



EXPLANATORY NOTES

Local Government Finance Act 2012

Chapter 17

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LOCAL GOVERNMENT FINANCE ACT 2012

EXPLANATORY NOTES

INTRODUCTION

1. These notes refer to the Local Government Finance Act 2012 which received Royal Assent on 31 October 2012. They have been prepared by the Department for Communities and Local Government in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

OVERVIEW AND SUMMARY

3. The Act supports the Government's commitment to delivering economic growth, decentralising control over finance, and reducing the deficit.
4. The Act will introduce a rates retention scheme, enabling local authorities to retain a proportion of the non-domestic rates generated in their area. This will give local authorities a strong financial incentive to promote local economic growth.
5. The Act will provide a framework for the localisation of support for council tax in England, which, alongside other council tax measures, will give councils increased financial autonomy and a greater stake in the economic future of their local area, while providing continuation of council tax support for the most vulnerable in society, including pensioners.
6. Further background is included on these elements of the Act in the "Overview of the Structure" section.
7. A glossary of terms and abbreviations used in these Explanatory Notes is provided at the end of these notes.

OVERVIEW OF THE STRUCTURE

Non-domestic rates

8. Existing provision in Schedule 8 to the Local Government Finance Act 1988 ("the LGFA 1988") in respect of England will be replaced and provision made for the treatment of non-domestic rates collected by billing authorities. The treatment of non-domestic rates will include the localisation of a percentage share of non-domestic rates to which a rates retention scheme will apply.

9. Key protections are built into the scheme; a stable starting point will ensure no local authority is worse off as a result of its business rates base at the outset of the scheme. This is achieved through a system of tariffs and top-ups, the basis for which will be set out in the local government finance report. Further protections are built in to ensure that councils can meet local needs, including a safety net for places in need of additional support, funded by a levy recovering a share of disproportionate gain.

10. The Secretary of State will be required to prepare a local government finance report each year, which sets out the central and local share percentages of non-domestic rates. It will also set out which payments are required to be made by billing authorities and major precepting authorities ("relevant authorities") to the Secretary of State, into the main non-domestic rating account, and which payments are required to be made by the Secretary of State to relevant authorities, from the main non-domestic rating account.

11. The Secretary of State will also be required to establish a levy account and make regulations as to whether payments are required from any relevant authority. Payments may be made from the levy account for the safety net to authorities in accordance with regulations to be made by the Secretary of State. The Secretary of State may also make regulations as to transitional protection payments for authorities, to take account of transitional relief. Billing authorities will also be required to make payments to major precepting authorities, under regulations to be made by the Secretary of State.

12. A number of relevant authorities may also be designated as a pool of authorities, which will then be treated for most purposes of the new provisions as a single authority. The Secretary of State may designate certain areas of England and provide through regulations that a proportion of the rates are to be retained by billing authorities in those areas. Similarly, the Secretary of State may also designate certain classes of hereditament and provide that rates are to be retained by billing authorities whose area includes hereditaments within the designated class.

Council tax

Council tax reduction schemes

13. At Spending Review 2010 the Government announced that it would localise support for council tax from 2013-14, reducing expenditure by 10%. The Welfare Reform Act 2012, which received Royal Assent on 8 March 2012, contains provisions for the abolition of council tax benefit. Council tax benefit is currently a social security benefit, administered by local authorities on behalf of the Department for Work and Pensions. The Government intends that in future support should be offered in the form of council tax reductions, according to criteria set by local authorities (in relation to working age taxpayers).

14. The Government is committed to ensuring that local authorities continue to provide support for council tax for the most vulnerable in society, including pensioners. The localisation of support for council tax is taking place within a wider programme of welfare reform which is intended to help move people back into work. However, there are certain low-income groups, in particular pensioners, whom the Government does not expect to work to increase their income.

15. Following consultation, the Government has concluded that support for vulnerable pensioners should be delivered through a national framework of criteria and allowances. This is to ensure that pensioner council tax support is not reduced as a result of the introduction of this reform. The Act includes powers for the Secretary of State to make requirements about the schemes which local authorities must make, and for those requirements to include provisions equivalent to those contained in or made under particular sections of the Social Security Contributions and Benefits Act 1992 and the Social Security Administration Act 1992. The Government intends to use these powers to ensure that reductions are provided for pensioners, mirroring as far as possible current arrangements in relation to council tax benefit.

16. Each billing authority in England must make a council tax reduction scheme by 31 January 2013 and those schemes must relate to the financial year beginning on 1 April 2013 ("2013-14"). This is necessary to enable the planned reduction in expenditure to be achieved in 2013-14. The Secretary of State has power to alter the commencement of these provisions.

17. A scheme must set out the classes of person who are entitled to a reduction, the reductions which are to apply to those classes and the procedure by which a person may apply for a reduction. The Secretary of State has power to prescribe classes of person which must be included in a scheme and the reductions which must apply to them, and to prescribe classes of person which must not be included in a scheme. The Secretary of State intends to use this power to ensure that reductions are provided for pensioners, and that persons from abroad of restricted immigration status are not eligible for a reduction under a local scheme.

