

2013 No. 106

RATING AND VALUATION, ENGLAND

**The Non-Domestic Rating (Transitional Protection Payments)
Regulations 2013**

<i>Made</i> - - - -	<i>22nd January 2013</i>
<i>Laid before Parliament</i>	<i>24th January 2013</i>
<i>Coming into force</i> - -	<i>18th February 2013</i>

The Secretary of State, in exercise of the powers conferred by section 143(1) and (2) of and paragraphs 32(1) to (3) and 33 of Schedule 7B to the Local Government Finance Act 1988(a), makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Non-Domestic Rating (Transitional Protection Payments) Regulations 2013 and come in to force on 18th February 2013.

(2) In these Regulations—

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

“billing authority” means a billing authority in England;

“preceding year” means the year immediately preceding the relevant year;

“relevant year” means the year for which a calculation of non-domestic rating income or of a payment is being made; and

“relevant hereditament” means a hereditament shown in a local non-domestic rating list.

(3) In these Regulations any reference to a billing 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, as the case may be, amounts in respect of the authority’s income and expenditure relating to sums paid or to be paid into or payments met or to be met from the authority’s collection fund.

Rules for calculation of deemed rating income

2.—(1) A billing authority’s deemed rating income for a year is the amount calculated in accordance with the formula—

$$A - B$$

Where—

(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).

A is the total of the amount that would be credited to the billing authority's collection fund income and expenditure account in the year in accordance with proper practices in respect of non-domestic rates payable under sections 43 and 45 of the 1988 Act if no regulations under section 57A of the 1988 Act (transitional relief following compilation of local rating list) were in force for the relevant year or any earlier year;

B is the total of amounts that would be charged to the billing authority's collection fund income and expenditure account in the year in accordance with proper practices in respect of non-domestic rates payable under sections 43 and 45 of the 1988 Act if no regulations under section 57A of the 1988 Act were in force for the relevant year or any earlier years.

(2) For the purposes of paragraph (1) it shall be assumed that in relation to all relevant hereditaments and all days in the relevant year and all previous years—

- (a) the hereditament is wholly occupied;
- (b) the conditions prescribed for the purposes of section 43(4B) (small business rate relief) of the 1988 Act are fulfilled and the value of E in section 43(4A) of that Act(a) is 1;
- (c) sections 43(6) (charities or registered community amateur sports clubs) and 43(6B) (rural settlements)(b) of the 1988 Act (c) do not apply;
- (d) a determination under section 47 (discretionary relief) or reduction or remission under section 49 of the 1988 Act (reduction or remission in the case of hardship) has not been made.

Rules for calculation of actual rating income

3.—(1) An authority's actual rating income for a year is the amount calculated in accordance with the formula—

$$C - D$$

Where—

C is the total of the amount that would be credited to the billing authority's collection fund income and expenditure account in the year in accordance with proper practices in respect of non-domestic rates payable under sections 43 and 45 of the 1988 Act; and

D is the total of amounts that would be charged to the billing authority's collection fund income and expenditure account in the year in accordance with proper practices in respect of non-domestic rates payable under sections 43 and 45 of the 1988 Act.

(2) For the purposes of paragraph (1) it shall be assumed that in relation to all relevant hereditaments and all days in the relevant year and all previous years—

- (a) the hereditament is wholly occupied;
- (b) the conditions prescribed for the purposes of section 43(4B) (small business rate relief) of the 1988 Act are fulfilled and the value of E in section 43(4A) of that Act is 1;
- (c) sections 43(6) (charities or registered community amateur sports clubs) and 43(6B) (rural settlements) of the 1988 Act do not apply;
- (d) a determination under section 47 (discretionary relief) or reduction or remission under section 49 of the 1988 Act (reduction or remission in the case of hardship) has not been made.

(a) Section 43(4A) and (4B) were inserted into the 1988 Act by section 61(3) of the Local Government Act 2003 (c.26). Section 43(4B) was amended by section 70 of the Localism Act 2011 (c.20).

(b) Section 43(6B) was inserted into the 1988 Act by paragraph 2(b) of Schedule 1 to the Local Government and Rating Act 1997 (c.29) and amended by section 3(2) of the Rating (Former Agricultural Premises and Rural Shops) Act 2001 (c.14) and section 63(2) of the Local Government Act 2003.

