EXPLANATORY MEMORANDUM TO

THE NON-DOMESTIC RATING AND COUNCIL TAX (ELECTRONIC COMMUNICATIONS) (ENGLAND) ORDER 2006

2006 No.237

1. This explanatory memorandum has been prepared by the Office of the Deputy Prime Minister and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This Order makes amendments to the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989 to allow rates bills in respect of hereditaments listed on the central rating list to be sent by the Secretary of State to the ratepayer electronically. This Order also makes a minor amendment to the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 and also to the Council Tax (Administration and Enforcement) Regulations 1992.

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

3.1 None

4. Legislative Background

4.1 This Order is being made under section 8 of the Electronic Communications Act 2000. Section 8(1)(a) gives the Secretary of State the power to modify secondary legislation for the purpose of authorising or facilitating the use of electronic communications.

4.2 The Order is being made to allow the Secretary of State to issue electronically non-domestic rates bills in respect of hereditaments listed on the central rating list, where the ratepayer consents to this method of service. Centrally listed hereditaments are those which, because of their nature, are not capable of being allocated to the local rating list of a particular billing authority. Billing authorities already have the power to issue non-domestic rates bills and council tax bills electronically by virtue of the Council Tax and Non-Domestic Rating (Electronic Communications) (England) Order 2003 (S.I. 2003/2604).

4.3 This Order also makes a minor amendment to each of the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 and the Council Tax (Administration and Enforcement) Regulations 1992 to update the definition of “electronic communication” for the purposes of those instruments.

5. Extent

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 By amending the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 and the Council Tax (Administration and Enforcement) Regulations 1992, the Council Tax and Non-Domestic Rating (Electronic Communications) (England) Order 2003 allowed local billing authorities to issue electronic bills to ratepayers whose non-domestic properties are contained on local rating lists. Local billing authorities can also send electronic bills to council tax payers. There are currently no such provisions available for central list ratepayers.

7.2 This Order will provide the Secretary of State the facility to send electronic rates bills to those central list ratepayers who wish to receive their bills in this way. Receipt of electronic rates bills will not be compulsory and those central list ratepayers that wish to receive hard copy rates bills can continue to do so.

7.3 It is considered the extension of these provisions to central list ratepayers will result in administrative cost savings to both the ratepayers and central government.

7.4 Both the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 and the Council Tax (Administration and Enforcement) Regulations 1992 (as amended) use the definition of "electronic communication" as it appeared in the Electronic Communications Act 2000 when the Council Tax and Non-Domestic Rating (Electronic Communications) (England) Order 2003 was made. The definition in that Act has since changed following the coming into force of the Communications Act 2003. This Order will therefore update the definition in both Regulations.

8. Impact

8.1 A Regulatory Impact Assessment is attached to this memorandum.

9. Contact

Relwyn Reffell at the Office of the Deputy Prime Minister Tel: 020 7944 3810 or e-mail: relwyn.reffell@odpm.gsi.gov.uk can answer any queries regarding the instrument.

Final Regulatory Impact Assessment

THE NON-DOMESTIC RATING AND COUNCIL TAX (ELECTRONIC COMMUNICATIONS) (ENGLAND) ORDER 2006

The objective

1. The objective is to introduce the facility to electronically serve non-domestic rate bills to businesses on the Central Rating List. This extends the provisions already available to local billing authorities with respect to businesses on local rating lists.

Background

2. Article 7 of the Council Tax and Non-Domestic Rating (Electronic Communications) (England) Order 2003 ("the 2003 Order") amended the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 to provide local billing authorities with the ability to supply information required by the demand notices and to serve demand notices by electronic means.

3. The amendments proposed here will extend the means by which the Secretary of State can serve demand notices on central rating list ratepayers, by introducing the facility to serve electronic notices. This is in line with the Government's commitment to provide e-enabled services by 2005.

4. Centrally listed hereditaments are those which, because of their nature, are not capable of being allocated to the local rating list of a particular authority.

Rationale for Government intervention

5. Local billing authorities can already serve demand notices electronically to a person who has agreed to accept electronic service. This is as a result of the 2003 Order.

6. The proposed amendments to the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989 will extend the provisions in the 2003 Order to central list ratepayers. There are potential administrative savings to be made both by central government and the businesses in question.

7. The provisions in the proposed amendment Order will also make minor amendments to both the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 and the Council Tax (Administration and Enforcement) Regulations 1992. These amendments will update the definition of "electronic communication". These are technical amendments and will have no practical effect.

Consultation

8. Electronic billing to central list ratepayers will not be mandatory and those central list properties that wish to receive hard copy demand notices can continue to do so.

9. The ODPM has written to the businesses on the central rating list (80 in total) to ascertain whether they wish to receive demand notices by electronic means or continue with hard copies. Once the amendment Order comes into force the ODPM will confirm with those who have expressed an interest in accepting next year's bill in electronic form and for confirmation of the electronic billing details.

