

2023 No. 175

RATING AND VALUATION, ENGLAND

The Non-Domestic Rating (Designated Areas) Regulations 2023

Made - - - - *20th February 2023*

Laid before Parliament *22nd February 2023*

Coming into force *1st April 2023*

The Secretary of State makes these Regulations in exercise of the powers conferred by section 143(1) of, and paragraph 39 of Schedule 7B to, the Local Government Finance Act 1988(a) (“the 1988 Act”).

These Regulations are made with the consent of the Treasury in accordance with paragraph 39(13) of Schedule 7B to the 1988 Act.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Non-Domestic Rating (Designated Areas) Regulations 2023.

(2) These Regulations come into force on 1st April 2023 and extend to England and Wales.

Interpretation

2. In these Regulations—

“the 1988 Act” means the Local Government Finance Act 1988;

“baseline amount”, in relation to a billing authority, means the amount calculated under Part 3 of Schedule 2 in respect of a designated area for a specified year;

“billing authority” means a billing authority in England, part of whose area falls within a designated area;

“designated area” means an area designated under regulation 3(1);

“local list” means a local non-domestic rating list(b);

“non-domestic rating income”, in relation to a billing authority, means the amount calculated under Part 2 of Schedule 2 in respect of a designated area for a specified year;

“preceding year” means the chargeable financial year(c) immediately preceding the specified year for which a calculation under Part 3 of Schedule 2 is made;

“revaluation year” means a year in which a local list must be compiled under section 41 of the 1988 Act;

(a) 1988 c. 41. Schedule 7B was inserted by section 1 of, and Schedule 1 to, the Local Government Finance Act 2012 (c. 17).

(b) See section 41(1) of the 1988 Act for the meaning of “local non-domestic rating list”.

(c) See section 145(1) of the 1988 Act for the meaning of “chargeable financial year”.

“Schedule 7B” means Schedule 7B to the 1988 Act;

“small business non-domestic rating multiplier”, in relation to a chargeable financial year, means the small business non-domestic rating multiplier for that year determined under Part 1 of Schedule 7 to the 1988 Act(a);

“specified year” means, in relation to a designated area, a chargeable financial year falling within the period of years specified in relation to that area in regulation 3(2).

Designation of areas

3.—(1) The areas listed in Schedule 1 are designated for the purposes of these Regulations.

(2) The designations take effect on 1st April 2023 for the period of 25 years beginning with that date.

Proportion of non-domestic rating income for a designated area to be disregarded

4.—(1) Part 1 of Schedule 2 provides rules for calculating the proportion of a billing authority’s non-domestic rating income in respect of a designated area for a specified year.

(2) The proportion is to be disregarded for the purpose of calculations under—

(a) any of the following provisions of Schedule 7B—

- (i) paragraph 6 (payments to the Secretary of State in respect of the central share);
- (ii) paragraph 13 (calculations following local government finance report);
- (iii) paragraph 16 (calculations following amending report);
- (iv) paragraph 23 (calculation of levy payments)(b);
- (v) paragraph 26 (calculations of safety net payments)(c);
- (vi) paragraph 30 (distribution of remaining balance)(d);

(b) regulations made under any of the following provisions of Schedule 7B—

- (i) paragraph 7 (administrative arrangements for payments in respect of the central share);
- (ii) paragraph 9 (payments by billing authorities to major precepting authorities);
- (iii) paragraph 10 (administrative arrangements for payments by billing authorities to major precepting authorities);
- (iv) paragraph 28 (regulations about payments on account).

We consent to the making of these Regulations

Scott Mann
Steve Double

20th February 2023

Two of the Lords Commissioners of His Majesty’s Treasury

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

Lee Rowley

Parliamentary Under Secretary of State

20th February 2023

Department for Levelling Up, Housing and Communities

(a) Relevant amendments were made to Schedule 7 by section 62 of the Local Government Act 2003 (c. 26).
(b) The calculation under paragraph 23 must be made in accordance with regulations made under paragraph 22.
(c) The calculation under paragraph 26 must be made in accordance with regulations made under paragraph 25.
(d) The calculation under paragraph 30 must be made in accordance with the basis of distribution specified in the regulations made under that paragraph.

SCHEDULE 1

Regulation 3

Local retention of non-domestic rates: designation of areas

1. Each of the areas listed in column 2 of the table in this Schedule is designated by reference to the area or areas bounded externally by the outer edge of the red line shown on the map specified in column 1 of the table.

2. A reference in this Schedule to a map is to one of the maps numbered 1 to 21 and entitled “Maps referred to in Schedule 1 to the Non-Domestic Rating (Designated Areas) Regulations 2023” of which prints, signed by a member of the Senior Civil Service in the Department for Levelling Up, Housing and Communities, are deposited and available for inspection at the offices of the Secretary of State for Levelling Up, Housing and Communities and, in relation to each map, at the offices of the billing authority to which the map relates as specified in column 3 of the table in this Schedule.

