

Explanatory Memorandum to the Non-Domestic Rating (Multiplier) (Wales) Regulations 2022

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 (Multiplier) (Wales) Regulations 2022. I am satisfied that the benefits justify the likely costs.

Rebecca Evans MS
Minister for Finance and Local Government
20 January 2022

PART 1: EXPLANATORY MEMORANDUM

1. Description

The Non-Domestic Rating (Multiplier) (Wales) Regulations 2022 (“the 2022 Regulations”)

The 2022 Regulations set the non-domestic rating (“NDR”) multiplier for Wales for the financial year 2022-23. They reflect the decision announced on 20 December 2021 to freeze the multiplier, rather than using the Consumer Prices Index (“CPI”) to calculate the increase in the multiplier.

Following the passage of the Local Government and Elections (Wales) Act 2021 (“the 2021 Act”) – which amended Schedule 7 to the Local Government Finance Act 1988 (“the 1988 Act”) in relation to Wales - the new default position set out in primary legislation is to apply an annual increase in line with the CPI. Prior to the 2021 Act the default position was to increase the multiplier in line with the Retail Prices Index (“RPI”). As the policy position for 2022-23 differs from the new default position (i.e. to freeze the multiplier rather than increasing it by CPI), the 2022 Regulations are required.

Calculation of the Multiplier

The multiplier is applied to the rateable value (“RV”) of each non-domestic property to calculate its NDR bill.

The formula used for calculating the NDR multiplier in a non-revaluation year is:

$(A \times B) / C.$

A is the multiplier for the preceding financial year

B is the CPI for September of the preceding financial year

C is the CPI for September of the financial year two years before.

The Welsh Ministers, by way of regulations, have the power to amend, repeal or disapply those subparagraphs in Schedule 7 of the 1988 Act which deal with the CPI index (i.e. subparagraphs (5A), (5B), (9A) and (9B) of paragraph 5). The Welsh Ministers may either substitute references to CPI for another index or provide a specified or described figure for either B and/or C.

These powers were inserted into the 1988 Act by the 2021 Act. In previous years, powers were limited and the approach taken to set a different multiplier was to adjust the figure for B. To provide clarity and consistency, and given the change is only applicable to one financial year, the Welsh Ministers have decided to make the change for 2022-23 by adjusting the figure for B in place of the CPI figure. This results in no increase in the 2022-23 rates bills to be paid by businesses and other non-domestic property owners, as opposed to a rise in rates bills, which would be the case if the CPI figure for B were used.

To calculate the appropriate figure for freezing the multiplier, the value for B divided by the value for C is required to be equal to 1. As C is set in primary legislation as CPI for September of the financial year two years before, the figure for B must also be this figure. For 2022-23, B has been calculated as 109.1, to match the value for C, set at CPI for September 2020.

This results in the multiplier for 2022-23 remaining at 0.535, instead of increasing to 0.551.

2. Matters of Special Interest to the Legislation, Justice and Constitution Committee

The procedure to be followed when making the 2022 Regulations is set out in paragraph 5(13C) of Schedule 7 to the 1988 Act. It provides that regulations made by the Welsh Ministers under paragraph 5(13A), in its application to a particular financial year, will not be effective unless it is approved by resolution of the Senedd.

The provisions also require the 2022 Regulations to be approved by the Senedd before the votes on the *Local Government Finance Reports* (the final local government settlement and final police settlement) take place, or before 1 March, whichever is earlier. This requirement arises because the multiplier plays a vital part in calculating the total funding available in the annual settlements. The debate on the final police settlement for 2022-23 is scheduled to take place on 15 February. The final local government settlement debate is scheduled for March. The debate to approve the 2022 Regulations is scheduled to take place on 15 February 2022, prior to the debate on the Police Settlement.

3. Legislative background

Under the 1988 Act, for financial years in which new rating lists do not apply (i.e. all years which are not revaluation years), the default position for determining the non-domestic rating multiplier for Wales is to apply the formula set out in paragraph 3B of Schedule 7 to the 1988 Act. An element in that formula is the CPI for September of the financial year preceding the year concerned. The financial year beginning 1 April 2022 is not a revaluation year and, therefore, there will not be a new rating list.

