

The Welsh Government's Legislative Consent Memorandum on the Non- Domestic Rating Bill

June 2023



1. Background

The Non-Domestic Rating Bill

1. The Non-Domestic Rating Bill¹ (the Bill) was introduced into the House of Commons and had its first reading on 29 March 2023. It is sponsored by the Department for Levelling-up, Housing and Communities.

2. The Explanatory Notes to the Bill as introduced state:

“This Bill implements a number of changes to the system of non-domestic rates (known as business rates) in England and Wales. The majority of the provisions for England give effect to conclusions of the government’s Business Rates Review which covered the rating system in England.

The Welsh Government has requested that a number of measures be applied to Wales.”²

3. The long title to the Bill states that it is a Bill to:

“Make provision about non-domestic rating”.

4. A Committee of the whole House met to consider the Bill on Monday 22 May. Third Reading also took place on 22 May. First reading in the House of Lords took place on 23 May. At the time we agreed our report, second reading was scheduled to take place on 19 June.

The Welsh Government’s Legislative Consent Memorandum

5. Standing Orders 29.1 and 29.2 provide that a legislative consent memorandum is required when a relevant UK Bill makes provision in relation to Wales for any purpose within the legislative competence of the Senedd or which modifies the Senedd’s legislative competence.

¹ [The Non-Domestic Rating Bill](#), as introduced (Bill 285)

² [The Non-Domestic Rating Bill, Explanatory Notes](#), March 2023, paragraph 1

6. On 11 April 2023, Rebecca Evans MS, Minister for Finance and Local Government (the Minister), laid before the Senedd a Legislative Consent Memorandum (the Memorandum) in respect of the Bill.³

7. The Business Committee agreed that the Legislation, Justice and Constitution Committee, the Local Government and Housing Committee, the Economy, Trade and Rural Affairs Committee, and the Finance Committee, should report on the Memorandum by 22 June 2023.⁴

Provision for which the Senedd's consent is required

8. The Welsh Government's assessment is that the following provisions in the Bill require the Senedd's consent, as set out in paragraphs 13 to 44 of the Memorandum:

- clause 1 (Local rating: liability and mandatory reliefs for occupied hereditaments);
- clause 3 (Central rating: liability and mandatory reliefs);
- clause 10 (Disclosure of valuation information to ratepayers);
- clause 11 (Disclosure of valuation information to Northern Ireland rating officials);
- clause 12 (Sharing of non-domestic rating information between billing authorities and HMRC);
- clause 13 (Requirements for ratepayers etc to provide information);
- clause 15 (Multipliers);
- clause 17 (Consequential provision);
- clause 19 (Commencement and application);
- the Schedule (Consequential provision).

³ Welsh Government, Legislative Consent Memorandum on the Non-Domestic Rating Bill, April 2023

⁴ Business Committee, Timetable for consideration: Legislative Consent Memorandum on the Non-Domestic Rating Bill, April 2023

9. Paragraphs 48 and 49 of the Memorandum and Annex A of the Explanatory Notes to the Bill provide details of the UK Government's assessment of the territorial extent and application of the Bill.

10. The UK Government's opinion is that the legislative consent process would be engaged, in relation to Wales, for clauses 1, 3, 10 to 13, 15, and 17 to 20 of the Bill and the Schedule to the Bill.

Delegated powers

11. New regulation-making powers are conferred on the Welsh Ministers as follows:

- Clause 1 introduces two new non-domestic rating (NDR) reliefs - "improvement rates relief" and "heat networks rates relief" - which will apply in relation to occupied hereditaments on local lists situated in England and Wales. Clause 1 confers on the Welsh Ministers a regulation-making power to prescribe the meaning of "qualifying improvement works" and "heat network", and such regulations will be subject to the negative procedure. The Welsh Ministers may extend the period within which the new reliefs will apply, and these regulations are subject to the draft affirmative procedure.
- Clause 3 introduces charitable rate relief and improvement rate relief for eligible hereditaments on English and Welsh central lists. Clause 3 confers on the Welsh Ministers a regulation-making power to prescribe the meaning of "qualifying improvement works", and such regulations will be subject to the negative procedure. The Welsh Ministers may extend the period within which the new reliefs will apply, and these regulations are subject to the draft affirmative procedure.
- Clause 17 confers on the Welsh Ministers a regulation-making power to make consequential amendments which arise from the Bill. Regulations which amend or repeal a provision made by primary legislation will be subject to the draft affirmative procedure. Any other regulations will be subject to the negative procedure.
- Clause 19 confers on the Welsh Ministers a power to commence clauses 10, 12, 13(1), 13(2), 13(4), 13(6), 15(1), 15(3)(a), 15(3)(c)(ii), 15(3)(d), and 15(4) of the Bill and paragraphs 17(1)(d), 39(a), 40, 46, 49(c) and (d), 50, and 53(a) of the Schedule to the Bill, in so far as those provisions relate to Wales.

