



# Local Government Finance Act 1988

## 1988 CHAPTER 41

### PART IV

#### PRECEPTS AND LEVIES

##### *Precepts*

#### **68 Precepts to be issued.**

- (1) For each chargeable financial year, a precepting authority shall issue a precept or precepts in accordance with this section.
- (2) A precept must be issued before [<sup>F1</sup>1 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.
- (3) The precepting authority must secure (so far as practicable) that the total amount yielded by precepts issued by it for a financial 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.

[<sup>F2</sup>(4) The items are—

- (a) the expenditure the authority estimates it will incur in the year in performing its functions in the year 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;
- (c) the financial reserves which the authority estimates it will be appropriate to raise in the year for meeting the estimated expenditure referred to in subsection (4A) below; 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.

(4A) The estimated expenditure referred to in subsection (4)(c) above is—

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- (a) that which the authority estimates that, in the financial year following the year in question, it will incur, will charge to a revenue account and will have to defray before sums yielded by way of precepts are sufficiently available; 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.
- (4B) References in subsections (4) and (4A) above to expenditure incurred by the authority shall be construed in accordance with section 41(3) of the Local Government and Housing Act 1989.]
- (5) In estimating under subsection (4)(a) above a precepting 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 below) shall not anticipate a levy not issued.

#### Textual Amendments

- F1** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 49\(2\)](#)
- F2** [S. 68 subsections \(4\)–\(4B\)](#) substituted for subsection (4) by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 49\(3\)](#)

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

- C1** [S. 68\(4\)\(a\)](#) modified by [S.I. 1990/70, reg. 12\(2\)–\(4\)](#), by [S.I. 1990/71, reg. 13\(4\)](#)s. 68(4)(a) and by [S.I. 1990/118, reg. 11\(2\)–\(4\)](#)
- C2** [S. 68\(4\)\(a\)](#) amended by [S.I. 1990/71, reg. 13\(3\)](#)

## 69 Precepted authorities.

- (1) A precept may only be issued to an appropriate charging authority.
- (2) If the whole or part of a charging authority's area falls within a precepting authority's area, it is an appropriate charging authority in relation to the precepting authority to the extent of the area which so falls.
- (3) A precepting authority must secure that such of its general expenses as are to be met by precepts are borne by its appropriate charging authorities (if more than one) in proportion.
- (4) A precepting authority must secure that such of its special expenses as are to be met by precepts are borne by the appropriate charging authority to whose area or part the expenses concerned relate or by all such charging authorities (if more than one) in proportion.
- (5) Proportions under subsection (3) above shall be determined by reference to the relevant population of each charging authority's area or (as the case may be) the part which falls within the precepting authority's area.
- (6) Proportions under subsection (4) above shall be determined by reference to the relevant population of each area or part to which the expenses concerned relate.

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- [<sup>F3</sup>(7) As regards precepts for a particular financial year the relevant population of the area of an English charging authority is the relevant population, calculated under paragraph 4 of Schedule 12A below, of the area for the year.
- (7A) As regards precepts for a particular financial year the relevant population of the area of a Welsh charging authority is the relevant population, calculated under paragraph 5 of Schedule 12A below, of the area for the year.
- (7B) As regards precepts for a particular financial year the relevant population of part of the area of a charging authority is the relevant population, calculated under paragraph 6 of Schedule 12A below, of the part for the year.]
- (8) A precept may be issued to the same authority in respect of both general and special expenses of the precepting authority.
- (9) A precept must state—
- (a) whether it or any portion of it is issued in respect of general expenses,
  - (b) whether it or any portion of it is issued in respect of special expenses, and
  - (c) whether it or any portion of it is applicable to all or part of the area of the authority to which it is issued and, in the case of a part, what part.

#### Textual Amendments

**F3** S. 69 subsections (7)–(7B) substituted for subsection (7) by [Local Government and Housing Act 1989](#) (c. 42, SIF 81:1), s. 139, [Sch. 5 para. 50](#)

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

**C3** S. 69(1)(2) modified (E.) (18. 2. 1991) by [S.I. 1991/241](#), [art. 4\(2\)](#)

## 70 General and special expenses.

- (1) This section applies for the purposes of section 69 above.
- (2) All the expenses of a county council are its general expenses except that—
  - (a) if it 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 the council to the following effect is in force, [<sup>F4</sup>the expenses of meeting] a 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, and
  - (c) if it is a Welsh county council whose library area consists of part of its administrative area, its expenses in exercising its functions as library authority in its library area are its special expenses.
- (3) 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.
- (4) 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.
- (5) 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.

