

Local Government Finance Bill

[AS AMENDED IN THE COMMITTEE]

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B I L L

[AS AMENDED IN THE COMMITTEE]

TO

Make provision about non-domestic rating; to make provision about grants to local authorities; to make provision about council tax; and for connected purposes.

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:—

*Non-domestic rating***1 Local retention of non-domestic rates**

- (1) The LGFA 1988 is amended in accordance with subsections (2) to (4).
- (2) After section 59 insert—

“59A Local retention of non-domestic rates

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Schedule 7B (local retention of non-domestic rates) has effect.”

- (3) In section 143 (orders and regulations)—
 - (a) in subsection (3) (application of negative Parliamentary procedure to orders and regulations under the Act), for “(9AA)” substitute “(9E)”, and
 - (b) before subsection (10) insert—

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“(9C) Any power to make regulations conferred by Schedule 7B (local retention of non-domestic rates) is exercisable by statutory instrument.

- (9D) A statutory instrument containing regulations under any of the following provisions of that Schedule (whether alone or with other provision) may not be made unless a draft of the instrument has been laid before and approved by resolution of each House of Parliament—

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|--|----|
| <ul style="list-style-type: none"> (a) paragraph 8 (regulations about payments by billing authorities to major precepting authorities); (b) paragraph 20 (regulations about calculation of levy payments); (c) paragraph 23 (regulations about calculation of safety net payments). | 5 |
| <ul style="list-style-type: none"> (9E) Any other statutory instrument containing regulations under that Schedule is subject to annulment in pursuance of a resolution of either House of Parliament.” | |
| <ul style="list-style-type: none"> (4) Schedule 1 (which sets out the Schedule to be inserted as Schedule 7B to the LGFA 1988) has effect. | 10 |
| <ul style="list-style-type: none"> (5) In consequence of the amendment made by subsection (3)(a), in Schedule 7 to the Local Government Act 2003 omit paragraph 24(2). | |
| <ul style="list-style-type: none"> (6) The amendments made by this section and Schedule 1 have effect in relation to the financial year beginning with 1 April 2013 and subsequent financial years. | 15 |
| <ul style="list-style-type: none"> (7) But the Secretary of State may by order made by statutory instrument amend subsection (6) by substituting a later financial year. | |
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| 2 Revenue support grant | |
| <ul style="list-style-type: none"> (1) Schedule 2 (amendment of provisions about revenue support grant) has effect. | |
| <ul style="list-style-type: none"> (2) The amendments made by Schedule 2 have effect in relation to the financial year beginning with 1 April 2013 and subsequent financial years. | 20 |
| <ul style="list-style-type: none"> (3) But the Secretary of State may by order made by statutory instrument amend subsection (2) by substituting a later financial year. | |
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| 3 Additional grant | |
| <ul style="list-style-type: none"> (1) The LGFA 1988 is amended in accordance with subsections (2) to (4). | 25 |
| <ul style="list-style-type: none"> (2) In section 84Q(1) (application of Chapter dealing with grants other than revenue support grant) omit paragraph (a) (which refers to sections 85 and 86). | |
| <ul style="list-style-type: none"> (3) Omit sections 85 and 86 (additional grant: England) and the italic heading preceding section 85. | |
| <ul style="list-style-type: none"> (4) In section 141 (payments to and from authorities) – <ul style="list-style-type: none"> (a) in subsection (5)(b) omit “and 86(2)”, and (b) in subsection (7), for “, 84C and 86” substitute “and 84C”. | 30 |
| <ul style="list-style-type: none"> (5) The LGFA 1992 is amended in accordance with subsections (6) to (8). | |
| <ul style="list-style-type: none"> (6) In section 52ZF (council tax referendums: billing authority’s duty to make substitute calculations) – <ul style="list-style-type: none"> (a) in subsection (3)(a) omit “additional grant,”, and (b) omit subsection (4). | 35 |
| <ul style="list-style-type: none"> (7) In section 52ZJ (council tax referendums: major precepting authority’s duty to make substitute calculations) – <ul style="list-style-type: none"> (a) in subsection (4)(a) omit “additional grant,”, and (b) omit subsection (5). | 40 |

- (8) In section 69(1) (interpretation of Part 1), in the definition of “additional grant”, for “85(2)” substitute “86A(2)”.
- (9) The Greater London Authority Act 1999 is amended in accordance with subsections (10) and (11).
- (10) In section 86 (calculation of component council tax requirement in relation to Mayor’s Office for Policing and Crime) – 5
- (a) in subsection (4D) –
- (i) at the end of paragraph (b) insert “and”, and
- (ii) omit paragraph (d) (additional grant) and the “and” preceding that paragraph, and 10
- (b) in subsection (4F) –
- (i) at the end of paragraph (a) insert “and”, and
- (ii) omit paragraph (c) (report relating to additional grant) and the “and” preceding that paragraph.
- (11) In section 102(2) (aggregate out of which payments to functional bodies are to be made) omit paragraph (b) (additional grant). 15
- (12) In consequence of the amendments made by subsection (3) –
- (a) in Schedule 10 to the LGFA 1992 omit paragraph 16, and
- (b) in Schedule 7 to the Local Government Act 2003 omit paragraph 17.
- (13) The amendments made by this section have effect in relation to the financial year beginning with 1 April 2013 and subsequent financial years. 20
- (14) But the Secretary of State may by order made by statutory instrument amend subsection (13) by substituting a later financial year.
- 4 General GLA grant**
- (1) Section 100 of the Greater London Authority Act 1999 (general GLA grant) is amended as follows. 25
- (2) For subsection (1) (duty to pay general GLA grant to Greater London Authority for each financial year) substitute –
- “(1) The Secretary of State may pay a grant (to be called “general GLA grant”) to the Authority for a financial year.” 30
- (3) In subsection (3) (duty to make determination about general GLA grant for each financial year), after “year” insert “for which general GLA grant is to be paid”.
- (4) The amendments made by this section have effect in relation to the financial year beginning with 1 April 2013 and subsequent financial years. 35
- (5) But the Secretary of State may by order made by statutory instrument amend subsection (4) by substituting a later financial year.
- 5 Local retention of non-domestic rates: further amendments**
- (1) Schedule 3 (local retention of non-domestic rates: further amendments) has effect. 40
- (2) In that Schedule –

- (a) Part 1 amends Schedule 8 to the LGFA 1988 so that it applies in relation to Wales only (and makes some related amendments), and
- (b) Part 2 contains other amendments.
- (3) The amendments made by that Schedule have effect for the financial year beginning with 1 April 2013 and subsequent financial years. 5
- (4) But the Secretary of State may by order made by statutory instrument amend subsection (3) by substituting a later financial year.
- 6 Definition of domestic property**
- (1) Section 66 of the LGFA 1988 (domestic property) is amended as follows.
- (2) After subsection (2BB) insert – 10
- “(2BC) For the purposes of subsection (2B) the relevant person is –
- (a) where the building or self-contained part is not subject as a whole to a relevant leasehold interest, the person having the freehold interest in the whole of the building or self-contained part; and 15
- (b) in any other case, any person having a relevant leasehold interest in the building or self-contained part which is not subject (as a whole) to a single relevant leasehold interest inferior to that interest.”
- (3) In subsection (2C), omit “subsection (2B) and”. 20
- (4) This section has effect in relation to liability to a non-domestic rate for the financial year beginning with 1 April 2013 and subsequent years.
- 7 Provision of information about non-domestic rates**
- (1) In Schedule 9 to the LGFA 1988, paragraph 2 (collection and recovery) is amended as follows. 25
- (2) After sub-paragraph (2)(ge) insert –
- “(gf) that the payee must publish prescribed information in the prescribed manner.”
- (3) In sub-paragraph (2)(h), after “when the payee serves a notice” insert “or on the request of the ratepayer”. 30
- Council tax*
- 8 Council tax reduction schemes**
- (1) For section 13A of the LGFA 1992 (billing authority’s power to reduce amount of tax payable) substitute –
- “**13A Reductions by billing authority** 35
- (1) The amount of council tax which a person is liable to pay in respect of any chargeable dwelling and any day (as determined in accordance with sections 10 to 13) –
- (a) in the case of a dwelling situated in the area of a billing authority in England, is to be reduced to the extent, if any, 40

- required by the authority's council tax reduction scheme (see subsection (2));
- (b) in any case, may be reduced to such extent (or, if the amount has been reduced under paragraph (a), such further extent) as the billing authority for the area in which the dwelling is situated thinks fit. 5
- (2) Each billing authority in England must make a scheme specifying the reductions which are to apply to amounts of council tax payable, in respect of dwellings situated in its area, by –
- (a) persons whom the authority considers to be in financial need, or 10
- (b) persons in classes consisting of persons whom the authority considers to be, in general, in financial need.
- (3) The power under subsection (1)(b) includes power to reduce an amount to nil.
- (4) The power under subsection (1)(b) may be exercised in relation to particular cases or by determining a class of case in which liability is to be reduced to an extent provided by the determination. 15
- (5) Schedule 1A (which contains provisions about council tax reduction schemes) has effect.
- (6) In this Part “council tax reduction scheme” means a scheme under subsection (2).” 20
- (2) Schedule 4 (amendments relating to council tax reduction schemes) has effect.
- (3) In that Schedule –
- (a) Part 1 sets out the Schedule to be inserted as Schedule 1A to the LGFA 1992, and 25
- (b) Part 2 contains other amendments.
- (4) Each billing authority in England must make a council tax reduction scheme no later than 31 January 2013; and the first financial year to which that scheme relates must be the year beginning with 1 April 2013.
- (5) But the Secretary of State may by order made by statutory instrument amend subsection (4) by substituting a different date or a later financial year (or both). 30

9 Power to determine further discounts for certain dwellings

- (1) In section 11A of the LGFA 1992 (discounts: special provision for England), after subsection (4) insert –
- “(4A) For any financial year for which a class of dwellings is prescribed for the purposes of this subsection, a billing authority in England may by determination provide – 35
- (a) in relation to all dwellings of that class in its area, or
- (b) in relation to such description of dwellings of that class as it may specify in the determination, 40
- that the discount under section 11(2)(a) shall not apply or shall be such percentage (which may be 100) as it may so specify.
- (4B) Where a class of dwellings is prescribed for the purposes of subsection (4A) by reference to the period of time for which a condition is met, a

billing authority may not, under paragraph (b) of that subsection, specify a description of dwellings of that class by reference (wholly or partly) to a shorter such period.”