12. Clause 13(2) of the Bill and paragraphs 49(c) and 50 in Part 4 of the Schedule to the Bill confer new regulation-making powers on the Commissioners for HMRC, who must consult with the Welsh Ministers before making regulations to the extent that they make provision in relation to Wales.

13. In the Memorandum, the Minister states:

“The Bill at introduction includes limited delegated powers in relation to clause 13 and Part 4 of the Schedule.

There was insufficient time prior to the introduction of the Bill to reach firm agreement on the appropriate delegation of powers to Welsh Ministers. However, as they make provision for a purpose within Senedd competence, they will require legislative consent.

The Welsh Government continues to engage with the UK Government on the appropriate conferral of delegated powers, with further discussions around these specific powers anticipated throughout the passage of the Bill.”⁵

14. Regulation-making powers already conferred on the Welsh Ministers are amended by clause 15 of the Bill.

15. Clause 15(3)(d) amends the procedure for specific regulation-making powers that were conferred on the Welsh Ministers by the *Local Government and Elections (Wales) Act 2021* (the 2021 Act) which inserted sub-paragraphs 13A to 13C into paragraph 5 of Schedule 7 to the 1988 Act in relation to Wales. Sub-paragraph 13A provides the Welsh Ministers with regulation-making powers to change the mechanism by which the NDR multiplier is calculated for each financial year.

16. Clause 15(3)(d) amends sub-paragraph 13C of the 1988 Act by changing the made affirmative procedure that applied to such regulations, to the draft affirmative procedure. The Minister does not provide a detailed explanation in the Memorandum as to the reasons why the Welsh Government is seeking to change the procedure for the regulation-making power, just over two years since the 2021 Act received Royal Assent.

⁵ Memorandum, paragraphs 45 to 47

Other relevant matters

17. Clause 15(4) of the Bill makes amendments to paragraph 6 of Schedule 7 to the 1988 Act which requires that the Welsh Ministers must calculate the NDR multiplier for each financial year in relation to Wales, and must serve a notice on each billing authority stating the multiplier as so calculated.

18. Clause 15(4) omits sub-paragraph (4B) of paragraph 6 of Schedule 7 to the 1988 Act, which states that a calculation is invalid unless one or both of the following conditions is fulfilled:

- a. it is made after the Senedd has approved the local government finance report for the year (or both reports if the Welsh Ministers are making two local government finance reports for the year); and/or
- b. it is made after 1 March in the preceding financial year.

19. At paragraph 39 of the Memorandum the Minister states that the changes made by clause 15(4) removes a timing constraint which “prevents local authorities proceeding with bill functions in a timely manner when the value of the multiplier is known at an earlier date”.

The Welsh Government's position, and reasons for making provision for Wales in the Bill

20. At paragraphs 4, 6, 7 and 63 of the Memorandum the Minister states that the Welsh Government has sought and requested provisions for Wales in the Bill. Specifically at paragraph 6, the Minister states:

“The Bill provides an opportunity to bring about certain reforms earlier than would be possible otherwise and where certain functions of UK Government agencies will be altered, to ensure ratepayers in Wales are not disadvantaged. The Welsh Government has sought provisions for Wales where policy aims are aligned and there is benefit in securing levers to support ratepayers as soon as possible. We have also sought provisions to support our continued involvement in the Digitalising Business Rates Programme. This reflects the interconnected nature of, and administrative similarities between, the NDR systems in Wales and England.”

