EXPLANATORY MEMORANDUM TO

THE NON-DOMESTIC RATING (MISCELLANEOUS PROVISIONS) (NO. 2) REGULATIONS 1989 (AMENDMENT) (ENGLAND) REGULATIONS 2016

2016 No. 777

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 relate to non-domestic rating lists compiled on or after 1st April 2017. They set the decapitalisation rates used to determine the rateable value of hereditaments which are ascertained using the contractor's basis of valuation.

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

4.1 Sections 41 and 52 of the Local Government Finance Act 1988 ("the 1988 Act") require valuation officers to compile non-domestic rating lists. From 1st April 1990, new lists had to be compiled every five years. However, section 29 of the Growth and Infrastructure Act 2013 amended sections 41 and 52 of the 1988 Act so that new rating lists of non-domestic property in England must be compiled on 1st April 2017 (and every five years after that) instead of on 1st April 2015 as would have otherwise been the case.

4.2 Paragraph 2(8) of Schedule 6 to the 1988 Act ("Non-Domestic Rating: Valuation") gives the Secretary of State the power to prescribe assumptions to be used in applying the provisions of Schedule 6. In exercise of this power, these Regulations prescribe the decapitalisation rates used to determine the rateable value of hereditaments which are ascertained using the contractor's basis of valuation for lists compiled on or after 1st April 2017.

5. Extent and Territorial Application

5.1 This instrument extends to England and Wales.

5.2 This instrument applies in relation 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

What is being done and why

7.1 All rateable values are assessed by the Valuation Office Agency ("VOA") independently of Ministers to the same standard of, broadly speaking, annual rental value. For some specialist properties, where rents do not exist, the VOA use the contractor's basis of valuation.

7.2 The contractor's basis of valuation works on the principle that, in theory, the tenant in the rating world could build their own property rather than rent the actual property and this will inform their rental bid. Therefore they will not pay more in rent than the annualised cost of buying land and building a similar property nearby. The application of the decapitalisation rate is the stage of the valuation which translates the capital value into an annual rental value.

Consolidation

7.3 Whilst the Non-Domestic Rating (Miscellaneous Provisions) (No. 2) Regulations 1989 have been amended on a number of previous occasions in the most part they remain unchanged. The Department does not, therefore, intend to consolidate them.

8. Consultation outcome

8.1 The decapitalisation rates have been prescribed since 1990. In September 2015 the government consulted upon whether to continue with prescribed decapitalisation rates for the 2017 rating lists and, if so, at what levels. Following consultation, the government concluded that without prescription of the decapitalisation rates businesses valued on the contractor's basis would not be able to plan for their rates bill and local government would offset this uncertainty by increasing provisions and, in turn, reducing income for local services. Therefore, the government decided to prescribe decapitalisation rates for the 2017 revaluation.

8.2 The government concluded that, having regard to the considerations explained in the consultation paper and having considered the responses, the decapitalisation rates for the 2017 revaluation for education, healthcare and the MOD should be set at 2.6% and for other specialist properties at 4.4%.

8.3 The government's response to the consultation, including an analysis of responses, was published on the Department's website in April 2016[1].

9. Guidance

9.1 The decapitalisation rates will be implemented by the VOA. Draft 2017 rateable values will be published on the VOA's website on 30 September 2016.

[1] https://www.gov.uk/government/consultations/the-decapitalisation-rates-for-the-2017-business-rates-revaluation

10. Impact

10.1 The impact on business, charities or voluntary bodies is that their rateable values, for any properties assessed using the contractor's basis of valuation, will be determined using the prescribed decapitalisation rates.

10.2 The impact on the public sector is that their rateable values, for any properties assessed using the contractor's basis of valuation, will be determined using the prescribed decapitalisation rates.

10.3 An Impact Assessment has not been prepared 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 applies to activities that are undertaken by small businesses.

11.2 The Valuation Office Agency will seek to minimise the administrative burden upon small businesses when implementing the 2017 Revaluation whilst also ensuring that rateable values are based upon accurate and up to date information. From 1st April 2017, businesses with a property with a rateable value of £12,000 and below will receive 100% rate relief. As a result 600,000 small businesses, occupiers of a third of all properties, will pay no business rates at all. Businesses with a property with a rateable value between £12,000 and £15,000 will receive tapered relief. An additional 50,000 small businesses will benefit.

12. Monitoring & review

12.1 The Government will continue to keep the non-domestic rates system under review.

13. Contact

13.1 Nick Cooper at the Department of Communities and Local Government Telephone: 07795 367238 or email: nick.cooper@communities.gsi.gov.uk can answer any queries regarding the instrument.