STATUTORY INSTRUMENTS

2015 No. 628

RATING AND VALUATION, ENGLAND

The Non-Domestic Rating (Shale Oil and Gas and Miscellaneous Amendments) Regulations 2015

Made - - - - 9th March 2015

Coming into force in accordance with regulation 1

The Secretary of State for Communities and Local Government makes these Regulations in exercise of the powers conferred by sections 97(2A) and (2B), 99 and 143(1) of, and paragraphs 6(3) and (4), 7(2), 8(1) and (2), 9(5) and (6), 10(1) and (2)(d), 11(1) and (3), 33(1) and (6), 40, 41 and 42 of Schedule 7B to, the Local Government Finance Act 1988(**1**) ("the 1988 Act").

In accordance with section 143(9D)(**2**) of the 1988 Act, a draft of this instrument was laid before Parliament and approved by resolution of each House of Parliament.

Before making these Regulations, the Secretary of State for Communities and Local Government has consulted such persons as the Secretary of State thinks fit in accordance with paragraph 40(8) of Schedule 7B to the 1988 Act.

These Regulations are made with the consent of the Treasury in accordance with paragraphs 8(3) and 40(10) of Schedule 7B to the 1988 Act.

PART 1

General

Citation and commencement

1.—(1) These Regulations may be cited as the Non-Domestic Rating (Shale Oil and Gas and Miscellaneous Amendments) Regulations 2015.

(2) Regulations 3, 4, 5, 12(3) and (5) and 13 come into force on 1st April 2015 and have effect in relation to the financial year beginning with 1st April 2015 and subsequent financial years.

(**1**) 1988 c.41. Schedule 7B was inserted into the Local Government Finance Act 1988 by section 1 of, and Schedule 1 to, the Local Government Finance Act 2012 (c.17). Section 97 was substituted by paragraph 22 of Schedule 10 to the Local Government Finance Act 1992 (c.14) and subsection (2A) was inserted by paragraph 25(2) of Schedule 3 to the Local Government Finance Act 2012.

(**2**) Section 143(9D) was inserted into the Local Government Finance Act 1988 by section 1 of the Local Government Finance Act 2012.

(3) The designations made by Part 2 take effect on 1st April 2015.

(4) The remaining provisions come into force on the day after the day on which these Regulations are made.

PART 2

Designation of classes of hereditaments

Interpretation

2. In this Part and Part 3—

"the 1988 Act" means the Local Government Finance Act 1988;

"authority" means a billing authority in England whose area includes a hereditament within a designated class;

"designated class" means a class of hereditaments designated by this Part;

"non-domestic rating income" in relation to a hereditament has the meaning given by regulation 7;

"relevant valuation officer" means the valuation officer for an authority; and

"relevant year" means the year for which a calculation under Schedule 7B to the 1988 Act is being made(**3**).

Designated classes of hereditaments

3. The classes of hereditaments described in this Part are designated for the purposes of calculating an amount to be disregarded in accordance with Part 3.

Class A: hereditaments used wholly or mainly for shale oil or gas extraction

4.—(1) Class A consists of any hereditament in relation to which the conditions in paragraph (2) are fulfilled.

(2) The conditions mentioned in paragraph (1) are that—

(a) the hereditament is used wholly or mainly for the boring for or getting of oil or natural gas from shale; and

(b) the method of getting or intended method of getting of oil or natural gas is hydraulic fracturing.

Class B: other hereditaments used for shale oil or gas extraction

5.—(1) Class B consists of any hereditament in relation to which the conditions in paragraph (2) are fulfilled.

(2) The conditions mentioned in paragraph (1) are that—

(a) the hereditament does not fall within class A (as described in regulation 4);

(b) the hereditament includes land used wholly or mainly for the boring for or getting of oil or natural gas from shale; and

(c) the method of getting or intended method of getting of oil or natural gas is hydraulic fracturing.

(**3**) The definition of "year" can be found in paragraph 45 of Schedule 7B.

PART 3

Rules for the calculation of an amount to be disregarded

Amount to be disregarded for the purpose of certain calculations

6. The amount calculated in accordance with this Part in relation to an authority for a relevant year in respect of a hereditament falling within a designated class is to be disregarded for the purposes of the calculations under the following provisions of Schedule 7B to the 1988 Act as those provisions apply to the authority for the year—

(a) paragraph 6 (payments in respect of central share);

(b) regulations under paragraph 7 (administrative arrangements for payments in respect of the central share);

(c) regulations under paragraph 9 (payments by billing authorities to major precepting authorities);

(d) regulations under paragraph 10 (administrative arrangements for payments by billing authorities to major precepting authorities);

(e) paragraph 13 (calculations following local government finance report);

(f) paragraph 16 (calculations following amending report);

(g) paragraph 23 (calculations of levy payments);

(h) paragraph 26 (calculations of safety net payments);

(i) regulations under paragraph 28 (calculations of payments on account);

(j) paragraph 30 (calculations relating to distribution of remaining balance).