- (2) In subsections (1) and (5) of that section, for “or (4)” substitute “, (4) or (4A)”.
- (3) Regulations may be made for the purposes of the subsection inserted by subsection (1) for a financial year beginning with or after 1 April 2013 (and, if a class of dwelling is prescribed by reference to a period of time for which a condition is met, it does not matter whether the period begins before this section comes into force). 5

10 Power to set higher amount for long-term empty dwellings 10

- (1) The LGFA 1992 is amended as follows.
- (2) After section 11A insert—

“11B Higher amount for long-term empty dwellings: England

- (1) For any financial year, a billing authority in England may by determination provide in relation to its area, or such part of its area as it may specify in the determination, that if on any day a dwelling is a long-term empty dwelling— 15
- (a) the discount under section 11(2)(a) shall not apply, and
 - (b) the amount of council tax payable in respect of that dwelling and that day shall be increased by such percentage of not more than 50 as it may so specify. 20
- (2) The Secretary of State may by regulations prescribe one or more classes of dwelling in relation to which a billing authority may not make a determination under this section.
- (3) A class of dwellings may be prescribed under subsection (2) by reference to such factors as the Secretary of State thinks fit and may, in particular, be prescribed by reference to— 25
- (a) the physical characteristics of, or other matters relating to, dwellings;
 - (b) the circumstances of, or other matters relating to, any person who is liable to the amount of council tax concerned. 30
- (4) Where a determination under this section has effect in relation to a class of dwellings—
- (a) the billing authority may not make a determination under section 11A(3), (4) or (4A) in relation to that class, and 35
 - (b) any determination that has been made under section 11A(3), (4) or (4A) ceases to have effect in relation to that class.
- (5) A billing authority may make a determination varying or revoking a determination under this section for a financial year, but only before the beginning of the year. 40
- (6) A billing authority which makes a determination under this section must publish a notice of it in at least one newspaper circulating in its area and do so before the end of the period of 21 days beginning with the date of the determination.

- (7) Failure to comply with subsection (6) does not affect the validity of a determination.
- (8) For the purposes of this section, a dwelling is a “long-term empty dwelling” on any day if for a continuous period of at least 2 years ending with that day – 5
- (a) it has been unoccupied, and
 - (b) it has been substantially unfurnished.
- (9) In determining for the purposes of this section whether a dwelling has been unoccupied for any period, no account is to be taken of any one or more periods of not more than 6 weeks, or such longer period as the Secretary of State may by regulations specify, during which it was occupied.” 10
- (3) In section 11(2) (discounts: no chargeable residents) after “sections 11A” insert “, 11B”.
- (4) In section 11A (discounts: special provision for England) after subsection (4B) (inserted by section 9) insert – 15
- “(4C) Subsections (3), (4) and (4A) are subject to section 11B(4).”
- (5) In section 13(3) (amounts which may be reduced by regulations) after “section 11, 11A” insert “, 11B”.
- (6) In section 66(2)(b) (matters to be questioned only by judicial review), after “section 8(2), 11A” insert “, 11B”. 20
- (7) In section 67(2)(a) (functions to be discharged only by authority), after “section 8(2), 11A” insert “, 11B”.
- (8) In Schedule 2 (administration), paragraph 4 (discounts) is amended as follows.
- (9) In sub-paragraph (2), after “discount” (in both places) insert “or increase”. 25
- (10) In sub-paragraph (3) –
- (a) after “discount” in the first and third places insert “or to an increase”;
 - (b) after “discount” in the second and fourth places insert “or increase”.
- (11) In sub-paragraph (5)(a), for “is subject to a discount of a particular amount; and” substitute – 30
- (i) is subject to a discount of a particular amount, or
 - (ii) is not subject to any increase; and”.
- (12) In sub-paragraph (5)(b), for the words from “is not in fact” to “smaller amount,” substitute – 35
- (i) is not in fact subject to any discount, or is subject to a discount of a smaller amount, or
 - (ii) is in fact subject to an increase (whether or not the person is aware of the amount of the increase);”.
- (13) After sub-paragraph (6) insert – 40
- “(7) In this paragraph, “increase” means an increase under section 11B(1)(b) (higher amount of tax for empty dwellings).”
- (14) In the heading preceding that paragraph, after “Discounts” insert “and increases”.

- (15) A determination may be made for the purposes of the section inserted by subsection (2) for a financial year beginning with or after 1 April 2013 (and it does not matter whether the period mentioned in subsection (8) of that section begins before this section comes into force).
- 11 Mortgagee in possession to be liable for council tax** 5
- (1) In section 6(2) of the LGFA 1992 (persons liable to pay council tax), omit the “or” at the end of paragraph (e) and after that paragraph insert—
 “(ea) in the case of a dwelling situated in the area of a billing authority in England, the person is a mortgagee in possession of the owner’s interest in the dwelling; or”.
- (2) This section has effect in relation to liability to pay council tax for the financial year beginning with 1 April 2013 and subsequent years. 10
- 12 Provision of information about council tax**
- (1) In Schedule 2 to the LGFA 1992, paragraph 2 (collection of council tax) is amended as follows. 15
- (2) After sub-paragraph (4)(i) (but before the word “and” following that paragraph) insert—
 “(ia) that the authority must publish prescribed information in the prescribed manner;”.
- (3) In sub-paragraph (4)(j), after “when it serves a notice” insert “or on the request of the person”. 20
- General*
- 13 Interpretation**
- In this Act—
 “financial year” means a period of 12 months beginning with 1 April; 25
 “the LGFA 1988” means the Local Government Finance Act 1988;
 “the LGFA 1992” means the Local Government Finance Act 1992.
- 14 Power to make transitional, consequential etc provision**
- (1) The Secretary of State may by order made by statutory instrument make such transitory or transitional provision, or savings, as the Secretary of State considers appropriate in connection with the coming into force of any provision of this Act. 30
- (2) The Secretary of State may by order made by statutory instrument make such consequential provision (including provision amending, repealing or revoking any legislation passed or made before, or in the same Session as, this Act) as the Secretary of State considers appropriate in connection with any provision of this Act. 35
- (3) A statutory instrument containing an order under subsection (2) that amends or repeals an Act may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament. 40

- (4) Any other statutory instrument containing an order under subsection (2) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) The powers under subsections (1) and (2) include power to make different provision for different cases or descriptions of case, including different provision for different areas or different authorities.

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15 Financial provisions

There is to be paid out of money provided by Parliament –

- (a) any expenditure incurred by the Secretary of State in consequence of this Act, and
- (b) any increase attributable to this Act in the sums payable under any other Act out of money so provided.

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16 Extent and short title

- (1) This Act extends to England and Wales only.
- (2) This Act may be cited as the Local Government Finance Act 2012.

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SCHEDULES

SCHEDULE 1

Section 1

LOCAL RETENTION OF NON-DOMESTIC RATES

After Schedule 7A to the LGFA 1988 insert –

“SCHEDULE 7B

Section 59A

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LOCAL RETENTION OF NON-DOMESTIC RATES

PART 1

MAIN NON-DOMESTIC RATING ACCOUNTS

Main non-domestic rating accounts

- | | | |
|---|---|---|
| 1 | <p>(1) The Secretary of State must, for each year, keep an account, to be called a “main non-domestic rating account”.</p> <p>(2) Each such account must be kept in accordance with the provisions of this Schedule that apply to a main non-domestic rating account.</p> <p>(3) The Secretary of State –</p> <p style="padding-left: 20px;">(a) must keep each such account in such form as the Treasury may direct, and</p> <p style="padding-left: 20px;">(b) must, at such time as the Treasury may direct, send copies of each such account to the Comptroller and Auditor General.</p> <p>(4) The Comptroller and Auditor General –</p> <p style="padding-left: 20px;">(a) must examine, certify and report on any account of which copies are sent to the Comptroller and Auditor General under sub-paragraph (3), and</p> <p style="padding-left: 20px;">(b) must arrange for copies of the account and of the Comptroller and Auditor General’s report on it to be laid before each House of Parliament.</p> | <p>10</p> <p>15</p> <p>20</p> <p>25</p> |
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Credits and debits

- | | | |
|---|--|-----------|
| 2 | <p>(1) For each year the following are to be credited (as items of account) to the main non-domestic rating account kept for the year –</p> <p style="padding-left: 20px;">(a) amounts received by the Secretary of State in the year under section 54 (central rating: liability),</p> <p style="padding-left: 20px;">(b) amounts received by the Secretary of State in the year under section 59 (contributions in aid),</p> | <p>30</p> |
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- (c) amounts received by the Secretary of State in the year under paragraph 6 (payments in respect of the central share) and amounts received by the Secretary of State in the year under regulations under paragraph 7 (administrative arrangements for such payments), 5
 - (d) amounts received by the Secretary of State in the year under paragraph 12 (payments following local government finance report),
 - (e) amounts received by the Secretary of State in the year under paragraph 15 (payments following amending report), and 10
 - (f) amounts received by the Secretary of State in the year under regulations under paragraph 31 (transitional protection payments).
- (2) For each year the following are to be debited (as items of account) to the main non-domestic rating account kept for the year – 15
- (a) payments made by the Secretary of State in the year under regulations under paragraph 7,
 - (b) payments made by the Secretary of State in the year under paragraph 12, 20
 - (c) payments made by the Secretary of State in the year under paragraph 15, and
 - (d) payments made by the Secretary of State in the year under regulations under paragraph 31.
- (3) If a local government finance report for a year has been approved by resolution of the House of Commons, an amount may be debited (as an item of account) to the main non-domestic rating account kept for the year, for use for the purposes of local government in England. 25
- (4) The amount that may be debited under sub-paragraph (3) for a year may not exceed – 30
- (a) the total amount credited for the year under sub-paragraph (1)(a), (b) and (c), minus
 - (b) the total amount debited for the year under sub-paragraph (2)(a). 35

End of year calculations

- 3 (1) As soon as is reasonably practicable after the end of each year, the Secretary of State must calculate –
- (a) the aggregate of the items of account credited to the main non-domestic rating account kept for the year, and 40
 - (b) the aggregate of the items of account debited to the main non-domestic rating account kept for the year.
- (2) If the aggregate mentioned in sub-paragraph (1)(a) exceeds that mentioned in sub-paragraph (1)(b), an amount equal to the excess must be – 45
- (a) debited (as an item of account) to the main non-domestic rating account kept for the year, and

- (b) credited (as an item of account) to the main non-domestic rating account kept for the next year.
- (3) If the aggregate mentioned in sub-paragraph (1)(b) exceeds that mentioned in sub-paragraph (1)(a), an amount equal to the excess must be – 5
- (a) credited (as an item of account) to the main non-domestic rating account kept for the year, and
- (b) debited (as an item of account) to the main non-domestic rating account kept for the next year.

