



# Local Government Finance Act 1988

## 1988 CHAPTER 41

### PART IV

#### PRECEPTS AND LEVIES

##### *Precepts*

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

- (1) For each chargeable financial year, a precepting authority shall issue a precept or precepts in accordance with this section.
- (2) A precept must be issued before 11 March in the financial year preceding that for which it is issued, but is not invalid merely because it is issued on or after that date.
- (3) The precepting authority must secure (so far as practicable) that the total amount yielded by precepts issued by it for a financial year is sufficient to provide for the items mentioned in subsection (4) below, to the extent that they are not to be provided for by other means.
- (4) The items are—
  - (a) the expenditure the authority estimates it will incur in the year in performing its functions in the year (including an allowance for contingencies),
  - (b) the payments it estimates it will make in the year in defraying outstanding expenditure incurred in any earlier financial year,
  - (c) the expenditure it estimates it will incur and will have to meet in the next financial year before amounts to be yielded in respect of precepts for that year become sufficiently available, and
  - (d) the amount it estimates it will pay in the year into a fund or funds it has established under paragraph 16 of Schedule 13 to the Local Government Act 1972.
- (5) In estimating under subsection (4)(a) above a precepting authority which is a county council shall take into account the amount of any levy issued to it for the year but

(except as provided by regulations under section 74 below) shall not anticipate a levy not issued.

## **69 Precepted authorities**

- (1) A precept may only be issued to an appropriate charging authority.
- (2) If the whole or part of a charging authority's area falls within a precepting authority's area, it is an appropriate charging authority in relation to the precepting authority to the extent of the area which so falls.
- (3) A precepting authority must secure that such of its general expenses as are to be met by precepts are borne by its appropriate charging authorities (if more than one) in proportion.
- (4) A precepting authority must secure that such of its special expenses as are to be met by precepts are borne by the appropriate charging authority to whose area or part the expenses concerned relate or by all such charging authorities (if more than one) in proportion.
- (5) Proportions under subsection (3) above shall be determined by reference to the relevant population of each charging authority's area or (as the case may be) the part which falls within the precepting authority's area.
- (6) Proportions under subsection (4) above shall be determined by reference to the relevant population of each area or part to which the expenses concerned relate.
- (7) The relevant population in relation to an area or part shall be calculated by—
  - (a) taking the number of those members of the population of the area or part who fall within such description as is specified in regulations made by the Secretary of State, and
  - (b) making such adjustments (if any) by way of addition or subtraction (or both) as are specified in, or calculated in a manner specified in, the regulations.
- (8) A precept may be issued to the same authority in respect of both general and special expenses of the precepting authority.
- (9) A precept must state—
  - (a) whether it or any portion of it is issued in respect of general expenses,
  - (b) whether it or any portion of it is issued in respect of special expenses, and
  - (c) whether it or any portion of it is applicable to all or part of the area of the authority to which it is issued and, in the case of a part, what part.

## **70 General and special expenses**

- (1) This section applies for the purposes of section 69 above.
- (2) All the expenses of a county council are its general expenses except that—
  - (a) if it is the police authority for part only of its area its expenses as police authority are special expenses provided a resolution of the council to that effect is in force,
  - (b) provided a resolution of the council to the following effect is in force, its expenses needed to meet a levy issued to it are its special expenses or (if

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- the resolution relates to some only of those expenses) those to which the resolution relates are its special expenses, and
- (c) if it is a Welsh county council whose library area consists of part of its administrative area, its expenses in exercising its functions as library authority in its library area are its special expenses.
- (3) Expenses which are special by virtue of a resolution under subsection (2)(a) above relate to the part of the council's area for which it is the police authority.
- (4) Expenses which are special by virtue of a resolution under subsection (2)(b) above relate to the part of the council's area in which the levying body carries out functions.
- (5) Expenses which are special by virtue of subsection (2)(c) above relate to the part of the council's administrative area which consists of its library area.
- (6) All the expenses of each of the following are its general expenses—
- (a) a metropolitan county police authority,
  - (b) the Northumbria Police Authority,
  - (c) a metropolitan county fire and civil defence authority, and
  - (d) the London Fire and Civil Defence Authority.
- (7) All the expenses of the Receiver for the Metropolitan Police District are his general expenses, except that his expenses relating to the metropolitan police courts and the probation system in the metropolitan police court area are his special expenses.
- (8) Expenses which are special by virtue of subsection (7) above relate to the metropolitan police court area.
- (9) All the expenses of the sub-treasurer of the Inner Temple are his general expenses, and all the expenses of the under-treasurer of the Middle Temple are his general expenses.
- (10) All the expenses of a parish or community council, the chairman of a parish meeting or charter trustees are general expenses.
- (11) "Library area" shall be construed in accordance with the Public Libraries and Museums Act 1964.

