

Explanatory Memorandum to the Non-Domestic Rating (Demand Notices) (Wales) (Amendment) 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 Non-Domestic Rating (Demand Notices) (Wales) (Amendment) Regulations 2023.

Rebecca Evans MS
Minister for Finance and Local Government
9 January 2023

Description

1. Under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, billing authorities are required to serve demand notices (rates bills) to ratepayers for properties in their area which are liable for non-domestic rates (NDR).
2. The Non-Domestic Rating (Demand Notices) (Wales) Regulations 2017 (the 2017 Regulations) provide for the contents of NDR demand notices which are served by or on behalf of billing authorities in Wales, and for the information that must accompany a demand notice served by them. Schedule 2 of the 2017 Regulations sets out the prescribed set of words for explanatory information (“the explanatory information”) which must be sent to ratepayers by or on behalf of billing authorities, alongside a demand notice. The Non-Domestic Rating (Demand Notices) (Wales) (Amendment) Regulations 2023 (the 2023 Regulations) make administrative amendments to Schedule 2 of the 2017 Regulations to ensure demand notices issued in respect of the new rating list to be compiled on 1 April 2023 are accurate and up-to-date.

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

3. None.

Powers

4. The 2023 Regulations are made under sections 62 and paragraphs 1 and 2(2)(h) of Schedule 9 to, the Local Government Finance Act 1988 (the 1988 Act). These powers were transferred, in relation to Wales, from the Secretary of State to the National Assembly by the National Assembly for Wales (Transfer of Functions) Order 1999. The functions of the National Assembly for Wales were subsequently transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.
5. The 2017 Regulations were made to coincide with the 2017 NDR revaluation in Wales. Previous regulations – the Non-Domestic Rating (Demand Notices) (Wales) Regulations 1993 (the 1993 Regulations) – had been made by the Secretary of State and were amended frequently. The Welsh Government took the opportunity to consolidate all the amendments in the 2017 Regulations. The 2017 Regulations replaced the 1993 Regulations, with the only subsequent substantive changes being made to the explanatory notes prescribed in Schedule 2 to the 2017 Regulations. The explanatory notes must accompany the demand notices issued to ratepayers by or on behalf of billing authorities (county and county borough councils in Wales).
6. The 2023 Regulations are subject to the negative resolution procedure (section 143(3) of the 1988 Act).

Purpose and intended effect of the legislation

7. Billing authorities are required to serve NDR demand notices (rates bills) under Part II of the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989. The explanatory notes can be provided in either paper or electronic form.
8. The content of the explanatory notes that accompany demand notices are reviewed on a regular basis to ensure they accurately reflect the system for NDR in Wales. Some administrative changes are required to Schedule 2 of the 2017 Regulations to ensure that the information accompanying demand notices is relevant to the arrangements that will be in place from 1 April 2023.
9. The current NDR list was compiled on 1 April 2017, based on an antecedent valuation date (AVD) of 1 April 2015. The next NDR list will be compiled on 1 April 2023, following revaluation based on an AVD of 1 April 2021. The prescribed explanatory information to be provided by billing authorities alongside a demand notice currently includes specific references that are relevant only to the 2017 rating list. The 2023 Regulations update these references so that they are relevant to the 2023 rating list.
10. Regulations have been drafted to reform the NDR appeals process from 1 April 2023, to coincide with the new rating list. The explanatory information refers to the automatic transfer of proposals to appeals, if they are not agreed by the valuation officer within three months, under the existing process. This will not occur under the reformed arrangements and the relevant statement is, therefore, omitted by the 2023 Regulations.
11. The relevant inflationary measure used to determine the annual uplift in the NDR multiplier was changed from the Retail Prices Index (RPI) to the Consumer Prices Index (CPI). Welsh Ministers are able by regulations to substitute the effect of CPI for an alternative figure, which does not necessarily have to be lower than CPI. Section 154 of the Local Government and Elections (Wales) Act 2021 amended Schedule 7 of the 1988 Act in this regard. A residual reference in the explanatory information to RPI and a limitation on the extent to which Welsh Ministers can substitute it for an alternative is no longer accurate and is, therefore, omitted by the 2023 Regulations.
12. As a result of the 2017 revaluation, the Non-Domestic Rating (Chargeable Amounts) (Wales) Regulations 2016 made provision for transitional relief for small businesses adversely impacted by resulting changes in the rateable value of their hereditaments. These arrangements for transitional relief do not apply to the 2023 rating list. The Non-Domestic Rating (Chargeable Amounts) (Wales) Regulations 2022 are referred to instead: they provide for transitional relief in respect of the 2023 rating list. The section of the explanatory information titled 'transitional rate relief' is accordingly amended by the 2023 Regulations.

13. The 2023 Regulations will apply to demand notices issued by or on behalf of billing authorities in Wales with respect to financial years beginning on or after 1 April 2023.

Consultation

14. No formal consultation has been undertaken. The 2023 Regulations make technical amendments to the explanatory notes prescribed within Schedule 2 to the 2017 Regulations. The amendments are necessitated by the procedures and practices in force becoming outdated by virtue of the 2023 NDR revaluation and in need of renewing. They will ensure that the information which billing authorities provide with demand notices for the financial years 1 April 2023 onwards is up-to-date. As a result, they are mainly of interest to billing authorities and have no effect on ratepayers other than to ensure they are provided with the correct information with their rates bills. Billing authorities will be informed of the 2023 Regulations and their effect.

Regulatory Impact Assessment

15. The 2023 Regulations make only necessary changes to the content of the explanatory notes that billing authorities are required to supply with demand notices. They are technical in nature, of interest mainly to billing authorities and have limited effect on ratepayers. As such, no regulatory impact assessment has been prepared.