

EXPLANATORY MEMORANDUM TO
THE NON-DOMESTIC RATING (RATES RETENTION) REGULATIONS
2013

2013 No. [XXXX]

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

- 2.1 These Regulations implement the core elements of the scheme for local retention of non-domestic rates. In particular, they provide for the definition of non-domestic rating income for the purpose of calculating the billing authority's (the authority which collects the rates) payments under the scheme to the Secretary of State and certain other relevant authorities. They also set out the billing authority's liabilities towards other authorities, and make provision for the administration of the scheme generally.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1 These Regulations are made under a combination of powers, some of which are subject to the affirmative parliamentary procedure and others which are subject to the negative procedure. Section 143(9D) allows Regulations made under provisions of Schedule 7B to the 1988 Act which are subject to the affirmative procedure to include provisions which are subject to the negative procedure. Regulations 5 to 7 are subject to the affirmative procedure, as are regulations 11, 15 to 17 and Schedule 1 in their application to payments from billing authorities to major precepting authorities. The provisions have been combined to produce a coherent system relating to the calculation and administration of payments to and from authorities in respect of their non-domestic rating income.

4. **Legislative Context**

- 4.1 The non-domestic rating system in England and Wales is established by the Local Government Finance Act 1988. The Local Government Finance Act 2012 inserts a new Schedule 7B in to the 1988 Act ("the Schedule") which provides for the local retention of non-domestic rates collected.

- 4.2 These Regulations form part of a group of statutory instruments that will establish the new scheme:

- The Non-Domestic Rating (Levy and Safety Net) Regulations 2013 (S.I 2013/xxxx)
These Regulations provide for the calculation of the levy and safety net elements of the scheme for local retention of non-domestic rates.
- The Non-Domestic Rating (Transitional Protection Payments) Regulations 2013 (S.I. 2013/xxxx)
These Regulations provide for payments between the Secretary of State and local authorities to adjust for differences in non-domestic rates income caused by the operation of the scheme that phases in changes in non-domestic rates bills.
- The Non-Domestic Rating (Designated Areas) Regulations 2013 (S.I. 2013/xxxx)
These Regulations designate areas for which the rates income is to be disregarded for the purposes of certain calculations – meaning that the entire amount is retained locally.
- The Non-Domestic Rating (Renewable Energy Projects) Regulations 2013 (S.I. 2013/xxxx)
These Regulations designate classes of hereditament for which rates income is to be disregarded for the purposes of certain calculations – meaning that the entire amount is retained locally.
- The Local Government Finance Act 2012 (Consequential Amendments) Order 2013 (S.I. 2013/xxxx)
This Order makes certain consequential amendments to the Local Government Finance Act 1992 and the Greater London Authority Act 1998.

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

Brandon Lewis, Parliamentary Under-Secretary of State at the Department for Communities and Local Government has made the following statement regarding Human Rights:

In my view the provisions of the Non-Domestic Rating (Rates Retention) Regulations 2013 are compatible with the Convention rights.

7. Policy background

- What is being done and why

7.1 These Regulations form part of the scheme to allow local retention of non-domestic rates (the rates retention scheme). The scheme is being introduced from April 2013 to give local government a direct share of local non-domestic rating income and thereby an incentive to promote local growth. This will replace the current scheme where-by non-domestic rates are collected by local government, paid to central government and redistributed back to local government via the local government finance report¹.

7.2 Under Schedule 7B to the 1988 Act, non-domestic rates are to be shared between central government and different parts of local government. The proportions at which rates are to be shared between central government and local government are to be set out in the local government finance report for the year and the Government has indicated that this will be initially set at 50:50. The 50% share gives billing authorities and major precepting authorities a direct interest in non-domestic rates whilst ensuring the government's deficit reduction programme is not put at risk. These Regulations define non-domestic rating income for the purpose of calculating the amount that is to be paid by the billing authority, which collects the rates, to central government and to other parts of local government.

7.3 Non-domestic rating income is calculated ignoring the effects of the transitional arrangements scheme. The transitional arrangements phase in changes in rates bills arising from the regular revaluations. They allow the ratepayer time to adjust to their new bills.