Under paragraph 5(13A) of Schedule 7 to the 1988 Act, the Welsh Ministers have the power to amend, repeal or disapply sub-paragraphs (5A), (5B), (9A) and (9B) of paragraph 5 within that Schedule. This has the effect of enabling regulations to either use a different index from CPI, or to set alternative figures for B and/or C. As statutory instruments altering the multiplier in previous years have taken the approach of altering the figure for B, it is viewed this approach would provide the greatest degree of legislative clarity. It is this power which the Welsh Ministers propose to exercise in making the 2022 Regulations.

The Welsh Ministers adopted the approach of increasing the multiplier by using CPI by altering the figure for B, rather than RPI, from 2018-19 to 2020-21, by way of statutory instruments. Provisions enabling this change to be made permanent

were inserted into the 1988 Act by the 2021 Act. For 2021-22, the decision was made to freeze the multiplier, again requiring secondary legislation. It has also been decided that the multiplier will be frozen for 2022-23, requiring the 2022 Regulations to be made as this is a movement from the new default position set out in paragraph 3B of Schedule 7 to the 1988 Act. Accordingly, in making the 2022 Regulations, the multiplier remains the same figure since 2020-21.

The Welsh Ministers are required, under paragraph 5(13C) of Schedule 7 to the 1988 Act, after making the 2022 Regulations, to lay them before the Senedd for approval. The 2022 Regulations are subject to a 'made affirmative' procedure and must be approved by the Senedd to be effective.

4. Purpose and Intended Effect of the Legislation

The 2022 Regulations will have the effect of freezing the NDR multiplier, rather than increasing by CPI for the financial year 2022-23. By freezing the NDR multiplier, the multiplier will be set at 0.535.

This will mean that non-domestic property owners and occupiers in Wales will receive lower rates bills for 2022-23 than they would have if CPI were used.

The 2022 Regulations will apply to 2022-23 only.

Similar instruments were made to effect a change to increase by CPI rather than RPI for 2018-19 to 2020-21, and for freezing the multiplier in 2021-22.

All owners or occupiers of non-domestic properties who pay rates will benefit from the change. Even properties which receive significant amounts of rates relief will benefit, as the residual liability will be calculated using a lower multiplier.

All the non-domestic rates collected in Wales are pooled centrally and distributed to local authorities and to police and crime commissioners as part of the annual local government settlements. The total amount to be distributed in this way is known as the Distributable Amount. It is calculated by applying the multiplier to the estimated national total of rateable value, taking account of any surplus or deficit carried forward from previous years.

The Distributable Amount is a key component of the annual local government revenue settlements and the 1988 Act requires that it is approved by the Senedd as part of the annual *Local Government Finance Reports*. The multiplier, therefore, needs to be determined before the annual settlements can be finalised.

There is a clear purpose to the policy behind the legislation. It is aimed at supporting economic growth and reducing the local tax liability for businesses and other non-domestic ratepayers in Wales, ensuring they are not at a disadvantage compared to other parts of the United Kingdom.

Freezing the multiplier in Wales, rather than increasing it by CPI, will reduce the income into the non-domestic rates pool in 2022-23. The reduction will be fully funded by the Welsh Government and will be reflected in the calculations for the

local government settlements, so that there is no financial impact on local authorities or police budgets.

5. Consultation

No consultation has been undertaken on the policy behind the 2022 Regulations. The proposals benefit all ratepayers in Wales and there is no impact on the resources available to local authorities and police services. The policy position ensures ratepayers in Wales are not placed at a disadvantage compared to those in other parts of the UK.

PART 2: REGULATORY IMPACT ASSESSMENT

Options

Option 1 – Use CPI to increase the multiplier

This option would increase the multiplier for 2022-23 by CPI at September 2021 (3%), resulting in a multiplier of 0.551.

