



# Local Government Finance Act 1988

## 1988 CHAPTER 41

### PART VI

#### FUNDS

##### *Funds*

#### 89 Collection funds.

- (1) Every charging authority shall establish, and then maintain, a fund (to be called its collection fund) in accordance with this Part.
- (2) An authority's collection fund must be established on 1 April 1990.
- (3) Section 101(1)(b) of the <sup>M1</sup>Local Government Act 1972 (delegation) shall not apply as regards the functions of an authority in relation to its collection fund.
- (4) Any sum paid into an authority's collection fund shall be used in [<sup>F1</sup>the making] of payments which are to be met from that fund or of transfers which are to be made from it.
- (5) If not immediately required for the purpose of [<sup>F2</sup>making] those payments or transfers, the sum shall be held, invested or otherwise used in such manner as may be prescribed by regulations made by the Secretary of State.

#### Textual Amendments

- F1** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 62](#)
- F2** Word substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 62](#)

#### Marginal Citations

- M1** [1972 c. 70.](#)

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VALID FROM 03/04/1995

**[89A F<sup>3</sup> Principal councils in Wales.**

This Part does not apply to a Welsh county council or county borough council (for whom provision as to the establishment of a council fund is made by section 38 of the Local Government (Wales) Act 1994).]

**Textual Amendments**

**F3** S. 89A inserted (3.4.1995) by 1994 c. 19, s. 38(11), **Sch. 12 para. 2** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, **art. 6(1)** (with arts. 6(2)-(5))

**90 Payments to and from collection funds.**

- (1) The following shall be paid into the collection fund of an English charging authority—
- (a) sums received by the authority in respect of its community charges (but not sums received by way of penalty),
  - (b) sums received by the authority in respect of any non-domestic rate under this Act,
  - (c) sums received by the authority under paragraph 5(10) of Schedule 8 below, regulations made under paragraph 6(5) of that Schedule, or paragraph 9 of that Schedule,
  - (d) sums received by the authority by way of revenue support grant,
  - (e) sums received by the authority by way of additional grant,
  - (f) sums received by the authority as interest on sums held or lent in accordance with section 89(5) above, and
  - (g) any other sums which the Secretary of State specifies are to be paid into an English charging authority's collection fund.
- (2) The following payments shall be met from the collection fund of an English charging authority—
- (a) payments to be made by the authority in respect of the amount of any precept issued under this Act or in respect of interest on such an amount,
  - (b) payments to be made by the authority to the Secretary of State under paragraph 5 of Schedule 8 below,
  - (c) payments to be made by the authority to the Secretary of State under section 83(5) above,
  - (d) payments to be made by the authority to another authority under a direction under section 86(4) above,
  - (e) payments to be made by the authority to another person in repaying, under regulations under this Act, excess receipts by way of community charges or of non-domestic rates,
  - (f) payments to be made by the authority to another person in respect of interest on repayments of excess receipts by way of non-domestic rates, and
  - (g) any other payments which are to be made by the authority to another person and which the Secretary of State specifies are to be met from an English charging authority's collection fund.

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- (3) The following shall be paid into the collection fund of a Welsh charging authority —
  - (a) sums received by the authority in respect of its community charges (but not sums received by way of penalty),
  - (b) sums received by the authority as interest on sums held or lent in accordance with section 89(5) above, and
  - (c) any other sums which the Secretary of State specifies are to be paid into a Welsh charging authority's collection fund.
- (4) The following payments shall be met from the collection fund of a Welsh charging authority —
  - (a) payments to be made by the authority in respect of the amount of any precept issued under this Act or in respect of interest on such an amount,
  - (b) payments to be made by the authority to another person in repaying, under regulations under this Act, excess receipts by way of community charges, and
  - (c) any other payments which are to be made by the authority to another person and which the Secretary of State specifies are to be met from a Welsh charging authority's collection fund.
- (5) The power to specify under this section—
  - (a) includes power to revoke or amend a specification made under the power;
  - (b) may be exercised differently in relation to different authorities.

