EXPLANATORY MEMORANDUM TO

THE NON-DOMESTIC RATING (RATES RETENTION AND LEVY AND SAFETY NET: MISCELLANEOUS AMENDMENTS) REGULATIONS 2026

2026 No. 374

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 McGovern, Minister of State for Local Government and Homelessness 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 can be contacted by email at the following address with any queries regarding the instrument: emily.gascoigne@communities.gov.uk. Alternatively, the department can be contacted by telephone: 0303 444 0000.

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 the 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. The 50 per cent BRR system was set up in 2013-14 and is a key part of local authority funding, allowing authorities to retain 50 per cent of the business rates

income they collect in their area, subject to redistribution based on assessed need to spend (baseline funding level "BFL"). For a small cohort of authorities ("increased rates retention authorities") they retain a higher proportion of rates income in exchange for central government grant devolved to them.

5.2 Redistribution between authorities is made via "tariff" payments from, and "top-up" payments to, local authorities. These payments have been in essence fixed since implementation, to allow authorities to retain a share of the increase or "growth" in their business rates income, with adjustments made for inflation, restructuring or to strip out tax changes.

5.3 Under the BRR system, a safety net is in place to support authorities whose income falls below a minimum value – the "safety net threshold." This is paid for by a charging a levy on growth in income.

5.4 The BRR system is administered according to an underlying regulatory framework which governs the way the system works, and the values and formulas used each year to calculate and make payments. Annual changes are required to update the framework so that payments are calculated on the correct basis, any new arrangements or policy changes are set up, and to ensure that where necessary any impacts on the BRR system from wider policy changes (mainly from tax changes) are mitigated so that authorities' income is not affected.

5.5 From 1 April 2026 two key policies will be implemented which require more significant amendment of the regulatory framework than usual.

5.6 Firstly, the government is reforming the local government finance system in 2026-27. This includes a "reset" of the BRR system, with the government recalculating each authority's assessed need and its business rates tax base to set new top-ups and tariffs, thereby redistributing accumulated growth according to need. There is also a change in the way the levy and safety net work. These changes are mostly delivered through the local government finance settlement 2026-27 to 2028-29 ("local government finance settlement")[1], but amendment of the regulatory framework for the BRR system is required to ensure the system functions as desired.

5.7 Secondly, the amount of business rates income local authorities collect will change due to changes to the underlying tax. Three new multipliers (tax rates on which a business' liability is calculated) will be introduced alongside the current standard and small business multipliers, and the underlying rateable value of each property will be revalued in 2026. As has been longstanding government policy, amendments are required to the BRR regulatory framework to ensure that as far as is practicable, authorities' income is not impacted by these changes.

5.8 To make the required changes, three sets of regulations must be amended in advance of the 2026-27 financial year. This Instrument amends the Non-Domestic Rating (Rates Retention) Regulations 2013 (S.I. 2013/452) ("Rates Retention Regulations") and the Non-Domestic Rating (Levy and Safety Net) Regulations 2013 (S.I. 2013/737) ("Levy and Safety Net Regulations"). Changes to the Non-Domestic Rating (Renewable Energy Projects) Regulations 2013 (S.I. 2013/108) ("Renewable Energy Projects Regulations") will be made in a separate Instrument.

[1] The final local government finance settlement: England 2026-27 to 2028-29 is published online at: https://www.gov.uk/government/collections/final-local-government-finance-settlement-england-2026-2027-to-2028-2029

What was the previous policy, how is this different?

5.9 This Instrument makes two main changes to how the system is run – to figures and calculations changing as a result of local government finance reform, and to ensure the system continues to function correctly following changes to the tax. These are set out below. More information on these changes can be found in a policy paper published by government in November 2025, including detailed information on the reset and levy and safety net changes, and how the system will run following business rates tax changes.[2]

