

# LOCAL GOVERNMENT ACT 2003

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 5: Non-Domestic Rates**

##### ***Section 60: Submission of proposed rating lists***

101. Under sections 43(4) and 54(4) of the Local Government Finance Act 1988 the rate bill of a property is its rateable value multiplied by the national rate multiplier.
102. Every five years on 1 April all properties are re-valued by the valuation officers. Under the current legislation - sections 41(5) and 52(5) of the 1988 Act - the rating lists have to be published in draft 3 months before they come into force on 1 April. To give ratepayers more time to plan ahead to accommodate changes in their rateable values this section requires publication 6 months before.

##### ***Section 61: Small business relief***

103. Research published by the Government shows rates to be an especially heavy burden for small businesses, accounting for a significantly higher proportion of operating profits than in the case of larger businesses. This section will allow a reduction in the rate bills of small businesses, funded in England (see section 64) by a supplement on the bills of other ratepayers.
104. **Section 61** amends section 43 of the Local Government Finance Act 1988 so that where specified conditions are met the rate bill for a property will be reduced by an amount prescribed by the Secretary of State, as respects England, and National Assembly for Wales, as respects Wales.
105. The section confers on the Secretary of State, and as the case may be, the National Assembly for Wales the power to prescribe the details of the scheme. This power will be used to implement the scheme as set out in the White Paper *Strong Local Leadership - Quality Public Services* (December 2001). In England, mandatory rate relief will be available at 50% for properties up to £3,000 rateable value, and will then decline on a sliding scale as rateable value increases reaching no relief at £8,000 rateable value. In England, to qualify for relief a business will have to apply to the local authority declaring that it only occupies the one property for which it is claiming relief.
106. **Section 61(7)** provides that billing authorities in Wales may grant discretionary relief to top up the mandatory small business relief scheme in Wales.

##### ***Section 62: Calculation of non-domestic rating multiplier***

107. Funding small business relief in England: Schedule 7 to the Local Government Finance Act 1988 sets out the rules for calculating the national rating multiplier. Section 62 provides for two multipliers instead of, as now, one. The two will be:
  - a small business non-domestic rating multiplier, and

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- a non-domestic rating multiplier.

In Wales, the current position remains unchanged - there will only be one multiplier, the non-domestic rating multiplier.

108. In England, for any year in which a small business rate relief scheme is run under section 61 the second multiplier, the non-domestic rating multiplier, will be set at a higher level than the small business non-domestic rating multiplier. The second multiplier will be increased so as to produce an addition to rate yield equal to the rate yield lost through small business relief. In the case of the City of London special provision is made. The City currently has the power to set a multiplier for its area either higher or lower than the national multiplier (paragraph 9 of Schedule 7 to the Local Government Finance Act 1988). Section 62(11) provides that the small business non-domestic rating multiplier for the City will be the same proportion of the City's multiplier as the national small business multiplier is of the national multiplier.
109. Offsetting losses in yield from appeals – England and Wales: there are special rules in paragraph 4 of Schedule 7 to the Local Government Finance Act 1988 on the calculation of a multiplier in the year of a revaluation. Under the 1988 Act, all non-domestic properties are revalued every five years starting in 1990. The purpose of such revaluations is not to change the yield from rates in real terms, but to redistribute the rate burden in line with movements in the property market since the last revaluation. If there is a significant increase in total rateable value at a revaluation then the multiplier must be reduced. If there is a significant decrease in value the multiplier must be increased. Thus in a revaluation year the calculation of the multiplier includes an adjustment to offset changes in the total rateable value between 31 March, the last day of the old list, and 1 April, the first day of the new lists. However the value for 1 April is subject to 'erosion', through subsequent successful appeals by ratepayers for reductions in rateable values having retrospective effect from 1 April (generating refunds to ratepayers in respect of rates paid from that date). Therefore the Secretary of State, as respects England, and National Assembly for Wales, as respects Wales, is required to estimate what will be shown for 1 April once the effect of successful appeals has been allowed for. It is this estimate which is then taken as the value for 1 April when making the adjustment to the multiplier to offset the effect of the revaluation.
110. This estimate is difficult to make. Accordingly section 62 allows adjustments in the multipliers for subsequent years to compensate for any error in estimation at the revaluation.

***Section 63: Rural settlement lists etc***

111. This section repeals for Wales the mandatory and discretionary rate relief in the rural rate relief scheme (which is established by provisions in sections 42A, 43(6B) and 47(3A) of the Local Government Finance Act 1992) through amending the existing provisions so that they apply to England only. The repeals will be brought into force by commencement order made by the National Assembly for Wales.

