EXPLANATORY MEMORANDUM TO

THE NON-DOMESTIC RATING (NORTHERN LINE EXTENSION) REGULATIONS 2015

2015 No. 354

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 (Northern Line Extension) Regulations 2015 is to designate areas in relation to which a proportion of the non-domestic rating income (as calculated in accordance with the Regulations) is to be retained by the local authority all or 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 (Northern Line Extension) Regulations 2015 make provision for two separate designations of the areas concerned. Firstly, regulation 4 specifies that the areas are designated for a period of 25 years from 1st April 2016. 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

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

Regulations during that period.

4.4 In addition, regulation 5 provides for a new period during which the areas are to be designated, but this designation comes into effect only in the event that certain conditions are met. Where the conditions are met the designations are to have effect for a further five years and, as the Regulations specify the years for which the designation would have effect, paragraph 39(9) of the Schedule would have effect during that period. The circumstances in which the second designation may take effect are made in exercise of paragraph 39(5)(b) of the Schedule and this is the first exercise of that provision.

4.5 In accordance with paragraph 39(7) of the Schedule the Regulations provide that if the conditions have not been met by the end of the first period of designation, i.e. by the end of 31st March 2041, the Regulations will cease to have effect.

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

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

7. Policy background

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 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[2].

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 are to be set out in the local government finance report for the year and the Government has indicated that this will continue to be set at 50:50.

7.3 As part of its policy to deliver growth, the Government has previously identified several geographical areas designed to help create jobs and create businesses in areas of economic opportunity. These areas have been given greater accountability in exchange for new powers to help deliver growth and jobs in their areas. The Government has negotiated an agreement with the

[2] For details see Schedule 8 to the Local Government Finance Act 1988 and the Non-domestic Rating Contributions (England) Regulations 1992 (S.I. 1992/3032)

Greater London Authority and the London boroughs of Wandsworth and Lambeth for the funding of the Northern Line Extension to Battersea Power Station, which is intended to improve transport connectivity to new developments across Battersea, Vauxhall and Nine Elms in London. As part of this agreement, the Greater London Authority will borrow up to £1bn to finance the construction of the Northern Line Extension and repay the debt partly by using revenues from non-domestic rates from the surrounding development area, and partly from developer contributions. The Government has agreed to designate areas covering identified development sites within the boroughs of Wandsworth and Lambeth as areas where local authorities will retain 100% of the growth in non-domestic rates in those areas for a period of 25 years. Under the terms of the agreement, the payment of principal and interest on the debt raised by the Greater London Authority to finance the construction of the Northern Line Extension to Nine Elms and Battersea Power Station must take priority over non-Northern Line Extension spending within the area. Further, the Government will not provide other features of Enterprise Zones in respect of these areas, in particular non-domestic rates relief.

7.4 The Government has also agreed to provide a wider loan support package for the Greater London Authority, under which HM Treasury will provide limited protection to the Greater London Authority in the event that development revenues from the areas turn out to be lower than expected. This protection is provided by means of a Standby Refinancing Facility covering up to £750m of Northern Line Extension debt, which can be activated by the Greater London Authority if revenues from the initial period of 25 years are insufficient to repay the loan. Under the terms of the agreement, if the Standby Refinancing Facility is activated by the Greater London Authority, any outstanding balance on the Northern Line Extension debt (up to a maximum of £750m) will be replaced by a loan from HM Treasury under the Standby Facility repayable over a 50 year period, and under these Regulations the areas will be designated for a further 5 years, provided that specified conditions are met. Any revenues received from the additional period of designation must be applied entirely to repaying the loan to HM Treasury. The agreement is available for inspection at the offices of HM Treasury at 1 Horse Guards Road, London, SW1A 2HQ.

7.5 The Non-Domestic Rating (Rates Retention) Regulations 2013 (S.I. 2013/452) 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 in designated areas. This will then allow the growth in those designated areas to be retained 100% by the billing authority. These Regulations designate the areas in which the 100% disregard will apply and provide rules for calculating the amount to be disregarded. The Greater London Authority, Transport for London and the London Boroughs of Lambeth and Wandsworth signed a deed of agreement in January 2014 which sets out the mechanism by which the non domestic rates revenues from the designated area as well as the developer contributions will be applied to finance the Northern Line extension.

7.6 The areas are designated by regulation 3 using the numbered maps listed in Schedule 1. The maps are available for inspection at the offices of the Secretary of State for Communities and Local Government and the offices of each local authority. Laying the Regulations now will provide the certainty needed to ensure the timely completion of the necessary borrowing arrangements for the Northern Line extension. The designated areas have effect for 25 years from 1st April 2016 (regulation 4) since this will provide the most effective period, and certainty, to maximise revenue from 100% rates retention in the areas covered by the designation, thereby mitigating the risk of a need to activate the Standby Refinancing facility. The Regulations further provide that an additional period of designation of five years is to take effect in the event that certain conditions are met. This provides the necessary certainty to the parties to the Standby Refinancing facility that resources will be available, if the conditions are met, to help repayment of the loan facility. Where those conditions are not met, the Regulations will cease to have effect at the end of 31st March 2041.

7.7 In any year, the amount of non-domestic rates income to be disregarded in a designated area is found under Part 1 of Schedule 2 by calculating the non-domestic rating income for the area for the year and deducting a figure representing the baseline income for the area.

7.8 The non-domestic rating income for the area is defined in Part 2 of Schedule 2. 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 two rating list areas (such as a telecom network) which might otherwise be treated as included in the income.

7.9 The starting figures for the baseline calculations have been provided by local authorities, representing a snap shot of non-domestic rates due in each designated area using the 2014/15 multiplier[3] (i.e. in 2014/15 terms). These figures are shown in the table in Schedule 1. For 2016/17, when the designations first take effect, the baseline figure is then increased in line with the change in the small business multiplier[4] between 2014/15 and 2016/2017 (paragraph 3(2) of Schedule 2). This ensures that the baseline is restated in 2016/17 terms and that the local authority does not benefit from growth in rates income on the baseline merely from the increase in the multiplier. For subsequent years (other than in a revaluation year) the resulting figure is again increased in line with the change in the small business multiplier (paragraph 3(3)) for the same reason.

[3] The non-domestic rating multiplier is the rate in the pound by which the rateable value is multiplied to produce the annual rates bill for a property.
[4] The small business non-domestic rating multiplier for a financial year is determined by the Secretary of State in accordance with the provisions contained in Schedule 7 to the 1988 Act.

7.10 In a revaluation year the income in the designated area changes because of the general shifts in rates liabilities between sectors and locations. The Regulations provide that the baseline figures are adjusted to reflect the movement of gross rates income in the designated area in the revaluation year (paragraph 4). This ensures that local authorities do not benefit or are not penalised for changes to the income in respect of the baseline due to the revaluation.

8. Consultation outcome

8.1 A consultation for these Regulations has not been undertaken as these Regulations implement an element of the agreement which has been the subject of a negotiation between the Government and the Greater London Authority and Lambeth and Wandsworth London borough councils and was announced in the Autumn Statement 2012.

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

Peter Bates at the Department for Communities and Local Government Tel: 0303 444 2077 or email: peter.bates@communities.gsi.gov.uk can answer any queries regarding this instrument.