

EXPLANATORY MEMORANDUM TO
THE COUNCIL TAX AND NON-DOMESTIC RATING (DEMAND NOTICES)
(ENGLAND) (AMENDMENT) REGULATIONS 2010

2010 No. 140

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 Council Tax and Non-Domestic Rating (Demand Notices) (England) (Amendment) Regulations 2010 (“the 2010 Regulations”) amend the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003 (“the 2003 Regulations”). The 2003 Regulations govern matters contained in, and information to be supplied with, non-domestic rates and council tax demand notices (“bills”), although they do not apply in relation to council tax bills which relate to years beginning on or after 1st April 2010¹. The amendments made by the 2010 Regulations update the explanatory notes which the 2003 Regulations require to be provided with non-domestic rates bills (‘explanatory notes’). These amendments take account of a number of changes to the rating system and concern non-domestic rates only.

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

3.1 None.

4. Legislative Context

4.1 Schedule 2 to the 2003 Regulations prescribes the explanatory information that ratepayers are to receive about the calculation of their non-domestic rates bill and about rates generally. To ensure rates bills contain up-to-date information, the 2010 Regulations amend Schedule 2 to the 2003 Regulations to reflect the changes to non-domestic rating as described below.

4.2 Pursuant to section 41(2) of the Local Government Finance Act 1988 (“the 1988 Act”) non-domestic properties are re-valued every 5 years and the next revaluation (“the 2010 revaluation”) will have effect from 1st April 2010 to 31st March 2015. To take account of the 2010 revaluation, the 2010 Regulations update the information contained in the explanatory notes titled “Rateable Value” and “Non-Domestic Rating Multiplier”.

4.3 Section 57A of the 1988 Act, which was inserted by section 65 of the Local Government Act 2003, places a duty on the Secretary of State to make Regulations which provide for a transitional relief scheme in respect of each 5 year period for

¹ The Council Tax (Demand Notices) (England) Regulations 2009 (S.I. 2009/3193) apply to council tax demand notices which relate to a year beginning on or after 1st April 2010.

which rating lists are in force following a revaluation of non-domestic properties (“valuation period”). The Secretary of State has, therefore, made the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2009 (“the Chargeable Amounts Regulations”) which will have effect in relation to the valuation period beginning on 1st April 2010 and ending on 31st March 2015. To take account of the 2010 revaluation and to explain the transitional arrangements which have been put in place by the Chargeable Amounts Regulations, the 2010 Regulations substitute the note titled “Transitional Arrangements” with a new note titled “Revaluation 2010 and Transitional Arrangements”.

4.4 The Non-Domestic Rating (Small Business Rate Relief) (England) (Amendment) (No.2) Order 2009² (“the SBRR Order”) removes the requirement for a ratepayer who is receiving relief in one valuation period to re-apply for the relief in respect of a new valuation period (as long as the conditions which apply in respect of the new valuation period are satisfied in relation to the ratepayer and the hereditament³). The SBRR Order also increases, with effect from 1st April 2010, the rateable value thresholds prescribed in the Non-Domestic Rating (Small Business Rate Relief) (England) Order 2004 – which determine a ratepayer’s entitlement to small business rate relief and the amount of relief – to take account of changes to rateable values of hereditaments due to occur with effect from 1st April 2010 as a result of the 2010 revaluation. To reflect these changes the 2010 Regulations update the explanatory note titled “Small Business Rate Relief”.

4.5 The Non-Domestic Rating (Deferred Payments) (England) Regulations 2009⁴ (S.I. 2009/1597), made provision to allow ratepayers liable to rates in respect of the financial year beginning on 1st April 2009 (‘the financial year 2009-10’) to defer payment of part of their rates bills for that year to the financial year 2010-11 and part to 2011-12. Provision was made so that where a ratepayer has deferred payment under the scheme, the billing authority may, in respect of the financial years 2010-11 and 2011-12, issue single bills which relate to the amount payable in respect of that year and to payment of the amount deferred from 2009-10. To explain (where applicable) the inclusion of the deferred amount in rates bills, the 2010 Regulations introduce an explanatory note titled “Deferred payment of 2009-10 rates liabilities”.