21. At paragraph 7 of the Memorandum the Minister adds:

“UK Government officials have been collaborative in discussions with my officials on the development of the Bill. Clarity has been sought on where provisions would be beneficial to apply to both England and Wales, with the UK Government receptive to Welsh Government’s request for the inclusion of certain provisions in the Bill.”

22. The Minister’s stated reasons for making provision for Wales in the Bill include:

- These changes can only be made by way of primary legislation and pursuing the changes through a UK Government Bill is on the basis that they would be beneficial to implement as soon as practically possible.⁶
- Awaiting the Welsh Government’s planned Local Government Finance (Wales) Bill would lead to both the Welsh Government and ratepayers in Wales being put at a disadvantage, and rescheduling the Welsh Government’s Bill would have wider negative impacts on its legislative programme.⁷
- Given the interconnected nature of the relevant Welsh and English NDR regimes (with the Valuation Office Agency (VOA) being a cross-border agency), it would be appropriate for provision for both (in clause 10 of the Bill) to be taken forward at the same time in the same legislative instrument. The conferral of a power on the Welsh Ministers to commence this provision by way of regulations in relation to Wales is intended to give Welsh Ministers control over the timing of implementation. The Welsh Government will work closely with the VOA to ensure that changes are introduced at a time when they are able to have the full desired effect. It is intended that these would be introduced during the course of the 2023 rating list and potentially prior to Royal Assent of the planned Local Government Finance (Wales) Bill, which is the next suitable legislative vehicle.⁸
- Clauses 12 and 13 establish the necessary information gateways to enable the Digitalising Business Rates Programme to be implemented. The programme will be operated by HMRC across England and Wales, so that the Welsh Government is able to benefit from linked dataset,

⁶ Memorandum, paragraph 50

⁷ Memorandum, paragraph 50. See also paragraphs 51 and 52.

⁸ Memorandum, paragraph 53. See also paragraph 54.

including HMRC tax data, that it would not otherwise be able to access. Divergence of approach carries a risk that Welsh ratepayers, billing authorities, and the Welsh Government may not be able to benefit from the programme. If the Welsh Government does not maintain its involvement in the development of the programme, it may be more difficult and potentially costly and unfeasible for it to be re-extended to Wales at a later date.⁹

- Changes in clause 15 link to the workings of the multiplier. They are pursued at this time as they, in part, correct existing legislative errors and provide further legislative clarity, and it would be illogical to leave errors unchanged for longer than necessary.¹⁰

23. At paragraph 64 of the Memorandum the Minister states that certain other provisions within the Bill would be desirable for Wales. The Minister acknowledges that not pursuing such provisions for Wales in the Bill will lead to discrepancies between the two rating systems. However, the Minister states that “these provisions have been identified as “having minimal risk of negative impact” and are therefore “suitable for consideration for inclusion in a future Senedd Bill”.

24. As regards financial implications, at paragraph 66 of the Memorandum the Minister states that the UK Government “intends to provide new reliefs following the successful passage of the Bill, the detail of which will be set out in secondary legislation”. The Minister highlights that the Welsh Government awaits further information on any consequential funding that would arise from such schemes.

25. The Minister concludes that further consideration is required in relation to the delegated powers in clause 13 and paragraphs 49 and 50 of the Schedule, and she is therefore not yet able to recommend the Senedd gives consent to this Bill in its entirety.¹¹

Related Welsh Government action

26. In May 2023, the Minister launched two consultations related to non-domestic rates.

27. On 16 May 2023, the Minister launched a [consultation](#) on proposals for a NDR improvement relief. In the [written statement](#) which announced the launch of the consultation, the Minister stated that “The Welsh Government is pursuing a range

⁹ Memorandum, paragraph 57. See also paragraph 58.

¹⁰ Memorandum, paragraph 59

¹¹ Memorandum, paragraph 67

of reforms during the current Senedd term which will make essential and positive changes to NDR in Wales.” The Minister also noted that, subject to the outcome of the consultation, the Welsh Government proposes to provide the improvement relief from 1 April 2024.

28. On 23 May 2023, the Minister launched a consultation on proposals for NDR support for renewable energy. Again, in the written statement which announced the launch of the consultation, the Minister stated that the Welsh Government is pursuing a range of reforms during the Sixth Senedd to make changes to NDR in Wales, and that the support was intended to be provided from 1 April 2024.

