Draft Regulations laid before Parliament under section 143(9D) of the Local Government Finance Act 1988, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2013 No.

RATING AND VALUATION, ENGLAND

The Non-Domestic Rating (Rates Retention) Regulations 2013

Made - - - - 2013

Coming into force in accordance with regulation 1

The Secretary of State makes the following Regulations in the exercise of the powers conferred by sections 97(2A) and (2B), 99 and 143(1) and (2) of and paragraphs 6(3) to (5), 7 to 11, 39 to 42 and 44 of Schedule 7B to the Local Government Finance Act 1988(**1**).

These Regulations are made with the consent of the Treasury in accordance with paragraphs 8(3), 39(13) and 40 (10) of Schedule 7B to the Local Government Finance Act 1988.

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

PART 1

General

Citation and commencement

1. These Regulations may be cited as the Non-Domestic Rating (Rates Retention) Regulations 2013 and come into force on the day after the day on which they are made.

Interpretation

2.—(1) In these Regulations—

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

"authority" means a billing authority or a major precepting authority;

(**1**) 1988 c.41. Sections 97(2A) and (2B) of the Local Government Finance Act 1988 ("the 1988 Act") were inserted by paragraph 25(2) of Schedule 3 to the Local Government Finance Act 2012 (c.17) ("the 2012 Act"). Section 99 of the 1988 Act was substituted by paragraph 24 of Schedule 10 to the Local Government Finance Act 1992(c.14) and amended by section 70 of the Local Government Act 2003 (c.26) and paragraph 26 of Schedule 3 to the 2012 Act. Schedule 7B was inserted into the 1988 Act by section 1 of the 2012 Act.

"billing authority" means a billing authority in England;

"certified non-domestic rating income" has the meaning given by regulation 9(4);

"non-domestic rating income" has the meaning given by regulation 3(3);

"preceding year" means the year immediately preceding the relevant year;

"relevant precepting authority" in relation to a billing authority means a major precepting authority other than a police and crime commissioner, having a power to issue a precept to that billing authority;

"relevant year" means the year for which a calculation of non-domestic rating income or of a payment is being made;

"schedule of instalments" has the meaning given by regulation 15;

"small business non-domestic rating multiplier" in relation to a year means the small business non-domestic rating multiplier for the year determined under Part 1 of Schedule 7 to the 1988 Act(**2**).

(2) In these Regulations any reference to a billing authority's general fund shall be construed in relation to the Common Council of the City of London as a reference to the City fund(**3**).

(3) In these Regulations any reference to a billing 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, as the case may be, amounts in respect of the authority's income and expenditure relating to sums paid or to be paid into or payments met or to be met from the authority's collection fund.

PART 2

Calculations and in-year payments

Calculation and notification of non-domestic rating income and other amounts

3.—(1) For each year a billing authority must calculate—

(a) the amount of the central share of its non-domestic rating income;

(b) the amount of each relevant precepting authority's share of its non-domestic rating income in accordance with regulation 5;

(c) the amount (if any) to be deducted from the central share payment in accordance with regulation 4(1);

(d) the amount of each relevant precepting authority's share of any amount to be deducted from the central share payment in accordance with regulation 4(1);

(e) the amount (if any) specified by regulation 7(2);

(2) The billing authority must notify the Secretary of State and any relevant precepting authorities of the amounts that have been calculated—

(a) for the year commencing on 1st April 2013 on or before 15th March 2013;

(b) for a year commencing on or after 1st April 2014 on or before 31st January in the preceding year.

(**2**) Relevant amendments were made to Schedule 7 by section 62 of the Local Government Act 2003.
(**3**) See section 93 of the 1988 Act.

(3) A billing authority's non-domestic rating income for the purposes of paragraph (1) is the billing authority's estimate for the relevant year of the amount specified by paragraph 1 of Schedule 1.

(4) If an authority fails to comply with paragraph (2) the Secretary of State may make a calculation of the amount or amounts; and in such cases—

(a) the Secretary of State must notify the authority and any relevant precepting authority of the amount or amounts calculated; and

(b) these Regulations take effect as if the amount or amounts calculated by the Secretary of State were calculated in accordance with paragraph (1).

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

4.—(1) In relation to each year a billing authority must deduct from the payment under paragraph 6(2) of Schedule 7B to the 1988 Act (payment in respect of the central share) the amount it has estimated as the total of the amounts (if any) for the relevant year of qualifying relief specified by paragraphs 2 and 3 of Schedule 2 .

(2) The payment in respect of the central share must be made in the course of the relevant year in accordance with the schedule of instalments.

