

2020 No. 1202

LOCAL GOVERNMENT, ENGLAND

**The Local Authorities (Collection Fund: Surplus and Deficit)
(Coronavirus) (England) Regulations 2020**

<i>Made</i> - - - -	<i>3rd November 2020</i>
<i>Laid before Parliament</i>	<i>5th November 2020</i>
<i>Coming into force</i> - -	<i>1st December 2020</i>

The Secretary of State, in exercise of the powers conferred by sections 99(1) to (3) and (3D) and 143(1) of the Local Government Finance Act 1988(a), makes the following Regulations.

Citation and commencement

1. These Regulations may be cited as the Local Authorities (Collection Fund: Surplus and Deficit) (Coronavirus) (England) Regulations 2020 and come into force on 1st December 2020.

Amendment of the Local Authorities (Funds) (England) Regulations 1992

2.—(1) Schedule 2 of the Local Authorities (Funds) (England) Regulations 1992(b) is amended as follows.

(2) In paragraph 2(3) for “Subject to sub-paragraph (5),” substitute “Subject to sub-paragraphs (5) to (8),”.

(3) After paragraph 2(5) insert—

“(6) Sub-paragraphs (7) and (8) apply to a billing authority where, in the financial year beginning on 1st April 2021, the exceptional balance in the authority’s collection fund for the preceding financial year calculated in accordance with Part 3 of this Schedule is a negative amount.

(7) As regards the financial year beginning on 1st April 2021, the amount referred to in sub-paragraph (3) is the total of the items listed in that sub-paragraph and a sum equivalent to two thirds of the exceptional balance (expressed as a positive amount).

(8) As regards the financial year beginning on 1st April 2022, the amount referred to in sub-paragraph (3) is the total of the items listed in that sub-paragraph and a sum equivalent to one third of the exceptional balance (expressed as a positive amount).”.

(a) 1988 c.41; section 99 was substituted by paragraph 24 of Schedule 10 to the Local Government Finance Act 1992 (c.14) with effect in relation to financial years beginning on or after 1st April 1993; section 99(3D) was inserted by paragraph 26 of Schedule 3 to the Local Government Finance Act 2012 (c.17) with effect in relation to financial years beginning on or after 1st April 2013. See section 146(6) of the Local Government Finance Act 1988 for the meaning of “prescribed”.

(b) S.I. 1992/2428; amended by S.I. 1999/3459, S.I. 2009/2543 and S.I. 2013/2974. There are other amendments and modifications but none is relevant.

(4) At the beginning of paragraph 6(2) insert “Subject to sub-paragraph (14) below and paragraph 7,”.

(5) In paragraph 6(4) for “Subject, in the financial year beginning on 1st April 2000, to sub-paragraphs (5) to (13) below,” substitute “Subject to sub-paragraphs (5) to (14) below and paragraph 7,”.

(6) After paragraph 6(13) insert—

“(14) In relation to the Isle of Wight Council and the financial year beginning on 1st April 2021 sub-paragraphs (1) to (4) apply with the following modifications—

- (a) the Hampshire and Isle of Wight Fire and Rescue Authority is treated as a relevant major precepting authority which, for the purposes of C and D, issued a precept of £3,347,939.09 for the year beginning on 1st April 2020 to the Isle of Wight Council;
- (b) B is the amount calculated (or last calculated) by the authority under section 97(1) of the 1988 Act for the year beginning on 1st April 2020 minus £3,347,939.09.”.

(7) After paragraph 6 insert—

“7.—(1) This paragraph applies to a billing authority where, as regards the financial year beginning on 1st April 2021, the exceptional balance in the authority’s collection fund for the preceding financial year calculated in accordance with Part 3 of this Schedule is a negative amount.

(2) As regards the financial years beginning on 1st April 2022 and 1st April 2023, paragraph 6(2) and (4) applies as if for the definition of “A” there were substituted—

“A is—

- (a) the amount of the surplus (expressed as a positive amount) or deficit (expressed as a negative amount), as the case may be, estimated by the authority under paragraph 2 of Part 1 of this Schedule for the year; less
- (b) an amount equal to one third of the exceptional balance expressed as a negative amount;

and where the resulting amount is—

- (c) greater than zero, A is a surplus;
- (d) less than zero, A is the equivalent positive amount and is a deficit;
- (e) zero, there is no surplus or deficit.”.