## **91 General funds.**

- (1) For the purposes of this section each of the following is a relevant authority—
  - (a) a district council,
  - (b) a London borough council, and
  - (c) the Council of the Isles of Scilly.
- (2) Every relevant authority shall establish, and then maintain, a fund (to be called its general fund) in accordance with this Part.
- (3) An authority's general fund must be established on 1 April 1990.
- (4) Any sum received by a relevant authority after 31 March 1990 shall be paid into its general fund; but this does not apply to a sum which is to be paid into its collection fund or a trust fund.
- (5) Any payment to be made by a relevant authority after 31 March 1990 shall be met from its general fund; but this does not apply to a payment which is to be met from its collection fund or a trust fund.
- (6) After 31 March 1990 no district council or London borough council shall be required to keep a general rate fund; and the assets held in the general rate fund of such an authority immediately before 1 April 1990 (other than assets forming part of a trust fund) shall be transferred to its general fund on that date.
- (7) After 31 March 1990 the Council of the Isles of Scilly shall not be required to keep any fund known as its general fund and required (apart from this subsection) to be kept under any order made under section 265 of the <sup>M2</sup>Local Government Act 1972; and the assets held in that fund immediately before 1 April 1990 (other than assets forming part of a trust fund) shall be transferred on that date to the Council's general fund established under this section.

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### Marginal Citations

M2 1972 c. 70.

## 92 General funds: supplementary.

- (1) In this section “relevant authority” has the same meaning as in section 91 above.
- (2) The Secretary of State may make regulations—
  - (a) about the relationship of a relevant authority’s general fund to its other funds;
  - (b) providing for assets falling within a relevant authority’s general fund to be held in separate funds within the general fund.
- (3) The regulations may provide that any fund established by a relevant authority on or after 1 April 1990, other than its collection fund or a trust fund, is to be maintained as a separate fund falling within its general fund.
- (4) The regulations may provide that such assets as are transferred to a relevant authority’s general fund under section 91(6) or (7) above and fall within a prescribed description shall be held in separate funds falling within the general fund; and the number and composition of the separate funds shall be such as are prescribed.

## 93 The City fund.

- (1) The Common Council shall establish, and then maintain, a fund (to be called the City fund) in accordance with this Part.
- (2) The City fund must be established on 1 April 1990.
- (3) Any sum received by the Common Council after 31 March 1990 shall be paid into the City fund if it is not a sum which is to be paid into its collection fund or a trust fund and—
  - (a) it is received in respect of the general rate, the poor rate or the St. Botolph tithe rate, or
  - (b) it would have fallen to be credited in aid of any of those rates had this Act not been passed.
- (4) Any payment to be made by the Common Council after 31 March 1990 shall be met from the City fund if it is not a payment which is to be met from its collection fund or a trust fund and if, had this Act not been passed, it would have fallen to be met out of—
  - (a) the general rate, the poor rate or the St. Botolph tithe rate, or
  - (b) sums which, had this Act not been passed, would have fallen to be credited in aid of any of those rates.
- (5) No sum shall be paid into, and no payment shall be met from, the City fund except in accordance with subsections (3) and (4) above.
- (6) The assets of the Common Council subsisting immediately before 1 April 1990 shall be transferred to the City fund on that date if they are assets—
  - (a) subsisting in respect of the general rate, the poor rate or the St. Botolph tithe rate, or
  - (b) representing sums credited in aid of any of those rates.

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#### **94 The City: further provisions.**

- (1) The Secretary of State may make regulations—
  - (a) about the relationship of the City fund to other funds of the Common Council;
  - (b) providing for assets falling within the City fund to be held in separate funds within the City fund;
  - (c) prohibiting the Common Council from establishing funds.
- (2) The regulations may provide that any fund established by the Common Council on or after 1 April 1990, and falling within a prescribed description, is to be maintained as a separate fund falling within the City fund.
- (3) The regulations may provide that such assets as are transferred to the City fund under section 93(6) above and fall within a prescribed description shall be held in separate funds falling within the City fund; and the number and composition of the separate funds shall be such as are prescribed.
- (4) The regulations may provide that the Common Council shall not establish or maintain on or after 1 April 1990 a fund into which both the following must or may be paid—
  - (a) sums which must be paid into the City fund under section 93(3) above, and
  - (b) other sums.
- (5) The regulations may provide that the Common Council shall not establish or maintain on or after 1 April 1990 a fund from which both the following must or may be met—
  - (a) payments which must be met from the City fund under section 93(4) above, and
  - (b) other payments.