PART 2 10

DETERMINATION OF THE CENTRAL AND LOCAL SHARE

Determination of the central and local share

- 4 The Secretary of State must, for each year and in relation to each billing authority in England, determine – 15
- (a) the percentage (“the central share”) that is to be the billing authority’s central share for the year for the purposes of Part 3 (payments to the Secretary of State in respect of the central share), and
- (b) the percentage (“the local share”) that is to be the billing authority’s local share for the year for the purposes of Part 4 (payments by billing authorities to major precepting authorities). 20

Local government finance reports

- 5 (1) A determination under paragraph 4 must be specified in a report, to be called a “local government finance report”. 25
- (2) The Secretary of State must lay, or make arrangements for laying, the local government finance report before the House of Commons.
- (3) As soon as is reasonably practicable after a local government finance report is laid before the House of Commons, the Secretary of State must send a copy of the report to each relevant authority. 30

PART 3

PAYMENTS TO THE SECRETARY OF STATE IN RESPECT OF THE CENTRAL SHARE

Payments to the Secretary of State in respect of the central share

- 6 (1) This paragraph applies if a local government finance report for a year is approved by resolution of the House of Commons. 35
- (2) Each billing authority in England must make a payment for the year to the Secretary of State of an amount equal to the central share of the billing authority’s non-domestic rating income for the year. 40

- (3) For the purposes of sub-paragraph (2), an authority’s “non-domestic rating income” has the meaning given by regulations made by the Secretary of State.
- (4) The regulations may, in particular, define that term by reference to the total which, if the authority acted diligently, would be payable to it in respect of the year under sections 43 and 45, subject to such adjustments as may be specified in the regulations. 5
- (5) The regulations may, in particular, make provision for adjustments by reference to changes to the calculation of the amount of a billing authority’s non-domestic rating income for an earlier year but not taken into account in that calculation. 10

Regulations about administrative arrangements

- 7 (1) The Secretary of State may by regulations make provision about the administration of payments under paragraph 6.
- (2) The regulations may, in particular, make provision – 15
 - (a) about the time and manner in which a payment under paragraph 6 or under regulations under this paragraph is to be made (including for payment by instalments), and as to the consequences of non-payment;
 - (b) about the making of a payment by a billing authority to the Secretary of State or vice versa where – 20
 - (i) a payment under paragraph 6 is made in the course of the year to which it relates, and
 - (ii) it is subsequently determined that the amount of the payment required to be made under that paragraph is more or less than that actually made. 25

PART 4

PAYMENTS BY BILLING AUTHORITIES TO MAJOR PRECEPTING AUTHORITIES

Regulations about payments

- 8 (1) The Secretary of State may by regulations make provision requiring billing authorities in England to make payments for a year to major precepting authorities in England. 30
- (2) The regulations must provide that a billing authority is not required to make a payment for a year unless the local government finance report for the year has been approved by resolution of the House of Commons. 35
- (3) The regulations may, in particular, make provision as to –
 - (a) the billing authorities that are required to make payments under the regulations;
 - (b) the major precepting authorities that are entitled to receive payments under the regulations; 40
 - (c) the amounts of the payments that are required to be made.
- (4) The regulations may, in particular, make provision for the amount of a payment to be made by a billing authority for a year to be such

proportion of the local share of its non-domestic rating income for the year as is specified in or determined in accordance with the regulations.

- (5) For the purposes of sub-paragraph (4), an authority’s “non-domestic rating income” has the meaning given by the regulations. 5
- (6) The regulations may, in particular, define that term by reference to the total which, if the authority acted diligently, would be payable to it in respect of the year under sections 43 and 45, subject to such adjustments as may be specified in the regulations. 10
- (7) The regulations may, in particular, make provision for adjustments by reference to changes to the calculation of the amount of a billing authority’s non-domestic rating income for an earlier year but not taken into account in that calculation.

Regulations about administrative arrangements 15

- 9 (1) The Secretary of State may by regulations make provision about the administration of payments under regulations under paragraph 8.
- (2) The regulations may, in particular, make provision –
- (a) about the making of calculations, and the supply of information to a major precepting authority, by a billing authority in connection with the determination of a payment to be made under regulations under paragraph 8 or this paragraph; 20
- (b) about the assumptions and adjustments to be made, and the information to be taken into account, in making such calculations; 25
- (c) about the consequences of non-compliance with provision under paragraph (a) or (b);
- (d) about the time and manner in which a payment under regulations under paragraph 8 or this paragraph is to be made (including for payment by instalments), and as to the consequences of non-payment; 30
- (e) about the making of a payment by a billing authority to a major precepting authority or vice versa where – 35
- (i) a payment under regulations under paragraph 8 is made in the course of the year to which it relates, and
- (ii) it is subsequently determined that the amount of the payment required to be made under the regulations is more or less than that actually made; 40
- (f) for the audit of calculations made, or information supplied to a major precepting authority, by a billing authority in connection with the determination of a payment under regulations under paragraph 8 or this paragraph; 45
- (g) about the consequences where a calculation or information certified by the audit does not match that made or supplied by the billing authority, including (in particular) about the use of the certified calculation or information.

PART 5

PRINCIPAL PAYMENTS IN CONNECTION WITH LOCAL RETENTION OF NON-
DOMESTIC RATES

Determination of payments

- 10 (1) The local government finance report for a year must specify the basis (“the basis of calculation”) on which the Secretary of State intends to – 5
- (a) calculate which relevant authorities are to make payments under this Part of this Schedule to the Secretary of State for the year, 10
 - (b) calculate which relevant authorities are to receive payments under this Part of this Schedule from the Secretary of State for the year, and
 - (c) calculate the amount of each payment within paragraph (a) or (b). 15
- (2) Before making the local government finance report for a year, the Secretary of State must notify such representatives of local government as the Secretary of State thinks fit of the general nature of the basis of calculation.

Calculations following local government finance report 20

- 11 (1) This paragraph applies if a local government finance report for a year is approved by resolution of the House of Commons.
- (2) As soon as is reasonably practicable after the report has been approved, the Secretary of State must –
- (a) calculate which relevant authorities are to make payments under this Part of this Schedule to the Secretary of State for the year, 25
 - (b) calculate which relevant authorities are to receive payments under this Part of this Schedule from the Secretary of State for the year, and 30
 - (c) calculate the amount of each payment within paragraph (a) or (b).
- (3) Subject as follows, the Secretary of State may, at any time before the end of the year following the year to which the report relates, make one further set of calculations of the kind described in sub-paragraph (2). 35
- (4) The power to make a set of further calculations under sub-paragraph (3) is not exercisable after the approval by the House of Commons of any amending report made under paragraph 13 in relation to the local government finance report. 40
- (5) Calculations under this paragraph must be made in accordance with the basis of calculation specified in the report.
- (6) As soon as is reasonably practicable after making calculations under sub-paragraph (2) or (3), the Secretary of State must notify each relevant authority of – 45

- (a) whether any payments are to be made by the authority to the Secretary of State in accordance with the calculations,
- (b) whether any payments are to be made to the authority by the Secretary of State in accordance with the calculations, and 5
- (c) if any payments are to be made by or to the authority, the amount of each payment.

Payments following local government finance report

- 12 (1) Where calculations under paragraph 11(2) show that a relevant authority is to make a payment to the Secretary of State, the authority must make that payment to the Secretary of State. 10
- (2) Where calculations under paragraph 11(2) show that the Secretary of State is to make a payment to a relevant authority, the Secretary of State must make that payment to the authority.
- (3) The following provisions apply if calculations (“the revised calculations”) are made under paragraph 11(3) for a year. 15
- (4) In this paragraph “the original calculations” means the calculations for the year under paragraph 11(2).
- (5) Sub-paragraph (6) applies where –
 - (a) a payment the revised calculations show as falling to be made by a relevant authority to the Secretary of State exceeds that shown as falling to be made by the original calculations, or 20
 - (b) a payment the revised calculations show as falling to be made by the Secretary of State to a relevant authority is less than that shown as falling to be made by the original calculations. 25
- (6) The authority must make a payment to the Secretary of State of an amount equal to the difference.
- (7) Where the original calculations did not show that a relevant authority was to make a payment to the Secretary of State, but the revised calculations show that the authority is to make a payment to the Secretary of State – 30
 - (a) the authority must make that payment to the Secretary of State, and 35
 - (b) the authority must make a payment to the Secretary of State of an amount equal to the amount of the payment shown by the original calculations as falling to be made by the Secretary of State to the authority.
- (8) Sub-paragraph (9) applies where – 40
 - (a) a payment the revised calculations show as falling to be made by a relevant authority to the Secretary of State is less than that shown as falling to be made by the original calculations, or
 - (b) a payment the revised calculations show as falling to be made by the Secretary of State to a relevant authority 45

- exceeds that shown as falling to be made by the original calculations.
- (9) The Secretary of State must make a payment to the authority of an amount equal to the difference.
- (10) Where the original calculations did not show that the Secretary of State was to make a payment to a relevant authority, but the revised calculations show that the Secretary of State is to make a payment to the authority – 5
- (a) the Secretary of State must make that payment to the authority, and 10
 - (b) the Secretary of State must make a payment to the authority of an amount equal to the amount of the payment shown by the original calculations as falling to be made by the authority to the Secretary of State.
- (11) A payment by a relevant authority to the Secretary of State under sub-paragraph (1) – 15
- (a) must be made on or before such day in the year to which the local government finance report relates, and in such manner, as the Secretary of State may specify, and
 - (b) if not made on or before that day, is recoverable in a court of competent jurisdiction. 20
- (12) A payment by the Secretary of State to a relevant authority under sub-paragraph (2) must be made –
- (a) in instalments of such amounts, and
 - (b) at such times in the year to which the local government finance report relates, 25
- as the Secretary of State determines with the Treasury’s consent.
- (13) A payment by a relevant authority to the Secretary of State under sub-paragraph (6) or (7) –
- (a) must be made on or before such day after the end of the year to which the local government finance report relates, and in such manner, as the Secretary of State may specify, and 30
 - (b) if not made on or before that day, is recoverable in a court of competent jurisdiction. 35
- (14) A payment by the Secretary of State to a relevant authority under sub-paragraph (9) or (10) must be made –
- (a) at such time, or
 - (b) in instalments of such amounts and at such times, 40
- as the Secretary of State determines with the Treasury’s consent; but any such time must fall after the end of the year to which the local government finance report relates.

