rules shall apply to the making of a resolution under subsection (4)(e) above by a charging authority—

- (a) no such resolution may be made unless the body mentioned in subsection (4)(e) above is one in relation to which the charging authority has made under subsection (4)(a) above a resolution which is in force;
 - (b) the resolution under subsection (4)(e) above may not be made so as to be in force at any time when that under subsection (4)(a) above is not in force;
 - (c) the fact that the resolution under subsection (4)(a) above relates to all the expenses concerned does not mean that the resolution under subsection (4)(e) above must relate to all the expenses concerned;
 - (d) the fact that the resolution under subsection (4)(a) above relates to part of the expenses concerned does not mean that the resolution under subsection (4)(e) above must relate to part, or any particular part, of the expenses concerned.]
- (5) A community charge relates to a part of an area if it is—
- (a) a personal community charge arising in respect of a residence contained in the part;
 - (b) a standard community charge arising in respect of a building, self-contained part of a building ^{F7}. . . contained in the part;
 - (c) a collective community charge arising in respect of a dwelling constituting or contained in a building which is contained in the part.
- (6) Rules contained in regulations under sections 10(6), 12(6) and 14(7) above shall apply for the purpose of construing subsection (5) above.

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- (7) As regards any charging authority the Secretary of State may make directions that, for the purposes of subsection (2) above, the extent (if any) to which an item is to be provided for by other means shall be determined by the authority in accordance with the directions.
- (8) Directions under subsection (7) above—
- (a) must be made in writing;
 - (b) may contain rules in accordance with which, or specify factors by reference to which, a determination is to be made;
 - (c) may specify (as the extent concerned) an amount in relation to a particular item;
 - (d) may relate to one item or to a number of items;
 - (e) may contain different provision as to different items;
 - (f) may be amended or revoked by other directions under subsection (7) above.
- (9) The power to give directions under subsection (7) above may be exercised differently for different authorities.
- (10) No directions under subsection (7) above shall have effect in relation to a determination unless they are served on the authority concerned before it makes the determination.
- (11) In construing subsection (3)(a) above any precept for which another has been substituted shall be ignored.

Textual Amendments

- F3** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, **Sch. 5 para. 15(2)**
- F4** Word repealed by Local Government and Housing Act 1989 (c. 42, SIF 81:1), ss. 139, 194(4), Sch. 5 para. 15(3), **Sch. 12 Pt. II**
- F5** S. 33(4)(e) and word immediately preceding it inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, **Sch. 5 para. 15(4)**
- F6** S. 33(4A) inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, **Sch. 5 para. 15(5)**
- F7** Words in s. 33(5)(b) repealed (retrospectively) by Caravans (Standard Community Charge and Rating) Act 1991 (c. 2), s. **1(1)(3)**

Modifications etc. (not altering text)

- C1** S. 33 modified (18. 2. 1991) by S.I. 1991/241, **arts. 3(4), 4(2)**
- C2** S. 33(4)(a) extended by S.I. 1990/70, **reg. 11(6)**, by S.I. 1990/71, **reg. 12(6)** and by S.I. 1990/118, **reg. 10(6)**
- C3** S. 33(4) applied by S.I. 1990/72, **reg. 14(9)**

34 Power to set substituted amounts.

- (1) An authority which has set an amount or amounts for a financial year under section 32 above, this section or section 35 below may set an amount or amounts in substitution.
- [^{F8}(2) Any amount set in substitution under this section—
- (a) must be set in accordance with sections 32 and 33 above, ignoring section 32(2) for this purpose, and

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- (b) if set by a special authority as a result of its having set a multiplier in substitution under paragraph 10 of Schedule 7 below, must be set by reference to the multiplier set in substitution.]
- (3) No amount may be set in substitution under this section if it would be greater than that for which it is substituted, except as provided by subsection (4) below.
- (4) Any amount set in substitution under this section may be greater than that for which it is substituted (the old amount) if the setting of the old amount has been quashed because of a failure to fulfil section 32(3) or 33(2) above [F9], or if the amount is set by a special authority as a result of its having set a multiplier in substitution under paragraph 10 of Schedule 7 below.].

