



Community Charges (Substitute Setting) Act 1991

1991 CHAPTER 8

An Act to amend the law about setting substitute personal community charges under section 35 of the Local Government Finance Act 1988. [21st March 1991]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Personal community charges: substituted amounts

(1) In the Local Government Finance Act 1988 (the 1988 Act) section 35 (duty to set substituted amounts for personal community charges) shall be amended as mentioned in the following provisions of this section.

(2) In subsection (3)—

(a) in paragraph (c) for the word “other” there shall be substituted the word “qualifying” and after the word “above” there shall be inserted the words “or under this section”;

(b) paragraph (d) shall be omitted.

(3) The following subsections shall be inserted after subsection (3)—

“(3A) In a case where the precept mentioned in subsection (1) above is issued under section 107(2) below, subsection (3) above shall not apply but subsection (3B) below shall apply.

(3B) In such a case, any amount set in substitution under subsection (1) above must be set in accordance (and only in accordance) with the formula—

$$A - \frac{(B - C)}{D}$$

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where A, B, C and D have the meanings given by section 35A below.”

(4) In subsection (5)(c) after the word “any” there shall be inserted the word “qualifying” and after the word “above” there shall be inserted the words “or under this section”.

(5) The following subsections shall be inserted after subsection (5)—

“(5A) In a case where the substitute calculations mentioned in subsection (4) above are made under section 107(1) below, subsection (5) above shall not apply but subsection (5B) below shall apply.

(5B) In such a case, any amount set in substitution under subsection (4) above must be set in accordance (and only in accordance) with—

- (a) the standard formula (set out in subsection (5C) below) in a case where the charging authority referred to in subsection (4) above is not a special authority, or
- (b) the special formula (set out in subsection (5D) below) in a case where the charging authority referred to in subsection (4) above is a special authority.

(5C) The standard formula is—

$$A - \frac{(B - C)}{D}$$

where A, B, C and D have the meanings given by section 35A below.

(5D) The special formula is—

$$A - \frac{(B - C) \times E}{D}$$

where A, B, C, D and E have the meanings given by section 35A below.

(5E) For the purposes of subsections (3)(c) and (5)(c) above a qualifying precept is a precept issued by a precepting authority which is not a relevant authority within the meaning given by subsection (2) above.”

(6) In subsection (8) the words from “and in construing” to the end shall be omitted.

2 Substituted amounts: interpretation

The following section shall be inserted after section 35 of the 1988 Act—

“35A Section 35: interpretation

(1) For the purposes of section 35(3B) above—

- (a) A is the amount for which the amount is required to be set in substitution under section 35(1) above;
- (b) B is the amount of the precept for which the precept issued under section 107(2) below is substituted;
- (c) C is the amount of the precept issued under section 107(2) below;

- (d) D is the relevant population, for the financial year mentioned in section 35(1) above, of the area of the charging authority there referred to.
- (2) For the purposes of section 35(5C) and (5D) above—
 - (a) A is the amount for which the amount is required to be set in substitution under section 35(4) above;
 - (b) B is the amount calculated under section 95(4) below and for which an amount is substituted in making the substitute calculations under section 107(1) below;
 - (c) C is the amount calculated under section 95(4) below in making the substitute calculations under section 107(1) below;
 - (d) D is the relevant population, for the financial year mentioned in section 35(4) above, of the area of the charging authority there referred to;
 - (e) E is such number, falling between nil and one and expressed as a decimal, as the Secretary of State specifies by order for the purposes of this paragraph and for the special authority and the financial year concerned.
- (3) For the purposes of this section the relevant population of the area of an English charging authority for a financial year is the relevant population, calculated under paragraph 4 of Schedule 12A below, of the area for the year.
- (4) For the purposes of this section the relevant population of the area of a Welsh charging authority for a financial year is the relevant population, calculated under paragraph 5 of Schedule 12A below, of the area for the year.”

3 Substitutions: maximum amounts

The following section shall be inserted after section 35A of the 1988 Act—

“35B Substitutions: maximum amounts

- (1) Subsection (2) below applies where—
 - (a) section 35(1) above applies in the case of a charging authority in circumstances where section 35(3) applies,
 - (b) apart from this section, any amount set in substitution under section 35(1) would be greater than the amount for which it is required to be substituted, and
 - (c) subsection (3) below does not prevent subsection (2) below applying.
- (2) In such a case—
 - (a) any amount set in substitution under section 35(1) shall be no greater than the amount for which it is required to be substituted, and
 - (b) section 35(3) shall have effect subject to paragraph (a) above.
- (3) Subsection (2) above does not apply where the precept giving rise to the application of section 35(1) is—
 - (a) an original precept, or
 - (b) a precept issued in substitution for one quashed because of a failure to fulfil section 68(3) or 69(3) or (4) below.

