

**EXPLANATORY MEMORANDUM TO  
THE COUNCIL TAX AND NON-DOMESTIC RATING (AMENDMENT)  
(ENGLAND) REGULATIONS 2007**

**2007 No. 501**

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government (the Department) and is laid before Parliament by Command of Her Majesty.

**2. Description**

2.1 These Regulations make miscellaneous amendments to the following Regulations-

- the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (S.I. 1989/1058) (“the 1989 Regulations”);
- the Council Tax (Administration and Enforcement) Regulations 1992 (S.I. 1992/613) (“the 1992 Regulations”).

2.2 The amendments to the above Regulations correct small anomalies and, in one instance, a typographical error.

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

3.1 None

**4. Legislative Background**

4.1 Part III of the Local Government Finance Act 1988 (“the 1988 Act”) concerns non-domestic rating in England and Wales, and Part I of the Local Government Finance Act 1992 (“the 1992 Act”) concerns council tax in England and Wales. Both Acts give the Secretary of State power to make provision for certain matters by way of subordinate legislation.

4.2 The Regulations which are amended by these Regulations are identified in paragraph 2.1 above. In broad terms these Regulations address the following issues relating to non-domestic rates and council tax-

- The 1989 Regulations – These Regulations make provision for a variety of matters concerning the administration and enforcement of non-domestic rates. In particular, in relation to enforcement the 1989 Regulations make provision for charges connected with distress and costs connected with committal.
- The 1992 Regulations – These Regulations provide for variety of matters concerning the administration and enforcement of council tax. In

particular, in relation to enforcement they make provision for deductions under attachment of earnings orders, charges connected with distress and costs connected with committal.

- 4.3 The amendments which have been made to these Regulations are further explained in the ‘policy background’ section below.

## **5. Extent**

- 5.1 This instrument applies in relation to billing authorities in England.

## **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**

- 7.1 Following consultation, the Department laid before Parliament on 21 December 2006 two statutory instruments, the Council Tax and Non-Domestic Rating (Amendment) (England) Regulations 2006 (SI 2006/3395) (“the 2006 Regulations”) and the Council Tax (Discount Disregards) (Amendment) (England) Order 2006 (SI 2006/3396). Those statutory instruments, which came into force on 31 January 2007 and will have effect from 1 April 2007, make a number of minor technical changes to council tax and non-domestic rates secondary legislation, in large part to update fees and financial limits in line with increases in the value of money since the regulations were last amended.
- 7.2 Since the 2006 Regulations were laid, it has been brought to the Department’s attention that there is an error in one of the amendments made to Table A of Schedule 4 to the 1992 Regulations, which specifies amounts which must be deducted from a person’s net earnings by reference to specified levels of that person’s net earnings. Regulation 3(3) makes a further amendment to substitute the correct amount.
- 7.3 It has also been pointed out to the Department that two amendments made by the 2006 Regulations create an anomaly in the levels of fees that may be charged by bailiffs when levying distress for both council tax and non-domestic rates debt, under Schedule 5 to the 1992 Regulations and Schedule 3 to the 1989 Regulations respectively. The effect of these amendments would mean that a higher fee could be charged for debts of £100 or less than those of between £100 and £150. Regulations 2(2) (in respect of business rates) and 3(4) (in respect of council tax) of these Regulations correct that anomaly, by ensuring that the same fee is applicable in respect of the first £100 of debt in both cases.
- 7.4 These Regulations also amend the form of the attachment of earnings order for council tax that billing authorities may send to employers once a magistrates’ court has granted a liability order against the debtor. The current form of words does not make clear that the amount against which attachment can be made may include, by virtue of regulation 37(1A) (inserted, in relation to England, by S.I. 2004/927), charges in respect of distress and committal proceedings. The amendment made by regulation 3(2) clarifies this.

### Timing

- 7.5 The amendments will come into force on 1 April 2007. The uprating of financial limits which apply to businesses would normally fall to be brought into force on one of the common commencement dates. However, it is appropriate for secondary legislation which relates to the local government financial year to be brought into force on the first day of that year (1st April), and this has the backing of the Small Business Service.

### Guidance

- 7.6 The Department has published a Council Tax Information Letter and a Business Rates Information Letter advising stakeholders of these amendments. Officials have additionally written to payroll software providers about the amendment made by regulation 3(3) in relation to deductions from pay to be made under attachment of earnings orders.

### Consolidation

- 7.7 As the amendments contained in these Regulations are minor changes, the Department considers it unnecessary to consolidate either of the Statutory Instruments being amended.

## **8. Impact**

- 8.1 A full regulatory impact assessment has not been produced for this instrument, as it has no impact on business, charities or voluntary bodies.
- 8.2 The impact on the public sector is insignificant.

## **9. Contact**

Patrick Owen at the Department for Communities and Local Government, tel: 020 7944 4263 or e-mail:patrick.owen@communities.gsi.gov.uk, can answer any queries regarding the instrument.