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.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2021 No.

RATING AND VALUATION, ENGLAND

The Non-Domestic Rating (Designated Area) Regulations 2021

Made - - - -	***
Coming into force - -	***

The Secretary of State for Housing, Communities and Local Government makes these Regulations in exercise of the powers conferred by sections 97(2A) and 143(1) of, and paragraphs 39 and 41 of Schedule 7B to, the Local Government Finance Act 1988(**a**) ("the 1988 Act").

In accordance with section 143(9D)(**b**) of the 1988 Act, a draft of this instrument was laid before Parliament and approved by resolution of each House of Parliament.

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

Citation and commencement

1.—(1) These Regulations may be cited as the Non-Domestic Rating (Designated Area) Regulations 2021.

(2) These Regulations come into force on the day after the day on which they are made.

Interpretation

2. In these Regulations—

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

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

"billing authority" means the billing authority in England part of whose area falls within the designated area;

"designated area" means the area designated under regulation 3(1);

"local list" means a local non-domestic rating list(**c**);

(**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**) Section 143(9D) was inserted by section 1 of the Local Government Finance Act 2012.
(**c**) See section 41(1) of the 1988 Act for the meaning of "local non-domestic rating list". Section 41(1) was amended by paragraph 59 of Schedule 13 to the Local Government Finance Act 1992 (c. 14).

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

"preceding year" means the chargeable financial year(**a**) 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;

"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(**b**); and

"specified year" means, in relation to the designated area, a chargeable financial year falling within the period of years specified in relation to that area in regulation 3.

Designation of area

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

(2) The designation made by paragraph (1) takes effect on the first day of the first year after the condition specified in paragraph (3) is met and has effect for the period of 25 years beginning with that date.

(3) The condition specified by this paragraph is that the Secretary of State is satisfied that arrangements are in place for the amount to be disregarded by virtue of these Regulations to be used by the Tees Valley Combined Authority and Redcar and Cleveland Borough Council for the benefit of the designated area.

(4) These Regulations cease to have effect unless the Secretary of State has written to the Tees Valley Combined Authority and Redcar and Cleveland Borough Council confirming the condition in paragraph (3) is met by the end of the specified period.

(5) In paragraph (4) the "specified period" is the period beginning on the day these Regulations come into force and ending on 31st March 2021.

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

4.—(1) Part 1 of Schedule 2 provides rules for calculating the proportion of the billing authority's non-domestic rating income in respect of the 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 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)(**c**);

(v) paragraph 26 (calculations of safety net payments)(**d**);

(vi) paragraph 30 (calculations relating to distribution of remaining balance)(**e**);

(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);

(**a**) See section 145(1) of the Local Government Finance Act 1988 for the meaning of "chargeable financial year".
(**b**) Relevant amendments were made to Schedule 7 by section 62 of the Local Government Act 2003 (c. 26).
(**c**) The calculation under paragraph 23 must be made in accordance with regulations under paragraph 22.
(**d**) The calculation under paragraph 26 must be made in accordance with regulations under paragraph 25.
(**e**) The calculation under paragraph 30 must be made in accordance with the basis of distribution specified in the regulations under that paragraph.

(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 (calculations of payments on account).

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

5.—(1) The Non-Domestic Rating (Rates Retention) Regulations 2013(**a**) are amended as follows.

(2) In regulation 3(1) (calculation of non-domestic rating income) after sub-paragraph (g) insert—

"(h) the amount (if any) specified by regulation 7B(2).".

(3) After regulation 7A (payments with respect to shale oil or gas hereditaments) insert—

"**Payments with respect to designated area**

7B.—(1) The amount specified by this regulation is the proportion of Redcar and Cleveland Borough Council's non-domestic rating income calculated in accordance with Part 1 of Schedule 2 to the Non-Domestic Rating (Designated Area) Regulations 2021(**b**).

(2) For each year that the designation under those Regulations has effect Redcar and Cleveland Borough Council must make a payment to the Tees Valley Combined Authority equal to 50% of the amount (if any) estimated, in accordance with regulation 3, as the amount specified by this regulation.

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

(4) In regulation 9(1)(c) (end of year calculations) after "7A(2)" insert ", 7B(2)".

(5) In regulation 10 (reconciliation of disregarded amounts) after paragraph (3) insert—

"(3A) Where the difference relates to a hereditament situated within the area designated by Schedule 1 to the Non-Domestic Rating (Designated Area) Regulations 2021—

(a) if the certified amount is less than the estimated amount—

(i) the Tees Valley Combined Authority must pay an amount equal to 50% of the difference to Redcar and Cleveland Borough Council; and

(ii) Redcar and Cleveland Borough Council must transfer an amount equal to 50% of the difference from its general fund to its collection fund; or

(b) if the certified amount is more than the estimated amount—

(i) Redcar and Cleveland Borough Council must pay an amount equal to 50% of the difference to the Tees Valley Combined Authority; and

(ii) Redcar and Cleveland Borough Council must transfer an amount equal to 50% of the difference from its collection fund to its general fund.".

