



Local Government Finance Act 1988

1988 CHAPTER 41

PART VII

LIMITATION OF CHARGES ETC

100 Power to designate authorities

- (1) As regards a chargeable financial year the Secretary of State may designate a charging authority if in his opinion—
 - (a) the amount calculated by it in relation to the year under section 95(4) above is excessive, or
 - (b) there is an excessive increase in the amount so calculated over the amount calculated by it in relation to the preceding financial year under section 95(4).
- (2) As regards a chargeable financial year the Secretary of State may designate a relevant precepting authority if in his opinion—
 - (a) the aggregate amount of precepts issued by it for the year is excessive, or
 - (b) there is an excessive increase in that aggregate over the aggregate amount of precepts issued by it for the preceding financial year.
- (3) For the purposes of this Part each of the following is a relevant precepting authority—
 - (a) a county council,
 - (b) a metropolitan county police authority,
 - (c) the Northumbria Police Authority,
 - (d) a metropolitan county fire and civil defence authority, and
 - (e) the London Fire and Civil Defence Authority.
- (4) A decision whether to designate an authority shall be made in accordance with principles determined by the Secretary of State and, in the case of an authority falling within any of the classes specified in subsection (5) below, those principles shall be the same either for all authorities falling within that class or for all of them which respectively have and have not been designated under this Part as regards the preceding financial year.

Status: This is the original version (as it was originally enacted).

- (5) The classes are—
- (a) county councils,
 - (b) councils of metropolitan districts,
 - (c) councils of non-metropolitan districts,
 - (d) councils of inner London boroughs,
 - (e) councils of outer London boroughs,
 - (f) metropolitan county police authorities and the Northumbria Police Authority,
and
 - (g) metropolitan county fire and civil defence authorities.
- (6) In construing subsection (1) above any calculation for which another has been substituted at the time designation is proposed shall be ignored.
- (7) In construing subsection (2) above any precept for which another has been substituted at the time designation is proposed shall be ignored.

101 Restriction on power to designate

- (1) An English authority shall not be designated under section 100 above as regards a financial year unless the amount calculated by it in relation to the year under section 95(4) above or the aggregate amount of precepts issued by it for the year (as the case may be) is equal to or greater than £15 million or such greater sum not exceeding £35 million as the Secretary of State may specify by order.
- (2) A Welsh authority shall not be designated under section 100 above as regards a financial year unless—
- (a) the Secretary of State has informed it of the sum he calculates under section 82(1) above as falling to be paid to it by way of revenue support grant for the year,
 - (b) he has informed it of the amount he calculates in relation to it for the year under paragraph 12 of Schedule 8 below, and
 - (c) the aggregate of the amounts mentioned in subsection (3) below is equal to or greater than £15 million or such greater sum not exceeding £35 million as he may specify by order.
- (3) The amounts are—
- (a) the amount calculated by the authority in relation to the year under section 95(4) above or the aggregate amount of precepts issued by it for the year (as the case may be),
 - (b) an amount equal to the sum the Secretary of State calculates under section 82(1) above as falling to be paid to it by way of revenue support grant for the year, and
 - (c) the amount he calculates in relation to it for the year under paragraph 12 of Schedule 8 below.
- (4) If the Secretary of State informs an authority of a sum he calculates under section 82(2) above as falling to be paid to it by way of revenue support grant for the year, it shall not affect the operation of subsection (3)(b) above.
- (5) In construing subsections (1) and (3)(a) above any calculation for which another has been substituted at the time designation is proposed shall be ignored.

- (6) In construing subsections (1) and (3)(a) above any precept for which another has been substituted at the time designation is proposed shall be ignored.