(c) Section 43(6) of the 1988 Act was amended by section 64(1) of the Local Government Act 2003 and by paragraphs 206 and 207 of Schedule 1 to the Corporation Tax Act 2010 (c.4)

Calculation of payments on account

- 4.—(1) On or before the specified date, an authority must—
- (a) estimate the amount of its deemed rating income for the relevant year;
 - (b) estimate the amount of its actual rating income for the relevant year; and
 - (c) notify the Secretary of State of the estimated amounts.
- (2) The specified date is—
- (a) for the year commencing on 1st April 2013, 15th March 2013; and
 - (b) for a year commencing on or after 1st April 2014, 31st January in the preceding year.
- (3) If the authority fails to comply with paragraph (1) the Secretary of State may make an estimate of the amount or amounts; and in such cases—
- (a) the Secretary of State must notify the authority of the amounts calculated; and
 - (b) these Regulations take effect as if the amounts calculated by the Secretary of State were calculated in accordance with paragraph (1).

Payments on account

5.—(1) If an authority's deemed rating income for a year estimated in accordance with regulation 4 exceeds its actual rating income for the year estimated in accordance with that regulation, the Secretary of State must pay to the authority an amount equal to the excess.

(2) If the amount of an authority's actual rating income for a year estimated in accordance with regulation 4 exceeds its deemed rating income for the year estimated in accordance with that regulation, the authority must pay to the Secretary of State an amount equal to the excess.

(3) Amounts payable under this regulation shall be paid during the course of the relevant year by means of 10 equal instalments such that—

- (a) the first instalment is payable on the 30th April; and
- (b) the subsequent instalments are payable on the 19th day of each of the following 9 months starting in May.

(4) Where an instalment falls to be paid on a Friday or a day that is not a working day, it shall instead be payable on the first working day that is not a Friday following that day.

(5) For the purpose of this regulation “working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England under the Banking and Financial Dealings Act 1971(a).

End of year calculations

6.—(1) On or before 30th September in the year following a relevant year a billing authority must—

- (a) calculate the amount of its deemed rating income for the relevant year;
- (b) calculate the amount of its actual rating income for the relevant year; and
- (c) arrange for the calculations and amounts to be certified in accordance with such arrangements as the Secretary of State may direct.

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

End of year payments

7.—(1) The end of year payment (if any) due shall be calculated according to the formula—

(a) 1971 c.80.

$$E - F - G + H$$

Where—

E is the authority's deemed rating income for the relevant year certified in accordance with regulation 6;

F is the authority's actual rating income for the relevant year certified in accordance with regulation 6;

G is the amount of any payments on account made by the Secretary of State to the authority in accordance with regulation 5;

H is the amount of any payments on account made by the authority to the Secretary of State in accordance with regulation 5.

(2) If the amount calculated in accordance with paragraph (1) is a positive figure, the Secretary of State must pay that amount to the authority.

(3) If the amount calculated in accordance with paragraph (1) is a negative figure, the authority must pay that amount to the Secretary of State.

(4) If the amount calculated in accordance with paragraph (1) is zero, no payment is due.

(5) A payment under this regulation is to be made as soon as reasonably practicable following the receipt by the Secretary of State of the certification sent to him in accordance with regulation 6(2).

Recovery

8. Where an amount has become payable by an authority under any provision of these Regulations, and it has not been paid, it shall be recoverable in a court of competent jurisdiction.

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

22nd January 2013

Brandon Lewis
Parliamentary Under Secretary of State
Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Local Government Finance Act 1988 (“the Act”) provides for non-domestic hereditaments to be re-valued periodically. On a revaluation new non-domestic rating lists are compiled. The last compilation date was 1st April 2010.

Regulations made under section 57A of the Act set out the rules for a transitional relief scheme to protect ratepayers from large increases in their rates bills following revaluation. The scheme operates to assist ratepayers whose bills would have increased above a certain amount by phasing in these increases gradually over up to five years. It is also phases in the reduction in bills of some ratepayers who would otherwise have seen their rates bills decrease immediately. The phasing in of the reductions funds the phasing in of the increases.

The effect of transitional arrangements is that in any given year a billing authority may collect more or less non-domestic rates than it would otherwise have. If no adjustment is made for such amounts, then under the rates retention scheme put in place by the Act, non-domestic rating income would vary for reasons unrelated to underlying changes in business rates income.

These regulations make provision for adjusting payments to billing authorities where their income is less as a result of the operation of the transitional arrangements; and for payments by authorities where their income is greater.

Regulation 2 provides for the calculation of the authority's deemed rating income. This is essentially the income the authority would have received had transitional arrangements not been in place. Regulation 3 provides for the calculation of the authority's actual rating income – the amount it has received net of transitional protection. Other relief and discounts are ignored for the purposes of calculating the transitional protection payment (see regulations 2(2) and 3(2)).

Regulation 4 and 5 provided that payments on account of the transitional protection payment are to be made in the course of the year to which they relate on the basis of estimated figures. At the end of the year a reconciliation payment will be required if the estimated figure differs from final amounts that are certified (regulations 6 and 7).

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STATUTORY INSTRUMENTS

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