7.4 The Regulations also exclude from the meaning of non-domestic rating income certain amounts due in designated areas (enterprise zones and new development deal areas) and on renewable energy projects, as well as certain costs associated with the collection of non-domestic rates. These amounts are 100% retained by the billing authority or, in the case of renewable energy projects where planning responsibility falls to the county council, the county council (a draft of the Non-domestic Rating (Renewable Energy Projects) Regulations 2013, referred to in regulation 7, is annexed to this memorandum). This ensures that authorities are fully rewarded for growth in these priority areas and sectors so as to incentivise growth and that billing authorities are compensated for the cost of collecting the non-domestic rates.

7.4 The Regulations provide that the 50% local share of non-domestic rating income is shared amongst billing authorities and major precepting authorities as follows:

For billing authorities:

- 50% for unitary and metropolitan authorities which are also fire authorities,
- 49% for unitary and metropolitan authorities which are not fire authorities,
- 40% for district councils, and

¹ For details see Schedule 8 to the Local Government Finance Act 1988 and the Non-domestic Rating Contributions (England) Regulations 1992 (S.I. 1992/3032)

30% for London boroughs.

For major precepting authorities

10% for county councils which are fire authorities,
9% for county councils which are not fire authorities,
1% for separate fire authorities,
20% for the Greater London Authority

7.5 The Regulations provide for the operation of the rates retention system through the billing authority's collection fund. A billing authority is required to keep a collection fund under Part 6 of the 1988 Act and certain payments to and from the authority must be paid into or out of this fund. Under this approach the billing authority estimates the amount due to it in respect of non-domestic rating for the coming financial year. This amount is the authorities non-domestic rating income for the year and determines the payments of local and central shares throughout the year. These payments do not change during the year even if actual income changes.

7.6 During the year a collection fund held by the billing authority receives all non-domestic rating income paid by ratepayers and pays out local and central shares (in line with the calculation made before the start of the year). The collection fund approach provides certainty for major precepting authorities as it ensures they will, during the year, receive their share of the non-domestic rating income as calculated at the start of the year irrespective of changes in income during the year. The collection fund approach is currently used for council tax and has been requested by local government.

7.7 By the end of the year the collection fund will be in either deficit or surplus depending upon whether the non-domestic income is more or less than expected. This surplus or deficit is distributed with central and local shares in the following years.

- Consolidation

7.8 This is the first exercise of the enabling powers in section 97(2A) and (2B) of, and Schedule 7B to, the 1988 Act.

8. Consultation outcome

8.1 Several consultations have been undertaken during development of the rates retention scheme detail, the outcomes of which have been reported and published on the DCLG website. The most recent policy consultation and outcome can be found at:

<https://www.gov.uk/government/consultations/business-rates-retention-technical-details>

<https://www.gov.uk/government/publications/business-rates-retention-policy-statement>

8.2 These Regulations have been developed in partnership with a working group including local government finance officers, the Chartered Institute of Public Finance and Accountancy and the Local Government Association. Five sets of Regulations on the rates retention scheme were published in draft in October 2012 for comments, including this set. We received 32 responses, with the vast majority seeking clarification on policy matters, or suggesting minor corrections or additions which have been taken on board.

9. Guidance

9.1 The Department has issued draft guidance associated with the information forms sent to local government which describe how to estimate non-domestic rating income.

10. Impact

10.1 An Impact Assessment for the rates retention scheme is available from the DCLG website at:

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

A separate Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Government keeps the non-domestic rates system under regular review.

13. Contact

Mark Barnett at the Department of Communities and Local Government Tel: 0303 444 4217 or email: mark.barnett@communities.gsi.gov.uk can answer any queries regarding the instrument.