***Section 64: Rate relief for community amateur sports clubs***

112. This section amends sections 43, 45, 47, 48 and 67 of the Local Government Finance Act 1988. Sections 43, 45, 47 and 48 of the 1988 Act provide mandatory and discretionary rate relief for both the occupied and unoccupied rates.
113. Registered community amateur sports clubs (CASC's) under Schedule 18 to the Finance Act 2002 will be eligible for mandatory and discretionary rate relief as provided under the relevant sections of the Local Government Finance Act 1988. The section also makes discretionary rate relief unavailable to registered CASC's that occupy excepted premises. Excepted premises are properties occupied by local authorities, precepting authorities etc.

114. In addition, the section also amends the section 67 of the 1988 Act to take account of the provisions for retrospective registration and de-registration in paragraph 11 of the Schedule 18 to the Finance Act 2002. The section makes it clear that a registered CASC's right to rate relief starts on the date of registration (even where that date is a retrospective date) and ends with the date of termination of registration (even if that date is a retrospective date).

***Section 65: Transitional relief***

115. Transition schemes were established at the 1990, 1995 and 2000 revaluations to allow ratepayers time to adjust to changes in their bills, with both significant increases and decreases resulting from changes in rateable values being phased in by annual stages. This section provides that in future in England there always must be a transition scheme established at a revaluation: the current provision, section 58 of the Local Government Finance Act 1988 confers a power on the Secretary of State to establish a scheme, but does not impose a duty on him to do so. As a result of subsection (2) of the section, section 58 will in future apply in Wales only. The 1988 Act originally required transition schemes to be self-financing: the amount of rate income lost in any year through phasing in increases in bills had to be off-set by the rate income gained from phasing in decreases. The Act was however subsequently amended to allow the Exchequer, i.e. the general taxpayer, to contribute to the cost of transition schemes. Under both the 1990 and 1995 schemes there was a net loss in rate income which the Exchequer made good so that local authorities did not lose out.
116. This section imposes the requirement for future transition schemes in England to be self-financing. It allows for this to be achieved by adjusting the chargeable amount or the component elements through which the chargeable amount is calculated. The methods likely to be used include making a transition scheme which balances the rates lost through phasing in increases in bills against the rates gained by phasing in decreases, or meeting the costs of phasing in increases through what in effect amounts to a supplement on the multiplier. This section allows for either approach or a combination.
117. The details of future transition schemes in England - the maximum annual increases allowed in bills and whether they are to be funded by the phasing of decreases or through what in effect amounts to a supplement on the multiplier - will be decided in the light of the outcome of each revaluation, during the year before it takes effect. Section 65 accordingly provides for the details of schemes to be prescribed in regulations.

***Section 66: Rating of meters***

118. Gas, electricity and water meters used to measure supply to consumers are subject to rating where the meters belong to the operator of the supply network.
119. The utility markets are being opened up to competition. This applies to competition in the provision of gas and electricity metering services. There has not been any decision on whether there should be competition in water metering services; most water supply to domestic properties is unmetered.
120. However under present rating legislation the network operators could face unfair competition from new companies providing separate metering services. At present no rates are payable in respect of a meter attached to a distribution network where the meter does not belong to the network operator. Thus while a network operator has to pay rates on its meters, its competitors in the provision of metering services would not pay rates on their meters attached to that operator's network.
121. **Section 66** makes meters subject to rating whether they belong to the network operator or a separate metering company. (Meters which belong to the consumer will however, as now, be outside rating.)

***Section 67: Exemptions for agricultural buildings***

122. Schedule 5 to the Local Government Finance Act 1988 sets out the conditions that must be met if land and buildings are to be deemed to be agricultural and thereby entitled to exemption from rates. Section 67 amends the Schedule to reflect modern farming practices so that where farmers work on other agricultural land, perhaps on a share or contract basis, or through the pooling of resources or machinery, the exemption will apply.
123. **Section 67** also amends the Schedule with regard to premises used for ancillary activities such as food processing and packaging. At present, the exemption applies provided that the occupier of the premises is a company and any of the members of that company is an occupier of related agricultural land. The amendments will ensure that the exemption will only apply to such premises where the company is controlled by occupiers of related agricultural land.

***Section 68: Exemptions for places of religious worship***

124. Under paragraph 11 of Schedule 5 to the Local Government Finance Act 1988, a place of public religious worship is exempt from non-domestic rates if it belongs to the Church of England or the Church in Wales or is certified as required by law as a place of religious worship. Certification is carried out at present under the Places of Worship Registration Act 1855. Section 41 of the Marriage Act 1949 provides that certified places of religious worship may apply for and be registered by the Registrar General for the purposes of marriage. Under proposals in the White Paper 'Civil Registration: Vital Change' marriages would be able to take place anywhere and it would no longer be necessary for certified places of religious worship to be registered for the purposes of marriage. As a consequence it is likely the 1855 Act will be repealed. Section 68 amends the exemption so that a certificate is no longer required as proof of entitlement to the exemption.