18. A billing authority must consult before making a scheme and each financial year it must consider whether to revise or to replace its scheme. The Secretary of State has power to make provision for the procedure for preparing a scheme or a revision to a scheme, but the Government has stated that it does not intend to make regulations under this power.

19. The Welfare Reform Act 2012 provides a power for the Secretary of State to make regulations permitting the Department for Work and Pensions to supply data to local authorities for prescribed purposes relating to council tax. The Act includes similar powers for the Secretary of State to make regulations permitting Revenue and Customs officials to supply data to local authorities for prescribed purposes relating to council tax. These powers are to ensure that the Department for Work and Pensions and HMRC may share data they hold with local authorities, to reduce the need for local authorities to require the same data from claimants applying for a council tax reduction, and to use data on claimants' benefits in the calculation of council tax reductions.

20. Similar powers are provided in relation to the supply of data by Revenue and Customs officials to local authorities in Scotland and Wales for prescribed purposes relating to council tax. Provision is also made to enable Revenue and Customs officials to supply information to the Department of Finance and Personnel in Northern Ireland and the Northern Ireland Housing Executive for prescribed purposes relating to rates.

21. The Act also provides powers for the Secretary of State to make regulations about powers to require information, offences and penalties. This includes the power to make regulations containing provisions equivalent to some of those set out in Part 6 of the Social

Security Administration Act 1992 (with modifications) which deal with the investigation and prosecution of fraudulent claims for social security benefits.

22. The Welsh Assembly Government has consulted on its proposals for changes to the provision of council tax support in Wales. The Act provides Welsh Ministers with powers to require an authority to make a council tax reduction scheme, and make requirements in relation to matters including the reductions to be offered by those schemes and the procedure for making schemes.

Technical reforms for council tax

23. A billing authority will have a new power to set discounts on dwellings of a kind set out in regulations. Billing authorities will also be able to charge an ‘empty homes premium’ in respect of dwellings which have been empty for two years or more.

24. Provision is also made for mortgagees in possession of the owner’s interest in a dwelling to be included in the hierarchy of council tax liability set out in section 6 of the Local Government Finance Act 1992 ("the LGFA 1992").

TERRITORIAL EXTENT AND APPLICATION

Territorial Extent: Scotland

25. Section 17 and 18 (powers for HMRC to supply information for purposes of council tax or rates in Northern Ireland) and section 20 (power to make transitional, consequential etc provision) extend to Scotland.

Territorial Application: Wales

26. The Act extends to England and Wales. New section 13A(1)(b) which will be inserted into the LGFA 1992 by section 10 provides for council tax reduction schemes in Wales. New section 13A(4) of the LGFA 1992 provides powers for Welsh Ministers to make regulations in relation to council tax reduction schemes, and new Schedule 1B, which is inserted into the LGFA 1992 by Schedule 4 to the Act, contains further provisions about regulations that may be made under new section 13A(4). New section 13A(1)(c), also inserted by section 10, will apply to both England and Wales, and does not alter the legal position in relation to Wales. Schedule 3 to the Act amends Schedule 8 to the LGFA 1988 so that it applies only to Wales.

27. Sections 7, 8, 9, 14, 16 and 17 also apply to Wales.

Territorial Extent: Northern Ireland

28. Section 18 (power for HMRC to supply information for the purposes of rates in Northern Ireland) and section 20 (power to make transitional, consequential etc provision) extend to Northern Ireland.

COMMENTARY ON SECTIONS

Non-Domestic Rates

Section 1: Local retention of non-domestic rates

29. Section 1 gives effect to Schedule 1 and amends the LGFA 1988 by-

- inserting and giving effect to a new Schedule 7B (local retention of non-domestic rates); and
- providing that regulations made under paragraph 9, 11, 22, 25 or 30 of Schedule 7B, and regulations made under paragraph 39 or 40 of Schedule 7B that contain provision under paragraph 41, are to be subject to the affirmative resolution procedure.

30. Further detail on the provisions of Schedule 1 is provided at paragraphs 67 to 92 below.

Section 2: Revenue support grant

31. Section 2 gives effect to Schedule 2 (amendments of provisions about revenue support grant in England). Further detail is provided at paragraph 93 below.

Section 3: Additional grant

32. Section 3 amends the LGFA 1988 to remove provision at sections 85 and 86 for the Secretary of State to pay additional grant to local authorities in England and makes amendments consequential to this change to the LGFA 1992 and the Greater London Authority Act 1999.

Section 4: General GLA Grant

33. Section 4 amends section 100 of the Greater London Authority Act 1999. The effect is that from the financial year beginning 1 April 2013, the Secretary of State may pay a general grant to the Greater London Authority for a financial year, but will not be required to do so.

Section 5: Local retention of non-domestic rates: further amendments

34. Section 5 gives effect to Schedule 3 (further amendments relating to non-domestic rates) and is discussed in further detail at paragraphs 94 and 95 below.

Section 6: Definition of domestic property

35. Section 6 will correct a drafting error in the LGFA 1988. Subsections (2B) and (2C) of section 66 of that Act identify when a building or a self-contained part of a building is not 'domestic property', and apply particularly to provide that where serviced apartments in a building are let out for short periods, they shall be treated as in non-domestic use. The High Court has determined that, due to a drafting error in subsection (2C), the provision does not apply where the apartments are being let by the freeholder of a self-contained part of a building. This section corrects the defect.