ANNEX

STATUTORY INSTRUMENTS

2013 No.

RATING AND VALUATION, ENGLAND

The Non-Domestic Rating (Renewable Energy Projects) Regulations 2013

<i>Made</i> - - - -	***
<i>Laid before Parliament</i>	***
<i>Coming into force</i> - -	***

The Secretary of State for Communities and Local Government, in exercise of the powers conferred by paragraph 40 of Schedule 7B to the Local Government Finance Act 1988⁽²⁾, makes the following Regulations:

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

These Regulations are made with the consent of the Treasury in accordance with paragraph 40(10) of Schedule 7B.

PART 1

General

Citation and commencement

1.—(1) These Regulations may be cited as the Non-Domestic Rating (Renewable Energy Projects) Regulations 2013 and come into force on ***.

(2) The designations made by these Regulations take effect on 1st April 2013.

Interpretation

2. In these Regulations—

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

“altered hereditament” has the meaning given by paragraph 1 of Schedule 1;

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

⁽²⁾ 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).

“biomass” is to be construed in accordance with article 4 of the Renewables Obligation Order 2009⁽³⁾;

“designated class” means a class of hereditaments designated by Part 2;

“generating plant” means—

- (a) in relation to a hereditament falling within class A to E, plant in or on the hereditament which is used or available for use for the purposes of generating electricity;
- (b) in relation to a hereditament falling within class F, plant which is used or available for use for the purposes of generating electricity;

“new hereditament” has the meaning given by paragraph 1 of Schedule 2;

“non-domestic rating income” in relation to a hereditament has the meaning given by regulation 13;

“notional 1st April 2013 rateable value”—

- (a) where Schedule 1 applies, has the meaning given by paragraph 3 of that Schedule; and
- (b) where Schedule 2 applies, is to be calculated in accordance with paragraph 2 of that Schedule;

“old hereditament” has the meaning given by paragraph 1(1) of Schedule 2;

“original hereditament” has the meaning given by paragraph 1 of Schedule 1;

“rateable plant and machinery” means plant and machinery specified in the Valuation for Rating (Plant and Machinery) (England) Regulations 2000⁽⁴⁾;

“relevant valuation officer” means the valuation officer for an authority whose area includes a hereditament within a designated class;

“relevant year” means the year for which a calculation under Schedule 7B is being made; and

“renewable power station” has the meaning given by regulation 5.

Certificates: general

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

(2) A certificate under these Regulations has effect for each day beginning with the date that the circumstances which require a certificate to be made first arise, unless paragraph (4) applies.

(3) A certificate under these Regulations 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 these Regulations 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 in pursuance of these Regulations must send a copy of the certificate to the authority concerned.

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

⁽³⁾ S.I. 2009/785.
⁽⁴⁾ S.I. 2000/540.

PART 2

Designation of classes of hereditaments

Designated classes of hereditaments

4. 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.

Renewable power stations

5.—(1) In these Regulations, a hereditament is a renewable power station if—

- (a) the hereditament comprises land, plant or buildings used or available for use for the purpose of generating electricity (other than by means of the burning of waste, unless the waste is biomass), where such use is the sole or primary function of the hereditament; and
- (b) the generating plant in or on the hereditament uses as its primary source of energy—
 - (i) wind;
 - (ii) water (including wave or tidal);
 - (iii) solar;
 - (iv) the burning of biomass;
 - (v) the burning of gas from biomass; or
 - (vi) the burning of gas from a landfill site.

(2) In determining whether the primary function of a hereditament is for the purpose of generating electricity, no account shall be taken of so much of any heat produced in or on the hereditament as is produced other than for the purpose of the generation of electricity.

Class A: new renewable power stations

6.—(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 a renewable power station;
- (b) the hereditament is first entered onto a local non-domestic rating list for the area of a billing authority in England on or after 1st April 2013; and
- (c) neither Schedule 1 or 2 applies.

Class B: existing renewable power stations

7.—(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 is a renewable power station;
- (b) the hereditament was first entered onto a local non-domestic rating list for the area of a billing authority in England before 1st April 2013; and
- (c) the rateable value for the hereditament for a day is greater than the rateable value of that hereditament for 1st April 2013.

