

Status: Point in time view as at 01/02/1991.

Changes to legislation: Local Government and Housing Act 1989, Cross Heading: Payments is up to date with all changes known to be in force on or before 30 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 5

LOCAL GOVERNMENT FINANCE ACT 1988: AMENDMENTS

Payments

70 The following subsection shall be inserted at the end of section 141 (payments to and from authorities)—

“(9) In the application of this section to England, the second relevant provisions also include section 81 of the Education Reform Act 1988 (recovery from local funds of sums in respect of maintenance grant)”

71 The following sections shall be inserted after section 141—

“141A Payments: further provisions.

- (1) The Secretary of State may make regulations in relation to any case where—
 - (a) he is liable to pay to an English charging authority at any time an amount or amounts under one or more of the first relevant provisions, and
 - (b) a precepting authority which has power to issue a precept to the charging authority is liable to pay to him at the same time an amount under the second relevant provision.
- (2) The regulations may provide that if the total of the amount or amounts mentioned in subsection (1)(a) above exceeds the charging authority’s relevant amount the Secretary of State may set off an amount equal to that amount in paying that total.
- (3) The regulations may provide that if the total of the amount or amounts mentioned in subsection (1)(a) above is equal to or less than the charging authority’s relevant amount no payment need be made in respect of that total.
- (4) The regulations may provide that where the Secretary of State sets off or refrains from paying an amount under any provision included under subsection (2) or (3) above—
 - (a) the Secretary of State’s liability to the charging authority shall be treated as discharged to the extent of an amount equal to that amount,
 - (b) what the precepting authority is liable to pay to the Secretary of State shall be treated as reduced by an amount equal to that amount, and
 - (c) an amount equal to that amount shall be due from the precepting authority to the charging authority.

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- (5) The regulations may provide that an amount due from the precepting authority to the charging authority by virtue of provision included under subsection (4)(c) above shall be recoverable by such method as may be prescribed (whether by making a deduction from an amount payable in respect of a precept or otherwise).
- (6) The regulations may provide that—
- (a) where an amount due from the precepting authority to the charging authority by virtue of provision included under subsection (4)(c) above is recovered by payment to the charging authority, that authority shall pay in to its collection fund an amount equal to the amount paid to it;
 - (b) where an amount due from the precepting authority to the charging authority by virtue of provision included under subsection (4)(c) above is recovered by making a deduction from an amount payable in respect of a precept, the charging authority shall retain in its collection fund an amount equal to the amount deducted.
- (7) Without prejudice to section 143(2) below, the regulations may include provision—
- (a) requiring prescribed provisions of this Act (such as sections 79(2) and 86(2)) to be read subject to the regulations;
 - (b) requiring prescribed provisions of this Act (such as paragraph 2 of Schedule 8) to be read as if references to payments made were to payments which would have been made apart from the regulations.
- (8) Where the Secretary of State is liable to pay to the charging authority at any time an amount or amounts under one or more of the first relevant provisions, for the purposes of this section and regulations under it—
- (a) the amount or amounts shall be treated as reduced by anything he may set off, by virtue of regulations under section 141 above, in paying the amount or amounts;
 - (b) he shall be treated as not liable to pay any such amount or amounts if, by virtue of regulations under that section, no payment need be made in respect of the amount or amounts.

141B Section 141A: interpretation.

- (1) This section applies for the purposes of section 141A above.
- (2) The charging authority's relevant amount shall be determined by applying the formula—

$$\frac{A \times B}{C}$$

- (3) A is the amount mentioned in section 141A(1)(b) above.
- (4) B is the relevant population (calculated by reference to the time mentioned in section 141A(1) above) of the charging authority.

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- (5) C is the aggregate of the relevant populations (calculated by reference to the time mentioned in section 141A(1) above) of all charging authorities which fulfil the following conditions—
- (a) they are authorities to which the precepting authority has power to raise a precept, and
 - (b) they are authorities to which the Secretary of State is liable to pay at the time mentioned in section 141A(1) above an amount or amounts under one or more of the first relevant provisions.
- (6) As regards any particular time the relevant population of a charging authority is the relevant population, calculated under paragraph 4 of Schedule 12A below, of the area of the authority for the financial year in which the time falls.
- (7) The first relevant provisions are sections 83 and 86 above, paragraph 5(10) of Schedule 8 below, regulations made under paragraph 6(5) of that Schedule, and paragraph 9 of that Schedule.
- (8) The second relevant provision is section 81 of the Education Reform Act 1988 (recovery from local funds of sums in respect of maintenance grant).”

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