Section 7: Payments to and from authorities

36. Section 7 updates some out of date cross references in section 141 of the LGFA 1988, which contains Welsh Ministers' powers to make regulations to set off payments made by local authorities in respect of non-domestic rate receipts and refunds of revenue support grant against payments made to them of revenue support grant and redistributed non-domestic rate income.

Section 8: Provision of information about non-domestic rates

37. Section 8 amends the provisions on collection and recovery of non-domestic rates in Schedule 9 to the LGFA 1988, the effect of which will be to enable publication of information by electronic means.

Council Tax

Section 9: Council tax reduction schemes: review

38. This section requires the Secretary of State to make provision for an independent review of all council tax reduction schemes made under the provisions of the Act within three years of the Act coming into effect. This applies both to schemes made under new section 13A(1)(a) of the LGFA 1992 in relation to England, and under regulations made under new section 13A(1)(b) of the LGFA 1992 in relation to Wales (new section 13A is inserted into the LGFA 1992 by section 10 of this Act).

Section 10: Council tax reduction schemes

39. Section 10 substitutes a new section 13A of the LGF A 1992 for the current section 13A (reductions by billing authority). New section 13A(1) provides-

- in the case of a dwelling situated in England, that a person's liability to council tax is to be reduced in accordance with the billing authority's council tax reduction scheme;
- in the case of a dwelling situated in Wales, that a person's liability is to be reduced to the extent required by any council tax reduction scheme made in accordance with regulations made by Welsh Ministers; and
- in the case of a dwelling situated in England or Wales, that a person's liability to council tax may be reduced to such extent as the billing authority thinks fit.

40. Billing authorities in England must make a council tax reduction scheme by 31 January 2013 and those schemes must relate to the financial year 2013-14 (new section 13A(2) and section 10(4)). The Secretary of State may alter the commencement of these provisions by amending the 31 January 2013 date or the 2013-14 financial year (section 10(5)).

41. The power in new section 13A(1)(c) – which is a restatement of the current law – can be exercised in particular cases or by determining a class of case and an authority can reduce a person's liability to nil (new section 13A(6) and (7)).

Section 11: Power to determine further discounts for certain dwellings

42. This section inserts new subsections (4A) and (4B) into section 11A of the LGFA 1992. The new subsections allow the Secretary of State to prescribe a new class of dwelling for the purposes of allowing billing authorities to make a determination that any discount under section 11(2)(a) shall not apply or shall be such percentage (which may be 100%) as it may specify.

43. In practice, this will allow billing authorities to set a discount on unoccupied and unfurnished dwellings prescribed in the new class of dwelling mentioned above.

Section 12: Power to set higher amount for long-term empty dwellings

44. This section inserts a new section 11B into the LGFA 1992. In respect of a dwelling that has been unoccupied and substantially unfurnished for more than two years, the new section allows billing authorities to charge up to 150% of the council tax that would be payable if the dwelling were occupied by two adults and no discounts were applicable.

45. The new section allows the Secretary of State to make provision for exceptions, by prescribing classes of dwelling, taking into account the physical characteristics and the circumstances of any person liable, for which a billing authority will not be able to charge extra council tax.

Section 13: Mortgagee in possession to be liable for council tax

46. This section will include mortgagees who repossess homes situated in England in the hierarchy of liability for council tax as set out in section 6 of the LGFA 1992.

Section 14: Regulations about powers to require information, offences and penalties

47. This section inserts new sections 14A to 14D into the LGFA 1992. New section 14A allows the Secretary of State and the Welsh Ministers to make regulations providing powers for persons to require the provision of information and to require that a person must enter into arrangements under which access is permitted to their electronic records. These powers can only be used for prescribed purposes relating to a person's liability to pay council tax (new section 14A(1) and 14A(7)).

48. Provision may also be made in regulations about arrangements for access to a person's electronic records for purposes relating to a person's liability to pay council tax when arrangements are entered into otherwise than under a requirement mentioned in section 14A(1)(b) (new section 14A(2)).

49. Regulations may include provision about the persons by whom these powers may be exercised and who may enter into these arrangements and may, in particular, provide billing authorities with the power to authorise persons to exercise these powers or make these arrangements (new section 14A(3)).

50. Regulations made under this new section may, in particular, include provision equivalent to the provisions of the Social Security Administration Act 1992 listed in section 14A(5) (new section 14A(4)).

51. The Government intends that these powers will be used to ensure local authorities are able to access information to determine whether a claim for a reduction in council tax liability is fraudulent.

52. New section 14B enables the Secretary of State and the Welsh Ministers to make regulations providing for the creation of offences that may be committed by a person in prescribed circumstances. This includes where a person intentionally delays or obstructs a person when exercising a power under section 14A(1) or refuses or fails to supply information when required to do so. Offences may also be created where, for instance, a person makes a false statement or representation in connection with their liability to pay council tax (new section 14B(1)).

53. The intention is to create criminal offences equivalent to those that apply in relation to council tax benefit under the Social Security Administration Act 1992. New section 14B(9) therefore provides that the regulations may make provision equivalent to those listed in new section 14B(10) with modifications.

