EXPLANATORY MEMORANDUM TO

THE LOCAL GOVERNMENT FINANCE ACT 1988 (PRESCRIPTION OF NON-DOMESTIC RATING MULTIPLIERS) (ENGLAND) REGULATIONS 2023

2023 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by His Majesty's Treasury and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

2.1 In relation to England, a ratepayer's liability to a non-domestic rate ("a business rate") is determined in accordance with formulae in the Local Government Finance Act 1988 ("the LGFA 1988"). For the hereditaments[1] ("properties") to which it applies, and for financial years beginning on or after 1st April 2024, this instrument prescribes whether the small business non-domestic rating multiplier ("the small business multiplier") or the non-domestic rating multiplier ("the national multiplier") will be used in those formulae. This instrument maintains the threshold for the small business multiplier to be applied at below £51,000 rateable value, which has been government policy since 2017.

2.2 In addition, this instrument will ensure that, as announced before the Non-Domestic Rating Bill was introduced into Parliament, charities and unoccupied properties will be eligible for the small business multiplier. The government has also decided to extend the small business multiplier to central list properties below the £51,000 rateable value threshold.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

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

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

5. European Convention on Human Rights

5.1 The Financial Secretary has made the following statement regarding Human Rights:

"In my view the provisions of the Local Government Finance Act 1988 (Prescription of Non-Domestic Rating Multipliers) (England) Regulations 2023 are compatible with the Convention rights."

[1] The unit of property for the purposes of business rates is called a hereditament. Business rates are charged in respect of relevant non-domestic hereditaments. Section 64 of the LGFA 1988 makes further provision about these terms.

6. Legislative Context

6.1 The Non-Domestic Rating Act 2023 ("the NDRA 2023") amends the LGFA 1988 in respect of business rates.

6.2 In particular, sections 1(3), 2(4) and 3(3) of the NDRA 2023 insert, respectively, new Schedules 4ZA, 4ZB and 5A into the LGFA 1988. Those Schedules include formulae for the calculation of business rates in respect of occupied local list properties, unoccupied local list properties and central list properties. They apply to financial years beginning on or after 1st April 2024 (see section 19(2)(a) of the NDRA 2023).

6.3 For the purposes of certain provisions in those Schedules, the Treasury has power to prescribe in regulations whether item M in the formulae is either B (the national multiplier) or D (the small business multiplier) (see paragraph 10(9)(a) of Schedule 4ZA, paragraph 3(6)(a) of Schedule 4ZB, and paragraph 6(8)(a) of Schedule 5A, to the LGFA 1988).

6.4 If that power is not exercised by the Treasury, under the LGFA 1988 the national multiplier will apply unless the property in question is subject to small business rate relief (see paragraph 10(9)(b) of Schedule 4ZA, paragraph 3(6)(b) of Schedule 4ZB, and paragraph 6(8)(b) of Schedule 5A, to the LGFA 1988).

6.5 For the provisions mentioned in regulations 2(2) (occupied hereditaments), 3(2) (unoccupied hereditaments) and 4(2) (central rating), this instrument provides that the small business multiplier is to apply if the applicable rateable value is not more than £50,999, but otherwise the national multiplier will apply.

7. Policy background

What is being done and why?

7.1 This instrument continues and extends existing government policy. Since 2017, and for the remainder of the financial year beginning on 1st April 2023, the majority of occupied properties with a rateable value below £51,000 have paid rates calculated by reference to the small business multiplier.

7.2 This instrument continues that policy but also implements a commitment to make charities and unoccupied properties eligible for the small business multiplier. This proposal was made in the Technical Consultation to the Business Rates Review (link) in November 2021, and committed to alongside other "administrative improvements" in the subsequent Summary of Responses in March 2023 (link).

7.3 Central list properties below £51,000 rateable value, of which there are only seven, were not explicitly mentioned in the consultation. It has subsequently been decided, to avoid inconsistencies in the business rates system, that a similar approach should be taken in relation to those properties. The instrument will therefore also extend the £51,000 threshold to central list properties.

7.4 As a result of this instrument, and in line with current government policy, business rates in respect of properties in England which are below £51,000 rateable value and not subject to full relief will be calculated by reference to the small business multiplier.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 Not applicable.

10. Consultation outcome

10.1 No consultation has been carried out on maintaining the threshold at £51,000 as this is a continuation of established government policy.

10.2 The government consulted on whether to extend the small business multiplier to charities and unoccupied properties as part of the 2021 Business Rates Review Technical Consultation (link). A Summary of Responses was published confirming the change in March 2023 (link).

11. Guidance

11.1 Guidance on business rates in general can be found on gov.uk (https://www.gov.uk/introduction-to-business-rates).

12. Impact

12.1 The impact on business, charities or voluntary bodies is that business rates in respect of properties in England which are below £51,000 rateable value and not subject to full relief will be calculated by reference to the small business multiplier. For businesses, charities and voluntary bodies below the threshold which previously paid rates by reference to the national multiplier, this will be a tax cut.

12.2 The impact on the public sector is also that business rates in respect of properties in England which are below £51,000 rateable value and not subject to full relief will be calculated by reference to the small business multiplier.

12.3 A full Impact Assessment has not been prepared for this instrument because it amends a local tax regime and amendments to any tax are excluded from the definition of a regulatory provision[2].

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to apply this instrument differently to small businesses, since its impact is beneficial for small ratepayers.

14. Monitoring & review

14.1 The operation of this instrument will be monitored and reviewed as part of the operation of the business rates system as a whole.

15. Contact

15.1 Haniel Whitmore at HM Treasury, can be contacted with any queries regarding the instrument at haniel.whitmore@hmtreasury.gov.uk

[2] See section 22(4)(a) of the Small Business, Enterprise, and Employment Act 2015.

15.2 Matthew Henty, Deputy Director for Enterprise and Property Tax at HM Treasury can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Financial Secretary to the Treasury can confirm that this Explanatory Memorandum meets the required standard.