Amending reports

- 13 (1) After a local government finance report has been made, the Secretary of State may, at any time before the end of the year following the year to which the report relates, make in relation to the report one or more amending reports under this paragraph. 45

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- (2) An amending report under this paragraph must contain amendments to the basis of calculation specified in the local government finance report.
- (3) Before making the report, the Secretary of State must notify such representatives of local government as the Secretary of State thinks fit of the general nature of the amendments the Secretary of State proposes to make. 5
- (4) The Secretary of State must lay, or make arrangements for laying, the report before the House of Commons.
- (5) As soon as is reasonably practicable after the report is laid before the House of Commons, the Secretary of State must send a copy of the report to each relevant authority. 10
- (6) Where an amending report under this paragraph has been approved by resolution of the House of Commons, the Secretary of State may not make a subsequent amending report under this paragraph in relation to the same local government finance report. 15

Calculations following amending report

- 14 (1) This paragraph applies if an amending report for a year made under paragraph 13 is approved by resolution of the House of Commons. 20
- (2) As soon as is reasonably practicable after the amending report has been approved, the Secretary of State must—
- (a) calculate which relevant authorities are to make payments under this Part of this Schedule to the Secretary of State for the year, 25
 - (b) calculate which relevant authorities are to receive payments under this Part of this Schedule from the Secretary of State for the year, and
 - (c) calculate the amount of each payment within paragraph (a) or (b). 30
- (3) Subject as follows, the Secretary of State may make one further set of calculations of the kind described in sub-paragraph (2).
- (4) The power to make a further set of calculations under sub-paragraph (3) is not exercisable after whichever is the later of—
- (a) the end of the year following the year to which the amending report relates, and 35
 - (b) the end of the period of 3 months beginning with the day on which the amending report is approved by resolution of the House of Commons.
- (5) Calculations under this paragraph must be made in accordance with the basis of calculation specified in the local government finance report as amended by the amending report. 40
- (6) As soon as is reasonably practicable after making calculations under sub-paragraph (2) or (3), the Secretary of State must notify each relevant authority of— 45

- (a) whether any payments are to be made by the authority to the Secretary of State in accordance with the calculations,
- (b) whether any payments are to be made to the authority by the Secretary of State in accordance with the calculations, and
- (c) if any payments are to be made by or to the authority, the amount of each payment.

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Payments following amending report

- 15 (1) This paragraph applies if calculations (“the revised calculations”) are made under paragraph 14(2) or (3) for a year. 10
- (2) In this paragraph “the relevant previous calculations” means the last calculations of the kind referred to in paragraph 11(2) or (3) or 14(2) made for the year.
- (3) Sub-paragraph (4) applies where –
- (a) a payment shown by the revised calculations as falling to be made by a relevant authority to the Secretary of State exceeds that shown as falling to be made by the relevant previous calculations, or 15
 - (b) a payment shown by the revised calculations as falling to be made by the Secretary of State to a relevant authority is less than that shown as falling to be made by the relevant previous calculations. 20
- (4) The authority must make a payment to the Secretary of State of an amount equal to the difference.
- (5) Where the relevant previous calculations did not show that a relevant authority was to make a payment to the Secretary of State, but the revised calculations show that the authority is to make a payment to the Secretary of State – 25
- (a) the authority must make that payment to the Secretary of State, and 30
 - (b) the authority must make a payment to the Secretary of State of an amount equal to the amount of the payment shown by the relevant previous calculations as falling to be made by the Secretary of State to the authority.
- (6) Sub-paragraph (7) applies where – 35
- (a) a payment shown by the revised calculations as falling to be made by a relevant authority to the Secretary of State is less than that shown as falling to be made by the relevant previous calculations, or
 - (b) a payment shown by the revised calculations as falling to be made by the Secretary of State to a relevant authority exceeds that shown as falling to be made by the relevant previous calculations. 40
- (7) The Secretary of State must make a payment to the authority of an amount equal to the difference. 45
- (8) Where the relevant previous calculations did not show that the Secretary of State was to make a payment to a relevant authority,

- but the revised calculations show that the Secretary of State is to make a payment to the authority –
- (a) the Secretary of State must make that payment to the authority, and
 - (b) the Secretary of State must make a payment to the authority of an amount equal to the amount of the payment shown by the relevant previous calculations as falling to be made by the authority to the Secretary of State. 5
- (9) A payment by a relevant authority to the Secretary of State under this paragraph – 10
- (a) must be made on or before such day after the end of the year in which the amending report was made, and in such manner, as the Secretary of State may specify, and
 - (b) if not made on or before that day, is recoverable in a court of competent jurisdiction. 15
- (10) A payment by the Secretary of State to a relevant authority under this paragraph must be made –
- (a) at such time, or
 - (b) in instalments of such amounts and at such times, 20
- as the Secretary of State determines with the Treasury’s consent; but any such time must fall after the end of the year in which the amending report was made.

Relationship with other provisions

- 16 This Part is subject to Parts 9 (pooling of authorities) and 10 (designation of areas and classes of hereditament). 25

PART 6

LEVY ACCOUNTS

Levy accounts

- 17 (1) The Secretary of State must, for each year, keep an account, to be called a “levy account”. 30
- (2) The first levy account to be established after the coming into force of this paragraph may have an opening balance of such amount as the Secretary of State may determine.
- (3) Each such account must be kept in accordance with the provisions of this Schedule that apply to a levy account. 35
- (4) The Secretary of State –
- (a) must keep each such account in such form as the Treasury may direct, and
 - (b) must, at such time as the Treasury may direct, send copies of each such account to the Comptroller and Auditor General. 40
- (5) The Comptroller and Auditor General –

- (a) must examine, certify and report on any account of which copies are sent to the Comptroller and Auditor General under sub-paragraph (4), and
- (b) must arrange for copies of the account and of the Comptroller and Auditor General’s report on it to be laid before each House of Parliament. 5

Credits and debits

- 18 (1) For each year the following are to be credited (as items of account) to the levy account kept for the year –
 - (a) amounts received by the Secretary of State in the year under paragraph 22 (levy payments), and 10
 - (b) amounts received by the Secretary of State in the year under regulations under paragraph 26 (payments on account).
- (2) For each year the following are to be debited (as items of account) to the levy account kept for the year – 15
 - (a) payments made by the Secretary of State in the year under paragraph 25 (safety net payments),
 - (b) payments made by the Secretary of State in the year under regulations under paragraph 26, and 20
 - (c) payments made by the Secretary of State in the year under paragraph 28 (distribution of remaining balance).

End of year calculations

- 19 (1) As soon as is reasonably practicable after the end of each year, the Secretary of State must calculate – 25
 - (a) the aggregate of the items of account credited to the levy account kept for the year, and
 - (b) the aggregate of the items of account debited to the levy account kept for the year.
- (2) If the aggregate mentioned in sub-paragraph (1)(a) exceeds that mentioned in sub-paragraph (1)(b), an amount equal to the excess must be – 30
 - (a) debited (as an item of account) to the levy account kept for the year, and
 - (b) credited (as an item of account) to the levy account kept for the next year. 35
- (3) If the aggregate mentioned in sub-paragraph (1)(b) exceeds that mentioned in sub-paragraph (1)(a), an amount equal to the excess must be –
 - (a) credited (as an item of account) to the levy account kept for the year, and 40
 - (b) debited (as an item of account) to the levy account kept for the next year.

PART 7

LEVY PAYMENTS, SAFETY NET PAYMENTS AND DISTRIBUTION OF REMAINING
BALANCE*Regulations about calculation of levy payments*

- 20 (1) The Secretary of State may by regulations make provision for calculating – 5
- (a) whether a relevant authority is required to make a payment under this Part of this Schedule (a “levy payment”) to the Secretary of State for a year, and
 - (b) if so, the amount of the levy payment. 10
- (2) The regulations must make provision for calculations for a year to be made after the end of that year.
- (3) The regulations may, in particular, make provision for calculations in relation to a relevant authority to be made –
- (a) if the relevant authority is a billing authority, by reference to the total paid to it in respect of the year under sections 43 and 45, subject to such adjustments as may be specified in the regulations; 15
 - (b) if the relevant authority is a major precepting authority, by reference to the total paid to it for the year under regulations under paragraph 8 (payments by billing authorities to major precepting authorities), subject to such adjustments as may be specified in the regulations; 20
 - (c) by reference to payments of a kind specified in the regulations made to the authority by the Secretary of State; 25
 - (d) by reference to such other factors as may be specified in the regulations.
- (4) The regulations may, in particular, make provision for adjustments to an amount calculated under provision made under sub-paragraph (3) by reference to changes affecting the calculation of such an amount for an earlier year but not taken into account in that calculation. 30

Calculation of levy payments

- 21 (1) The Secretary of State must calculate in relation to each relevant authority – 35
- (a) whether it is required to make a levy payment for a year, and
 - (b) if so, the amount of that payment.
- (2) The calculation must be made –
- (a) as soon as is reasonably practicable after the end of the year, or 40
 - (b) if a direction is given to the authority under paragraph 40 (direction to make calculations or supply information) for the purposes of this paragraph, as soon as is reasonably practicable after the time specified in the direction, 45
- whichever is the later.

- (3) The calculation must be made in accordance with regulations under paragraph 20.
- (4) As soon as is reasonably practicable after making a calculation in relation to a relevant authority, the Secretary of State must notify that authority of –
 - (a) whether, in accordance with the calculation, it is required to make a levy payment for the year, and
 - (b) if so, the amount of that payment in accordance with the calculation.

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Levy payments following calculations

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- 22 (1) If a calculation under paragraph 21 shows that a levy payment is to be made to the Secretary of State by a relevant authority, the authority must make that payment to the Secretary of State.
- (2) The levy payment –
 - (a) must be made on or before such day and in such manner as the Secretary of State may specify, and
 - (b) if not made on or before that day, is recoverable in a court of competent jurisdiction.

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Regulations about calculation of safety net payments

- 23 (1) The Secretary of State may by regulations make provision for calculating –
 - (a) whether the Secretary of State is required to make a payment under this Part of this Schedule (a “safety net payment”) to a relevant authority for a year, and
 - (b) if so, the amount of the payment.
- (2) The regulations must make provision for calculations for a year to be made after the end of that year.
- (3) The regulations may, in particular, make provision for calculations in relation to a relevant authority to be made –
 - (a) if the relevant authority is a billing authority, by reference to the total paid to it in respect of the year under sections 43 and 45, subject to such adjustments as may be specified in the regulations;
 - (b) if the relevant authority is a major precepting authority, by reference to the total paid to it for the year under regulations under paragraph 8 (payments by billing authorities to major precepting authorities), subject to such adjustments as may be specified in the regulations;
 - (c) by reference to payments of a kind specified in the regulations made to the authority by the Secretary of State;
 - (d) by reference to such other factors as may be specified in the regulations.
- (4) The regulations may, in particular, make provision for adjustments to an amount calculated under provision made under sub-paragraph (3) by reference to changes affecting the calculation

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of such an amount for an earlier year but not taken into account in that calculation.

