EXPLANATORY MEMORANDUM TO

THE BUILDING SAFETY LEVY (ENGLAND) REGULATIONS 2025

2025 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Ministry of Housing, Communities, and Local Government, and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

2.1 Alex Norris MP, Parliamentary Under Secretary of State for Building Safety, Fire and Local Growth at the Ministry of Housing, Communities, and Local Government confirms that this Explanatory Memorandum meets the required standard.

2.2 Ben Llewellyn, Director for the Building Safety Levy, at the Ministry of Housing, Communities, and Local Government confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Anna Wojtowicz (at buildingsafetylevy@communities.gov.uk) can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument imposes the building safety levy (the levy). This instrument makes provision for the levy to be charged on specified applications for building control approval made on or after 1 October 2026. This instrument designates local authorities as collection agents for the levy, and sets out the process for levy collection, as well as the consequences of failure to pay the levy. Local authorities will pass the levy revenue to the Ministry of Housing, Communities, and Local Government on a quarterly basis, subject to retention of an amount to cover their costs of administering the levy.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

5. Policy Context

What is being done and why?

5.1 The levy forms part of a package of measures brought forward after the Grenfell Tower fire in 2017 to fund the remediation of building safety defects in residential buildings. The Building Safety Act 2022 gives the Secretary of State the power to impose the levy (by inserting section 105C into the Building Act 1984). The levy is for the purpose of meeting expenditure incurred by the Secretary of State in providing financial assistance to persons for the purpose of enabling them to improve the safety of persons in or around buildings in England and will be paid by residential property developers. The government has already committed £5.1 billion to remediation, and the levy is a key part of the remediation funding package which protects leaseholders from costs and ensures taxpayers are not further burdened. The government currently expects the levy to raise around £3.4 billion likely over a period of 10 years or more. This estimate has been calculated to cover the estimated cost of remediation work once taxpayer funding and industry pledges have been taken into account. Costs of remediation work vary and are kept under review. The government has been clear that developers must make a fair contribution to the overall cost of making buildings safe. The instrument prescribes that levy revenue collected by local authorities must be returned to the Secretary of State on a quarterly basis, minus the cost of administering the levy which local authorities may retain. Local authorities will also provide management information to the Secretary of State on a quarterly basis for the purposes of monitoring levy operation and their expenditure in collecting the levy.

5.2 The instrument sets out who is responsible for paying the levy ("the client"), that is, the person identified as the client in an application for building control approval or initial notice or other specified notices/certificates set out in Schedule 4. Non-profit registered providers of social housing (and their wholly-owned subsidiaries) are exempt from paying the levy, and all buildings constructed by them will not be subject to the levy charge.

5.3 The levy will be charged on applications and notices seeking building control approval submitted to building control authorities (whether local authorities or the Building Safety Regulator (the Regulator)) under existing legislation for works concerning the provision of dwellings or purpose-built student accommodation (PBSA). Certain types of residential buildings will be exempt from the levy charge. This includes types of accommodation which have a wider social/ community benefits. Exemptions include social and supported housing, hospitals, hotels, care homes, school accommodation, temporary accommodation for homeless people, and domestic abuse refuges. Sites of fewer than 10 dwellings (or fewer than 30 bedspaces for PBSA) will also be exempt. This exemption intends to help mitigate the impact of the levy on housing supply, by avoiding what might otherwise be the detrimental impact the levy could have in relation to small developments and the small and

medium sized housebuilders who typically build these plots. The levy will be calculated on the basis of a specified area rate for each square metre of residential floorspace.

5.4 The instrument sets out the levy rate per metre squared of floorspace in new residential development in each local authority in England. The rates have been calculated using data on average house prices in each local authority area, in order to mitigate the impact of the levy on housebuilding. A separate levy rate per metre squared for developments built on previously developed (sometimes known as brownfield) land for each local authority area is also set out in the instrument. The previously developed land rate is half that of the standard rate, to reflect the often higher cost of building on these sites.

5.5 The instrument sets out the process for levy administration and collection. The client must provide basic levy information (including number of new dwellings/PBSA bedspaces, and information identifying the planning permission under which works are to be carried out (where applicable)) as part of a building control application or notice. If this information is not included in the application or notice, the local authority (or the Regulator where they are the building control authority) may reject the application or notice (or, in the case of initial notices or amendment notices, must reject). Upon commencement of works, the client must provide additional information such as the area of the new residential floorspace being created (including communal space), the previously developed land qualification (if appropriate), and the application of any exemptions. This information may be subject to a spot-check by the local authority and will be used to calculate the levy liability for the application or notice.

