

SCHEDULES

SCHEDULE 3

Section 5

LOCAL RETENTION OF NON-DOMESTIC RATES: FURTHER AMENDMENTS

PART 1

AMENDMENTS TO SCHEDULE 8 TO THE LGFA 1988 ETC

LGFA 1988

- 1 In section 60 of the LGFA 1988 (non-domestic rating: pooling), for “Secretary of State” substitute “Welsh Ministers”.
- 2 Schedule 8 to the LGFA 1988 (non-domestic rating: pooling) is amended as follows.
 - 3 (1) Paragraph 1 (non-domestic rating accounts) is amended as follows.
 - (2) In sub-paragraph (1), for “Secretary of State” substitute “Welsh Ministers”.
 - (3) In sub-paragraph (2)—
 - (a) for “Secretary of State” substitute “Welsh Ministers”, and
 - (b) in paragraph (b), for “Comptroller and Auditor General” substitute “Auditor General for Wales”.
 - (4) Omit sub-paragraph (3).
 - (5) In sub-paragraph (4), for “Assembly” substitute “National Assembly for Wales”.
 - 4 (1) Paragraph 2 (credits and debits to non-domestic rating accounts) is amended as follows.
 - (2) In sub-paragraph (1)—
 - (a) in paragraph (a), for “Secretary of State” substitute “Welsh Ministers”, and
 - (b) in each of paragraphs (b) and (c), for “him” substitute “them”.
 - (3) In sub-paragraph (2)—
 - (a) in paragraph (a), for “Secretary of State” substitute “Welsh Ministers”, and
 - (b) in paragraph (b), for “him” substitute “them”.
 - 5 In paragraph 3(1) (end of year calculations), for “Secretary of State” substitute “Welsh Ministers”.
 - 6 Before paragraph 4 (and after the heading to Part 2 of Schedule 8 but before the heading to that paragraph) insert—

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“Interpretation

- 3A Any reference in this Part of this Schedule to a billing authority is a reference to a billing authority in Wales.”
- 7 (1) Paragraph 4 (rules as to calculation of billing authority’s non-domestic rating contribution) is amended as follows.
- (2) In sub-paragraph (1), for “Secretary of State” substitute “Welsh Ministers”.
- (3) Omit sub-paragraphs (3), (4B) and (4D).
- (4) In sub-paragraph (5)—
- (a) for “Secretary of State” substitute “Welsh Ministers”,
 - (b) for “he thinks” in both places substitute “they think”, and
 - (c) for “sub-paragraphs (2) and (3)” substitute “sub-paragraph (2)”.
- (5) Omit sub-paragraph (5A).
- 8 (1) Paragraph 5 (calculation and payment of billing authority’s non-domestic rating contribution) is amended as follows.
- (2) In sub-paragraph (2), for “Secretary of State” in both places substitute “Welsh Ministers”.
- (3) In sub-paragraph (3)—
- (a) for “Secretary of State believes” substitute “Welsh Ministers believe”,
 - (b) for “he may” substitute “they may”,
 - (c) for “his” substitute “their”,
 - (d) for “he makes” substitute “they make”,
 - (e) for “he shall” substitute “they shall”, and
 - (f) for “he has” substitute “they have”.
- (4) In sub-paragraph (4), for “Secretary of State” in both places substitute “Welsh Ministers”.
- (5) In sub-paragraph (5), for “Secretary of State” substitute “Welsh Ministers”.
- (6) In sub-paragraph (6)—
- (a) in paragraph (b), for “Secretary of State” substitute “Welsh Ministers”,
 - (b) in paragraph (ba) omit the words from “if it is” in the first place they appear to “authority in Wales”, and
 - (c) in paragraph (c), for sub-paragraphs (i) and (ii) substitute “under arrangements made by the Auditor General for Wales”.
- (7) In sub-paragraph (6A)—
- (a) omit “Commission or the”,
 - (b) omit “, as the case may be,” and
 - (c) for “Secretary of State” substitute “Welsh Ministers”.
- (8) In sub-paragraph (7)—
- (a) for “Secretary of State directs” substitute “Welsh Ministers direct”, and
 - (b) for “he” in both places substitute “they”.

