

## **Explanatory Memorandum to the Non-Domestic Rating (Withdrawal of Charitable Relief for Independent Schools) (Wales) Regulations 2025**

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.

### **Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Non-Domestic Rating (Withdrawal of Charitable Relief for Independent Schools) (Wales) Regulations 2025. I am satisfied that the benefits justify the likely costs.

**Mark Drakeford MS**  
**Cabinet Secretary for Finance and Welsh Language**  
**28 January 2025**

## **PART 1: EXPLANATORY MEMORANDUM**

### **Description**

1. The Non-Domestic Rating (Withdrawal of Charitable Relief for Independent Schools) (Wales) Regulations 2025 (“the 2025 Regulations”) amend the Local Government Finance Act 1988 (“the 1988 Act”) to withdraw eligibility for charitable non-domestic rates relief from independent schools in Wales which are charities, from 1 April 2025.

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

2. None.

### **Legislative background**

3. Section 43 of the 1988 Act specifies the conditions for non-domestic rates liability in respect of an occupied property shown in a local rating list. Where these conditions are met, the chargeable amount is calculated in accordance with Schedule 4ZA to 1988 Act.
4. Section 45 of the 1988 Act specifies the conditions for non-domestic rates liability in respect of an unoccupied property shown in a local rating list. When these conditions are met, the chargeable amount is calculated in accordance with Schedule 4ZB to the 1988 Act.
5. Paragraph 2 of Schedule 4ZA and paragraph 2 of Schedule 4ZB provide for the calculation of charitable rates relief for occupied and unoccupied properties, respectively. The level of relief is 80% of liability for an occupied property and 100% of liability for an unoccupied property, where the ratepayer is a charity or trustees for a charity and the other eligibility conditions are met.
6. Paragraph 8C of Schedule 4ZA, in respect of Parts 2 and 3 of that Schedule, and paragraph 2C of Schedule 4ZB, in respect of Part 2 of that Schedule, enable the Welsh Ministers to make regulations to amend or repeal any provision in those parts for the purposes of varying or withdrawing a relief.
7. The 2025 Regulations take account of amendments which will be made to paragraph 2 of Schedule 4ZB by the Local Government Finance (Wales) Act 2024 (“the 2024 Act”). Section 6 of the 2024 Act will insert new sub-paragraphs (3) to (8) in paragraph 2 of Schedule 4ZB and come into force at the same time as the 2025 Regulations (1 April 2025).
8. The 2025 Regulations are subject to the draft affirmative procedure, in accordance with section 143A(5)(h) and (i) of the 1988 Act.

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

9. The purpose of the 2025 Regulations is to withdraw eligibility for charitable rates relief from independent schools in Wales, bringing them in line with those which are not charities for the purposes of non-domestic rates, from 1 April 2025. This is intended to make additional funding available for local services in Wales, by withdrawing a tax reduction for private education which is paid for from public funds.
10. Regulation 3 of the 2025 Regulations inserts paragraph 2A into Schedule 4ZA to the 1988 Act, to provide that paragraph 2 of that Schedule does not apply to a property in Wales which is wholly or mainly used for the purposes of an independent school. This has the effect of making independent schools ineligible for charitable rates relief in respect of an occupied property in Wales.
11. Regulation 4 of the 2025 Regulations inserts new paragraph 2(7A) to (7C) into Schedule 4ZB to the 1988 Act, to provide that paragraph 2(3) of that Schedule does not apply where it appears that the next use of the property will be wholly or mainly for the purposes of an independent school. This has the effect of making independent schools ineligible for charitable rates relief in respect of an unoccupied property in Wales.
12. The meaning of an “independent school” is defined in section 463 of the Education Act 1996. In summary, an independent school is any school at which full-time education is provided for five or more pupils of compulsory school age and which is not maintained by a local authority.
13. An exception from the withdrawal of charitable rates relief is included in respect of an independent school which is wholly or mainly concerned with providing full-time education to persons for whom an Individual Development Plan (as defined by section 10 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (“the 2018 Act”)) is maintained. This has the effect of ensuring the continued eligibility for relief of ‘independent special schools’ at which a majority of their pupils have been placed by the local authority under an Individual Development Plan (IDP), to meet their additional learning needs. Under the 2018 Act, an IDP for a learner in an independent school can only be maintained by a local authority.