3. For the purposes of determining a designated area—

- (a) subject to sub-paragraph (b), where part only of a hereditament is situated within an area shown on a map, the whole of the hereditament is taken to be included within that designated area;
- (b) the whole of the following hereditaments are taken to be excluded from that designated area—
 - (i) the hereditament owned on 1st January 2023 by Uniper UK Limited (company number 02796628)(a) , situated in the area of Rushcliffe Borough Council and known as Ratcliffe-on-Soar Power Station;
 - (ii) the hereditament owned on 1st January 2023 by East Midlands International Airport Limited (company number 02078271)(b), situated in the area of North West Leicestershire District Council and known as East Midlands International Airport.

<i>Numbered map (Column 1)</i>	<i>Designated area (Column 2)</i>	<i>Billing authority (Column 3)</i>	<i>Value of K (£) (see paragraph 5 of Schedule 2) (Column 4)</i>
1	Teesworks East	Redcar and Cleveland Borough Council	0
2	Teesworks West	Redcar and Cleveland Borough Council	0
3	Wilton International	Redcar and Cleveland Borough Council	0
4	Harwich	Tendring District Council	841,447
5	Gateway 14	Mid-Suffolk District Council	0
6	Felixstowe	East Suffolk Council	774,808
7	Wirral Waters	Wirral Metropolitan Borough Council	988,702
8	3MG	Halton Borough Council	0
9	Parkside	St Helens Borough Council	0
10	Southampton Water – Fawley Complex	New Forest District Council	608,052

(a) A private limited company registered in England and Wales and whose registered office address is Compton House 2300 The Crescent, Birmingham Business Park, Birmingham B37 7YE.

(b) A private limited company registered in England and Wales and whose registered office address is Pathfinder House, Castle Donington, Derby DE74 2SA.

11	Southampton Water – Fawley Waterside	New Forest District Council	470,641
12	Southampton Water- Marchwood Port & Strategic Land Reserve	New Forest District Council	1,116,160
13	Southampton Water – Redbridge	Southampton City Council	542,114
14	Navigator Quarter	Eastleigh Borough Council	0
15	Dunsbury Park	Havant Borough Council	2,396,500
16	East Midlands Gateway and Industrial Cluster	North West Leicestershire District Council	887,438
17	Ratcliffe on Soar	Rushcliffe Borough Council	0
18	East Midlands Intermodal Park (EMIP)	South Derbyshire District Council	21,457
19	South Yard	Plymouth City Council	0
20	Langage	South Hams District Council	0
21	Sherford	South Hams District Council	0

SCHEDULE 2

Regulations 2 and 4

Calculations for designated areas

PART 1

Proportion of non-domestic rating income to be disregarded

1.—(1) Unless sub-paragraph (2) applies, the proportion of a billing authority's non-domestic rating income in respect of a designated area for a specified year is the difference between the authority's—

- (a) non-domestic rating income in respect of the designated area for that year, and
- (b) baseline amount in respect of the designated area for that year.

(2) If the baseline amount is greater than or equal to the non-domestic rating income, the proportion is zero.

PART 2

Calculation of non-domestic rating income

2.—(1) A billing authority's non-domestic rating income in respect of a designated area for a specified year is the amount calculated in accordance with the formula—

$$(A - B) + (C - D) - E + F + G - H$$

where—

A is the total of the amounts credited to the authority's collection fund income and expenditure account in that year in accordance with proper practices^(a) in respect of non-domestic rates payable under sections 43 and 45 of the 1988 Act in respect of hereditaments situated in the designated area;

(a) The meaning of proper practices is given in section 21 of the Local Government Act 2003 (c. 26), which applies to these Regulations by virtue of subsection (4)(e) of that section.

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

C is the amount of any transitional protection payments under paragraph 33(1) of Schedule 7B made to the authority in that year in respect of hereditaments situated in the designated area;

D is the amount of any transitional protection payments under paragraph 33(1) of Schedule 7B made by the authority in that year in respect of hereditaments situated in the designated area;

E is the total of the amounts credited to the authority's collection fund income and expenditure account in that year in accordance with proper practices in respect of non-domestic rates payable under sections 43 and 45 of the 1988 Act in respect of hereditaments situated in the designated area to which sub-paragraph (2) applies;

F is the total of the amounts charged to the authority's collection fund income and expenditure account in that year in accordance with proper practices in respect of non-domestic rates payable under sections 43 and 45 of the 1988 Act in respect of hereditaments situated in the designated area to which sub-paragraph (2) applies;

G is the amount of transitional protection payments under paragraph 33(1) of Schedule 7B made by the authority in that year in respect of hereditaments situated in the designated area to which sub-paragraph (2) applies;

H is the amount of transitional protection payments under paragraph 33(1) of Schedule 7B made to the authority in that year in respect of hereditaments situated in the designated area to which sub-paragraph (2) applies.

