Draft Regulations laid before Parliament under section 143(9D)(a),(b),and (f) of the Local Government Finance Act 1988, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2015 No.

RATING AND VALUATION, ENGLAND

The Non-Domestic Rating (Shale Oil and Gas and Miscellaneous Amendments) Regulations 2015

Made - - - - ***

Coming into force in accordance with regulation 1

The Secretary of State for Communities and Local Government makes these Regulations in exercise of the powers conferred by sections 97(2A) and (2B), 99 and 143(1) of, and paragraphs 6(3) and (4), 7(2), 8(1) and (2), 9(5) and (6), 10(1) and (2)(d), 11(1) and (3), 33(1) and (6), 40, 41 and 42 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.

Before making these Regulations, the Secretary of State for Communities and Local Government has consulted such persons as the Secretary of State thinks fit in accordance with paragraph 40(8) of Schedule 7B to the 1988 Act.

These Regulations are made with the consent of the Treasury in accordance with paragraphs 8(3) and 40(10) of Schedule 7B to the 1988 Act.

PART 1

General

Citation and commencement

1.—(1) These Regulations may be cited as the Non-Domestic Rating (Shale Oil and Gas and Miscellaneous Amendments) Regulations 2015.

(2) Regulations 12(3) and (5) and 13 come into force on 1st April 2015 and have effect in relation to the financial year beginning with 1st April 2015 and subsequent financial years.

(**a**) 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). Section 97 was substituted by paragraph 22 of Schedule 10 to the Local Government Finance Act 1992 (c.14) and subsection (2A) was inserted by paragraph 25(2) of Schedule 3 to the Local Government Finance Act 2012.

(**b**) Section 143(9D) was inserted into the Local Government Finance Act 1988 by section 1 of the Local Government Finance Act 2012.

(3) The designations made by Part 2 come into force and take effect on 1st April 2015.

(4) The remaining provisions come into force on the day after the day on which these Regulations are made.

PART 2

Designation of classes of hereditaments

Interpretation

2. In this Part and Part 3—

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

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

"designated class" means a class of hereditaments designated by this Part;

"non-domestic rating income" in relation to a hereditament has the meaning given by regulation 7;

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

"relevant year" means the year for which a calculation under Schedule 7B to the 1988 Act is being made(**a**).

Designated classes of hereditaments

3. 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.

Class A: hereditaments used wholly or mainly for shale oil or gas extraction

4.—(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 used wholly or mainly for the boring for or getting of oil or natural gas from shale; and

(b) the method of getting or intended method of getting of oil or natural gas is hydraulic fracturing.

Class B: other hereditaments used for shale oil or gas extraction

5.—(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 does not fall within class A (as described in regulation 4);

(b) the hereditament includes land used wholly or mainly for the boring for or getting of oil or natural gas from shale; and

(c) the method of getting or intended method of getting of oil or natural gas is hydraulic fracturing.

(**a**) The definition of "year" can be found in paragraph 45 of Schedule 7B.

PART 3

Rules for the calculation of an amount to be disregarded

Amount to be disregarded for the purpose of certain calculations

6. 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 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);

(j) paragraph 30 (calculations relating to distribution of remaining balance).

Non-domestic rating income

7.—(1) An authority's 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 the day in accordance with proper practices in respect of non-domestic rates payable under sections 43 and 45 of the 1988 Act (occupied and unoccupied hereditaments: liability) in respect of that hereditament;

B is the total of 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 under sections 43 and 45 of the 1988 Act in respect of that hereditament;

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

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

(2) In this regulation, 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, 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: class A

8. For the purposes of regulation 6 (amount to be disregarded for the purpose of certain calculations), the amount to be disregarded in relation to an authority for a relevant year in respect of a hereditament within class A (as described in regulation 4) is the total of the non-domestic rating income in respect of that hereditament for each day of the year.

Calculation of the amount to be disregarded: class B

9.—(1) For the purposes of regulation 6 (amount to be disregarded for the purpose of certain calculations), the amount to be disregarded in relation to an authority for a relevant year in respect of a hereditament within class B (as described in regulation 5) is the total of the amounts calculated for each day of the year in accordance with the formula—

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

where—

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

F 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); and

G 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 is used wholly or mainly in connection with the boring for or getting of oil or natural gas from shale by hydraulic fracturing.

Certificates: general

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

(2) A certificate under this Part has effect for each day beginning with the date that the circumstances which led the authority to request certification first arose.

(3) A certificate under this Part 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 this Part 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 under this Part must send a copy of the certificate to the authority concerned.

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

PART 4

Payments to relevant precepting authorities

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

11.—(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 (e) insert—

"(f) the amount (if any) specified by regulation 7A(2);

(g) the amount of each relevant precepting authority's share of any amount specified by regulation 7A."

