EXPLANATORY MEMORANDUM TO THE

NON-DOMESTIC RATING (SMALL BUSINESS RATE RELIEF) (ENGLAND) ORDER 2004

2004 No. 3315

1. This explanatory memorandum has been prepared by The Office of the Deputy Prime Minister and is laid before Parliament by Command of Her Majesty.

2. Description

This Order makes provision in relation to the small business rate relief scheme. It prescribes the conditions for eligibility for the relief and how the relief is to be calculated.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None.

4. Legislative Background

This Order is being made under the powers in sections 43(4B), 43(4C), 44(9) and 143(1) and (2) of the Local Government Finance Act 1988. This is the first use of the powers in sections 43(4B), (4C) and 44(9).

5. Extent

This instrument applies to England only.

6. European Convention on Human Rights

Not applicable.

7. Policy background

7.1 A small business rate relief scheme was first proposed in the Government's Green Paper *Modernising Local Government Finance* (September 2000) and later confirmed in the White Paper *Strong Local Leadership - Quality Public Services* (December 2001). This reflected the fact that business rates are a heavier burden for small businesses than for larger businesses. This was borne out by research - *The Impact of Rates on Businesses* - published by the Department of Environment in 1995.

7.2 The White Paper proposed that rate relief should be available at 50% for properties with a rateable value up to £3,000 with relief declining in percentage terms on a sliding scale until £8,000 at which point there would be no entitlement to relief. To exclude large businesses occupying many properties with low rateable value, the White Paper proposed that ratepayers would only be eligible if they occupied one property in England. It also

proposed that ratepayers would have to apply for the relief before 31 December in order to obtain the relief in the subsequent chargeable financial year. The relief would be paid for by a supplement on the rate bills of all other business ratepayers not eligible for the relief.

7.3 During the passage through Parliament of the Local Government Act 2003, concern was expressed that the thresholds were too low, particularly since a revaluation of properties would take effect from 1 April 2005. An undertaking was therefore given to review the thresholds once the effects of the 2005 revaluation were known. The total rateable value for England is now estimated to increase by 17.7%.

7.4 In addition, certain groups suggested introducing a buffer zone to exempt those small businesses near to, but over, the threshold from paying the additional supplement, and that the single property criterion and the criteria for registering for relief should be reconsidered.

7.5 In response, the consultation paper published by the ODPM in August 2004 proposed that the thresholds of £3,000 and £8,000 should be raised to £5,000 and £10,000 respectively. A buffer zone was also proposed for properties with a rateable value between £10,000 and £15,000, so that single property businesses within the thresholds would not have to pay the additional supplement.

7.6 Over 90 responses were received to the consultation paper, from a range of interests, including local authorities, business representatives and rating agents. Many felt that the single property criterion would unfairly penalise genuine small businesses that had additional ancillary facilities such as storage units or car parks that were treated as separate units for rating purposes. Many respondents also felt that the buffer zone thresholds should be aligned with those proposed for the transitional relief scheme, where small properties are defined as those with a rateable value of less than £15,000 outside London and £21,500 in London. Replies also suggested that legislation should set out what information was required in an application for relief, rather than prescribe the application form itself, and that a longer period should be allowed for making applications where there has been a change in a property's rateable value.

7.7 In the light of these representations, the ODPM has amended the scheme so that all properties with a rateable value below £2,200 are excluded from being considered as second properties, provided the total rateable value of all the ratepayer's hereditaments remains within the overall threshold that applies to single properties. The buffer zone has also been extended to include businesses in London with a rateable value up to £21,500. In addition, the time limit has been extended, from one month to six months, for a ratepayer to apply for relief after an alteration to a property's rateable value. Some further changes have also being made to the version of the draft Order proposed in the consultation paper, in the interests of clarity and consistency.

8. Impact

A Regulatory Impact Assessment is attached to this memorandum.

9. Contact

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