Calculation of safety net payments

- 24 (1) The Secretary of State must calculate in relation to each relevant authority – 5
- (a) whether the Secretary of State is required to make a safety net payment to the authority for the year, and
 - (b) if so, the amount of that payment.
- (2) The calculation must be made – 10
- (a) as soon as is reasonably practicable after the end of the year, or
 - (b) if a direction is given to the authority under paragraph 40 (direction to make calculations or supply information) for the purposes of this paragraph, as soon as is reasonably practicable after the time specified in the direction, 15
- whichever is the later.
- (3) The calculation must be made in accordance with regulations under paragraph 23.
- (4) As soon as is reasonably practicable after making a calculation under this paragraph in relation to a relevant authority, the Secretary of State must notify that authority of – 20
- (a) whether, in accordance with the calculation, the Secretary of State is required to make a safety net payment to the authority for the year, and
 - (b) if so, the amount of that payment in accordance with the calculation. 25
- (5) This paragraph is subject to regulations under paragraph 26 (payments on account).

Safety net payments following calculations

- 25 (1) If a calculation under paragraph 24 shows that a safety net payment is to be made by the Secretary of State to a relevant authority, the Secretary of State must make that payment to the authority. 30
- (2) The safety net payment must be made in instalments of such amounts, and at such times, as the Secretary of State determines with the Treasury’s consent. 35
- (3) This paragraph is subject to regulations under paragraph 26 (payments on account).

Regulations about payments on account

- 26 (1) The Secretary of State may by regulations make provision – 40
- (a) for a relevant authority to request the Secretary of State to make a calculation before the end of a year (an “in-year calculation”) of –

- (i) whether the Secretary of State is likely to be required to make a safety net payment under paragraph 25 to the authority for the year, and
 - (ii) if so, the amount of the payment;
 - (b) about the time at which and the manner in which a request must be made, and the information that must be provided in connection with the request; 5
 - (c) about the circumstances in which the Secretary of State may or must make an in-year calculation in response to a request; 10
 - (d) about the making of an in-year calculation, including for the Secretary of State to make the calculation by reference to estimates of any of the amounts mentioned in paragraph 23(3).
- (2) The regulations may make provision – 15
 - (a) about the timing of an in-year calculation in response to a request;
 - (b) about the notification of the results of an in-year calculation to the relevant authority to whom it relates;
 - (c) for the making, as a result of the calculation, of a payment (a “payment on account”) to the authority before the end of the year to which the calculation relates. 20
- (3) The regulations may, in particular –
 - (a) make provision in relation to an in-year calculation that is similar to that made by paragraph 24, or apply that paragraph with modifications in relation to such a calculation; 25
 - (b) make provision in relation to a payment on account that is similar to that made by paragraph 25, or apply that paragraph with modifications in relation to such a payment. 30
- (4) The regulations may make provision –
 - (a) about the calculation under paragraph 24 to be made in relation to a relevant authority for a year where a payment on account has been made to the authority for the year; 35
 - (b) for the making of a further payment by the Secretary of State to the authority, or of a payment by the authority to the Secretary of State, as a result of that calculation.

Calculation of remaining balance on levy account

- 27 (1) The Secretary of State must, in each year other than the first year for which this paragraph has effect, calculate whether there is a remaining balance on the levy account for the year. 40
- (2) The calculation must be made as soon as is reasonably practicable after –
 - (a) all of the calculations required by paragraph 21(1) (calculations of levy payments) have been made for the previous year, and 45

- (b) all of the calculations required by paragraph 24(1) (calculations of safety net payments) have been made for the previous year.
- (3) The calculation must be made as follows –
- Step 1* 5
Calculate the aggregate of the amounts of all of the levy payments calculated for the previous year under paragraph 21(1).
- Step 2*
Add any amount credited to the levy account for the year in accordance with paragraph 19(2) (credit from previous year) to the amount found under step 1, or subtract any amount debited to that account in accordance with paragraph 19(3) (debit from previous year) from the amount found under step 1. 10
- Step 3*
Subtract from the amount found under steps 1 and 2 the aggregate of the amounts of all the safety net payments calculated for the previous year under paragraph 24(1). 15
- Step 4*
Subtract from the amount found under steps 1 to 3 the amount (if any) that is required to be distributed under paragraph 28 (distribution of remaining balance) in the year. 20
- (4) If the amount found under step 4 in sub-paragraph (3) is a positive amount, that is the remaining balance on the levy account for the year.
- Distribution of remaining balance* 25
- 28 (1) The Secretary of State may determine that an amount equal to the whole or part of the remaining balance on a levy account for a year is to be distributed among one or more relevant authorities (rather than being treated in accordance with paragraph 19(2)).
- (2) If the Secretary of State makes a determination under sub-paragraph (1), the amount referred to in that sub-paragraph may not be distributed unless – 30
- (a) the basis (“the basis of distribution”) on which the Secretary of State intends to make the distribution is specified in a local government finance report, and 35
- (b) the report is approved by resolution of the House of Commons.
- (3) Before making such a local government finance report, the Secretary of State must notify such representatives of local government as the Secretary of State thinks fit of the general nature of the basis of distribution. 40
- (4) If such a report is approved by resolution of the House of Commons, the Secretary of State must calculate what amount (if any) falls to be paid to each relevant authority as its share of the amount referred to in sub-paragraph (1). 45
- (5) The calculations must be made –

- (a) as soon as is reasonably practicable after the report is approved, and
 - (b) in accordance with the basis of distribution specified in the report.
 - (6) As soon as is reasonably practicable after making the calculations, the Secretary of State must notify each relevant authority of –
 - (a) whether a payment is to be made by the Secretary of State to the authority out of the amount referred to in sub-paragraph (1), and
 - (b) if such a payment is to be made, the amount of the payment.
 - (7) If the calculations show that a payment is to be made by the Secretary of State to a relevant authority, the Secretary of State must make that payment to the authority.
 - (8) A payment from the Secretary of State to a relevant authority under this paragraph must be made –
 - (a) at such time, or
 - (b) in instalments of such amounts and at such times, as the Secretary of State determines with the Treasury’s consent.
- Relationship with other provisions*
- 29 This Part is subject to Parts 9 (pooling of authorities) and 10 (designation of areas and classes of hereditament).

PART 8

TRANSITIONAL PROTECTION PAYMENTS

- Regulations about deemed and actual rating income*
- 30 (1) The Secretary of State may by regulations make provision for calculating in accordance with the regulations –
- (a) the total amount which would be payable to a billing authority in England in respect of a year under sections 43 and 45 if –
 - (i) regulations under section 57A (transitional relief following compilation of local rating list) were not in force for the year, and
 - (ii) the authority acted diligently, and
 - (b) the total amount which would be payable to a billing authority in England in respect of a year under sections 43 and 45 if the authority acted diligently.
- (2) The regulations may include provision for adjustments to be made to an amount calculated under provision under sub-paragraph (1).
- (3) The regulations may, in particular, make provision for adjustments to that amount by reference to changes affecting the calculation of such an amount for an earlier year but not taken into account in that calculation.

- (4) In this Part of this Schedule –
- (a) a billing authority’s “deemed rating income” for a year means the amount calculated for the authority and the year under provision under sub-paragraph (1)(a) and (2), and
 - (b) a billing authority’s “actual rating income” for a year means the amount calculated for the authority and the year under provision under sub-paragraph (1)(b) and (2). 5

Regulations about transitional protection payments

- 31 (1) The Secretary of State may by regulations make provision for the making of a payment (a “transitional protection payment”) for a year – 10
- (a) by the Secretary of State to a billing authority in England, or
 - (b) by a billing authority in England to the Secretary of State.
- (2) The regulations must provide for the amount (if any) of a transitional protection payment in relation to an authority for a year to be calculated by reference to its deemed and actual rating income for the year, so that – 15
- (a) if its deemed rating income for a year exceeds its actual rating income for the year, the Secretary of State is to be liable to make a transitional protection payment to the authority for the year of an amount equal to the excess; 20
 - (b) if its actual rating income for a year exceeds its deemed rating income for the year, the authority is to be liable to make a transitional protection payment to the Secretary of State for the year of an amount equal to the excess; 25
 - (c) if its deemed rating income for a year is equal to its actual rating income for the year, no transitional protection payment is to be made to or by the authority for the year.
- (3) The regulations may, in particular, make provision – 30
- (a) about the making of calculations, and the supply of information to the Secretary of State, by a billing authority in connection with the determination of the transitional protection payment (if any) to be made to or by the authority; 35
 - (b) about the assumptions and adjustments to be made, and the information to be taken into account, in making such calculations;
 - (c) about the consequences of non-compliance with provision under paragraph (a) or (b), including (in particular) – 40
 - (i) for the making by the Secretary of State of calculations, or of assumptions as to the information that would otherwise have been supplied by the authority;
 - (ii) for the suspension of payments to the authority. 45
- (4) The regulations may, in particular, make provision –
- (a) for the making by a billing authority or the Secretary of State of a payment on account of a transitional protection payment;

- (b) for the calculation, where a payment on account has been made, of the amount of the final transitional protection payment (if any) to be made to or by the authority;
 - (c) for the audit of calculations made, or information supplied to the Secretary of State, by a billing authority in connection with the determination of the final transitional protection payment (if any) to be made to or by the authority; 5
 - (d) about the consequences where a calculation or information certified by the audit does not match that made or supplied by the authority, including (in particular) about the use of the certified calculation or information; 10
 - (e) about the making of financial adjustments where the final transitional protection payment to be made to or by the authority for the year is different from a payment on account made to or by the authority for the year. 15
- (5) The regulations may in particular make provision about the time and manner in which a payment under the regulations is to be made (including for payment by instalments), and as to the consequences of non-payment. 20

PART 9

POOLING OF AUTHORITIES

Designation of pool of authorities

- 32 (1) The Secretary of State may, in accordance with this paragraph, designate two or more relevant authorities as a pool of authorities for the purposes of the provisions of this Schedule applying to such pools (as to which, see paragraphs 34 and 35). 25
- (2) The Secretary of State may make a designation only if each authority covered by the designation has agreed to it.
- (3) The Secretary of State – 30
- (a) may revoke a designation (in particular if any condition of the designation is breached), and
 - (b) must do so if any authority covered by the designation asks the Secretary of State to do so.
- (4) Subject to sub-paragraph (5), a designation has effect – 35
- (a) for the year beginning after it is made, and
 - (b) for each subsequent year, unless previously revoked.
- (5) A designation or revocation has effect for a year only if it is made before the Secretary of State gives the notification for the year required by paragraph 10(2) (notification of general basis of calculation to be specified in local government finance report for year). 40
- (6) Before making or revoking a designation, the Secretary of State must consult such of the persons that the Secretary of State thinks are likely to be affected by the designation or revocation as the Secretary of State thinks fit. 45

- (7) After making or revoking a designation, the Secretary of State must notify –
- (a) the authorities covered by the designation, and
 - (b) the persons consulted under sub-paragraph (6).
- (8) A notification under sub-paragraph (7) must be given before or at the same time as the Secretary of State gives the notification required by paragraph 10(2) for the year to which the designation or revocation relates. 5

Designations subject to conditions

- 33 (1) A designation under paragraph 32 must be made subject to conditions – 10
- (a) requiring the authorities to which it relates to appoint a lead authority to exercise the functions specified in the conditions, and
 - (b) requiring the authorities, if the designation is revoked, to take the steps specified in the conditions before the revocation takes effect. 15
- (2) A designation under paragraph 32 may be made subject to such other conditions as the Secretary of State thinks fit.
- (3) The Secretary of State may vary a designation by – 20
- (a) adding a condition,
 - (b) modifying a condition, or
 - (c) removing a condition (other than one mentioned in sub-paragraph (1)).
- (4) Before varying a designation under sub-paragraph (3), the Secretary of State must consult such persons likely to be affected by the variation as the Secretary of State thinks fit. 25
- (5) After varying a designation under sub-paragraph (3), the Secretary of State must notify – 30
- (a) the authorities covered by the designation, and
 - (b) the persons consulted under sub-paragraph (4).