Option 2 – Freeze the multiplier

This option would result in no increase in the multiplier, resulting in a multiplier of 0.535.

Option 3 – Reduce the multiplier

This option would result in a lowering of the multiplier for 2022-23. As an example, reducing the multiplier by 1.3%, would result in a figure of 0.528.

Costs and benefits

Option 1 – Use CPI to increase the multiplier

The following illustrates the effect of using CPI to increase the multiplier on the non-domestic rates bill of a property.

For example, if a property has a rateable value (RV) as assessed by the Valuation Office Agency of £15,000, the rates bill for 2021-22 (before any reliefs) would have been:

$$\text{RV } \pounds 15,000 \times 0.535 = \pounds 8,025$$

Applying CPI would result in an annual rates bill for 2022-23 of:

$$\text{RV } \pounds 15,000 \times 0.551 = \pounds 8,265$$

The increase in the annual charge would, therefore, be £240. As this is the position currently set out in primary legislation, there would be no cost to the Welsh Government in pursuing this option.

Option 2 – Freeze the multiplier

This option would result in no increase in rates bills for all non-domestic properties. Using the example from Option 1.

The rates bill for 2021-22 was:

$$\text{RV } \pounds 15,000 \times 0.535 = \pounds 8,025$$

A freeze in the multiplier for 2022-23 would give a bill of:

$$RV \quad £15,000 \times 0.535 = £8,025$$

A freeze in the multiplier would see no change in rates liability for the property, with rates £240 lower than if the multiplier increased by CPI.

The total saving to non-domestic ratepayers across Wales is estimated at around £34.5m in 2022-23. This would be a recurrent saving as the multiplier cannot be increased at a level above CPI in future years. This saving is additional to the savings made from freezing the multiplier in 2021-22.

Option 3 – Reduce the multiplier

This option would result in a reduction in rates bills for all non-domestic properties. Using the example from Options 1 and 2.

The rates bill for 2020-21 was:

$$RV \quad £15,000 \times 0.535 = £8,025$$

A reduction of 1.3% in the multiplier for 2021-22 would give a bill of:

$$RV \quad £15,000 \times 0.528 = £7,920$$

There would, therefore, be a reduction in rates for the property of £105. Rates would, therefore, be £105 lower than if the multiplier was frozen, and £345 lower than if the multiplier increased by CPI.

The total saving to non-domestic ratepayers across Wales is estimated at around £49.6m in 2022-23. This would be a recurrent saving.

Option selection

The cost of freezing or reducing the multiplier (Options 2 and 3) would be borne by the Welsh Government and would be a recurrent cost. There would be no financial impact on local authorities and police services. Option 2 means that ratepayers in Wales would not be at a disadvantage compared to other parts of the UK, in ensuring rates bills do not increase. It is acknowledged that Option 3 would go further, in reducing bills for ratepayers and, in doing so, would impose greater burden on Welsh Government finances.

Option 2 is, therefore, the preferred option. This balances affordability and the Welsh Government's desire to support ratepayers with their bills.

Analysis of other effects and impacts

Promoting Economic Opportunity for All (Tackling Poverty)

Freezing the multiplier provides support for all ratepayers which could help to prevent hardship. It also ensures ratepayers in Wales are not placed at a disadvantage compared to ratepayers in England where a freeze also applies.

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.

Well-being of Future Generations (Wales) Act 2015

Freezing the multiplier will assist all ratepayers and, as such, will help to contribute to the achievement of the wellbeing goals of a prosperous and a more equal Wales.

Impact on voluntary sector

Freezing the multiplier will benefit all ratepayers, including those operating in the voluntary, charitable and not-for-profit sectors.

Competition Assessment

A competition filter test has been applied to the 2022 Regulations. As the change benefits all ratepayers, no effect on competition within Wales is indicated.

Freezing the multiplier means that ratepayers in Wales are not placed at a disadvantage compared to other parts of the UK.

Post implementation review

The Welsh Government will monitor the impact of the change on the non-domestic rates pool.