**EXPLANATORY MEMORANDUM TO**

**THE NON-DOMESTIC RATING (LEVY AND SAFETY NET) (AMENDMENT) 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 Minister McMahon, Minister of State for Local Government and English Devolution at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

2.2 Suzie Clarke, Deputy Director for Local Government Finance Stewardship, at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

## 3. Contact

3.1 Emily Gascoigne at the Ministry of Housing, Communities and Local Government email: emily.gascoigne@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 amends the administrative framework set out by regulations, on which the Business Rates Retention ("BRR") system is run, enacting wider policy changes. This is necessary to ensure that correct payments are made to, from, and between, local authorities.

***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 Business rates are a tax charged on non-domestic properties and collected by local authorities.

5.2 The 50 per cent BRR system was set up in 2013-14 and is a key part of the funding system for local government under which, with some exceptions, local councils retain 50 per cent of the business rates income they collect. Some of this income is redistributed each year via "Top-up" and "Tariff" payments. The level of these payments was set at the outset of the system to ensure authorities' income matched their assessed need as determined by their baseline funding levels ("BFLs").

5.3 Before the beginning of each financial year, a billing authority[1] estimates the amount it will collect from non-domestic ratepayers during the year - its non-domestic rating income for the year. In most cases, 50 per cent of the amount of business rates income is due to central Government – the "central share". The remaining 50 per cent – the "local share" – is shared between a billing authority and its major precepting authorities ("MPAs")[2], if any.

5.4 Under the BRR System, authorities can be eligible for a safety net payment if their annual share of business rates income falls below a minimum value – its "safety net threshold". Conversely, authorities may be required to make a levy payment on growth. This Instrument amends the Non-Domestic Rating (Levy and Safety Net) Regulations 2013 (S.I. 2013/737) ("Levy and Safety Net Regulations"), which set out the basis on which the levy and safety net payments are administered.

5.5 The Regulations need to be changed partly in response to business rates tax policy changes. They also adjust the calculation of figures used to run the system to maintain the correct working of the BRR system. If such changes were not made, the BRR system would run on a basis which does not reflect the actual status of the tax and current policy intentions.

5.6 This Instrument adjusts the measure of income used to determine levy and safety net payments ("retained rates income"). Firstly, there is an adjustment to the top-up and tariff figures used in levy and safety net calculations for the small number of authorities that are permitted to retain more than 50 per cent of the business rates income they collect in respect of 2025-26 (so-called, 100 per cent authorities, and the Greater London Authority). The adjustment ensures that the levy and safety net calculation for such authorities uses the figures that would have had been used if, like most local authorities, they were only retaining 50 per cent of their business rates income. This ensures that those authorities that are retaining only 50 per cent of their business rates income cannot end up paying for any additional safety net payments that may be due to 100 per cent authorities. Instead, any additional amounts would be paid directly by central Government.

5.7 Secondly, we add back the value of a new business rates relief announced for the 2025-26 financial year in the calculation of MPAs' retained rates income. This ensures that such relief, for which authorities are already directly compensated via grant payments, is not compensated for again through the levy and safety net.

5.8 Finally, this instrument adjusts the figure of "A" used in the calculation of the amount of small business rates relief ("SBRR") added back into the calculation of North Northamptonshire's retained rates income. When the authority was created on 1 April 2021, a figure of 67.8% should have been set out in Schedule 6, however an error meant a figure of 67.4% was included. This Instrument adjusts this figure at the earliest opportunity following discovery of the error. Final levy and safety net

[1] Section 1(2) of the Local Government Finance Act 1992 defines billing authorities (in relation to England) as a district council or London borough council, the Common Council or the Council of the Isles of Scilly.
[2] Section 39(1) of the Local Government Finance Act 1992 provides a list of types of major precepting authorities.

calculations for the authority for the relevant years (2021-22 onwards) have not yet been made; they will be made once certified outturn data is received for those years. Changing this figure will have no practical impact on the levy and safety net calculations made for 2021-22 or 2022-23 as the authority was not required to pay levy nor was it eligible for the safety net in those years. There will be a very small impact for 2023-24 as the authority now pays a levy on growth following the 2023 revaluation. The Department has engaged with the authority on these changes.