(3) As regards the financial years beginning on 1st April 2022 and 1st April 2023, subject to sub-paragraph (7) below, the amount of one third of the exceptional balance (expressed as a positive amount) which is to be borne by a billing authority for the year is calculated by applying the formula—

$$N \times \left(\frac{O}{O + P} \right)$$

where—

N is one third of the exceptional balance (expressed as a positive amount);

O is, subject to sub-paragraph (4), the amount calculated (or last calculated) by the authority under section 97(1) of the 1988 Act for the year beginning on 1st April 2020;

P is the aggregate of the amounts stated by any relevant major precepting authorities in precepts issued (or last issued) to the authority for the year beginning on 1st April 2020 under section 40(2)(b) of the 1992 Act.

(4) Where the amount last calculated by a billing authority under section 97(1) of the 1988 Act is a negative amount O is zero.

(5) Subject to sub-paragraphs (6) and (7) below, the amount of one third of the exceptional balance (expressed as a positive amount) which is to be borne by a relevant major precepting authority for the year shall be calculated by applying the formula—

$$N \times \left(\frac{Q}{O + P} \right) + R$$

where—

N, O and P have the same meanings as in sub-paragraphs (3) and (4);

Q is the amount stated by that precepting authority in a precept issued (or last issued) to a billing authority for the year beginning on 1st April 2020 under section 40(2)(b) of the 1992 Act;

R is the amount of any variation to any payment or instalment of a payment relating to a precept as agreed between the billing authority and that major precepting authority for the year beginning on 1st April 2020 under paragraph 6(3)(b) of Schedule 1A to the 1992 Act^(a), expressed as a negative amount where the calculation concerns a deficit.

(6) Where the amount given by sub-paragraph (5) is a negative amount, the billing authority is liable to pay the equivalent positive amount to that major precepting authority and must treat that equivalent positive amount for the purposes of regulation 3(6) as if it were that major precepting authority's share of a surplus in the collection fund for that year, calculated in accordance with regulation 11.

(7) Sub-paragraphs (2) to (6) apply to the Isle of Wight Council with the following modifications—

- (a) O has the same meaning as B in paragraph 6(14)(b); and
- (b) the Hampshire and Isle of Wight Fire and Rescue Authority is treated as a relevant major precepting authority which, for the purposes of P and Q, issued a precept of £3,347,939.09 to the Isle of Wight Council for the year beginning on 1st April 2020.

PART 3

Calculation of the exceptional balance

8.—(1) A billing authority's exceptional balance for the financial year beginning on 1st April 2021 is calculated in accordance with the formula—

$$S - T$$

where—

S is the billing authority's estimated surplus (expressed as a positive amount) or deficit (expressed as a negative amount) for the preceding year, calculated in accordance with Part 1 of this Schedule (but ignoring the effect of paragraph 2(7));

T is the billing authority's prior year balance, calculated in accordance with sub-paragraph (2) below.

(2) A billing authority's prior year balance for the year beginning on 1st April 2021 is calculated by applying the formula—

$$U + V - W - X$$

where—

U is the amount referred to in paragraph 2(3)(a);

V is the amount referred to in paragraph 2(3)(b)(iii);

(a) 1992 c.14; Schedule 1A was inserted by Schedule 4 to the Local Government Finance Act 2012 (c.17).

W is the amount referred to in paragraph 2(4)(a);
X is the amount referred to in paragraph 2(4)(b)(iii).”.

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

3. The Non-Domestic Rating (Rates Retention) Regulations 2013(a) are amended in accordance with regulations 4 and 5.

4. At the beginning of regulation 13(2), insert “Subject to Schedule 4B,”.

5.—(1) Schedule 4 is amended as follows.

(2) At the beginning of paragraph 1(3) insert “Subject to paragraph 1B,”.