102 Designation of authorities

- (1) If the Secretary of State decides under section 100 above to designate an authority he shall notify it in writing of—
- (a) his decision,
 - (b) the principles determined under section 100(4) above in relation to it, and
 - (c) the amount which he proposes should be the maximum for the amount calculated by it in relation to the year under section 95(4) above or the maximum for the aggregate amount of precepts issued by it for the year (as the case may be).
- (2) A designation—
- (a) is invalid unless subsection (1) above is complied with, and
 - (b) shall be treated as made at the beginning of the day on which the authority receives a notification under that subsection.
- (3) Where a charging authority has been designated under this section, and after the designation is made the authority makes substitute calculations in relation to the year in accordance with section 95 above, the substitute calculations shall be invalid unless they are made under section 107(1) below.
- (4) Where a precepting authority has been designated under this section, and after the designation is made the authority issues any substitute precept for the year, the substitute precept shall be invalid unless it is issued under section 107(2) below.
- (5) Before the end of the period of 28 days beginning with the day it receives a notification under this section, an authority may inform the Secretary of State by notice in writing that—
- (a) for reasons stated in the notice, it believes the maximum amount stated under subsection (1)(c) above should be such as the authority states in its notice, or
 - (b) it accepts the maximum amount stated under subsection (1)(c) above.
- (6) References in the following provisions of this Part to a designated authority are to an authority designated under this section.

103 Transitional years: special provisions

- (1) In relation to the power to designate under section 100 above as regards the financial year beginning in 1990, that section shall have effect as if subsection (1)(b) read—
- “(b) there is an excessive increase in the amount so calculated over the relevant notional amount, that is, the amount which would in the Secretary of State’s opinion have been calculated by the authority in relation to the preceding financial year under section 95(4) on the assumption that that year was a chargeable financial year and on such additional assumptions as he thinks fit.”
- (2) In relation to the power to designate under section 100 above as regards the financial year beginning in 1990, that section shall have effect as if subsection (2)(b) read—

Status: This is the original version (as it was originally enacted).

- “(b) there is an excessive increase in that aggregate over the relevant notional aggregate, that is, the amount which would in the Secretary of State’s opinion have been the aggregate amount of precepts issued by the authority for the preceding financial year on the assumption that that year was a chargeable financial year and on such additional assumptions as he thinks fit.”
- (3) In relation to the power to designate under section 100 above as regards the financial year beginning in 1990, that section shall have effect as if in subsection (4) “this Part” read “Part I of the Rates Act 1984”.
- (4) Where the Secretary of State decides under section 100 above to designate an authority as regards the financial year beginning in 1990, subsections (5) and (6) below shall apply.
- (5) Where this subsection applies, section 102 above shall have effect as if the following appeared after subsection (1)(a)—
- “(aa) where subsection (1A) below applies, the matters there mentioned”.
- (6) Where this subsection applies, section 102 above shall have effect as if the following appeared after subsection (1)—
- “(1A) This subsection applies if the decision to designate is made under section 100(1)(b) or (2)(b) above; and the matters referred to in subsection (1)(aa) above are—
- (a) the relevant notional amount or the relevant notional aggregate (as the case may be), and
- (b) the additional assumptions made in arriving at that amount or aggregate.”
- (7) If the Secretary of State decides that paragraph 12 of Schedule 8 below is not to have effect in relation to a transitional year, as regards the year section 101 above shall have effect as if in subsections (2)(b) and (3)(c) “12” read “13”.

104 Challenge of maximum amount

- (1) This section applies where a designated authority informs the Secretary of State by notice in writing under section 102(5)(a) above.
- (2) If the authority is a charging authority, after considering any information he thinks is relevant the Secretary of State shall (subject to subsection (8) below) make an order stating the amount which the amount calculated by it in relation to the year under section 95(4) above is not to exceed.
- (3) Subject to subsection (4) below, the amount stated under subsection (2) above may be the same as, or greater or smaller than, that stated in the notice under section 102(1)(c) above.
- (4) The amount stated under subsection (2) above may not exceed the amount already calculated by the authority in relation to the year under section 95(4) above unless, in the Secretary of State’s opinion, the authority failed to comply with section 95 above in making the calculation.
- (5) If the authority is a precepting authority, after considering any information he thinks is relevant the Secretary of State shall (subject to subsection (8) below) make an order

stating the amount which the aggregate amount of precepts issued by it for the year is not to exceed.

