

**EXPLANATORY MEMORANDUM TO**  
**THE NON-DOMESTIC RATING (RATES RETENTION AND RENEWABLE**  
**ENERGY PROJECTS) (AMENDMENT) REGULATIONS 2024**

**2024 No. 184**

**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 His Majesty.

**2. Declaration**

- 2.1 Minister Hoare, Parliamentary Under Secretary of State for Local Government at the Department for Levelling Up, Housing and Communities confirms that this Explanatory Memorandum meets the required standard.
- 2.2 Suzie Clarke, Deputy Director for Local Government Finance Stewardship, at the Department for Levelling Up, Housing and Communities confirms that this Explanatory Memorandum meets the required standard.

**3. Contact**

- 3.1 Emily Gascoigne at the Department for Levelling Up, Housing and Communities Telephone: 0303 44 42027 or email: [emily.gascoigne@levellingup.gov.uk](mailto:emily.gascoigne@levellingup.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 Instruments amends the administrative framework set out by regulations, on which the Business Rates Retention (“BRR”) system is run, ensuring that wider policy changes and amendments to legislation are reflected. This is important 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 are collected by local authorities. The BRR system was introduced in 2013-14 and provides for local councils to retain 50 per cent, or in specific cases a higher share, of the business rates income they collect, subject to redistribution according to assessed need.

- 5.2 The Non-Domestic Rating (Rates Retention) Regulations 2013 (S.I. 2013/452) (“Rates Retention Regulations”); and the Non-Domestic Rating (Renewable Energy Projects) Regulations 2013 (S.I. 2013/108) (“Renewable Energy Projects Regulations”) form a key part of the backbone of the BRR system. They set out key aspects of the basis on which the system is administered each year.
- 5.3 This Instrument makes two changes to these sets of regulations. Firstly, to ensure that local authorities eligible to retain growth via the renewable energy project regulations continue to do so following compilation of new local rating lists in 2023 (“the Revaluation”). Secondly, it removes references to the EU state aid de minimis level cap for two reliefs in the rates retention regulations, as these no longer apply.

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

- 5.4 Changes implemented by this Instrument do not fundamentally alter any part of the BRR system. They update the administrative framework, in particular the calculations on which the system is run, to keep it operating correctly following wider policy changes and amendments to legislation. The changes are highlighted below.
- 5.5 The Instrument amends the Renewable Energy Project Regulations to adjust the conditions in which “hereditaments” – rateable units of property – fall within particular “classes” within the original regulations, and calculation of income to be disregarded under the BRR system, following the Revaluation.<sup>1</sup> If these adjustments were not made, the regulations would fail to deliver the original policy objective, resulting in arbitrary changes in growth retained by authorities. These changes ensure that only relevant changes in the value of the hereditament outside of a revaluation are reflected in retained income from the Renewable Energy Projects scheme.
- 5.6 This Instrument also amends the calculation of qualifying “Case A” and “Case B” relief awarded to eligible businesses located in designated areas, as set out in the Rates Retention Regulations. Currently, those regulations specify that the amount of relief that can be awarded is capped at the EU state aid de minimis limit. Now that the UK has left the EU, these references do not apply, instead the amount of qualifying relief that can be awarded is limited by the subsidy control regime. This Instrument removes the references to the de minimis limit. It does not insert references to the replacement subsidy control regime as the relevant authorities are required to have regard to the subsidy control regime in awarding relief in their area because this is separately governed though the Subsidy Control Act 2022.

## **6. Legislative and Legal Context**

*How has the law changed?*

- 6.1 National non-domestic rates, known as business rates, were established in England and Wales by the Local Government Finance Act 1988 (“the 1988 Act”). The Local Government Finance Act 2012 inserted Schedule 7B into the 1988 Act which provides for the local retention of non-domestic rates (the BRR system). Part 10 of the Schedule enables the Secretary of State to make regulations designating areas and classes of hereditaments and to provide for the calculation of an amount of business rates income in respect of eligible hereditaments to be disregarded for the purposes of calculations made under the BRR system.

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<sup>1</sup> Further information on the purpose of the Renewable Energy Projects Regulations, and the types of hereditament in scope can be found in the original regulations:  
<https://www.legislation.gov.uk/ukSI/2013/108/contents/made>

- 6.2 The Rates Retention Regulations and the Renewable Energy Projects Regulations (which apply to England only) are two of the principal statutory instruments that set up the operation of the rates retention system. The Rates Retention Regulations provide for the administration of the BRR system, including the calculation and reconciliation of business rates income. The Renewable Energy Projects Regulations designate classes of hereditaments in relation to which a proportion of the business rates income (as calculated in accordance with the regulations) is to be retained by the local authority. This fulfilled a commitment to allow communities that host renewable energy projects to keep the additional business rates they generate.

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

- 6.3 This is the only possible approach to make the necessary changes.

## **7. Consultation**

*Summary of consultation outcome and methodology*

- 7.1 All billing and major precepting authorities with existing eligible Renewable Energy Projects income as determined through data collection exercises since the start of the BRR system were written to by email, informing them of these regulatory changes and inviting comments, with a period of 4 weeks for responses. No responses were received during or after this consultation period. This is not unexpected given the routine and technical nature of the changes.

## **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 other important figures in the BRR system.<sup>2</sup> This guidance is updated each year, to reflect the correct basis of calculation as determined by the regulations, where changes occur.

## **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 the SI relates to maintenance of existing regulatory standards, and no, or no significant, impact on the private, voluntary or public sector is foreseen. An Impact Assessment was published at the outset of the 50 per cent business rates retention scheme in 2013-14.<sup>3</sup>

*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.

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<sup>2</sup> 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/publications/national-non-domestic-rates-return>

<sup>3</sup> This is available on gov.uk at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/8470/2054063.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/8470/2054063.pdf)

9.4 There is no, or no significant, foreseen impact on the public sector because this instrument relates to the maintenance of existing regulatory standards.

## **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 None.

### **12. European Convention on Human Rights**

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

### **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”).