(3) After paragraph 1A insert—

“Special provision for the relevant years beginning on 1st April 2021 and 1st April 2022

1B.—(1) This paragraph applies to a billing authority where, in the relevant year beginning on 1st April 2021, the exceptional balance the billing authority calculates in accordance with paragraph 1 of Schedule 4A is a negative amount.

(2) Where this paragraph applies—

- (a) for the relevant year beginning on 1st April 2021, a billing authority must include in the amount specified by paragraph 1(3) an amount equal to two thirds of the exceptional balance expressed as a positive amount;
- (b) for the relevant year beginning on 1st April 2022, a billing authority must include in the amount specified by paragraph 1(3) an amount equal to one third of the exceptional balance expressed as a positive amount.”.

(4) In paragraph 2—

- (a) at the beginning of sub-paragraph (1H) and (1I) insert “Unless Schedule 4B applies,”;
- (b) in sub-paragraph (2A)(e) after “2021,” insert “unless Schedule 4B applies,”;
- (c) at the beginning of sub-paragraphs (2E) and (7C) insert “Unless Schedule 4B applies,”.

(5) After Schedule 4 insert—

“SCHEDULE 4A

Regulation 13

Calculation of the exceptional balance

1. A billing authority’s exceptional balance is calculated as follows—

$$A - B + C$$

where—

A is the billing authority’s estimated surplus (expressed as a positive amount) or deficit (expressed as a negative amount) for the preceding year, calculated in accordance with paragraph 1(1) of Schedule 4 as if the billing authority were not subject to paragraph 1B of Schedule 4;

B is the billing authority’s prior year balance, calculated in accordance with paragraph 2 of this Schedule;

C is the amount of relevant rates relief awarded by the billing authority in the preceding year in accordance with paragraph 3.

(a) SI 2013/452, amended by SI 2014/96, 2017/496, 2018/463 and 2019/709. There are other amendments but none is relevant.

2. A billing authority's prior year balance is calculated as follows—

$$D + E - F - G$$

where—

D is the amount specified in paragraph 1(3)(a) of Schedule 4;

E is the amount specified in paragraph 1(3)(e) of Schedule 4;

F is the amount specified in paragraph 1(4)(a) of Schedule 4;

G is the amount specified in paragraph 1(4)(g) of Schedule 4.

3. In this Schedule, “relevant rates relief” is calculated in accordance with the formula—

$$H - J$$

where—

H is the billing authority's estimate of the amount of rates relief to be awarded in the preceding year in accordance with the following guidance—

- (a) “Expanded retail discount 2020 to 2021: coronavirus response – local authority guidance” published on 30th November 2018 and updated on 2nd April 2020(a);
- (b) “Business rates: nursery (childcare) discount 2020 to 2021: coronavirus response – local authority guidance” published on 20th March 2020 and updated on 2nd April 2020(b);
- (c) Annex A of “The case for a Business Rates Relief for local newspapers – Government Response”, published on 8th July 2015 and updated on 2nd December 2016(c), extended until 31st March 2025 by a Written Ministerial Statement on 27 January 2020 from the Financial Secretary to the Treasury(d);

J is the amount of rates relief that the billing authority estimated would be awarded in the preceding year in accordance with the guidance “Business Rates: Retail Discount 20/21 – Local Authority Guidance” published on 30th November 2018 and updated on 27th January 2020(e) when it calculated its non-domestic rating income for the purposes of regulation 3 for the year beginning on 1st April 2020.

SCHEDULE 4B

Regulation 13

Special provision for the apportionment of surplus or deficit for a relevant year beginning on 1st April 2021, 1st April 2022 or 1st April 2023

1. This Schedule applies to billing authorities listed in Parts 1 to 7, 15, 16, 19, 20 and 23 to 33 of Schedule 5 where, in the relevant year beginning on 1st April 2021, the exceptional

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- (a) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/919752/Expanded_Retail_Discount_Guidance_02.04.20.pdf. See also the Explanatory Note.
 - (b) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/877772/Nursery_discount_guidance_April_2020.pdf. See also the Explanatory Note.
 - (c) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/574420/Business_rates_review_Government_Response__1_.pdf. See also the Explanatory Note.
 - (d) <https://questions-statements.parliament.uk/written-statements/detail/2020-01-27/HCWS64>. See also the Explanatory Note.
 - (e) https://webarchive.nationalarchives.gov.uk/20200306131648/https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/861633/200129_Retail_Discount_Guidance.pdf. See also the Explanatory Note.

balance calculated by a billing authority in accordance with paragraph 1 of Schedule 4A is a negative amount.