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- (9) In sub-paragraph (8)—
 - (a) for “Secretary of State receives” substitute “Welsh Ministers receive”, and
 - (b) for “he” substitute “they”.
 - (10) In sub-paragraph (9)—
 - (a) for “Secretary of State” substitute “Welsh Ministers”, and
 - (b) for “he” substitute “they”.
 - (11) In sub-paragraph (10)—
 - (a) for “Secretary of State” substitute “Welsh Ministers”,
 - (b) in paragraph (a)—
 - (i) for “he believes” substitute “they believe”, and
 - (ii) for “his” substitute “their”, and
 - (c) in paragraph (b)—
 - (i) for “he is” substitute “they are”,
 - (ii) for “he decides” substitute “they decide”, and
 - (iii) omit “with the Treasury’s approval”.
 - (12) In sub-paragraph (11)—
 - (a) in paragraph (a)—
 - (i) for “Secretary of State has” substitute “Welsh Ministers have”, and
 - (ii) for “him” substitute “them”, and
 - (b) in paragraph (b), for “Secretary of State” substitute “Welsh Ministers”.
 - (13) In sub-paragraph (12), for “Secretary of State” substitute “Welsh Ministers”.
 - (14) In sub-paragraph (13), for “Secretary of State makes” substitute “Welsh Ministers make”.
 - (15) In sub-paragraph (14)—
 - (a) in paragraph (a)—
 - (i) for “Secretary of State” substitute “Welsh Ministers”, and
 - (ii) for “he” substitute “they”, and
 - (b) in paragraph (b)—
 - (i) for “Secretary of State” substitute “Welsh Ministers”,
 - (ii) for “he decides” substitute “they decide”, and
 - (iii) omit “with the Treasury’s approval”.
 - (16) In sub-paragraph (15)—
 - (a) for “Secretary of State makes” substitute “Welsh Ministers make”, and
 - (b) in paragraph (a), for “Secretary of State” substitute “Welsh Ministers”.
- 9 (1) Paragraph 6 (further provisions as to calculation and payment of billing authority’s non-domestic rating contribution) is amended as follows.
- (2) In sub-paragraph (2), for “Secretary of State” substitute “Welsh Ministers”.
 - (3) Omit sub-paragraph (4).
 - (4) In sub-paragraph (5), for “Secretary of State” substitute “Welsh Ministers”.
- 10 (1) Paragraph 8 (interpretation of Part 3 of Schedule 8) is amended as follows.

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- (2) In sub-paragraph (1), for the words from “any billing authority” to the end substitute “—
- (a) any billing authority in Wales, or
 - (b) any major precepting authority in Wales.”
- (3) In sub-paragraph (2) omit “78A or”.
- (4) Omit sub-paragraph (4).
- 11 (1) Paragraph 9 (calculation of distributable amount) is amended as follows.
- (2) In sub-paragraph (1), for “Secretary of State” substitute “Welsh Ministers”.
- (3) In sub-paragraph (2)—
- (a) for “Secretary of State” substitute “Welsh Ministers”, and
 - (b) for “he sees” substitute “they see”.
- (4) In sub-paragraphs (3) and (4), for “Secretary of State” substitute “Welsh Ministers”.
- 12 In paragraph 9A (application of Part 3 to years where two local government finance reports prepared for Wales), in sub-paragraphs (1)(a) and (3)(a) omit “in relation to Wales”.
- 13 (1) Paragraph 10 (requirement for local government finance report to specify basis of distribution) is amended as follows.
- (2) In sub-paragraph (1), for “Secretary of State proposes” substitute “Welsh Ministers propose”.
- (3) In sub-paragraph (2)—
- (a) for “Secretary of State” substitute “Welsh Ministers”, and
 - (b) for “him” substitute “them”.
- 14 (1) Paragraph 11 (calculation of sums payable to receiving authorities out of distributable amount) is amended as follows.
- (2) In sub-paragraph (1)(b), for “House of Commons” substitute “Assembly”.
- (3) In sub-paragraph (2), for “House of Commons” substitute “Assembly”.
- (4) In sub-paragraphs (3) and (4), for “Secretary of State” substitute “Welsh Ministers”.
- (5) In sub-paragraph (5), for “House of Commons” substitute “Assembly”.
- (6) In sub-paragraph (6)—
- (a) for “Secretary of State decides” substitute “Welsh Ministers decide”,
 - (b) for “he” in both places substitute “they”, and
 - (c) for “him” substitute “them”.
- (7) In sub-paragraph (7)—
- (a) for “Secretary of State informs” substitute “Welsh Ministers inform”,
 - (b) for “his” substitute “their”, and
 - (c) for “he” substitute “they”.
- (8) In sub-paragraph (8)—
- (a) for “Secretary of State” substitute “Welsh Ministers”, and

