EXPLANATORY MEMORANDUM TO

THE NON-DOMESTIC RATING (RELIEFS, THRESHOLDS AND AMENDMENT) (ENGLAND) ORDER 2017

2017 No. 102

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 purpose of this instrument is to make provision in relation to the small business rate relief scheme in England in respect of chargeable days falling after 31st March 2017. It prescribes the conditions for eligibility for the relief and the amount of relief in relation to eligible hereditaments[1] applicable from that date.

2.2 This instrument also extends empty property relief and thresholds for discounts for stud farms.

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 Part 3 of the Local Government Finance Act 1988[2] ("the 1988 Act") concerns non-domestic rating. This Order is being made under sections 43(4B), 44(9)(a), 45(1)(d), (9) and (10), 143(1) and (2), 146(6) of, and paragraph 2A(2)(a) of schedule 6 to, the 1988 Act.

Small Business Rate Relief

4.2 Section 43 of the 1988 Act prescribes the formulae to be used for the calculation of non-domestic rates in respect of occupied locally listed hereditaments. Section 43(4A) provides the formula to be used where subsection (4B) applies. Subsection (4B) applies where, on the day concerned, any conditions prescribed by the Secretary of State by order are satisfied.

4.3 The Non-Domestic Rating (Small Business Rate Relief) (England) Order 2012[3] ("the 2012 Order") prescribes the conditions which must be satisfied under section 43(4B)

[1] A hereditament is the unit of property which is the subject of rating.
[2] c. 41.
[3] S.I. 2012/148, amended by S.I. 2013/15, S.I. 2014/43, S.I. 2015/106 and S.I. 2016/143.

of the 1988 Act before small business rate relief can be granted by a billing authority in England in respect of chargeable days falling after 31st March 2012.

4.4 Where a ratepayer satisfies the eligibility criteria for small business rate relief contained in article 3 of the 2012 Order, the ratepayer's daily liability for non-domestic rates in respect of the hereditament concerned is determined under section 43(4A) of the 1988 Act in accordance with the formula (A x D) / (C x E) where: A is the rateable value of the hereditament4; D is the small business non-domestic rating multiplier for the financial year5; C is the number of days in the financial year; and E is such amount as is prescribed in relation to the hereditament by the Secretary of State by order. Article 3 prescribes the amount of E for chargeable days falling after 31st March 2012.

4.5 Article 4 of the 2012 Order made temporary provision for doubling the level of relief for the financial years 2012/13 to 2016/17 by raising the rateable value threshold for eligibility for relief.

The Non-Domestic Rating (Unoccupied Property) (England) Regulations 2008

4.6 The Non-Domestic Rating (Unoccupied Property) (England) Regulations 20086 ("the 2008 Regulations") prescribe the types of property whose owner will be liable for non-domestic rates when the property is empty and the exceptions from that class. This class is prescribed by regulation 3 as, broadly speaking, all properties. Regulation 4 specifies exceptions to the class so that rates are not payable in respect of the properties described in that regulation when they are empty.

4.7 Regulation 4(g) of the 2008 regulations7 provides that properties with a rateable value of less than £2,600 are excepted from the class prescribed by regulation 3.

The Non-Domestic Rating (Stud Farms) (England) Order 2009

The Non-Domestic Rating (Stud Farms) (England) Order 2009 ("the 2009 Order") makes provision for the amount of the rateable value deduction for stud farms. The 2009 Order is made under paragraph 2A of Schedule 6 to the 1988 Act. Paragraph 2A provides for deduction to be made from what would otherwise be the rateable value of hereditaments comprising buildings used in whole or in part for the breeding and rearing of horses and ponies, or for either purpose, and which are occupied together with agricultural land or buildings ("stud farm hereditaments"). The deduction is the smaller of the amount prescribed in the Order and the amount which would otherwise be the rent that a hypothetical tenant would pay for so much of the hereditaments as consist of buildings used for such purposes. That reduced rateable value is then used to calculate the ratepayer's liability to non-domestic rates under the relevant provisions of the 1988 Act.