54. New section 14C enables provision to be made in regulations giving billing authorities powers to issue a penalty to a person where their act or omission results or could result in the amount of council tax a person is liable to pay being reduced and where no such discount or reduction should be given (new section 14C(1)). Regulations may similarly provide that a penalty may be issued where a person's act or omission results in a dwelling being treated as exempt when no such exemption should be given (new section 14C(2)). The regulations can only provide that a penalty may be imposed as an alternative to criminal proceedings being taken against a person in respect of the act or omission to which the penalty relates or where a person has not yet been charged with an offence in respect of that act or omission (new section 14C(3)). The Treasury may make an order varying the amount of a penalty provided for in the regulations (new section 14C(4) and (5)). The intention is that this will allow for increases in inflation. Any new penalties created in regulations will not affect the operation of the existing penalties that may be imposed under paragraph 1 of Schedule 3 to the LGFA 1992 (new section 14C(6)).

55. Regulations made under this section may, in particular, make provision equivalent to the provisions of the Social Security Administration Act 1992 listed in new section 14C(8). The intention is to enable authorities to impose penalties in circumstances similar to those in which a penalty may be imposed in relation to council tax benefit under these provisions.

56. Section 14D sets out the procedure for making regulations under section 14A to 14C.

57. Section 13(5) to (9) provides individuals with a route of appeal to a Valuation Tribunal in England or Wales against the imposition of a penalty under regulations under section 14C.

Section 15: Calculation of a billing authority's council tax base

58. This section allows regulations to be made under sections 34 and 45 of the LGFA 1992 setting out different rules for calculating the council tax base for part of an area where special items such as local parish council precepts or waste or transport levies apply depending on the special item under consideration. It also allows consequential amendments to be made to the Local Government Finance Act 1992 in those regulations.

Section 16: Provision of information about council tax

59. This amends the provisions on collection of council tax in Schedule 2 to the LGFA 1992, the effect of which will enable publication of information by electronic means.

Section 17: Power for HMRC to supply information for purposes of council tax

60. This section amends Schedule 2 to the LGFA 1992, inserting new paragraphs 15A, 15B and 15C to enable Revenue and Customs officials to supply information to billing authorities in England and Wales and local authorities in Scotland for prescribed purposes relating to council tax. It also inserts new paragraph 15D into Schedule 2, providing for offences in relation to the unlawful disclosure of information provided under the preceding paragraphs. It also makes a number of consequential amendments to paragraphs 11, 12 and 16 of Schedule 2 to the LGFA 1992. Finally, it amends paragraph 8 of Schedule 11 to the LGFA 1988 to ensure regulations can be made about the use of information supplied under new paragraph 15A or 15B of Schedule 2 to the LGFA 1992 or section 131 of the Welfare Reform Act 2012 as evidence at a Valuation Tribunal.

Section 18: Power for HMRC to supply information for purposes of rates in Northern Ireland

61. Section 18 enables Revenue and Customs officials to supply information to the Department of Finance and Personnel in Northern Ireland and the Northern Ireland Housing Executive for prescribed purposes relating to rates. It also provides for offences in relation to the unlawful use of this information. This section largely mirrors the powers provided by section 16 in relation to England, Wales and Scotland.

General

Section 19: Interpretation

62. This provides that references to "the LGFA 1988" and "the LGFA 1992" mean the Local Government Finance Act 1988 and 1992 respectively.

Section 20: Power to make transitional, consequential etc provision

63. This section gives the Secretary of State the power to make provision relating to the coming into force of the provisions in the Act, so as to allow for the transition from one set of legislative provisions to another. The section also gives the Secretary of State the power to make consequential provision as the Secretary of State considers appropriate in connection with any provision of the Act and makes provision for the appropriate procedure.

Section 21: Financial provisions

64. This section makes financial provision for the Act.

Section 22: Extent and short title

65. This provides that the Act extends to England and Wales only, apart from section 17 which also extends to Scotland and sections 18 and 20 which extend to England and Wales, Scotland and Northern Ireland.

66. This section also provides that the Act may be called the Local Government Finance Act 2012.

Schedule 1: Local retention of non-domestic rates

67. Section 1(2) and Schedule 1 insert a new Schedule 7B to the LGFA 1988. Schedule 7B replaces the existing provision in Schedule 8 to the LGFA 1988 in respect of England and makes provision for the treatment of non-domestic rates collected by billing authorities.

Part 1: Main non-domestic rating accounts

68. Paragraph 1 places a requirement on the Secretary of State, each year, to keep a main non-domestic rating account and sets the overarching administrative requirements for keeping the account.

69. Paragraph 2 defines the credits and debits to the main rating account for the year. Credits to the account in the year comprise non-domestic rates from ratepayers liable for non-domestic rates under the central list; contributions in aid in respect of hereditaments exempt from local non-domestic rating; payments by billing authorities in respect of any surplus on the collection fund in relation to non-domestic rates; payments in respect of the central share of non-domestic rates; payments by relevant authorities following a local government finance report and any amending report; transitional protection payments made to the Secretary of State and reconciliation payments with respect to amounts disregarded under paragraph 42. Debits to the account in the year comprise payments to billing authorities in respect of any deficit on the collection fund in relation to non-domestic rates; any reconciliation payments due in respect of the central share of non-domestic rates; payments to relevant authorities following a local government finance report and any amending report; transitional protection payments and reconciliation payments with respect to amounts disregarded under paragraph 42. Sub-paragraph (3) provides that a further amount may be debited following a local government finance report. This amount can only be used for the purposes of local government in England, which includes the making of payments to billing and precepting authorities and levying bodies as specified in sub-paragraph (5).