Effect of designation in relation to Part 5

- 34 (1) Where a designation of a pool of authorities has effect for a year, Part 5 of this Schedule (principal payments in connection with local retention of non-domestic rates) applies in relation to the pool as if – 35
- (a) the authorities in the pool were not relevant authorities, but
 - (b) the pool were itself a relevant authority.
- (2) Sub-paragraph (1) does not apply in relation to paragraph 13(5) (duty to send copy of amending report to each relevant authority). 40
- (3) This paragraph does not prevent –
- (a) the local government finance report for the year, or an amending report under paragraph 13 in relation to that

- report, from also making provision in relation to the individual authorities in the pool,
- (b) the Secretary of State from making calculations based on the local government finance report, or any such amending report, in relation to each of those authorities, or
 - (c) the Secretary of State from notifying the results of the calculations to each of those authorities.
- (4) But paragraphs 12 and 15 (payments following reports) do not apply in relation to such calculations.

Effect of designation in relation to Part 7 10

- 35 (1) Regulations under paragraph 20, 23 or 26 (levy payments, safety net payments and safety net payments on account) may provide for a pool of authorities to be treated as a relevant authority for the purposes of the regulations.
- (2) Such regulations may, in particular, make provision—
- (a) that is similar to provision which may be made under the paragraph in question apart from sub-paragraph (1) above, or
 - (b) that applies such provision with modifications.
- (3) Where regulations under paragraph 20 apply to a pool of authorities for a year, paragraphs 21 and 22 (calculation and making of levy payments) apply in relation to the authorities and the year as if references in them to a relevant authority were to the pool.
- (4) Where regulations under paragraph 23 apply to a pool of authorities for a year, paragraphs 24 and 25 (calculation and making of safety net payments) apply in relation to the authorities and the year as if references in them to a relevant authority were to the pool.
- (5) Where a designation of a pool of authorities has effect for a year, paragraph 28 (distribution of remaining balance) applies in relation to the pool as if—
- (a) the authorities in the pool were not relevant authorities, but
 - (b) the pool were itself a relevant authority.
- (6) A determination under paragraph 28(1) may treat a pool of authorities as a single relevant authority for the purposes of that paragraph.
- (7) This paragraph does not prevent—
- (a) regulations under paragraph 20, 23 or 26, or a local government finance report containing provision under paragraph 28, from also making provision in relation to the individual authorities in a pool,
 - (b) the Secretary of State from making calculations—
 - (i) under paragraph 21 or 24 based on such regulations, or

- (ii) under paragraph 28(4) based on such a local government finance report,
in relation to each of those authorities, or
- (c) the Secretary of State from notifying the results of the calculations to each of those authorities. 5
- (8) But paragraphs 22, 25 and 28(7) (payments following calculations) do not apply in relation to such calculations.

Further provisions about effect of designation

- 36 (1) A requirement under Part 5 or 7 of this Schedule in its application by virtue of paragraph 34 or 35 to notify a pool of authorities of any matter is a requirement to notify each authority in the pool of that matter. 10
- (2) Where by virtue of either of those paragraphs a pool of authorities is required to make a payment to the Secretary of State, each authority in the pool is jointly and severally liable to make that payment. 15
- (3) Where by virtue of either of those paragraphs the Secretary of State is required to make a payment to a pool of authorities, the payment is to be made to the lead authority appointed in accordance with conditions under paragraph 33(1). 20

PART 10

DESIGNATION OF AREAS AND CLASSES OF HEREDITAMENT

Designation of areas

- 37 (1) The Secretary of State may by regulations—
- (a) designate one or more areas in England (a “designated area”); 25
- (b) provide for the calculation in accordance with the regulations, for each year for which the designation has effect and in relation to each billing authority all or part of whose area falls within a designated area, of the amount mentioned in sub-paragraph (2); 30
- (c) provide for the calculation of a proportion of that amount in accordance with the regulations;
- (d) provide for that amount or that proportion to be disregarded for the purposes of calculations under any of the following provisions in its application to the authority for that year— 35
- (i) paragraph 6 (payments in respect of the central share);
- (ii) regulations under paragraph 7 (administrative arrangements for payments in respect of the central share); 40
- (iii) regulations under paragraph 8 (payments by billing authorities to major precepting authorities);

- (iv) regulations under paragraph 9 (administrative arrangements for payments by billing authorities to major precepting authorities);
 - (v) paragraph 11 (calculations following local government finance report); 5
 - (vi) paragraph 14 (calculations following amending report);
 - (vii) paragraph 21 (calculations of levy payments);
 - (viii) paragraph 24 (calculations of safety net payments);
 - (ix) regulations under paragraph 26 (calculation of payments on account); 10
 - (x) paragraph 28 (calculations relating to distribution of remaining balance).
- (2) Subject as follows, the amount referred to in sub-paragraph (1)(b) is the total amount which, if the authority acted diligently, would be payable to it for the year under section 43 or 45 in respect of the hereditaments within the designated area. 15
- (3) The regulations may provide for that amount, or any proportion calculated under sub-paragraph (1)(c), to be adjusted in accordance with the regulations (and references in this paragraph to that amount or proportion include the amount or proportion as adjusted in accordance with such provision). 20
- (4) The regulations may, in particular, provide for adjustments to that amount or that proportion by reference to changes affecting a calculation under regulations under this paragraph for an earlier year but not taken into account in that calculation. 25
- (5) The regulations must –
- (a) specify the date on which the designation takes effect, which must be the first day of a year, or
 - (b) provide that the designation is to take effect on the first day of the first year after specified conditions have been met. 30
- (6) Conditions under sub-paragraph (5)(b) may require compliance with specifications or requirements contained in a document of a specified kind.
- (7) If the regulations make provision under sub-paragraph (5)(b), they must provide that they will cease to have effect at the end of a specified period unless the conditions are met by the end of that period. 35
- (8) The regulations may specify the years for which the designation has effect. 40
- (9) If the regulations contain provision under sub-paragraph (8) –
- (a) amendments within sub-paragraph (10) may not be made to the regulations unless (in the case of amendments within paragraph (a), (b) or (c) of that sub-paragraph) the amendments are expressed to come into force after the end of that period, and 45
 - (b) the regulations may not be revoked unless the revocation is expressed to come into force after the end of that period.

- (10) The amendments mentioned in sub-paragraph (9)(a) are those which have the effect of –
- (a) altering the boundaries of a designated area,
 - (b) where provision made under paragraph (d) of sub-paragraph (1) has the effect that the amount referred to in that paragraph is to be disregarded, providing for a proportion of that amount to be disregarded, 5
 - (c) where provision made under that paragraph has the effect that a proportion is to be disregarded, reducing that proportion, or 10
 - (d) reducing the period for which the designation has effect.
- (11) Regulations under this paragraph must specify each area designated by the regulations by means of a plan or map (whether or not each area is specified by any other means).
- (12) An area may be designated by regulations under this paragraph by reference to such factors as the Secretary of State thinks fit. 15
- (13) The consent of the Treasury is required to regulations under this paragraph.
- (14) In this paragraph “specified” means specified in the regulations.

Designation of classes of hereditament 20

- 38 (1) The Secretary of State may by regulations –
- (a) designate one or more classes of hereditaments in England (a “designated class”);
 - (b) provide for the calculation in accordance with the regulations, for each year for which the designation has effect and in relation to each billing authority whose area includes hereditaments within the designated class, of the amount mentioned in sub-paragraph (2); 25
 - (c) provide for the calculation of a proportion of that amount in accordance with the regulations; 30
 - (d) provide for that amount or that proportion to be disregarded for the purposes of calculations under any of the following provisions in its application to the authority for that year –
 - (i) paragraph 6 (payments in respect of the central share); 35
 - (ii) regulations under paragraph 7 (administrative arrangements for payments in respect of the central share);
 - (iii) regulations under paragraph 8 (payments by billing authorities to major precepting authorities); 40
 - (iv) regulations under paragraph 9 (administrative arrangements for payments by billing authorities to major precepting authorities);
 - (v) paragraph 11 (calculations following local government finance report); 45
 - (vi) paragraph 14 (calculations following amending report);

- (vii) paragraph 21 (calculations of levy payments);
 - (viii) paragraph 24 (calculations of safety net payments);
 - (ix) regulations under paragraph 26 (calculation of payments on account);
 - (x) paragraph 28 (calculations relating to distribution of remaining balance). 5
- (2) Subject as follows, the amount referred to in sub-paragraph (1)(b) is the total amount which, if the authority acted diligently, would be payable to it for the year under section 43 or 45 in respect of the hereditaments within the designated class. 10
- (3) The regulations may provide for that amount, or any proportion calculated under sub-paragraph (1)(c), to be adjusted in accordance with the regulations (and references in this paragraph to that amount or proportion include the amount or proportion as adjusted in accordance with such provision). 15
- (4) The regulations may, in particular, provide for adjustments to that amount or that proportion by reference to changes affecting a calculation under regulations under this paragraph for an earlier year but not taken into account in that calculation.
- (5) The regulations may include provision imposing duties or conferring powers on valuation officers (whether as regards determinations, certificates or otherwise) for the purpose of the calculation referred to in sub-paragraph (1)(c). 20
- (6) The regulations –
- (a) must specify the date on which the designation takes effect (which must be at the beginning of a year), and
 - (b) may specify the years for which the designation has effect. 25
- (7) A class may be designated by regulations under this paragraph by reference to such factors as the Secretary of State thinks fit.
- (8) Before making regulations under this paragraph the Secretary of State must consult such persons as the Secretary of State thinks fit. 30
- (9) The fact that this paragraph was not in force when consultation in relation to proposed regulations under it took place is to be disregarded in determining whether there has been compliance with sub-paragraph (8). 35
- (10) The consent of the Treasury is required to regulations under this paragraph.

