

## EXPLANATORY MEMORANDUM TO

### THE NON-DOMESTIC RATING (DESIGNATED AREAS) REGULATIONS 2023

2023 No. 175

#### **1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department for Levelling Up, Housing and Communities and is laid before Parliament by Command of His 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 to designate an area 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 whose areas are designated. The government refers to these as Freeport tax sites.

#### **3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments.*

- 3.1 None.

#### **4. Extent and Territorial Application**

- 4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.
- 4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

#### **5. European Convention on Human Rights**

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

#### **6. Legislative Context**

- 6.1 The non-domestic rating system in England and Wales is established by the Local Government Finance Act 1988 (“the 1988 Act”). The Local Government Finance Act 2012 inserted Schedule 7B into the 1988 Act which provides for the local retention of non-domestic rates collected in England.
- 6.2 Part 10 of Schedule 7B enables the Secretary of State to make regulations designating areas and to provide for the calculation of the non-domestic rating income in respect of the hereditaments<sup>1</sup> within a designated area to be disregarded for the purpose of various calculations required under the rates retention scheme.

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<sup>1</sup> A hereditament is a unit of property which is subject to rating.

- 6.3 The Non-Domestic Rating (Designated Areas) Regulations 2023 designate the areas by reference to maps<sup>2</sup> and specify that the Local Authority (LA) area in which the designated areas are located will be permitted to retain 100% of the business rates growth above an agreed baseline. This designation will have effect for 25 years from 1<sup>st</sup> April 2023. This means that paragraph 39(9) of Schedule 7B applies, which provides that the regulations may not be revoked during that period and the amendments which may be made during that period are limited.

## **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, in the most part, been set at 50:50. In the last few years Designated Areas have increasingly been used as a tool that can be used to deliver policy outcomes, such is the case with Enterprise Zones. Designated Areas are also to be used as a measure in Freeports.
- 7.3 Freeports are special areas that will function as national hubs for global trade, investment and innovation and level up communities across the UK. 8 Freeport locations in England were announced in the March 2021 Budget. These Regulations designate the Freeport tax sites in the East Midlands, Felixstowe & Harwich (Freeport East), Liverpool City Region, Plymouth & South Devon, Solent, and Teesside.
- 7.4 To support Freeports to deliver on their objectives, these 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 the Freeport tax sites. This will then allow the growth in those Freeport sites to be retained 100% by the billing authority. These Regulations also provide rules for calculating the amount to be disregarded.

## **8. European Union Withdrawal and Future Relationship**

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

## **9. Consolidation**

- 9.1 These Regulations do not amend another instrument.

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<sup>2</sup> Copies of the maps referred to may be inspected free of charge by prior appointment with the Department for Levelling Up, Housing and Communities Business Rates Retention Team at 2 Marsham Street, London, SW1P 4DF and the principal office of the billing authority.

## **10. Consultation outcome**

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

## **11. Guidance**

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

## **12. Impact**

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 The impact on the public sector is that, while the overall amount of non-domestic 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.
- 12.3 A full Impact Assessment has not been prepared for this instrument. A Tax Information and Impact Note covering the designation of Freeport sites was published on 3 March 2021 alongside the Spring Budget 2021 and is available at: <https://www.gov.uk/government/publications/designation-of-freeport-tax-sites>.

## **13. Regulating small business**

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

## **14. Monitoring & review**

- 14.1 The Government keeps the non-domestic rating system under review.<sup>3</sup>

## **15. Contact**

- 15.1 Odekunle Odebunmi at the Department for Levelling Up, Housing and Communities, email: [Odekunle.Odebunmi@levellingup.gov.uk](mailto:Odekunle.Odebunmi@levellingup.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Suzanne Clarke, Deputy Director for Local Government Finance Reform and Pensions, at the Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Lee Rowley at the Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.

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<sup>3</sup> The instrument, which is in connection with a local taxation regime, is not subject to the duty to review regulatory provisions in secondary legislation in section 28 of the Small Business, Enterprise, and Employment Act 2015.