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- (b) for “he calculates” substitute “they calculate”.
- 15 (1) Paragraph 12 (payment of sums to receiving authorities out of distributable amount) is amended as follows.
- (2) In sub-paragraph (1), for “Secretary of State” substitute “Welsh Ministers”.
- (3) In sub-paragraph (2)—
- (a) for “Secretary of State determines” substitute “Welsh Ministers determine”, and
- (b) omit “with the Treasury’s consent”.
- (4) In sub-paragraph (3), for “Secretary of State” substitute “Welsh Ministers”.
- (5) In sub-paragraph (4)—
- (a) for “Secretary of State determines” substitute “Welsh Ministers determine”, and
- (b) omit “with the Treasury’s consent”.
- (6) In sub-paragraphs (5) and (6), for “Secretary of State” substitute “Welsh Ministers”.
- 16 (1) Paragraph 13 (making of amending report in relation to local government finance report) is amended as follows.
- (2) In sub-paragraph (1), for “Secretary of State” substitute “Welsh Ministers”.
- (3) In sub-paragraph (3)—
- (a) for “Secretary of State” substitute “Welsh Ministers”,
- (b) for “him” substitute “them”, and
- (c) for “he proposes” substitute “they propose”.
- (4) In sub-paragraph (4), for “House of Commons” substitute “Assembly”.
- (5) In sub-paragraphs (5) and (6)—
- (a) for “House of Commons” substitute “Assembly”, and
- (b) for “Secretary of State” substitute “Welsh Ministers”.
- 17 (1) Paragraph 14 (calculation of sums payable to receiving authorities following amending report) is amended as follows.
- (2) In sub-paragraph (1)—
- (a) for “House of Commons” substitute “Assembly”, and
- (b) for “Secretary of State” substitute “Welsh Ministers”.
- (3) In sub-paragraph (2), for “Secretary of State” substitute “Welsh Ministers”.
- (4) In sub-paragraph (3)(b), for “House of Commons” substitute “Assembly”.
- 18 (1) Paragraph 15 (payments following amending report) is amended as follows.
- (2) In sub-paragraph (2), for “Secretary of State” substitute “Welsh Ministers”.
- (3) In sub-paragraph (3)—
- (a) for “Secretary of State determines” substitute “Welsh Ministers determine”, and
- (b) omit “with the Treasury’s consent”.

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- (4) In sub-paragraphs (4) and (5), for “Secretary of State” substitute “Welsh Ministers”.

Non-Domestic Rating Act 1992 (c. 46)

- 19 The Non-Domestic Rating Act 1992 is amended as follows.
- 20 (1) Section 4 (which modifies Schedule 8 to the LGFA 1988, and which applies with modifications for the financial year beginning in 1995 and subsequent financial years by virtue of section 3 of the Non-Domestic Rating Act 1994) is amended as follows.
- (2) In the sub-paragraph (3A) set out in subsection (1)(b)—
- (a) for “Secretary of State” substitute “Welsh Ministers”, and
- (b) in paragraph (b), for “he considers” substitute “they consider”.
- (3) In the sub-paragraph (3B) set out in subsection (1)(b)—
- (a) for “Secretary of State” substitute “Welsh Ministers”, and
- (b) for “he thinks” substitute “they think”.
- 21 In section 5 (which modifies Schedule 8 to the LGFA 1988, and which applies to the financial year beginning in 1995 and subsequent financial years by virtue of section 3 of the Non-Domestic Rating Act 1994), in the paragraph (d) set out in subsection (1) (b), for “him” in both places substitute “them”.

