EXPLANATORY MEMORANDUM TO

THE COUNCIL TAX AND NON-DOMESTIC RATING (DEMAND NOTICES) (ENGLAND) (AMENDMENT) REGULATIONS 2009

2009 No. 355

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 The Council Tax and Non-Domestic Rating (Demand Notices) (England) (Amendment) Regulations 2009 ("the Regulations") amend the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003 (S.I. 2003/2613) ("the 2003 Regulations"). The 2003 Regulations govern the matters to be contained in, and information to be supplied with, council tax and non-domestic rates demand notices ("bills"). The amendments made by the Regulations concern non-domestic rates only. The amendments reflect changes made to the arrangements for small business rate relief and the collection and enforcement of certain backdated rates liability and will ensure rates bills contain up to date information.

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

3.1 None.

4. Legislative Context

4.1 Schedule 2 to the 2003 Regulations prescribes the explanatory information that ratepayers are to receive about the calculation of their non-domestic rates bill and about rates generally. To ensure rates bills contain up to date information, the Regulations amend Schedule 2 to reflect the following changes to the arrangements for small business rate relief and the collection and enforcement of certain backdated rates liability.

4.2 The Non-Domestic Rating (Small Business Rate Relief) (England) (Amendment) Order 2009 (S.I. 2009/354) ("the SBRR Order") removes the requirement that, to qualify for small business rate relief, a ratepayer must occupy a property that was shown on a rating list on 1st April in the financial year for which relief is sought. Prior to the SBRR Order, a ratepayer whose property did not satisfy that requirement did not qualify for small business rate relief until the beginning of the subsequent

financial year. The explanatory notes prescribed in the 2003 Regulations in relation to small business rate relief set out this qualifying criterion and the Regulations prescribe updated notes.

4.3 The Non-Domestic Rating (Collection and Enforcement) (Local Lists) (Amendment) (England) Regulations 2009 (S.I. 2009/204) ("the C&E Regulations") make new provision that will allow rates billing authorities and affected ratepayers to agree that certain backdated rates liability will be discharged over a period of up to eight years. This provision is time limited and relates only to backdated liability that accrues as a result of changes to a rating list that occur before 1st April 2010. The Regulations provide that the explanatory material provided with rates bills must include an explanation of these new arrangements and the qualifying criteria.

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

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

7. Policy background

- ***What is being done and why***

7.1 In the 2008 Pre-Budget Report, the Chancellor announced that the Government would be "*extending small business rate relief by allowing eligible small businesses in England to claim relief from business rates from the day they begin to occupy a new property with a low rateable value"* and "*legislating to give businesses more time to pay certain backdated business rates bills issued before 31 March 2010. Businesses facing such bills will be able to pay their liability for previous years in equal interest-free instalments over 8 years, rather than immediately".*

7.2 With effect from 1st April 2009, the SBRR Order makes the announced change to the small business rate relief scheme, removing the requirement that, to qualify for small business rate relief, a ratepayer must occupy a property that was shown on a rating list on 1st April in the financial year for which relief is sought. With effect from 9th March 2009, the C&E Regulations make the new provision that will allow rates billing authorities and affected ratepayers to agree that certain backdated rates liability will be discharged over a period of up to eight years.

7.3 It is important that ratepayers, particularly those affected by the new arrangements described above, understand these reforms and the impact they could have on their rates liability and payments.

7.4 Accordingly, the amendments to Schedule 2 to the 2003 Regulations reflect the changes made by the SBRR Order and the C&E Regulations so that billing authorities can ensure that the relevant information is provided to ratepayers alongside their rates bills.

- ***Consolidation***

7.5 Following previous amendments, amendments to Schedule 2 to the 2003 Regulations required from 1st April 2008 were given effect in a consolidated version of that Schedule[1]. The changes made by the Regulations are relatively minor and, therefore, the Government does not consider that a further consolidation is required at this stage.

8. Consultation outcome

8.1 There has been no consultation on these changes to the 2003 Regulations. The need to update the content of rates bills is a result of other changes to policy on non-domestic rates.

9. Guidance

9.1 No guidance is required on these Regulations. The provision of information alongside rates bills is an understood part of the business rates system.

10. Impact

10.1 The Regulations update the information to be provided to ratepayers to ensure it is up to date following other legislative changes. As such, no impact on business, charities or voluntary bodies as a result of the Regulations is foreseen.

10.2 The impact on the public sector is that billing authorities must amend the information they provide to ratepayers with their non-domestic rates bills. Billing authorities were notified of this in advance in a Business Rates Information Letter issued by the Department, a copy of which is available at www.local.communities.gov.uk/finance/busrats/bri32009.pdf.

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

[1] See Schedule 2 to the Council Tax and Non-Domestic Rating (Demand Notices) (England) (Amendment) Regulations 2008 (S.I. 2008/387).

11. Regulating small business

11.1 The legislation does not apply to small business (although it does relate to the information that small business will receive with their rates bills).

12. Monitoring & review

12.1 The information provided for ratepayers will be reviewed in line with any future changes in policy that impact on liability for, or the collection of, business rates.

13. Contact

Richard Enderby at the Department for Communities and Local Government, telephone 020 7944 4224 or email: richard.enderby@communities.gsi.gov.uk, can answer any queries regarding the instrument.