
STATUTORY INSTRUMENTS

2023 No. 446

**The Hartlepool Development
Corporation (Functions) Order 2023**

Part 1

General

Citation and commencement

1.—(1) This Order may be cited as the Hartlepool Development Corporation (Functions) Order 2023.

(2) Parts 1, 3 and 4 of this Order come into force on 12th May 2023.

(3) Part 2 of this Order comes into force on 1st June 2023.

Interpretation

2. In this Order—

“the 1980 Act” means the Local Government, Planning and Land Act 1980⁽¹⁾;

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

“the 1990 Act” means the Town and Country Planning Act 1990⁽²⁾;

“certification date” means the date on which the certified non-domestic rating income for the relevant year is certified under regulation 9 of the Rates Retention Regulations⁽³⁾;

“certified non-domestic rating income” has the same meaning as in regulation 9(4) of the Rates Retention Regulations;

“the Corporation” means the body corporate known as the Hartlepool Development Corporation established by article 3 of the Hartlepool Development Corporation (Establishment) Order 2023⁽⁴⁾;

“deficit” has the meaning given by article 14(2)(b);

“the development area” means the area of land described as a Mayoral development area in article 2 of the Hartlepool Development Corporation (Establishment) Order 2023;

“estimated compensation amount” has the meaning given by article 11(1);

“final compensation amount” has the meaning given by article 11(2);

“the Hazardous Substances Act” means the Planning (Hazardous Substances) Act 1990⁽⁵⁾;

(1) 1980 c. 65.

(2) 1990 c. 8.

(3) S.I. 2013/452; relevant amending instruments are S.I. 2015/628, 2016/1268, 2017/1321, 2020/449, 2021/262, 404, 2022/784.

(4) S.I. 2023/104.

(5) 1990 c. 10.

“the Listed Buildings Act” means the Planning (Listed Buildings and Conservation Areas) Act 1990(6);

“non-domestic rating income” has the same meaning as in regulation 3(3) of the Rates Retention Regulations;

“planning document” means any notice, certificate, publicity, consultation or other document relating to the exercise of functions under the 1990 Act, the Listed Buildings Act or any order or regulation having effect under those Acts;

“preceding year” means the financial year(7) immediately preceding the relevant year;

“previous authority” means—

- (a) in relation to Part 2, a local planning authority which, by virtue of section 7A(2) of the 1990 Act(8) and article 3, ceases to be the local planning authority for a part of the development area; and
- (b) in relation to Parts 3 and 4, a billing authority which, by virtue of section 214(8) of the 2011 Act and article 8, ceases to have the functions mentioned in section 214(2) of the 2011 Act;

“Rates Retention Regulations” means the Non-Domestic Rating (Rates Retention) Regulations 2013(9);

“relevant year” means the financial year for which a calculation of an estimated compensation amount or final compensation amount is made;

“section 151 officer” means the person who is for the time being appointed by the previous authority to be responsible for the administration of its financial affairs(10);

“surplus” has the meaning given by article 14(2)(a);

“the Tree Preservation Regulations” means the Town and Country Planning (Tree Preservation) (England) Regulations 2012(11).

Part 2

Planning functions

Planning functions of the Corporation

3. Subject to article 7, the Corporation is the local planning authority for the development area for the purposes of Part 3 of the 1990 Act.

Additional functions conferred on the Corporation

4. In relation to the development area the Corporation has the functions conferred by the provisions of the 1990 Act and the Listed Buildings Act specified in Part 1 of Schedule 29 to the 1980 Act(12).

(6) 1990 c. 9.

(7) See section 145(3) of the Local Government Finance Act 1988 for the meaning of “financial year”.

(8) Section 7A was inserted by paragraph 32 of Schedule 22 to the Localism Act 2011.

(9) S.I. 2013/452.

(10) See section 151 of the Local Government Act 1972 (c. 70).

(11) S.I. 2012/605.

(12) Part 1 of Schedule 29 was substituted by paragraph 44(12) of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c. 11), and amended by paragraph 17 of Schedule 3 and paragraph 5 of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34).

Modification of references to urban development corporations

5.—(1) For the purposes of exercising functions transferred by this Part, any reference in an enactment to an urban development corporation is to be construed, so far as is required for giving effect to the enactment, as including a reference to the Corporation.