## **Consultation**

14. The eligibility of schools for charitable rates relief in Wales was [consulted](#) upon in 2020. The consultation received 51 responses from individuals, schools, local authorities and representative bodies. A range of views, some in favour of maintaining current arrangements and others in favour of change, were received. The only majority view arising from the consultation was that public sector institutions should continue to be eligible for relief. Following the consultation, the Welsh Government confirmed that any policy change in this area would be subject to further consultation on a specific proposal.

15. The Welsh Government [consulted](#) on the proposal to withdraw charitable rates relief from independent schools in Wales in 2024. A summary of responses was [published](#) on 28 January 2025. The consultation received 109 responses from independent schools, representative bodies, individual parents of independent school pupils and other members of the general public. Individual members of the public were generally in favour of the proposal. Independent schools, parents and representative bodies were generally opposed to the proposal, citing concerns about the potential for fee increases which they stated would lead to displacement of some pupils to maintained schools. The Welsh Government's assessment of these matters had been set out in the consultation.

## PART 2: REGULATORY IMPACT ASSESSMENT

### Options

16. This Regulatory Impact Assessment presents two options in relation to charitable rates relief for independent schools in Wales. The options considered are as follows:

- **Option 1 – Do nothing.** Independent schools which are charities would continue to be eligible for charitable rates relief. No legislation would be required.
- **Option 2 – Legislate to withdraw charitable rates relief from independent schools.** The 2025 Regulations would be made, resulting in independent schools becoming ineligible for charitable rates relief.

### Costs and benefits

#### *Option 1 – Do nothing*

##### Costs

17. If the current position were maintained, 17 out of the 83 independent schools in Wales would continue to receive charitable rates relief. The cost of providing relief to these schools is £1.3m on an annual basis. As part of the existing baseline, this would represent an opportunity cost in relation to the potential for additional funding for public services in Wales.

##### Benefits

18. If no changes were made to charitable rates relief, the 17 independent schools in Wales which are charities would continue to receive this benefit (which is not available to those which are not charities). The affected schools would not need to determine how to meet this additional cost and it would not contribute to any annual increases in the fees they charge.

19. Retaining consistent eligibility for all types of charity would support policy and administrative simplicity for this aspect of the non-domestic rates system.

#### **Option 2 – Legislate to withdraw charitable rates relief from independent schools**

20. A summary of the Integrated Impact Assessment for the policy has been [published](#) separately.

##### Costs

21. The primary impact of the 2025 Regulations would be an increase in the non-domestic rates liabilities of the 17 affected independent schools in Wales, bringing them in line with other independent schools (which are not charities).

The increase in tax liability will vary and it would be for each school to choose how to adapt their business models to meet that cost, as other independent schools already do.

22. The average value of charitable rates relief currently provided to affected schools is around £75,000. For illustrative purposes, this is broadly equivalent to the average fee income from seven non-boarders pupils (based on fees advertised on the websites of affected schools). Based on total pupil numbers and the average fee for non-boarders, the additional liability is estimated to be less than 2% of overall fee income.
23. There are, however, significant variations in the size and fees of each school. Those using larger (higher value) properties will attract higher non-domestic rates liabilities. As such, smaller schools are expected to have proportionally smaller increases in liabilities.
24. Of the 17 affected independent schools: six operate from smaller properties with rateable values up to £50,000; three operate from properties with rateable values in the region of £100,000; and the remaining eight operate from larger properties with rateable values up to £350,000. Table 1 includes examples of liability increases which would arise from the withdrawal of charitable rates relief, based on a range of notional property values.

**Table 1: Example changes in liability due to withdrawal of relief**

<b>Rateable value</b>	<b>Liability with charitable relief (80%)</b>	<b>Liability without charitable relief</b>	<b>Additional liability</b>
£350,000	£39,760	£198,800	£159,040
£200,000	£22,720	£113,600	£90,880
£100,000	£11,360	£56,800	£45,440
£50,000	£5,680	£28,400	£22,480

Note: Based on the provisional multiplier announced for 2025-26 (0.568).

25. Across the 17 affected schools, the total cost of additional liability would be approximately £1.3m per year. There are approximately 6,200 pupils in those schools. As such, the additional annual cost is equivalent to an average of £210 per pupil.
26. The Welsh Government anticipates that there is very limited potential for a material impact on average fees, due to the modest scale of these estimated costs. Some stakeholders have suggested there would be a risk of displacement of pupils to maintained schools, if an increase in fees resulted in parents making decisions to remove their children from independent schools.
27. Over the previous two decades, independent schools have generally increased their fees year-on-year above inflation (Independent Schools Council Census 2023), without reductions in pupil numbers compromising their viability. Schools are also likely to find ways of fully or partially absorbing their increased liabilities (e.g. reducing surpluses, reserves or non-essential expenditure),

rather than increasing fees. As such, identifiable indirect impacts on pupils, as a result of the proposal, are not considered likely to occur.

