EXPLANATORY MEMORANDUM TO

THE ASSISTED AREAS (AMENDMENT) ORDER 2017

2017 No. 173

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Business, Energy and Industrial Strategy and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument amends the Assisted Areas Order 2014 ("the 2014 Order") which specifies areas as Assisted Areas for the purposes of the Industrial Development Act 1982 and the Derelict Land Act 1982. The Assisted Areas specified in the 2014 Order reflect the UK's regional aid map for 2014-2020 which was approved by the European Commission under the European Commission Guidelines on regional State aid for 2014-2020 (OJ C 23.07.2013). This instrument amends the 2014 Order to reflect changes to the UK regional aid map from 1 January 2017.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to the negative procedure, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 This instrument is made under section 1 of the Industrial Development Act 1982 which provides that the Secretary of State may by order specify any area of Great Britain as a development area or an intermediate area, known collectively as Assisted Areas.

4.2 This instrument amends the 2014 Order which specifies development areas for the purposes of the Industrial Development Act 1982 and the Derelict Land Act 1982. These Acts provide that the Secretary of State may provide financial assistance in development areas where certain conditions are met.

4.3 Article 107 of the Treaty on the Functioning of the European Union ("TFEU") prohibits the granting of aid through Member State resources which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods, insofar as it affects trade between Member States. However, on the basis of Article 107(3)(a) and Article 107(3)(c) of the TFEU, the Commission may consider compatible with the internal market State aid to promote the economic development of certain disadvantages areas within the European Union. This is known as regional aid.

4.4 In order to grant regional aid, Member States are required to designate a list of areas in a regional aid map for the period 2014-2020, in accordance with the European Commission Guidelines on regional State aid for 2014-2020 (OJ C 209 23.7.2013) ("the Guidelines"). The European Commission granted approval of the UK's regional aid map for 2014-2020 on 21 May 2014 (SA.38113). The list of Assisted Areas specified in the 2014 Order reflects the UK's regional aid map for 2014-2020.

4.5 The Guidelines provide for a mid-term review of the regional aid maps in June 2016. Accordingly, on 25 June 2016 the European Commission published a Communication amending Annex I to the Guidelines (OJ C231 25.06.2016) ("the Communication"). The Annex to this Communication identified the NUTS 2 region of Durham and Tees Valley as a region that could qualify for regional aid under Article 107(3)(a) TFEU with a standard aid intensity ceiling of 25% for larger enterprises from the period 1 January 2017 until 31 December 2020. Under the 2014-2020 UK regional aid map approved by the Commission on 21 May 2014, only parts of the Tees Valley and Durham region are designated as Article 107(3)(c) areas.

4.6 The European Commission invited Member States to notify amendments to their regional aid maps by 1 September 2016. Accordingly, the UK notified a proposed amendment to the UK regional aid map in line with the provisions of the Communication.

4.7 The European Commission granted approval of the amendment to the UK regional aid map on 5 October 2016 (SA.46361) with effect from 1 January 2017. This instrument amends the 2014 Order to reflect this change to the UK regional aid map, as a consequence of the Commission's approval.

5. Extent and Territorial Application

5.1 The extent of this instrument is Great Britain.

5.2 The territorial application of this instrument is Great Britain.

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.

7. Policy background

What is being done and why

7.1 The 2014 Order specifies Assisted Areas for the purposes of the Industrial Development Act 1982 and the Derelict Land Act 1982. The Assisted Areas specified in the 2014 Order reflect the UK's regional aid map for 2014-2020 which was approved by the European Commission in accordance with the Guidelines on 21 May 2014 (SA.38113).

7.2 Member States must designate Assisted Areas in accordance with the Guidelines. The Guidelines include a limit on the coverage allowed to each Member State; for the UK this limit is 27.05% of the UK's population being resident within Assisted Areas, increased from 23.09% in the period 2007 to 2013.

7.3 The Guidelines provide for three types of Assisted Area designation, of which two are predefined by the European Commission. "a" areas (included in Schedule 1 to the 2014 Order) are those that have a gross domestic product ("GDP") per capita of equal

or less than 75% of the EU average. Aid recipients in "a" areas can qualify for higher aid intensities than those in "c" areas. Pre-defined "c" areas (included in Part 1 of Schedule 2 to the 2014 Order) are those which the European Commission has defined as sparsely populated. Maximum aid intensities in predefined "c" areas are higher than those in non-predefined "c" areas. Non-predefined "c" areas (included in Part 2 of Schedule 2 to the 2014 Order) are those where Member States have some flexibility to allocate coverage, provided certain conditions in the Guidelines are satisfied.

7.4 The Guidelines provide for a mid-term review of the regional aid maps for 2014-2020 in June 2016. Accordingly, the European Commission published on 25 June 2016 a Communication amending Annex I to the Guidelines. In this Communication, the Commission set out up-to-date statistical analysis to be used as a basis for the mid-term review of regions qualifying for regional aid status under Article 107(3)(a) of the TFEU ("a" areas). The Annex to the Communication identified NUTS 2 regions for which the per capita GDP for the period 2014-2020 had fallen to 75% or less of the EU-28 average and that could therefore qualify as "a" areas from 1 January 2017. The GDP per capita in Durham and Tees Valley had fallen from 77.33% to 73.67% of the EU-28 average – below the 7% threshold required for "a" area status. This is the only area in the UK to record such a drop.

7.5 A change in regional aid status raises the regional aid intensity limit and allows limited support to be given to large companies under the Guidelines.

7.6 Assisted Area status also allows for urban development aid and increased aid intensities to be provided where aid is granted for some energy and environmental investments. Further, certain tax allowances are only available in Assisted Areas: Business Premises Renovation Allowance (BPRA), which gives an incentive to bring derelict or unused properties back into use; and the Enhanced Capital Allowances permitted at some Enterprise Zones.

Consolidation

7.7 The Department does not intend to consolidate the Assisted Areas Order 2014 and the Assisted Areas (Amendment) Order 2017.

8. Consultation outcome

8.1 Both Local Enterprise Partnerships affected by the changes and their constituent local authorities supported the amendments to the 2014-2020 Assisted Areas Map.

9. Guidance

9.1 The schemes that depend on Assisted Area status are not materially affected by this instrument; the only effect is a change in the areas in which they can operate. Key stakeholders have been kept informed of progress throughout the process of reviewing the Assisted Areas.

10. Impact

10.1 The impact on business, charities or voluntary bodies is that organisations of all types within the specified areas will be eligible for enhanced levels of support from public money on specific types of activity.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation applies to activities that are undertaken by small businesses but does not constitute a new regulatory burden.

12. Monitoring & review

12.1 No further review of the 2014-2020 Assisted Areas Map is anticipated at this time.

13. Contact

13.1 Ben Pledger at the Department for Business, Energy and Industrial Strategy Telephone: 020 7215 6763 or email: ben.pledger@beis.gov.uk can answer any queries regarding the instrument.