5.6 The client must pay the levy after works have commenced and before the earlier of either building occupation, or submission of the notice or application required at completion stage under existing legislation. Other information about levy liability and payment must be provided at completion stage. The instrument prescribes that the consequence of failure to pay the levy is the withholding of a building control completion certificate by the local authority or the Regulator, or the rejection of a final certificate provided to the local authority by a registered building control approver (RBCA).

5.7 If the client makes changes to their site during construction which triggers a new application for building control approval, a change control application, or an amendment notice, they must submit updated information for the purpose of recalculating the levy charge. If the application of exemptions changes (e.g. an increase or decrease in the proportion of affordable housing), or the client becomes or ceases to be a non-profit registered provider of social housing, the client may also provide updated levy information, which the local authority will use to recalculate the levy liability. The local authority will charge any additional levy owed, or refund any overpayment. The instrument also sets out the process for recalculating and/or refunding the levy liability in certain circumstances, including where the application

or initial notice cease to be in force, as the result of a partial lapse of approval, cancellation or otherwise.

5.8 The instrument provides a process for handling disputes, where the client disagrees with the calculation of the levy liability or calculation, or refusal of, a refund amount. There is an existing process for disputes where applications, notices and certificates are withheld or rejected.

What was the previous policy, how is this different?

5.9 The levy is a new policy and as such no previous policy is being amended.

6. Legislative and Legal Context

How has the law changed?

6.1 Section 58 of the Building Safety Act 2022 gave the Secretary of State the power to make regulations for the imposition of a levy on relevant applications or notices, for the purposes of meeting building safety expenditure, by inserting section 105C into the Building Act 1984. This instrument imposes such a levy and is the first use of the power in section 105C of the Building Act 1984.

6.2 In order to ensure the levy operates effectively as part of the building control process, Parts 6 and 10 of the instrument amends existing Regulations in the following ways:

- The instrument amends the Building Regulations 2010 (S.I. 2010/2214, "the 2010 Regulations"):
    - To require that an application for building control approval with full plans for work that relates to the provision of one or more dwellings, or one or more bedspaces for PBSA, must include information for the purpose of the levy. If that information is not included, the building control authority may reject the application (regulation 14A of the 2010 Regulations);
    - To require that a notice that work that relates to the provision of one or more dwellings, or one or more bedspaces for PBSA, is to be regarded as commenced must include information for the purpose of the levy (regulation 16(3C) of the 2010 Regulations);
    - To require that a notice of completion of works in respect of a full plans application that was required to include information for the purposes of the levy must include a statement by the client that the levy has either been paid in full or was not due for the works specified in the application (regulation 16(4) of the 2010 Regulations);
    - To provide that in respect of a notice that was required to include levy information, a completion certificate must not be given unless the

conditions relating to the levy are satisfied (regulation 17 of the 2010 Regulations).

- The instrument amends the Building (Registered Building Control Approvers etc.) (England) Regulations 2024 (S.I. 2024/110, "the RBCA Regulations"):
    - To require Initial Notices, and Plans Certificate combined with an Initial Notice, for work that relates to the provision of one or more dwellings, or one or more bedspaces for PBSA, must include information for the purpose of the levy (regulation 6 and 11, and Forms 1 and 4 in Schedule 1 to, the RBCA Regulations);
    - To provide that a failure to include levy information where required is a prescribed ground for rejection of an Initial Notice or a Plans Certificate combined with an Initial Notice by the local authority (regulation 6 and 11, and paragraph 6 of Schedule 2 to the RBCA Regulations);
    - To require that a notice for work that relates to the provision of one or more dwellings, or one or more bedspaces for PBSA, is to be regarded as commenced must be accompanied by information for the purpose of the levy (regulation 15(2) of the RBCA Regulations);
    - To require Amendment Notices for work that relates to the provision of one or more dwellings, or one or more bedspaces for PBSA, must include information required for the purpose of the levy (regulation 8 of and Form 2 in Schedule 1 to the RBCA Regulations);
    - To provide that a failure to include levy information where required is a prescribed ground for rejection of an Amendment Notice (regulation 8 and paragraph 6 of Schedule 2 to the RBCA Regulations);
    - To require a compliance declaration given to the RBCA in respect of an Initial Notice which was required to include information for the purposes of the levy must include a statement by the client that the levy has either been paid in full or was not due on the works specified in the Initial Notice (regulation 18 of the RBCA Regulations);
    - To require that the Final Certificate in respect of an Initial Notice which was required to provide levy information must include a statement by the RBCA that the client has confirmed that the levy has either been paid or was not due on the works included in the Initial Notice to which the Final Certificate relates (regulation 13 of and Form 5 in Schedule 1 to the RBCA Regulations);
    - To provide that failure to pay the levy where due is a prescribed ground for rejection of a Final Certificate in respect of an initial notice

that was required to include levy information (regulation 13 of and paragraph 11 of Schedule 4 to the RBCA Regulations).