Textual Amendments

- F8** S. 34(2) substituted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, Sch. 5 para. 16(2)
- F9** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, Sch. 5 para. 16(3)

35 Duty to set substituted amounts.

- (1) Where an authority has set an amount or amounts for a financial year under section 32 or 34 above or under this section and a precept of a relevant authority is then issued to it for the year (originally or by way of substitute) it must as soon as is reasonably practicable after the issue set an amount or amounts in substitution, even if it or any of them is equal to or greater than that for which it is substituted.
- (2) Each of the following is a relevant authority for the purposes of subsection (1) above—
- a county council,
 - a metropolitan county police authority,
 - the Northumbria Police Authority,
 - a metropolitan county fire and civil defence authority,
 - the London Fire and Civil Defence Authority, and
 - the Receiver for the Metropolitan Police District.
- (3) Any amount set in substitution under subsection (1) above must be set in accordance with sections 32 and 33 above, but applying the following rules—
- section 32(2) shall be ignored for this purpose;
 - the amount must be set by reference to the precept whose issue gives rise to the amount being set;
 - the amount must be set by reference to any other precept issued to the authority for the year since the time when it set (or last set) an amount or amounts for the year under section 32 or 34 above [F10] or under subsection (6) below];
 - the amount must be set by reference to any amount calculated by the authority in relation to the year under section 95(4) below since the time mentioned in paragraph (c) above;
- [F11](da) the amount must be set by reference to the estimates mentioned in section 32(4)(b) and (d) above and made by the authority when it set (or last set) an amount or amounts for the year under section 32 or 34 above;]

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- (e) subject to paragraphs (b) to [F12(da)] above, the amount must be set by reference to the information in the authority's possession at the time mentioned in paragraph (c) above.
- (4) Where an authority has set an amount or amounts for a financial year under section 32 or 34 above or under this section and it then makes substitute calculations in accordance with section 95 below, it must as soon as is reasonably practicable after making the substitute calculations set an amount or amounts in substitution, even if it or any of them is equal to or greater than that for which it is substituted.
- (5) Any amount set in substitution under subsection (4) above must be set in accordance with sections 32 and 33 above, but applying the following rules—
- (a) section 32(2) shall be ignored for this purpose;
 - (b) the amount must be set by reference to the amount calculated by the authority in relation to the year under section 95(4) below in making the calculations giving rise to the amount being set;
 - (c) the amount must be set by reference to any precept issued to the authority for the year since the time when it set (or last set) an amount or amounts for the year under section 32 or 34 above [F13 or under subsection (6) below];
 - [F14(ca)] the amount must be set by reference to the estimates mentioned in section 32(4)(b) and (d) above and made by the authority when it set (or last set) an amount or amounts for the year under section 32 or 34 above;]
 - (d) subject to paragraphs (b) [F15 to (ca)] above, the amount must be set by reference to the information in the authority's possession at the time mentioned in paragraph (c) above.
- (6) F16
- (8) In construing subsections (3)(c) and (5)(c) above any precept for which another has been substituted shall be ignored; and in construing subsection (3)(d) above any calculation for which another has been substituted shall be ignored.

Textual Amendments

- F10** Words repealed (*prosp.*) by Local Government and Housing Act 1989 (c. 42, SIF 81:1), ss. 194(4), 195(2), **Sch. 12 Pt. II**
- F11** S. 35(3)(da) inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, **Sch. 5 para. 17(2)**
- F12** Paragraph number substituted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, **Sch. 5 para. 17(3)**
- F13** Words repealed (*prosp.*) by Local Government and Housing Act 1989 (c. 42, SIF 81:1, 2), ss. 194(4), 195(2), **Sch. 12 Pt. II**
- F14** S. 35(5)(ca) inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, **Sch. 5 para. 17(4)**
- F15** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, **Sch. 5 para. 17(5)**
- F16** S. 35(6)(7) repealed by Local Government and Housing Act 1989 (c. 42, SIF 81:1), ss. 139, 194(4), Sch. 5 para. 17(6), **Sch. 12 Pt. II** Note 4

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[35A ^{F17}**Section 35: interpretation.**

- (1) For the purposes of section 35(3B) above—
 - (a) A is the amount for which the amount is required to be set in substitution under section 35(1) above;
 - (b) B is the amount of the precept for which the precept issued under section 107(2) below is substituted;
 - (c) C is the amount of the precept issued under section 107(2) below;
 - (d) D is the relevant population, for the financial year mentioned in section 35(1) above, of the area of the charging authority there referred to.
- (2) For the purposes of section 35(5C) and (5D) above—
 - (a) A is the amount for which the amount is required to be set in substitution under section 35(4) above;
 - (b) B is the amount calculated under section 95(4) below and for which an amount is substituted in making the substitute calculations under section 107(1) below;
 - (c) C is the amount calculated under section 95(4) below in making the substitute calculations under section 107(1) below;
 - (d) D is the relevant population, for the financial year mentioned in section 35(4) above, of the area of the charging authority there referred to;
 - (e) E is such number, falling between nil and one and expressed as a decimal, as the Secretary of State specifies by order for the purposes of this paragraph and for the special authority and the financial year concerned.
- (3) For the purposes of this section the relevant population of the area of an English charging authority for a financial year is the relevant population, calculated under paragraph 4 of Schedule 12A below, of the area for the year.
- (4) For the purposes of this section the relevant population of the area of a Welsh charging authority for a financial year is the relevant population, calculated under paragraph 5 of Schedule 12A below, of the area for the year.]

