

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

2017 No. 471

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.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments

2. Purpose of the instrument

- 2.1 These Regulations correct errors in the table in Schedule 1 to the Non-Domestic Rating (Designated Areas etc.) Regulations 2017 (S.I. 2017/318) (“the Designated Areas Regulations”). These Regulations substitute values for J for four designated areas in Lewes District Council which are used to calculate the proportion of non-domestic rating income that is to be disregarded for the purpose of specified calculations under Schedule 7B to the Local Government Finance Act 1988 (“the 1988 Act”).

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 These Regulations correct errors in the Designated Areas Regulations in respect of the values of J attributable to four designated areas. These errors were noticed only after those Regulations had been made and laid in Parliament. Once the errors were noticed, the Department prepared these Regulations to correct the errors. This instrument is being issued free of charge to all known recipients of the Designated Areas Regulations.
- 3.2 These Regulations are laid on [DATE] and enter into force on 1st April 2017. The Department is therefore in this instance allowing less than the minimum 21 day period applying by convention between the laying of a statutory instrument subject to the negative resolution procedure in Parliament and its coming into force. The Designated Areas Regulations, which these Regulations correct, enters into force on 1st April 2017 and the amendments made by these Regulations need to enter into force on the same date in order to give effect to the policy intention. The Department is aware of the importance of observing the 21 day rule wherever possible and regrets that it has not been able to do so in this instance.

Other matters of interest to the House of Commons

- 3.3 As this instrument is subject to the negative resolution 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 1988 Act. The Local Government Finance Act 2012 inserted 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 Designated Areas Regulations specifies that the designation of the areas has effect for 25 years from 1st 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.
- 4.4 These Regulations amend the Designated Areas Regulations to substitute the values for J for four designated areas within the area of Lewes District Council which are used to calculate the proportion of non-domestic rating income that is to be disregarded.
- 4.5 Part 1 of Schedule 2 to the Designated Areas Regulations provides that the proportion of a billing authority's non-domestic rating income to be disregarded is calculated by finding the difference between the authority's non-domestic rating income and its baseline amount. J is used in Part 3 of Schedule 2 to the Designated Areas Regulations to represent a billing authority's baseline amount. The value of J (the baseline) is being reduced for four designated areas as a result of the amendments made by these Regulations.
- 4.6 By reducing the baseline amount, these Regulations have the effect of increasing the proportion of non-domestic rating income, collected above that baseline, to be disregarded. The amendments made by these Regulations are not subject to the restriction in paragraph 39(9)(a) and (1)(c) of Schedule 7B to the 1988 Act as they do not reduce the proportion to be disregarded.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is England and Wales.
- 5.2 The territorial application of this instrument is 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.

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

7. Policy background

What is being done and why

- 7.1 These Regulations amend the values for J for four designated areas in Lewes District Council which are used to calculate the proportion of non-domestic rating income that is to be disregarded.
- 7.2 The policy background to the Designated Areas Regulations is set out in the Explanatory Memorandum to those Regulations which is available from:
http://www.legislation.gov.uk/uksi/2017/318/pdfs/uksiem_20170318_en.pdf

Consolidation

- 7.3 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 correct errors made in S.I. 2017/318 and those Regulations 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/system/uploads/attachment_data/file/8470/2054063.pdf
- 10.4 A separate impact assessment has not been 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.