Class C: renewable power stations created from class B hereditaments

8.—(1) Class C 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 a renewable power station;
 - (b) the hereditament is first entered onto a local non-domestic rating list for the area of a billing authority in England on or after 1st April 2013;
 - (c) the rateable value for the hereditament for a day is greater than the notional 1st April 2013 rateable value of that hereditament; and
 - (d) the hereditament is an altered hereditament or a new hereditament to which Schedule 1 or 2 applies.

Class D: energy from waste plants

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

(2) The conditions mentioned in paragraph (1) are that the hereditament comprises land, plant or buildings of which the sole or primary function is either—

- (a) generating electricity where the primary source of power for that purpose is the burning of waste; or
- (b) burning waste, where the hereditament is also used for generating electricity and the primary source of power for that purpose is the burning of waste.

Class E: other hereditaments used for the purpose of generating electricity

10.—(1) Class E consists of any hereditament not falling within class A to D in relation to which the conditions in paragraph (2) are fulfilled.

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

- (a) the hereditament includes separately identifiable rateable plant and machinery used or available for use for the purpose of generating electricity;
- (b) the generating plant in relation to that rateable plant and machinery uses as its primary source of energy—
 - (i) wind;
 - (ii) water (including wave or tidal);
 - (iii) solar;
 - (iv) the burning of biomass;
 - (v) the burning of gas from biomass; or
 - (vi) the burning of gas from a landfill site; and
- (c) the generating plant in relation to that rateable plant and machinery started to use one of the sources of energy listed in sub-paragraph (b) for the purpose of generating electricity on or after 1st April 2013.

Class F: cables and sub-stations associated with off shore generating plants

11.—(1) Class F 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 first entered onto a local non-domestic rating list for the area of a billing authority in England on or after 1st April 2013;
- (b) that hereditament is used wholly or mainly for the purposes of the transformation or transmission of electrical power;
- (c) the generating plant for the hereditament is situated in offshore waters; and
- (d) that generating plant for the hereditament uses as its primary source of energy—

- (i) wind; or
 - (ii) water (including wave or tidal).
- (3) In this regulation, “offshore waters” means—
- (a) waters in or adjacent to the United Kingdom which are between the mean low water mark and the seaward limits of the territorial sea; and
 - (b) waters within an area designated under section 1(7) of the Continental Shelf Act 1964⁽⁵⁾;

PART 3

Rules for the calculation of an amount to be disregarded

Amount to be disregarded for the purpose of certain calculations

12.—(1) 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 the 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); and
- (j) paragraph 30 (calculations relating to distribution of remaining balance).

Non-domestic rating income

13.—(1) The 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 a day in accordance with proper practices⁽⁶⁾ in respect of non-domestic rates payable under sections 43 and 45 of the 1988 Act in respect of that hereditament;

B is the total of the amounts charged to the authority’s collection fund income and expenditure account on a 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;

⁽⁵⁾ 1964 c.29.

⁽⁶⁾ 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.

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

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

(2) In this paragraph, references 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: classes A and F

14. The amount to be disregarded for a relevant year in respect of a hereditament within class A or F is the total non-domestic rating income in respect of that hereditament for each day of the year.

Calculation of the amount to be disregarded: class B

15. The amount to be disregarded for a relevant year in respect of a hereditament within class B is the total of the amounts calculated for each day of the year in accordance with the formula—

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

where—

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

F is 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 in respect of that hereditament under sections 43 and 45 of the 1988 Act in respect of a day on which the rateable value shown for the hereditament in a local non-domestic rating list was the same or less than the rateable value shown for 1st April 2013;

G is 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 in respect of that hereditament under sections 43 and 45 of the 1988 Act in respect of a day on which the rateable value shown for the hereditament in a local non-domestic rating list was the same or less than the rateable value shown for 1st April 2013;

H is the rateable value shown for the hereditament in a local non-domestic rating list for the day; and

J is the rateable value shown for the hereditament for 1st April 2013 in the local non-domestic rating list.