2. Committee consideration

29. We considered the Memorandum at our meeting on 15 May 2023.¹² We wrote to the Minister on 18 May¹³, and received a response on 1 June¹⁴. We agreed our report on 12 June.¹⁵

Our view

Provisions requiring legislative consent

30. We note the Welsh Government's assessment of the provisions within the Bill that require the consent of the Senedd, as set out in the Memorandum.

31. We agree that clauses 1, 3, 10, 11, 12, 13, 15, 17 and 19 of the Bill and the Schedule to the Bill require the consent of the Senedd.

Recommendation 1. We consider that the clauses of the Bill and the Schedule to the Bill set out in the Memorandum fall within a purpose within the legislative competence of the Senedd, as described in Standing Order 29, and therefore require the consent of the Senedd.

Intergovernmental working and the Welsh Government's approach

32. At various places in the Memorandum (including paragraphs 4, 6, 7 and 63) the Minister states that the Welsh Government has sought and requested provisions for Wales in the Bill. These requests followed the Welsh Government's request to the UK Government that its joint programme with HMRC to

¹² Legislation, Justice and Constitution Committee, 15 May 2023

¹³ Letter to the Minister for Finance and Local Government, 18 May 2023

¹⁴ Letter from the Minister for Finance and Local Government, 1 June 2023

¹⁵ Legislation, Justice and Constitution Committee, 12 June 2023

implement the Digitalising Business Rates Programme be extended to include Wales.¹⁶

33. We asked the Minister to confirm when collaborative discussions began with the UK Government and when provisions for Wales in the Bill were formally sought.

34. We note the Minister's confirmation that discussions began in March 2022 and provisions for Wales, with the exception of those relating to the Digitalisation of Business Rates, were sought on 20 June 2022. We also note the Minister's statement that, at that stage in 2022, "discussions were taking place in confidence and it was unclear to the Welsh Government if and when the Bill would be finalised and introduced".¹⁷

35. While we welcome the Minister's willingness to be transparent and provide details of when the Welsh Government began its work with the UK Government on this Bill, we remain unclear why the Welsh Government has not used the past 15 months to bring forward its own Bill.

36. We acknowledge the arguments put forward by the Minister in the Memorandum for pursuing provision for Wales in a UK Bill; arguments which include the UK Government's Bill "provides an opportunity to bring about certain reforms earlier than would be possible otherwise" and that rescheduling the Welsh Government's planned Local Government Finance (Wales) Bill would have "wider negative impacts" on the Welsh Government's legislative programme. We are not convinced by these arguments, as we illustrate further in the following paragraphs.

37. As the Minister notes in the Memorandum, on 29 March 2022 the Minister announced a programme of non-domestic rates reform that would be delivered over the following four years. In doing so, the Minister acknowledged that the Welsh Government's Programme for Government "sets out the Welsh Government's ambition for a fairer, greener and stronger Wales... [which] form the basis of any potential changes to the non-domestic rates system".¹⁸

38. While reform of the non-domestic rates system is therefore a commitment made by the Welsh Government, when making this announcement to the Senedd, the Minister was already in negotiations with the UK Government about requesting provisions in that government's Bill to deliver on changes to the non-

¹⁶ See Memorandum, paragraph 4

¹⁷ Letter from the Minister for Finance and Local Government, 1 June 2023, response to question 1

¹⁸ Plenary, 29 March 2022, RoP [194]

domestic rates system in Wales. These negotiations were taking place even though the Welsh Government's legislative programme for 2022-23 was yet to be confirmed and announced.

39. The Minister has also told us that it was unclear to the Welsh Government if and when the UK Government's Bill would be finalised and introduced. Given this statement, we are unsure as to why the Welsh Government did not take action and pursue its own Bill.

40. We acknowledge that there are similarities between the non-domestic rates systems in Wales and England, and that the VOA is a cross-border agency. As such, we understand the Minister's statement that the Welsh Government will work closely with the VOA.

