EXPLANATORY MEMORANDUM TO

THE COUNCIL TAX AND NON-DOMESTIC RATING (DEMAND NOTICES) (ENGLAND) (AMENDMENT) REGULATIONS 2012

2012 No. 538

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 2012 ("the 2012 Regulations") amend the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003 ("the 2003 Regulations"). The 2003 Regulations govern matters contained in, and information to be supplied with, non-domestic rates demand notices ("rates bills") and council tax bills, although they do not apply in relation to council tax bills which relate to years beginning on or after 1st April 2010[1]. The amendments made by the 2012 Regulations update the explanatory notes which the 2003 Regulations require to be provided with rates bills and information to be provided with rates bills.

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 sets out the matters which must be included in a non-domestic rating demand notice. Part 1 of that Schedule applies to a demand notice sent by a billing authority other than a rural settlement authority (to which Part 2 of Schedule 2 applies) and a special authority (to which Part 3 of Schedule 2 applies). The term "special authority" is defined in section 144(6) of the Local Government Finance Act 1988 ("the 1988 Act"). The term "rural settlement authority" is defined in the 2003 Regulations as a billing authority which has, in respect of the relevant year, identified one or more rural settlements for that year in a list compiled under section 42A(2) of the 1988 Act. The explanatory notes which are required by each Part give the recipient of a rates bill information about the bill and the reliefs that are available. Schedule 3 of the 2003 Regulations sets out information to be supplied with rates bills.

[1] The Council Tax (Demand Notices) (England) Regulations 2009 (S.I. 2009/3193) apply to council tax demand notices which relate to a year beginning on or after 1st April 2010.

4.2 To ensure rates bills contain up-to-date information, the 2012 Regulations amend Schedule 2 to the 2003 Regulations to reflect the changes to non-domestic rating as described below.

4.3 Section 71 of the Localism Act 2011 inserted section 49A into the Local Government Finance Act 1988 (1988 Act). This section provides that the Secretary of State may by regulations provide that, in a prescribed case, the chargeable amount under section 43 or 45 for a hereditament in England for a chargeable day is zero. The section also makes provision for the conditions that the Secretary of State may prescribe. The Non-Domestic Rating (Cancellation of Backdated Liabilities) Regulations 2012 constitute the first exercise of the power. To allow businesses to be aware of this relief the 2012 regulations amend the 2003 regulations to provide information about the type of backdated rates liability that can be cancelled.

4.4 Section 43(4B) of the 1988 Act was amended by section 70 of the Localism Act 2011. The amendments made by section 70 (amongst other things) removed the requirement for the Secretary of State to prescribe, by order, a date by which a ratepayer seeking small business rate relief must make an application for relief. To ensure businesses are aware of the changes to small business rates relief the 2012 regulations amend the 2003 regulations to update the information provided.

4.5 The Council Tax (Demand Notices) (England) Regulations 2011 ("the Council Tax Regulations") make provision about the content of council tax demand notices and information which must be supplied with those demand notices (usually by way of council tax leaflets) when they are served. They also make provision about the content of bills and information which must be supplied with those bills when they are served. Certain information is required to be supplied to non-domestic ratepayers. The 2012 Regulations amend Schedule 3 to the 2003 Regulations to ensure conformity with amendments made by the Council Tax Regulations about the information supplied with demand notices.

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 negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The 2003 Regulations set out the information that is to be contained in rates bills to inform ratepayers of business rates policy so that they understand the policy and the impact it may have on their rates bills.

7.2 There have been changes to business rates policy, one impacting on small business rate relief and the other to allow the cancellation of certain backdated rates bills, that can impact upon ratepayers from 2012/13 and therefore the 2003 Regulations are being amended so that ratepayers have access to information that may affect their busienss rates liability.

7.3 Firstly, ratepayers who are not entitled to another mandatory relief or are liable for unoccupied property rates and occupy a property with a rateable value which does not exceed £17,999 outside London or £25,499 in London will have their bill calculated using the lower small business non-domestic rating multiplier, rather than the national non-domestic rating multiplier. Secondly, an application for Small Business Rate Relief will no longer be required.

7.4 Thirdly, ratepayers that have faced certain backdated rates liabilities on the 2005 rating list, highlighted by those businesses affected by the review of the rating in ports, may be entitled to have those backdated bills cancelled.

7.5 It is important that ratepayers understand these reforms and the impact they could have on their rates liability and payments. Accordingly, the amendments which the 2012 Regulations make to Schedule 2 to the 2003 Regulations reflect these changes so that billing authorities can ensure that accurate and up-to-date information is provided to ratepayers alongside their rates bills.

7.6 The 2012 Regulations also amend the information which must be supplied with those bills when they are served. This purely ensures conformity with the amendments made by the Council Tax Regulations which, amongst other matters purely related to Council Tax, required information over Council Tax requirements be supplied instead of Budget requirements. As ratepayers are to be supplied with the same information the 2012 Regulations ensures conformity with the Council Tax Regulations.

- Consolidation

7.7 Those aspects of the 2003 Regulations which concern council tax have been consolidated by the Council Tax (Demand Notices) (England) Regulations 2009.

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 purely as a result of other changes to policy on non-domestic rates which the Department consulted on as appropriate.

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 2012 Regulations update the information to be provided to ratepayers to ensure it is up to date following other legislative and policy 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. This is a usual aspect of the rating system.

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

11. Regulating small business

11.1 The legislation does not regulate 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

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