EXPLANATORY MEMORANDUM TO

THE BUSINESS IMPROVEMENT DISTRICTS (ENGLAND) (AMENDMENT) REGULATIONS 2014

2014 No. 3199

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 To amend the Business Improvement Districts (England) Regulations 2004 (S.I. 2004/2443) ("the 2004 Regulations") to include a provision prescribing the Town Clerk of the City of London as the Business Improvement District ballot holder for that authority.

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

3.1 None

4. Legislative Context

4.1 Part 4 of the Local Government Act 2003 provides for the establishment of Business Improvement Districts. The 2004 Regulations provide further detail as to how Business Improvement Districts are to be established and regulated. Regulation 6 of the 2004 Regulations prescribes the person who is to hold a Business Improvement District ballot, renewal ballot, alteration ballot or re-ballot ("the ballot holder"). Regulation 6 provides that the ballot holder "shall be the person the relevant billing authority has appointed under section 35 of the Representation of the People Act 1983 as the returning officer for elections to that authority".

4.2 Section 35 of the Representation of the People Act 1983 requires the appointment of a returning officer for various local authorities in England and Wales in relation to local government elections. Section 35 does not apply to the City of London because of its unique electoral system. The preparation of lists for its ward elections is governed instead by the City of London (Various Powers) Act 1957, which imposes the duty to prepare such lists on the Town Clerk. The 2004 Regulations are therefore unclear who the ballot holder should be in the case where a Business Improvement District is proposed for an area falling within the City of London.

5. Territorial Extent and Application

5.1 This instrument applies to England only.

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

7.1 Business Improvement Districts have been operating since 2004. These have proved to be successful in facilitating greater joint working between the business community and local authorities to improve the local trading environment.

7.2 Businesses that are to be subject to the levy, as set out in a Business Improvement District proposal, vote in a ballot. This determines whether the scheme goes ahead. A successful vote is one that has a simple majority both in votes cast and in rateable value of votes cast. Each business entitled to vote in a Business Improvement District ballot is allowed one vote in respect of each property occupied or (if unoccupied) owned by them in the geographical area of the Business Improvement District. Once the Business Improvement District is in operation the levy is charged on all businesses within the Business Improvement District area (regardless of whether or how that business voted in the ballot).

7.3 Existing Regulations say that the ballot holder is to be the person appointed as returning officer by the billing authority under section 35 of the Representation of the People Act 1983. Section 35 of the 1983 Act does not apply to the City and hence the Common Council (which is the billing authority for the City) does not appoint a returning officer under that section. This restores the original policy intention.

8. Consultation outcome

8.1 The Department has consulted with the City of London in order to determine the appropriate officer to conduct a Business Improvement District ballot in the City of London and the Regulations reflect its advice.

9. Guidance

9.1 This instrument updates the 2004 Regulations to allow the City of London to appoint the Town Clerk of the City as the ballot holder. The amendment only affects the City of London, who are aware of the change. We therefore do not consider there is a need for formal guidance. In relation to Business Improvement Districts in general, the Government provides information to authorities on the delivery of policy changes through Business Rates Information Letters which can be found at https://www.gov.uk/business-rates-information-letters and further guidance about Business Improvement Districts can be found at https://www.gov.uk/business-improvement-districts

10. Impact

10.1 It is not foreseen that these Regulations will have any impact on business, charities, voluntary bodies and the public sector beyond that of the 2004 Regulations, except that the City of London will now have a mechanism whereby they can establish a Business Improvement District.

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

11. Regulating small business

11.1 The legislation applies to small businesses where they are located within the City of London and are eligible for the Business Improvement District levy. Business Improvement District legislation is intended to benefit the local trading environment. A Business Improvement District cannot proceed without being approved in a ballot of those potentially subject to the levy.

12. Monitoring & review

12.1 The Government will monitor and review the impact of the measure in the usual course of business.

13. Contact

13.1 Francis Jones at the Department for Communities and Local Government Tel: 0303 444 3855 or email: Francis.Jones@communities.gsi.gov.uk can answer any queries regarding the instrument.