

2016 No. 1268

RATING AND VALUATION, ENGLAND

**The Non-Domestic Rating (Rates Retention) (Amendment)
Regulations 2016**

<i>Made</i> - - - -	<i>22nd December 2016</i>
<i>Laid before Parliament</i>	<i>23rd December 2016</i>
<i>Coming into force</i> - -	<i>16th January 2017</i>

The Secretary of State for Communities and Local Government makes the following Regulations in exercise of the powers conferred by sections 97(2A) and (2B), 99 and 143(1) and (2) of, and paragraphs 6 to 8 and 10 of Schedule 7B to, the Local Government Finance Act 1988(a).

These Regulations are made with the consent of the Treasury in accordance with paragraph 8(3) of Schedule 7B to that Act.

Citation and commencement

1.—(1) These Regulations may be cited as the Non-Domestic Rating (Rates Retention) (Amendment) Regulations 2016.

(2) These Regulations come into force on 16th January 2017.

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

2. The Non-Domestic Rating (Rates Retention) Regulations 2013(b) are amended as follows.

Amendment of regulation 2

3. In regulation 2(1) (interpretation) insert at the appropriate place—

““central share payment” means a payment made by a billing authority to the Secretary of State under paragraph 6(2) of Schedule 7B to the 1988 Act;”.

Amendment of regulation 4

4. In regulation 4 (payment to the Secretary of State in respect of the central share)—

(a) for paragraph (1) substitute—

(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 subsections (2A) and (2B) were inserted by paragraph 25(2) of Schedule 3 to the Local Government Finance Act 2012.

(b) S.I. 2013/452. Amended by S.I. 2014/96 and 2015/628.

“(1) In relation to each relevant year, a billing authority must deduct from the central share payment the amount which is the total of the following—

- (a) its estimate of the amount (if any) specified by paragraph 2 of Schedule 2 for that year;
 - (b) its estimate of the amount (if any) specified by paragraph 3 of Schedule 2 for that year;
 - (c) for a relevant year beginning on or after 1st April 2017—
 - (i) its estimate of the amount specified by paragraph 2(1) of Schedule 2A for that year (if applicable); and
 - (ii) its estimate of the amount specified by paragraph 2 of Schedule 2B for that year (if applicable);”;
- (b) in paragraph (2), for “payment in respect of the central share” substitute “central share payment”.

Amendment of regulation 9

5. For paragraph (1)(b) of regulation 9 (end of year calculations) substitute—

- “(b) calculate the amount (if any) specified by paragraph 2 of Schedule 2 for the relevant year;
- (ba) calculate the amount (if any) specified by paragraph 3 of Schedule 2 for the relevant year;
- (bb) calculate the amount specified by paragraph 2(1) of Schedule 2A for the relevant year (if applicable);
- (bc) calculate the amount specified by paragraph 2 of Schedule 2B for the relevant year (if applicable);”.

Insertion of regulation 9A

6. After regulation 9 insert—

“Special provision for end of year calculations for relevant year beginning on 1st April 2015

9A.—(1) This regulation applies in relation to the relevant year beginning on 1st April 2015 to a billing authority to which Schedule 2A or 2B applies.

(2) In addition to the calculations made under regulation 9(1) for that year, the billing authority must calculate the following amounts on or before 23rd January 2017—

- (a) the amount specified by paragraph 2(1) of Schedule 2A for that year (if applicable);
- (b) the amount specified by paragraph 2 of Schedule 2B for that year (if applicable).

(3) The billing authority must—

- (a) notify the Secretary of State on or before 23rd January 2017 of the amounts calculated; and
- (b) arrange for the calculations and amounts to be certified in accordance with such arrangements as the Secretary of State may direct.

(4) The person certifying the calculations and amounts must send the certification to the Secretary of State and notify the billing authority of the amounts so certified.”.