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- (6) All the expenses of each of the following are its general expenses—
- (a) a metropolitan county police authority,
  - (b) the Northumbria Police Authority,
  - (c) a metropolitan county fire and civil defence authority, and
  - (d) the London Fire and Civil Defence Authority.
- (7) All the expenses of the Receiver for the Metropolitan Police District are his general expenses, except that his expenses relating to the metropolitan police courts and the probation system in the metropolitan police court area are his special expenses.
- (8) Expenses which are special by virtue of subsection (7) above relate to the metropolitan police court area.
- (9) All the expenses of the sub-treasurer of the Inner Temple are his general expenses, and all the expenses of the under-treasurer of the Middle Temple are his general expenses.
- (10) All the expenses of a parish or community council, the chairman of a parish meeting or charter trustees are general expenses.
- (11) “Library area” shall be construed in accordance with the <sup>M1</sup>Public Libraries and Museums Act 1964.

#### Textual Amendments

**F4** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 51](#)

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

**C4** [S. 70\(2\)\(b\)](#) extended by [S.I. 1990/70](#), [reg. 12\(6\)](#) and by [S.I. 1990/71](#), [reg. 13\(6\)](#)

**C5** [S. 70\(2\)\(b\)](#) modified by [S.I. 1990/118](#), [reg. 11\(2\)\(6\)](#)

#### Marginal Citations

**M1** [1964 c. 75](#).

## 71 Substituted precepts.

- (1) An authority which has issued a precept or precepts for a financial year (originally or by way of substitute) may issue a precept or precepts in substitution.
- (2) Any precept issued in substitution must be issued in accordance with sections 68 to 70 above, ignoring section 68(2) for this purpose.
- (3) No precept may be issued in substitution if its amount would be greater than the amount of that for which it is substituted, except as provided by subsection (4) below.
- (4) The amount of any precept issued in substitution may be greater than the amount of that for which it is substituted (the old precept) if the old precept has been quashed because of a failure to fulfil section 68(3) or 69(3) or (4) above.
- (5) Where an 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.

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- (6) But if the amount of 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 charging 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 charging authority in respect of any precept of the precepting authority.

## **72 Statement as to payment of precept.**

- (1) A precept (whether original or by way of substitute) must state—
- (a) whether the authority to which it is issued needs to pay anything in respect of the amount of the precept, and
  - (b) if it does, what it needs to pay to the issuing authority.
- (2) The Secretary of State may make regulations providing that prescribed matters are, and other prescribed matters are not, to be taken into account by an authority in preparing a statement under this section.
- (3) The matters which may be prescribed include the effects of sections 37(5) and 71(5) and (6) above and of regulations under section 99 below.

## **73 Information.**

- (1) If the Secretary of State so requires by regulations, a charging authority shall supply prescribed information within a prescribed period to any precepting authority which has power to issue a precept to the charging authority.
- (2) Where regulations under Schedule 2 or 9 below impose a duty on a charging authority to supply information to any person, they may also require [<sup>F5</sup>the Secretary of State or] any appropriate precepting authority to supply the charging authority with prescribed information if the Secretary of State considers it to be information the charging authority needs in order to fulfil its duty.

[<sup>F6</sup>(2A) Where regulations under Schedule 2 or 9 below contain provision about the contents or form of a notice to be served by a charging authority, they may also require the Secretary of State or any appropriate precepting authority to supply the charging authority with prescribed information if the Secretary of State considers it to be information the charging authority needs to ensure that the provision is met.

(2B) Where any person other than the Secretary of State fails to supply information to a charging authority in accordance with regulations by virtue of subsection (2) or (2A) above he shall be liable to indemnify the authority against any loss or damage which the authority sustains in consequence of the failure.]

- (3) For the purposes of subsection (2) [<sup>F7</sup>or (2A)] above an authority is an appropriate precepting authority in relation to a charging authority if it has power to issue a precept to the charging authority.

### **Textual Amendments**

**F5** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 52\(2\)](#)

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- F6** S. 73(2A)(2B) inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, **Sch. 5 para. 52(3)**
- F7** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, **Sch. 5 para. 52(4)**

**F874 Levies.**

- (1) In this section “levying body” means any body which—
  - (a) is established by or under an Act,
  - (b) apart from section 117 below would have in respect of the financial year beginning in 1990 power (conferred by or under an Act passed before, or in the same session as, this Act) to issue a precept to, make a levy on or have its expenses paid by a county council or charging authority, and
  - (c) is not a precepting authority, combined police authority, combined fire authority, magistrates’ courts committee or probation committee.
- (2) Whereas a levying body has (by virtue of section 117 below) no such power under the Act concerned in respect of a chargeable financial year, the Secretary of State may make regulations conferring on each levying body power to issue to the council concerned and in accordance with the regulations a levy (to be so called) in respect of any chargeable financial year.
- (3) The regulations may include provision—
  - (a) as to when levies are to be issued;
  - (b) imposing a maximum limit on levies;
  - (c) as to apportionment where a body issues levies to more than one council;
  - (d) conferring a power to issue levies by way of substitute for others;
  - (e) as to the payment (in instalments or otherwise) of amounts in respect of which levies are issued;
  - (f) conferring a right to interest on anything unpaid.
- (4) The regulations may include provision—
  - (a) that a county council issuing a precept or precepts under this Act (originally or by way of substitute) may anticipate a levy;
  - (b) that a charging authority making calculations under section 95 below (originally or by way of substitute) may anticipate a levy;
  - (c) as to the treatment as special expenses of amounts so anticipated;
  - (d) as to the treatment of any levy actually issued.
- (5) The regulations may include—
  - (a) provision equivalent to anything in section 37 above or in sections 68 to 72 above [<sup>F9</sup>or in Schedule 12A below or in regulations under section 73(1) above or in regulations under Schedule 12A below] (subject to such modifications as the Secretary of State thinks fit);
  - (b) provision amending or adapting any provision of this Act in consequence of any provision included under subsection (4) above.
- (6) In this section “Act” includes a private or local Act.

