

**EXPLANATORY MEMORANDUM TO**  
**THE NON-DOMESTIC RATING (SMALL BUSINESS RATE RELIEF)**  
**(ENGLAND) (AMENDMENT) ORDER 2011**

**2011 No. 1664**

**THE NON-DOMESTIC RATING (COLLECTION AND ENFORCEMENT)**  
**(LOCAL LISTS) (AMENDMENT) (ENGLAND) (No. 2) REGULATIONS 2011**

**2011 No. 1665**

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**

**The Non-Domestic Rating (Small Business Rate Relief) (England) (Amendment) Order 2011**

2.1 This instrument makes amendments to the Non-Domestic Rating (Small Business Rate Relief) (England) Order 2004 (“the 2004 Order”)<sup>1</sup>. The amendments provide for an extension of the temporary increase in the rates of relief for businesses with rateable values of up to £12,000, until 30th September 2012. The increase in relief is achieved by increasing the amount of “E” in the formula used to calculate the daily chargeable amount of non-domestic rates for businesses eligible for Small Business Rate Relief (“SBRR”), in section 43(4A)(a) of the Local Government Finance Act 1988 (“the 1988 Act”).

**The Non-Domestic Rating (Collection and Enforcement) (Local Lists) (Amendment) (England) (No.2) Regulations 2011**

2.2 This instrument makes amendments to the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989<sup>2</sup>, and the Non-

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<sup>1</sup> S.I. 2004/3315. The instrument has been amended by the Non-Domestic Rating (Small Business Rate Relief) (Amendment) Order 2006 (S.I. 2006/2313), the Non-Domestic Rating (Small Business Rate Relief) (England) (Amendment) Order 2009 (S.I. 2009/354), the Non-Domestic Rating (Small Business Rate Relief) (England) (Amendment) (No.2) Order 2009 (S.I. 2009/3175) and the Non-Domestic Rating (Small Business Rate Relief)(England)(Amendment) Order 2010 (S.I. 2010/1655). References in this Explanatory Memorandum to this instrument are references to it as amended by those Orders.

<sup>2</sup> S.I. 1989/1058. The instrument has been amended on numerous occasions. References in this Explanatory Memorandum to the instrument are to the instrument as amended.

Domestic Rating Contributions (England) Regulations 1992<sup>3</sup>, as a consequence of the continuation of the temporary increase in the rates of relief, provided for in the Small Business Rate Relief (England) (Amendment) Order 2011. The amendments to the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 will ensure that the collection and instalment regime for non-domestic rates accurately reflects the temporary increase in relief. The amendment to the Non-Domestic Rating Contributions (England) Regulations 1992 enables authorities to take account of the reduction in the amount of rates that they will collect, in their mid-year information returns to the Department.

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

3.1 None.

### **4. Legislative Context**

#### **The Non-Domestic Rating (Small Business Rate Relief) (England) (Amendment) Order 2011**

4.1 The 2004 Order prescribes the conditions that must be satisfied before small business rate relief can be granted by a rates billing authority and also prescribes the rates of relief.

4.2 The rates of relief in the 2004 Order are as follows, except when the temporary increase continued and provided for by this Order is in effect. Relief of 50 per cent is available for eligible properties which have a rateable value of up to £6,000, with the relief decreasing from 50 per cent to zero at the rate of around 1 per cent per £120 of rateable value for properties which have a rateable value of more than £6,000 and not more than £12,000.

4.3 The rates of relief are set through prescribing the amount of “E”, which is a value used in the formula used to calculate the daily chargeable amount for businesses eligible for Small Business Rate Relief (“SBRR”), in section 43(4A)(a) of the 1988 Act.

4.3 This Order makes a further temporary change to the value of E and hence those rates of relief between 1st October 2011 and 30th September 2012. Relief of 100 per cent is available for eligible properties which have a rateable value of up to £6,000. The relief then decreases at the rate of 1% per cent per £60 of rateable value from 100 per cent to zero for properties which have a rateable value of more than £6,000 and not more than £12,000.

4.4 This Order is being laid simultaneously with the Non-Domestic Rating (Collection and Enforcement) (Local Lists) (Amendment) (England) (No.2) Regulations 2011, which make amendments to the collection regime for non-

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<sup>3</sup> S.I. 1992/3082.

domestic rates so as to ensure that the rates of relief are applied correctly to payments made by ratepayers in instalments across the year.

