EXPLANATORY MEMORANDUM TO

THE NON-DOMESTIC RATING CONTRIBUTIONS (ENGLAND) (AMENDMENT) REGULATIONS 2007

2007 No. 3393

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. Description

2.1 These Regulations amend the Non-Domestic Rating (Contributions) (England) Regulations 1992 (S.I. 1992/3082) ("the Contributions Regulations"). The Contributions Regulations make provision in relation to the amount that an English local authority must pay in each year to the national non-domestic rating pool ("the pool"), which is administered by the Secretary of State for Communities and Local Government. The Contributions Regulations are amended annually so that the amount local authorities must pay into the pool reflects relevant financial and economic factors.

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

3.1 None.

4. Legislative Background

4.1 The majority of businesses in England pay non-domestic rates to their local authority under Part 3 of the Local Government Finance Act 1988 ("the 1988 Act"), with some large businesses paying their rates directly to the Secretary of State. Local authorities and the Secretary of State pay the rates they collect into the pool and the receipts are redistributed to local authorities as part of the annual local government finance settlement process.

4.2 The Contributions Regulations govern how local authorities must calculate their annual contribution to the pool. Broadly speaking, the amount to be paid in is the amount which a local authority would have collected for the financial year under Part 3 of the 1988 Act if it had acted diligently. This is subject to adjustments which are necessary to take account of changes in relation to previous years – for example because of ratepayers' appeals against the rateable values of their properties – and various deductions. The permitted deductions take account of matters such as the discretionary

reliefs which local authorities grant to ratepayers in their area and the administrative cost of collecting rates on behalf of central government.

4.3 The calculation of local authorities' contributions to the pool is a three stage process. A provisional contribution is calculated before the financial year begins, which is an estimate of what the local authority will collect, and this is paid into the pool in instalments throughout the year. The provisional contribution and instalments may then be adjusted during the financial year. After the end of the year, a final amount is calculated and any adjustments to the amount already paid are made. The Contributions Regulations deal with each stage of the process.

4.4 The Contributions Regulations are amended annually so that the various calculations they contain reflect, so far as possible, current economic and financial circumstances. The present Regulations, which closely follow the pattern set each year by earlier regulations, amend the Contributions Regulations in their application to the financial year which begins on 1st April 2008. They amend the "cost factors" (see paragraph 7.5 below), the "buoyancy factor" (see paragraphs 7.6 and 7.7 below) and the anticipated percentage losses in the level of rates which local authorities will be able to collect (see paragraphs 7.8 and 7.9 below). The latter two of these are relevant to calculating local authorities' provisional contributions and, therefore, the instalments they will pay during the financial year which begins on 1st April 2008. These Regulations also update the Contributions Regulations so that, as in financial year 2007/08, there will be no "Special Authority offset" (see paragraph 7.3 below), and the total amount allowed to cover the administrative costs to local authorities of collecting rates will remain the same as in 2007/08 (see paragraph 7.4 below).

4.5 Schedule 8 to the 1988 Act requires that any amendments to the Contributions Regulations must come into force by 1st January in the financial year preceding the one to which the amendments apply. This requirement was disapplied, with respect to the financial year which begins on 1st April 2008, by paragraph 6 of Schedule 1 to the Rating (Empty Properties) Act 2007 (which came into force on 19th July 2007).

5. Extent

5.1 This instrument applies to England only.

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 Around mid-February each year, authorities are required to inform the Secretary of State of their provisional contribution to the pool for the forthcoming financial year, calculated in accordance with the Contributions Regulations (as amended for that year).

7.2 The calculations made by authorities under the Contributions Regulations do not determine the amount of money available to individual authorities for the provision of local services. The money paid into the pool is redistributed to authorities as part of the separate local government finance settlement process.

Special authority offset (regulation 3(a))

7.3 Certain types of authority (known as special authorities) may have special provisions applied for the purposes of calculating their contribution to the pool. These special provisions – the offset – effectively allow special authorities to retain a higher proportion of the rates they have collected in light of local circumstances. A special authority is an authority which on 1st April 1986 had a population of less than 10,000 and a gross rateable value on that date divided by its population of more than £10,000. The offset has therefore applied only to the City of London. However, for 2008/09, as in 2007/08, no special offset is required for the City and so regulation 3(a) of these Regulations continues the current position whereby the City will calculate its contribution to the pool in the same way as all other authorities in England.

Cost of collection (regulation 3(b))

7.4 The Contributions Regulations recognise that collecting non-domestic rates has cost implications for authorities and so enable authorities to calculate an allowance for their individual costs of collection. The resulting figure is deducted from authorities' contributions to the pool. The formula in the Contributions Regulations contains the estimated figure for the cost of collection nationally and authorities calculate their own share of the national figure by applying to the formula details such as the number of properties in the local non-domestic rating list and the total rateable values on a given date. For 2008/09, the national figure for the cost of collection is estimated at £83,606,000, the same as for 2007/08, which reflects improved efficiency in authorities' collection methods. Regulation 3(b) of these Regulations has the effect that authorities should use this same national figure when calculating their individual costs of collection for 2008/09.

Cost factors (regulation 3(c))

7.5 As mentioned above, the Contributions Regulations allow authorities to retain a proportion of the business rates they collect to reflect their costs of collection. The formula for calculating an authority's cost of collection requires the input of a cost factor for that authority. The cost factors reflect differences between areas in costs, and are derived on the same basis used for other purposes in the local government finance settlement.

Buoyancy factor (regulation 4(a))

7.6 Local authorities' contributions to the pool are based on rateable values as at 31st December in the preceding financial year. There will, however, be movements in the property market during the financial year for which provisional contributions have been calculated, as well as additions to, and removals from, the non-domestic rating list. Also, appeals that are determined during the year will impact on the overall rateable value of properties on an authority's non-domestic rating list. The calculation of provisional contributions therefore takes account of these anticipated changes during the course of the forthcoming financial year, through the 'buoyancy factor'.

7.7 The factor for all billing authorities is decreased by regulation 4(a) of these Regulations from 0.991 for 2007/08 to 0.990 for 2008/09. This is derived from the calculations used when estimating the national total of non-domestic rates available for redistribution to local authorities for 2008/09. This means that – all else being equal – billing authorities will need to contribute a lesser amount to the national pool for 2008/09 than for 2007/08.

Losses in collection (regulation 4(b))

7.8 The Contributions Regulations reflect the fact that authorities will not be able to collect 100% of the business rates due for a financial year. Regulation 4(b) of these Regulations changes (for non-metropolitan districts which do not have the functions of a county council, London boroughs and the Common Council of the City of London) the proportion of business rates income that is assumed to be lost, e.g. due to bad debts, and which is therefore deducted from the local authorities' provisional contributions to the pool. An increase in the proportion of rate income that is assumed lost feeds directly into the additional amount that a billing authority is permitted to retain, and vice versa.

7.9 Losses in collection percentages are applied to groups of authorities and are based on historic information. The percentages are changed in the light of up-to-date information on collection rates.

Consultation

7.10 The annual making of regulations to update the Contributions Regulations generally provokes little in the way of response. Local authorities do, however, ask the Department for Communities and Local Government to let them know when amending regulations have been laid before Parliament so that they can begin the process of calculating their provisional contributions to the pool.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

9.1 Rob John at the Department for Communities and Local Government, telephone 020 7944 4223 or e-mail: rob.john@communities.gsi.gov.uk, can answer any queries regarding the instrument.