(2) In paragraph (1) ‘urban development corporation’ means an urban development corporation established under section 135 of the 1980 Act(13).

Modification of the 1990 Act and the Listed Buildings Act

6. The provisions of the 1990 Act and the Listed Buildings Act specified in Part 2 of Schedule 29 to the 1980 Act(14) have effect in relation to the Corporation and to the development area with the modifications specified in that Part.

Transitional provision in relation to planning functions

7. Schedule 1 makes transitional provision in relation to functions transferred to the Corporation by virtue of this Part which were exercised by a previous authority prior to 1st June 2023.

Part 3

Discretionary relief from non-domestic rates

Powers in relation to discretionary relief from non-domestic rates

8.—(1) Subject to article 10,—

- (a) in relation to qualifying hereditaments in the Mayoral development area, the Corporation has the functions conferred by section 47(3) and (6) of the 1988 Act(15) to the effect that section 47 of the 1988 Act applies as regards a hereditament, and
- (b) in relation to a hereditament as regards which section 47 of the 1988 Act applies as a result of a decision made by the Corporation, the Corporation has the function of making the determinations mentioned in section 47(1)(a) of the 1988 Act.

(2) In paragraph (1) ‘qualifying hereditament’ has the same meaning as in section 214(9) of the 2011 Act.

Modification of references to billing authority

9.—(1) For the purposes of exercising functions transferred by this Part, any reference in an enactment to a billing authority is to be construed, so far as is required for giving it effect, as including a reference to the Corporation.

(2) Paragraph (1) does not apply to the reference in section 47(5A) of the 1988 Act to a billing authority.

(13) Section 135 was amended by section 179(4) of the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28) and section 167 of the Housing and Planning Act 2016 (c. 22)

(14) Part 2 of Schedule 29 was amended by paragraph 44(13) of Schedule 2 to the Planning (Consequential Provisions) Act 1990.

(15) Section 47(3) was amended by paragraph 65 of Schedule 13 to the Local Government Finance Act 1992 (c. 14) and section 69(4) of the Localism Act 2011.

Transitional provision in relation to non-domestic rates functions

10. Schedule 2 makes transitional provision in relation to functions transferred to the Corporation by virtue of this Part which were exercised by a previous authority prior to 12th May 2023.

Part 4

Payments in respect of discretionary relief from non-domestic rates

Compensation amounts

11.—(1) The estimated compensation amount for a previous authority for a relevant year is the amount calculated in accordance with the formula—

$$A \times (C - B) - D$$

(2) The final compensation amount for a previous authority for a relevant year is the amount calculated in accordance with the formula—

$$A \times (F - E) - G$$

(3) For the purposes of this article—

“A” is the percentage that is the previous authority’s local share for the relevant year as determined in accordance with paragraph 4 of Schedule 7B to the 1988 Act⁽¹⁶⁾;

“B” is the previous authority’s non-domestic rating income for the relevant year;

“C” is the amount that, in the opinion of the section 151 officer, would have been the previous authority’s non-domestic rating income for the relevant year if, in respect of any day in the relevant year or any day in a preceding year, any determination by the Corporation under section 47 of the 1988 Act had not been made;

“D” is the amount which the previous authority estimates will be paid by the Secretary of State to the previous authority, or to a major precepting authority in relation to that authority, to compensate for the amount of relief granted to ratepayers by the Corporation under section 47 of the 1988 Act for the relevant year;

“E” is the previous authority’s certified non-domestic rating income for the relevant year;

“F” is the amount that, in the opinion of the section 151 officer, would have been the previous authority’s certified non-domestic rating income for the relevant year if, in respect of any day in the relevant year or any day in a preceding year, any determination by the Corporation under section 47 of the 1988 Act had not been made;

“G” is the amount paid, or to be paid, by the Secretary of State to the previous authority, or to a major precepting authority in relation to that authority, to compensate for the amount of relief granted to ratepayers by the Corporation under section 47 of the 1988 Act for the relevant year.

Calculation of estimated compensation amount

12. For each financial year commencing on or after 1st April 2024 and for each previous authority the Corporation must—

(a) calculate the amount that is its estimated compensation amount;

(16) Schedule 7B was inserted by Schedule 1 to the Local Government Finance Act 2012 (c. 17).