41. However, the Minister states that it is intended that these changes would be introduced "during the course of the 2023 rating list and potentially prior to Royal Assent of the planned Local Government Finance (Wales) Bill, which is the next suitable legislative vehicle". Again we are unclear as to why, if the changes may only be introduced "potentially prior" to the Welsh Government's own Local Government Finance (Wales) Bill being enacted, it appears there was opportunity for the Welsh Government to use its forthcoming Bill to make the provisions it has requested in the UK Bill and legislate in parallel.

42. We also note that the Minister has recently launched two consultations on proposals for a NDR improvement relief and on proposals for NDR support for renewable energy. As indicated above in paragraph 11, the Minister is planning on using the regulation-making powers in clause 1 of the Bill to define the meaning of "qualifying improvement works" and "heat networks"; the consultations are asking for views on these proposed definitions. We further note that the Welsh Government proposes to provide the improvement relief and the support for renewable energy from 1 April 2024, following the coming into force of clause 1 once the Bill is enacted. It is unfortunate that the Memorandum makes no reference to either consultation. Such delegated powers could have been included in a Bill brought forward by the Minister and scrutinised by the Senedd.

43. To add to our concerns about the Minister's approach, at paragraph 64 of the Memorandum the Minister states that she has not pursued other "desirable" provisions in the Bill and confirms that this will lead to discrepancies between the ratings systems in Wales and England.

44. While we acknowledge the Minister's view that these provisions have been identified by the Welsh Government as "having minimal risk of negative impact" meaning they are "suitable for consideration for inclusion in a future Senedd Bill", the Minister is therefore content to pursue a course of action which will introduce new discrepancies in the two systems.

45. As we said most recently in our report on the Welsh Government's Legislative Consent Memorandum on the Protection from Sex-Based Harassment in Public Bill¹⁹, the Welsh Government is aware of our view that it should be possible to look for opportunities for the Senedd and the UK Parliament to legislate in parallel rather than going down the route of an England and Wales Bill. This approach would still allow for co-operation between governments and, if this is the desired effect, would not lead to inconsistencies for citizens or in the law of England and Wales. Just as importantly, it would also allow Members of the Senedd to properly scrutinise a Bill (including taking evidence from stakeholders) and to test the legislation at amending stages.

46. We also highlight that we were surprised to learn of the Minister's approach given the comments made by the Counsel General when he attended our meeting on 16 January 2023. The Counsel General told us:

"I'm not aware of any circumstance where we have requested UK Government to legislate on our behalf, because I know that appears often in some of the narratives. But there is certainly no legislation before us at the moment that is something that we have asked UK Government to initiate on our behalf."²⁰

Delegated powers

47. As noted above in paragraph 13, at paragraphs 45 to 47 of the Memorandum the Minister refers to the delegation of powers in relation to clause 13 and Part 4 of the Schedule. We note that the Minister said there had been insufficient time prior to the introduction of the Bill to reach firm agreement on the appropriate delegation of powers to the Welsh Ministers, and that further discussions around these specific powers were anticipated throughout the passage of the Bill.

48. Given the fact that there appears to have been collaborative working on the Bill (as we highlight above in paragraph 34), we asked for further clarity as to how

¹⁹ Legislation, Justice and Constitution Committee, [Report on the Welsh Government's Legislative Consent Memorandum on the Protection from Sex-based Harassment in Public Bill](#), June 2023

²⁰ [Legislation, Justice and Constitution Committee](#), 16 January 2023, RoP [154]

and why there was “insufficient time prior to the introduction of the Bill to reach firm agreement on the appropriate delegation of powers to Welsh Ministers”. The Minister told us that, whilst engagement began a year ago, the provisions relating to clause 13 and the Digitalisation of Business Rates (DBR) Programme were not developed until February and March 2023.²¹ The Minister also told us:

“On 14 February, I wrote to the relevant Bill Ministers to request details of the provisions being developed and that consideration be given to extending them to Wales. Following a positive response and consideration of the detailed proposals, I formally sought provisions on 17 March and requested further discussion in relation to the relevant delegated powers. I recognised that it might not be possible to conclude those discussions prior to planned introduction of the Bill and a further exchange of letters with the Bill Ministers followed.”²²

49. In the event that the Welsh Government's discussions with the UK Government result in amendments which provide new delegated powers to the Welsh Ministers being made to the Bill during Lords' consideration, we asked the Minister to confirm that she would lay the required supplementary legislative consent memorandum in a timely fashion to allow Senedd Committees sufficient time to undertake their scrutiny.

