

## **Explanatory Memorandum to the Non-Domestic Rating Contributions (Wales) (Amendment) Regulations 2024**

This Explanatory Memorandum has been prepared by the Non-Domestic Rates Policy and Reform Division and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

### **Cabinet Secretary's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Non-Domestic Rating Contributions (Wales) (Amendment) Regulations 2024.

**Mark Drakeford MS**  
**Cabinet Secretary for Finance and Welsh Language**  
**13 November 2024**

## **Description**

1. The Non-Domestic Rating Contributions (Wales) (Amendment) Regulations 2024 ('the 2024 Regulations') amend the Non-Domestic Rating Contributions (Wales) Regulations 1992 ('the 1992 Regulations'). The 1992 Regulations prescribe the rules for calculating non-domestic rating contributions to be paid by billing authorities in Wales to the non-domestic rates pool.
2. The 2024 Regulations amend Schedule 4 (Adult Population Figures) to the 1992 Regulations to ensure that the basis for calculating contributions from billing authorities remains up-to-date and to enable billing authorities to calculate their non-domestic rating contributions for 2025-26. The figures in Schedule 4 to the 1992 Regulations are amended on an annual basis. The 2024 Regulations also make a number of amendments to the 1992 Regulations to treat discretionary relief for community amateur sports clubs ('CASCs') in the same way as that for charities, for the purposes of contributions, and to make consequential amendments as a result, to correct a discrepancy between paragraph 3(1) and (4) of Schedule 1, as well as consequential amendments arising from previous legislative changes.

## **Matters of special interest to the Legislation, Justice and Constitution Committee**

3. None.

## **Legislative background**

4. Paragraph 4(1) and (5) of Schedule 8 to the Local Government Finance Act 1988 ('the 1988 Act') sets out the power to make regulations with regard to the calculation of non-domestic rating contributions to be made by billing authorities to the non-domestic rating pool.
5. The power to make regulations under paragraph 4(1) and (5) of Schedule 8 to the 1988 Act was transferred to the National Assembly by the National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999/672). Those functions were subsequently transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.
6. The Local Government Finance Act 2012 amended the 1988 Act expressly providing that the various powers in Schedule 8 to the 1988 Act (including those to make regulations) vest in the Welsh Ministers.
7. Section 143(2) of the 1988 Act enables the Welsh Ministers to make consequential provision in regulations made under the 1988 Act and section 236(1) of the Localism Act 2011 further provides the powers for Welsh Ministers to include consequential provision as a result of any provision made by or under that Act.
8. The 2024 Regulations are subject to the negative procedure.
9. Paragraph 4(6) of Schedule 8 to the 1988 Act requires that, for the 2024 Regulations to be effective for a particular financial year, they must come into force

before 1 January in the preceding financial year. The 2024 Regulations must, therefore, come into force no later than 31 December 2024, to be effective for the 2025-26 financial year.

### **Purpose and intended effect of the legislation**

10. In addition to providing for the annual update to the adult population figures in Schedule 4 to the 1992 Regulations, the 2024 Regulations also provide an opportunity to make a small number of consequential amendments to Schedules 1 and 2 to the 1992 Regulations.

#### Annual update to the adult population figures

11. Billing authorities are required to pay non-domestic rating contributions to the Welsh Ministers in respect of the non-domestic rates they collect from properties in their areas. All the rates collected by billing authorities are paid into the non-domestic rates pool, together with the rates collected by the Welsh Government from central list ratepayers.
12. The pooled revenue is distributed to the county and county borough councils, and police and crime commissioners in Wales, on the basis of adult population figures, as part of the annual local government settlements. Billing authorities make payments into the pool based on estimates completed by them before the start of each financial year. Billing authorities then submit audited returns after the end of each financial year and receive payments from the Welsh Ministers or make additional payments to the pool as appropriate.
13. The effect of regulation 2(4) of the 2024 Regulations is to update the adult population figures by substituting a new Schedule 4 to the 1992 Regulations. The adult population figures are updated annually and will be used to set a threshold for billing authorities to calculate their provisional contributions to the pool for the 2025-26 financial year.

#### Other amendments

14. Regulation 2(2) and (3) of the 2024 Regulations makes consequential amendments to Schedules 1 and 2 to the 1992 Regulations. The intended effect is to clarify the prescribed deductions from billing authority contributions as follows:
  - 25% of discretionary relief awarded to charities or CASCs under section 47 of the 1988 Act;
  - 90% of discretionary relief awarded to not-for-profit organisations under section 47 of the 1988 Act.
15. Regulation 2(2)(a), (b), (d), (f), (g) and (h)(iii) amends paragraph 3 of Schedule 1 to the 1992 Regulations to treat discretionary relief for CASCs in the same way as that for charities, for the purposes of deductions from contributions. As a consequence of those amendments, regulation 2(3)(a) and (b) amends paragraph 3 of Schedule 2 to the 1992 Regulations to ensure that the appropriate assumption as to deductions is applied in relation to discretionary relief for CASCs when calculating a billing authority's provisional amount.

16. Regulation 2(2)(h)(i) corrects a discrepancy between the percentage figure in paragraph 3(1)(b) and 3(4)(b) of Schedule 1 to the 1992 Regulations. This ensures the same percentage deductions apply in respect of discretionary relief awarded in the latest year and adjustments made to that awarded in preceding years.
17. Regulation 2(2)(c), (e), (h)(ii) and (iv) removes references to the requirement that a hereditament is not an excepted hereditament from paragraph 3(1) and (4) of Schedule 1 to the 1992 Regulations. This requirement is provided by section 47(8A) of the 1988 Act, arising from changes made to section 47 of the 1988 Act by the 2011 Act and, therefore, no longer needs to be stated under paragraph 3(1) and (4) of Schedule 1 to the 1992 Regulations.
18. Regulation 2(3) makes amendments to paragraphs 3 and 4 of Schedule 2 to the 1992 Regulations to remove references to section 47(2)(a) of the 1988 Act as a consequence of the 2011 Act repealing that section.

### **Consultation**

19. No consultation has been undertaken in respect of the 2024 Regulations. The population figures are updated annually and have no policy implications. The additional amendments support the intended policy effects of previous legislative changes. The 2024 Regulations are only of interest to the relevant billing authorities and have no effect on ratepayers.

### **Regulatory Impact Assessment (RIA)**

20. An RIA has not been prepared for the 2024 Regulations as they make factual amendments to the 1992 Regulations to preserve the existing policy position and, in doing so, do not alter the impact of the policy in any significant way. This is in line with paragraph 3.2 of the policy set out in the Welsh Ministers' code of practice for carrying out RIAs for subordinate legislation.