70. Paragraph 3 requires the Secretary of State, as soon as reasonably practicable after the end of the year, to calculate the aggregate of items credited and debited to the main non-domestic rating account for the year. Any resulting credit or debit for that year is to be credited or debited as appropriate to the main non-domestic rating account for the next year. (For example, if the aggregate of credits to the account is greater than the aggregate of debits, the excess is debited from the main non-domestic rating account for that year to produce a nil balance, and credited to the main non-domestic rating account for the next year, and vice versa.)

Part 2: Determination of the central and local share

71. This places a requirement on the Secretary of State for each year to determine the central and local share percentages for each billing authority. Paragraph 5 requires this determination to be set out in a local government finance report, which must be laid before the House of Commons, and sent to each relevant authority as soon as reasonably practicable thereafter. This requirement in respect of the local government finance report replaces the current provisions as to a local government finance report in section 78A of and Schedule 8 to the LGFA 1988, but makes similar provision in relation to the preparation and approval of the local government finance report.

Part 3: Payments to the Secretary of State in respect of the central share

72. Following House of Commons approval of a local government finance report, paragraph 6 places a duty on billing authorities to make payment of the central share to the Secretary of State (which will be the percentage of the billing authority's non-domestic rating income set out in the local government finance report). The Secretary of State must define "non-domestic rating income" for these purposes in regulations. Paragraph 7 provides for the Secretary of State to make regulations about the administrative arrangements for making such payments, including the time and manner of payments and any necessary payments subsequently to reconcile payments made during the course of the year. Paragraph 8 gives the Secretary of State power by regulations to make provision for deductions from a billing authority's central share payment, in particular by reference to discretionary relief granted by that authority in accordance with section 47 of the LGFA 1988. This will allow the Secretary of State to give effect to the Government's commitment to fund certain discretionary rate relief in enterprise zones.

Part 4: Payments by billing authorities to major precepting authorities

73. Paragraph 9 provides for the Secretary of State to make regulations requiring billing authorities to pay a proportion of their non-domestic rating income to major precepting authorities. Payments for a year may not be made unless the local government finance report for the year has been approved by the House of Commons. Paragraph 10 enables regulations about the administrative arrangements in connection with such payments, including certification of calculations and timing of payments. Paragraph 11 gives the Secretary of State power to make regulations to provide for a proportion of any amount deducted from the central share under paragraph 8 to be paid to major precepting authorities.

Part 5: Principal payments in connection with local retention of non-domestic rates

74. Paragraph 12 requires the local government finance report for a year to specify the basis on which the Secretary of State intends to calculate which relevant authorities will make payments to and which relevant authorities will receive payments from the Secretary of State and calculate the amounts of each payment to or from relevant authorities. Before making such a report, the Secretary of State must notify local government representatives of the general nature of the basis of calculation.

75. Following House of Commons approval of a local government finance report, paragraph 13 requires the Secretary of State to calculate the payments that are to be made and received by relevant authorities. Relevant authorities must be notified of the calculations as soon as practicable after they have been made. The Secretary of State may revise the calculations by making one further set of the calculations and may do this at any time before the end of the year following the year to which the report relates provided an amending report has not since been approved by the House of Commons.

76. Paragraph 14 places a duty on relevant authorities and the Secretary of State to make payments required of them following the local government finance report and makes provision about how payments are to be made.

77. Paragraph 15 provides for the Secretary of State to make reports amending the basis of calculation specified in the local government finance report for a year at any time before the end of the year following the year to which the report relates. Notification and laying arrangements are as for a local government finance report prepared under paragraph 5.

Paragraph 16 provides for the Secretary of State, following approval of an amending report, to make the necessary calculations and for a revised set of calculations to be made if needed and to notify each relevant authority of the outcome. Paragraph 17 sets out the provision for the making of payments following an amending report. Any payments following an amending report must take place after the end of the year in which the amending report is made. Paragraph 18 has the effect of making the provisions in this Part subject to Parts 9 (pooling of authorities) and 10 (designation of areas and classes of hereditament) of the Schedule.

Part 6: Levy accounts

78. Paragraph 19 requires the Secretary of State, each year, to keep a levy account. Paragraph 20 defines the credits and debits to the levy account for the year. Credits to the account in the year comprise levy payments from relevant authorities, repayments of safety net payments on account and payments by the Secretary of State to guarantee safety net payments in the event of insufficient levy income. Debits to the account in the year comprise safety net payments and safety net payments on account to relevant authorities, and any distribution of the remaining balance to one or more relevant authorities.

79. Paragraph 21 makes accounting provision for calculating, after the year end, the aggregate of items credited and debited to the levy account for the year. Any resulting credit or debit for that year is then credited or debited as appropriate to the levy account for the next year as an item of account.

