



# Local Government Finance Act 1988

## 1988 CHAPTER 41

### PART VI

#### FUNDS

##### *Funds*

#### 89 Collection funds.

- (1) Every [<sup>F1</sup>billing 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>F2</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>F3</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 in s. 89(1) substituted (6.3.1992) by 1992 c. 14, s. 104, **Sch. 10 Pt. II para.19** (with s. 118(1)(2)(4))
- F2** Words substituted by **Local Government and Housing Act 1989** (c. 42, SIF 81:1), s. 139, **Sch. 5 para. 62**
- F3** Word substituted by **Local Government and Housing Act 1989** (c. 42, SIF 81:1), s. 139, **Sch. 5 para. 62**

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### Marginal Citations

**M1** 1972 c. 70.

VALID FROM 03/04/1995

### [89A] <sup>F4</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

**F4** 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] <sup>F5</sup> Payments to and from collection funds.

- (1) The following shall be paid into the collection fund of a billing authority—
  - (a) sums received by the authority in respect of council tax set by it in accordance with section 30 of the Local Government Finance Act 1992 (but not sums received by way of penalty),
  - (b) sums received by the authority from any major precepting authority under regulations made under section 99(3) below,
  - (c) sums received by the authority in respect of any non-domestic rate under this Act,
  - (d) sums received by the authority under paragraph 5(10) or (14) of Schedule 8 below or regulations made under paragraph 5(15) or 6(5) of that Schedule, and
  - (e) any other sums which the Secretary of State specifies are to be paid into a billing authority's collection fund.
- (2) The following payments shall be met from the collection fund of a billing authority—
  - (a) payments to be made by the authority in respect of the amount of any precept issued by a major precepting authority under Part I of the Local Government Finance Act 1992 (but not payments to be so made in respect of interest on such an amount),
  - (b) payments to be made by the authority to any major precepting authority under regulations made under section 99(3) below,
  - (c) payments to be made by the authority to the Secretary of State under paragraph 5 of Schedule 8 below or regulations made under sub-paragraph (15) of that paragraph,
  - (d) payments to be made by the authority to another person in repaying, under regulations under this Act or Part I of the Local Government Finance Act 1992, excess receipts by way of non-domestic rates or of council tax, and
  - (e) 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 billing authority's collection fund.

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- (3) 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.]

#### Textual Amendments

**F5** S. 90 substituted (6.3.1992) by 1992 c. 14, s. 104, **Sch. 10 Pt. III para.20** (with s. 118(1)(2)(4))

## 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.

#### 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;

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- (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.

### **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.

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- (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*

**F695** .....

**Textual Amendments**

**F6** S. 95 repealed (6.3.1992) by 1992 c. 14, ss. 104, 117(2), Sch. 10 Pt. III para. 21, **Sch.14** (with s. 118(1)(2)(4))

**F796** .....

**Textual Amendments**

**F7** S. 96 repealed (6.3.1992) by 1992 c. 14, ss. 104, 117(2), Sch. 10 Pt. III para. 21, **Sch.14** (with s. 118(1)(2)(4))

#### *Transfers between funds*

**[97** <sup>F8</sup>**Principal transfers between funds.**

- (1) Subject to subsection (2) below, a billing authority which has made calculations in accordance with sections 32 to 36 of the Local Government Finance Act 1992 (originally or by way of substitute) shall transfer from its collection fund to its general fund an amount which shall be calculated by applying the formula—

$$B \times T$$

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where—

B is the amount calculated (or last calculated) by the authority under section 33(1) of that Act as the basic amount of its council tax;

T is the amount determined for item T in section 33(1) of that Act.

- (2) Where the amount given by subsection (1) above is a negative amount, the authority shall transfer the equivalent positive amount from its general fund to its collection fund.
- (3) Where in accordance with regulations under section 99(3) below a billing authority has estimated that there is a surplus in its collection fund for the preceding year, it shall transfer from its collection fund to its general fund an amount equal to so much of the surplus as, in accordance with the regulations, the authority calculates to be its share.
- (4) Where in accordance with regulations under section 99(3) below a billing authority has estimated that there is a deficit in its collection fund for the preceding year, it shall transfer from its general fund to its collection fund an amount equal to so much of the deficit as, in accordance with the regulations, the authority calculates must be borne by it.
- (5) In this section and sections 98 and 99 below, any reference to a billing authority’s general fund shall be construed in relation to the Common Council as a reference to the City fund.]

**Textual Amendments**

**F8** S. 97 substituted (6.3.1992) by 1992 c. 14, s. 104, **Sch. 10 Pt. III para.22** (with s. 118(1)(2)(4))

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

**C1** S. 97 restricted (6.3.1992) by 1992 c. 14, s. 62(2) (with s. 118(1)(2)(4))

S. 97 modified (27.7.1999) by 1992 c. 14, s. 52k(2) (as inserted by 1999 c. 27, s. 30, **Sch. 1 Pt. I para. 1**)

S. 97 modified (27.7.1999) by 1992 c. 14, s. 52V(3)(as inserted by 1999 c. 27, s. 30, **Sch. 1 Pt. I para. 1**)

**98 Other transfers between funds.**

<sup>F9</sup>(1) .....

<sup>F9</sup>(2) .....