(3) After regulation 7 (payments with respect to county matters) insert—

"**Payments with respect to shale oil or gas hereditaments**

7A.—(1) This regulation applies where the area of a billing authority includes a hereditament within a class designated by Part 2 of the Non-Domestic Rating (Shale Oil and Gas and Miscellaneous Amendments) Regulations 2015.

(2) The amount specified by this regulation is the amount to be disregarded in respect of a hereditament for the relevant year calculated in accordance with the Non-Domestic Rating (Shale Oil and Gas and Miscellaneous Amendments) Regulations 2015 where the hereditament falls within a class designated by Part 2 of those Regulations.

(3) The billing authority must make a payment for the year to each relevant precepting authority equal to that authority's share (as set out in paragraph (3)) of the amount estimated (if any), in accordance with regulation 3, as the amount specified by this regulation.

(4) The relevant precepting authority shares are—

(a) 60% where the relevant precepting authority is a county council which is a fire and rescue authority;

(b) 59% where the relevant precepting authority is a county council which is not a fire and rescue authority;

(c) 20% where the relevant precepting authority is the Greater London Authority; and

(d) 1% where the relevant precepting authority is a fire and rescue authority not falling within sub-paragraph (a).

(5) 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 "regulation 7(2)" insert ", 7A(2) and the amount of each relevant precepting authority's share of any amount specified by regulation 7A".

(5) For regulation 10 (reconciliation of disregarded amounts) substitute—

"**Reconciliation of disregarded amounts**

10.—(1) Where the amount included in the calculation of the certified non-domestic rating income as an amount to be disregarded in accordance with regulations made under paragraph 39 or 40 of Schedule 7B to the 1988 Act is different to the amount estimated for the purposes of regulation 3 ("the estimated amount") paragraphs (2) to (4) apply.

(**a**) S.I. 2013/452. Amended by S.I. 2014/96.

(2) Where the difference relates to a hereditament within the description in regulation 7(2) (county matters)—

(a) if the certified amount is less than the amount paid to the county council, the county council must pay an amount equal to the difference to the billing authority; or

(b) if the certified amount is more than the amount paid to the county council, the billing authority must pay an amount equal to the difference to the county council.

(3) Where the difference relates to a hereditament within the description in regulation 7A(1) (shale oil or gas hereditaments)—

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

(i) each relevant precepting authority must pay an amount equal to that relevant precepting authority's percentage share (as set out in paragraph (5)) of the difference to the billing authority; and

(ii) the billing authority must transfer an amount equal to its percentage share of the difference from its general fund to its collection fund; or

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

(i) the billing authority must pay an amount equal to the relevant precepting authority's percentage share of the difference to each relevant precepting authority; and

(ii) the billing authority must transfer an amount equal to its percentage share of the difference from its collection fund to its general fund.

(4) Where the difference relates to any other hereditament—

(a) if the certified amount is less than the estimated amount, the billing authority must transfer an amount equal to the difference from its general fund to its collection fund; or

(b) if the certified amount is more than the estimated amount, the billing authority must transfer an amount equal to the difference from its collection fund to its general fund.

(5) For the purposes of this regulation, the percentage shares are—

(a) 100% where the billing authority is—

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

(ii) the Council of the Isles of Scilly;

(b) 99% where the billing authority is a county council, or a district council in an area for which there is no county council, and the authority is not a fire and rescue authority;

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

(d) 80% where the billing authority is a London borough council or the Common Council of the City of London;

(e) 60% where the relevant precepting authority is a county council which is a fire and rescue authority;

(f) 59% where the relevant precepting authority is a county council which is not a fire and rescue authority;

(g) 20% where the relevant precepting authority is the Greater London Authority; and

(h) 1% where the relevant precepting authority is a fire and rescue authority not falling within sub-paragraph (e)."

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

"T is the amount of any payments made to—

(a) a county council in accordance with regulation 7 (payments with respect to county matters); and

(b) a relevant precepting authority in accordance with regulation 7A (payments with respect to shale oil or gas hereditaments);".

PART 5

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

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

12.—(1) The Non-Domestic Rating (Rates Retention) Regulations 2013 are further amended as follows.

(2) For regulation 11 (reconciliation of amount deducted from central share payment) substitute—

"**Reconciliation of amount deducted from central share payment**

11.—(1) Where the amount certified under regulation 9 as the total of the amount of qualifying relief specified by paragraph 2 of Schedule 2 is different to the amount deducted from the central share payments under regulation 4(1)—

(a) if the certified amount is less than the deducted amount, the billing authority must—

(i) pay an amount equal to the difference to the Secretary of State; and

(ii) transfer an amount equal to the difference from its general fund to its collection fund; or

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

(i) the Secretary of State must pay an amount equal to the difference to the billing authority; and

(ii) the billing authority must transfer an amount equal to the difference from its collection fund to its general fund.