Amendment of regulation 11

7. Regulation 11 (reconciliation of amount deducted from central share payment) is amended as follows—

- (a) in paragraph (1), for “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)” substitute “amount specified by paragraph 2 of Schedule 2 for a relevant year is different from the amount deducted under regulation 4(1)(a) from the central share payment for that year”;
- (b) in paragraph (2), for “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)” substitute “amount specified by paragraph 3 of Schedule 2 for a relevant year is different from the amount deducted under regulation 4(1)(b) from the central share payment for that year”;
- (c) after paragraph (2) insert—

“(2A) For a relevant year beginning on or after 1st April 2017, where the amount certified under regulation 9 as the amount specified by paragraph 2(1) of Schedule 2A for that year is different from the amount deducted under regulation 4(1)(c)(i) from the central share payment for that year—

- (a) if the certified amount is less than the deducted amount—
 - (i) the billing authority must pay to the Secretary of State an amount equal to the difference; and
 - (ii) the billing authority must transfer from its general fund to its collection fund an amount equal to the difference; or
- (b) if the certified amount is more than the deducted amount—
 - (i) the Secretary of State must pay to the billing authority an amount equal to the difference; and
 - (ii) the billing authority must transfer from its collection fund to its general fund an amount equal to the difference.

(2B) For a relevant year beginning on or after 1st April 2017, where the amount certified under regulation 9 as the amount specified by paragraph 2 of Schedule 2B for that year is different from the amount deducted under regulation 4(1)(c)(ii) from the central share payment for that year—

- (a) if the certified amount is less than the deducted amount—
 - (i) the billing authority must pay to the Secretary of State an amount equal to the difference; and
 - (ii) the billing authority must transfer from its general fund to its collection fund an amount equal to the difference; or
- (b) if the certified amount is more than the deducted amount—
 - (i) the Secretary of State must pay to the billing authority an amount equal to the difference; and
 - (ii) the billing authority must transfer from its collection fund to its general fund an amount equal to the difference.”.

Insertion of regulations 11A and 11B

8. After regulation 11, insert—

“Special provision for end of year payments in respect of relevant year beginning on 1st April 2015

11A.—(1) This regulation applies in relation to the relevant year beginning on 1st April 2015 to a billing authority to which Schedule 2A or 2B applies.

(2) Where an amount is certified under regulation 9A as the amount specified by paragraph 2(1) of Schedule 2A for that year (“the certified amount”)—

- (a) the Secretary of State must pay to the billing authority an amount equal to the certified amount; and
 - (b) the billing authority must transfer from its collection fund to its general fund an amount equal to the certified amount.
- (3) Where an amount is certified under regulation 9A as the amount specified by paragraph 2 of Schedule 2B for that year (“the certified amount”)—
- (a) the Secretary of State must pay to the billing authority an amount equal to the certified amount; and
 - (b) the billing authority must transfer from its collection fund to its general fund an amount equal to the certified amount.
- (4) An amount paid to an authority under this regulation is to be recognised by that authority in accordance with proper practices(a) in a revenue account for that year.

Special provision for end of year payments in respect of relevant year beginning on 1st April 2016

11B.—(1) This regulation applies in relation to the relevant year beginning on 1st April 2016 to a billing authority to which Schedule 2A or 2B applies.

(2) Where an amount is certified under regulation 9 as the amount specified by paragraph 2(1) of Schedule 2A for that year (“the certified amount”)—

- (a) the Secretary of State must pay to the billing authority an amount equal to the certified amount; and
- (b) the billing authority must transfer from its collection fund to its general fund an amount equal to the certified amount.

(3) Where an amount is certified under regulation 9 as the amount specified by paragraph 2 of Schedule 2B for that year (“the certified amount”)—

- (a) the Secretary of State must pay to the billing authority an amount equal to the certified amount; and
- (b) the billing authority must transfer from its collection fund to its general fund an amount equal to the certified amount.

(4) An amount paid to an authority under this regulation is to be recognised by that authority in accordance with proper practices in a revenue account for that year.”.

Amendment of Schedule 2

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

- (a) in paragraph 2(1)(b) for “Commission Regulation (EC) No 1998/2006” substitute “Commission Regulation (EU) No 1407/2013**(b)**”;
- (b) in paragraph 3(1)(b) for “Commission Regulation (EC) No 1998/2006” substitute “Commission Regulation (EU) No 1407/2013”.

Insertion of Schedules 2A and 2B

10. After Schedule 2 insert Schedules 2A and 2B which are set out in the Schedule to these Regulations.

(a) See section 21(2) of the Local Government Act 2003 (c. 26) for the meaning of “proper practices”.
 (b) OJ No L 352, 24.12.2013, p 1.