Non-domestic rating income

7.—(1) An authority's non-domestic rating income in respect of a hereditament within a designated class for a day is the amount calculated in accordance with the formula—

$$(A-B)+(C-D)$$

where—

A is the total of the amounts credited to the authority's collection fund income and expenditure account on the day in accordance with proper practices in respect of non-domestic rates payable under sections 43 and 45 of the 1988 Act (occupied and unoccupied hereditaments: liability) in respect of that hereditament;

B is the total of the amounts charged to the authority's collection fund income and expenditure account on the day in accordance with proper practices in respect of non-domestic rates payable under sections 43 and 45 of the 1988 Act in respect of that hereditament;

C is the amount of any transitional protection payments under regulations made under paragraph 33(1) of Schedule 7B to the 1988 Act (regulations about transitional protection payments) made to the authority on the day in respect of that hereditament; and

D is the amount of any transitional protection payments under regulations made under paragraph 33(1) of Schedule 7B to the 1988 Act made by the authority on the day in respect of that hereditament.

(2) In this regulation, a reference to an authority's collection fund income and expenditure account is a reference to a revenue account to which, in accordance with proper practices, are credited or

charged amounts in respect of the authority's income or expenditure relating to sums paid or to be paid into or payments met or to be met from the authority's collection fund.

Calculation of the amount to be disregarded: class A

8. For the purposes of regulation 6 (amount to be disregarded for the purpose of certain calculations), the amount to be disregarded in relation to an authority for a relevant year in respect of a hereditament within class A (as described in regulation 4) is the total of the non-domestic rating income in respect of that hereditament for each day of the year on which the conditions in regulation 4(2) are met.

Calculation of the amount to be disregarded: class B

9.—(1) For the purposes of regulation 6 (amount to be disregarded for the purpose of certain calculations), the amount to be disregarded in relation to an authority for a relevant year in respect of a hereditament within class B (as described in regulation 5) is the total of the amounts calculated for each day of the year on which the conditions in regulation 5(2) are met in accordance with the formula—

$$E \times \left(\frac{F}{G} \right)$$

where—

E is the non-domestic rating income in respect of that hereditament;

F is the proportion of rateable value shown for the hereditament in a local non-domestic rating list that is certified by the relevant valuation officer in accordance with paragraph (2); and

G is the rateable value shown for the hereditament in a local non-domestic rating list for the day.

(2) The relevant valuation officer must, on request by the authority, certify the proportion of rateable value shown for the hereditament in a local non-domestic rating list which appears to that officer to be attributable to any part of the hereditament which is used wholly or mainly in connection with the boring for or getting of oil or natural gas from shale by hydraulic fracturing.

Certificates: general

10.—(1) The relevant valuation officer must certify the values which fall to be certified under this Part as soon as reasonably practicable after the authority has requested certification.

(2) A certificate under this Part has effect for each day beginning with the date that the circumstances which led the authority to request certification first arose.

(3) A certificate under this Part must specify the date on which the certificate takes effect in accordance with paragraph (2) or (4), as the case may be.

(4) Where the relevant valuation officer forms the opinion that a certificate under this Part is inaccurate, the relevant valuation officer must certify the value which in that officer's opinion should be substituted for that originally certified.

(5) A certificate under paragraph (4) has effect in place of the previous certificate.

(6) The relevant valuation officer certifying a value under this Part must send a copy of the certificate to the authority concerned.

(7) A certificate under this Part must be retained by the relevant valuation officer who made it.

PART 4

Payments to relevant precepting authorities

Amendment of the Non-Domestic Rating (Rates Retention) Regulations 2013

11.—(1) The Non-Domestic Rating (Rates Retention) Regulations 2013(**4**) are amended as follows.

(2) In regulation 3(1) (calculation of non-domestic rating income) after sub-paragraph (e) insert—

"(f) the amount (if any) specified by regulation 7A(2);

(g) the amount of each relevant precepting authority's share of any amount specified by regulation 7A."

(3) After regulation 7 (payments with respect to county matters) insert—

"**Payments with respect to shale oil or gas hereditaments**

7A.—(1) This regulation applies where the area of a billing authority includes a hereditament within a class designated by Part 2 of the Non-Domestic Rating (Shale Oil and Gas and Miscellaneous Amendments) Regulations 2015.

(2) The amount specified by this regulation is the amount to be disregarded in respect of a hereditament for the relevant year calculated in accordance with the Non-Domestic Rating (Shale Oil and Gas and Miscellaneous Amendments) Regulations 2015 where the hereditament falls within a class designated by Part 2 of those Regulations.

(3) The billing authority must make a payment for the year to each relevant precepting authority equal to that authority's share (as set out in paragraph (4)) of the amount estimated (if any), in accordance with regulation 3, as the amount specified by this regulation.

(4) The relevant precepting authority shares are—

(a) 60% where the relevant precepting authority is a county council which is a fire and rescue authority;

(b) 59% where the relevant precepting authority is a county council which is not a fire and rescue authority;

(c) 20% where the relevant precepting authority is the Greater London Authority; and

(d) 1% where the relevant precepting authority is a fire and rescue authority not falling within sub-paragraph (a).

(5) The payment must be made in the course of the relevant year in accordance with the schedule of instalments."

(4) In regulation 9(1)(c) (end of year calculations) after "regulation 7(2)" insert ", 7A(2) and the amount of each relevant precepting authority's share of any amount specified by regulation 7A".

(5) For regulation 10 (reconciliation of disregarded amounts) substitute—

"**Reconciliation of disregarded amounts**

10.—(1) Where the amount included in the calculation of the certified non-domestic rating income as an amount to be disregarded in accordance with regulations made under paragraph 39 or 40 of Schedule 7B to the 1988 Act is different to the amount estimated for the purposes of regulation 3 ("the estimated amount") paragraphs (2) to (4) apply.

(**4**) S.I. 2013/452. Amended by S.I. 2014/96.