(2) This sub-paragraph applies to a hereditament which—

- (a) is to be treated as one hereditament by virtue of regulations made under section 64(3)(b) of the 1988 Act, and
- (b) would have constituted three or more separate hereditaments had regulations under section 64(3)(b) not been made.

(3) In this paragraph, references to an authority's collection fund income and expenditure account are a reference to a revenue account to which, in accordance with proper practices, amounts are credited or charged 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.

PART 3

Calculation of the baseline amount

For a specified year that is a revaluation year

3.—(1) Subject to sub-paragraph (2), if a specified year is a revaluation year a billing authority's baseline amount in respect of a designated area for the specified year is the amount calculated in accordance with the formula—

$$J \times \left(\frac{L \times N_2}{M \times N_1} \right)$$

(2) For the specified year beginning with 1st April 2023, a billing authority's baseline amount is calculated in accordance with the formula—

$$K \times \left(\frac{L \times N_2}{M \times N_1} \right)$$

For a specified year that is not a revaluation year

4. If a specified year is not a revaluation year, a billing authority's baseline amount in respect of a designated area for the specified year is the amount calculated in accordance with the formula—

$$J \times \frac{N_2}{N_1}$$

Interpretation of Part 3

5.—(1) In this Part—

J is the baseline amount calculated for the preceding year;

K is the amount provided in column 4 of the table in Schedule 1 in relation to the designated area;

L is the aggregate rateable values shown in the billing authority's local list for 1st April in the specified year for the hereditaments, other than those hereditaments to which paragraph 2(2) applies, falling within the designated area;

M is the aggregate rateable values shown in the billing authority's local list for 31st March in the preceding year for the hereditaments, other than those hereditaments to which paragraph 2(2) applies, falling within the designated area;

N₁ is the small business non-domestic rating multiplier for the preceding year;

N₂ is the small business non-domestic rating multiplier for the specified year.

(2) For the purposes of paragraph 3 of this Schedule, the rateable value of a hereditament shown in the billing authority's local list for 31st March in the preceding year is taken to be the rateable value that would have been shown in that list for that day had the circumstances relating to that hereditament been as they were on 1st April in the specified year.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations designate areas in England (“designated areas”) for the purpose of paragraph 39(1) of Schedule 7B to the Local Government Finance Act 1988 (“the 1988 Act”) (local retention of non-domestic rates). They provide rules for calculating in respect of a billing authority in England all or part of whose area falls within a designated area—

- (a) the billing authority's non-domestic rating income in respect of the designated area for a specified year; and
- (b) the proportion of that non-domestic rating income that is to be disregarded for the purpose of specified calculations under Schedule 7B to the 1988 Act.

The calculations are to be made separately for each designated area within a billing authority's area.

Regulation 3(1) and Schedule 1 designate the areas. Copies of the maps referred to may be inspected free of charge by prior appointment with the Department for Levelling Up, Housing and Communities Business Rates Retention Team at 2 Marsham Street, London, SW1P 4DF and the principal office of the billing authority.

Regulation 3(2) provides that the designation of the areas takes effect on 1st April 2023 for the period of 25 years beginning with that date. The effect of specifying the period of designation is to trigger paragraph 39(9) of Schedule 7B to the 1988 Act which prevents the revocation of the Regulations and certain kinds of amendments to the Regulations until after the end of that period.

Regulation 4 and Schedule 2 provide the rules for the calculations. Part 1 of Schedule 2 provides rules for calculating the proportion of non-domestic rating income in respect of a designated area for a specified year that is to be disregarded for specified calculations under Schedule 7B to the

1988 Act. The proportion is calculated by subtracting the baseline amount in respect of the designated area for the specified year (calculated under Part 3 of Schedule 2) from the non-domestic rating income in respect of that area for that year (calculated under Part 2 of Schedule 2). Non-domestic rating income in respect of a designated area for a specified year is essentially the amounts payable to a billing authority under sections 43 and 45 of the 1988 Act for that year in respect of hereditaments situated in the designated area, subject to a number of adjustments.

The baseline amount in respect of a designated area for the specified year beginning with 1st April 2023 is the amount specified in column 4 of the table in Schedule 1 (this amount represents the existing non-domestic rating income for the designated area) as uprated in accordance with the formula in paragraph 3(2) of Schedule 2. For each subsequent specified year, the baseline amount is an uprated amount representing growth in the billing authority's income in the designated area.

An impact assessment has not been produced for this instrument because it amends an existing local tax regime. Publication of a full impact assessment is not necessary for such legislation, but the impact assessment prepared for the Local Government Finance Act 2012 (c. 17) is relevant:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/8470/2054063.pdf

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