Amendment of Schedule 4

11. In Schedule 4 (rules for estimation and apportionment of surplus and deficit) for paragraph (a) of paragraph 2(3) substitute—

“(a) 50% where the billing authority—

- (i) is 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) is the Council of the Isles of Scilly;”.

We consent

Guy Opperman
Robert Syms

22nd December 2016

Two of the Lords Commissioners of Her Majesty’s Treasury

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

Bourne of Aberystwyth
Parliamentary Under Secretary of State

22nd December 2016

Department for Communities and Local Government

SCHEDULE

Regulation 10

“SCHEDULE 2A

Regulations 4(1),
9(1), 9A, 11(2A), 11A and 11B

Special provision for deduction from the central share payment

Application and interpretation

1.—(1) This Schedule applies to the billing authorities listed in column 1 of the table set out below in relation to a relevant year beginning on or after 1st April 2015.

(2) In this Schedule—

“allowance for non-collection” means an allowance made by a billing authority in its principal financial statements for a relevant year, in accordance with proper practices, to recognise amounts of non-domestic rates which the billing authority estimates will not be collected;

“alteration to a local list” means an alteration to a local non-domestic rating list made in accordance with regulations under section 55 of the 1988 Act;

“Collection Regulations” means the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989(a);

“growth baseline amount”, in relation to a billing authority, means the figure specified in column 2 of the table set out below in relation to that authority;

“relevant provision” means a provision made by a billing authority in its principal financial statements for a relevant year which, in accordance with proper practices, reflects amounts to be credited to ratepayers following changes to a ratepayer’s liability for non-domestic rates;

(a) S.I. 1989/1058.

“transitional protection payment” means a payment under regulations under paragraph 33(1) of Schedule 7B to the 1988 Act.

<i>Billing authority</i> <i>Column 1</i>	<i>Growth baseline amount</i> <i>Column 2</i> (£)
<i>Greater Manchester</i>	
Bolton	89,545,561
Bury	52,217,065
Manchester	343,637,824
Oldham	60,286,829
Rochdale	62,963,048
Salford	100,185,762
Stockport	91,637,000
Tameside	57,763,975
Trafford	166,096,865
Wigan	82,383,374
<i>Cheshire</i>	
Cheshire East	141,320,753
<i>Cambridgeshire</i>	
Cambridge	98,386,258
East Cambridgeshire	18,601,752
Fenland	25,365,993
Huntingdonshire	60,392,226
Peterborough	98,862,997
South Cambridgeshire	71,379,837

Calculation of amount

2.—(1) Subject to sub-paragraph (2), the amount specified by this paragraph is the amount calculated in accordance with the formula—

$$(A - B + C - D + E - F + G - H + J - K) \times 50\%$$

where—

A is the total amount credited to the billing authority’s collection fund income and expenditure account in the year in respect of non-domestic rates payable under sections 43 and 45 of the 1988 Act;

B is the total amount charged to that account in the year in respect of non-domestic rates payable under sections 43 and 45 of the 1988 Act;

C is the total amount written back for the year from the allowance for non-collection;

D is the total amount written off for the year in excess of that allowance;

E is the total amount released from that allowance for the year;

F is the total amount by which that allowance is increased for the year after amounts written off against the allowance have been made for the year;

G is the amount of any transitional protection payment due to be made to the billing authority for the year;

H is the amount of any transitional protection payment due to be made by the billing authority for the year;

J is the total amount of a relevant provision utilised for the year;

K is the amount calculated in relation to the billing authority for the year in accordance with sub-paragraph (3) or (4).

(2) If the amount calculated under sub-paragraph (1) is less than zero, for the purposes of regulations 4, 9 and 9A the amount specified by sub-paragraph (1) is zero.

(3) If the year is not a year in which local lists must be compiled, the amount calculated in accordance with this sub-paragraph—

- (a) for the year beginning on 1st April 2015, is the growth baseline amount in relation to the billing authority;
- (b) for the year beginning on 1st April 2016, is the amount calculated in accordance with the formula—

$$L \times \left(\frac{M_2}{M_1} \right) \times 1.005$$

where—

L is the growth baseline amount in relation to the billing authority;

M₁ is the small business non-domestic rating multiplier for the year beginning on 1st April 2015;

M₂ is the small business non-domestic rating multiplier for the year beginning on 1st April 2016;

- (c) for a subsequent year, is the amount calculated in accordance with the formula—

$$N \times \left(\frac{O_2}{O_1} \right) \times 1.005$$

where—

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

O₁ is the small business non-domestic rating multiplier for the preceding year;

O₂ is the small business non-domestic rating multiplier for the relevant year.

