EXPLANATORY MEMORANDUM TO

THE NON-DOMESTIC RATING (RATES RETENTION) (AMENDMENT) REGULATIONS 2016

2016 No. 1268

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 The Non-Domestic Rating (Rates Retention) (Amendment) Regulations 2016 ("the Amending Regulations") amend provisions of the Non-Domestic Rating (Rates Retention) Regulations 2013 ("the 2013 Regulations") to provide, in specified billing authority areas, for deductions from the central share payment. The Regulations also provide for the administration of the deduction from the central share payment including the calculation of the amount to be deducted. The regulations also amend Schedule 4 of the 2013 Regulations to specify the billing authority's share of any surplus or deficit for the Council of the Isles of Scilly.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 This statutory instrument was made on 22nd December 2016 and was registered that day to be laid on 23rd December 2016 as S.I. 2016/1266. Unfortunately, due to an administrative error, the published version was incorrect and as a result the instrument was re-registered on 23rd December 2016 as S.I. 2016/1268. The Department tried to lay this instrument the same day but there wasn't enough time to do so. A correction slip was issued changing the laying date to the next available laying day, the following Wednesday 28th December 2016 and the instrument was laid, with the correction slip, on that day. As this instrument was coming into force on 16th January 2017 this meant the 21 day rule was breached by one day.

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 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 in to the 1988 Act ("the Schedule") which provides for the local retention of non-domestic rates collected.

4.2 The 2013 Regulations provide for the operation of the rates retention system. The system operates through a Billing Authority's collection fund. A Billing Authority is required to keep a collection fund under Part 6 of the 1988 Act and business rates

income collected by the authority must be paid into or out of this fund. Before the beginning of the year, the Billing Authority estimates the amount due to it in respect of non-domestic rating for the year. This amount is the authority's non-domestic rating income for the year. 50% of the amount is due to central government – the so called "central share". The remaining 50% - the local share – is shared between a billing authority and its major precepting authorities (if any), as required by the 2013 Regulations.

4.3 As set out in the 2013 Regulations, certain billing authorities are permitted to deduct an amount from the central share payment. This amount is retained by authorities instead of being paid over to central government.

4.4 During the year a collection fund held by the Billing Authority receives all non-domestic rating income paid by ratepayers and pays out local and central shares (in line with the calculation made before the start of the year). By the end of the year the collection fund will either be in deficit or surplus depending upon whether the non-domestic income is more or less than expected. The 2013 Regulations provide for the calculation of this surplus or deficit and its distribution between central and local government.

4.5 These Regulations amend the Non-Domestic Rating (Rates Retention) Regulations 2013, to provide for further deductions from the central share payment in specified billing authority areas. The Regulations also provide for the calculation and administration of deductions from the central share payment.

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 These Regulations form part of the scheme to allow local retention of non-domestic rates (the rates retention scheme). The scheme was introduced from April 2013 to give local government a direct share of local non-domestic rating income and thereby an incentive to promote local growth, whilst maintaining a level of 'central share' to be collected and redistributed by central Government.

7.2 This scheme replaced the previous scheme whereby all non-domestic rates were collected by local government, paid to central government and redistributed back to local government via the local government finance report1.

7.3 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

[1] 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).

out in the local government finance report for the year. The proportions have been set at 50:50 since 2013-14.

7.4 In March 2015, the Government indicated that it would establish "growth pilots" in Greater Manchester, Cheshire East, Cambridgeshire and Peterborough. In growth areas, authorities would, assuming they achieved sufficient growth in their non-domestic rates, be permitted to keep the Government's "central share" as well as their local share.

7.5 The scheme, as worked out with the authorities, allows them to keep the government's 50% share of business rates if their non-domestic rating income exceeds a "baseline" amount. The baseline is set at a level which represents normal expected growth. Hence, if authorities exceed normal expectations, they are entitled to keep all of the "exceptional" growth, instead of paying half of it over to central government. In this way, authorities are further incentivised to grow their local economies. Any sums due to local authorities under the scheme are to be deducted from the authority's central share payment.

Consolidation

7.6 This instrument amends existing provisions of the Non-Domestic Rating (Rates Retention) Regulations 2013. The Department does not intend to consolidate these Regulations.

8. Consultation outcome

8.1 These are technical changes and have been developed in consultation with representatives of local government.

9. Guidance

9.1 The Department issues guidance to local government on the completion of associated information forms which describe how to estimate non-domestic rating income.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies since the regulations do not alter the bills due from ratepayers.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment for the rates retention scheme is available from the DCLG website at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/8470/2054063.pdf

10.4 A separate impact assessment has not been produced for this instrument because it amends an existing local tax regime.

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 Tel: 0303 4444217 or email: mark.barnett@communities.gsi.gov.uk can answer any queries regarding the instrument.