# EXPLANATORY MEMORANDUM TO

# THE NON-DOMESTIC RATING (COLLECTION AND ENFORCEMENT) (AMENDMENT) (ENGLAND) REGULATIONS 2012

**2012 No. 24**

# THE NON-DOMESTIC RATING (ELECTRONIC COMMUNICATIONS) (ENGLAND) ORDER 2012

**2012 No. 25**

**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**

**The Non-Domestic Rating (Collection and Enforcement) (Amendment) (England) Regulations 2012**

2.1 These Regulations amend the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (S.I. 1989/1058) ("the Local Lists Regulations") and the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989 (S.I. 1989/2260) ("the Central Lists Regulations").The purpose of this instrument is to enable billing authorities (in respect of properties on local rating lists) and the Secretary of State (in respect of properties on the central rating list) to serve a single demand notice which relates to more than one chargeable financial year in certain circumstances. It also removes the special instalment scheme which had been put in place for the 2012-13 financial year to deal with the temporary, 6 month increase to small business rate relief since the increase is being extended to cover the whole of the financial year.

**The Non-Domestic Rating (Electronic Communications) (England) Regulations 2012**

2.2 This Order amends the Local Lists Regulations. The purpose of this instrument is to enable billing authorities (if they so decide) to supply certain information to ratepayers via a website rather than in hard copy, subject to a requirement that the billing authority provides the ratepayer with a hard copy of the information where requested.

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

None

## 4. Legislative Context

4.1 Under section 41 of the Local Government Finance Act 1988 ("the 1988 Act"), most non-domestic properties appear on a rating list compiled for the area in which they are situated. Under section 43 the occupiers of such properties are liable for non-domestic rates for each financial year (which, for the purposes of local government finance, runs from 1 April to 31 March). In certain cases where the property is unoccupied, the owner is liable for rates under section 45. Certain properties, which are not suitable to be shown on a local rating list, are shown on the central rating list and rates are paid directly to the Secretary of State.

4.2 The Local Lists Regulations and the Central Lists Regulations govern the practicalities of billing for rates which, in the case of the former, is undertaken by the billing authority (the district or unitary authority for the area the property is situated in) and, in the case of the latter, the Secretary of State. The Local Lists and Central Lists Regulations require the billing authority or the Secretary of State (as the case may be) to issue to the ratepayer for each financial year a demand notice (a bill), setting out the ratepayer's liability for rates. The Local Lists Regulations and Central Lists Regulations make provision for a ratepayer's annual liability to be discharged in instalments over the course of the financial year rather than in a single payment.

4.3 The content of demand notices is governed by the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003 (S.I. 2003/2613) ("the Demand Notices Regulations"). Broadly speaking, demand notices are to be served on or around 1 April in each year in respect of which it appears to the authority that the conditions for being liable to rates set out in section 43 or 45 of the 1988 Act are met. Where a demand notice is served on a ratepayer the billing authority is required to supply the information mentioned in Part 2 of Schedule 3 to the Demand Notices Regulations ("the additional information") alongside the demand notice and accompanying explanatory notes.

4.4 Where a rating assessment is backdated it can result in a demand notice being required for each chargeable financial year that the assessment is backdated.

## 5. Territorial Extent and Application

This instrument applies to England.

## 6. European Convention on Human Rights

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 Local Lists Regulations place certain duties on billing authorities in their role of billing for and collecting non-domestic rates. Although authorities receive a cost of collection allowance for costs incurred in billing and collection, as part of the Local Government Resource Review[1] the Government decided to look at whether any minor legislative changes would provide efficiencies in the collection and enforcement of non-domestic rates.

7.2 A small working group comprising local authority representatives was consulted on what changes would lead to efficiencies. The two suggestions that are being implemented under these two instruments are to allow authorities the option of multiyear billing in certain circumstances and the provision of certain information required to be supplied with demand notices, to be provided on a website, as opposed to in hardcopy (unless a ratepayer requests a hardcopy). Neither is mandatory for authorities.

### Supply of certain information via a website

7.3 Some billing authorities currently provide the additional information (i.e. the information mentioned in Part 2 of Schedule 3 to the Demand Notices Regulations) alongside the explanatory notes in the form of a booklet, which is enclosed with every non-domestic rates bill that is sent. Depending on whether the information is sent as part of a booklet or separately, the cost of sending that information varies between authorities.