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#### Textual Amendments

- F8** S. 74 extended (1. 12. 1991) by [Water Resources Act 1991 \(c. 57\)](#), **ss.133**, 225(2) (with ss. 16(6), 179,, 222(3), 224(1), Sch. 22 para. 1, Sch. 23 para. 6)
- F9** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, **Sch. 5 para. 53**

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

- C6** S. 74 amended by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 80(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58
- C7** S. 74(2) amended by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 80(2), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

### [<sup>F10</sup>74A Levies: information.

- (1) Where regulations under Schedule 2 or 9 below impose a duty on a charging authority to supply information to any person, they may also require any appropriate levying body to supply the charging authority with prescribed information if the Secretary of State considers it to be information the charging authority needs in order to fulfil its duty.
- (2) For the purposes of subsection (1) above a body is an appropriate levying body in relation to a charging authority if—
  - (a) it has power to issue a levy to the charging authority, or
  - (b) it has power to issue a levy to a county council which has power to issue a precept to the charging authority.]

#### Textual Amendments

- F10** S. 74A inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, **Sch. 5 para. 54**

### 75 Special levies.

- (1) This section applies as regards any body—
  - (a) which has no power to levy a rate by virtue of regulations under section 118 below, or
  - (b) whose power to levy a rate is modified by regulations under that section.
- (2) The [<sup>F11</sup>appropriate Minister] may make regulations conferring on any such body power to issue in respect of prescribed chargeable financial years and in accordance with the regulations—
  - (a) a special levy (to be so called) to such charging authority as is prescribed as regards the body concerned, or
  - (b) special levies (to be so called) to such charging authorities as are prescribed as regards the body concerned.
- (3) The regulations may include provision as to the body's expenditure, or the proportion of its expenditure, which may be met from the proceeds of a special levy or special levies.
- (4) The regulations may include provision—
  - (a) as to when special levies are to be issued;

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- (b) imposing a maximum limit on special levies;
  - (c) as to apportionment where a body issues special levies to more than one charging authority;
  - (d) conferring a power to issue special levies by way of substitute for others;
  - (e) as to the payment (in instalments or otherwise) of amounts in respect of which special levies are issued;
  - (f) conferring a right to interest on anything unpaid.
- (5) The regulations may include provision requiring a charging authority to treat as special expenses any expenses needed to meet a special levy issued to it.
- (6) The regulations may include provision—
- (a) that a charging authority making calculations under section 95 below (originally or by way of substitute) may anticipate a special levy;
  - (b) as to the treatment as special expenses of amounts so anticipated;
  - (c) as to the treatment of any special levy actually issued.
- (7) The regulations may include—
- (a) provision equivalent to anything in section 37 above or in sections 68 to 72 above [<sup>F12</sup>or in Schedule 12A below or in regulations under section 73(1) above or in regulations under Schedule 12A below] (subject to such modifications as the [<sup>F13</sup>appropriate Minister] thinks fit);
  - (b) provision amending or adapting any provision of this Act in consequence of any provision included under subsection (6) above.
- [<sup>F14</sup>(8) In this section “the appropriate Minister” has the same meaning as in section 118 below.]

#### Textual Amendments

- F11** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 55\(2\)](#)
- F12** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 55\(3\)\(a\)](#)
- F13** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 55\(3\)\(b\)](#)
- F14** [S. 75\(8\)](#) added by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 55\(4\)](#)

#### [<sup>F15</sup>75A Special levies: information.

- (1) Where regulations under Schedule 2 or 9 below impose a duty on a charging authority to supply information to any person, they may also require any appropriate levying body to supply the charging authority with prescribed information if the Secretary of State considers it to be information the charging authority needs in order to fulfil its duty.
- (2) For the purposes of subsection (1) above a body is an appropriate levying body in relation to a charging authority if it has power to issue a special levy to the charging authority.]



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**Textual Amendments**

**F15** [S. 75A](#) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 56](#)

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