#### *Calculations*

#### **95 Calculations to be made by authorities.**

- (1) In relation to each chargeable financial year a charging authority shall make the calculations required by this section.
- [<sup>F4</sup>(2) The authority must calculate the aggregate of—
  - (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 (2A) below;
  - (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; and
  - (e) any amounts it estimates will be charged to a revenue account in respect of the authority's general fund or City fund, as the case may be, by virtue of a transfer,—
    - (i) pursuant to regulations under section 89(5) above, of such an additional sum as is referred to in subsection (3)(d) of section 98 below; or

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- (ii) pursuant to a direction under subsection (5) of that section, of such an amount as is referred to in that subsection.
- (2A) The estimated expenditure referred to in subsection (2)(c) above is—
- (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 to be transferred as regards that year from its collection fund to its general fund or to the City fund (as the case may be) become 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.
- (2B) References in subsections (2) and (2A) above to expenditure incurred by the authority shall be construed in accordance with section 41(3) of the Local Government and Housing Act 1989.]
- (3) The authority must calculate the aggregate of
- [<sup>F5</sup>(a) the sums which it estimates will be payable for the year into its general fund or into the City fund (as the case may be) and in respect of which amounts are to be credited to a revenue account for the year;
  - (b) the amounts which it estimates will be transferred from its collection fund to its general fund or the City fund (as the case may be) pursuant to a direction under section 98(4) below and credited to a revenue account for the year; and
  - (c) 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), (b) and (e) 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.
- (5) In making the calculation under subsection (2) above the authority must ignore payments which must be met from its collection fund under section 90(2) or (4) above or from a trust fund.
- (6) In estimating under subsection (2)(a) above the authority shall take into account the amount of any levy or special levy issued to it for the year but (except as provided by regulations under section 74 or 75 above) shall not anticipate a levy or special levy not issued.
- (7) In making the calculation under subsection (3) above the authority must ignore sums which [<sup>F6</sup>in accordance with section 97 below] have been or are to be transferred from its collection fund to its general fund or to the City fund (as the case may be).
- (8) 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) to (7) above, or any of them, or by adding other provisions, or by a combination of those methods).

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- (9) Calculations to be made in relation to a particular financial year under this section must be made before 11 March in the preceding financial year, but they are not invalid merely because they are made on or after that date.

#### Textual Amendments

- F4** S. 95 subsections (2)–(2B) substituted for subsection (2) by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 63\(1\)](#)
- F5** S. 95(3)(a)–(c) substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 63\(2\)](#)
- F6** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, [Sch. 5 para. 63\(3\)](#)

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

- C1** S. 95(2) modified by [S.I. 1990/72](#), [reg. 14\(2\)\(3\)](#)
- C2** S. 95(2)(a) amended by [S.I. 1990/70](#), [reg. 11\(3\)](#) and by [S.I. 1990/71](#), [reg. 12\(3\)](#)
- C3** S. 95(2)(a) modified by [S.I. 1990/70](#), [art. 11\(4\)](#), by [S.I. 1990/71](#), [reg. 12\(2\)–\(4\)](#), by [S.I. 1990/72](#), [reg. 14\(6\)](#) and by [S.I. 1990/118](#), [reg. 10\(2\)–\(4\)](#)

## 96 Substitute calculations.

- (1) An authority which has made calculations in accordance with section 95 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, ignoring section 95(9) for this purpose.
- (2) None of the substitute calculations shall have any effect if the amount calculated under section 95(4) would exceed that so calculated in the previous calculations.
- (3) But subsection (2) above shall not apply if the previous calculation under section 95(4) has been quashed because of a failure to comply with section 95 in making the calculation.

### *Transfers between funds*

## 97 Principal transfers between funds.

An authority which has made calculations in accordance with section 95 above (originally or by way of substitute) shall transfer from its collection fund to its general fund or to the City fund (as the case may be) an amount equal to that calculated (or last calculated) under section 95(4).

