

EXPLANATORY MEMORANDUM TO
THE NON-DOMESTIC RATING (SMALL BUSINESS RATE RELIEF)
(AMENDMENT) (ENGLAND) ORDER 2010

No. 1655

THE NON-DOMESTIC RATING (COLLECTION AND ENFORCEMENT)
(LOCAL LISTS) (ENGLAND) (AMENDMENT) (NO.2) REGULATIONS 2010

No. 1656

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) (Amendment) (England) Order 2010

2.1 This instrument makes amendments to the Non-Domestic Rating (Small Business Rate Relief) (England) Order 2004 (“the 2004 Order”)¹. The amendments provide for a temporary increase in the rates of relief for businesses with rateable values of up to £12,000, from 1st October 2010 to 30th September 2011. 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) (England) (Amendment) (No.2) Regulations 2010

2.2 This instrument makes amendments to the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989², and the Non-Domestic Rating Contributions (England) Regulations 1992³, as a

¹ S.I. 2003/3315. 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) and the Non-Domestic Rating (Small Business Rate Relief) (England) (Amendment) (No.2) Order 2009 (S.I. 2009/3175). References in this Explanatory Memorandum to this instrument are references to it as amended by those Orders.

² S.I. 1989/1058. The instrument has been amended on numerous occasions, most recently in S.I. 2010/1057. References in this Explanatory Memorandum to the instrument are to the instrument as amended.

³ S.I. 1992/3082.

consequence of the temporary increase in the rates of relief, provided for in the Small Business Rate Relief (Amendment) (England) Order 2010. 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) (Amendment) (England) Order 2010

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 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 temporary change to the value of E and hence those rates of relief between 1st October 2010 and 30th September 2011. 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) (England) (Amendment) (No.2) Regulations 2010, which make amendments to the collection regime for non-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) (England) (Amendment) (No.2) Regulations 2010

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. Extensive changes are required because the temporary increase in relief crosses financial years. Ratepayers will see the relief reflected in the amended bills that they receive in October 2010 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 for specific rates collection regimes for eligible businesses for the relevant parts of each of the financial years involved, October 2010 to March 2011 and April 2011 to September 2011. For the first period, the amendments enable the billing authority to adjust the instalment amounts for the financial year of 2010 - 11 (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 2010 (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 2011-12 – without this provision, billing authorities may issue annual bills for 2011-12 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 like chains.

1. 7.2 Business rates are a fixed cost from the moment a company takes on a property. It is believed to be the third biggest cost after salaries and rents. To help fledging businesses set up, as well as existing ones, it was announced in the March 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 current level set out in the 2004 Order. Introducing a temporary measure for one year only will help small businesses to make the most of the opportunities as the economy returns to growth.

7.3 The effect of the changes in the Non-Domestic Rating (Small Business Rate Relief) (Amendment) (England) Order 2010 is that eligible small businesses occupying properties with rateable values of up to £6,000 will pay no business rates for that period as the rate of the relief will be increased from 50% to 100%. This is achieved through increasing “E” to a very large value, which enables billing authorities to round the resulting number down to zero. Guidance will be issued to billing authorities on this point. Small businesses benefiting from the “rate relief taper” (rateable values up to £12,000) will receive 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 Coalition Government has decided to go forward with this measure as announced by the former Government as part of the March 2010 Budget. This is because it will provide valuable help to small businesses in the current economic climate, many of whom will have set their budgets at the beginning of the financial year in anticipation of receiving the additional relief. To disappoint businesses at this late stage may cause hardship to some and may cause others to cancel plans. This would be unfair, and potentially impact on the economic recovery.

7.5 SBRR is funded by a supplement paid by other businesses not in receipt of the relief on their rates bill. However, businesses not eligible for SBRR will not pay more in business rates to fund this measure as the additional cost will be funded by the Exchequer.

7.6 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.

7.8 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***

7.9 This measure is a time limited measure of one year, 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 ratepayers with a rateable value below £12,000 on 2010 rating lists to explain how the new measure would work. The letter advised ratepayers that they should keep paying their current rates until they receive a new bill from their authority. It was sent to all ratepayers with a rateable value below £12,000 so that eligible ratepayers not currently claiming the relief would be encouraged to apply to join the scheme.

A Business Rates Information Letter will be issued giving billing authorities full guidance on how to implement the legislation.

10. Impact

10.1 An Impact Assessment is attached to this memorandum.

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, who can answer any queries regarding the instrument.