Consequential revocation and repeal

- 22 In consequence of the amendments made by this Part of this Schedule—
- (a) in Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999/672), in the entry for the Local Government Finance Act 1988 omit the words from “The functions of the Comptroller and Auditor General” to “before the Assembly.”, and
- (b) in Schedule 7 to the Local Government Act 2003 omit paragraph 26(3).

PART 2

OTHER AMENDMENTS

LGFA 1988

- 23 The LGFA 1988 is amended as follows.
- 24 (1) Section 90 (payments to and from collection funds) is amended as follows.
- (2) In subsection (1)(b), after “major precepting authority” insert “or the Secretary of State”.
- (3) In subsection (1), for paragraph (d) (and the “and” at the end of that paragraph) substitute—
- “(d) sums received by the authority under any of the following provisions of Schedule 7B (local retention of non-domestic rates) that are of a kind specified by the Secretary of State as falling to be paid into a billing authority’s collection fund—
- (i) paragraph 14(2) (payments by Secretary of State following local government finance report);

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- (ii) paragraph 14(9) or (10) (payments by Secretary of State following revised calculation);
- (iii) paragraph 17(7) or (8) (payments by Secretary of State following amending report),
- (da) sums received by the authority—
 - (i) under provision made by regulations under paragraph 7 of Schedule 7B (regulations about administration of payments in respect of the central share),
 - (ii) under provision made by regulations under paragraph 10 of that Schedule (administration of payments by billing authorities to major precepting authorities) by virtue of sub-paragraph (2)(e) or (f) of that paragraph (reconciliation payments),
 - (iii) under provision made by regulations under paragraph 11 of that Schedule (regulations about payments by billing authorities to major precepting authorities out of deductions from the central share),
 - (iv) under provision made by regulations under paragraph 33 of that Schedule (transitional protection payments),
 - (v) under provision made by regulations under paragraph 39 or 40 of that Schedule (designation of areas or classes of hereditament) by virtue of paragraph 41 of that Schedule (payments by billing authorities to relevant authorities), or
 - (vi) under provision made by regulations under paragraph 42 of that Schedule (payments by Secretary of State following estimates of amounts relating to designated areas or classes), and”.
- (4) In subsection (2)(b), after “major precepting authority” insert “or the Secretary of State”.
- (5) In subsection (2), for paragraph (c) substitute—
 - “(c) payments to be made by the authority under any of the following provisions of Schedule 7B that are of a kind specified by the Secretary of State as falling to be met from a billing authority’s collection fund—
 - (i) paragraph 14(1) (payments to Secretary of State following local government finance report);
 - (ii) paragraph 14(6) or (7) (payments to Secretary of State following revised calculation);
 - (iii) paragraph 17(4) or (5) (payments to Secretary of State following amending report),
 - (ca) payments made by the authority—
 - (i) under paragraph 6, or under provision made by regulations under paragraph 7, of Schedule 7B (payments in respect of the central share),
 - (ii) under provision made by regulations under paragraph 9 of that Schedule (payments by billing authorities to major precepting authorities),
 - (iii) under provision made by regulations under paragraph 10 of that Schedule (administration of payments by billing