Changes required to implement local government finance reform

5.10 Most changes resulting from local government finance reform are made to the levy and safety net regulations:

- Previously, only tariff authorities were required to pay levy, paid if their retained rates income ("RRI") for a year exceeded their BFL. The amount was calculated using an individual rate for each authority, capped at 50 per cent, multiplied by growth in income for the year, measured as RRI minus BFL. This Instrument implements the new policy in which all authorities will now be subject to a levy, if their income exceeds BFL in a year, except for authorities with 100 per cent retention arrangements who are not in a pool for the relevant year, who don't pay any levy. The amount of levy to be paid will reflect the level of growth above BFL, with marginal tax rates of 10 per cent up to an initial growth limit of 110 per cent of BFL, 30 per cent above this up to a further growth limit of 200 per cent of BFL and 45 per cent on growth above this limit.
- The safety net threshold of 92.5 per cent of BFL has been increased to 100 per cent for 2026-27, giving authorities additional protection on dual implementation of reform and tax changes.
- As a result of reform, new BFL, tariff and top-up figures have been set for each authority via the local government finance settlement.[1] This Instrument sets out BFL figures for all authorities, used to calculate their safety net threshold. Interim tariff and top-up figures are required to calculate estimated RRI for 2026-27 before they are finalised in late 2026 following data updates. These figures can be taken from the local government finance settlement in most cases, and the Instrument uses those figures where possible. The exception is for 100 per cent retention authorities, for whom this Instrument sets out tariff or top-up values at the 50 per cent level so that their calculations are made on a 50 per cent retention basis. Figures for all authorities will be updated in 2027 ahead of end-year calculations for 2026-27 to include compiled list data from the 2026 revaluation and updated data from local authorities where relevant.

5.11 Changes are also made to the rates retention regulations. Firstly, the Fair Funding Review 2.0 has set new cost factors for each billing authority area as published online[3]; this instrument updates these figures which are used to calculate the cost of collection allowance. Secondly, the "City of London Offset" figure is adjusted for inflation.

[2] The government published a policy paper on 20 November 2025 setting out more detail on how the business rates retention system will be run from 1 April 2026. This can be found at: https://www.gov.uk/government/publications/resetting-the-business-rates-retention-system-from-1-april-2026

[3] The government has published area cost adjustment (ACA) values online as part of the Local Government Finance Settlement. The cost factors used in the cost of collection allowance are the "Foundation Formula ACA Lower Tier" values published at: https://www.gov.uk/government/publications/area-cost-adjustment-values-table-final

Changes required to mitigate the impact of tax changes on the BRR system

5.12 To mitigate the impact on local authorities of the changes to the multipliers from 2026-27, a new way of working is being introduced into the system.[2] The new arrangements strip out any increases or decreases in income an authority would retain purely from increases or decreases in the multiplier figures, using grant under section 31 of the local government finance Act 2003 ("s.31 grant").

5.13 From 2026-27, compensation for loss of income for most funded business rates reliefs and for loss in income resulting from the new multipliers is made via s.31 grant. This will lead to a large amount of s.31 income flowing to authorities through their general funds and therefore adjacent to, but not directly part of, the BRR system. To reflect this, and to avoid cash flow issues for local authorities, the government is making two main changes. Firstly, the government is including most s.31 grant compensation within the calculation of non-domestic rating income ("NDRI") - an authority's rates income for the year. Secondly, s.31 grant will now flow through the collection fund rather than the general fund, easing cash flow as authorities have two years to spread payments, rather than one.

5.14 This Instrument makes the required changes to the rates retention regulations so that the right s.31 payments flow through the collection fund. It also integrates most s.31 income received into the calculation of NDRI, except for those in respect of income disregarded for the purposes of the BRR system (e.g. designated areas).

5.15 Changes are also made by this Instrument to the levy and safety net regulations to maintain the correct policy intention. These changes adjust the calculation of RRI, given that NDRI – included in the calculation of RRI – now includes s.31 compensation for funded reliefs, which were previously "added back" to the calculation to ensure authorities were not overcompensated. Now, only unfunded local discretionary relief which is not awarded to specific types of ratepayer (e.g. charities or small rural businesses) is explicitly added back to the calculation of RRI, and only for billing authorities. This maintains the current policy that if a billing authority were to significantly reduce their rates income by awarding extensive unfunded discretionary local relief, they would not be compensated for this decision via the safety net. This is not applied for major precepting authorities as they do not award this relief.

