EXPLANATORY MEMORANDUM TO

THE NON-DOMESTIC RATING (DESIGNATED AREAS ETC.) REGULATIONS 2016

2016 No. 317

1. Introduction

1.1 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 rates retention scheme"). Their purpose is firstly, to designate areas and to provide rules for calculating the proportion of a local authority's non-domestic rating income in a designated area that is to be retained in its entirety by the local authority; and secondly, to amend the Non-Domestic Rating (Rates Retention) Regulations 2013 (S.I. 2013/452) ("Rates Retention Regulations") to specify additional designated areas in respect of which an authority is compensated for the cost of any discretionary relief it gives to business ratepayers.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

Designation of areas

4.1 The non-domestic rating system in England and Wales was established by the Local Government Finance Act 1988 ("the 1988 Act"). The Local Government Finance Act 2012 inserts 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 the calculation of the non-domestic rating income in respect of the hereditaments[1] within a designated area to be disregarded for the purpose of various calculations required under the rates retention scheme.

4.3 The Non-Domestic Rating (Designated Areas etc.) Regulations 2016 specify that the designation of the areas has effect for 25 years from 1st April 2016. This means that paragraph 39(9) of the Schedule applies. Paragraph 39(9) provides that where the

[1] A hereditament is a unit of property which is subject to rating

regulations specify the years for which the designation has effect, the regulations may not be revoked during that period and amendments which have the effect of altering the boundaries of a designated area, providing for the reduction in the proportion that may be disregarded or the reduction of the period of the designation may not be made to the regulations during that period.

Rates Retention Regulations

4.4 Paragraph 4 of the Schedule provides that local government and central government share in the non-domestic rating income collected locally by local authorities in England. Currently, the "local" and "central" shares of income are each 50%.

4.5 Paragraph 6 of the Schedule provides that, subject to regulations made under paragraph 8, a local authority must pay the Secretary of State an amount equal to the authority's central share of non-domestic rating income. Paragraph 8 of the Schedule provides that the Secretary of State may by regulations provide for a deduction to be made from that amount. By virtue of paragraph 8(2), those regulations may in particular provide for the deduction to be determined by reference to the operation of discretionary rates relief awarded to ratepayers by a local authority under section 47 of the 1988 Act. The Rates Retention Regulations make provision under paragraph 8 of the Schedule for the deductions. The Rates Retention Regulations also provide for the calculation of non-domestic rating income for the purposes of paragraph 6 of the Schedule.

5. Extent and Territorial Application

5.1 This instrument extends to England and Wales.

5.2 This instrument applies in relation 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

What is being done and why

7.1 These Regulations form part of the scheme to allow local retention of non-domestic rates (the rates retention scheme). The scheme was introduced on 1st April 2013 to give local government a direct share of non-domestic rating income to provide an incentive to promote local growth. This replaced the previous scheme under which non-domestic rates were collected by local government, paid to central government and redistributed back to local government via the local government finance report.

7.2 Under Schedule 7B to the 1988 Act, non-domestic rates are to be shared between central government and different parts of local government. The proportions at which rates are to be shared between central government and local government has been set at 50:50.

7.3 As part of its policy to deliver growth, the Government has previously identified a number of geographical areas in which the Government can help create jobs and businesses by giving businesses the right conditions for growth, creating public and private partnerships and encouraging competition to attract foreign inward investment.

In these areas, the Government has allowed local authorities to retain 100% of the growth in non-domestic rates. This provides a powerful incentive for growth.

7.4 To deliver this commitment, the Rates Retention Regulations provide that when calculating an authority's non-domestic rating income for a designated area in a relevant year, the proportion of that income representing growth in rating income during that year is disregarded. This allows growth in non-domestic rating income in designated areas to be retained 100% by the authority.

7.5 The Rates Retention Regulations also provide that in some geographical areas, including designated areas, where an authority grants rates relief to ratepayers using its discretionary relief powers, it will be compensated for the loss of income that it incurs as a result. Compensation is provided by allowing the authority to make a deduction from the Government's 50% share of non-domestic rating income.

7.6 The amendment of the Rates Retention Regulations by these Regulations ensures that compensation for discretionary relief is provided in respect of the new areas designated under regulation 4 of these Regulations and in respect of two geographical areas in Leeds and Newquay whose boundaries have changed.

Consolidation

7.7 The Department does not intend to consolidate the relevant legislation.

8. Consultation outcome

8.1 A general consultation for these Regulations has not been undertaken since they implement outcomes for specific geographical areas that have been the subject of negotiation between central Government and the areas concerned.

9. Guidance

9.1 The Department issues guidance to local authorities on the completion of the associated data forms which are used to determine the amounts of non-domestic rating income due in designated areas and under the retention arrangements generally.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is that, while the overall amount of business rates income retained by the public sector will be unaffected, the amounts retained respectively by central and local government will change depending on the amount of growth generated in those areas and, as a result, local authorities will be incentivised to secure more growth than might otherwise have been the case.

10.3 An Impact Assessment has not been prepared for this instrument. An impact assessment for the rates retention scheme is available from: https://www.gov.uk/government/uploads/attachement_data/file/8470/2054063.pdf

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

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

13. **Contact**

13.1 Mark Barnett at the Department for Communities and Local Government Telephone: 0303 44 44217 or email: mark.barnett@communities.gsi.gov.uk can answer any queries regarding the instrument.