EXPLANATORY MEMORANDUM TO

THE NON-DOMESTIC RATING (RENEWABLE ENERGY PROJECTS) (AMENDMENT) REGULATIONS 2017

2017 No. 1132

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 make amendments to the Non-Domestic Rating (Renewable Energy Projects) Regulations 2013 (S.I. 2013/108) ("Renewable Energy Projects Regulations") to ensure that, after the revaluation, the original policy intention for those regulations continues to be realised.

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 negative resolution 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. Part 10 of Schedule 7B to the Act enables the Secretary of State to make regulations designating areas and classes of hereditaments[1] and provide for a calculation of the non-domestic rating income in respect of hereditaments within a designated area or class to be disregarded for the purpose of various calculations in the system.

4.2 The Renewable Energy Projects Regulations designated classes of hereditaments 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. This fulfilled a commitment to allow communities that host renewable energy projects to keep the additional business rates they generate.

5. Extent and Territorial Application

5.1 The extent of this instrument is England and Wales.

5.2 The territorial application of this instrument is England only.

[1] A rateable unit of property.

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 The rateable value of hereditaments in England and Wales underwent a revaluation on 1st April 2017. This is where the Valuation Office Agency adjusts the rateable value of business properties to reflect changes in the property market.

7.2 The regulations make amendments to the conditions for hereditaments to fall within designated classes B and C, as well as the calculation of income to be disregarded in respect of those classes. Class B consists of any hereditament that is a renewable power station, first entered onto a local non-domestic rating list before 1st April 2013 and where the rateable value for a day is greater than the rateable value of that hereditament as it was on 31st March 2013. Class C consists of any hereditament that would have fallen within Class B but that has been subsequently physically altered[2].

7.3 The Renewable Energy Projects Regulations work on the basis that any increase in rateable values for class B and C hereditaments since 31st March 2013 can be attributed to a change in the hereditament. The regulations calculate the amount of this increase and allow it to be retained by the relevant local authority.

7.4 As a consequence of the 1st April 2017 revaluation, the formula for hereditaments in classes B and C no longer delivers the policy objective. It can no longer be assumed that, where the rateable value of a hereditament changes it is because of a change in the hereditament. The change in rateable value could be attributed to the revaluation.

7.5 These regulations ensure that, when comparing rateable values for a day with those as of 31st March 2013, any changes that are attributable to the revaluation are not taken into account in the relevant formulae.

7.6 Further background can be found in the Explanatory Memorandum of the Renewable Energy Project Regulations – http://www.legislation.gov.uk/uksi/2013/108/pdfs/uksiem_20130108_en.pdf

Consolidation

7.7 The Department does not intend to consolidate the relevant legislation.

8. Consultation outcome

8.1 These Regulations have been developed and agreed in partnership with the established Business Rates Retention System Implementation Working Group, which consists of local government finance officers, representatives from the Chartered Institute of Public Finance and Accountancy, the Special Interest Group of Municipal Authorities and specialists from the Local Government Association.

8.2 All billing authorities with existing eligible Renewable Energy Projects have been written to, informing them of these regulatory changes and inviting comments.

[2] See Schedules 1 and 2 to the Renewable Energy Projects Regulations.

8.3 Further information about the consultation on the Renewable Energy Project Regulations can be found in the Explanatory Memorandum to those Regulations – http://www.legislation.gov.uk/uksi/2013/108/pdfs/uksiem_20130108_en.pdf

9. Guidance

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

10. Impact

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

10.2 There is no impact on the public sector.

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

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 review.

13. Contact

13.1 David Bull at the Department for Communities and Local Government Telephone: 0303 444 41725 or email: David.Bull@communities.gsi.gov.uk can answer any queries regarding the instrument.