EXPLANATORY MEMORANDUM TO

THE NON-DOMESTIC RATING (DESIGNATED AREAS) REGULATIONS 2024

2024 No. 183

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Levelling Up, Housing and Communities and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Simon Hoare MP, Parliamentary Under-Secretary of State for Local Government at the Department for Levelling Up, Housing and Communities confirms that this Explanatory Memorandum meets the required standard.

2.2 Suzanne Clarke, Deputy Director for Local Government Finance Stewardship, at the Department for Levelling Up, Housing and Communities confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Emily Busby at the Department for Levelling Up, Housing and Communities, email: emily.busby@levellingup.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 These Regulations form part of the scheme for local retention of non-domestic rates ("the rates retention scheme"). Their purpose is to allow local authorities to retain 100 per cent of growth in business rates income in specific geographic areas, where usually local authorities would have to pay 50 per cent of their collected business rates to central government.

These regulations will designate 29 areas as part of the Freeports, Investment Zones and Growth Zones policies and, extend the existing designated area arrangement at the York Central Enterprise Zone from 25 years to 35 years.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

5. Policy Context

What is being done and why?

5.1 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 local non-domestic rating income and thereby an incentive to promote local growth. This replaced the previous scheme whereby non-domestic rates were collected by local government, paid to central government and redistributed back to local government via the local government finance report.

5.2 Under Schedule 7B to the Local Government Finance Act 1988 ("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, in the most part, been set at 50:50.

5.3 These regulations allow local authorities to retain 100 per cent of growth in business rates income in specific geographic areas. These regulations provide that, when calculating how much 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 that is measured after the introduction of the designated area. This will then allow the growth in those designated areas to be retained 100 per cent by the billing authority. These regulations also provide rules for calculating the amount to be disregarded.

5.4 These regulations will designate areas as part of the Freeports, Investment Zones and Growth Zones policies, and extend an existing Designated Area arrangement as part of the Enterprise Zones policy.

What was the previous policy, how is this different?

These regulations will allow local authorities to retain 100 per cent growth in non-domestic rates income in those areas, where usually these local authorities would have to pay 50 per cent of their collected rates to central government.

6. Legislative and Legal Context

How has the law changed?

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

6.2 Part 10 of Schedule 7B enables the Secretary of State to make regulations designating areas and to provide 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.

6.3 The Non-Domestic Rating (Designated Areas) Regulations 2024 designate the areas by reference to maps[2] and specify that the local authority area in which the designated areas are located will be permitted to retain 100 per cent of the business rates growth above an agreed baseline. This designation will have effect from 1st April 2024 for

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

[2] Copies of the maps referred to may be inspected free of charge by prior appointment with the Department for Levelling Up, Housing and Communities Business Rates Retention Team at 2 Marsham Street, London, SW1P 4DF and the principal office of the billing authority.

the period of 25 years, for areas under the Investment Zone and Growth Zone policies. The designation for areas under the Freeports policy will have effect for 24 years. This is because all other areas under the Freeports policy were previously designated from 1st April 2023 for 25 years. We made exceptional arrangements where we committed to pay local authorities sums via grant equivalent to that which would have been retained if the legislation came into effect on 1st April 2023. The regulations also extend the existing Designated Area arrangement at the York Central Enterprise Zone from 25 years to 35 years. This means that paragraph 39(9) of Schedule 7B applies, which provides that the regulations may not be revoked during that period and the amendments which may be made during that period are limited.

Why was this approach taken to change the law?

6.4 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

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

8. Applicable Guidance

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

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument.

A Tax Information and Impact Note covering the designation of Freeport sites was published on 3rd March 2021 alongside the Spring Budget 2021 and is available at: https://www.gov.uk/government/publications/designation-of-freeport-tax-sites.

The Investment Zones Technical Document published on 11th July 2023 covering the evaluation process for Investment Zones is available at: https://www.gov.uk/government/publications/investment-zones-technical-document/investment-zones-technical-document.

Impact on businesses, charities and voluntary bodies

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

9.3 The legislation does not impact small or micro businesses.

9.4 The impact on the public sector is that, while the overall amount of non-domestic 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. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The instrument, which is in connection with a local taxation regime, is not subject to the duty to review regulatory provisions in secondary legislation in section 28 of the Small Business, Enterprise, and Employment Act 2015. The Government keeps the non-domestic rating system under review.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").