

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

2023 No.

RATING AND VALUATION, ENGLAND

**The Non-Domestic Rating (Rates Retention:
Miscellaneous Amendments) Regulations 2023**

Made - - - - *****

Coming into force in accordance with regulation 1

The Secretary of State makes these Regulations in exercise of the powers conferred by section 143(1) and (2) of, and paragraphs 6, 22, 25 and 33 of Schedule 7B to, the Local Government Finance Act 1988(1).

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

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Non-Domestic Rating (Rates Retention: Miscellaneous Amendments) Regulations 2023.

(2) Subject to paragraph (3), these Regulations come into force on the day after the day on which they are made.

(3) Regulation 10(2)(b) and (e) and (3)(b) come into force on 1st April 2023.

(4) These Regulations extend to England and Wales.

Amendment of the Non-Domestic Rating (Transitional Protection Payments) Regulations 2013

2.—(1) The Non-Domestic Rating (Transitional Protection Payments) Regulations 2013(3) are amended as follows.

(2) In regulation 2(2) (rules for calculation of deemed rating income), after sub-paragraph (d) insert—

(1) 1988 c. 41. Schedule 7B was inserted by section 1 of, and Schedule 1 to, the Local Government Finance Act 2012 (c. 17).
(2) Subsection (9D) was inserted in section 143 by section 1 of the Local Government Finance Act 2012.
(3) S.I. 2013/106, to which there are amendments not relevant to these Regulations.

- “(e) section 43(4I) (public lavatories relief) of the 1988 Act(4) does not apply”.
- (3) In regulation 3(2) (rules for calculation of actual rating income), after sub-paragraph (d) insert—
- “(e) section 43(4I) (public lavatories relief) of the 1988 Act does not apply”.

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

3. In the Non-Domestic Rating (Rates Retention) Regulations 2013(5), for paragraph 1(2)(b) of Schedule 1 (non-domestic rating income) substitute—

- “(b) X, where the value of X—
- (i) for the financial year beginning on 1st April 2013 is £10,538,000;
 - (ii) for the financial year beginning on 1st April 2023 is £12,515,000;
 - (iii) for any other year is determined by the formula—

$$X_1 \times (S_2 / S_1)$$

Where—

- X₁ is the value of X for the preceding year;
- S₂ is the small business non-domestic rating multiplier for the relevant year;
- S₁ is the small business non-domestic rating multiplier for the preceding year.”.

Amendment of the Non-Domestic Rating (Levy and Safety Net) Regulations 2013

4. The Non-Domestic Rating (Levy and Safety Net) Regulations 2013(6) are amended in accordance with regulations 5 to 9.

Amendment to regulation 4

5. In regulation 4(1) (meaning of retained rates income for purposes of levy and safety net calculations), for “and paragraph 4 of Schedule 1B”(7) substitute “, paragraph 4 of Schedule 1B and Schedule 7.”(8).

Amendment to regulation 5

6. For regulation 5(3) (business rates baseline and baseline funding level) substitute—
- “(3) Unless paragraph (3ZA), (3ZB) or (3ZC) applies, the baseline funding level for an authority for—
- (a) the years commencing on 1st April 2014, 1st April 2015, 1st April 2016 and the years commencing on or after 1st April 2018, other than as provided for by sub-paragraph (b), is the amount calculated in accordance with the formula—

(4) “The 1988 Act” is defined in regulation 1 of S.I. 2013/106 as the Local Government Finance Act 1988. Section 43(4I) was inserted by the Non-Domestic Rating (Public Lavatories) Act 2021 (c. 13).

(5) S.I. 2013/452, to which there are amendments not relevant to these Regulations.

(6) S.I. 2013/737, amended by S.I. 2014/822, 2015/617, 2015/2039, 2017/496, 2018/463, 2019/709, 2020/1357, 2022/189.

(7) These words were inserted by S.I. 2022/189.

(8) Schedule 7 is inserted by regulation 9 of these Regulations.

$$A \times (B_2/B_1)$$

- (b) the year commencing on 1st April 2023 is the amount calculated in accordance with the formula—

$$A \times 1.03742203742204$$

Where—

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

B₂ is the small business non-domestic rating multiplier for the relevant year;

B₁ is the small business non-domestic rating multiplier for the preceding year.”.

Amendment to Schedule 1

7.—(1) Schedule 1 (calculation of retained rates income) is amended as follows.