(2) Where the amount certified under regulation 9 as the total of the amount of qualifying relief specified by paragraph 3 of Schedule 2 is different to the amount deducted from the central share payments under regulation 4(1)—

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

(i) the billing authority must pay an amount equal to the difference to the Secretary of State;

(ii) each relevant precepting authority must pay an amount equal to the relevant precepting authority's percentage share of the difference to the billing authority; and

(iii) the billing authority must transfer an amount equal to its percentage share of the difference from its general fund to its collection fund; or

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

(i) the Secretary of State must pay an amount equal to the difference to the billing authority;

(ii) the billing authority must pay an amount equal to the relevant precepting authority's percentage share of the difference to each relevant precepting authority; and

(iii) the billing authority must transfer an amount equal to its percentage share of the difference from its collection fund to its general fund.

(3) For the purposes of this regulation, the percentage shares are—

(a) 100% where the billing authority is—

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

(ii) the Council of the Isles of Scilly;

(b) 98% where the billing authority is a county council, or a district council in an area for which there is no county council, and the authority is not a fire and rescue authority;

(c) 80% where the billing authority is a district council in an area for which there is a county council;

(d) 60% where the billing authority is a London borough council or the Common Council of the City of London;

(e) 20% where the relevant precepting authority is a county council which is a fire and rescue authority;

(f) 18% where the relevant precepting authority is a county council which is not a fire and rescue authority;

(g) 40% where the relevant precepting authority is the Greater London Authority; and

(h) 2% where the relevant precepting authority is a fire and rescue authority not falling within sub-paragraph (e).”

(3) In regulation 15 (schedule of instalments)—

(a) in paragraph (1) for “10” substitute “12”.

(b) in paragraph (1)(b) for “9” substitute “11”.

(c) for paragraph (3) substitute—

“(3) The first four instalments are each to be of 9% of the amount payable and each other instalment is to be 8% of the amount payable.”

(4) In Schedule 1 (Non-Domestic Rating Income) for the table in Part 2 (Cost Factors) substitute—

“*Area*	*Name or description of authority*	*Cost factor*
	The Council of the Isles of Scilly	1.5000
	The Common Council of the City of London	1.4059
Inner London	The councils of the boroughs of Camden, Greenwich, Hackney, Hammersmith and Fulham, Islington, Kensington and Chelsea, Lambeth, Lewisham, Southwark, Tower Hamlets, Wandsworth and Westminster	1.2208
West outer London	The councils of the boroughs of Barnet, Brent, Ealing, Harrow, Hillingdon, Hounslow, Kingston upon Thames, Merton, Richmond	1.1113

	upon Thames and Sutton	
Rest of outer London	The councils of the boroughs of Barking and Dagenham, Bexley, Bromley, Croydon, Enfield, Haringey, Havering, Newham, Redbridge and Waltham Forest	1.0760
Avon	The councils of the districts of Bath and North East Somerset, Bristol, North Somerset and South Gloucestershire	1.0378
Bedfordshire and Hertfordshire non-fringe	The councils of the boroughs of Bedford, Central Bedfordshire, Luton, North Hertfordshire and Stevenage	1.0393
Berkshire non-fringe	The councils of the districts of Reading, West Berkshire and Wokingham	1.0806
Berkshire, Surrey and West Sussex fringe	The councils of the districts of Bracknell Forest, Crawley, Elmbridge, Epsom and Ewell, Guildford, Mole Valley, Reigate and Banstead, Runneymede, Slough, Spelthorne, Surrey Heath, Tandridge, Waverley, Windsor and Maidenhead and Woking	1.1039
Buckinghamshire non-fringe	The councils of the districts of Aylesbury Vale, Milton Keynes and Wycombe	1.0675
Cambridgeshire	The councils of the districts of Cambridge, East Cambridgeshire, Fenland, Huntingdonshire, Peterborough and South Cambridgeshire	1.0339
Cheshire	The councils of the districts of Cheshire East, Cheshire West and Chester, Halton and Warrington	1.0130
East Sussex	The councils of the districts of Brighton and Hove, Eastbourne, Hastings, Lewes, Rother and Wealden	1.0090
Essex non-fringe	The councils of the districts of Braintree, Castle Point, Chelmsford, Colchester, Maldon, Rochford, Southend-on-Sea, Tendring and Uttlesford,	1.0130
Gloucestershire	The councils of the districts of Cheltenham, Cotswold,	1.0197

