EXPLANATORY MEMORANDUM TO

THE NON-DOMESTIC RATING (DESIGNATED AREA) REGULATIONS 2015

2015 No. 353

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 These Regulations form part of the scheme for local retention of non-domestic rates. The purpose of the Non-Domestic Rating (Designated Area) Regulations 2015 is to designate an area in relation to which the non-domestic rating income (as calculated in accordance with the Regulations) is to be retained by the local authority part of whose area falls within the designated area.

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

3.1 None.

4. Legislative Context

4.1 The non-domestic rating system in England and Wales is established by the Local Government Finance Act 1988 ("the 1988 Act"). The Local Government Finance Act 2012 inserted a new Schedule 7B into the 1988 Act ("the Schedule") which provides for the local retention of non-domestic rates collected in England.

4.2 Part 10 of the Schedule enables the Secretary of State to make regulations designating areas and providing for a calculation of the non-domestic rating income in respect of hereditaments[1] within a designated area to be disregarded for the purpose of various calculations required under the scheme.

4.3 The Non-Domestic Rating (Designated Area) Regulations 2015 specify that the designation provided for in the Regulations is to have effect for 25 years from 1st April 2015. This means that paragraph 39(9) of the Schedule has effect. Paragraph 39(9) provides that where regulations specify the years for which a designation has effect, they may not be revoked during that period and amendments which have the effect of altering the boundaries of a designated area, providing for a reduction in the amount that may be disregarded or reducing the period of the designation may not be made to the regulations during that period.

[1] A hereditament is the unit of property which is the subject of rating.

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

7. Policy background

7.1 As part of its policy to deliver growth, the Government identified several geographical areas for special treatment designed to help create jobs and create businesses in areas of economic opportunity. For some of those areas (known as Enterprise Zones, Enterprise Areas and New Development Deal areas), the Government has allowed local authorities to retain 100% of the growth in non-domestic rates. This will provide a powerful incentive for growth.

7.2 To deliver upon that commitment, the Government provided that, when calculating how much of the rates income in a local authority area is to be shared between local government and central government, it will disregard the growth in rating income in designated areas. This will then allow the growth in those designated areas to be retained 100% by the billing authority. The Non-Domestic Rating (Designated Areas) Regulations 2013 (SI 2013/ 107) designated areas in which the 100% disregard applies and provides rules for calculating the amount to be disregarded.

7.3 In the Autumn Statement 2014, the Government confirmed that it would extend the Nottingham Enterprise Zone, designated as an Enterprise Zone in the 2013 Regulations, to a site in Derby. Other than this extension, there is no change to the site covered by the Nottingham Enterprise Zone. This extension is given effect by the designation of a new area under regulation 3. The area is designated by reference to a map which is available for inspection at the offices of the Secretary of State for Communities and Local Government and the offices of Derby City Council. To provide the necessary certainty to support investment, the designated area takes effect from 1 April 2015 and has effect for 25 years (regulation 4).

7.4 In any year, the amount of non-domestic rates income to be disregarded in the designated area is found by calculating the non-domestic rating income for the area for the year in accordance with regulation 6. It is the amounts credited or charged to the authority's collection fund in respect of the area plus or minus any transitional protection payments made in respect of hereditaments in the area. This ensures that the calculation of the disregarded amount ignores the effects of the transitional arrangements scheme. The non-domestic rating income also excludes any amounts in respect of network

hereditaments crossing more than 2 rating list areas (such as a telecom network) which might otherwise be treated as included in the income.

7.5 On the site, there is no development which is currently liable for non-domestic rates, and therefore the local authority will retain all of the non-domestic rates growth in the area for 25 years.

8. Consultation outcome

8.1 A consultation for these Regulations has not been undertaken. As part of the Strategic Economic Plan, the Local Enterprise Partnership for Derby, Derbyshire, Nottingham and Nottinghamshire (D2N2 LEP) specifically asked for a change to the Nottingham Enterprise Zone. Following that, the Local Enterprise Partnership's Growth Deal, published in July 2014, set out that the Government and D2N2 LEP would work on their plans to extend the Enterprise Zone to Infinity Park Derby

9. Guidance

9.1 The Department issues guidance to local government on the calculations that have to be conducted under the rates retention system at the times of the year that the calculations need to be made. That guidance includes the calculation of the amount that is to be disregarded in respect of designated areas.

10. Impact

10.1 An impact assessment has not been produced for this instrument because it amends an existing local tax regime. Publication of a full impact assessment is not necessary for such legislation.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Government keeps the non-domestic rating system under regular review.

13. Contact

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