Payments to relevant authorities

- 39 (1) Regulations under paragraph 37 or 38 may make provision for a billing authority to make a payment for a year to a relevant authority of an amount equal to the whole or part of the amount or proportion that, in relation to the billing authority and the year, is to be disregarded for the purposes of the calculations mentioned in paragraph 37(1)(d) or 38(1)(d) (as the case may be) 40

- (2) Sub-paragraph (3) applies where the regulations include provision for payments to be made in accordance with sub-paragraph (1) to two or more relevant authorities.
- (3) The regulations may include provision for imposing duties or conferring powers on valuation officers (whether as regards determinations, certificates or otherwise) for the purpose of arriving at the amounts of those payments. 5
- (4) The regulations may make provision about the administration of payments to relevant authorities under the regulations.
- (5) The regulations may, in particular, make provision in relation to payments to relevant authorities of the same kind as the provision that may be made under sub-paragraph (2) of paragraph 9 in relation to payments to major precepting authorities to which that sub-paragraph applies. 10

PART 11 15

SUPPLEMENTARY

Calculations and supply of information by relevant authorities

- 40 (1) The Secretary of State may, for the purposes of any provision of or made under this Schedule, direct a relevant authority to make calculations, or to supply information to the Secretary of State, in accordance with the direction. 20
- (2) The direction may require the calculations to be made, or the information to be supplied, before such time as is specified in the direction.
- (3) The direction may require the calculations or information to be audited in accordance with the direction. 25
- (4) If a relevant authority does not comply with a direction under this paragraph, the Secretary of State may make the calculations that the Secretary of State thinks would have been made, or make assumptions as to the information that would have been supplied, by the authority if it had complied with the direction. 30
- (5) If the Secretary of State proceeds under sub-paragraph (4), the Secretary of State must notify the authority –
- (a) of that fact, and
- (b) of the calculations or assumptions that the Secretary of State has made. 35
- (6) If any calculation or information certified by an audit in accordance with a direction under this paragraph does not match that made or supplied by the authority in question, the Secretary of State may use the certified calculation or information. 40
- (7) If the Secretary of State proceeds under sub-paragraph (6), the Secretary of State must notify the authority of that fact.
- (8) For the purposes of any provision made by or under Part 5 or 7 of this Schedule that applies to pools of authorities, this paragraph

has effect as if references to a relevant authority included a reference to such a pool.

- (9) Where sub-paragraph (5) or (7) applies to a pool of authorities by virtue of sub-paragraph (8), the Secretary of State must notify each relevant authority in the pool of the matters in question. 5

Interpretation of Schedule

- 41 In this Schedule –
- “actual rating income”, in relation to a billing authority, has the meaning given by paragraph 30(4)(b);
 - “basis of calculation” has the meaning given by paragraph 10(1); 10
 - “the central share” has the meaning given by paragraph 4;
 - “deemed rating income”, in relation to a billing authority, has the meaning given by paragraph 30(4)(a);
 - “local government finance report” has the meaning given by paragraph 5(1); 15
 - “the local share” has the meaning given by paragraph 4;
 - “levy account” has the meaning given by paragraph 17(1);
 - “levy payment” has the meaning given by paragraph 20(1);
 - “main non-domestic rating account” has the meaning given by paragraph 1(1); 20
 - a “pool of authorities” means two or more relevant authorities designated as a pool of authorities under paragraph 32;
 - “relevant authority” means – 25
 - (a) a billing authority in England, or
 - (b) a major precepting authority in England;
 - “safety net payment” has the meaning given by paragraph 23(1);
 - “year” means a chargeable financial year.” 30

SCHEDULE 2

Section 2

AMENDMENT OF PROVISIONS ABOUT REVENUE SUPPORT GRANT

- 1 Chapter 2 of Part 5 of the LGFA 1988 (revenue support grant: England) is amended as follows.
- 2 (1) Section 78 (revenue support grant) is amended as follows. 35
- (2) For subsection (1) (duty to pay grant) substitute –
- “(1) The Secretary of State may pay a grant (to be called revenue support grant) in accordance with this Chapter for a chargeable financial year –
- (a) to receiving authorities, 40
 - (b) to specified bodies, or
 - (c) to both.”

-
- (3) In subsection (2) (duty to make determination about revenue support grant for each chargeable financial year), after “year” insert “for which revenue support grant is to be paid”.
- (4) In subsection (3) (content of determination) –
- (a) after paragraph (a) insert – 5
 “(aa) whether the Secretary of State proposes to pay grant to receiving authorities,”,
- (b) at the beginning of paragraph (b) insert “if so,”,
- (c) after paragraph (b) (and before the “and” at the end of that paragraph) insert – 10
 “(ba) whether the Secretary of State proposes to pay grant to specified bodies,” and
- (d) at the beginning of paragraph (c) insert “if so,”.
- 3 (1) Section 78A (local government finance reports) is amended as follows.
- (2) For the heading substitute “Requirement to specify determination in local government finance report” 15
- (3) In subsection (1) (duty to specify determination under section 78 in local government finance report), for the words from “a report” to “report)” substitute “the local government finance report for the year (as to which, see paragraph 5 of Schedule 7B)” 20
- (4) In subsection (2) (requirement for report to specify basis of distribution of grant to receiving authorities), for “A local government finance report” substitute “If the determination provides for grant to be paid to receiving authorities, the report”.
- (5) In subsection (3), for “the report” substitute “a report to which subsection (2) applies” 25
- (6) Omit subsections (4) and (5) (duty to lay report before House of Commons and to send copies to receiving authorities).
- 4 (1) Section 79 (effect of report’s approval) is amended as follows.
- (2) In subsection (3) (duty to pay amounts specified in determination to receiving authorities and specified bodies) – 30
- (a) for “The Secretary of State” substitute “If the determination provides for grant to be paid to receiving authorities, the Secretary of State”, and
- (b) after “section 78(3)(b) above, and” insert “, if the determination provides for grant to be paid to specified bodies, the Secretary of State” 35
- (3) In subsection (4) (amount to be paid to receiving authorities), for “The amount” substitute “Any amount”.
- (4) In subsection (5) (amount to be paid to particular specified body), for “The amount” substitute “Any amount” 40
- 5 (1) Section 82 (calculation of sums payable to receiving authorities by way of revenue support grant) is amended as follows.

- (2) Before subsection (1) insert –
- “(A1) This section applies if –
- (a) in accordance with sections 78 and 78A above a determination as regards revenue support grant has been made for a financial year and specified in a report which has been laid before the House of Commons, 5
 - (b) the determination provides for grant to be paid to receiving authorities, and
 - (c) the report is approved by resolution of the House of Commons.” 10
- (3) In subsection (1) (requirement to calculate sums payable), for the words from “a local government finance report” to “House of Commons” substitute “the report has been approved”.
- 6 In section 84A(1) (power of Secretary of State to make amending reports after local government finance report made), after “local government finance report” insert “that contains a determination under section 78 above”. 15

SCHEDULE 3

Section 5

LOCAL RETENTION OF NON-DOMESTIC RATES: FURTHER AMENDMENTS

PART 1

20

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. 25
- 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 30
 - (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”. 35
- 4 (1) Paragraph 2 (credits and debits to non-domestic rating accounts) is amended as follows.
- (2) In sub-paragraph (1) –

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- (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
- 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 – 10
- “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. 15
- (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”, 20
- (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. 25
- (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”, 30
- (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”. 35
- (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”, 40

- (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) – 5
- (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”, 10
- and
- (b) for “he” in both places substitute “they”.
- (9) In sub-paragraph (8) –
- (a) for “Secretary of State receives” substitute “Welsh Ministers receive”, 15
- 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) – 20
- (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) – 25
- (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) – 30
- (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”. 35
- (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) – 40
- (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”,

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- (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 5
 (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”. 10
 (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.
- (2) In sub-paragraph (1), for the words from “any billing authority” to the end
 substitute “– 15
 (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. 20
- (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”. 25
- 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 30
 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 35
 (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”. 40

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- (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”, 5
 - (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”, 10
 - (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
 - (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. 15
- (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 20
 - (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 25
 - (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. 30
- (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”. 35
- (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. 40

-
- (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”. 5
- 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”. 10
- (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. 15
- 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) – 20
 (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”. 25
- 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* 30
- 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). 35

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. 5
- (2) 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— 10
- (i) paragraph 12(2) (payments by Secretary of State following local government finance report);
- (ii) paragraph 12(9) or (10) (payments by Secretary of State following revised calculation); 15
- (iii) paragraph 15(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), 20
- (ii) under provision made by regulations under paragraph 9 of that Schedule (administration of payments by billing authorities to major precepting authorities) by virtue of sub-paragraph (2)(e) of that paragraph (reconciliation payments), 25
- (iii) under provision made by regulations under paragraph 31 of that Schedule (transitional protection payments), or 30
- (iv) under provision made by regulations under paragraph 37 or 38 of that Schedule (designation of areas or classes of hereditament) by virtue of paragraph 39 of that Schedule (payments by billing authorities to relevant authorities), and”. 35
- (3) 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— 40
- (i) paragraph 12(1) (payments to Secretary of State following local government finance report);
- (ii) paragraph 12(6) or (7) (payments to Secretary of State following revised calculation);
- (iii) paragraph 15(4) or (5) (payments to Secretary of State following amending report), 45
- (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 8 of that Schedule (payments by billing authorities to major precepting authorities), 5
- (iii) under provision made by regulations under paragraph 9 of that Schedule (administration of payments by billing authorities to major precepting authorities) by virtue of sub-paragraph (2)(e) of that paragraph (reconciliation payments), 10
- (iv) under provision made by regulations under paragraph 31 of that Schedule (transitional protection payments), or
- (v) under provision made by regulations under paragraph 37 or 38 of that Schedule (designation of areas or classes of hereditament) by virtue of paragraph 39 of that Schedule (payments by billing authorities to relevant authorities),” 15
- 25 (1) Section 97 (principal transfers between funds) is amended as follows. 20
- (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 – 25
- (a) sums received by the authority in respect of non-domestic rates under this Act, and
- (b) sums received by the authority under 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).” 30
- (3) Omit subsection (4A).
- 26 (1) Section 99 (regulations about funds) is amended as follows.
- (2) In subsection (1)(b), for “, (3) or (4A)” substitute “or (3)”.
- (3) Omit subsections (3A) and (3B). 35
- 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. 40
- (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 made under paragraph 7 of Schedule 7B below, paragraphs 12(2), (9) and (10), 15(7) and (8) and 25(1) of that Schedule, regulations made under paragraph 26 of that Schedule, paragraph 28(7) of that Schedule, regulations made under paragraph 31 of that Schedule,”. 45

