

Explanatory Memorandum to The Non-Domestic Rating (Improvement Relief) (Wales) 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 Non-Domestic Rating (Improvement Relief) (Wales) Regulations 2023. I am satisfied that the benefits justify the likely costs.

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

PART 1: EXPLANATORY MEMORANDUM

Description

1. Schedules 4ZA and 5A to the Local Government Finance Act 1988 (“the 1988 Act”) include provision for a non-domestic rating (NDR) improvement relief. The Non-Domestic Rating (Improvement Relief) (Wales) Regulations 2023 (“the Regulations”) give effect to that relief by determining eligibility for and the amount of relief from NDR liability.

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

2. None.

Legislative background

3. Paragraphs 3 of Schedules 4ZA and 5A (in relation to the local and central rating lists, respectively) to the 1988 Act provide for improvement relief, subject to any conditions for the relief and the definition of qualifying improvement works being prescribed in regulations. Paragraph 10(2)(a) of Schedule 4ZA and paragraph 6(2)(a) of Schedule 5A provide that, where improvement relief applies, NDR liability is calculated under those Schedules based on the rateable value of the hereditament minus ‘G’. Paragraph 10(7) of Schedule 4ZA and paragraph 6(6) of Schedule 5A define ‘G’ as an amount prescribed or calculated in accordance with provisions in regulations.
4. The power to make the Regulations is conferred on Welsh Ministers by section 143(1) and (2) of, and paragraphs 3(1)(b) and (2) and 10(7) and (8) of Schedule 4ZA and paragraphs 3(1)(c)(ii) and (3) and 6(6) and (7) of Schedule 5A to, the 1988 Act.
5. The Regulations are subject to the negative procedure by virtue of section 143(3) of the 1988 Act.

Purpose and intended effect of the legislation

6. The purpose of the Regulations is to prescribe the conditions for improvement relief, definition of qualifying improvement works and amount of relief. The Regulations are intended to incentivise investment in property improvements by providing ratepayers with a 12-month period of relief from the effect on their NDR liability of increases in rateable value that would otherwise occur.
7. Improvement relief is not intended to apply to new buildings constituting wholly new hereditaments. It is intended to apply to hereditaments which come into existence as a result of the reconstitution (e.g. splitting or merging) of predecessor hereditaments. A hereditament may, therefore, be eligible for relief where qualifying improvement works were commenced in relation to a relevant predecessor hereditament and other conditions for relief are met.

8. For relief to be provided under the Regulations, the following conditions must be met:
 - a. a relevant certificate has been issued in relation to the hereditament;
 - b. the certificate has not been withdrawn or ceased to have effect; and
 - c. the same person has been the occupier in relation to that hereditament, or a relevant predecessor hereditament, on each day since the qualifying improvement works were commenced.

9. Qualifying improvement works means any works completed before 1 April 2028 which:
 - a. increase the area of the hereditament which comprises a building;
 - b. otherwise improve the physical state of the hereditament;
 - c. add rateable plant and machinery to the hereditament; or
 - d. are associated with any of the above works and which reduce the rateable value of the hereditament (i.e. simultaneous value-suppressing activity).

10. The Valuation Office Agency (VOA) is responsible for valuation of hereditaments for the purposes of NDR. A valuation officer will issue a certificate of the amount of the change in the rateable value for the hereditament, where it has been subject to qualifying improvement works completed on or after 1 April 2024 and was shown in a rating list for each day in the period starting when the works commenced and ending when they were completed.

11. Any improvements which result in no overall change in rateable value or a reduction due to simultaneous value-suppressing activity, such as demolition works, will not be eligible for the relief. If a certificate is issued in these circumstances, it must attribute a nil value to the qualifying improvement works. Where more than one set of qualifying improvement works are completed in relation to a hereditament, the changes in rateable value attributed to each may be shown in a single certificate.

12. The certificate will reflect the net increase in rateable value resulting from all works undertaken and apply for 12 months from date of completion. The valuation officer must notify the billing authority of the effect of a certificate and provide a copy to the ratepayer.

13. The valuation officer will be able to withdraw or amend a certificate at their discretion, to reflect any changes in facts, circumstances or errors identified. If the hereditament is no longer shown in a rating list for any day on which the certificate has effect, it will cease to apply from that day onwards.

14. Local authorities (in relation to local rating lists) and the Welsh Ministers (in relation to central rating lists) are responsible for NDR billing and the application of reliefs. The amount of 'G' is the amount of the rateable value change in the certificate provided by the valuation officer, in relation to each chargeable day to which it applies. Where more than one set of qualifying improvement works has been completed, 'G' is the sum of the amounts certified in relation to the chargeable day for each set of works.

15. Under paragraph 10(2)(a) of Schedule 4ZA and paragraph 6(2)(a) of Schedule 5A to the 1988 Act, the amount of 'G' is deducted from the rateable value (updated to take account of the qualifying improvement works), which is then used to calculate the chargeable amount of NDR for the hereditament in accordance with the other provisions in those Schedules. In prescribing 'G', the Regulations have the effect of preventing an increase in NDR liability attributable to the qualifying improvement works for the 12-month period a certificate applies to.

Consultation

16. The Welsh Government undertook a consultation on proposals to provide improvement relief from 16 May to 8 August 2023 and received 22 responses. Consultation responses were broadly in support of proposals. A summary of responses was published on 27 September 2023.

PART 2: REGULATORY IMPACT ASSESSMENT

Options

This Regulatory Impact Assessment (RIA) presents two options in relation to improvement relief. The options considered are as follows.

- **Option 1 – Do nothing.** Retain the existing arrangements and not provide improvement relief.
- **Option 2 – Make the Regulations.** Legislate to incentivise improvements to hereditaments by providing improvement relief.

Costs and benefits

Option 1 – Do nothing

Option 1 would not require any legislative change. No improvement relief would be provided. There would be no administrative costs for the VOA or billing authorities.

Where improvements are made to a property that result in an increase in rateable value, ratepayers would not benefit from any relief and would see an immediate increase in NDR liability. This would be an opportunity cost, as ratepayers may be disincentivised from making improvements which would otherwise contribute to growth in the tax-base. Ratepayers in Wales would be at a comparative disadvantage with those in England, where improvement relief will be provided.

This option would not support the Welsh Government's policy aim of incentivising businesses and other ratepayers to invest in making improvements to the non-domestic properties they occupy.

Option 2 – Make the Regulations

Option 2 would be to make the Regulations to give effect to improvement relief and support ratepayers investing in their non-domestic properties. Eligible ratepayers would benefit from a 12-month period of relief, from the effect on their NDR liability, of an increased rateable value arising from property improvements.

Implementing improvement relief will result in administrative costs for the VOA and billing authorities, associated with software changes, certification and billing updates. The Welsh Government will provide an additional £5,000 to each local authority, totalling £110,000, to cover any additional administration. The relief has been designed to operate on the same basis across Wales and England, which would minimise administrative costs for delivery partners.

It is not possible to quantify the value of improvement relief which would be provided, but it will not manifest as a loss of expected NDR revenue. Any increase in NDR revenue that would have occurred as a result of improvements would be foregone on a temporary basis, for the 12-month period of relief. If the relief incentivises investment as intended, this would result in growth in the tax-base and

increased NDR revenue from eligible hereditaments, following the initial 12-month relief period.

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. Encouraging investment in the non-domestic properties contributes towards the wellbeing goals of a prosperous 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 impacts on the justice system have been identified.

Competition assessment

A competition filter test has been applied to the 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 VOA and billing authorities to monitor the impact of the changes on the NDR tax-base.