Calculation of the amount to be disregarded: class C

16. The amount to be disregarded for a relevant year in respect of a hereditament within class C is the total of the amounts calculated for each day of the year in accordance with the formula—

$$E - (K - L) \times \left(\frac{H - M}{H} \right)$$

where—

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

K is 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 in respect of that hereditament under sections 43 and 45 of the 1988 Act in

respect of a day on which the rateable value shown for the hereditament in a local non-domestic rating list was the same or less than the notional 1st April 2013 rateable value as determined in accordance with Schedule 1 or 2, as the case may be;

L is 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 in respect of that hereditament under sections 43 and 45 of the 1988 Act in respect of a day on which the rateable value shown for the hereditament in a local non-domestic rating list was the same or less than the notional 1st April 2013 rateable value as determined in accordance with Schedule 1 or 2, as the case may be;

H is the rateable value shown for the hereditament in a local non-domestic rating list for the day; and

M is the notional 1st April 2013 rateable value in respect of the hereditament as determined in accordance with Schedule 1 or 2, as the case may be.

Calculation of the amount to be disregarded: class D

17.—(1) The amount to be disregarded for a relevant year in respect of a hereditament within class D is the total of the amounts calculated for each day of the year in accordance with the formula—

$$E - (N - P) \times \left(\frac{Q}{H} \right)$$

where—

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

N is 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 in respect of that hereditament under sections 43 and 45 of the 1988 Act in respect of a day on which no certificate under paragraph (2) has effect;

P is 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 in respect of that hereditament under sections 43 and 45 of the 1988 Act in respect of a day on which no certificate under paragraph (2) has effect

Q 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);

H 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—

- (a) is used or is intended to be used wholly or mainly in connection with the generation of electricity; and
- (b) has been in such use or intended for such use since on or after 1st April 2013.

Calculation of the amount to be disregarded: class E

18.—(1) The amount to be disregarded for a relevant year in respect of a hereditament within class E is the total of the amounts calculated for each day of the year in accordance with the formula—

$$E - (N - P) \times \left(\frac{Q}{H} \right)$$

where—

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

N is 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 in respect of that hereditament under sections 43 and 45 of the 1988 Act in respect of a day on which no certificate under paragraph (2) has effect;

P is 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 in respect of that hereditament under sections 43 and 45 of the 1988 Act in respect of a day on which no certificate under paragraph (2) has effect

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

H 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 the separately identifiable impact on the rateable value attributable to—

- (a) the rateable plant and machinery that meets the conditions in regulation 10(2); and
- (b) any associated land and buildings.

We consent to the making of these Regulations

Name

Two of the Lords Commissioners of Her Majesty's Treasury

Date

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

Regulations 6, 8 and 16

Altered hereditaments

1.—(1) In this Schedule—

“altered hereditament” means a hereditament comprising, wholly or mainly, any property which was the whole or part of—

- (a) a hereditament shown in a local non-domestic rating list at any time; and
- (b) a hereditament which was at any time previously capable of falling within class B; and

“original hereditament” means the hereditament of which the altered hereditament is so comprised.

(2) For the purposes of paragraph 1(1)(b) a hereditament is to be treated as capable of falling within class B whether or not the condition in regulation 7(2)(c) is met.

2. This Schedule applies to an altered hereditament if—

- (a) the original hereditament was deleted from a local non-domestic rating list with effect from any day as a result of a structural alteration to that hereditament or the removal of rateable plant or machinery; and
- (b) for a day on or after 1st April 2013 the altered hereditament is shown for the first time in a local non-domestic rating list following the alteration.

3. Where this Schedule applies, the notional 1st April 2013 rateable value for the altered hereditament—

- (a) where the original hereditament was shown on a local non-domestic rating list on 1st April 2013, is the rateable value shown for the original hereditament for 1st April 2013; or
- (b) where the original hereditament was an altered hereditament or a new hereditament, is the notional 1st April 2013 rateable value for the original hereditament.