28. The potential for small increases in costs for some parents is, however, recognised. It is possible that a small number of pupils may move to maintained schools as a consequence. In that respect, it will not be possible to disentangle the impact of the 2025 Regulations from the addition of VAT to independent school fees (which represents a greater financial impact) by the UK Government.
29. The number of pupils who may move schools, as a result of the proposed changes to tax exemptions, has been estimated by the [Institute for Fiscal Studies](#) at 3 to 7% over the medium to longer-term. This represents a very small proportion (less than 0.1%) of overall pupil numbers in maintained schools. All children of compulsory school age are entitled to a state-funded school place. The Welsh Government is confident that the maintained sector would be able to accommodate any additional pupils.

### **Benefits**

30. Option 2 would deliver the Welsh Government's policy proposal to withdraw charitable rates relief from independent schools which are charities. The primary benefit would be to make additional funding available for local services in Wales, by withdrawing a tax reduction for private education which is paid for from public funds. Increased funding of approximately £1.3m annually would be made available for local government services, due to the increase in non-domestic rates revenue due from independent schools.

### **Option selection**

31. Doing nothing would not deliver on the Welsh Government's proposal to withdraw charitable rates relief from independent schools. Public funding for relief would continue to support private education in Wales. Option 1 is not, therefore, the preferred approach.
32. Option 2 is the preferred approach. It was announced by the Welsh Government following consultation on the specific proposal.

## **Duties**

### ***Well-being of Future Generations (Wales) Act 2015***

33. Ensuring that the use of public money to support the private sector is appropriately targeted will support some of the well-being goals for Wales set out in the Well-being of Future Generations (Wales) Act 2015. A reduction in the cost of providing reliefs will make more funding available to local government to deliver public services that support the communities they serve, including in relation to education and young people.
34. This policy makes a contribution towards the well-being goal of a more equal Wales, by withdrawing a tax reduction for private education which is paid for from public funds. This will make more funding available for public services, to help support people to fulfil their potential no matter what their background or circumstances. Any contribution to the development of a skilled and well-educated population will also support the well-being goal of a prosperous Wales.

### ***UNCRC***

35. A Children's Rights Impact Assessment has been [published](#) separately. No specific impacts on the rights of the child have been identified. It is a fundamental expectation that the relevant rights will be upheld within the education received by all school children in the independent and maintained sectors in Wales.

### ***Welsh language***

36. No specific impacts on the Welsh language have been identified.

### ***Equalities***

37. No specific impacts, positive or negative, which would disproportionately effect persons who share a protected characteristic (as determined by the Equality Act 2010) have been identified. Whilst some equalities characteristics are well represented among pupils at the affected schools, this does not mean that any identifiable indirect impact on that group will (or would be more likely to) materialise. Any impacts which do arise will be minimal, due to the low overall potential for displacement of pupils from affected schools.

### ***Voluntary sector***

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

### ***Justice***

39. No specific impacts on the justice system have been identified.

### ***Competition assessment***

40. A competition filter test has been applied to the 2025 Regulations and the risk of a significant detrimental impact on competition is considered to be low. Independent schools are not in competition with other types of charity, which will continue to be eligible for charitable rates relief. Within the independent school sector, most operators are not charities and do not receive charitable rates relief. The policy will bring independent schools which are charities in line



with others operating in the same sector, for the purposes of non-domestic rates.

***Post-implementation review***

41. Data on non-domestic rates will continue to be received from local authorities and the Valuation Office Agency on an annual basis. This will enable the Welsh Government to monitor the number and cost of properties receiving charitable rates relief.
42. The Welsh Government's annual Independent Schools Census will provide data to monitor numbers of learners in the independent schools directly impacted by this policy. In relation to the potential for a very small amount of pupil displacement from independent schools, it will not be possible to disentangle the impact of this policy from the addition of VAT to independent school fees (which represents a greater financial impact) by the UK Government. It is also unlikely that minimal displacement would be detectable against normal fluctuations in pupil numbers.