Payments by billing authorities to major precepting authorities in respect of share of income

5.—(1) This regulation applies if a local government finance report for a year is approved by resolution of the House of Commons.

(2) Each billing authority must make a payment for the year to each of its relevant precepting authorities of the amount that is that authority's share of the billing authority's non-domestic rating income.

(3) The relevant precepting authority shares are—

(a) 10% where the relevant precepting authority is a county council which is a fire and rescue authority;

(b) 9% 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).

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

Payments to major precepting authorities in respect of deductions from central share payments

6.—(1) This regulation applies where an amount has been deducted from the central share payment for a year under regulation 4(1) in respect of an amount of qualifying relief specified by paragraph 3 of Schedule 2 (case B hereditaments).

(2) The billing authority must pay to each relevant precepting authority that authority's share of the specified amount.

(3) The relevant precepting authority shares are—

(a) 20% where the relevant precepting authority is a county council which is a fire and rescue authority;

(b) 18% where the relevant precepting authority is a county council which is not a fire and rescue authority;

(c) 40% where the relevant precepting authority is the Greater London Authority; and

(d) 2% where the relevant precepting authority is a fire and rescue authority not falling within sub-paragraph (a).

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

Payments with respect to county matters

7.—(1) This regulation applies where the billing authority is a district council in an area for which there is a county council.

(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 (Renewable Energy Projects) Regulations 2013(**4**) where—

(a) the hereditament falls within a class designated by those Regulations; and

(b) the local planning authority responsible for determining the application for planning permission in respect of development which led to the hereditament falling within the designated class was a county council.

(3) The billing authority must make a payment for the year to the relevant county council equal to the amount estimated (if any) in accordance with regulation 3 as the amount specified by this regulation.

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

(5) In this regulation, "planning permission" means permission under Part 3 of the Town and Country Planning Act 1990(**5**).

Transfer from collection fund to general fund

8.—(1) In relation to each relevant year a billing authority must transfer from its collection fund to its general fund the amount calculated in accordance with Schedule 3.

(2) The transfer must be made in the course of the relevant year in accordance with the schedule of instalments.

PART 3

End of year calculations and reconciliation

End of year calculations

9.—(1) On or before 30th September in the year following the relevant year a billing authority must—

(a) calculate the amount specified by paragraph 1 of Schedule 1 for the relevant year;

(b) calculate the amounts (if any) specified by paragraphs 2 and 3 of Schedule 2 for the relevant year;

(**4**) S.I. 2013/
(**5**) 1990 c.8.

(c) calculate the amount (if any) specified by regulation 7(2) for the relevant year; and

(d) notify the Secretary of State and any relevant precepting authorities of the amounts calculated.

(2) The billing authority must arrange for the calculations and amounts to be certified in accordance with such arrangements as the Secretary of State may direct.

(3) The person certifying the calculations and amounts must send the certification to the Secretary of State and notify the billing authority and relevant precepting authorities of the amounts so certified.

(4) The amount specified by paragraph 1 of Schedule 1 to these Regulations and calculated and certified in accordance with this regulation is the authority's certified non-domestic rating income for the relevant year.

Reconciliation of disregarded amounts

10. 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")—

(a) where the difference relates to a hereditament within the description in regulation 7(2) (county matters)—

(i) if the certified amount is less than the amount paid to the county council, the county council must pay an amount equal to the difference to the billing authority; or

(ii) if the certified amount is more than the amount paid to the county council, the billing authority must pay an amount equal to the difference to the county council;

(b) where the difference relates to any other hereditament—

(i) if the certified amount is less than the estimated amount, the billing authority must transfer an amount equal to the difference from its general fund to its collection fund; or

(ii) if the certified amount is more than the estimated amount, the billing authority must transfer an amount equal to the difference from its collection fund to its general fund.

Reconciliation of amount deducted from central share payment

11. Where the amount certified under regulation 9 as the total of the amount of qualifying relief specified by paragraph 2 and 3 of Schedule 2 is different to the amount deducted from the central share payments under regulation 4(1)—

(a) if the certified amount is less than the deducted amount, the billing authority must pay an amount equal to the difference to the Secretary of State; or

(b) if the certified amount is more than the deducted amount, the Secretary of State must pay an amount equal to the difference to the billing authority.

Reconciliation of amounts where authority has failed to act diligently

12. Where an amount included in a calculation under regulation 9(1) as a bad debt which should be written off or a doubtful debt for which provision should be made is disallowed on certification under regulation 9(2) on the grounds that the billing authority has failed to act diligently in relation to the collection of non-domestic rates, the authority must transfer such an amount as is disallowed from its general fund to its collection fund.