(2) In paragraph 1(1)—

- (a) for the formula which appears immediately after the opening words substitute—

$$K(L + N - M - O + T + U + Y + S) + (P - Q)$$

(b) in the definition of P⁽⁹⁾—

(i) in paragraph (a), for “or (g)” substitute “, (g) or (h)”;

(ii) after paragraph (g), insert—

“(h) where the billing authority is listed in the table in Schedule 7, for the relevant year beginning on 1st April 2023 the amount specified in column B of that table;”;

(c) in the definition of Q⁽¹⁰⁾—

(i) in paragraph (a), for “or (g)” substitute “, (g) or (h)”;

(ii) after paragraph (g), insert—

“(h) where the billing authority is listed in the table in Schedule 7, for the relevant year beginning on 1st April 2023 the amount specified in column C of that table;”;

(d) after the definition of Q, insert—

“S is the amount calculated in accordance with sub-paragraph (4D) in respect of the years commencing on or after 1st April 2021;”;

(e) in the definition of Y, in paragraph (b) after the words “paragraph (c)” insert “or (d)”.

(3) After paragraph 1(4C), insert—

“(4D) The amount calculated in accordance with this sub-paragraph is the amount which is the difference between—

- (a) (i) the total of the amounts credited to the billing authority’s collection fund income and expenditure account in the relevant year in accordance with

⁽⁹⁾ The definition of “P” was amended by S.I. 2017/496, 2018/463, 2019/709, 2020/1357, 2022/189.

⁽¹⁰⁾ The definition of “Q” was amended by S.I. 2017/496, 2018/463, 2019/709, 2020/1357, 2022/189.

proper practices in respect of non-domestic rates payable under sections 43 and 45 of the 1988 Act in respect of—

(aa) a day in that year, and

(bb) a day in a previous year where the amount was not credited in a previous year; less

(ii) the total of 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 in respect of—

(aa) a day in that year, and

(bb) a day in a previous year where the amount was not charged in a previous year; and

(b) the amount that would have been calculated under paragraph (a) if section 43(4I) were omitted.”.

(4) In paragraph 2—

(a) for sub-paragraphs (a) and (b) substitute—

$$S (R + U + V + Z + W + Y) + (P - Q) .,$$

(b) in the definition of W, after paragraph (b) insert—

“(c) for the relevant year beginning on 1st April 2022, the sum of the amounts of relief awarded under section 47 of the 1988 Act by all the billing authorities required to make payments to the major precepting authority for the relevant year under Part 4 of Schedule 7B to the 1988 Act, where the relief has been awarded in accordance with the following guidance issued by the Secretary of State—

(i) “COVID-19 Additional Relief Fund (CARF): Local Authority Guidance” published on 15th December 2021(**11**);

(ii) “2022/23 Retail, Hospitality and Leisure Relief Scheme: local authority guidance” published on 20th December 2021(**12**);

(iii) “Extension of Transitional Relief and Supporting Small Business Relief for small and medium properties” published on 20th December 2021(**13**);

(d) for the relevant year beginning on 1st April 2023, the sum of the amounts of relief awarded under section 47 of the 1988 Act by all the billing authorities required to make payments to the major precepting authority for the relevant year under Part 4 of Schedule 7B to the 1988 Act, where the relief has been awarded in accordance with the following guidance issued by the Secretary of State—

(i) “Business Rates Relief: 2023/24 Retail, Hospitality and Leisure Scheme” published on 21 December 2022(**14**), and

(11) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1041468/CARF_LA_Guidance.pdf. See also the Explanatory Note.

(12) <https://www.gov.uk/government/publications/business-rates-guidance-202223-retail-hospitality-and-leisure-relief-scheme/202223-retail-hospitality-and-leisure-relief-scheme-local-authority-guidance>. See also the Explanatory Note.

(13) <https://www.gov.uk/government/publications/business-rates-guidance-extension-of-transitional-relief-and-supporting-small-business-relief-for-small-and-medium-properties/extension-of-transitional-relief-and-supporting-small-business-relief-for-small-and-medium-properties>. See also the Explanatory Note.

(14) <https://www.gov.uk/government/publications/business-rates-relief-202324-retail-hospitality-and-leisure-scheme-local-authority-guidance/business-rates-relief-202324-retail-hospitality-and-leisure-scheme>. See also the Explanatory Note.