SCHEDULE 2

Regulations 6, 8 and 16

Splits, mergers and reorganisations

1.—(1) This Schedule applies where—

- (a) on a day (“the creation day”) falling on or after 1st April 2013, a hereditament (“new hereditament”) comes into existence because—
 - (i) property previously rated as a single hereditament becomes liable to be rated in parts;
 - (ii) property previously rated in parts becomes liable to be rated as a single hereditament; or
 - (iii) a hereditament or any part of a hereditament becomes part of a different hereditament; and
- (b) immediately before the creation day a hereditament from which the new hereditament was formed in whole or in part (“old hereditament”) was capable of falling within class B.

(2) For the purposes of paragraph 1(1)(b), a hereditament is to be treated as capable of falling within class B whether or not the condition in regulation 7(2)(c) is met.

2. Where this Schedule applies, the notional 1st April 2013 rateable value is the amount calculated in accordance with the formula—

$$(R + S + T - U) \times \left(\frac{V}{W} \right)$$

where—

R is the total rateable value shown in a local non-domestic rating list for 1st April 2013 of any old hereditament which was capable of falling within class B on the day immediately preceding the creation day;

S is the total notional 1st April 2013 rateable value of any old hereditament which was capable of falling within class C on the day immediately preceding the creation day;

T is the total rateable value shown in a local non-domestic rating list for the day immediately preceding the creation day of any old hereditament which was—

- (a) capable of falling within class D or E; or
 - (b) not capable of falling within a designated class;
- on the day immediately preceding the creation day;

U is the amount certified by a relevant valuation officer under these Regulations in respect of any old hereditament for the day immediately preceding the creation day;

V is the rateable value shown in a local non-domestic rating list for the creation day of the new hereditament which falls within class C;

W is the total rateable value shown for the creation day of all new hereditaments created from the old hereditament.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations designate classes of hereditaments in relation to which a billing authority may disregard an amount of non-domestic rating income for the purpose of certain calculations under Schedule 7B to the Local Government Act 1988 (local retention of non-domestic rates).

Part 1 provides for preliminary matters including, in regulation 3, general provisions applicable to certificates by valuation officers under these Regulations.

Part 2 sets out the designated classes of hereditaments in relation to which a proportion of non-domestic rating income is to be disregarded. Regulation 4 gives effect to the designations as of 1st April 2013. Regulation 5 defines a renewable power station for the purposes of this Part. Regulations 6, 7 and 8 define the circumstances in which a hereditament which is a renewable power station falls within a designated class. Splits, mergers, reorganisations and altered hereditaments (within the meaning of Schedules 1 and 2) formed from existing renewable power stations will fall within the definition of existing renewable power stations. Regulation 9 designates post 1st April 2013 energy from waste plants. Regulation 10 designates hereditaments which generate electricity, but are primarily used for other purposes, and therefore will not fall within the definition of renewable power station. Regulation 11 designates cables and sub-stations associated with offshore generating plants.

Part 3 makes provision for the calculations to be made of the amount to be disregarded for the purpose of calculations under the rates retention scheme. Calculations are to be made on a daily basis and collated to produce a yearly amount. Regulation 12 sets out the calculations under Schedule 7B to the Local Government Finance Act 1988, in respect of which the amounts are to be disregarded.

Regulation 13 defines non-domestic rating income. Regulation 14 provides that the amount to be disregarded in respect of new renewable power stations and cables and sub-stations associated with offshore generating plants is the total amount of non-domestic rating income in respect of such a hereditament.

Regulation 15 provides for the calculation of a proportion of non-domestic rating income attributable to the increase in income for an existing renewable power station.

Regulation 16 provides for the calculation of a proportion of non-domestic rating income in respect of a renewable power station created from a split, merger, reorganisation or alteration of an existing renewable power station. The increase in income is calculated on the basis of a notional 1st April 2013 rateable value as calculated in accordance with Schedule 1 or 2.

Regulation 17 provides for the calculation of the proportion of non-domestic rating income to be disregarded in respect of energy from waste plants.

Regulation 18 provides for the calculation of the proportion of non-domestic rating income to be disregarded in respect of hereditaments used primarily for other purposes, but which include rateable plant and machinery used or available for the generation of electricity.

No separate impact assessment has been prepared for these Regulations, but the impact assessment prepared for the Local Government Finance Act 2012 is relevant:

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