2. In relation to a billing authority's estimate of any surplus or deficit under paragraph 1 of Schedule 4 for a relevant year beginning on 1st April 2021—

- (a) the Secretary of State's share of any surplus or deficit for that year estimated by a billing authority listed in the table in Schedule 4C, is calculated in accordance with the formula—

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

- (b) a relevant precepting authority's share is calculated in accordance with the formula—

$$((B + C - D - E + F) \times N\%) + ((G - H - J) \times O\%) + (J \times P\%)$$

- (c) the billing authority's share is calculated in accordance with the formula—

$$((B + C - D - E + F) \times Q\%) + ((G - H - J) \times R\%) + (J \times S\%)$$

3. In this Schedule—

B is the amount specified in paragraph 1(3)(a) of Schedule 4;

C is the amount specified in paragraph 1(3)(e) of Schedule 4;

D is the amount specified in paragraph 1(4)(a) of Schedule 4;

E is the amount specified in paragraph 1(4)(g) of Schedule 4;

F is the amount if any, included in respect of the previous relevant year in the calculation made in accordance with paragraph 1(3) of Schedule 4, by virtue of paragraph 1B(2) or (3);

G is the billing authority's estimated surplus (expressed as a positive amount) or deficit (expressed as a negative amount) for the relevant year, calculated in accordance with paragraph 1(1) of Schedule 4;

H is the sum of $(B + C - D - E + F)$;

J is one third of the exceptional balance calculated in accordance with paragraph 1 of Schedule 4A expressed as a negative amount;

K, L, M, N, O, P, Q, R and S have the values ascribed to them by the table in Schedule 4C.

SCHEDULE 4C Regulation 13 and Schedule 4B

Table of authorities and values for K, L, M, N, O, P, Q, R and S

Authority	K	L	M	N	O	P	Q	R	S
Billing Authorities listed in Part 1 of Schedule 5	25%	33%	33%	27% for the Greater London Authority	37% for the Greater London Authority	37% for the Greater London Authority	48%	30%	30%
Billing Authorities listed in Part 2 of Schedule 5	0%	0%	0%	1% for a fire and rescue authority	1% for a fire and rescue authority	1% for a fire and rescue authority	99%	99%	99%
Billing Authorities listed in Part 3 of Schedule 5	0%	0%	0%	1% for a fire and rescue authority	1% for a fire and rescue authority	1% for a fire and rescue authority	99%	99%	99%
Billing Authorities listed in Part 4 of Schedule 5	0%	0%	0%	1% for a fire and rescue authority	1% for a fire and rescue authority	1% for a fire and rescue authority	99%	99%	99%
Billing Authorities listed in Part 5 of Schedule 5	0%	0%	0%	5% for the West of England Combined Authority and 1% for a fire and rescue authority	5% for the West of England Combined Authority and 1% for a fire and rescue authority	5% for the West of England Combined Authority and 1% for a fire and rescue authority	94%	94%	94%
Billing Authorities listed in Part	0%	0%	0%	N/A	N/A	N/A	100%	100%	100%