RISK ASSESSMENT

OPTIONS

10. As the proposed amendments extend the provisions currently available to local list ratepayers to central list ratepayers and will not be mandatory, only two options have been identified. These are:

    10.1. Option 1 - Do nothing

    10.2. Option 2 - Amend the Regulations.

Option 1 - Do nothing

11. It is difficult to justify why these provision should not be made available to central list ratepayers given that the provisions already exist for local rating list ratepayers.

12. Central list ratepayers would continue to receive demand notices by hard copy. This would be a continuation of the current position.

Option 2 - Amend the Regulations

13. Businesses on the central rating list will have the choice of whether to receive demand notices by electronic means or in hard copy format. This would be in line with the provisions available to ratepayers on the local rating list.

Benefits

Option 1 - Do nothing

14. No administrative costs would be incurred by central government in taking amended Regulations through parliament.

Option 2 - Amend the Regulations

15. Central rating list ratepayers would have the option of whether to receive demand notices electronically or in hard copy.

16. Potential administrative cost savings to both central government and the businesses in question.

Costs

Option 1 - Do nothing

17. Central government would continue to incur administrative costs when posting hard copies of the demand notices to central list ratepayers.

18. Businesses on the central rating list would not be on equal footing with businesses on local rating lists with regard to choosing the way in which they receive demand notices.

Option 2 - Amend the Regulations

19. No costs have been identified other than administrative costs to central government in making the amended regulations.

Costs and Benefits

Sectors and groups affected

20. The proposed changes will affect only those businesses on the central rating list. We do not consider the proposals affect any other sectors.

Race Equality Assessment

21. There are no racial equality issues in relation to the proposed amendments.

Health Impact Assessment

22. There are no health impact issues in relation to the proposed amendments.

Rural Impacts

23. There are no rural impact issues to consider.

Environmental and Social

24. There are no environmental or social impacts associated with the proposed options.

EQUITY AND FAIRNESS

25. There may be issues of equity and fairness to consider if the proposed amendments to the Regulations are not made. The amendments mirror the provisions already available to local rating list ratepayers. It is difficult to justify why these provisions should not be extended to central list ratepayers.

SMALL FIRMS IMPACT TEST

26. The small firms impact test has not been applied in this case as the proposed amendments would have no effect on small businesses. Central rating list hereditaments are, by their very nature, large businesses and usually consist of former public utilities such as British Telecom, Network Rail, London Underground etc. Small businesses already benefit from the choice of electronic or hard copy billing through the provisions in the Council Tax and Non-Domestic Rating (Electronic Communications) (England) Order 2003.

COMPETITION ASSESSMENT

27. The competition filter test has been applied and we do not envisage any competition issues arising from the proposed amendments. The amended Regulations will allow central list businesses to opt out of receiving electronic demand notices and continue receipt of hard copy demand notices if they so wish. The amendments will allow businesses on both the local lists and central lists to enjoy the same choices in relation to how they receive demand notices.

ENFORCEMENT, SANCTIONS AND MONITORING

Enforcement and Sanctions

28. The Local Government Finance Act 1988, as amended, establishes the main structure of the rating system. The wider rating system will remain unaffected by the amendments to the Regulations. Central List ratepayers are free to choose whether they receive rate bills by electronic means or by hard copy.

Monitoring and Review

29. The Secretary of State is responsible for serving demand notices to central rating list ratepayers. The Secretary of State can monitor the effect on these ratepayers if the amendments to the Regulations are made.

Implementation and Delivery Plan

30. The proposed Non-Domestic Rating and Council Tax (Electronic Communications) (England) Order 2006 will make the necessary amendments to the Regulations. These regulations are intended to come into force on 1 March 2006. Although this does not comply with the Common Commencement Dates policy of implementing business-impacting legislation on either 6 April or 1 October, the cost of doing this would be wholly disproportionate to the public purse given that National Non-Domestic Rates must be aligned with the Local Government financial year of 1 April to 31 March. We have discussed this with the Small Business Service who agrees with our approach in this matter.

31. The ODPM has written to each central rating list ratepayer to determine whether they wish to receive next year's bill electronically or continue with hard copy bills. Once the amendment Order comes into force the ODPM will write again to those businesses that have expressed an interest in order to confirm email details for billing purposes.

Summary and Recommendation

The Government's recommendation is to make amendments to the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989 to extend the means by which the Secretary of State can serve demand notices on central rating list ratepayers. The amendments introduce the ability to serve electronic bills on those ratepayers that wish to receive bills in this way. This approach is consistent with the option available to local rating list ratepayers.

Declaration and Publication

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs

***Signed* …Phil Woolas ……..**

Date 1st February 2006

The Rt Hon Phil Woolas MP, Minister of State for Local Government, Office of the Deputy Prime Minister.

Contact point for enquiries and comments:

Relwyn Reffell, Office of Deputy Prime Minister (e-mail: relwyn.reffell@odpm.gsi.gov.uk).