(6) In Schedule 3 (transfer from collection fund to general fund), in the definition of "T"—

(a) omit "and" at the end of paragraph (a); and

(b) at the end of paragraph (b) insert

", and

(c) the Tees Valley Combined Authority in accordance with regulation 7B (payments with respect to designated area);".

(**a**) S.I. 2013/452, amended by S.I. 2014/96, S.I. 2015/628, 2016/1268, 2017/496, 2017/1321, 2018/463, 2019/709, 2020/449 and 2020/1202.

(**b**) S.I. 2021/X

We consent to the making of these Regulations

Name
Name
Date Two of the Lords Commissioners of Her Majesty's Treasury

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

Name
Minister of State
Date Ministry of Housing, Communities and Local Government

SCHEDULE 1

Regulation 3

Local retention of non-domestic rates: designation of area

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

2. A reference in this Schedule to the map is to the map numbered 1 and entitled "Map referred to in Schedule 1 to the Non-Domestic Rating (Designated Area) Regulations 2021", of which prints, signed by a member of the Senior Civil Service in the Ministry of Housing, Communities and Local Government, are deposited and available for inspection at the offices of the Secretary of State for Housing, Communities and Local Government and at the offices of the billing authority to which the map relates.

3. For the purposes of determining the designated area, 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.

Table

Numbered map (Column 1)	Designated area (Column 2)	Billing Authority (Column 3)	Value of J (£) (see paragraph 3(2) of Schedule 2) (Column 4)
1	South Tees Development Corporation	Redcar and Cleveland Borough Council	7,041,235

SCHEDULE 2

Regulations 2 and 4

Calculations for designated area

PART 1

Proportion of non-domestic rating income to be disregarded

1.—(1) Unless sub-paragraph (2) applies, the proportion of the billing authority's non-domestic rating income in respect of the 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) The billing authority's non-domestic rating income in respect of the 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;

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 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, a reference to an authority's collection fund income and expenditure account is a reference to a revenue account to which, in accordance with proper practices, amounts

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(**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.

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 not a revaluation year

3.—(1) If a specified year is not a revaluation year, the billing authority's baseline amount in respect of the designated area for the specified year is the amount calculated under sub-paragraph (2) or (3).

(2) For the specified year beginning on 1st April 2021, the billing authority's baseline amount is calculated in accordance with the formula—

$$J \times \frac{K_2}{K_1}$$

where—

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

K_1 is the small business non-domestic rating multiplier for the preceding year; and

K_2 is the small business non-domestic rating multiplier for the specified year.

(3) For a subsequent specified year which is not a revaluation year, the baseline amount is calculated in accordance with the formula—

$$L \times \frac{M_2}{M_1}$$

where—

L is the amount calculated under sub-paragraph (2), this sub-paragraph or paragraph 4(1) for the preceding year;

M_1 is the small business non-domestic rating multiplier for the preceding year; and

M_2 is the small business non-domestic rating multiplier for the specified year.

For a specified year that is a revaluation year

4.—(1) If a specified year is a revaluation year, the billing authority's baseline amount in respect of the designated area for the specified year is the amount calculated in accordance with the formula—

$$N \times \left(\frac{P \times R_2}{Q \times R_1} \right)$$

where—

N is the amount calculated in accordance with paragraph 3(2) or (3) for the preceding year;

P 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;

Q 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;

R_1 is the small business non-domestic rating multiplier for the preceding year;

R_2 is the small business non-domestic rating multiplier for the specified year.

(2) For the purposes of this paragraph, 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 an area in England ("designated area") 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 the billing authority in England all or part of whose area falls within the 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.

Regulation 3 and Schedule 1 designate the area. The designation of the area is made by reference to a map which is available for inspection during usual office hours at the offices of the Secretary of State for Housing, Communities and Local Government (2 Marsham Street, London, SW1P 4DF) or the principal office of the billing authority.

Regulation 3 further provides that the designation of the area takes effect on the first day of the first year after the condition specified is met and has effect for the period of 25 years. 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. The specified condition is that a memorandum of understanding setting out how the amount to be disregarded is to be used must be signed by the Secretary of State, the Tees Valley Combined Authority and Redcar and Cleveland Borough Council on or before 31st March 2021.

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 the 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 the designated area for a specified year is essentially the amounts payable to the 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 the designated area for the specified year beginning on 1st April 2021 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.

Regulation 5 makes amendments to the Non-Domestic Rating (Rates Retention) Regulations 2013 to provide that, in each year in which the designation has effect, Redcar and Cleveland Borough Council pay 50% of the proportion of its non-domestic rating income to be disregarded for the year to the Tees Valley Combined Authority.

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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