Textual Amendments

F17 S. 35A inserted (21. 3. 1991) by [Community Charges \(Substitute Setting\) Act 1991 \(c. 8\)](#), **ss.2, 6(3)**

VALID FROM 21/03/1991

[35B ^{F18}**Substitutions: maximum amounts.**

- (1) Subsection (2) below applies where—
 - (a) section 35(1) above applies in the case of a charging authority in circumstances where section 35(3) applies,

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- (b) apart from this section, any amount set in substitution under section 35(1) would be greater than the amount for which it is required to be substituted, and
 - (c) subsection (3) below does not prevent subsection (2) below applying.
- (2) In such a case—
- (a) any amount set in substitution under section 35(1) shall be no greater than the amount for which it is required to be substituted, and
 - (b) section 35(3) shall have effect subject to paragraph (a) above.
- (3) Subsection (2) above does not apply where the precept giving rise to the application of section 35(1) is—
- (a) an original precept, or
 - (b) a precept issued in substitution for one quashed because of a failure to fulfil section 68(3) or 69(3) or (4) below.
- (4) Subsection (5) below applies where—
- (a) section 35(4) above applies in the case of a charging authority in circumstances where section 35(5) applies,
 - (b) apart from this section, any amount set in substitution under section 35(4) would be greater than the amount for which it is required to be substituted, and
 - (c) subsection (6) below does not prevent subsection (5) below applying.
- (5) In such a case—
- (a) any amount set in substitution under section 35(4) shall be no greater than the amount for which it is required to be substituted, and
 - (b) section 35(5) shall have effect subject to paragraph (a) above.
- (6) Subsection (5) above does not apply where the calculations giving rise to the application of section 35(4) are made because a previous calculation under section 95(4) below has been quashed because of a failure to comply with section 95 in making the calculation.]

Textual Amendments

F18 S. 35B inserted (21. 3. 1991) by [Community Charges \(Substitute Setting\) Act 1991 \(c. 8\)](#), **ss.3, 6(3)**

VALID FROM 21/03/1991

[35C ^{F19}Multiple substitutions.

- (1) Subsection (2) below applies if a charging authority is at any time subject to more than one undischarged duty under the relevant provisions.
- (2) The authority shall discharge each of the duties separately from the other or others, but it may discharge the duties in whatever sequence it thinks fit.
- (3) Subsection (4) below applies if—

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- (a) a charging authority discharges at any time a duty under a relevant provision, and
 - (b) at that time it is subject to one or more undischarged duties under the relevant provisions.
- (4) For the purposes of the excluded provisions, any amount or amounts in fact set in discharge of the duty mentioned in subsection (3)(a) above shall not be regarded as an amount or amounts set for the authority's personal community charges under the relevant provision there mentioned.
- (5) For the purposes of this section the relevant provisions are section 35(1) and (4) above.
- (6) For the purposes of this section the excluded provisions are—
- (a) sections 10(3) and (5), 12(3) and 14(4) above;
 - (b) sections 36(1) and 39(1) below;
 - (c) any provision of regulations under this or any other Act.]

Textual Amendments

F19 S. 35(C) inserted (21. 3. 1991) by [Community Charges \(Substitute Setting\) Act 1991 \(c. 8\)](#), ss.4, 6(4)

36 Substituted amounts: supplementary.

- (1) Where an authority sets any amount in substitution under section 34 or 35 above (a new amount) anything paid to it by reference to the amount for which it is substituted (the old amount) shall be treated as paid by reference to the new amount.
- (2) But if the old amount exceeds the new amount, the following shall apply as regards anything paid if it would not have been paid had the old amount been the same as the new amount—
 - (a) it shall be repaid if the person by whom it was paid so requires;
 - (b) in any other case it shall (as the charging authority determines) either be repaid or be credited against any subsequent liability of the person to pay in respect of any community charge of the authority.
- (3) Where an authority sets an amount or amounts in substitution under section 35(1) above it may recover from the precepting authority administrative expenses incurred by it in, or in consequence of, so doing.