- The instrument amends the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 (S.I. 2023/909, "the HRB Regulations"):
    - To require that an application for building control approval for higher-risk building work that relates to the provision of one or more dwellings, or one or more bedspaces for PBSA, made to the Regulator must include information for the purpose of the levy (regulations 4 and 12 of the HRB Regulations). If that information is not included, the building control authority may reject the application (regulations 7 and 15 of the HRB Regulations);
    - To require that a notice made to the Regulator that work that relates to the provision of one or more dwellings, or one or more bedspaces for PBSA, is to be regarded as commenced must be accompanied by information for the purpose of the levy (regulations 9(3) and 17(3) of the HRB Regulations);
    - To require that a change control application made to the Regulator for work that relates to the provision of one or more dwellings, or one or more bedspaces for PBSA, must include information for the purpose of the levy (regulation 21 of the HRB Regulations). If that information is not included, the Regulator may reject the application (regulation 24 of the HRB Regulations);
    - To require applications for completion or partial completion certificates in respect of an application for building control approval for higher-risk building work that was required to include information for the purposes of the levy made to the Regulator must include a statement that the levy either has been paid in full or was not due for the works specified in the application (regulation 40 and 45 of the HRB Regulations);
    - To provide that the completion or partial completion certificate application in respect of a building control application that was required to include levy information must be rejected by the Regulator unless the conditions relating to the levy are satisfied (regulations 44 and 45 of the HRB Regulations).

6.3 To the extent the substitution of prescribed Forms for the purpose of the RBCA Regulations re-states the current content of the Forms, this instrument makes that provision under s.1(1) Building Act 1984.

Why was this approach taken to change the law?

6.4 The amendments to the existing legislation (the 2010 Regulations, the RBCA Regulations and the HRB Regulations) are considered necessary for the effective operation of the levy.

7. Consultation

Summary of consultation outcome and methodology

7.1 The government ran two public consultations on the building safety levy.

7.2 The first consultation[1] ran for 11 weeks from 22 November 2022 to 7 February 2023. It contained questions on a number of key policy principles for the levy, including the proposal to set differential geographic rates, a lower rate for previously developed land, proposed exemptions from the levy, the levy collection process and consequences for non-payment, the levy review period, and the basis on which the levy should be charged. A range of views were expressed in the responses. The main objections were to the two step payment process and a preference to charge the levy on a per square metre basis. Overall, there was strong support for the proposed exemptions.

7.3 The government received 138 responses to the first consultation, consisting of 44 developers, 46 local authorities, and 48 other respondents (including trade bodies, members of the public, and RBCAs). In addition, during the consultation period the government conducted 8 online workshops with developers, local authorities, and representative bodies, to gather further feedback on the consultation proposals.

7.4 The government response to the first consultation was published on 23 January 2024 setting out how it took into account the responses.[2] As a result of consultation feedback, the government made changes to its proposed policy including implementing a levy rate based on floorspace (per metre-squared) rather than per unit (dwelling), and simplifying the collection process for the levy from a two-step to a one-step payment.

7.5 A second consultation[3] ran from 23 January 2024 to 20 February 2024. This outlined the methodology for the calculation of the levy rates, further detail on the levy collection process including a proposed definition of previously developed land, the process for handling disputes, further exemptions from the levy charge, and the impact on groups with protected characteristics. Responses covered a range of views. The main objection was that the differential levy rates at geographic level did not go far enough and viability of some sites could still be affected. Some respondents felt that the methodology outlined was more complex than necessary and called for greater clarity on which data sources were used.

[1] The Building Safety Levy: consultation - GOV.UK
[2] Building Safety Levy: response to consultation - GOV.UK
[3] Building Safety Levy: second consultation - GOV.UK

7.6 The government received 80 responses to the second consultation, consisting of 44 local authorities, 15 developers, and 21 other respondents (including trade bodies, members of the public, and Registered Building Control Approvers (RBCAs)). Whilst the consultation was live, the government met with two trade bodies to discuss the consultation proposals in more detail.

