

## **LOCAL GOVERNMENT FINANCE BILL: Keeling Schedule for sections 43 to 47 of the Local Government Finance Act 1988**

This document shows provisions in the Local Government Finance Act 1988 as they would be amended by the Bill. It is intended to assist the consideration of provisions in the Bill and should not be taken as a definitive statement of the law as it would have effect on the enactment of the Bill.

Deletions are shown ~~struck through~~ and additions in *italics*

### **Part III - Non-Domestic Rating**

#### **Local rating**

#### **43 Occupied hereditaments: liability (as amended by clause 7(1) and Schedule 3)**

(1) A person (the ratepayer) shall as regards a hereditament be subject to a non-domestic rate in respect of a chargeable financial year if the following conditions are fulfilled in respect of any day in the year--

(a) on the day the ratepayer is in occupation of all or part of the hereditament, and

(b) the hereditament is shown for the day in a local non-domestic rating list in force for the year.

(2) In such a case the ratepayer shall be liable to pay an amount calculated by--

(a) finding the chargeable amount for each chargeable day, and

(b) aggregating the amounts found under paragraph (a) above.

(3) A chargeable day is one which falls within the financial year and in respect of which the conditions mentioned in subsection (1) above are fulfilled.

(4) Subject to subsections (4A), ~~(4E)~~, (5) and (6A) below, the chargeable amount for a chargeable day shall be calculated in accordance with the formula--

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

(4A) Where subsection (4B) below applies, the chargeable amount for a chargeable day shall be calculated--

(a) in relation to England, in accordance with the formula—

$$\frac{A \times D}{C \times E}$$

(b) in relation to Wales, in accordance with the formula—

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

(4B) This subsection applies--

(a) in relation to England, where--

(i) . . .

(ii) on the day concerned any conditions prescribed by the Secretary of State by order are satisfied, and

(iii) . . .

(b) in relation to Wales, where--

(i) the rateable value of the hereditament shown in the local non-domestic rating list for the first day of the chargeable financial year is not more than any amount prescribed by the National Assembly for Wales by order, and

(ii) on the day concerned any conditions prescribed by the National Assembly for Wales by order are satisfied.

(4C) . . .

(4D) If the ratepayer makes an application in order to satisfy a condition prescribed under subsection (4B)(a)(ii) above and the ratepayer--

(a) makes a statement in the application which he knows to be false in a material particular, or

(b) recklessly makes a statement in the application which is false in a material particular,

he shall be liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding level 3 on the standard scale or to both.

*(4E) Where subsection (4F) below applies, the chargeable amount for a chargeable day shall be calculated in accordance with the formula—*

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

*(4F) This subsection applies where—*

*(a) the hereditament is situated in England,*

*(b) on the day concerned, the hereditament is wholly or mainly used for the purposes of facilitating the transmission of communications by any means involving the use of electrical or electromagnetic energy, and*

*(c) any conditions prescribed by the Secretary of State by regulations are satisfied on that day.*

(5) Where subsection (6) below applies the chargeable amount for a chargeable day shall be calculated in accordance with the formula—

$$\frac{A \times B}{C \times 5}$$

(6) This subsection applies where on the day concerned--

(a) the ratepayer is a charity or trustees for a charity and the hereditament is wholly or mainly used for charitable purposes (whether of that charity or of that and other charities), or

(b) the ratepayer is a registered club for the purposes of Chapter 9 of Part 13 of the Corporation Tax Act 2010 (community amateur sports clubs) and the hereditament is wholly or mainly used--

(i) for the purposes of that club, or

(ii) for the purposes of that club and of other such registered clubs.

(6A) Where subsection (6B) below applies, or, subject to subsection (6I) below, subsection (6F) below applies, the chargeable amount for a chargeable day—

*(a) in relation to England, is zero;*

*(b) in relation to Wales, shall be calculated in accordance with the formula—*

$$\frac{A \times B}{C \times 2}$$

(6B) This subsection applies where--

(aa) the hereditament is situated in England,

(a) on the day concerned the hereditament is within a settlement identified in the billing authority's rural settlement list for the chargeable financial year,

(b) the rateable value of the hereditament shown in the local non-domestic rating list at the beginning of that year is not more than any amount prescribed by the Secretary of State by order, and

(c) on the day concerned--

(i) the whole or part of the hereditament is used as a qualifying general store, a qualifying food store or qualifying post office, or

(ii) any conditions prescribed by the Secretary of State by order are satisfied;

and subsections (6C) to (6E) below apply for the purposes of this subsection.

