EXPLANATORY MEMORANDUM TO

THE NON-DOMESTIC RATING (LEVY AND SAFETY NET) (AMENDMENT) REGULATIONS 2014

2014 No. [XXXX]

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.

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

2. Purpose of the instrument

2.1 These Regulations amend the Non-Domestic Rating (Levy and Safety Net) Regulations 2013 ("the 2013 regulations") which form part of the scheme for local retention of non-domestic rates. These regulations set out the operation and calculation of levy and safety net payments under the scheme.

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

3.1 None

4. Legislative Context

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

4.2 Part 7 of the Schedule provides that the Secretary of State may make provision for imposing a levy on the non-domestic rates income of an authority and for making safety net payments. The 2013 regulations provide for the payment of a levy by certain authorities who have seen their retained rates income grow above their baseline funding level and for the payment of a safety net payment by the Secretary of State to authorities whose retained rates income has dropped below their safety net threshold.

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

The [name of minister] has made the following statement regarding Human Rights:

In my view the provisions of the Non-domestic Rating (Levy and Safety Net) (Amendment) Regulations 2014 are compatible with Convention rights.

7. Policy background

7.1 These Regulations form part of the scheme to allow local retention of non-domestic rates (the rates retention scheme).

7.2 There is inherent volatility in the rating system which means, in any year, some authorities can collect significantly less in non-domestic rates than in previous years as a result of physical changes and rating appeals being settled. In giving local authorities a direct share of local non-domestic rating income, local authorities now share in any reward if non-domestic rating income increases but they also share the risks should income fall.

7.3 To help protect against this risk, the rates retention scheme provides support through a 'safety net' for authorities that in any year see their retained rates income fall beyond a set percentage below their baseline funding level.

7.4 The safety net is funded through a levy on the disproportionate benefit that some authorities receive from very small increases in non-domestic rates income because of their high starting levels of non-domestic rates income in comparison to their baseline funding level. Where an authority's percentage increase in retained non-domestic rating revenue outweighs the percentage increase in its baseline funding level, that authority is required to pay a share of that difference to the Government to fund the safety net.

7.6 At the Autumn Statements in 2012 and 2013 the Government announced that it would double the amount of small business rate relief available to qualifying businesses in 2013/14 and 2014/15. This measure reduces the amount of business rates collected and, therefore, the amount of business rates retained by local government. The Government will compensate local government for their share of the cost of these measures outside the rates retention scheme via a grant under section 31 of the Local Government Act 2003. These regulations will ensure that local authorities are not also compensated for these new reliefs through a reduced levy or an increased safety net payment. This is achieved by adding back into the retained rates income the cost of these measures so that their impact on rates income is ignored for the purposes of calculating the levy or safety net.

7.7 Billing authorities have wide discretion to grant non-domestic rates discounts and reduce or remit liability (see sections 47 and 49 of the 1988 Act). As retained rates income – and so levy or safety net - is directly affected by the amount of discount etc granted, it is necessary in the interests of fairness to adjust the retained rates income of authorities. The 2013 regulations ensure that certain discretionary discounts (relating to not for profit organisations, community sports and social clubs, rural properties and

property in enterprise zones) and hardship relief will be included for the purpose of calculating retained rates income, but that other discretionary relief will be ignored. These regulations will therefore ensure that while a local authority is on the safety net or paying a levy they will continue to pay their local share of the cost of those other discretionary reliefs. These regulations also correct an error in the 2013 regulations as to the amount of relief included for the purposes of calculating retained rates income, in respect of rate relief in Enterprise Zones.

7.8 Under the rates retention scheme, local authorities are able to pool their non-domestic rates for the purpose of making certain calculations, giving them scope to smooth the impact of volatility in rates income across a wider area. These regulations amend the 2013 regulations to ensure that the levy and safety net calculations for pools can be made in future years without the need for further amendments to the 2013 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 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

A separate Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

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

13. Contact

Nick Cooper at the Department for Communities and Local Government Tel: 07795 367238 or email: nick.cooper@communities.gsi.gov.uk can answer any queries regarding the instrument.