7.7 The government response to the second consultation was published on 24 March 2025. The government response[4] outlined changes to the proposed definition of previously developed land, and the process for resolving disputes, and the levy collection process, as well as confirming the methodology for calculating rates, and further exemptions from the levy charge.

7.8 In addition to conducting two formal consultations, the government has had regular engagement with local authorities, their representative bodies, RBCAs, and the Regulator, in order to test levy design and develop the levy policy. The government has also met with property developers and their representative bodies to discuss the levy operation.

8. Applicable Guidance

8.1 Operational guidance relating to this instrument will be published on 10th July 2025.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 An assessment of impact is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website. As the instrument imposes a levy, it falls outside of the scope of the better regulation framework and a regulatory impact assessment is not required. It is common practice for a Tax Information and Impact Note (TIIN) to be published for a new charge such as a tax, duty, or levy; however, TIINs are routinely published for measures administered by HMRC. As the Building Safety Levy will be administered by local authorities, a TIIN has not been produced, however we have produced an assessment of impact which broadly follows the TIIN structure.

Impact on businesses, charities and voluntary bodies

9.2 The impact on business, charities or voluntary bodies is that all bodies who carry out works that relate to the provision of new dwellings or new bedspaces in PBSA, will have to comply with this instrument. Over 10 years or more, the levy is expected to raise £3.4 billion from the housing sector, which the government estimates may have a very small negative impact on housing supply as it will represent an additional cost of development. However, this is mitigated by differential geographic levy rates based on house prices in local authority areas, and lower rates on previously developed land. Developers of new dwellings or PBSA will also have to take additional steps when going through the building control process to comply with levy duties, such as

[4] Building Safety Levy: Technical consultation response - GOV.UK

providing information for levy purposes. RBCAs will also be impacted, in that the forms of Initial Notices, Amendment Notices, and Final Certificate which they use will be amended to include levy information.

9.3 The legislation does impact small or micro businesses.

9.4 Small or micro businesses will not be exempt from the levy. However, the impact on these businesses will be mitigated by the exemption of developments of fewer than 10 dwellings (or 30 bedspaces for PBSA) from the levy charge.

9.5 The impact on the public sector is that an additional statutory burden will be placed on local authorities to act as the collecting agent for the levy. Local authorities may need to recruit or train staff to carry out levy administration, and install new systems in order to manage levy tasks. Local authority building control teams will also need to adapt their processes to comply with the amendments to existing Regulations (the 2010 Regulations, the RBCA Regulations and the HRB Regulations). The government intends to provide grant funding under section 31 of the Local Government Act 2003 to be shared amongst the 295 local authorities with building control functions, to allow local authorities to prepare to administer the levy in compliance with the new burdens principle. In order to manage the ongoing burdens imposed by the levy regime, local authorities will be able to recover costs associated with administration of the levy, estimated to be £6.3m per annum. Local authorities will deduct the costs of administering the levy from levy revenue prior to paying this to central government. In addition, the Regulator will be required to adapt building control processes to comply with new levy duties, for example, passing information on to the relevant local authority for the purposes of calculating the levy charge.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is that the levy will be kept under review and to that end, although not required by the Small Business, Enterprise and Employment Act 2015 or the Building Safety Act 2022 (section 162), the instrument includes a requirement on the Secretary of State to conduct a review of the levy operation and rates and publish a report at least every 3 years. The overall levy revenue target of £3.4 billion, levy rates and the duration of the levy will be kept under review taking into account the extent of expenditure incurred by the Secretary of State in providing financial assistance to persons for the purpose of enabling them to improve the safety of persons in or around buildings in England. Local authorities will also be required to submit management information returns to central government on a quarterly basis, including levy invoice amounts and receipts, to assist with the monitoring of levy operation.

10.2 A statutory review clause is included in the instrument.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 The instrument contains matters which may be of special interest to Parliament. This is the first use of the power to impose a building safety levy. As set out above (paragraphs 6.1-6.4), the enforcement mechanisms for some of the new duties introduced by the instrument sit within existing Regulations. Where a developer wishes to dispute a decision by the local authority or the Regulator where the enforcement mechanisms sit within existing Regulations, that will follow the processes outlined in those existing Regulations.

12. European Convention on Human Rights

12.1 The Parliamentary Under Secretary of State for Building Safety, Fire and Local Growth has made the following statement regarding Human Rights:

"In my view the provisions of the Building Safety Levy (England) Regulations 2025 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").