

Explanatory Memorandum to The Valuation for Rating (Plant and Machinery) (Wales) (Amendment) Regulations 2023

This Explanatory Memorandum has been prepared by Local Government Finance Reform Division and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Valuation for Rating (Plant and Machinery) (Wales) (Amendment) Regulations. I am satisfied that the benefits justify the likely costs.

Rebecca Evans MS
Minister for Finance and Local Government
21 November 2023

PART 1: EXPLANATORY MEMORANDUM

Description

1. The Valuation for Rating (Plant and Machinery) (Wales) Regulations 2000 (“the 2000 Regulations”) provide for plant and machinery assumed to be part of a hereditament, for the purposes of valuation for non-domestic rating (NDR). Plant and machinery are generally referred to as apparatus used in the carrying out of a business, as opposed to the location or building where a business is carried out.
2. The 2000 Regulations also prescribe certain specified exceptions for plant and machinery that would otherwise be assumed to be part of the hereditament. The Valuation for Rating (Plant and Machinery) (Wales) (Amendment) Regulations 2023 (“the 2023 Regulations”) amend the 2000 Regulations to provide for additional exceptions for plant and machinery used in connection with onsite renewable energy and for Electric Vehicle Charging Point (EVCP) storage.

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

3. None.

Legislative background

4. Sections 42(4) and 53(3) of the Local Government Finance Act 1988 (“the 1988 Act”) provide that non-domestic rating (NDR) lists must contain the rateable values of properties listed. Schedule 6 to the 1988 Act provides how the rateable value is to be determined. The 2000 Regulations specify assumptions to be made when applying paragraph 2(1) to (7) of Schedule 6 to the 1988 Act in relation to plant and machinery.
5. Four classes of plant and machinery assumed to be part of a hereditament for valuation purposes are prescribed by the 2000 Regulations. Class 1 covers plant and machinery used or intended to be used mainly or exclusively in connection with the generation, storage, primary transformation or main transmission of power in or on the hereditament. An exception applies to Class 1 where the power is mainly or exclusively for distribution to consumers. The 2023 Regulations amend the 2000 Regulations to prescribe additional exceptions from Class 1.
6. Paragraph 2(8) of Schedule 6 to the 1988 Act confers on the Secretary of State the power to amend the 2000 Regulations in order to except from Class 1 onsite plant and machinery used in renewable energy generation and EVCP power storage. The powers of the Secretary of State were transferred to the National Assembly for Wales by virtue of article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). The functions of the National Assembly for Wales 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 (c. 32).

7. The power to amend the 2000 Regulations is subject to the negative procedure.

Purpose and intended effect of the legislation

8. The purpose of the 2023 Regulations is to except from rating assessments for the hereditaments they are part of, plant and machinery used in connection with onsite renewable energy generation and EVCP storage. The exceptions will apply from 1 April 2024 until 31 March 2035 and are intended to support investment in renewable technologies and the decarbonisation of non-domestic properties.
9. The 2023 Regulations specifically except plant and machinery used or intended to be used for the generation, storage, transformation or transmission of power, where the sources of energy or technologies relied upon are mainly or exclusively renewable. The specific sources and technologies which are considered to be renewable are listed in the Regulations. The 2023 Regulations also except plant and machinery used or intended to be used mainly or exclusively for storage, transformation or transmission of power for an EVCP.

Consultation

10. The Welsh Government undertook a consultation on the proposed exceptions from 23 May to 15 August 2023 and received 33 responses. Consultation responses were broadly in support of proposals. A [summary of responses](#) was published on 16 October 2023.

PART 2: REGULATORY IMPACT ASSESSMENT

Options

This Regulatory Impact Assessment (RIA) presents two options in relation to exceptions for plant and machinery assumed to be part of a hereditament for valuation purposes. The options considered are as follows.

- **Option 1 – Do nothing.** Retain the existing arrangements, with no changes to the scope of plant and machinery exceptions.
- **Option 2 – Make the 2023 Regulations.** Legislate to support the use of renewable energy by providing for relevant plant and machinery exceptions.

Costs and benefits

Option 1 – Do nothing

Option 1 would not require any legislative change. It would avoid any reduction to the revenue paid into the NDR pool associated with additional plant and machinery exceptions. There would be no administrative costs for the Valuation Office Agency (VOA) or billing authorities.

There would be a comparative disadvantage for ratepayers in Wales, as equivalent exceptions are already in place in England. This may result in higher NDR liabilities in Wales for comparable properties and risks disincentivising the wider use of relevant renewable technologies in non-domestic properties. This option would not support the Welsh Government's policy aim of supporting ratepayers investing in renewable energy.

Option 2 – Make the 2023 Regulations

Option 2 would be to make the 2023 Regulations to implement the additional plant and machinery exceptions. This option would provide ratepayers in Wales with the same incentive as those in England, in relation to the use of renewable energy sources in the generation of energy. This will help to support wider renewable energy ambitions and the movement towards net-zero.

Implementing the exceptions will result in administrative costs for the VOA, in updating the rating assessments for relevant properties to take account of the changes. The exceptions replicate those which the VOA has already implemented for England, which will minimise the administrative costs for Wales.

Based on current rating list information, there is an estimated £240,000 annual reduction in revenue paid into the NDR pool associated with this option. This is likely to be an over-estimate, as it does not account for any NDR reliefs for which the relevant hereditaments may already be eligible. It is a very small proportion of the £1.1bn of net revenue raised annually by NDR.

Option selection

The benefits of Option 2 are considered to outweigh the associated costs, as well as the benefits of Option 1. Option 2 is, therefore, the Welsh Government's preferred option.

Duties

Well-being of Future Generations (Wales) Act 2015. Incentivising the use of renewable energy through plant and machinery exceptions contributes towards the wellbeing goals of a prosperous Wales and a resilient Wales.

UNCRC. No particular impact on the rights of children has been identified.

Welsh language. No effect on the opportunities to use the Welsh language or the equal treatment of the language has been identified.

Equalities. No specific impacts, positive or negative, on persons who share a protected characteristic (as determined by the Equality Act 2010) have been identified.

Voluntary sector. No specific impacts on the voluntary sector have been identified.

Justice. No specific impact on the justice system have been identified.

Competition assessment

A competition filter test has been applied to the 2023 Regulations and the risk of a significant detrimental impact on competition is considered to be low.

Post-implementation review

The Welsh Government will work with the Valuation Office Agency to monitor the impact of the changes on the NDR tax-base.