7.4 It is possible to create an efficiency saving by publishing the additional information on the authority's website and notifying ratepayers of the relevant web address via the explanatory notes which accompany the demand notice, rather than by sending the information in hard copy. However, as they stand the Local Lists Regulations do not enable billing authorities to supply that information to ratepayers via a website without the specific agreement of the ratepayer.

7.5 In view of the requirement to supply the information in hardcopy at the request of the ratepayer and the fact that the vast majority (if not all) of businesses today have access to the internet, the Department considers that the test set out in section 8(3) of the Electronic Communications Act 2000 is satisfied by the provision being made through this Order. The Local Lists regulations are therefore being amended to give billing authorities the option of publishing that information on a website instead of sending it to ratepayers in hard copy, subject to a requirement that they notify ratepayers of the web address and the place on the website that the information can be accessed and of how ratepayers can request a hard copy of the information.

### Multiyear billing

[1] Information about the Local Government Resource Review can be found on the Department's website at www.communities.gov.uk

7.6 As explained in paragraph 4.4 above, in certain circumstances billing authorities are required to serve separate demand notices for different financial years on the same ratepayer at the same time; this clearly has costs implications. The same requirement applies in relation to demand notices served by the Secretary of State on ratepayers occupying properties on the central rating list.

7.7 Paragraph (2) of regulation 2 of the Regulations amends regulation 4 of the Local Lists Regulations (the requirement for demand notices) so as to enable billing authorities to serve a single demand notice which relates to more than one chargeable financial year in such circumstances. Regulation 3 makes an equivalent amendment to the Central Lists Regulations. The amendments being made by the Regulations mean that, where demand notices fall to be served on a ratepayer in respect of a financial year and any earlier year, the billing authority or the Secretary of State (as the case may be) will have the option of serving a single demand notice on the ratepayer which covers all relevant years.

7.8 This provides authorities and the Secretary of State with the possibility of making further efficiency savings. Since the amounts due under the notice and the times at which they fall due will be determined as if separate notices had been issued, service of a demand notice which covers more than one financial year will not cause any prejudice to the ratepayer concerned.

**Instalment scheme**

7.9 The Chancellor announced in the Autumn Statement on 29 November 2011 that the temporary increase in small business rate relief (which was due to end mid-way through the 2012-13 financial year) would be extended for a further six months. That means that eligible ratepayers will receive the increased level of relief throughout the whole of the 2012-13 billing year. As the increase is now for the whole year, ratepayers will be billed on the basis of the standard instalment scheme. Paragraphs (3) to (5) of regulation 2 therefore remove the special instalment scheme which had been put in place to deal with what would have been an uneven level of relief in 2012-13. The necessary statutory instrument implementing the announcement on the increased level of relief will be made shortly.

- Consolidation

7.10 As the changes being made to the Local Lists Regulations and the Central Lists Regulations by the Non-Domestic Rating (Collection and Enforcement) (Amendment) (England) Regulations 2011 are limited, the Government does not consider it necessary to consolidate either set of regulations at this time.

## 8. Consultation outcome

A small working group comprising local authority representatives was consulted on what changes would lead to efficiencies in billing and collection.

Following this, we are introducing multiyear billing and the supply of certain information via website.

## 9. Guidance

The department will publish a Business Rates Information Letter to be sent to billing authorities in England to advise them about the legislative changes.

## 10. Impact

10.1 A Regulatory Impact Assessment has not been produced, as the SI is technical and aimed at billing authorities. It imposes no costs or savings on businesses, charities or the voluntary sector.

10.2 Although the Regulations could lead to efficiency savings for a local authority we do not consider that the potential impact warrants an impact assessment.

## 11. Regulating small business

The legislation applies to billing authorities and does not apply to small business. The only effect on businesses, and this is not restricted to small businesses, is that where a ratepayer would prefer a hardcopy of the additional information that authorities may provide on a website, and they are unable to print a copy for themselves, they would have to contact the authority to request this.

## 12. Monitoring & review

As with all taxes the Government keeps the business rates system under review. No specific monitoring is proposed for this measure.

## 13. Contact

Nageen Haroon at the Department for Communities and Local Government (Tel:0303 444 1758 or email: nageen.haroon@communities.gsi.gov.uk) can answer any queries regarding the instrument.