### **The Non-Domestic Rating (Collection and Enforcement) (Local Lists) (Amendment) (England) (No.2) Regulations 2011**

4.5 The Regulations make amendments to the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 to ensure that the collection and instalment regime for non-domestic rates accurately reflects the temporary increase in relief in the right parts of the financial year. Ratepayers will see the relief reflected in the amended bills that they receive in October 2011 and the annual bill they receive at the start of the 2011/12 financial year, but the changes will not affect them in any other way.

4.6 The changes are achieved through providing an extension of the specific rates collection regimes for eligible businesses for the relevant parts of each of the financial years involved, October 2011 to March 2012 and April 2012 to September 2012. For the first period, the amendments enable the billing authority to adjust the instalment amounts for the financial year of 2011 - 12 (those instalment amounts would have been set earlier in the financial year) and serve a new bill on ratepayers for their instalment amounts after 1st October 2011 (if any). For the second period, the amendments allow billing authorities to calculate the annual liability payable and apportion the relief to the instalments in that period, in advance - without this provision, billing authorities would apportion the relief across the entire year, rather than simply for the first half of the year. The amendments also ensure that the total bill for the year takes account of the change in the amount of relief available across the financial year of 2012-13 – without this provision, billing authorities may issue annual bills for 2012-13 based only on the higher relief offered in the first period of the year, giving an incorrect impression of what the overall bill for the year actually will be.

4.7 The Non-Domestic Rating Contributions (England) Regulations 1992 contain the rules under which billing authorities make their contributions to the central non-domestic ratings pool. The amendment made in the Regulations enables authorities to take account of the reduction in the amount of rates that they will collect, in their mid-year information returns to the Department.

## **5. Territorial Extent and Application**

5.1 These instruments apply to England.

## **6. European Convention on Human Rights**

As the instruments are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

## 7. Policy background

- *What is being done and why*

7.1 The Small Business Rate Relief (SBRR) scheme, which was introduced in 2005, addresses the disproportionate burden that business rates place on small businesses compared with larger concerns.

7.2 Business rates are a fixed cost from the moment a company takes on a property. To help fledging businesses set up, as well as existing ones, it was announced in the June 2010 Budget that business rates would be reduced for one year from October 2010 by increasing the level of small business rate relief (SBRR) to double the level set out in the 2004 Order. SBRR is funded by a supplement paid by ratepayers not in receipt of the relief. However, businesses not eligible for SBRR will not pay more in business rates to fund this measure as the additional costs are being met by the Exchequer.

7.3 Eligible small businesses occupying properties with rateable values of up to £6,000 are therefore paying no business rates for that period as the rate of the relief has been increased from 50% to 100%. Small businesses benefiting from the “rate relief taper” (rateable values up to £12,000) are receiving significant reductions. For every £60 increase in rateable value above £6,000, Small Business Rate Relief decreases by 1% from 100% to 0%.

7.4 The Chancellor of the Exchequer announced in the March 2011 Budget that the temporary increase would be continued for a further year, from 1 October 2011 until 30 September 2012.. The extra relief would again be funded by the Exchequer.

7.5 The change in the level of relief will be applied to eligible ratepayers’ accounts and their bills will be adjusted by local authorities billing systems. Eligible businesses will need to take no action to benefit from the increased relief. Businesses who are eligible but are not currently claiming the relief can apply to join the scheme by completing a form available from their local authority.

7.6 The Government will fund the net additional costs to local government as a whole associated with implementing the scheme in accordance with the policy on new burdens.

- *Consolidation*

7.7 This is a time limited measure, so it is not our intention to consolidate the legislation.

## 8. Consultation outcome

8.1 As this is a Budget measure, no consultation was entered into. However, stakeholders have been involved in the implementation process and the measure is widely welcomed by trade bodies.

## **9. Guidance**

9.1 CLG provided local billing authorities with a letter to send to all eligible ratepayers to explain how the further measure would work. The letter advised ratepayers that they should keep paying their current rates until they receive a new bill from their authority.

As with last year, a Business Rates Information Letter will be issued giving billing authorities full guidance on how to implement the legislation.

## **10. Impact**

10.1 No Impact Assessment has been prepared, as there will be no new impact on the private or voluntary sectors, as the measure simply continues the existing temporary measure.

## **11. Regulating small business**

11.1 The legislation applies to small business.

11.2 The measure provides an automatic financial benefit to businesses in receipt of small business rate relief. The impact is not determined by the number of employees, rather by the rateable value of the property they occupy.

## **12. Monitoring & review**

12.1 Details of the monitoring and review are contained within the impact assessment.

## **13. Contact**

David McDonald at Communities and Local Government Tel: 0303 444 2135 or email: [david.mcdonald@communities.gsi.gov.uk](mailto:david.mcdonald@communities.gsi.gov.uk), who can answer any queries regarding the instrument.