EXPLANATORY MEMORANDUM TO

THE NON-DOMESTIC RATING (TRANSITIONAL PROTECTION PAYMENTS AND RATES RETENTION) (AMENDMENT) REGULATIONS 2022

2022 No. 784

1. Introduction

1.1 This explanatory memorandum has been prepared by The Department for Levelling Up, Housing and Communities and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 Local authorities are currently required to submit certified end-year business rates figures to the Department by 31 July following the end of the relevant financial year. For the 2021/22 financial year the deadline is 30 September.

2.2 This instrument ("the Instrument") amends the deadline for the 2021/22 financial year to 30 November 2022, and to 30 September thereafter, to bring this into line with the deadline for submission of audited local authority accounts.

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 territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England.

5. European Convention on Human Rights

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

6. Legislative Context

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

6.2 Schedule 7B provided the way for several key pieces of secondary legislation which underpin the Business Rates Retention ("BRR") System ahead of its implementation in 2013-14, including the Non-Domestic Rating (Rates Retention) Regulations 2013 (SI 2013/452) ("Rates Retention Regulations") and the Non-Domestic Rating (Transitional Protection Payments) Regulations 2013 (SI 2013/106) ("TPP Regulations").

6.3 The Rates Retention Regulations set out a framework for the administration of the BRR system including the basis of calculation and reconciliation of authorities' non-

domestic rating income for a year. The TPP regulations provide the basis for stripping out the aggregate gain or loss in authorities' income as a result of transitional arrangements put in place to cushion businesses from increases in their bills following business rates revaluations.

6.4 Following the end of a financial year, billing authorities are required to calculate and certify, in accordance with the requirements of the BRR scheme and their audited accounts, their final figures for the relevant financial year. The Rates Retention and TPP Regulations currently require that certified figures must be submitted to the Department by 30 September following the end of the 2021/22 financial year. This deadline then reverts to 31 July.

6.5 This instrument amends the date by which billing authorities must make and certify their end-year calculations for the purposes of both the Rates Retention Regulations and the TPP Regulations, to 30 November for the 2021/22 financial year. It also amends the 'normal' deadline for end-year calculations in both sets of regulations to 30 September going forward. This brings these regulations into line with changes to the deadline for audited local authority accounts which the Department is making in parallel.

7. Policy background

What is being done and why?

7.1 The Rates Retention Regulations and TPP Regulations provide for end-year business rates calculations to be made after the end of a financial year and the completion of local authority accounts. They also provide for certain adjusting payments to be made, reflecting the differences between estimates made before the beginning of the year and those end-year calculations.

7.2 In recent years the Department has amended the end-year deadline for business rates calculations to ensure it remains aligned with the deadline for audited local authority accounts.[1] The deadline was amended to 30 November for the 2019/20 financial year to alleviate pressure on local authorities in response to the COVID-19 pandemic, and to 30 September for the 2020/21 and 2021/22 financial years in response to recommendations resulting from the Redmond review.[2] The 'normal' deadline remained at 31 July for every year thereafter.

7.3 The Department is again updating the deadline for audited local authority accounts for 2021/22. The Accounts and Audit (Amendment) Regulations 2022 (SI 2022/708), which come into force on 22 July 2022, amend the deadline for audited local authority accounts, setting the deadline for the 2021/22 financial year at 30 November, and at 30 September thereafter, up to and including the 2027/28 financial year.

7.4 This instrument is therefore necessary to bring the deadline for certified end-year business rates figures in line with the deadline for submission of local authority accounts.

[1] The requirements for local authority audits are set out in regulation 10 of the Accounts and Audit Regulations 2015 (SI 2015/234)

[2] More information on the Redmond review can be found at: https://www.gov.uk/government/publications/local-authority-financial-reporting-and-external-audit-independent-review

7.5 The Government will continue to keep this normal deadline for end-year business rates figures under review in line with any changes to the deadline for audited local authority accounts.

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 The Department does not consider it necessary to consolidate these Regulations at this time.

10. Consultation outcome

10.1 As this is a technical change to align reporting dates for local authorities, consultation was not considered necessary.

11. Guidance

11.1 The Department issues guidance to local government on the completion of associated information forms which describes how to estimate non-domestic rating income and levy and safety net payments, how to certify end-year figures and the deadline for certified end-year figures each year.[3]

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 The Government keeps the business rates retention scheme under regular review.

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

15. Contact

15.1 Theo Smith at the Department for Levelling Up, Housing and Communities, email: Theo.Smith@levellingup.gov.uk can be contacted with any queries regarding the instrument.

[3] Guidance for the calculation and timing of end-of-year non-domestic rating income (NNDR3) can be found at: https://www.gov.uk/government/publications/national-non-domestic-rates-return

15.2 Suzie Clarke, Deputy Director for Local Government Finance Stewardship, at the Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.

15.3 Eddie Hughes MP, Minister for Rough Sleeping and Housing at the Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.