(6C) A hereditament, or part of a hereditament, is used as a qualifying general store on any day in a chargeable financial year if--

(a) a trade or business consisting wholly or mainly of the sale by retail of both food for human consumption (excluding confectionery) and general household goods is carried on there, and

(b) such a trade or business is not carried on in any other hereditament, or part of a hereditament, in the settlement concerned.

(6CA) A hereditament, or part of a hereditament, is used as a qualifying food store on any day in a chargeable financial year if a trade or business consisting wholly or mainly of the sale by retail of food for human consumption (excluding confectionery and excluding the supply of food in the course of catering) is carried on there.

(6CB) In subsection (6CA) above the supply of food in the course of catering includes--

(a) any supply of food for consumption on the premises on which it is supplied; and

(b) any supply of hot food for consumption off those premises;

and for the purposes of paragraph (b) above "hot food" means food which, or any part of which--

(i) has been heated for the purposes of enabling it to be consumed at a temperature above the ambient air temperature; and

(ii) is at the time of supply above that temperature.

(6D) A hereditament, or part of a hereditament, is used as a qualifying post office on any day in a chargeable financial year if--

(a) it is used for the purposes of a universal service provider (within the meaning of Part 3 of the Postal Services Act 2011) and in connection with the provision of a universal postal service (within the meaning of that Part), and

(b) no other hereditament, or part of a hereditament, in the settlement concerned is so used.

(6E) Where a hereditament or part is used as a qualifying general store or qualifying post office on any day in a chargeable financial year, it is not to be treated as ceasing to be so used on any subsequent day in that year merely because the condition in subsection (6C)(b) or (6D)(b) above ceases to be satisfied.

(6F) This subsection applies where--

(a) on the day concerned the condition mentioned in subsection (6G) below is fulfilled in respect of the hereditament; and

(b) the rateable value of the hereditament shown in the local non-domestic rating list at the beginning of the chargeable financial year is not more than any amount prescribed by the Secretary of State by order.

(6G) The condition is that the hereditament--

(a) consists wholly or mainly of land or buildings which were, on at least 183 days during the period of one year ending immediately before this subsection comes into effect, agricultural land or agricultural buildings for the purposes of the exemption under paragraph 1 of Schedule 5 to this Act; and

(b) includes land or a building which is not agricultural for the purposes of that exemption but was agricultural for those purposes on at least 183 days during the period mentioned in paragraph (a) above.

(6H) For the purposes of subsection (6G) above--

(a) in relation to any hereditament which includes property which is domestic within the meaning of section 66 below, paragraph (a) has effect as if that part of the hereditament which does not consist of such property were the entire hereditament; and

(b) a building which has replaced a building which was an agricultural building for the purposes of the exemption mentioned in that subsection ("the original building") is to be treated as if it were the original building.

(6I) Subsection (6A) above shall not have effect, in relation to a hereditament to which subsection (6F) above applies, on a chargeable day on which paragraph 2A of Schedule 6 to this Act applies in relation to the hereditament.

(6J) Subject to subsection (6K) below, subsections (6F) to (6I) above shall cease to have effect at the end of the period of five years beginning with the day on which those subsections come into effect.

(6K) The Secretary of State may by order extend or further extend the period mentioned in subsection (6J).

(6L) If the period is so extended or further extended--

(a) subsection (6F) above cannot apply to a hereditament after the end of the period of five years beginning with the day on which it first applies; and

(b) where a hereditament to which subsection (6F) above applies ("the original hereditament") includes land or a building which is subsequently included in a different hereditament, that subsection cannot apply to the different hereditament after the end of the period of five years beginning with the day on which it first applies to the original hereditament.

(7) The amount the ratepayer is liable to pay under this section shall be paid to the billing authority in whose local non-domestic rating list the hereditament is shown.