37 Power to anticipate precept.

- (1) For the purposes of this section a district council, the Common Council and the Council of the Isles of Scilly are relevant charging authorities, and—
 - (a) in relation to a district council, a relevant precepting authority is any parish or community council, chairman of a parish meeting or charter trustees with power to issue a precept to the district council;
 - (b) in relation to the Common Council, a relevant precepting authority is the sub-treasurer of the Inner Temple or the under-treasurer of the Middle Temple;

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- (c) in relation to the Council of the Isles of Scilly, a relevant precepting authority is any parish council or chairman of a parish meeting with power to issue a precept to the Council.
- (2) Subsections (3) to (7) below apply if at the time a relevant charging authority sets an amount or amounts for a financial year under section 32 above a precept for the year has not been issued to it by a relevant precepting authority.
- (3) If a precept for the previous financial year has been issued to it by the precepting authority, in setting an amount or amounts for the financial year under section 32 above the charging authority may include among the items listed in section 32(4) above an amount equal to that payable under the precept (or last precept) issued for the previous financial year; and in such a case section 32(4) shall be read accordingly.
- (4) If the charging authority sets an amount or amounts in substitution for the year under section 34 or 35 above at a time when a precept for the year has not been issued to it by the precepting authority, and an amount was included under subsection (3) above, the charging authority shall include among the items listed in section 32(4) above an amount equal to that included under subsection (3) above; and in such a case section 32(4) shall be read accordingly.
- (5) If the precepting authority issues to the charging authority a precept for the year (originally or by way of substitute) then—
- (a) if subsection (3) above does not apply, or no amount was included under it, the precept shall be treated as not having been issued,
 - (b) if an amount was included under subsection (3) above, and it is equal to or less than the amount of the precept, the amount of the precept shall be treated as equal to the amount included, and
 - (c) if an amount was included under subsection (3) above, and it exceeds the amount of the precept, the amount of the precept shall be treated as equal to its actual amount.
- (6) If the precepting authority issues no precept to the charging authority for the year, the fact that an amount is included under subsection (3) above does not make the charging authority liable to pay anything to the precepting authority.
- (7) If the charging authority sets an amount or amounts in substitution for the year under section 34 or 35 above at a time when a precept for the year has been issued to it by the precepting authority, section 32(4) and 35(3) and (5) above shall be read in accordance with subsection (5) above.
- (8) Where the financial year mentioned in subsection (2) above is that beginning in 1990 this section shall have effect as if subsection (3) read—
- “(3) The charging authority may include among the items listed in section 32(4) above an amount equal to its estimate of the amount of any precept it expects will be issued to it for the year by the precepting authority; and in such a case section 32(4) shall be read accordingly.”

Modifications etc. (not altering text)

C4 S. 37 modified (18. 2. 1991) by S.I. 1991/241, arts. 3(2), 4(2)

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38 Anticipated precepts: supplementary.

- (1) References in this section to the charging authority, the precepting authority and the financial year are to the charging authority, the precepting authority and the financial year mentioned in section 37(2) to (7) above.
- (2) Where the charging authority includes under section 37(3) or (4) above an amount equal to that payable under a precept, section 33 above shall have effect as if among the items listed in subsection (3) there were included an amount equal to that payable under the precept, in a case where the precept is stated to be applicable to a part of the authority's area.
- (3) Where the charging authority includes under section 37(3) or (4) above an amount equal to its estimate of the amount of any precept it expects to be issued, in a case where it expects the precept will relate to a part only of its area section 33 above shall have effect as if—
 - (a) the reference in subsection (2) to an item relating to a part included a reference to an item the authority expects will relate to a part, and
 - (b) among the items listed in subsection (3) there were included an amount equal to the authority's estimate of the amount of the precept it expects will be issued to it in relation to a part.
- (4) If the charging authority sets an amount or amounts in substitution for the year under section 34 or 35 above at a time when a precept for the year has been issued to it by the precepting authority, sections 33 and 35(3) and (5) above shall be read in accordance with section 37(5) above.

Modifications etc. (not altering text)

- C5** S. 38 modified (18. 2. 1991) by S.I. 1991/241, arts. 3(3)(a), 4(2)
C6 S. 38(2) modified (18. 2. 1991) by S.I. 1991/241, art. 3(3)(b)

39 Information.

- (1) An authority which has set an amount or amounts under section 32, 34 or 35 above shall, before the end of the period of 21 days beginning with the day of doing so, publish a notice of the amount or amounts in at least one newspaper circulating in the authority's area.
- (2) Failure to comply with subsection (1) above does not make the setting of an amount or amounts invalid.

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Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to Local Government Finance Act 1988. Any changes that have already been made by the team appear in the content and are referenced with annotations.