- (b) on or before 31st January in the preceding year, notify the Secretary of State and the previous authority of the amount that has been calculated.

In-year payments

13.—(1) For each financial year commencing on or after 1st April 2024, and for each previous authority, the Corporation must make a payment to the relevant authority of an amount equal to the estimated compensation amount for the relevant year.

(2) The payment under paragraph (1) must be made in 12 instalments during the relevant year such that—

- (a) the first instalment is payable on 30th April, and
- (b) the subsequent instalments are payable on the 19th day of each of the following 11 months starting in May.

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

(4) The first four instalments are each to be of 9% of the amount payable for the relevant year and each other instalments is to be 8% of the amount payable for the relevant year.

(5) In this paragraph “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(17).

End of year calculations

14.—(1) Before the end of the period of 14 days beginning with the certification date, for each previous authority the Corporation must—

- (a) calculate the final compensation amount;
- (b) for each financial year commencing on or after 1st April 2024, calculate whether there is a surplus or deficit in accordance with paragraph (2) and, if so, the amount of the surplus or deficit;
- (c) notify the Secretary of State and the previous authority of the amounts that have been calculated.

(2) Where the amount paid to a previous authority under article 13(1) is—

- (a) more than the final compensation amount for that authority, there is a surplus, the amount of which is the difference;
- (b) less than the final compensation amount for that authority, there is a deficit, the amount of which is the difference;
- (c) the same as the final compensation amount for that authority, there is no surplus or deficit.

End of year reconciliation

15.—(1) For each financial year commencing on or after 1st April 2024 and for each previous authority—

- (a) where there is a surplus, the previous authority must make a payment to the Corporation of an amount equal to the amount of the surplus for that authority;
- (b) where there is a deficit, the Corporation must make a payment to the previous authority of an amount equal to the amount of the deficit for that authority.

(2) For the financial year commencing on 1st April 2023, the Corporation must make a payment to the relevant authority for the final compensation amount for that year.

(3) Any payments under this article must be made before the end of the period of 14 days beginning with the certification date.

Interest on amounts payable

16.—(1) This article applies if all or part of a payment due under articles 13 or 15 is unpaid by the time when it is required to be paid.

(2) Interest is payable on the amount outstanding for every day of the period beginning with the day on which the amount was due to be paid and ending on the day before the day on which it is paid.

(3) The unpaid amount for the time being carries interest at the rate which is 2 per cent above the highest base rate quoted by any of the reference banks at anytime in the period for which that interest is payable.

(4) The interest is to be paid at the same time as the amount outstanding is paid.

(5) For the purposes of paragraph (3), the reference banks are the seven largest persons for the time being who—

- (a) have permission under Part 4A of the Financial Services and Markets Act 2000⁽¹⁸⁾ to accept deposits,
- (b) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits, and
- (c) quote a base rate in sterling.

(6) For the purposes of paragraph (5), the size of a person is to be determined by reference to the total consolidated gross assets of that person denominated in sterling, as shown in the audited end-year accounts last published before the period for which interest is payable begins.

(7) In this article, the “consolidated gross assets” of a person is a reference to the gross assets of that person together with any subsidiary (within the meaning of section 1159 of the Companies Act 2006⁽¹⁹⁾).

(8) Paragraph (5) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000,
- (b) any relevant order under that section, and
- (c) Schedule 2 to that Act.

Variation agreements

17.—(1) In relation to any amounts payable under this Part, the Corporation and a previous authority may agree that different amounts are payable or that payments may be made at different times.

(2) Where an agreement is made under paragraph (1), the Corporation must notify the Secretary of State of what has been agreed before the end of the period of 14 days beginning with the date the agreement is made.

Recovery

18. Where an amount has become payable by a previous authority or the Corporation under articles 13, 15 or 16 and it has not been paid, it is recoverable in a court of competent jurisdiction.

⁽¹⁸⁾ 2000 c. 8. Part 4A was substituted, for Part 4, by section 11(2) of the Financial Services Act 2012 (c. 21).

⁽¹⁹⁾ 2006 c. 46.

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

19th April 2023

Dehenna Davison
Parliamentary Under Secretary of State
Department for Levelling Up, Housing and
Communities