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 ("1988 Act") which set up the legislative framework for the BRR system.

6.2 The Non-Domestic Rating Act 2023 and the Non-Domestic Rating (Multipliers and Private Schools) Act 2025 made several key changes to the 1988 Act to adjust business rates tax policy. In particular this included de-linking the small business and the non-domestic rating multipliers and the ability for the government to make regulations which set additional multipliers based on prescribed factors such as rateable value.

6.3 These provisions are implemented by the Local Government Finance Act 1988 (Calculation of Non-Domestic Rating High-Value Multiplier) (England) Regulations 2026, the Local Government Finance Act 1988 (Calculation of Non-Domestic Rating Multipliers for Retail, Hospitality or Leisure) (England) Regulations 2026, and the

Local Government Finance Act 1988 (Prescription of Non-Domestic Rating Multipliers) (England) Regulations 2026. These regulations will be in force from 1 April 2026, from that point implementing three new multipliers, in addition to the small business and non-domestic rating multipliers.

6.4 The BRR system is administered based on a core set of 2013 regulations, including the Rates Retention Regulations and the Levy and Safety Net Regulations (which apply to England only). The Rates Retention Regulations provide for general administration of the BRR system and the Levy and Safety Net Regulations provide for the calculation and payment of levy and safety net payments. Key calculations and figures are set out for a year via the local government finance report and wider local government finance settlement documentation.

6.5 Amendments are required each year to some of these core regulations to implement policy or operational changes, or to maintain the correct policy intention of the BRR system where tax changes are made. This year a greater change is required to deliver local government finance reform and to mitigate the impact of the new multipliers.

6.6 Whilst the key aspects of local government finance reform are delivered through the local government finance settlement, additional changes are required to both the Rates Retention and Levy and Safety Net Regulations to implement the reset and reform to the levy and safety net. Further, both sets of regulations are amended to mitigate the impact of the tax changes. This SI makes the required changes. Further regulations are planned to amend the Renewable Energy Projects Regulations.

Why was this approach taken to change the law?

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

7. Consultation

Summary of consultation outcome and methodology

7.1 The Government has consulted extensively with local authorities and sector experts on changes made to the BRR system as part of wider local government finance reform. This includes technical working group meetings on the approach to setting up the BRR system from 2026-27, an 8-week technical consultation on resetting the BRR system and an 8-week consultation on the Fair Funding Review 2.0 which proposed a new approach to the levy and safety net. The response was positive, and the consultations and their responses are published online.[4]

8. Applicable Guidance

8.1 The Department issues guidance to local government on the completion of associated forms which describe how to estimate business rates income and levy and safety net payments.[5]

[4] The consultations and their responses can be found at: Local authority funding reform – Resetting the business rates retention system: https://www.gov.uk/government/consultations/local-authority-funding-reform-resetting-the-business-rates-retention-system
Fair Funding Review 2.0: https://www.gov.uk/government/consultations/the-fair-funding-review-20

[5] 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 A full Impact Assessment has not been prepared for this instrument because it amends an existing local authority funding system and provides for the underlying changes to the administrative framework required to deliver wider policy changes. A full impact assessment was published at the outset of the 50 per cent BRR scheme in 2013-14.[6]

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 The impact on the public sector is positive overall. The operation of the BRR system is designed to ensure that there is no, or no significant impact on the public sector as a result of the business rates tax changes by stripping out the impacts of the changes on local authorities' income; changes made should, however, improve local authority cash flow positions. There is a positive impact on authorities for 2026-27 due to the increase in safety net provision and mixed impacts as a result of changes to the levy. This Instrument does not deliver the Fair Funding Review 2.0 or the business rates reset, these are delivered by the local government finance settlement; however such figures are used within the operation of the BRR system. More information on these impacts is published online as part of the final local government finance settlement.[1]

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 1 April 2026. 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 1988 Act.

12. European Convention on Human Rights

12.1 The Minister of State for Local Government and Homelessness has made the following statement regarding Human Rights:

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

"In my view the provisions of the Non-Domestic Rating (Rates Retention and Levy and Safety Net: Miscellaneous Amendments) Regulations 2026 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").