50. The Minister confirmed to us that the Welsh Government's discussions with the UK Government on this matter concluded during the Bill's passage through the House of Commons and no amendments to the Bill are required as a result of those discussions. The Minister told us:

“It is the Welsh Government's intention to support the Bill provisions extended to Wales in their entirety.

The powers delegated to the Commissioners of HMRC are limited. They do not need to be exercised to enable the legislative framework set out in the Bill to operate, and will only be used where a relevant administrative change to ensure the effective operation of the DBR programme by HMRC is considered necessary. Whilst any secondary legislation made under the delegated powers would alter the requirements

²¹ Letter from the Minister for Finance and Local Government, 1 June 2023, response to question 2a

²² Letter from the Minister for Finance and Local Government, 1 June 2023, response to question 2a

placed on NDR ratepayers in Wales, it would also directly affect the functions conferred by the Bill on HMRC.

The Bill requires that the Commissioners of HMRC must consult the Welsh Ministers before making secondary legislation under the delegated powers and to the extent that it makes provision in relation to Wales. This approach will enable the aims of the DBR programme to be delivered and intended benefits realised in Wales. Only HMRC can deliver DBR for Wales, as the programme relies on the sharing and linking with information held by HMRC in relation to non-devolved taxes, as well as NDR.”²³

51. The Minister also confirmed that she would lay a supplementary legislative consent memorandum “to clarify the Welsh Government’s position on this matter and address any amendments that are made to the Bill, in a timely manner”.²⁴

52. While we welcome that the Minister has provided an explanation of her new position regarding the delegated powers in clause 13 and the Schedule, we respectfully suggest that the explanation is not as fulsome as we would have expected.

53. In particular, given that the Minister was recommending that the Senedd withholds its consent to the Bill because of these delegated powers, given that the Minister’s discussions with the UK Government have not resulted in textual amendments to the Bill, we would welcome timely clarification and further detail as to why the Minister is now content with clause 13 and paragraphs 49 and 50 of the Schedule.

Recommendation 2. The Minister should clarify and provide further detail to the Senedd as to why the Welsh Government has reversed its position and is now content with the delegated powers in clause 13 and in paragraphs 49 and 50 of the Schedule to the Bill. The Minister should provide this clarity and detail within 10 working days of this report being published, or such information should be set out in the next supplementary legislative consent memorandum laid before the Senedd, whichever is earliest.

54. In paragraphs 15 and 16 above we highlight that, at paragraph 39 of the Memorandum, the Minister states that clause 15(3)(d) “alters the procedure for

²³ Letter from the Minister for Finance and Local Government, 1 June 2023, response to question 2b

²⁴ Letter from the Minister for Finance and Local Government, 1 June 2023, response to question 2b

making regulations from made affirmative to draft affirmative". We further highlight that this regulation-making power, and the made affirmative scrutiny procedure attached to it, was delegated to the Welsh Ministers via the 2021 Act, and no detailed explanation is given as to why the Minister is using a UK Bill to change a scrutiny procedure for a delegated power which the Senedd itself only approved two years ago.

55. As such, we asked the Minister to provide a thorough explanation as to why the changes introduced by clauses 15(3)(d) and 15(4) are being made. On clause 15(3)(d) we note the Minister's explanation that:

"The relevant regulation-making power allows Welsh Ministers to substitute the effect of the Consumer Prices Index on the setting of the non-domestic rating multiplier. This power has been exercised annually in recent years, to freeze the multiplier, as part of the package of support provided to ratepayers during the pandemic and subsequent economic pressures. As the related policy and funding decisions form part of the Welsh Government's Draft Budget, published in December each year, the timing constraints imposed by the existing procedures on the exercise of this power, including the interaction with the Senedd's consideration of the local government finance report, have proved themselves to present a practical challenge. In some years this has impacted negatively on the time available for Senedd scrutiny of the legislation, when the local government finance reports have been considered relatively soon after publication of the Draft Budget.