Part 7: Levy payments, safety net payments and distribution of remaining balance

80. Paragraph 22 gives the Secretary of State the power to make regulations about the calculation of levy payments. Such calculations may only be made for a year after the end of that year – so calculations for the financial year 2014-15, for example, may only be made after the end of that financial year (i.e. after March 2015). Paragraph 23 requires the Secretary of State to calculate the levy payments required from relevant authorities for a year and to notify relevant authorities as soon as practicable after doing so. Paragraph 24 places a requirement on relevant authorities to make levy payments as determined by the Secretary of State.

81. Paragraph 25 allows the Secretary of State to make regulations about calculating whether a safety net payment should be made to a relevant authority for a year and, if so, the amount of the safety net payment. As with levy payments, such calculations may only be made for a year after the end of that year. Paragraph 26 requires the Secretary of State to make the safety net payment calculations and to notify relevant authorities as soon as practicable after doing so. The Secretary of State must make safety net payments in instalments of such amounts and at such times as the Secretary of State determines with the Treasury's consent (paragraph 27).

82. Paragraph 28 enables the Secretary of State to provide for a relevant authority to request that the Secretary of State calculates before the end of the financial year whether the Secretary of State is likely to be required to make a safety net payment to it for that year. Regulations may specify the time and manner in which requests may be made, the circumstances in which the Secretary of State may or must make a calculation in response to a request and about the calculation of a payment on account in addition to provisions about the timing of such calculations and making of such payments.

83. Paragraph 29 requires the Secretary of State to calculate each year whether there is a remaining balance on the levy account and sets out how that calculation must be made. Paragraph 30 provides that the Secretary of State may distribute the whole or part of any remaining balance for a year among one or more relevant authorities. Where the Secretary of State decides to do so, the basis of calculation for distribution will be as set out in regulations, and the Secretary of State must distribute any such payments in accordance with the paragraph and in any event within that financial year.

84. Paragraph 31 has the effect of making the provisions in this Part subject to Parts 9 (pooling of authorities) and 10 (designation of areas and hereditaments) of the Schedule.

Part 8: Transitional protection payments

85. Section 57A of the LGFA 1988 requires the Secretary of State to put in place a transitional relief scheme to protect ratepayers from large increases in their rates bills as a result of revaluation. Paragraphs 32 and 33 enable the effects of this transitional relief scheme to be taken account of in the rates retention scheme through separate financial adjustments in regulations under paragraphs 32 and 33.

86. Paragraph 32 therefore enables the Secretary of State to make regulations about the calculation of the amounts that would be payable to billing authorities were a transitional relief scheme not in place. The making of any transitional protection payment by the Secretary of State to a billing authority, or by a billing authority to the Secretary of State as appropriate following calculations under paragraph 32 may be set out in regulations under paragraph 33.

Part 9: Pooling of authorities

87. Paragraph 34 enables the Secretary of State to designate two or more relevant authorities as a pool of authorities. Designations may not be made unless each authority covered by the designation agrees to it. A designation generally only has effect for a year if it is made before the Secretary of State gives notification under paragraph 12(2) (notification of general basis of calculation to be specified in local government finance report for the year). Once made, a designation continues to have effect unless it is revoked by the Secretary of State. The Secretary of State must revoke a designation if requested to do so by one of the authorities within the pool. A designation must include conditions about the administration of the pool, including a requirement for the appointment of a lead authority and steps that are to be taken if the designation is revoked (paragraph 35). Designations may be varied by the Secretary of State following consultation with the members of the pool.

88. Paragraph 36 provides that a pool of authorities is to be treated as a relevant authority for the purposes of Part 5 of the Schedule (principal payments in connection with local retention of non-domestic rates). This does not prevent a local government finance report from also making provision in relation to the individual authorities within the pool. Paragraph 37 makes similar provision in respect of regulations about levy payments and safety net payments.

89. Paragraph 38 makes further provision about the effect of designation. It provides that notification requirements apply to individual authorities within a pool. As to payments and receipts, it provides that authorities within a pool are jointly and severally liable to make payments and that payments from the Secretary of State under Part 5 or Part 7 shall be made to the lead authority.

Part 10: Designation of areas and classes of hereditament

90. Paragraph 39 enables the Secretary of State to make regulations to designate one or more areas in which a proportion of non-domestic rates are to be disregarded from any calculations under paragraph 6, 7, 9, 10, 13, 16, 23, 26, 28 or 30 of the Schedule for a specified period. Paragraph 40 provides equivalent provision for the Secretary of State to make regulations designating one or more classes of hereditament, for which a proportion of non-domestic rates are to be disregarded from any calculations under paragraph 6, 7, 8, 9, 10, 13, 16, 23, 26, 28 or 30 of the Schedule for a specified time. Regulations made under paragraph 39 or 40 may make provision for payments to major precepting authorities to take account of the designated area or class of hereditament. Paragraph 41 enables regulations under paragraph 39 or 40 to include provision requiring a billing authority to make a payment out of the proportion disregarded to a relevant authority. Paragraph 42 allows regulations to make provision for the estimate of amounts to be disregarded and for their reconciliation.

Part 11: Supplementary

91. Paragraph 43 provides that the Secretary of State may direct a relevant authority to make calculations or supply information to the Secretary of State and for the certification of such calculations and information. The Secretary of State may make his own calculations or assumptions where an authority fails to comply and must notify the authority where this is the case.