4.6 The Council Tax and Non-Domestic Rating (Demand Notices) (England) (Amendment) Regulations 2009⁵ inserted, amongst other things, an explanatory note in Schedule 2 to the 2003 Regulations explaining the schedule of payments scheme. Under that scheme it has been possible for some ratepayers facing certain backdated liability to enter into agreements with their billing authority to discharge that liability over up to 8 years. As the scheme does not apply to demand notices served on or after 1st April 2010, the note is not included in the explanatory notes substituted by these Regulations.

² S.I. 2009/3175.

³ A hereditament is the unit of property which is the subject of rating and 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.

⁴ S.I. 2009/1597.

⁵ S.I. 2009/355.

4.7 The 2010 Regulations also amend the explanatory note titled “Rate relief for businesses in rural areas” in Part 2 of Schedule 2 to the 2003 Regulations to take account of the increases to the thresholds for rural rate relief made by the Non-Domestic Rating (Rural Settlements) (England) (Amendment) Order 2009 (S.I. 2009/3176). The increases to the thresholds are due to take effect on 1st April 2010.

5. Territorial Extent and Application

5.1 This instrument applies in relation to England only.

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

- *What is being done and why*

7.1 The 2010 Regulations set out the information that should be supplied to ratepayers to inform them of business rates policy so that they understand the policy and the impact it may have on their rates bills.

7.2 2010-11 is the first year of the next 5 year revaluation period following the 2010 revaluation of non-domestic properties. Five-yearly revaluations make sure each ratepayer pays their fair contribution and no more, by ensuring that the share of the national rates bill paid by any one ratepayer reflects changes over time in the value of their property relative to others. As a result, the 2010 Regulations make changes to the explanatory notes to take account of the 2010 revaluation and the new transitional relief scheme which will apply for the five year life of the new rating lists.

7.3 To ensure that rural rate relief and small business rate relief continue to be targeted at the right businesses following the changes to rateable values that will occur across England from 1st April 2010 as a result of the revaluation, the rateable value limits which are used to determine eligibility for these reliefs have been increased. The Government has also removed the requirement for businesses to reapply for small business rate relief at revaluation in certain circumstances in the interests of maximising take-up of small business rate relief by eligible businesses, and of reducing bureaucracy and costs for both small businesses and local authorities.

7.4 Ratepayers in 2009-10 were also able to defer payment of 3% of their 2009-10 rates bill and, where applicable, 60% of the increase in that bill due to the ending of the 2005 rating list transitional relief scheme. The right to apply for deferral has now ended. However, for those ratepayers who applied for this scheme, the deferred amount to be collected in 2010-11 and 2011-12 will be included in the bills for each of those years respectively.

7.5 Ratepayers in 2009-10 were able to defer payment of certain backdated rates liabilities over 8 years. This scheme has now ended and is therefore not available to ratepayers in 2010-11.

7.6 It is important that ratepayers understand these reforms and the impact they could have on their rates liability and payments. Accordingly, the amendments which the 2010 Regulations make to Schedule 2 to the 2003 Regulations reflect these changes so that billing authorities can ensure that accurate and up-to-date information is provided to ratepayers alongside their rates bills.

- ***Consolidation***

7.7 Those aspects of the 2003 Regulations which concern council tax have been consolidated by the Council Tax (Demand Notices) (England) Regulations 2009. The Department intends to carry out a review of the 2003 Regulations with a view to producing a consolidated version of the Regulations as they relate to rate demand notices, prior to the financial year beginning on 1st April 2011.

8. Consultation outcome

8.1 There has been no consultation on these changes to the 2003 Regulations. The need to update the content of rates bills is purely as a result of other changes to policy on non-domestic rates which the Department consulted on as appropriate.

9. Guidance

9.1 No guidance is required on these Regulations. The provision of information alongside rates bills is an understood part of the business rates system.

10. Impact

10.1 The 2010 Regulations update the information to be provided to ratepayers to ensure it is up to date following other legislative and policy changes. As such, no impact on business, charities or voluntary bodies as a result of the Regulations is foreseen.

10.2 The impact on the public sector is that billing authorities must amend the information they provide to ratepayers with their non-domestic rates bills. This is a usual aspect of the rating system.

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

11. Regulating small business

11.1 The legislation does not apply to small business (although it does relate to the information that small business will receive with their rates bills).

Monitoring & review

12.1 The information provided for ratepayers will be reviewed in line with any future changes in policy that impact on liability for, or the collection of, business rates.

13. Contact

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