Clause 15(3)(d) removes the existing deadline (before the earlier of 1 March or the Senedd's approval of the local government finance report) for approval of the regulations by the Senedd and ensures that a draft of the regulations is scrutinised by the Senedd before it is made. I do not, therefore, consider that the change of procedure from made affirmative to draft affirmative amounts to a downgrading of scrutiny. If anything, in combination with the removal of unnecessary timing constraints, it will help to ensure that the Senedd has appropriate time for scrutiny of the regulations."²⁵

²⁵ Letter from the Minister for Finance and Local Government, 1 June 2023, response to question 3

56. On clause 15(4) and the changes that the Minister considers will remove a timing constraint which “prevents local authorities proceeding with bill functions in a timely manner when the value of the multiplier is known at an earlier date” (see paragraphs 17 to 19 above), we note the Minister’s view that the removal of the existing restriction:

“...will ensure that billing authorities and ratepayers in Wales can be provided with clarity as early as possible and are not disadvantaged compared to those in England due to procedural constraints which do not enhance (and may in some circumstances constrain) scrutiny.”²⁶

57. We note further the Minister’s statement that, taken together, the Minister considers that the changes made by clauses 15(3)(d) and 15(4) will “ensure the Senedd has a consistent opportunity for scrutiny before regulations are made; and reduce the risk of delayed non-domestic rates billing, to the benefit of local authorities and ratepayers in Wales”.²⁷

Conclusion 1. While we welcome the detail the Minister provided to us following our request, we believe that this detail should have been set out in the Memorandum. Given it was the Senedd that approved the delegated power only two years ago, the Minister should have been more explicit and transparent with Members of the Senedd about the Welsh Government’s intentions.

58. There are a number of issues which arise from the Minister’s response to our questions which we believe the Minister should address before the relevant legislative consent debate in the Senedd.

59. First, as we indicate above, it is regrettable that the Minister is seeking to use a UK Bill to change the scrutiny procedure for a regulation-making power which Members of the Senedd only agreed to delegate to the Welsh Ministers in 2021, particularly when this action has not been notified to Members of the Senedd in a more transparent way.

Recommendation 3. The Minister should confirm whether the Welsh Government looked for options to use legislation introduced to the Senedd to seek to make the change to the scrutiny procedure for regulations made under paragraph 5(13A) in Schedule 7 to the *Local Government Finance Act 1988*.

²⁶ Letter from the Minister for Finance and Local Government, 1 June 2023, response to question 3

²⁷ Letter from the Minister for Finance and Local Government, 1 June 2023, response to question 3

60. In making this recommendation, we note that our preferred option of using a Welsh bill for this legislation would have overcome this issue.

61. We note the Minister's statements that the existing scrutiny procedures, including the interaction with the Senedd's consideration of the local government finance report, "have proved themselves to present a practical challenge" and "in some years this has impacted negatively on the time available for Senedd scrutiny of the legislation".

62. It is unclear what timeframe the Minister is referring to when she states "some years". As we understand it, the 2021 Act changed the multiplier used in the non-domestic rates system from the retail prices index to the consumer price index only, and did not make any changes to timescales involved in the scrutiny procedures.

63. If the Welsh Government was aware of practical challenges and timing constraints before 2021, it is unclear why the Local Government and Elections (Wales) Bill was not used to also seek to change the scrutiny procedure for the regulation-making power.

64. If when saying "some years" the Minister is referring to the two years which have passed since the 2021 Act came into force, we would find it helpful if the Minister would set out in detail, using both the laying and making of The Non-Domestic Rating (Multiplier) (Wales) Regulations 2022 and The Non-Domestic Rating (Multiplier) (Wales) Regulations 2023 as working examples, the practical challenges and negative impacts on Senedd scrutiny. As the Committee with responsibility for scrutinising all secondary legislation laid before the Senedd, we do not believe that such issues were drawn to our attention.

Recommendation 4. The Minister should set out in detail, using The Non-Domestic Rating (Multiplier) (Wales) Regulations 2022 and The Non-Domestic Rating (Multiplier) (Wales) Regulations 2023 as working examples, the practical challenges and negative impacts on Senedd scrutiny of the current procedure for making regulations under paragraph 5(13A) in Schedule 7 to the *Local Government Finance Act 1988*.