92. Paragraph 44 gives the Secretary of State power to make by regulations the same provisions as can be made by direction under paragraph 43 of the Schedule. This allows the regulations that will be made to implement the rates retention system to make provision for calculations and the supply of information, rather than having separate directions. Paragraph 45 defines key terms in the Schedule.

Schedule 2: Amendments of provisions about revenue support grant in England

93. Schedule 2 makes amendments to provisions in the LGFA 1988 about payment of revenue support grant, and the local government finance report, which are consequential on the introduction of a scheme for local retention of non-domestic rates. The effect is to replace the Secretary of State's duty to pay grant with a power to do so.

Schedule 3: Further amendments relating to non-domestic rating

Part 1: Amendments to Schedule 8 to the LGFA 1988

94. Part 1 of Schedule 3 amends Schedule 8 to the LGFA 1988 so that in future it will apply to Wales only, thus retaining the current system of pooling and redistribution of non-domestic rates in Wales, and makes consequential amendments to other legislation.

Part 2: Other amendments

95. Part 2 contains amendments to Part 6 of the LGFA 1998 (funds) to make provision for the operation of the rates retention scheme, and other minor amendments consequential to the introduction of the scheme.

Schedule 4: Amendments relating to council tax reduction schemes

96. Part 1 of Schedule 4 to the Act inserts new Schedules 1A and 1B into the LGFA 1992. The new Schedule 1A concerns council tax reductions schemes in England; the new Schedule 1B concerns council tax reduction schemes in Wales. Part 2 of Schedule 4 to the Act makes amendments which are consequential on the introduction of council tax reduction schemes.

97. Paragraph 2 of the new Schedule 1A provides, in particular, that a scheme must-

- state the classes of person entitled to a reduction (paragraph 2(1) and (2));
- state the reductions which are to apply to those classes (paragraph 2(3) and (4)); and,
- state the procedure by which a person may apply for a reduction under the scheme (paragraph 2(5)).

98. Paragraph 2(8) of new Schedule 1A provides that the Secretary of State may prescribe other requirements for schemes. The Secretary of State may make regulations prescribing classes of persons which must be included in a scheme and the reductions which must apply to those classes (paragraph 2(9) of new Schedule 1A). The Secretary of State intends to use this power to ensure that reductions are provided for pensioners.

99. Paragraph 2(10) of new Schedule 1A provides that regulations made under paragraph 2(8) may in particular set out provision to be included in a scheme that is equivalent to a provision made by (or capable of being made under) specified sections of the Social Security Contributions and Benefits Act 1992, the Social Security Administration Act 1992 and the Welfare Reform Act 2007, with modifications. Paragraph 2(11) makes the same provision in relation to provisions that a billing authority may include in its scheme. This power ensures that regulations of the Secretary of State, and local schemes, can incorporate certain provisions that currently apply to the entitlement to, and calculation and administration of, council tax benefit, for example, in the treatment of income and capital.

100. Before it makes a scheme a billing authority must consult its major precepting authorities and other persons it considers are likely to have an interest in the scheme (paragraph 3(1) of new Schedule 1A). Provision is made recognising any step undertaken in accordance with paragraph 3 which takes place prior to commencement (paragraph 3(2)). Once a scheme is made the billing authority must publish it (paragraph 3(3)). The Secretary of State may make regulations about the procedure for preparing a scheme, including requiring the authority to produce documents in connection with the preparation of a scheme and setting out requirements for publication (paragraph 3(4) and (5)).

101. The Secretary of State is required to make regulations prescribing a default scheme (paragraph 4(1)). The default scheme must relate to the financial year 2013-14 and it must comply with the requirements in paragraph 2(1) to (7) and regulations under paragraph 2(8) (paragraph 4(3)). Paragraph 4(4) provides a comparable power in relation to default schemes to that provided by paragraph 2(10) in relation to requirements for schemes prescribed under paragraph 2(8) – that is that regulations setting out a default scheme may include provision that is equivalent to a provision made by (or capable of being made under) specified sections of the Social Security Contributions and Benefits Act 1992, the Social Security Administration Act 1992, and the Welfare Reform Act 2007, with modifications.

102. The default scheme will apply to a billing authority's area if it fails to make a scheme on or before 31 January 2013 (paragraph 4(6)) or such other date as is specified in section 10(4) of the Act. Where a default scheme applies, new Schedule 1A applies as if the scheme had been made by the authority (paragraph 4(7)). In particular, this means that a billing authority must publish the default scheme in accordance with paragraph 3(3).

103. Each financial year a billing authority must consider whether to revise or replace its scheme (paragraph 5(1) of new Schedule 1A). The procedure for making a scheme also applies if a scheme is revised or replaced (paragraph 5(5) and (6)). If a reduction is reduced or removed the billing authority must make such transitional provision as it thinks fit (paragraph 5(4)).

104. A billing authority and major precepting authorities with a power to issue precepts to that billing authority may enter into arrangements which have effect if there is, or if the billing authority estimates that there will be, a deficit on the collection fund for that year (paragraph 6(1) and (2)). These arrangements can include the making of payments by one authority to another, or the variation of payments required to be made in regulations made under section 99 of the LGFA 1988 in relation to council tax (paragraph 6(3)).

