

## **Explanatory Memorandum to The Council Tax (Alteration of Lists and Appeals) (Amendment) (Wales) 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 Council Tax (Alteration of Lists and Appeals) (Amendment) (Wales) Regulations 2023. I am satisfied that the benefits justify the likely costs.

**Rebecca Evans MS**  
**Minister for Finance and Local Government**  
**13 October 2023**

## **PART 1**

### **1. Description**

- 1.1. These Regulations amend regulation 14 of the Council Tax (Alteration of Lists and Appeals) Regulations 1993 (“the 1993 Regulations”). The 1993 Regulations provide for the alteration of council tax valuation lists by listing officers. Regulation 14 specifies the date alterations are to have effect in different circumstances.
- 1.2. These Regulations amend the date on which an alteration to the council tax valuation list is to have effect in circumstances where there has been a material increase in the value of a dwelling followed by a relevant transaction, and where one or more self-contained units have been created within an existing dwelling (referred to as an annexe in the remainder of this document). These Regulations amend the effective date for such alterations to the date the alteration is entered in the list.

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

- 2.1. None.

### **3. Legislative background**

- 3.1. These Regulations are made using the powers under sections 24(1) and (7)(a) and 113(2) of the Local Government Finance Act 1992 (“the 1992 Act”). The relevant functions of the Secretary of State in the 1992 Act were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 and then to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006.
- 3.2. Sections 24(1) and (7)(a) of the 1992 Act give the Welsh Ministers the power to make regulations in relation to the alteration of valuation lists by listing officers, and to provide the date from which an alteration is to have effect. Section 113(2) of that Act enables the Welsh Ministers to make such consequential amendments as are considered necessary. These Regulations make consequential amendments to regulation 14 of the 1993 Regulations arising from the insertion of regulation 14(5A).
- 3.3. These Regulations are being made under the negative procedure.

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

- 4.1. The purpose of these Regulations is to protect taxpayers from backdated liability for council tax arising from administrative delay in the process of valuation band alterations.
- 4.2. Council tax is a local tax on domestic property, set annually by local authorities (and precepting bodies) in order to collect sufficient revenue to

meet expenditure needs. It is calculated based on the council tax band assigned to every dwelling in a local authority area, with each property assigned to one of nine valuation bands. The bands are assessed and assigned by the Valuation Office Agency (“the VOA”).

- 4.3. The VOA has a statutory duty to carry out valuations of dwellings in Wales for the purposes of compiling and maintaining council tax valuation lists, as set out in section 21 of the 1992 Act.
- 4.4. The circumstances in which the VOA can alter a valuation band are restricted by the provisions of regulation 4 of the 1993 Regulations. Where there has been a material increase in the value of a dwelling, the VOA cannot alter the valuation band of a property until there has been a subsequent ‘relevant transaction’ (as defined in section 24(10) of the 1992 Act) in relation to the whole or part of the property, or there is a revaluation exercise commissioned by the Welsh Ministers of all domestic properties. This restriction helps to ensure taxpayers are not penalised for improving or maintaining their home.
- 4.5. When a property is significantly improved or structurally altered, the relevant local authority has a duty to notify the VOA. On receipt of this notice, the VOA will register a suitable identifier against the property. A relevant transaction (such as a sale) will then trigger a review by the VOA of the council tax valuation band for the property. The valuation band may or may not be changed by the VOA. If the VOA determines that the valuation band should be altered as the value of the property has increased to fall within a higher valuation band, the 1993 Regulations (prior to the making of these Regulations) provided that the alteration took effect from the date of the relevant transaction.
- 4.6. Where the process outlined above works well, it will generally be a matter of weeks between a new owner buying a property and the VOA issuing a notice of alteration. However, if there is an administrative delay in any part of the process, this can have a detrimental financial impact on the new taxpayer and lead to potentially substantial and unexpected backdated council tax liabilities for taxpayers through no fault of their own.
- 4.7. The creation of an annexe has a separate VOA notification process; however, they are often notified to the VOA via the process above if treated by the local authority as a property improvement. Prior to the making of these Regulations, the effective date of any alteration in the valuation band as a result of creation of an annexe, was the date the annexe came into existence. Sale of such a dwelling may take place a number of years after the annexe came into existence, thereby causing a substantial delay in triggering the VOA to undertake a valuation and (where appropriate) amend the list. This again could potentially result in substantial and unexpected backdated council tax liabilities.
- 4.8. The Welsh Government is of the view that no taxpayer should find themselves in this position. The Regulations will also help to ensure that taxpayers are not faced with backdated council tax liability during the

expected period of administrative change throughout the delivery of the Welsh Government's programme of work to make council tax fairer.

