EXPLANATORY MEMORANDUM TO

THE NON-DOMESTIC RATING (RATES RETENTION) (AMENDMENT) REGULATIONS 2017

2017 No. 1321

1. Introduction

1.1 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 These Regulations amend provisions of the Non-Domestic Rating (Rates Retention) Regulations 2013 ("the 2013 Regulations") to provide, in specified billing authority areas, for deductions from the central share payments. These Regulations also provide for the administration of the deduction from the central share payments including the calculation of the amount to be deducted. These amendments are consequent upon the Government's decision to create "growth pilots" in Tees Valley and West Midlands. The Regulations also provide that existing "growth pilots" in Cheshire East, Cambridgeshire and Peterborough, will come to an end after 31st March 2018.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters of special interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 The non-domestic rating system in England and Wales is established by the Local Government Finance Act 1988 ("1988 Act"). The Local Government Finance Act 2012 inserted a new Schedule 7B in to the 1988 Act ("the Schedule") which provides for the local retention of non-domestic rates collected.

4.2 The 2013 Regulations provide for the operation of the rates retention system. Before the beginning of the year, a billing authority estimates the amount due to it in respect of non-domestic rating for the year. This amount is the authority's non-domestic rating income for the year. 50% of the amount is due to be paid to central government – known as the "central share". The remaining 50% - the "local share" – is shared between a billing authority and its major precepting authorities (if any), as required by the 2013 Regulations.

4.3 The 2013 Regulations provide, in certain circumstances, for billing authorities to deduct an amount from the central share payment. This deducted amount is then retained by local government instead of being paid to central government. These

Regulations amend the 2013 Regulations to provide for further deductions from the central share payment in specified billing authority areas. The Regulations also provide for the calculation and administration of deductions from the central share payment.

5. Extent and Territorial Application

5.1 The extent of this instrument is England and Wales.

5.2 The territorial application of this instrument is England only.

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

What is being done and why

7.1 In March 2015, the Government indicated that it would establish "growth pilots" in Greater Manchester, Cheshire East, Cambridgeshire and Peterborough. The pilots were to run for three years, up to and including financial year 2017-18. In those areas, authorities would, assuming they achieved sufficient growth in their non-domestic rates, be permitted to keep the Government's "central share" as well as the local share

7.2 The technical arrangements, which were developed with local government, were provided for in the Non-Domestic Rating (Rates Retention) (Amendment) Regulations 2016 (SI 2016/1268). The Regulations allowed pilot authorities to keep the government's 50% share of business rates if their non-domestic rating income exceeded a "baseline" amount. The baseline was set at a level which represented normal expected growth. Hence, if authorities exceeded normal expectations, they were entitled to keep all of the "exceptional" growth, instead of paying half of it over to central government. In this way, authorities were further incentivised to grow their local economies. Any sums due to local authorities under the scheme were deducted from the authority's central share payment.

7.3 The Government committed in its 2015 manifesto to "devolve far-reaching powers over economic development, transport and social care to large cities which choose to have elected mayors". To deliver this manifesto commitment the Government has reached bespoke devolution deals with areas, which include devolution of funding, powers and responsibilities for such matters as employment and skills, transport, planning and investment. As part of the devolution deals, with West Midlands and Tees Valley, the Government agreed that authorities in those areas should become "growth pilots" with effect from 1 April 2016, on the same basis as the earlier pilots. These regulations make the appropriate amendments to the 2013 Regulations to provide for these arrangements.

Consolidation

7.4 This instrument amends existing provisions of the Non-Domestic Rating (Rates Retention) Regulations 2013. The Department does not intend to consolidate these Regulations.

8. Consultation outcome

8.1 These are technical changes and have been developed in consultation with representatives of local government.

9. Guidance

9.1 The Department issues guidance to local government on the completion of associated information forms which describe how to estimate non-domestic rating income.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies since the regulations do not alter the non-domestic rates due from ratepayers.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment for the rates retention scheme is available from the DCLG website at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/8470/2054063.pdf

10.4 A separate Impact Assessment has not been prepared for this instrument because it amends an existing local tax regime. Publication of a full impact assessment is not necessary for such legislation.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 The Government keeps the non-domestic rating system under regular review.

13. Contact

13.1 Mark Barnett at the Department for Communities and Local Government Telephone: 0303 444 4217 or email: mark.barnett@communities.gsi.gov.uk can answer any queries regarding the instrument.