Schedule 5	25%	50%	50%	36.5% for Leicestershire County Council and 1% for a fire and rescue authority	9% for Leicestershire County Council and 1% for a fire and rescue authority	9% for Leicestershire County Council and 1% for a fire and rescue authority	37.5%	40%	40%
Billing Authorities listed in Part 29 of Schedule 5									
Billing Authorities listed in Part 30 of Schedule 5	25%	50%	50%	32.5% for Norfolk County Council	10% for Norfolk County Council	10% for Norfolk County Council	42.5%	40%	40%
Billing Authorities listed in Part 31 of Schedule 5	25%	50%	50%	34% for Northamptonshire County Council and 1% for a fire and rescue authority	9% for Northamptonshire County Council and 1% for a fire and rescue authority	9% for Northamptonshire County Council and 1% for a fire and rescue authority	40%	40%	40%
Billing Authorities listed in Part 32 of Schedule 5	25%	50%	50%	21.5% for North Yorkshire County Council and 1% for a fire and rescue authority	9% for North Yorkshire County Council and 1% for a fire and rescue authority	9% for North Yorkshire County Council and 1% for a fire and rescue authority	52.5%	40%	40%
Billing Authorities listed in Part 33 of Schedule 5	25%	50%	50%	1% for a fire and rescue authority	1% for a fire and rescue authority	1% for a fire and rescue authority	74%	49%	49%

Billing Authorities listed in Part 34 of Schedule 5	25%	50%	50%	50%	N/A	N/A	75%	50%	50%
Billing Authorities listed in Part 35 of Schedule 5	25%	50%	50%	50%	30% for Somerset County Council and 1% for a fire and rescue authority	9% for Somerset County Council and 1% for a fire and rescue authority	44%	40%	40%
Billing Authorities listed in Part 36 of Schedule 5	25%	50%	50%	50%	1% for a fire and rescue authority	1% for a fire and rescue authority	74%	49%	49%
Billing Authorities listed in Part 37 of Schedule 5	25%	50%	50%	50%	34% for Staffordshire County Council and 1% for a fire and rescue authority	9% for Staffordshire County Council and 1% for a fire and rescue authority	40%	40%	40%
Billing Authorities listed in Part 38 of Schedule 5	25%	50%	50%	50%	55% for West Sussex County Council	10% for West Sussex County Council	20%	40%	40%
Billing Authorities listed in Part 39 of	25%	50%	50%	50%	74% for Worcestershire County Council and	9% for Worcestershire County Council and	0%	40%	40%*

Schedule 5				1% for a fire and rescue authority	1% for a fire and rescue authority	1% for a fire and rescue authority			
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Signed by authority of the Secretary of State for Housing, Communities and Local Government

Luke Hall

Minister of State

3rd November 2020

Ministry of Housing, Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Local Authorities (Funds) (England) Regulations 1992 (“the 1992 Regulations”) and the Non-Domestic Rating (Rates Retention) Regulations 2013 (“the 2013 Regulations”) in so far as they make provision for the discharge by a billing authority and its major precepting authorities of their liabilities to meet any estimated surplus or deficit in a billing authority’s collection fund.

Regulation 2 amends Schedule 2 to the 1992 Regulations which provide for the estimation and apportionment of, and liability for, a surplus or deficit in a billing authority’s collection fund. These amendments provide that liabilities for a negative exceptional balance for the financial year beginning on 1st April 2021 can be met over a period of three years. Amendments are also made to provide that the surplus or deficit calculated by the Isle of Wight Council can be apportioned to the Hampshire and Isle of Wight Fire and Rescue Authority which will assume the Council’s fire functions on 1st April 2021.

Regulations 4 and 5 amend regulation 13 of, and insert paragraph 1B of Schedule 4, and new Schedules 4A and 4B to, the 2013 Regulations. These amendments amend the way in which billing authorities calculate their estimated surplus or deficit on their collection fund in respect of non-domestic rating income for the relevant years beginning on 1st April 2021 and 1st April 2022. These amendments require billing authorities to spread their exceptional balance for a relevant year over a period of three relevant years ending with the relevant year beginning on 1st April 2023.

In calculating its exceptional balance, new Schedule 4A requires a billing authority to estimate the amount of rates relief it awarded in the preceding year in accordance with guidance issued by the Ministry of Housing, Communities and Local Government, and a Written Ministerial Statement from the Financial Secretary to the Treasury. Hard copies of the guidance, as well as the Written Ministerial Statement can be obtained free of charge by writing to the Local Government Finance Team, the Ministry of Housing, Communities and Local Government, 2 Marsham Street, Westminster, London, SW1P 4DF. Hard copies can also be inspected at the same address.

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen. The impact on the public sector is minimal.

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