(8) The liability to pay any such amount shall be discharged by making a payment or payments in accordance with regulations under Schedule 9 below.

(8A) In relation to any hereditament in respect of which both subsections (4A) and (6A) above (but not subsection (5) above) have effect on the day concerned, the chargeable amount--

(a) in relation to England, shall be calculated in accordance with subsection (6A) above,

(b) in relation to Wales, shall be calculated in accordance with whichever of subsections (4A) and (6A) above produces the smaller amount.

(8B) In relation to any hereditament in respect of which--

(a) subsections (4A), (5) and (6A) above each have effect on the day concerned,

(b) subsections (4A) and (5) above both have effect on that day, or

(c) subsections (5) and (6A) above both have effect on that day,

the chargeable amount shall be calculated in accordance with subsection (5) above.

*(8C) In relation to any hereditament in England in respect of which the subsections of this section mentioned in the first column of the table below each have effect on the day concerned, the chargeable amount shall be calculated in accordance with the corresponding subsection in the second column of the table—*

<i>Subsections having effect in respect of hereditament</i>	<i>Subsection to be used for calculating chargeable amount</i>
<i>Subsections (4A) and (4E)</i>	<i>Subsection (4A)</i>
<i>Subsections (4E) and (5)</i>	<i>Subsection (5)</i>
<i>Subsection (4E) and (6A)</i>	<i>Subsection (6A)</i>
<i>Subsections (4A), (4E) and (5)</i>	<i>Subsection (5)</i>
<i>Subsections (4A), (4E) and (6A)</i>	<i>Subsection (6A)</i>
<i>Subsections (4E), (5) and (6A)</i>	<i>Subsection (5)</i>
<i>Subsections (4A), (4E), (5) and (6A)</i>	<i>Subsection (5)</i>

#### **44 Occupied hereditaments: supplementary (as amended by Schedule 2 and Schedule 3)**

(1) This section applies for the purposes of section 43 above.

(2) A is the rateable value shown for the day under section 42(4) above as regards the hereditament.

(3) . . .

(4) Subject to ~~subsection (5)~~ *subsections (4A) and (5)* below, B is the non-domestic rating multiplier for the financial year.



*(4A) Where one or more multiplier discounts has effect for the billing authority's area for the financial year, B is the non-domestic rating multiplier for the area for the financial year.*

(5) Where the billing authority is a special authority, B is the authority's non-domestic rating multiplier for the financial year.

(6) C is the number of days in the financial year.

(7) Subject to ~~subsection (8)~~ subsections (7A) and (8) below, D is the small business non-domestic rating multiplier for the financial year.

*(7A) Where one or more multiplier discounts has effect for the billing authority's area for the financial year, D is the small business non-domestic rating multiplier for the area for the financial year.*

(8) Where the billing authority is a special authority, D is the authority's small business non-domestic rating multiplier for the financial year.

(9) E is such amount as may be prescribed--

(a) in relation to England, by the Secretary of State by order,

(b) in relation to Wales, by the National Assembly for Wales by order.

*(10) F is an amount prescribed, or calculated in accordance with provision prescribed, by the Secretary of State by regulations.*

*(11) Regulations under subsection (10) may, in particular—*

*(a) impose duties or confer powers on the valuation officer for a billing authority (whether as regards determinations, certificates or otherwise) in relation to the ascertainment of rateable values;*

*(b) make provision as to appeals relating to things done or not done by valuation officers.*

#### **44A Partly occupied hereditaments**

(1) Where a hereditament is shown in a billing authority's local non-domestic rating list and it appears to the authority that part of the hereditament is unoccupied but will remain so for

a short time only the authority may require the valuation officer for the authority to apportion the rateable value of the hereditament between the occupied and unoccupied parts of the hereditament and to certify the apportionment to the authority.

(2) The reference in subsection (1) above to the rateable value of the hereditament is a reference to the rateable value shown under section 42(4) above as regards the hereditament for the day on which the authority makes its requirement.

(3) For the purposes of this section an apportionment under subsection (1) above shall be treated as applicable for any day which--

(a) falls within the operative period in relation to the apportionment, and

(b) is a day for which the rateable value shown under section 42(4) above as regards the hereditament to which the apportionment relates is the same as that so shown for the day on which the authority requires the apportionment.

