EXPLANATORY MEMORANDUM TO

THE LOCAL AUTHORITIES (FUNDS) (ENGLAND) (AMENDMENT) REGULATIONS 2013

2013 No. 2974

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

To alter the formulae for calculating how local authority surplus and deficit estimates are to be shared or borne between authorities that collect council tax (billing authorities) and authorities that issue precepts (demands for payment) to them (major precepting authorities) so that they take into account variations in precept payments or instalments which have been agreed between the authorities.

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

None

4. Legislative Context

4.1 The Local Government Finance Act 1988 required billing authorities to establish and maintain certain funds:- collection funds and general funds. Billing authorities are required by section 89 of the Local Government Finance Act 1988 to establish and maintain a collection fund for the purpose of collecting council tax. All council tax must be paid into a billing authority's collection fund and payments made to a major precepting authority are made from that fund. The Local Authorities (Funds) (England) Regulations 1992 (SI 1992/2428) ('the Funds Regulations') make provision for how those funds should be maintained, including rules for the estimation and apportionment of surpluses and deficits.

4.2 Section 10 of the Local Government Finance Act 2012 introduced local council tax reduction schemes to replace council tax benefits. As part of those changes, a provision was inserted into the Local Government Finance Act 1992 (paragraph 6(3)(b) of Schedule 1A to the 1992 Act inserted by section 10 and paragraph 1 of Schedule 4 to the 2012 Act) to allow billing authorities (district councils, London borough councils, the Common Council of the City of London, the Council of the Isles of Scilly or a county council with the functions of a district council) and major precepting authorities (county councils which are not unitary authorities, police authorities, metropolitan county fire and civil defence authorities, combined fire and rescue authorities and the Greater London Authority) to agree variations to

precept payments or instalments within a financial year where the billing authority estimates that there will be a deficit to the collection fund for that year as a result of a local council tax reduction scheme. As a consequence, these Regulations ensure that where such variations are agreed they are reflected in the calculations for how surplus or deficit estimates are to be apportioned between a billing authority and its relevant major precepting authorities.

5. Territorial Extent and Application

This instrument extends to England only.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The Government set out the policy position with regards to sharing financial pressures between billing and major precepting authorities in Chapter 6 of the Localising Support for Council Tax document published in May 2012. (http://www.communities.gov.uk/documents/localgovernment/pdf/2146581.pdf)

7.2 Under the Local Government Finance Act 1992 as amended by the Local Government Finance Act 2012, billing authorities facing a shortfall in council tax receipts, and subsequently a deficit on the collection fund, can make arrangements with major precepting authorities to make payments to each other and agree to vary the payments or instalments that are required to be made under the Funds Regulations.

7.3 The aim of these amending regulations is to ensure that any variation of a payment or instalment of a payment in relation to a precept, agreed between the billing authority and major precepting authority, is reflected in the end of year surplus and deficit apportionment calculation.

7.4 If the amendment is not made, the current Funds Regulations would allow for the possibility of a major precepting authority losing more than their fair share of a deficit in collected council tax after having agreed to a reduced amount in precept payments. This is because the apportionment calculation in the Funds Regulations currently requires the major precepting authority to fund part of that deficit regardless of whether or not a variation has been made to a precept payment i.e. they have received less money from the billing authority.

7.5 The amendment is therefore intended to ensure that a variation of a precept payment would result in a deduction, equal to the amount by which the precept payments were reduced, from the outcome of the surplus/deficit apportionment calculation.

8. Consultation outcome

There have been informal discussions with local authorities and local government partners about this amendment. There was limited feedback and no objections.

9. Guidance

Chapter 6 of the Government's Statement of Intent set out the proposals in relation to the sharing of financial pressures between billing authorities and major precepting authorities. The Statement of Intent is available at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6091/2146581.pdf.

10. Impact

10.1 These Regulations have no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is to minimise the risk of a council losing twice their share of a deficit in council tax, therefore enabling better financial planning.

10.3 An Impact Assessment has not been prepared for this instrument. An Impact Assessment is available in relation to the proposals for localising council tax support at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/8465/2158675.pdf.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & review

The Government will monitor the impact of these Regulations as part of the ongoing maintenance of the council tax system.

13. Contact

Maria Stasiak at the Department for Communities and Local Government Tel: 03034441624 or email: maria.stasiak@communities.gsi.gov.uk can answer any queries regarding the instrument.