## **71 Substituted precepts**

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

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- (6) But if the amount of the old precept exceeds that of the new precept, the following shall apply as regards anything paid if it would not have been paid had the amount of the old precept been the same as that of the new precept—
- (a) it shall be repaid if the charging authority by whom it was paid so requires;
  - (b) in any other case it shall (as the precepting authority determines) either be repaid or be credited against any subsequent liability of the charging authority in respect of any precept of the precepting authority.

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

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

## **73 Information**

- (1) If the Secretary of State so requires by regulations, a charging authority shall supply prescribed information within a prescribed period to any precepting authority which has power to issue a precept to the charging authority.
- (2) Where regulations under Schedule 2 or 9 below impose a duty on a charging authority to supply information to any person, they may also require any appropriate precepting authority to supply the charging authority with prescribed information if the Secretary of State considers it to be information the charging authority needs in order to fulfil its duty.
- (3) For the purposes of subsection (2) above an authority is an appropriate precepting authority in relation to a charging authority if it has power to issue a precept to the charging authority.

## *Levies*

## **74 Levies**

- (1) In this section “levying body” means any body which—
  - (a) is established by or under an Act,
  - (b) apart from section 117 below would have in respect of the financial year beginning in 1990 power (conferred by or under an Act passed before, or in the same session as, this Act) to issue a precept to, make a levy on or have its expenses paid by a county council or charging authority, and
  - (c) is not a precepting authority, combined police authority, combined fire authority, magistrates' courts committee or probation committee.

- (2) Whereas a levying body has (by virtue of section 117 below) no such power under the Act concerned in respect of a chargeable financial year, the Secretary of State may make regulations conferring on each levying body power to issue to the council concerned and in accordance with the regulations a levy (to be so called) in respect of any chargeable financial year.
- (3) The regulations may include provision—
- (a) as to when levies are to be issued;
  - (b) imposing a maximum limit on levies;
  - (c) as to apportionment where a body issues levies to more than one council;
  - (d) conferring a power to issue levies by way of substitute for others;
  - (e) as to the payment (in instalments or otherwise) of amounts in respect of which levies are issued;
  - (f) conferring a right to interest on anything unpaid.
- (4) The regulations may include provision—
- (a) that a county council issuing a precept or precepts under this Act (originally or by way of substitute) may anticipate a levy;
  - (b) that a charging authority making calculations under section 95 below (originally or by way of substitute) may anticipate a levy;
  - (c) as to the treatment as special expenses of amounts so anticipated;
  - (d) as to the treatment of any levy actually issued.
- (5) The regulations may include—
- (a) provision equivalent to anything in section 37 above or in sections 68 to 72 above (subject to such modifications as the Secretary of State thinks fit);
  - (b) provision amending or adapting any provision of this Act in consequence of any provision included under subsection (4) above.
- (6) In this section “Act” includes a private or local Act.

## **75 Special levies**

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

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- (a) as to when special levies are to be issued;
  - (b) imposing a maximum limit on special levies;
  - (c) as to apportionment where a body issues special levies to more than one charging authority;
  - (d) conferring a power to issue special levies by way of substitute for others;
  - (e) as to the payment (in instalments or otherwise) of amounts in respect of which special levies are issued;
  - (f) conferring a right to interest on anything unpaid.
- (5) The regulations may include provision requiring a charging authority to treat as special expenses any expenses needed to meet a special levy issued to it.
- (6) The regulations may include provision—
- (a) that a charging authority making calculations under section 95 below (originally or by way of substitute) may anticipate a special levy;
  - (b) as to the treatment as special expenses of amounts so anticipated;
  - (c) as to the treatment of any special levy actually issued.
- (7) The regulations may include—
- (a) provision equivalent to anything in section 37 above or in sections 68 to 72 above (subject to such modifications as the Secretary of State thinks fit);
  - (b) provision amending or adapting any provision of this Act in consequence of any provision included under subsection (6) above.