105. The Secretary of State may by notice require a billing authority to supply information for the purpose of deciding whether to exercise any functions relating to schemes (paragraph 7(1) of new Schedule 1A). If an authority fails to comply the Secretary of State may exercise those functions on the basis of such assumptions and estimates as he thinks fit (paragraph 7(3)).

106. The Secretary of State may issue guidance to which billing authorities must have regard and may also make regulations setting out transitional provision relating to the commencement of schemes (paragraphs 8 and 9 of new Schedule 1A).

107. New schedule 1B provides for matters to be included in regulations to be made by Welsh Ministers under new section 13A(4). These powers largely mirror those provided by new schedule 1A in relation to England. New schedule 1B provides that regulations may:

- Prescribe the dwellings to which each scheme is to apply or require each scheme to state the dwellings to which it is to apply (paragraph 2(1));
- Prescribe by when a scheme is to be made, and the first year to which it is to relate (paragraph 2(2));
- Prescribe classes of persons who must, or must not, receive a reduction under a scheme (paragraph 3(1));
- Allow authorities to determine classes of person who are to be entitled to reductions under schemes or provide that authorities may not determine such classes (paragraph 3(2));
- Prescribe reductions to which persons in each class are to be entitled (paragraph 4(1));

- Allow authorities to determine reductions to which persons in each class are to be entitled or provide that authorities may not determine such reductions (paragraph 4(2));
- Provide for a default scheme (paragraph 6(1)).

108. Part 2 of Schedule 4 makes further amendments relating to council tax reduction schemes. Paragraph 2 amends Schedule 11 to the LGFA 1988 so as to enable First-tier Tribunal members to sit as members of the Valuation Tribunal for England. This is so that their expertise can be used when deciding appeals against decisions made in relation to council tax reduction schemes.

COMMENCEMENT

109. Most of the provisions contained in the Act will have effect for the financial year beginning on 1 April 2013 and later financial years. They will come into force on Royal Assent to enable the necessary preparations to be made. Section 13 comes into force on such day as the Secretary of State may appoint by order.

HANSARD REFERENCES

110. The following table sets out the dates and Hansard references for each stage of this Act's passage through Parliament.

Stage	Date	Hansard reference
House of Commons		
Introduction	19 December 2011	Vol. 537 Col. 1104
Second Reading	10 January 2012	Vol. 538 Cols. 79-150
Committee	18 January 2012	Vol. 538 Cols 767-852
	24 January 2012	Vol. 539 Cols. 186-270
	31 January 2012	Vol. 539 Cols. 716-792
Report and Third Reading	21 May 2012	Vol. 545 Cols. 863-958
House of Lords		
Introduction	22 May 2012	Vol. 737 Col. 765
Second Reading	12 June 2012	Vol. 737 Cols. 1279-1332
Committee	3 July 2012	Vol. 738 Cols. GC291-346
	5 July 2012	Vol. 738 Cols. GC393-458

*These notes refer to the Local Government Finance Act 2012 (c.17)
which received Royal Assent on 31 October 2012*

Stage	Date	Hansard reference
	10 July 2012	Vol. 738 Cols. GC501-560
	16 July 2012	Vol. 739 Cols. GC1-66
	19 July 2012	Vol. 739 Cols. GC127-192
	24 July 2012	Vol. 739 Cols. GC255-304
Report	10 October 2012	Vol. 739 Cols. 1027-1122
	16 October 2012	Vol. 739 Cols. 1459-1490
Third Reading	22 October 2012	Vol. 740 Cols. 11-61
Royal Assent	31 October 2012	Lords: Vol. 740 Col. 642 Commons: Vol. 552 Col. 346

GLOSSARY OF TERMS AND ABBREVIATIONS

Business rates	Non-domestic rates.
Billing authorities	Those local authorities responsible for the collection of non-domestic rates and council tax.
Hereditament	Property which is or may become liable to business rates, and thus appears on a rating list, compiled and maintained by the Valuation Office Agency of HM Revenue and Customs.
Levy	A charge on the potential disproportionate growth some local authorities may gain as a result of rates retention.
LGFA 1988	Local Government Finance Act 1988.
LGFA 1992	Local Government Finance Act 1992.
Local Government Finance Report	The annual determination, by affirmative resolution of the House of Commons, in respect of the following year of the central and local share, payments in connection with local retention of non-domestic rates and the amount of Revenue Support Grant (if any).
Major precepting authorities	An authority that exercises local government functions but does not collect non-domestic rates or council tax itself (for example, a county council in an area where there is a district council, or a combined fire authority).
Non-domestic rates	A tax charged on non-domestic property properties (also known as business rates).
Revenue support grant	A general grant given by central government to local authorities.
Safety net	A protection within the rates retention scheme which provides local authorities with protection against a decline in retained income relative to the individual authorities' baseline funding level.
Transitional relief	Transitional relief is designed to reduce the impact of any significant changes in the rateable value - whether the change is up or down – by limiting the percentage a non-domestic rates bill can be increased or decreased each year following revaluation, until the bill reaches the amount it would have been on revaluation.

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