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 (Levy and Safety Net) Regulations 2013

Made - - - - 2013

Coming into force in accordance with regulation 1

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 143(1) and (2) of and paragraphs 22, 25, 28, 37(1) and (2) of Schedule 7B to the Local Government Finance Act 1988(**1**).

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

Citation and commencement

1. These Regulations may be cited as the Non-Domestic Rating (Levy and Safety Net) 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 relevant authority other than a local policing body;

"billing authority" means a billing authority in England;

"baseline funding level" means the amount calculated with respect to an authority in accordance with regulation 5;

"business rates baseline" means the amount specified with respect to an authority by regulation 5 and Schedule 2;

(**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).

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

"certified non-domestic rating income" has the same meaning as in the Non-Domestic Rating (Rates Retention) Regulations 2013(**3**);

"individual levy rate" means the figure determined in accordance with regulation 6 for an authority;

"relevant year" means the financial year for which a calculation of a levy or safety net payment is being made;

"retained rates income" has the meaning given in regulation 4;

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

"safety net threshold" has the meaning given in regulation 6(3);

"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(**4**).

(2) 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(**5**), 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.

Pools of authorities

3. A pool of authorities is to be treated as a relevant authority for the purpose of these Regulations.

Meaning of retained rates income for purposes of levy and safety net calculations

4.—(1) Where the authority is a billing authority, its retained rates income for a year is the amount calculated in accordance with paragraph 1 of Schedule 1.

(2) Where the authority is a major precepting authority its retained rates income for a year is the amount calculated in accordance with paragraph 2 of Schedule 1.

(3) Where the authority is a pool of authorities, its retained rates income for a year is the amount calculated in accordance with paragraph 3 of Schedule 1.

Business rates baseline and baseline funding level

5.—(1) The business rates baseline of an authority is the amount specified with respect to that authority in column B of the table in Schedule 2.

(2) The baseline funding level for an authority for the year commencing on 1st April 2013 is the amount specified with respect to that authority in column C of the table in Schedule 2.

(3) The baseline funding level for an authority for a year commencing on or after 1st April 2014 is the amount calculated in accordance with the formula—

$$A \times \frac{B_2}{B_1}$$

Where—

A is the baseline funding level for the year immediately preceding the relevant year;

(**3**) S.I. 2013/xxxx
(**4**) Relevant amendments are made to Schedule 7 by section 62 of the Local Government Act 2003.
(**5**) see section 21(2) of the Local Government Finance Act 2003 c.26

B_2 is the small business non-domestic rating multiplier for the relevant year;

B_1 is the small business non-domestic rating multiplier for the preceding year.

Individual levy rates and safety net thresholds

6.—(1) An authority's individual levy rate is 0.5 or the figure calculated in accordance with the formula in paragraph (2), whichever is less.

(2) The formula is—

$$1-\frac{C}{D}$$

Where—

C is the authority's baseline funding level for the year commencing on 1st April 2013;

D is the authority's business rates baseline.

(3) An authority's safety net threshold for a year is 92.5 per cent of its baseline funding level for that year.

Safety net on account

7.—(1) Before the start of a year an authority may request that the Secretary of State calculate whether a safety net payment is likely to be required to be made to the authority in respect of the relevant year.

(2) A request must be accompanied by the authority's estimate of its retained rates income for the relevant year and must be made—

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

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

(3) Where the Secretary of State calculates that a safety net payment is likely to be required to be made the Secretary of State must notify the authority and make a payment on account to the authority of the amount that is the difference between the authority's estimate of its retained rates income for the relevant year and its safety net threshold for that year.

8.—(1) A payment on account is to be made in 10 instalments such that—

(a) the first instalment is payable on the 30th April; and

(b) the subsequent instalments are payable on the 19th day of each of the following 9 months starting in May.

(2) The first and last instalments are each to be of 8 per cent of the amount payable, and each other instalment is to be 10.5 percent of the amount payable.

(3) Where an instalment falls to be paid on a Friday or a day that is not a working day, it shall instead be payable on the first working day that is not a Friday following that day.

(4) For the purpose of this regulation "working day" means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England under the Banking and Financial Dealings Act 1971(**6**) .

(**6**) 1971 c.80.

Requirement to make a safety net payment

9.—(1) The Secretary of State must make a safety net payment to an authority in respect of a year where its retained rates income for the relevant year is less than its safety net threshold for that year.

(2) The amount of the payment is to be the difference between the authority's retained rates income for the relevant year and its safety net threshold for that year.

(3) Where a payment on account has been made in respect of the relevant year an amount equal to that payment must be deducted from the amount payable under this regulation.

(4) Where the payment on account exceeds the amount payable under this regulation, the authority must pay the difference between the two amounts to the Secretary of State.

Requirement to make levy payment

10.—(1) An authority must make a levy payment to the Secretary of State in respect of a year where the following conditions are met—

(a) the authority's individual levy rate is a positive number greater than zero; and

(b) the authority's retained rates income for the relevant year is greater than its baseline funding level for that year.

(2) The amount of the levy payment is to be the amount calculated in accordance with the formula —

$$E(F-G)$$

Where—

E is the authority's individual levy rate;

F is the authority's retained rates income for the relevant year;

G is the authority's baseline funding level for the relevant year.

Signed by authority of the Secretary of State for Communities and Local Government

Name
Parliamentary Under Secretary of State
Department for Communities and Local Government

Date

SCHEDULE 1 Regulation 4

Calculation of retained rates income

Calculation for billing authorities

1.—(1) The retained rates income of an authority that is a billing authority is the amount calculated in accordance with the formula—

$$KL + (N - M - O) + (P - Q)$$

Where—

K is —

(i) 50% where the billing authority is a county council, or is a district council in an area for which there is no county council, and the authority is a fire and rescue authority;

(ii) 49% where the billing authority is a county council, or is a district council in an area for which there is no county council, and the authority is not a fire and rescue authority;

(iii) 40% where the billing authority is a district council in an area for which there is a county council; and

(iv) 30% where the billing authority is a London borough council or the Common Council of the City of London;

L is the authority's certified non-domestic rating income for the relevant year;

M is the amount calculated in accordance with sub-paragraph (2);

N is the amount calculated in accordance with sub-paragraph (3);

O is the amount calculated in accordance with sub-paragraph (4);

P is the amount paid to the authority by the Secretary of State for the relevant year in accordance with Part 5 of Schedule 7B to the 1988 Act (principal payments in connection with local retention of non-domestic rates); and

Q is the amount paid by the authority to the Secretary of State for the relevant year in accordance with Part 5 of Schedule 7B to the 1988 Act.

(2) The amount calculated in accordance with this sub-paragraph is the amount which is the total of—

(a) the amounts credited to the billing authority's collection fund income and expenditure account in the relevant year in accordance with proper practices in respect of non-domestic rates payable under sections 43 and 45 of the 1988 Act; less

(b) the amounts charged to the billing authority's collection fund income and expenditure account in the relevant year in accordance with proper practices in respect of non-domestic rates payable under sections 43 and 45 of the 1988 Act.

(3) The amount calculated in accordance with this sub-paragraph is the amount that would have been calculated in accordance with sub-paragraph (2) if, in respect of any day in the relevant year or any day in a preceding year, any determination under section 47 or reduction or remission under section 49 of the 1988 Act had not been made.

(4) The amount calculated in accordance with this sub-paragraph is the amount which is the total of—

(a) the difference between the amount calculated in accordance with sub-paragraph (3) and the amount which would be so calculated if a determination under section 47 of the 1988