***Section 69: Removal of power to prescribe rateable values***

125. Under paragraph 3 of Schedule 6 to the Local Government Finance Act 1988 the Secretary of State or National Assembly for Wales may disapply the standard rules for determining rateable values contained in paragraph 2 of the Schedule and instead prescribe values by order. This power was used in 2000 to prescribe rateable values for properties such as the railways, ports and harbours, and gas, electricity and water supply networks.
126. **Section 69** will repeal paragraph 3 of Schedule 6. As a consequence at the next revaluation on 1 April 2005 all properties will be valued by valuation officers using the rules in paragraph 2, with all ratepayers having a right of appeal to independent valuation tribunals if they think their rateable values incorrect: where values are prescribed there is no such right of appeal.

***Section 70: Local retention of non-domestic rates***

127. Schedule 8 to the Local Government Finance Act 1988 provides that non-domestic rates revenues collected by billing authorities must be paid to the Secretary of State who then distributes them to local authorities. This section inserts new provisions into paragraphs 4 and 5 of Schedule 8 to the 1988 Act amends section 99 of the 1988 Act and amends section 38 of the Local Government (Wales) Act 1994. The amendments enable the Secretary of State, as respects England, and the National Assembly for Wales, as respects Wales, to put in place a scheme to allow the local retention of non-domestic rates.
128. This will allow the Secretary of State and the National Assembly for Wales to implement a local authority business growth incentives scheme, announced by the Chancellor of the Exchequer in the Pre-Budget Report in Autumn 2002. The Deputy

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Prime Minister and the Chancellor of the Exchequer jointly launched a consultation document on 4 July 2003 which outlines the principles behind the scheme and suggests a number of options. The scheme will provide a financial incentive for business and local authorities to work in partnership to maximise local economic growth and regeneration while at the same time generating additional resources to address local priorities.

129. The section confers powers on the Secretary of State and the National Assembly of Wales to make rules regarding the local retention of rates revenue. New paragraph 4(4A) (inserted by subsection (1) of section 70) allows some or all of a billing authority's rates revenue to be retained, based on rules. New paragraph 4(4B) excludes the City of London Corporation from the scheme. However, the Secretary of State is able to provide for the local retention of rates revenue of the Corporation under existing City of London Corporation legislation. New paragraph 4(4D) requires the Secretary of State to obtain consent of the Treasury when setting up the scheme in England. Treasury consent would not be required in Wales.
130. Subsection (2) of section 70 amends paragraph 5 of Schedule 8 to the 1988 Act, to require the billing authority to notify the Secretary of State, as respects England, and the National Assembly for Wales, as respects Wales, of the amount of non-domestic rates revenue that it is retaining locally under the rules set by the Secretary of State or the National Assembly for Wales. It also requires the billing authority to arrange for the District Auditor to certify the amount so retained. Subsection (3) of section 70 requires the Audit Commission to forward a copy of this certificate to the Secretary of State or National Assembly for Wales.
131. Subsections (4), (5) and (6) of section 70 amend section 99 of the Local Government Finance Act 1988 to enable the Secretary of State to allocate the retained revenue between major precepting authorities, as he sees fit. This enables the allocation of the retained revenue between various tiers of local government. Subsections (7), (8) and (9) of section 70 amend section 38 of the Local Government (Wales) Act 1994 to allow the National Assembly for Wales to do the same thing in Wales. Paragraph 58 of Schedule 7 to the Act amends the 1994 Act to facilitate the Assembly's new regulation-making powers.

***Section 71: Adjustments for hardship relief***

132. Local authorities which collect rates ('billing authorities') may grant hardship relief to ratepayers under section 49 of the Local Government Finance Act 1988. But if they do so they must meet a prescribed percentage of the cost of granting this rate relief: they have to pay this sum to the Secretary of State or the National Assembly for Wales. The percentage is set in regulations which because of the provisions of Schedule 8 to the Act cannot be amended in respect of a financial year after the preceding 31 December. Section 71 will allow an amendment to the regulations reducing (but not increasing) the percentage of hardship relief to be met by authorities to have effect in respect of a particular year even if made after 31 December of the preceding year.

***Section 72: Provision of information***

133. Rateable values are based on rental values. In preparing for a revaluation the valuation officers therefore send forms requesting rental information to a selection of ratepayers. A ratepayer who does not return a form within 21 days is at risk of being convicted of a criminal offence (paragraph 5 of Schedule 9 to the Local Government Finance Act 1988).
134. [Section 72](#) will extend the period by which forms must be returned to 56 days, and will replace the criminal sanction with fixed civil penalties.