- (4) Subsection (5) below applies where—
 - (a) section 35(4) above applies in the case of a charging authority in circumstances where section 35(5) applies,
 - (b) apart from this section, any amount set in substitution under section 35(4) would be greater than the amount for which it is required to be substituted, and
 - (c) subsection (6) below does not prevent subsection (5) below applying.
- (5) In such a case—
 - (a) any amount set in substitution under section 35(4) shall be no greater than the amount for which it is required to be substituted, and
 - (b) section 35(5) shall have effect subject to paragraph (a) above.
- (6) Subsection (5) above does not apply where the calculations giving rise to the application of section 35(4) are made because a previous calculation under section 95(4) below has been quashed because of a failure to comply with section 95 in making the calculation.”

4 Multiple substitutions

The following section shall be inserted after section 35B of the 1988 Act—

“35C Multiple substitutions

- (1) Subsection (2) below applies if a charging authority is at any time subject to more than one undischarged duty under the relevant provisions.
- (2) The authority shall discharge each of the duties separately from the other or others, but it may discharge the duties in whatever sequence it thinks fit.
- (3) Subsection (4) below applies if—
 - (a) a charging authority discharges at any time a duty under a relevant provision, and
 - (b) at that time it is subject to one or more undischarged duties under the relevant provisions.
- (4) For the purposes of the excluded provisions, any amount or amounts in fact set in discharge of the duty mentioned in subsection (3)(a) above shall not be regarded as an amount or amounts set for the authority’s personal community charges under the relevant provision there mentioned.
- (5) For the purposes of this section the relevant provisions are section 35(1) and (4) above.
- (6) For the purposes of this section the excluded provisions are—
 - (a) sections 10(3) and (5), 12(3) and 14(4) above;
 - (b) sections 36(1) and 39(1) below;
 - (c) any provision of regulations under this or any other Act.”

5 Further amendments, and repeals

- (1) Section 36 of the 1988 Act (substituted amounts: supplementary) shall be amended as mentioned in subsections (2) and (3) below.
- (2) In subsection (1) for the words “amount for which it is substituted (the old amount)” there shall be substituted the words “old amount”.
- (3) The following subsection shall be inserted after subsection (3)—
 - “(4) For the purposes of this section the old amount is the amount found by—
 - (a) taking the amount, or each of the amounts, for which the new amount is substituted (whether directly, or indirectly because of one or more intermediate substitutions),
 - (b) leaving out of account any amount to which section 35C(4) above applies, and
 - (c) taking the amount remaining or (if more than one remains) the last to be set.”
- (4) In section 107(4)(a) of the 1988 Act the words “to (3), (5) and (8)” shall be omitted.
- (5) The enactments mentioned in the Schedule to this Act are repealed to the extent specified in column 3.

6 Application of amendments and repeals

- (1) This Act applies in relation to the financial year beginning in 1992 and subsequent financial years.
- (2) This Act also applies in relation to the financial year beginning in 1991, but in accordance with subsections (3) to (5) below.
- (3) Sections 1 to 3 above apply where an authority sets an amount or amounts under section 35 above—
 - (a) for the financial year beginning in 1991, and
 - (b) after the day on which this Act is passed;and section 5(4) and (5) above and the repeals in the Schedule to this Act apply accordingly.
- (4) Section 4 above applies where—
 - (a) the duties concerned relate to the financial year beginning in 1991, and
 - (b) the time concerned falls after the day on which this Act is passed.
- (5) Subsections (1) to (3) of section 5 above apply where the new amount is set—
 - (a) for the financial year beginning in 1991, and
 - (b) after the day on which this Act is passed.
- (6) A financial year is a period of 12 months beginning with 1 April.

7 Citation and extent

- (1) This Act may be cited as the Community Charges (Substitute Setting) Act 1991.
- (2) This Act extends to England and Wales only.

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

SCHEDULE

Section 5.

REPEALS

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1988 c. 41.	Local Government Finance Act 1988.	In section 35, subsection (3) (d) and in subsection (8) the words from “and in construing” to the end. In section 107(4)(a), the words “to (3), (5) and (8)”.