- (6) Subject to subsection (7) below, the amount stated under subsection (5) above may be the same as, or greater or smaller than, that stated in the notice under section 102(1)(c) above.
- (7) The amount stated under subsection (5) above may not exceed the aggregate amount of precepts already issued by the authority for the year unless, in the Secretary of State's opinion, the authority failed to fulfil section 68(3) or 69(3) or (4) above in issuing any precept.
- (8) The power to make an order under this section shall be exercisable by statutory instrument, and no such order shall be made unless a draft of it has been laid before and approved by resolution of the House of Commons.
- (9) An order under this section may relate to two or more authorities.
- (10) As soon as is reasonably practicable after an order under this section is made the Secretary of State shall serve on the authority (or each authority) a notice stating the amount stated in the case of the authority in the order.
- (11) When he serves a notice under subsection (10) above on a precepting authority the Secretary of State shall also serve a copy of it on each charging authority to which the precepting authority has power to issue a precept.
- (12) In construing subsection (4) above any calculation for which another has been substituted at the time of designation shall be ignored.
- (13) In construing subsection (7) above any precept for which another has been substituted at the time of designation shall be ignored.

105 Acceptance of maximum amount

- (1) This section applies where a designated authority informs the Secretary of State by notice in writing under section 102(5)(b) above.
- (2) If the authority is a charging authority, as soon as is reasonably practicable after he receives the notice the Secretary of State shall serve on the authority a notice stating the amount which the amount calculated by it in relation to the year under section 95(4) above is not to exceed; and the amount stated shall be that stated in the notice under section 102(1)(c) above.
- (3) If the authority is a precepting authority, as soon as is reasonably practicable after he receives the notice the Secretary of State shall serve on the authority a notice stating the amount which the aggregate amount of precepts issued by it for the year is not to exceed; and the amount stated shall be that stated in the notice under section 102(1)(c) above.
- (4) When he serves a notice under subsection (3) above the Secretary of State shall also serve a copy of it on each charging authority to which the precepting authority has power to issue a precept.

Status: This is the original version (as it was originally enacted).

106 No challenge or acceptance

- (1) This section applies where the period mentioned in section 102(5) above ends without a designated authority informing the Secretary of State by notice in writing under section 102(5)(a) or (b) above.
- (2) If the authority is a charging authority, as soon as is reasonably practicable after the period ends the Secretary of State shall (subject to subsection (4) below) make an order stating the amount which the amount calculated by it in relation to the year under section 95(4) above is not to exceed; and the amount stated shall be that stated in the notice under section 102(1)(c) above.
- (3) If the authority is a precepting authority, as soon as is reasonably practicable after the period ends the Secretary of State shall (subject to subsection (4) below) make an order stating the amount which the aggregate amount of precepts issued by it for the year is not to exceed; and the amount stated shall be that stated in the notice under section 102(1)(c) above.
- (4) The power to make an order under this section shall be exercisable by statutory instrument, and no such order shall be made unless a draft of it has been laid before and approved by resolution of the House of Commons.
- (5) An order under this section may relate to two or more authorities.
- (6) As soon as is reasonably practicable after an order under this section is made the Secretary of State shall serve on the authority (or each authority) a notice stating the amount stated in the case of the authority in the order.
- (7) When he serves a notice under subsection (6) above on a precepting authority the Secretary of State shall also serve a copy of it on each charging authority to which the precepting authority has power to issue a precept.