***What was the previous policy, how is this different?***

5.9 Changes to the BRR system implemented by this Instrument do not fundamentally alter any part of this system but amend the regulations to set out the correct figures and calculations on which to run the system. These amendments adjust figures used in the calculation of retained rates income.

## 6. Legislative and Legal Context

***How has the law changed?***

6.1 The Local Government Finance Act 2012 inserted Schedule 7B to the 1988 Local Government Finance Act which set up the legislative framework upon which the BRR System is administered.

6.2 A set of core regulations were made in 2013 which set up the running of the BRR System. This included the Levy and Safety Net Regulations, which detail the necessary figures and formulas required to calculate levy and safety net payments under the system. The Levy and Safety Net Regulations are amended where changes are required, usually each year, and are amended by this Instrument.

6.3 This Instrument makes changes to the calculation of the level of income against which eligibility for, and amount of, levy and safety net payments is determined in accordance with changes required to the administration of the system.

***Why was this approach taken to change the law?***

6.4 This is the only possible approach to make the necessary changes.

## 7. Consultation

***Summary of consultation outcome and methodology***

7.1 A consultation was not undertaken because these amendments make administrative changes to the BRR System resulting from wider policy changes. The Department has informed North Northamptonshire of the correction of their figure "A" in Schedule 6. The draft Instrument was shared with a sector expert from the Chartered Institute for Public Finance and Accountancy (CIPFA) for assurance and no further changes were required.

## 8. Applicable Guidance

8.1 The Department issues guidance to local government on the completion of associated information forms which describe how to estimate non-domestic rating income and levy and safety net payments.[3]

[3] Guidance for estimates of non-domestic rating income (NNDR1) and for calculation of end-of-year non-domestic rating income (NNDR3) can be found at:
https://www.gov.uk/government/collections/local-government-finance-miscellaneous-forms

## Part Two: Impact and the Better Regulation Framework

### 9. Impact Assessment

9.1 An Impact Assessment has not been produced for this instrument because it amends an existing local authority funding system. An Impact Assessment was published at the outset of the 50 per cent business rates retention scheme in 2013-14.[4]

***Impact on businesses, charities and voluntary bodies***

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because this Instrument does not make changes which affect them.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, foreseen impact on the public sector because this instrument relates to the maintenance of an existing local authority funding system. This Instrument adjusts the administrative framework where necessary to neutralise the impact of changes to business rates tax policy.

### 10. Monitoring and review

***What is the approach to monitoring and reviewing this legislation?***

10.1 The approach to monitoring this legislation is to adjust the original regulations to which these regulations make amendments, when and where necessary.

10.2 The Instrument does not include a statutory review clause as it does not have an impact on business.

## Part Three: Statements and Matters of Particular Interest to Parliament

### 11. Matters of special interest to Parliament

11.1 This affirmative statutory instrument is due to come into force on the day after the day on which it is made. The Department considers that this is reasonable and that a period of 21 days following the making of the instrument for it to come into force is not necessary in this case. This is on the basis that this instrument does not impose any new or more onerous duties on external parties or require them to adopt different patterns of behaviour. It only imposes a duty on the Secretary of State who must make calculations under Schedule 7B of the Local Government Finance Act 1988 ("the 1988 Act").

11.2 The procedure for free issue of the Instrument has been applied, because the Instrument corrects the figure of "A" for one authority in Schedule 6.

### 12. European Convention on Human Rights

12.1 The Minister of State for Local Government and English Devolution, Jim McMahon MP, has made the following statement regarding Human Rights:

"In my view the provisions of the Non-Domestic Rating (Levy and Safety Net) (Amendment) Regulations 2025 are compatible with the Convention rights."

[4] This is available on gov.uk at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/8470/2054063.pdf

## 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”).