EXPLANATORY MEMORANDUM TO

THE NON-DOMESTIC RATING (COLLECTION AND ENFORCEMENT) (AMENDMENT) (ENGLAND) REGULATIONS 2014

2014 No. 479

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 provide for non-domestic rates to be paid by 12 monthly instalments rather than 10 if requested by the ratepayer.

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

3.1 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 of the 1988 Act, the occupiers of such properties are liable to non-domestic rates for each financial year (which, for the purposes of local government finance, runs from 1st April to 31st March). In certain cases where the property is unoccupied, the owner is liable to 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 (section 54).

4.2 The Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989[1] ("the Local Lists Regulations") and the Non-Domestic Rating (Collection and Enforcement) (Central List) Regulations 1989[2] ("the Central List Regulations") govern the practicalities of billing for rates in respect of locally or centrally listed properties. They require the billing authority (the district or unitary authority for the area the property is situated in) or the Secretary of State to issue to the ratepayer for each financial year a demand notice, setting out their liability to rates (the content of demand notices is governed by the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003 (S.I. 2003/2613)). Broadly speaking, demand notices are to be served on or around 1st 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, 45 or 54 of the 1988 Act are met. Where those conditions are not met on the first day of the financial year but are

[1] S.I. 1989/1058.
[2] S.I. 1989/2260.

subsequently met, the demand notice must be served as soon as possible after the day on which they are first satisfied.

4.3 Where a demand notice is issued, regulation 7 of both sets of 1989 Regulations provides for liability under the notice to be discharged either in instalments calculated in accordance with Part 1 of Schedule 1 or in accordance with an agreement reached between the billing authority and the ratepayer. Where Schedule 1 applies, the number of instalments is ten or, if less, the number of whole months remaining in the year, less one. For example, for a demand notice issued on 10th October, payment would be required in four instalments. Where the demand notice is issued after 31st December, rates for the year are payable in a single instalment.

4.4. These Regulations amend the 1989 instruments to give effect to the announcement in the Autumn Statement 2013 that ratepayers would be able to request to discharge their liability for non-domestic rates over 12 monthly instalments, instead of 10.

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 Local Lists Regulations and the Central List Regulations set out the processes for the billing of persons liable to pay non-domestic rates. They require, amongst other matters, billing authorities and the Secretary of State to serve demand notices each year on ratepayers, identifying the payments to be made, and provide for those payments to be made by instalments during the year, as set out in Schedule 1.

7.2 The default arrangement is for instalments to be paid in 10 monthly instalments, or the number of whole months remaining in the year, minus one. It is open to the billing authority (or Secretary of State in the case of ratepayers on the Central List) and business ratepayer, under regulations 7(3) of both the Local Lists and Central List Regulations, to come to a different arrangement, but this can only be done through agreement.

7.3 In 2012, the Government amended the Council Tax (Administration and Enforcement) Regulations 1992 (SI 1992/3008). This introduced a right for council tax payers to require their local billing authority to request payment of council tax bills via instalments over 12 months, rather than the default mechanism, set out in Schedule 1 of those Regulations, of payments in 10 monthly instalments. This amendment came into effect for the 2013-14 financial year.

7.4 At the Autumn Statement 2013, the Government announced that it would allow payment of non-domestic rate bills to be spread over 12 months, rather than 10 as currently, to help with cash flow and affordability. This would therefore introduce a degree of consistency between the options for payment of non-domestic rate bills and the changes introduced in 2012 for payment of council tax bills.

7.5 The Regulations allow ratepayers to require billing authorities to issue demand notices with a 12 monthly instalment plan, and to issue that demand notice as soon as is practicable. Where it is not possible to issue the demand notice on or before 15 April (for example, if the request is made mid year), then the demand notice will require instalments equal to the number of full months remaining in the year. Once a request has been made by a business rate payer for 12 monthly instalments, there is no need for it to submit similar requests for future financial years - the payment schedule will continue on a monthly basis unless, and until, the business seeks an alternative arrangement.

8. Consultation outcome

8.1 There has been no consultation on these changes to the 1989 Regulations. The need to update the Regulations reflects the change announced by Government in the 2013 Autumn Statement.

9. Guidance

9.1 No guidance is required on these Regulations. The collection and enforcement of non-domestic rates bills is a well understood part of the non-domestic rates system.

10. Impact

10.1 The impact on business, charities or voluntary bodies is the ability to spread the cost of their non-domestic rates bills over 12 months, rather than the current 10 month default scheme.

10.2 The impact on the public sector is that billing authorities and the Secretary of State will be required to enable businesses to pay their non-domestic rates bills through a 12-monthly instalment plan, if the business requests it. It does not change the level of non-domestic rates that will be due to be collected by the billing authority or the Secretary of State.

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. It provides greater flexibility over the instalment schemes available to all businesses to pay their non-domestic rates bills.

12. Monitoring & review

12.1 The arrangements for payment of non-domestic rate bills will be reviewed in line with any future changes in policy that impact on liability for, or the collection of, non-domestic rates.

13. Contact

13.1 Peter Bates at the Department for Communities and Local Government (Tel: 0303 444 2077 or email: peter.bates@communities.gsi.gov.uk) can answer any queries regarding the instrument.