- (ii) “Business Rates Relief: 2023 Supporting Small Business Relief, local authority guidance” published on 21 December 2022⁽¹⁵⁾”;
- (c) after the definition of W insert—
- “Y is the sum of the amounts specified as S for the relevant year in accordance with paragraph 1(1) for each of the billing authorities that is required to make payments to the major precepting authority for the relevant year under Part 4 of Schedule 7B to the 1988 Act;”.

Amendment to Schedule 6

8. At the end of the table in Schedule 6 (table of authorities, business rates baselines, baseline funding levels and values of A and Y)⁽¹⁶⁾ insert the following rows—

“North Yorkshire	1st April 2023	88,097,694	1,151,874	66%
Somerset	1st April 2023	85,420,958	954,805	67%
Cumberland	1st April 2023	62,937,929	480,778	64.8%
Westmorland and Furness	1st April 2023	40,604,197	497,735	64%
Cumbria Commissioner Fire and Rescue Authority	1st April 2023	5,860,300	0	0”

Insertion of Schedule 7

9. After Schedule 6 insert Schedule 7 which is set out in the Schedule to these Regulations.

Amendment of the Non-Domestic Rating (Rates Retention and Levy and Safety Net) (Amendment) and (Levy Account: Basis of Distribution) Regulations 2019

10.—(1) In the Non-Domestic Rating (Rates Retention and Levy and Safety Net) (Amendment) and (Levy Account: Basis of Distribution) Regulations 2019⁽¹⁷⁾, the table in Schedule 5 (table of authorities, values for B and C) is amended as follows.

- (2) Under the heading “The council for the local government area of—” —
- (a) omit the rows relating to—
- (i) Corby;
 - (ii) Daventry;
 - (iii) East Northamptonshire;
 - (iv) Kettering;
 - (v) Northampton;

⁽¹⁵⁾ <https://www.gov.uk/government/publications/business-rates-relief-2023-supporting-small-business-relief-local-authority-guidance/business-rates-relief-2023-supporting-small-business-relief-local-authority-guidance>. See also the Explanatory Note.

⁽¹⁶⁾ Schedule 6 was inserted by [S.I. 2022/189](#).

⁽¹⁷⁾ [S.I. 2019/709](#), relevant amending instruments are [S.I. 2019/709](#) (regulation 20 made amendments to Schedule 5 with effect from 1 April 2019) and [2020/1357](#).

- (vi) Northamptonshire;
- (vii) South Northamptonshire;
- (viii) Wellingborough;
- (b) omit the rows relating to—
 - (i) Allerdale;
 - (ii) Barrow-in-Furness;
 - (iii) Carlisle;
 - (iv) Copeland;
 - (v) Cumbria;
 - (vi) Eden;
 - (vii) South Lakeland;
- (c) in the row relating to Isle of Wight—
 - (i) for “43,031,069” substitute “40,601,927”;
 - (ii) for “28,627,393” substitute “27,011,351”;
- (d) in the appropriate places insert the following rows—

“North Northamptonshire	74,560,768	49,603,239
West Northamptonshire	65,840,725	43,802,034”

- (e) in the appropriate places insert the following rows—

“Cumberland	78,567,018	52,268,488
Westmorland and Furness	50,707,778	33,734,497”

- (3) Under the heading “The fire and rescue authority for the area of—”—

- (a) for the row relating to Hampshire substitute—

“Hampshire and Isle of Wight	21,557,536	14,341,639”
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- (b) after the row relating to Cleveland insert the following row—

“Cumbria	9,192,835	6,115,742”
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Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

Date

Name
Parliamentary Under Secretary of State
Department for Levelling Up, Housing and
Communities

SCHEDULE

Regulation 9

“SCHEDULE 7

Regulation 4 and Schedule 1

Table of Authorities, Values for P and Q

<i>Column A</i>	<i>Column B</i>	<i>Column C</i>
<i>The council for the local government area of—</i>	<i>Value of P for the year commencing on 1st April 2023 (£)</i>	<i>Value of Q for the year commencing on 1st April 2023 (£)</i>
Bath and North East Somerset	0	10,246,003
Birmingham	157,923,336	0
Bolton	27,244,993	0
Bristol	0	8,306,669
Bury	11,930,214	0
Cornwall	29,212,205	0
Coventry	22,146,911	0
Dudley	25,415,302	0
Halton	11,633,714	0
Knowsley	42,380,192	0
Liverpool	81,579,446	0
Manchester	6,979,264	0
Oldham	38,189,383	0
Rochdale	30,236,558	0
Salford	30,114,193	0
Sandwell	52,881,831	0
Sefton	31,110,665	0
Solihull	0	21,568,127
South Gloucestershire	0	29,246,679
St Helens	22,332,440	0
Stockport	4,414,422	0
Tameside	29,516,104	0
Trafford	0	38,717,303
Walsall	38,971,174	0
Wigan	34,384,661	0
Wirral	51,559,955	0
Wolverhampton	41,367,391	0”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make various amendments to the system for the local retention of non-domestic rates (“NDR”) established by Schedule 7B to the Local Government Finance Act 1988 (the “1988 Act”) to provide for:

- (a) amendments to the calculation of local authorities’ income from NDR for the purposes of determining the proportion that must be paid to the Secretary of State and for adjusting payments to billing authorities as a result of a transitional relief scheme;
- (b) amendments to the means of calculating whether the Secretary of State is required to make a safety net payment to a local authority or whether a local authority is required to make a levy payment to the Secretary of State;
- (c) amendments to the provisions for determining the distribution of any remaining balance of the levy account kept by the Secretary of State under Part 6 of Schedule 7B to the 1988 Act.

Amendment of the Non-Domestic Rating (Transitional Protection Payments) Regulations 2013 (S.I. 2013/106) (the “TPP Regulations”)

Regulation 2 amends the TPP Regulations so that public lavatories relief is disregarded when calculating a billing authority’s actual or deemed NDR income.

Amendment of the Non-Domestic Rating (Rates Retention) Regulations 2013 (S.I. 2013/452) (the “Rates Retention Regulations”)

Schedule 1 to the Rates Retention Regulations provides for the calculation of billing authorities’ NDR income. For a special authority, a prescribed amount is deducted which has the effect of allowing retention of an additional proportion of NDR (the “offset”). Regulation 3 of these Regulations amends the prescribed offset in Schedule 1 to the Rates Retention Regulations to reflect the inflationary uplift in the NDR multiplier in 2023.

Amendment of the Non-Domestic Rating (Levy and Safety Net) Regulations 2013 (S.I. 2013/737) (the “L&SN Regulations”)

Authorities’ “baseline funding levels” are used, for the purposes of these Regulations, to calculate levy and safety net payments. These levels were set at the introduction of the NDR retention system and are adjusted annually in line with the inflationary change to the small business NDR multiplier and at a revaluation. For the financial year commencing on 1st April 2023, the multiplier includes a specific proportion of inflationary uplift, following the freezing of the multiplier and the 2023 revaluation. Regulation 6 of these Regulations amends the L&SN Regulations so that the baseline funding levels only reflect the inflationary change to the multiplier.

The calculation of levy and safety net payments also uses authorities’ “retained rates income” and Schedule 1 to the L&SN Regulations provides for how this is to be calculated. Regulation 7 of these Regulations amends Schedule 1 to provide for the calculation of retained rates income for authorities listed in column A of Schedule 7; to factor in public lavatories relief; and, for major precepting authorities, to add back into the calculation specific relief awarded in accordance with prescribed guidance issued by the Secretary of State.

Regulation 8 amends Schedule 6 to provide for the baseline funding level, and other values for the calculation of retained rates income, for the financial year beginning on 1st April 2023 to reflect the relevant local authority restructuring.

Regulations 5, 9 and the Schedule relate to a new Schedule 7 to the L&SN Regulations. Schedule 7 provides for values used for the calculation of retained rates income for the authorities listed in column A of the table in that Schedule. These are authorities with increased NDR retention arrangements, which are disregarded for the purpose of calculating levy and safety net payments.

Amendment of the Non-Domestic Rating (Rates Retention and Levy and Safety Net) (Amendment) and (Levy Account: Basis of Distribution) Regulations 2019 (S.I. 2019/709) (the “2019 Regulations”)

Regulation 10 amends the 2019 Regulations to reflect the relevant local authority restructuring.

In calculating its retained rates income for the years beginning on 1st April 2022 and 2023, the amendments made to Schedule 1 to the L&SN Regulations require a major precepting authority to include in its calculations amounts of rates relief awarded in accordance with guidance issued by the Secretary of State. Copies of the guidance are available online, as indicated in the footnotes to these Regulations. Hard copies of the guidance can be obtained free of charge by writing to the Local Government Finance Team, Department for Levelling Up, Housing and Communities, 2 Marsham Street, Westminster, London, SW1P 4DF.

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.