(4) References in this section to the operative period in relation to an apportionment are references to the period beginning--

(a) where requiring the apportionment does not have the effect of bringing to an end the operative period in relation to a previous apportionment under subsection (1) above, with the day on which the hereditament to which the apportionment relates became partly unoccupied, and

(b) where requiring the apportionment does have the effect of bringing to an end the operative period in relation to a previous apportionment under subsection (1) above, with the day immediately following the end of that period,

and ending with the first day on which one or more of the events listed below occurs.

(5) The events are--

(a) the occupation of any of the unoccupied part of the hereditament to which the apportionment relates;

(b) the ending of the rate period in which the authority requires the apportionment;

(c) the requiring of a further apportionment under subsection (1) above in relation to the hereditament to which the apportionment relates;

(d) the hereditament to which the apportionment relates becoming completely unoccupied.

(6) Subsection (7) below applies where--

(a) a billing authority requires an apportionment under subsection (1) above, and

(b) the hereditament to which the apportionment relates--

(i) does not fall within a class prescribed under section 45(1)(d), or

(ii) would (if unoccupied) be zero-rated under section 45A.

(7) In relation to any day for which the apportionment is applicable, section 43 above shall have effect as regards the hereditament as if the following subsections were substituted for section 44(2)--

"(2) A is such part of the rateable value shown for the day under section 42(4) above as regards the hereditament as is assigned by the relevant apportionments to the occupied part of the hereditament.

(2A) In subsection (2) above "the relevant apportionment" means the apportionment under section 44A(1) below which relates to the hereditament and is treated for the purposes of section 44A below as applicable for the day."

(8) Subsection (9) below applies where--

(a) a billing authority requires an apportionment under subsection (1) above, and

(b) the hereditament to which the apportionment relates--

(i) falls within a class prescribed under section 45(1)(d), and

(ii) would (if unoccupied) not be zero-rated under section 45A, and

(c) an order under section 45(4A) is in force and has effect in relation to the hereditament.

(9) In relation to any day for which the apportionment is applicable, section 43 above shall have effect as regards the hereditament as if the following subsections were substituted for section 44(2)--

"(2) A is the sum of--

(a) such part of the rateable value shown for the day under section 42(4) above as regards the hereditament as is assigned by the relevant apportionment to the occupied part of the hereditament, and

(b) such part of that rateable value as is assigned by the relevant apportionment to the unoccupied part of the hereditament, divided by the number prescribed by the order under section 45(4A) as it has effect in relation to the hereditament.

(2A) In subsection (2) above "the relevant apportionment" means the apportionment under section 44A(1) below which relates to the hereditament and is treated for the purposes of section 44A below as applicable for the day."

(9A) In relation to a day to which neither subsection (7) nor subsection (9) applies, an apportionment under subsection (1) does not have any effect in relation to the chargeable amount.

(10) References in subsections (1) to (5) above to the hereditament, in relation to a hereditament which is partly domestic property or partly exempt from local non-domestic rating, shall, except where the reference is to the rateable value of the hereditament, be construed as references to such part of the hereditament as is neither domestic property nor exempt from local non-domestic rating.

#### **45 Unoccupied hereditaments: liability (as amended by Schedule 3)**

(1) A person (the ratepayer) shall as regards a hereditament be subject to a non-domestic rate in respect of a chargeable financial year if the following conditions are fulfilled in respect of any day in the year--

(a) on the day none of the hereditament is occupied,

(b) on the day the ratepayer is the owner of the whole of the hereditament,

(c) the hereditament is shown for the day in a local non-domestic rating list in force for the year, and

(d) on the day the hereditament falls within a class prescribed by the Secretary of State by regulations.

(2) In such a case the ratepayer shall be liable to pay an amount calculated by--

(a) finding the chargeable amount for each chargeable day, and

(b) aggregating the amounts found under paragraph (a) above.

(3) A chargeable day is one which falls within the financial year and in respect of which the conditions mentioned in subsection (1) above are fulfilled.