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- authorities to major precepting authorities) by virtue of sub-paragraph (2)(e) or (f) of that paragraph (reconciliation payments),
- (iv) under provision made by regulations under paragraph 11 of that Schedule (regulations about payments by billing authorities to major precepting authorities out of deductions from the central share),
 - (v) under provision made by regulations under paragraph 33 of that Schedule (transitional protection payments),
 - (vi) under provision made by regulations under paragraph 39 or 40 of that Schedule (designation of areas or classes of hereditament) by virtue of paragraph 41 of that Schedule (payments by billing authorities to relevant authorities), or
 - (vii) under provision made by regulations under paragraph 42 of that Schedule (payments to Secretary of State following estimates of amounts relating to designated areas or classes),”.
- 25 (1) Section 97 (principal transfers between funds) is amended as follows.
- (2) After subsection (2) insert—
- “(2A) The Secretary of State may by regulations make provision requiring a billing authority to transfer from its collection fund to its general fund such amounts as may be specified in or determined in accordance with the regulations by reference to—
- (a) sums received by the authority in respect of non-domestic rates under this Act, and
 - (b) sums received by the authority under or by virtue of Schedule 7B (local retention of non-domestic rates) and required to be paid into its collection fund by virtue of provision made by or under section 90(1)(d) or (da).
- (2B) The Secretary of State may by regulations make provision requiring a billing authority to transfer from its general fund to its collection fund such amounts as may be specified in or determined in accordance with the regulations by reference to sums received by the authority in respect of non-domestic rates under this Act.”
- (3) Omit subsection (4A).
- 26 (1) Section 99 (regulations about funds) is amended as follows.
- (2) In subsection (1)(b), for “97(1), (3) or (4A) above” substitute “97(1) or (3) or regulations under section 97(2A) above”.
 - (3) In subsection (1)(c), after “97(2) or (4) above” insert “or regulations under section 97(2B) above”.
 - (4) In subsection (3)—
 - (a) in paragraph (b)(i), for “major precepting authorities” substitute “one or more relevant authorities”,
 - (b) in paragraph (c), for “any major precepting authorities” substitute “prescribed relevant authorities”, and

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- (c) in each of paragraphs (d) and (f), for “major precepting authority” substitute “relevant authority”.
- (5) Omit subsections (3A) and (3B).
- (6) Before subsection (4) insert—
- “(3C) In subsection (3) “relevant authority” means—
- (a) a major precepting authority, or
- (b) the Secretary of State.
- (3D) Regulations under subsection (3) may make separate provision in relation to council tax and non-domestic rates, with the effect that—
- (a) more than one estimate is to be made by a billing authority of whether there is a deficit or surplus in its collection fund for a financial year and, if so, of the amount of the deficit or surplus,
- (b) each estimate takes into account different amounts to be paid into or met from that fund, and
- (c) each estimate has different consequences as to the payments to be made, or other functions to be exercised, by the billing authority, major precepting authorities or the Secretary of State.”
- 27 In section 140(2) (separate administration of Parts 3 and 4 in England and Wales)—
- (a) at the end of paragraph (a) insert “, and”, and
- (b) omit paragraphs (c) and (e).
- 28 (1) Section 141 (payments to and from authorities) is amended as follows.
- (2) In subsection (5)(c), after “such as” insert “paragraph 2 of Schedule 7B or”.
- (3) In subsection (7), before “paragraph 5(10) and 14 of Schedule 8 below” insert “regulations under section 99(3) above, regulations made under paragraph 7 of Schedule 7B below, paragraphs 14(2), (9) and (10), 17(7) and (8) and 27(1) of that Schedule, regulations made under paragraph 28 of that Schedule, paragraph 30(6) of that Schedule, regulations made under paragraph 33 of that Schedule, regulations made under paragraph 42 of that Schedule,”.
- (4) In subsection (8), before “paragraph 5 of Schedule 8 below” insert “regulations under section 99(3) above, paragraph 6 of Schedule 7B below, regulations made under paragraph 7 of that Schedule, paragraphs 14(1), (6) and (7), 17(4) and (5) and 24(1) of that Schedule, regulations made under paragraph 28 of that Schedule, regulations made under paragraph 33 of that Schedule, regulations made under paragraph 42 of that Schedule,”.
- 29 In section 144(2) (definition of “billing authority” etc), at the end insert “; but, in the case of references to a billing authority in Part 2 of Schedule 8, this is subject to paragraph 3A of that Schedule.”
- LGFA 1992*
- 30 In Schedule 13 to the LGFA 1992 (minor and consequential amendments) omit paragraph 78(2).

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Audit Commission Act 1998 (c. 18)

- 31 In section 28(1) of the Audit Commission Act 1998 (certification of claims, returns etc)—
- (a) at the end of paragraph (b) insert “or”, and
 - (b) omit paragraph (c) and the “or” at the end of that paragraph (which provides for certification of calculations under Schedule 8 to the LGFA 1988).

Local Government Act 2003 (c. 26)

- 32 The Local Government Act 2003 is amended as follows.
- 33 In section 70 (local retention of rates) omit subsections (4) to (6).
- 34 In Schedule 7 (minor and consequential amendments) omit paragraph 22(a).