

Explanatory Memorandum to the Non-Domestic Rating Contributions (Wales) (Amendment) Regulations 2023

This Explanatory Memorandum has been prepared by the 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 Non-Domestic Rating Contributions (Wales) (Amendment) Regulations 2023.

Rebecca Evans MS
Minister for Finance and Local Government
04 December 2023

Description

1. *The Non-Domestic Rating Contributions (Wales) (Amendment) Regulations 2023* ('the 2023 Regulations') amend the *Non-Domestic Rating Contributions (Wales) Regulations 1992* (SI 1992/3238) ('the 1992 Regulations').
2. The 1992 Regulations prescribe the rules for calculating non-domestic rating contributions to be paid by billing authorities (in Wales, the 22 county and county borough councils) to the non-domestic rates pool. Amendments are made annually to Schedule 4 (Adult Population Figures) to the 1992 Regulations to ensure that the basis for calculating contributions from billing authorities to the rates pool remains up-to-date. Amendments to the 1992 Regulations are required to enable billing authorities to calculate their non-domestic rating contributions for 2024-25.

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

3. There are no matters of special interest to the Committee.

Legislative background

4. Section 60 of, and paragraphs 4 and 6 of Schedule 8 to, the *Local Government Finance Act 1988* ('the 1988 Act') set 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 section 60 of, and paragraphs 4 and 6 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 section 60 of, and Schedule 8 to, the 1988 Act (including those to make regulations) vest in the Welsh Ministers.
7. Section 143(2) of the 1988 Act further provides the power for Welsh Ministers to include consequential provision within the 2023 Regulations.
8. The 2023 Regulations are subject to the negative procedure.
9. Paragraph 4(6) of Schedule 8 to the 1988 Act requires that, for the 2023 Regulations to be effective for a particular financial year, they must come into force before 1 January in the preceding financial year, that is, no later than 31 December 2023 for the financial year 2024-25.

Purpose and intended effect of the legislation

10. Billing authorities are required to pay non-domestic rating contributions to the Welsh Ministers in respect of the rates they collect from non-domestic 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.
11. 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 on the basis of 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.
12. The 2023 Regulations amend the 1992 Regulations by substituting a new Schedule 4 (Adult Population Figures). The figures included in Schedule 4 will be used to set a threshold for billing authorities to calculate their provisional contributions to the pool for the financial year 2024-25.
13. If these changes are not made, the estimates made by billing authorities for their contributions to the rating pool will be inaccurate as they will be based on the previous year's population figures which are out-of-date.
14. The 2023 Regulations also update references in paragraph 2 of Part 1 of Schedule 2 to the 1992 Regulations to, orders made under section 58(2) of the Local Government Act 1972. Section 58 of the Local Government Act 1972 was repealed by the Local Government (Democracy) (Wales) Act 2013 ('the 2013 Act'). References in that paragraph should be to section 37(1) of the 2013 Act (Implementation by the Welsh Ministers), and the 2023 Regulations make the necessary consequential amendment to the 1992 Regulations arising from the coming into force of the 2013 Act.

Consultation

15. No consultation has been undertaken. These amendments are only of interest to the relevant billing authorities and have no effect on ratepayers. The population figures are updated annually and have no policy implications.

Regulatory Impact Assessment

16. An RIA has not been prepared for the 2023 Regulations as they make factual amendments to update the 1992 Regulations and in doing so, do not alter the impact of the policy in any significant way. This is in line with the policy set out in the *Welsh Ministers' Regulatory Impact Assessment Code for Subordinate Legislation*.