	Forest of Dean, Gloucester, Stroud and Tewkesbury	
Greater Manchester	The councils of the districts of Bolton, Bury, Manchester, Oldham, Rochdale, Salford Stockport, Tameside, Trafford and Wigan	1.0169
Hampshire and Isle of Wight	The councils of the districts of Basingstoke and Deane, East Hampshire, Eastleigh, Fareham, Gosport, Hart, Havant, New Forest, Portsmouth, Rushmoor, Southampton, Test Valley and Winchester and Isle of Wight Council	1.0360
Hertfordshire and Buckinghamshire fringe	The councils of the districts of Broxbourne, Chiltern, Dacorum, East Hertfordshire, Hertsmere, South Buckinghamshire, St Albans, Three Rivers, Watford and Welwyn Hatfield	1.0816
Kent and Essex fringe	The councils of the districts of Basildon, Brentwood, Dartford, Epping Forest, Harlow, Sevenoaks and Thurrock	1.0618
Kent non-fringe	The councils of the districts of Ashford, Canterbury, Dover, Gravesham, Maidstone, Medway, Shepway, Swale, Thanet, Tonbridge and Malling and Tunbridge Wells	1.0068
Merseyside	The councils of the metropolitan districts of Knowsely, Liverpool, Sefton, St Helens and Wirral	1.0075
Northamptonshire	Corby, Daventry, East Northamptonshire, Kettering, Northampton, South Northamptonshire and Wellingborough	1.0132
Nottinghamshire	The councils of the districts of Ashfield, Bassetlaw, Broxtowe, Gedling, Mansfield, Newark and Sherwood, Nottingham and Rushcliffe	1.0121
Oxfordshire	The councils of the districts of Cherwell, Oxford, South Oxfordshire Vale of White Horse and West Oxfordshire	1.0534

Suffolk	The councils of the districts of Babergh, Forest Heath, Ipswich, Mid-Suffolk, St Edmundsbury, Suffolk Coastal and Waveney	1.0054
Warwickshire	North Warwickshire, Nuneaton and Bedworth, Rugby, Stratford-on-Avon and Warwick	1.0213
West Midlands	The councils of the metropolitan districts of Birmingham, Coventry, Dudley, Sandwell, Solihull, Walsall and Wolverhampton	1.0134
West Yorkshire	The councils of the metropolitan districts of Bradford, Calderdale, Kirklees, Leeds and Wakefield	1.0055
Wiltshire	The councils of the district of Swindon and the County of Wiltshire	1.0216
Other authorities	A billing authority not named or not falling within a description given above	1.0000”

(5) In Schedule 2 (qualifying relief for deduction from central share)—

(a) in paragraph 1(1) in the definition of “red area” for “maps numbered 1 to 85” substitute “maps numbered 1 to 86”;

(b) in paragraph 1(2)(b) for “31st March 2015” substitute “31st March 2018”.

(6) In Schedule 3 (transfer from collection fund to general fund) for paragraph (a) of “Q” substitute—

“(a) 50% where the billing authority is—

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

(ii) the Council of the Isles of Scilly;”.

PART 6

Transitional Protection Payments

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

13.—(1) The Non-Domestic Rating (Transitional Protection Payments) Regulations 2013(**a**) are amended as follows.

(2) In regulation 5(3) (payments on account) for “10 equal” substitute “12”.

(3) In regulation 5(3)(b) for “9” substitute “11”.

(4) After paragraph (4) of regulation 5 insert—

(**a**) S.I. 2013/106.

"(4A) The first four instalments are each to be of 9% of the amount payable and each other instalment is to be 8% of the amount payable.".

We consent to the making of these Regulations

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

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

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations designate classes of hereditaments in relation to which a billing authority disregards 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.

Part 2 sets out the designated classes of hereditaments in relation to which an amount of non-domestic rating income is to be disregarded.

Part 3 makes provision for the calculation of the amounts to be disregarded for the purpose of calculations under the rates retention scheme.

Part 4 amends the Non-Domestic Rating (Rates Retention) Regulations 2013 ("the 2013 Regulations") to provide for payments to relevant precepting authorities of a proportion of the amount to be disregarded.

Part 5 further amends the 2013 Regulations. Regulation 12(2) inserts a requirement for reconciliation payments between billing authorities and major precepting authorities where there are changes in qualifying relief in relation to Case B hereditaments (see Schedule 2 to the 2013 Regulations). Regulation 12(3) amends the schedule of instalments by which any payment under the 2013 Regulations are made through the course of the financial year. Regulation 12(4) updates the area cost factors for calculating an authority's costs of collection. Regulation 12(5) extends the period for which qualifying relief may be funded through a deduction from central share and adds an additional area in Derby in relation to which qualifying relief may be funded. Regulation 12(6) makes express provision in respect of the transfers between funds to be made by the Council of the Isles of Scilly.

Part 6 amends the Non-Domestic Rating (Transitional Protection Payments) Regulations 2013 to change the schedule of instalments for transitional protection payments on account.

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.

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