- (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 <sup>F10</sup>. . . ;
  - (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 <sup>F10</sup>. . . ;
  - <sup>F11</sup>(d) .....

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- (4) If the Secretary of State directs it to do so, a [<sup>F12</sup>billing authority] shall transfer from its collection fund to its general fund <sup>F13</sup>. . . 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 [<sup>F12</sup>billing authority] shall transfer to its collection fund from its general fund <sup>F14</sup>. . . 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 [<sup>F15</sup>subsection (4) or (5)] above.

#### Textual Amendments

- F9** S. 98(1)(2) repealed (6.3.1992) by 1992 c. 14, ss. 104, 117(2), Sch. 10 Pt. III para. 23(1)(a), **Sch.14** (with s. 118(1)(2)(4))
- F10** Words in s. 98(3)(a)(c) repealed (6.3.1992) by 1992 c. 14, ss. 104, 117(2), Sch. 10 Pt. III para. 23(1)(b), **Sch.14** (with s. 118(1)(2)(4))
- F11** S. 98(3)(d) repealed (6.3.1992) by 1992 c. 14, ss. 104, 117(2), Sch. 10 Pt. III para. 23(1)(b), **Sch.14** (with s. 118(1)(2)(4))
- F12** Words in s. 98(4)(5) substituted (6.3.1992) by 1992 c. 14, s. 104, **Sch. 10 Pt. III para. 23(2)** (with s. 118(1)(2)(4))
- F13** Words in s. 98(4) repealed (6.3.1992) by 1992 c. 14, ss. 104, 117(2), Sch. 10 Pt. III para. 23(1)(c), **Sch.14** (with s. 118(1)(2)(4))
- F14** Words in s. 98(5) repealed (6.3.1992) by 1992 c. 14, ss. 104, 117(2), Sch. 10 Pt. III para. 23(1)(d), **Sch.14** (with s. 118(1)(2)(4))
- F15** Words in s. 98(6) substituted (6.3.1992) by 1992 c. 14, s. 104, **Sch. 10 Pt. III para. 23(3)** (with s. 118(1)(2)(4))

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

- C2** S. 98 restricted (6.3.1992) by 1992 c. 14, **s. 62(2)** (with s. 118(1)(2)(4))
- S. 98 modified (27.7.1999) by 1992 c. 14, **s. 52K(2)** (as inserted by 1999 c. 27, s. 30, **Sch. 1 Pt. I para. 1**)
- S. 98 modified (27.7.1999) by 1992 c. 14, **s. 52V(3)** (as inserted by 1999 c. 27, s. 30, **Sch. 1 Pt. I para. 1**)

### Regulations about funds

#### [99] <sup>F16</sup>Regulations about funds.

- (1) The Secretary of State may make regulations about the discharge of the following liabilities of a billing authority—
- the liability to pay anything from its collection fund or its general fund in respect of any precept issued by a major or local precepting authority under Part I of the Local Government Finance Act 1992;
  - the liability to transfer anything from its collection fund under section 97(1) or (3) above; and
  - the liability to transfer anything from its general fund under section 97(2) or (4) above.

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- (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 billing authority in accordance with prescribed rules;
  - (c) that the billing authority must inform any precepting authorities when instalments will be paid and how they are to be calculated;
  - (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) as to the circumstances in which the billing authority is to be treated as having discharged the liabilities mentioned in subsection (1) above;
  - (f) as to the recovery (by deduction or otherwise) of any excess amount paid by the billing authority to any precepting authority in purported discharge of the liability mentioned in subsection (1)(a) above; and
  - (g) as to the transfer back of any excess amount transferred by the billing authority in purported discharge of the liability mentioned in subsection (1)(b) or (c) above.
- (3) The Secretary of State may by regulations make provision as regards any financial year—
- (a) that a billing authority must estimate at a prescribed time in the preceding financial year and in accordance with prescribed rules whether there is a deficit or surplus in its collection fund for that year and, if so, the amount of the deficit or surplus;
  - (b) that any surplus or deficit so estimated shall in the financial year concerned—
    - (i) be shared among, or be borne between, the billing authority and major precepting authorities in accordance with prescribed rules; or
    - (ii) in the case of the financial year beginning in 1993, belong solely to, or be borne solely by, the billing authority;
  - (c) that the billing authority must within a prescribed period inform any major precepting authorities of the effects of any estimates and rules mentioned in paragraphs (a) and (b) above;
  - (d) as to the manner in which any payments which fall to be made by a billing authority or a major precepting authority by virtue of any provision included in regulations under paragraph (a) or (b) above must be made;
  - (e) as to the period within which, or time or times at which, any such payments or instalments of such payments must be made; and
  - (f) as to the recovery (by deduction or otherwise) of any excess amount paid by a major precepting authority or a billing authority in purported discharge of any liability arising by virtue of any provision included in regulations under paragraph (a) or (b) above.
- (4) 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 32(4) of the Local Government Finance Act 1992.
- (5) The Secretary of State may make regulations providing that sums standing to the credit of a billing 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.



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- (6) Regulations under subsection (5) 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 which merely revoke others.]

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**Textual Amendments**

**F16** S. 99 substituted (6.3.1992) by 1992 c. 14, s. 104, **Sch. 10 Pt. III para.24** (with s. 118(1)(2)(4))

**Status:**

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