[4] The rateable value of the hereditament (the measure of liability for rating) is the notional annual rent at which it is estimated the hereditament might reasonably be expected to let.
[5] 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.
[6] S.I. 2008/386.
[7] As amended by the Non-Domestic rating (Unoccupied Property) (England) (Amendment) Regulations 2010/408, regulation 2(2)(a).

5. Extent and Territorial Application

5.1 This instrument extends to England and Wales.

5.2 This instrument applies 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

Small Business Rate Relief

7.1 The small business rate relief scheme, which was introduced in 2005, addresses the disproportionate burden that business rates place on small business compared with larger concerns. Relief is available under the scheme to businesses that generally occupy a single property below a rateable value threshold. The scheme also provides for properties below a certain rateable value to be subject to the small business non-domestic rating multiplier.

7.2 The level of Small Business Rate Relief was temporarily doubled (from 50% to 100%) from 1 October 2010. The measure was subsequently extended and the current doubling of relief runs until 31 March 2017. At Budget 2016 the Chancellor announced that Small Business Rate Relief would be permanently doubled, the rateable value threshold levels would be increased, and the thresholds for the standard business rates multiplier would increase to £51,000 to benefit a greater number of businesses from 1 April 2017. This Order gives effect to this policy. The 2012 Order will continue to have effect for the purposes of determining eligibility for small business rate relief and the amount of relief in respect of days falling prior to 1st April 2017.

7.3 Small Business Rate Relief scheme is normally funded by a supplement on the bills of larger properties. However, the extra costs of this measure will be funded by the Exchequer rather than by the supplement. Billing authorities will be reimbursed for the tax loss by the Government.

Uprating of Other Thresholds Following the 2017 Revaluation

7.4 Rateable value (RV) thresholds are used in the rating system to target various forms of rate relief at small properties. The rate relief thresholds are usually updated at each revaluation in line with the overall effect of the revaluation, because rateable values rise and therefore to maintain value of the relief. This was the case at the 2010 revaluation. The next revaluation comes into effect from April 2017.

7.5 This order makes provision to increase three sets of rate relief thresholds to take account of the revaluation: thresholds for the value of individual second properties and aggregate value of second properties, which are part of the conditions for eligibility for small business rate relief; the threshold in relation to extended empty property relief; and the discount that is applied to stud farms.

Consolidation

7.6 This Order revokes the 2012 Order in respect of small business rates relief for chargeable days falling after 31st March 2017. There are no plans to undertake a consolidation in respect of the 2008 Regulations or the 2009 Order, as the amendments to those instruments are not extensive in nature.

8. Consultation outcome

8.1 The permanent doubling of small business rate relief as well as the changes to the threshold levels were confirmed at Budget 2016, following the Government's Business Rates Review, which sought views from stakeholders on the overall business rates system. The uprating of other rate relief thresholds are consequential to the impact of 2017 revaluation and have not been subject to a formal consultation.

9. Guidance

9.1 The Government provides information to billing authorities on the delivery of policy changes through the regular issue of Business Rate Information Letters. These letters can be found at:

https://www.gov.uk/government/collections/business-rates-information-letters

10. Impact

10.1 There will be a positive impact for businesses, charities or voluntary bodies who are eligible ratepayers and who will benefit from either the permanent doubling of relief or the increases to thresholds (i.e. if they become eligible for relief).

10.2 The impact on the public sector is minimal. Local authorities are reimbursed by Government for the loss of income associated with the increased thresholds for Small Business Rates Relief announced at Budget 2016. We do not expect changes to the thresholds to take account of the revaluation to have a significant impact on the public sector given these reflect a general increase in values at the 2017 revaluation.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislative changes contained in this Order are intended to benefit small businesses.

12. Monitoring & review

12.1 The Government will monitor and review the impact of this measure in the usual course of business.

13. Contact

13.1 Jasna Begum at the Department for Communities and Local Government Telephone: 030344 41304 or email: Jasna.begum@communities.gsi.gov.uk can answer any queries regarding the instrument.