(4) Subject to ~~subsection (4A)~~ *subsections (4A) and (4D)* and to section 45A below, the chargeable amount for a chargeable day shall be calculated in accordance with the formula—

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

where A, B and C have the meanings given by section 46.

(4A) An order may provide that subsection (4) shall have effect as if the following formula were substituted—

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

where N is such number (greater than one but not greater than two) as may be prescribed.

(4B) An order under subsection (4A) may be made--

(a) in relation to England, by the Secretary of State;

(b) in relation to Wales, by the Welsh Ministers.

*(4C) Subsection (4D) applies where—*

*(a) the hereditament is situated in England,*

*(b) on a chargeable day, the hereditament is wholly or mainly used for the purposes of facilitating the transmission of communications by any means involving the use of electrical or electromagnetic energy, and*

*(c) any conditions prescribed by the Secretary of State by regulations are satisfied on that day.*

*(4D) The chargeable amount for the chargeable day shall be calculated in accordance with the formula—*

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

*where T is an amount prescribed, or calculated in accordance with provision prescribed, by regulations made by the Secretary of State.*

*(4E) Regulations under subsection (4D) may, in particular—*

*(a) impose duties or confer powers on the valuation officer for a billing authority (whether as regards determinations, certificates or otherwise) in relation to the ascertainment of rateable values;*

*(b) make provision as to appeals relating to things done or not done by valuation officers.*

*(5) . . .*

*(6) . . .*

*(7) The amount the ratepayer is liable to pay under this section shall be paid to the billing authority in whose local non-domestic rating list the hereditament is shown.*

*(8) The liability to pay any such amount shall be discharged by making a payment or payments in accordance with regulations under Schedule 9 below.*

*(9) For the purposes of subsection (1)(d) above a class may be prescribed by reference to such factors as the Secretary of State sees fit.*

(10) Without prejudice to the generality of subsection (9) above, a class may be prescribed by reference to one or more of the following factors--

- (a) the physical characteristics of the hereditaments;
- (b) the fact that hereditaments have been unoccupied at any time preceding the day mentioned in subsection (1) above;
- (c) the fact that the owners of hereditaments fall within prescribed descriptions.

#### **45A Unoccupied hereditaments: zero-rating**

(1) Where section 45 applies in relation to a hereditament, the chargeable amount for a chargeable day is zero in the following cases.

(2) The first case is where--

- (a) the ratepayer is a charity or trustees for a charity, and
- (b) it appears that when next in use the hereditament will be wholly or mainly used for charitable purposes (whether of that charity or of that and other charities).

(3) The second case is where--

- (a) the ratepayer is a registered club for the purposes of Chapter 9 of Part 13 of the Corporation Tax Act 2010 (community amateur sports clubs), and
- (b) it appears that when the hereditament is next in use--
  - (i) it will be wholly or mainly used for the purposes of that club and that club will be such a registered club, or
  - (ii) it will be wholly or mainly used for the purposes of two or more clubs including that club, and each of those clubs will be such a registered club.

#### **46 Unoccupied hereditaments: supplementary (as amended by Schedule 2)**

(1) This section applies for the purposes of section 45 above.

(2) A is the rateable value shown for the day under section 42(4) above as regards the

hereditament.

(3) Subject to ~~subsection (4)~~ *subsections (3A) and (4)* below, B is the non-domestic rating multiplier for the financial year.

*(3A) Where one or more multiplier discounts has effect for the billing authority's area for the financial year, B is the non-domestic rating multiplier for the area for the financial year.*

(4) Where the billing authority is a special authority, B is the authority's non-domestic rating multiplier for the financial year.

(5) C is the number of days in the financial year.

#### **46A Unoccupied hereditaments: new buildings**

(1) Schedule 4A below (which makes provision with respect to the determination of a day as the completion day in relation to a new building) shall have effect.

(2) Where--

(a) a completion notice is served under Schedule 4A below, and

(b) the building to which the notice relates is not completed on or before the relevant day,

then for the purposes of section 42 above and Schedule 6 below the building shall be deemed to be completed on that day.