107 Substituted calculations and precepts

- (1) A charging authority which has received a notice under section 104(10), 105(2) or 106(6) above shall make substitute calculations in relation to the year in accordance with section 95 above, but—
 - (a) section 95(9) shall be ignored for this purpose, and
 - (b) the calculations shall be made so as to secure that the amount calculated under section 95(4) does not exceed that stated in the notice.
- (2) A precepting authority which has received a notice under section 104(10), 105(3) or 106(6) above shall issue, in substitution for any precept or precepts previously issued by it for the year, a precept or precepts in accordance with sections 68 to 70 above, but—
 - (a) section 68(2) shall be ignored for this purpose, and
 - (b) the amount of the precept, or the aggregate amount of the precepts, issued by the authority for the year under this section shall not exceed that stated in the notice.
- (3) Where calculations are made under subsection (1) above the following provisions apply accordingly—
 - (a) Part II,
 - (b) sections 74, 75, 97, 99 and 100(1)(b) and (6) above, and

- (c) sections 110(1), 138(2)(g) and 139(2)(c) below.
- (4) Where a precept is issued under subsection (2) above the following provisions apply accordingly—
 - (a) sections 32(4) and (5), 33(3) and (11), 35(1) to (3), (5) and (8), 71(5) and (6), 72, 74, 99 and 100(2)(b) and (7) above, and
 - (b) sections 110(2), 138(2)(d) and 139(2)(b) below.

108 Failure to substitute

- (1) Subsection (2) below applies if a charging authority which has received a notice under section 104(10), 105(2) or 106(6) above fails to comply with section 107(1) above before the end of the period of 21 days beginning with the day on which it receives the notice.
- (2) During the period of restriction the authority shall have no power to transfer any amount from its collection fund to its general fund or to the City fund (as the case may be) and sections 97 and 98 above shall have effect accordingly.
- (3) For the purposes of subsection (2) above the period of restriction is the period which—
 - (a) begins at the end of the period mentioned in subsection (1) above, and
 - (b) ends at the time (if any) when the authority complies with section 107(1) above.
- (4) Subsection (5) below applies if a precepting authority which has received a notice under section 104(10), 105(3) or 106(6) above fails to comply with section 107(2) above before the end of the period of 21 days beginning with the day on which it receives the notice.
- (5) During the period of restriction any authority to which the precepting authority has power to issue a precept shall have no power to pay anything in respect of a precept issued by the precepting authority for the year.
- (6) For the purposes of subsection (5) above the period of restriction is the period which—
 - (a) begins at the end of the period mentioned in subsection (4) above, and
 - (b) ends at the time (if any) when the precepting authority complies with section 107(2) above.

109 Other financial requirements

- (1) This section applies where an order under section 104 above states in the case of an authority an amount greater than that stated in the notice under section 102(1)(c) above.
- (2) The Secretary of State may decide to impose on the authority concerned such requirements relating to its expenditure or financial management as he thinks appropriate.
- (3) If he does so decide he shall include a statement of his decision and of the requirements in the notice served on the authority under section 104(10) above.
- (4) The authority shall comply with any such requirements, and shall report to the Secretary of State whenever he directs it to do so on the extent to which they have been complied with.

110 Information

- (1) A charging authority shall notify the Secretary of State in writing of any amount calculated by it under section 95(4) above, whether originally or by way of substitute.
- (2) A relevant precepting authority shall notify the Secretary of State in writing of the amount of any precept issued by it under this Act, whether originally or by way of substitute.
- (3) A notification under subsection (1) or (2) above must be given before the end of the period of seven days beginning with the day on which the calculation is made or the precept is issued (as the case may be).
- (4) The Secretary of State may serve on a charging authority or relevant precepting authority a notice requiring it to supply to him such other information as is specified in the notice and required by him for the purpose of deciding whether to exercise his powers, and how to perform his functions, under this Part.
- (5) The authority shall supply the information required if it is in its possession or control, and shall do so in such form and manner, and at such time, as the Secretary of State specifies in the notice.
- (6) An authority may be required under subsection (4) above to supply information at the same time as it gives a notification under subsection (1) or (2) above or at some other time.
- (7) If an authority fails to comply with subsection (1) or (2) above, or with subsection (5) above, the Secretary of State may decide whether to exercise his powers, and how to perform his functions, under this Part on the basis of such assumptions and estimates as he sees fit.
- (8) In deciding whether to exercise his powers, and how to perform his functions, under this Part the Secretary of State may also take into account any other information available to him, whatever its source and whether or not obtained under a provision contained in or made under this or any other Act.