

EXPLANATORY MEMORANDUM TO
THE NON-DOMESTIC RATING (DESIGNATED AREAS ETC.) REGULATIONS
2017

2017 No. 318

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 These Regulations form part of the scheme for local retention of non-domestic rates (“the rates retention scheme”). Their purpose is firstly, to designate areas in relation to which a proportion of the non-domestic rating income raised is to be retained in its entirety by the local authority in all or part of whose area a designated area falls; and secondly, to amend the Non-Domestic Rating (Rates Retention) Regulations 2013 (S.I. 2013/452) (“Rates Retention Regulations”) to provide that the authority is compensated for the cost of any discretionary relief it gives to business ratepayers in the designated areas which fall within a “red area” as defined in Schedule 2 to the Rates Retention Regulations. In addition, they amend two previous sets of regulations to extend the period of designation of the Birmingham City Centre Designated Area and the Birmingham City Centre Curzon Extension Designated Area until 1st April 2046.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

Designation of areas

- 4.1 The non-domestic rating system in England and Wales was established by the Local Government Finance Act 1988 (“the 1988 Act”). The Local Government Finance Act 2012 inserts a new Schedule 7B into the 1988 Act which provides for the local retention of non-domestic rates collected in England.
- 4.2 Part 10 of Schedule 7B enables the Secretary of State to make regulations designating areas and providing for the calculation of the non-domestic rating income in respect

of the hereditaments¹ within a designated area to be disregarded for the purpose of various calculations required under the rates retention scheme.

- 4.3 The Non-Domestic Rating (Designated Areas etc) Regulations 2017 specify that the designation of the areas has effect for 25 years from 1 April 2017. This means that paragraph 39(9) of Schedule 7B applies. Paragraph 39(9) provides that where the regulations specify the years for which the designation has effect, they may not be revoked during that period and amendments which have the effect of altering the boundaries of a designated area, providing for the reduction in the amount that may be disregarded or the reduction of the period of the designation may not be made to the regulations during that period.

Rates Retention Regulations

- 4.4 Paragraph 4 of Schedule 7B provides that local government and central government share in the non-domestic rates income collected locally by local authorities in England. Currently, the “local” and “central” shares of income are each 50%.
- 4.5 Paragraph 8 of Schedule 7B provides that the Secretary of State may, by regulations, provide for a sum to be deducted from the central share that a local authority is required to pay to central Government. By virtue of paragraph 8(2), the regulations may in particular provide for the determination of a deductible amount to be made by reference to the operation of discretionary rates relief awarded to ratepayers by a local authority under section 47 of the 1988 Act. The Rates Retention Regulations make provision under paragraph 8 of Schedule 7B for deductions from the central share.
- 4.6 Schedule 2 to the Non-Domestic Rating (Rates Retention) Regulations 2013 (S.I. 2013/452) provides the definition for “red area”. These Regulations amend the definition of “red area” by increasing the number of maps referred to in that definition.

Extension of period of designation in other Designated Areas Regulations

- 4.7 Regulations made under paragraph 39(8) of Schedule 7B may specify the years for which a designation has effect. Paragraph 39(9)(a) of Schedule 7B restricts the amendments that can be made to regulations made under paragraph 39(8).
- 4.8 The Non-Domestic Rating (Designated Areas) Regulations 2013 (S.I. 2013/107) specify a period of designation of 25 years from 1 April 2013 for the areas designated under those Regulations. The Birmingham City Centre Designated Area is designated by those Regulations.
- 4.9 The Non-Domestic Rating (Designated Areas etc.) Regulations 2016 (S.I. 2016/317) specify a period of designation of 25 years from 1 April 2016 for the areas designated under those Regulations. The Birmingham City Centre Curzon Extension Designated Area is designated by those Regulations.
- 4.10 These Regulations amend S.I. 2013/107 and S.I. 2016/317 to extend the period of designation of the Birmingham City Centre Designated Area and the Birmingham City Centre Curzon Extension Designated Area by a further 8 and 5 years respectively. The amendments made by these Regulations are not subject to the restrictions in paragraph 39(9)(a) of Schedule 7B as they do not alter the boundary of the designated areas, do not alter the proportion to be disregarded and do not reduce the period of designation.

¹ A hereditament is a unit of property which is subject to rating.

5. Extent and Territorial Application

- 5.1 This instrument extends to England and Wales.
- 5.2 This instrument applies in relation to England only.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 These Regulations form part of the scheme to allow local retention of non-domestic rates (the rates retention scheme). The scheme was introduced on 1st April 2013 to give local government a direct share of local non-domestic rating income and thereby an incentive to promote local growth. This replaced the previous scheme whereby non-domestic rates were collected by local government, paid to central government and redistributed back to local government via the local government finance report.
- 7.2 Under Schedule 7B to the 1988 Act, non-domestic rates are to be shared between central government and different parts of local government. The proportions at which rates are to be shared between central government and local government has been set at 50:50.
- 7.3 As part of its policy to deliver growth, the Government has previously identified a number of geographical areas designed to help create jobs and create businesses in areas of economic opportunity. They will do this by giving businesses the right conditions for growth, creating public and private partnerships and encouraging competition to attract foreign inward investment. In these areas, the Government has allowed local authorities to retain 100% of the growth in non-domestic rates. This provides a powerful incentive for growth.
- 7.4 To deliver upon this commitment the Rates Retention Regulations provide that when calculating how much rates income in a local authority area is to be shared between local government and central government, it will disregard the growth in rating income in designated areas. This will then allow the growth in those designated areas to be retained 100% by the billing authority. These Regulations designate further areas in which the 100% disregard will apply and provide rules for calculating the amount to be disregarded.
- 7.5 The Rates Retention Regulations also provide that in some geographical areas, including designated areas, where an authority grants rates relief to ratepayers using its discretionary relief powers, it will be compensated for the loss of income that it incurs as a result. Compensation is provided by allowing the authority to make a deduction from the Government's 50% share of non-domestic rates income. These Regulations amend the Rates Retention Regulations to provide that compensation for discretionary relief is provided to those new areas designated under these Regulations.
- 7.6 These Regulations also amend S.I. 2013/107 and S.I. 2016/317 to extend the period of designation of the Birmingham City Centre Designated Area and the Birmingham City Centre Curzon Extension Designated Area by a further 8 and 5 years respectively.

Consolidation

7.7 The Department does not intend to consolidate the relevant legislation.

8. Consultation outcome

8.1 A general consultation for these Regulations has not been undertaken since they implement outcomes for specific geographical areas that have been the subject of negotiation between central Government and the areas concerned.

9. Guidance

9.1 The Department issues guidance to local authorities on the completion of the associated data forms which are used to determine the amounts of non-domestic rating income due in designated areas and under the retention arrangements generally.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is that, while the overall amount of business rates income retained by the public sector will be unaffected, the amounts retained respectively by central and local government will change depending on the amount of growth generated in those areas and, as a result, local authorities will be incentivised to secure more growth than might otherwise have been the case.

10.3 An impact assessment for the rates retention scheme is available from:
https://www.gov.uk/government/uploads/attachment_data/file/8470/2054063.pdf

10.4 A separate impact assessment has not prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 The Government keeps the non-domestic rating system under regular review.

13. Contact

13.1 David Bull at the Department for Communities and Local Government Telephone: 0303 44 41725 or email: David.Bull@communities.gsi.gov.uk can answer any queries regarding the instrument.