## 98 Other transfers between funds.

- (1) An English charging authority which receives a sum by way of additional grant shall transfer from its collection fund to its general fund or to the City fund (as the case may be) an amount found by deducting B from A; and the Secretary of State may by direction specify the time at which the transfer is to be made.
- (2) A is the sum received by the authority by way of additional grant, and B is such of that sum as the authority pays under a direction under section 86(4) above.

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- (3) Regulations under section 89(5) above may include provision that—
- (a) any sum to which they relate shall be transferred from an authority’s collection fund to its general fund or to the City fund (as the case may be);
  - (b) the sum so transferred shall be held, invested or otherwise used in such manner as may be prescribed;
  - (c) a sum equal to the sum transferred shall be transferred to the authority’s collection fund from its general fund or from the City fund (as the case may be);
  - (d) together with the sum so transferred an additional sum representing interest . . .<sup>F7</sup> shall be transferred.
- (4) If the Secretary of State directs it to do so, a charging authority shall transfer from its collection fund to its general fund or to the City fund (as the case may be) such an amount as is specified in, or calculated in a manner specified in, the direction; and the transfer shall be made at such time as is specified in the direction.
- (5) If the Secretary of State directs it to do so, a charging authority shall transfer to its collection fund from its general fund or from the City fund (as the case may be) such an amount as is specified in, or calculated in a manner specified in, the direction; and the transfer shall be made at such time as is specified in the direction.
- (6) Different directions may be given to different authorities under subsection (1), (4) or (5) above.

#### Textual Amendments

- F7** Words repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), ss. 139, 194(4), Sch. 5 para. 64, [Sch. 12 Pt. II](#) Note 4

### *Regulations about funds*

#### **99 Regulations about funds.**

- (1) The Secretary of State may make regulations about the discharge of the following liabilities of a charging authority—
- (a) the liability to pay anything from its collection fund in respect of any precept, and
  - (b) the liability to transfer anything from its collection fund under section 97 above.
- (2) The regulations may include provision—
- (a) that anything falling to be paid or transferred must be paid or transferred within a prescribed period,
  - (b) that anything falling to be paid or transferred must be paid or transferred in instalments of such amounts, and at such times, as are determined by the charging authority in accordance with prescribed rules,
  - (c) that the charging authority must inform any precepting authorities when instalments will be paid and how they are to be calculated,



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- (d) that if an instalment is not paid to a precepting authority in accordance with the regulations, it is to be entitled to interest on the amount of the instalment
- (e) that the charging authority must calculate at a prescribed time and in accordance with prescribed rules the amount available in its collection fund to meet the liabilities mentioned in subsection (1) above,
- (f) that any deficiency in or excess of such an amount is to be borne as between, or shared among, the charging authority and precepting authorities in accordance with prescribed rules,
- (g) that the charging authority must inform any precepting authorities of the effects of any calculation and rules mentioned in paragraphs (e) and (f) above,
- (h) as to the circumstances in which the charging authority is to be treated as having discharged the liabilities mentioned in subsection (1) above,
- (i) as to the recovery (by deduction or otherwise) of any excess amount paid by the charging authority to any precepting authority in purported discharge of the liability mentioned in subsection (1)(a) above, and
- (j) as to the transfer back of any excess amount transferred by the charging authority in purported discharge of the liability mentioned in subsection (1) above.
- (3) The Secretary of State may make regulations requiring transfers between funds, or adjustments or assumptions, to be made to take account of any substitute calculation under section 95(4) above.
- (4) The Secretary of State may make regulations providing that sums standing to the credit of a charging authority's collection fund at any time in a financial year must not exceed a total to be calculated in such manner as may be prescribed.
- (5) Regulations under subsection (4) above in their application to a particular financial year (including regulations amending others) shall not be effective unless they come into force before 1 January in the preceding financial year; but this does not affect regulations revoking others.

#### Textual Amendments

- F8** Words repealed by Local Government and Housing Act 1989(c. 42, SIF 81:1), ss. 139, 194(4), Sch. 5 para. 65, Sch. 12 Pt.II Note 4

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