(3) For the purposes of subsection (2) above the relevant day in relation to a completion notice is--

(a) where an appeal against the notice is brought under paragraph 4 of Schedule 4A below, the day stated in the notice, and

(b) where no appeal against the notice is brought under that paragraph, the day determined under that Schedule as the completion day in relation to the building to which the notice relates.

(4) Where--



(a) a day is determined under Schedule 4A below as the completion day in relation to a new building, and

(b) the building is not occupied on that day,

it shall be deemed for the purposes of section 45 above to become unoccupied on that day.

(5) Where--

(a) a day is determined under Schedule 4A below as the completion day in relation to a new building, and

(b) the building is one produced by the structural alteration of an existing building,

the hereditament which comprised the existing building shall be deemed for the purposes of section 45 above to have ceased to exist, and to have been omitted from the list, on that day.

(6) In this section--

(a) "building" includes part of a building, and

(b) references to a new building include references to a building produced by the structural alteration of an existing building where the existing building is comprised in a hereditament which, by virtue of the alteration, becomes, or becomes part of, a different hereditament or different hereditaments.

#### **47 Discretionary relief (as amended by clause 9 and Schedule 3)**

(1) Where the condition mentioned in subsection (3) below is fulfilled for a day which is a chargeable day within the meaning of section 43 or 45 above (as the case may be)--

(a) the chargeable amount for the day shall be such as is determined by, or found in accordance with rules determined by, the billing authority concerned, and

(b) sections 43(4) to (6B) and 44 above, sections 45(4) to ~~(4B)~~ (4D) and 46 above, regulations under section 57A or 58 below or any provision of or made under Schedule 7A below (as the case may be) shall not apply as regards the day.

(2) . . .

(3) The condition is that, during a period which consists of or includes the chargeable day, a decision of the billing authority concerned operates to the effect that this section applies as regards the hereditament concerned.

(3A) . . .

(3B) . . .

(3C) . . .

(3D) . . .

(4) A determination under subsection (1)(a) above--

(a) must be such that the chargeable amount for the day is less than the amount it would be apart from this section;

(b) may be such that the chargeable amount for the day is 0;

(c) may be varied by a further determination of the authority under subsection (1)(a) above.

(5) In deciding what the chargeable amount for the day would be apart from this section the effect of any regulations under section 57A or 58 below and of any provision of or made under Schedule 7A below shall be taken into account but anything which has been done or could be done under section 49 below shall be ignored.

(5A) So far as a decision under subsection (3) above would have effect where none of section 43(6) above, section 43(6B) above and subsection (5B) below applies, the billing authority may make the decision only if it is satisfied that it would be reasonable for it to do so, having regard to the interests of persons liable to pay council tax set by it.

(5B) This subsection applies on the chargeable day if--

(a) all or part of the hereditament is occupied for the purposes of one or more institutions or other organisations--

(i) none of which is established or conducted for profit, and

(ii) each of whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts, or

(b) the hereditament--

(i) is wholly or mainly used for purposes of recreation, and

(ii) all or part of it is occupied for the purposes of a club, society or other organisation not established or conducted for profit.

(5C) A billing authority in England, when making a decision under subsection (3) above, must have regard to any relevant guidance issued by the Secretary of State.

(5D) A billing authority in Wales, when making a decision under subsection (3) above, must have regard to any relevant guidance issued by the Welsh Ministers.

(6) A decision under subsection (3) above may be revoked by a further decision of the authority.

(7) A decision under subsection (3) above is invalid as regards a day if made more than six months after the end of the financial year in which the day falls.

(8) The Secretary of State may make regulations containing provision--

(a) requiring notice to be given of any determination or decision;

(b) limiting the power to revoke a decision or vary a determination;

(c) as to other matters incidental to this section.

(8A) This section does not apply where the hereditament is an excepted hereditament.

(9) A hereditament is an excepted hereditament if all or part of it is occupied (otherwise than as trustee) by

(a) a billing authority; or

(b) a precepting authority, other than the Receiver for the Metropolitan Police District or charter trustees; or

(c) a functional body, within the meaning of the Greater London Authority Act 1999.

*(9A) But in relation to England a hereditament is not an excepted hereditament if it consists wholly or mainly of public lavatories.*

(10) This section does not apply where the hereditament is zero-rated under section 45A.