- (4) In subsection (8), before “paragraph 5 of Schedule 8 below” insert “paragraph 6 of Schedule 7B below, regulations made under paragraph 7 of that Schedule, paragraphs 12(1), (6) and (7), 15(4) and (5) and 22(1) of that Schedule, regulations made under paragraph 26 of that Schedule, regulations made under paragraph 31 of that Schedule,”. 5
- 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). 10
- Audit Commission Act 1998 (c. 18)*
- 31 In section 28(1) of the Audit Commission Act 1998 (certification of claims, returns etc), for paragraph (c) (and the “or” at the end of that paragraph) substitute— 15
- “*(c)* for certifying calculations made or information supplied under regulations under Schedule 7B to the Local Government Finance Act 1988 or a direction under paragraph 40 of that Schedule by the body to the Secretary of State or a major precepting authority within the meaning of that Act; or”. 20
- 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). 25

SCHEDULE 4

Section 8

AMENDMENTS RELATING TO COUNCIL TAX REDUCTION SCHEMES

PART 1

SCHEDULE TO BE INSERTED INTO LGFA 1992

- 1 After Schedule 1 to the LGFA 1992 insert— 30
- “SCHEDULE 1A Section 13A

COUNCIL TAX REDUCTION SCHEMES

Interpretation

- 1 In this Schedule— 35
- (a) “scheme” means council tax reduction scheme, and

- (b) in relation to a scheme, “the authority” means the billing authority which made the scheme or is under a duty to make it.

Matters to be included in schemes

- | | | |
|---|--|--|
| 2 | <p>(1) A scheme must state the classes of person who are to be entitled to a reduction under the scheme.</p> <p>(2) The classes may be determined by reference to, in particular –</p> <p style="padding-left: 20px;">(a) the income of any person liable to pay council tax to the authority in respect of a dwelling;</p> <p style="padding-left: 20px;">(b) the capital of any such person;</p> <p style="padding-left: 20px;">(c) the income and capital of any other person who is a resident of the dwelling;</p> <p style="padding-left: 20px;">(d) the number of dependants of any person within paragraph (a) or (c);</p> <p style="padding-left: 20px;">(e) whether the person has made an application for the reduction.</p> <p>(3) A scheme must set out the reduction to which persons in each class are to be entitled; and different reductions may be set out for different classes.</p> <p>(4) A reduction may be –</p> <p style="padding-left: 20px;">(a) a discount calculated as a percentage of the amount which would be payable apart from the scheme,</p> <p style="padding-left: 20px;">(b) a discount of an amount set out in the scheme or to be calculated in accordance with the scheme,</p> <p style="padding-left: 20px;">(c) expressed as an amount of council tax to be paid (lower than the amount which would be payable apart from the scheme) which is set out in the scheme or is to be calculated in accordance with it, or</p> <p style="padding-left: 20px;">(d) the whole amount of council tax (so that the amount payable is nil).</p> <p>(5) A scheme must state the procedure by which a person may apply for a reduction under the scheme.</p> <p>(6) A scheme must state the procedure by which a person can make an appeal under section 16 against any decision of the authority which affects –</p> <p style="padding-left: 20px;">(a) the person’s entitlement to a reduction under the scheme, or</p> <p style="padding-left: 20px;">(b) the amount of any reduction to which the person is entitled.</p> <p>(7) A scheme must state the procedure by which a person can apply to the authority for a reduction under section 13A(1)(b).</p> <p>(8) The Secretary of State may by regulations prescribe other requirements for schemes.</p> <p>(9) Regulations under sub-paragraph (8) may in particular –</p> <p style="padding-left: 20px;">(a) require other matters to be included in a scheme;</p> | <p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p> <p>45</p> |
|---|--|--|

- (b) prescribe classes of person which must or must not be included in a scheme;
- (c) prescribe reductions, including minimum or maximum reductions, which must be applicable to persons in prescribed classes; 5
- (d) prescribe requirements which must be met by the procedure mentioned in sub-paragraph (5).

Preparation of a scheme

- 3 (1) Before making a scheme, the authority must (in the following order) – 10
- (a) consult any major precepting authority which has power to issue a precept to it,
 - (b) publish a draft scheme in such manner as it thinks fit, and
 - (c) consult such other persons as it considers are likely to have an interest in the operation of the scheme. 15
- (2) The fact that this paragraph was not in force when consultation under sub-paragraph (1)(a) took place is to be disregarded in determining whether there has been compliance with that sub-paragraph.
- (3) Having made a scheme, the authority must publish it in such manner as the authority thinks fit. 20
- (4) The Secretary of State may make regulations about the procedure for preparing a scheme.
- (5) Regulations under sub-paragraph (4) may in particular – 25
- (a) require the authority to produce documents of a particular description in connection with the preparation of a scheme; 25
 - (b) include requirements as to the form and content of documents produced in connection with the preparation of a scheme; 30
 - (c) include requirements (in addition to sub-paragraphs (1)(b) and (3)) about the manner in which such documents must be published;
 - (d) require the authority to make copies of such documents available for inspection by members of the public, or to supply copies of such documents to them; 35
 - (e) include provision about the making of reasonable charges for the supply of copies of such documents to members of the public.

Default scheme 40

- 4 (1) The Secretary of State must by regulations prescribe a scheme (“the default scheme”) for the purposes of this paragraph.
- (2) The first financial year to which the default scheme relates must be the year beginning with 1 April 2013.
- (3) The default scheme must comply with the requirements of – 45

- (a) paragraph 2(1) to (7), and
 - (b) any regulations under paragraph 2(8).
- (4) The default scheme is to take effect, in respect of dwellings situated in the area of a billing authority, if the authority fails to make a scheme on or before 31 January 2013 (or such other date as is specified in section 8(4) of the Local Government Finance Act 2012). 5
- (5) If the default scheme takes effect in the area of a billing authority, this Part applies to the default scheme as if it had been made by the authority. 10

Revisions to and replacement of scheme

- 5 (1) For each financial year, each billing authority must consider whether to revise its scheme or to replace it with another scheme.
- (2) The authority must make any revision to its scheme, or any replacement scheme, no later than 31 January in the financial year preceding that for which the revision or replacement scheme is to have effect. 15
- (3) The Secretary of State may by order amend sub-paragraph (2) by substituting a different date.
- (4) If any revision to a scheme, or any replacement scheme, has the effect of reducing or removing a reduction to which any class of persons is entitled, the revision or replacement must include such transitional provision relating to that reduction or removal as the authority thinks fit. 20
- (5) Paragraph 3 applies to an authority when revising a scheme as it applies to an authority when making a scheme. 25
- (6) References in this Part to a scheme include a replacement scheme.

Arrangements to deal with shortfall in council tax receipts

- 6 (1) In this paragraph “scheme authority” means, in relation to a scheme and a year – 30
- (a) the billing authority which made the scheme, and
 - (b) any major precepting authority with power to issue a precept to that billing authority in relation to that year.
- (2) Two or more scheme authorities may make arrangements which are to have effect if, as a result of the operation of the scheme – 35
- (a) there is a deficit in the billing authority’s collection fund for that year, or
 - (b) the billing authority estimates that there will be such a deficit.
- (3) Arrangements under this paragraph may include – 40
- (a) the making of payments by one scheme authority to another scheme authority;

- (b) the variation of any payment or instalment of a payment which is required to be made under regulations under section 99 of the 1988 Act (regulations about funds).

Provision of information to the Secretary of State

- 7 (1) The Secretary of State may serve on a billing authority in England a notice requiring it to supply to the Secretary of State such information as is specified in the notice and required by the Secretary of State for the purpose of exercising, or of deciding whether to exercise, any function relating to schemes. 5
- (2) The authority must supply the information required if it is in its possession or control, and must do so in such form and manner and at such time as the Secretary of State specifies in the notice. 10
- (3) If an authority fails to comply with sub-paragraph (2), the Secretary of State may exercise the function on the basis of such assumptions and estimates as the Secretary of State thinks fit. 15
- (4) In exercising, or deciding whether to exercise, any function relating to schemes, the Secretary of State may also take into account any other available information, whatever its source and whether or not obtained under a provision contained in or made under this or any other Act. 20

Guidance

- 8 In exercising any function relating to schemes, a billing authority must have regard to any guidance issued by the Secretary of State.

Transitional provision

- 9 (1) The Secretary of State may by regulations make such transitional provision regarding the commencement of schemes as the Secretary of State thinks fit. 25
- (2) Such provision may include, in particular, provision for and in connection with treating a person who is or was in receipt of council tax benefit as having made an application for a reduction under a scheme.” 30

PART 2

OTHER AMENDMENTS

LGFA 1992

- 2 The LGFA 1992 is amended as follows. 35
- 3 In section 10(1) (basic amount payable), for “13” substitute “13A”.
- 4 (1) Section 66 (matters to be questioned only by judicial review) is amended as follows.

- (2) After subsection (2)(b) insert –
 “(ba) a council tax reduction scheme, or any revision of such a scheme;”.
- (3) In subsection (3), for “(b) to (e)” substitute “(b) or (c) to (e)”.
- 5 In section 67 (functions to be discharged only by authority), after subsection (2)(a) insert –
 “(aa) making or revising a council tax reduction scheme;”.
- 6 (1) In Schedule 2 (administration), paragraph 21 (application of Schedule to cases where section 13A applies) is amended as follows.
- (2) For sub-paragraph (1) substitute –
 “(1) This paragraph applies where a billing authority –
 (a) makes a council tax reduction scheme, or
 (b) exercises the power under section 13A(1)(b) by determining a class of case in which liability is to be reduced.”
- (3) In sub-paragraphs (2) and (3), after “Where” insert “the scheme or”.

Local Government Act 2003

- 7 Omit section 76 of the Local Government Act 2003 (insertion of section 13A of the LGFA 1992).

Local Government Finance Bill

A

B I L L

[AS AMENDED IN THE COMMITTEE]

To make provision about non-domestic rating; to make provision about grants to local authorities; to make provision about council tax; and for connected purposes.

*Presented by Secretary Eric Pickles,
supported by
The Prime Minister,
The Deputy Prime Minister,
Mr Chancellor of the Exchequer,
Secretary Vince Cable,
Danny Alexander, Oliver Letwin,
Andrew Stunell, Robert Neill
and Mr David Jones.*

*Ordered, by The House of Commons,
to be Printed, 31 January 2012.*

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