## **5. Consultation**

5.1. A draft of these Regulations was the subject of a technical consultation with expert practitioners from local authorities in Wales and VOA officials. Prior to the technical consultation there was regular and ongoing engagement with local authorities and the VOA in relation to this matter and all stakeholders were aware of the proposed changes prior to a draft of these Regulations being shared for consideration. No changes to the draft Regulations were proposed by the VOA or any local authority.

## **PART 2 – REGULATORY IMPACT ASSESSMENT**

### **6. Options**

6.1. This Regulatory Impact Assessment (RIA) presents two options for addressing the impact of administrative delays in the process of council tax valuation band alterations on taxpayers. The options considered are as follows.

#### **Option 1 – Do nothing**

6.2. Retain the existing arrangements, with no reduction to the risk of council taxpayers being liable for backdated council tax bills following list alterations.

#### **Option 2 – Make the Regulations**

6.3. Legislate to reduce the risk of council taxpayers being liable for backdated council tax bills following list alterations.

### **7. Costs and benefits**

#### **Option 1 – Do nothing**

7.1. No legislative changes would be made. This would mean taxpayers would continue to be at risk of facing backdated liabilities should there be administrative delays in any part of the process to alter the council tax valuation list following a material increase to a property and a subsequent relevant transaction, as would taxpayers who had constructed or adapted a property to provide a self-contained unit, i.e. an annexe. There are no additional costs or benefits associated with this option.

#### **Option 2 – Make the Regulations**

7.2. Making the Regulations as set out above would remove the risk of council taxpayers facing backdated liabilities should there be administrative delay to any part of the process when a property has seen a material increase and subsequent sale, or where an annexe has been created. This approach would prevent any significant financial loss for taxpayers.

7.3. There are no direct costs associated with this option. There is a potential for a marginal loss of council tax revenue to local authorities that might otherwise have collected retrospective payment from a taxpayer, in the event a property was placed in a higher band by the VOA. However, where delay occurs to the part of the process relating to information being passed from a local authority to the VOA, the local authority would not have included the increased revenue in its budget requirement or forecasted to collect it.

7.4. The Regulations prevent the risk of taxpayers facing large, backdated bills if there is a delay in any part of the administrative process. This builds trust in the council tax system and helps to ensure its effectiveness.

7.5. There would also be an opportunity to streamline operational practices in the VOA as the policy on effective dates following list alterations in Wales is currently misaligned with the equivalent policy with respect to council tax in England. This could help to reduce administrative costs.

### **Option selection**

7.6. The benefits of Option 2, particularly in reducing the financial impacts on council taxpayers and ensuring fairness for them, ensuring that they are not subject to financial detriment due to processes that are beyond their control are considered to outweigh the benefits of Option 1. Option 2 is, therefore, the Welsh Government's preferred option.

## **8. Duties**

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

8.1. Maintaining and improving the local taxation system contributes towards the wellbeing goals of a prosperous Wales and a more equal Wales.

### **UNCRC.**

8.2. No particular impact on the rights of children has been identified.

### **Welsh language.**

8.3. No effect on the opportunities to use the Welsh language or the equal treatment of the language has been identified.

### **Equalities.**

8.4. 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.**

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

### **Justice.**

8.6. No specific impacts on the justice system have been identified. The changes will not impact the Valuation Tribunal for Wales.

## **9. Competition assessment**

9.1. The Regulations will only affect the VOA's administrative practices and, as such, no competition impacts have been identified

## **10. Post-implementation review**

10.1. The Welsh Government will work with the VOA and local authorities to monitor the impact of the Regulations to evaluate whether the legislative change has had the intended policy effect.