(4) If the year is a year in which local lists must be compiled (“revaluation year”), the amount calculated in accordance with this sub-paragraph is the amount calculated in accordance with the formula—

$$Q \times \left(\frac{R \times T_2}{S \times T_1} \right) \times 1.005$$

where—

Q is the amount calculated for the preceding year in accordance with sub-paragraph (3)(b) or (c);

R is the aggregate rateable values shown in the billing authority’s local list for 1st April in the revaluation year;

S is the aggregate rateable values shown in the billing authority’s local list for 31st March in the preceding year;

T₁ is the small business non-domestic rating multiplier for the preceding year;

T₂ is the small business non-domestic rating multiplier for the revaluation year.

SCHEDULE 2B

Regulations 4(1),
9(1), 9A, 11(2B), 11A and 11B

Deduction from the central share payment for Port of Bristol

Application and interpretation

1.—(1) This Schedule applies to the billing authority, North Somerset District Council, in relation to a relevant year beginning on or after 1st April 2015.

(2) In this Schedule—

“First Corporate Shipping Limited” means the company limited by shares and incorporated under the Companies Act 1985(a), whose registered number is 2542406;

“Port of Bristol hereditament” means those hereditaments which consist of the harbour undertaking carried on by First Corporate Shipping Limited that are treated under regulation 5(4) of the Non-Domestic Rating (Miscellaneous Provisions) (No. 2) Regulations 1989(b) as one hereditament situated in the area of North Somerset District Council; and

“transitional protection payment” means a payment under regulations under paragraph 33(1) of Schedule 7B to the 1988 Act.

Calculation of amount

2. The amount specified by this paragraph in respect of the Port of Bristol hereditament for a year is the amount calculated in accordance with the formula—

$$[(A - B) + (C - D)] \times E$$

where—

A is the total of the amounts credited to the billing authority’s collection fund income and expenditure account in respect of that hereditament in the year in accordance with proper practices in respect of non-domestic rates payable under sections 43 and 45 of the 1988 Act;

B is the total of the amounts charged to that account in respect of that hereditament in the year in accordance with proper practices in respect of non-domestic rates payable under sections 43 and 45 of the 1988 Act;

C is the amount of any transitional protection payment due to be made to the billing authority in respect of that hereditament for the year;

D is the amount of any transitional protection payment due to be made by the billing authority in respect of that hereditament for the year;

E is—

- (a) for the year beginning on 1st April 2015, 0.4203;
- (b) for a year beginning on or after 1st April 2016, 0.51.”

(a) 1985 c. 6.
(b) S.I. 1989/2303.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Under paragraph 6 of Schedule 7B to the Local Government Finance Act 1988 (1988 c. 41) (local retention of non-domestic rates), billing authorities are required to pay a proportion of their non-domestic rating income to the Secretary of State (“the central share payment”). The percentage determined by the Secretary of State under paragraph 4 of Schedule 7B to be a billing authority’s central share for a year is specified in the Local Government Finance Report for that year laid before the House of Commons under paragraph 5 of that Schedule.

These Regulations amend the Non-Domestic Rating (Rates Retention) Regulations 2013 (S.I. 2013/452) (“the 2013 Regulations”) to provide for deductions from central share payments by specified billing authorities in Greater Manchester, Cambridgeshire, Cheshire and North Somerset (“specified billing authorities”).

Regulations 4, 5 and 7 amend the 2013 Regulations in relation to the administration of the deduction from the central share payment and end of year calculations and reconciliation.

Regulation 6 inserts regulation 9A to make special provision for additional end of year calculations by specified billing authorities in respect of the year beginning on 1st April 2015.

Regulation 8 inserts regulations 11A and 11B to make special provision for end of year payments by specified billing authorities in respect of the years beginning on 1st April 2015 and 1st April 2016.

Regulation 9 updates references in Schedule 2.

Regulation 10 inserts Schedules 2A and 2B into the 2013 Regulations to provide for the calculation of the amount to be deducted.

Regulation 11 amends Schedule 4 to specify the percentage share of any surplus or deficit for the Council of the Isles of Scilly.

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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