

Explanatory Memorandum to The Non-Domestic Rating (Chargeable Amounts) (Wales) Regulations 2022

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 Non-Domestic Rating (Chargeable Amounts) (Wales) Regulations 2022. I am satisfied that the benefits justify the likely costs.

Rebecca Evans MS
Minister for Finance and Local Government
06 December 2022

PART 1: EXPLANATORY MEMORANDUM

1. Description

- 1.1 The Non-Domestic Rating (Chargeable Amounts) (Wales) Regulations 2022 (“the Regulations”) provide for transitional relief to assist ratepayers affected by the 2023 non-domestic rating revaluation.
- 1.2 The Regulations prescribe rules to be used to calculate the chargeable amount for hereditaments with increased non-domestic rates (NDR) liability of more than £300, as a result of the NDR revaluation. The regulations operate by reducing the liability of eligible ratepayers, allowing any increase to be phased in over a two-year period.

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

- 2.1 None.

3. Legislative background

- 3.1 The Regulations are made under section 58 of the Local Government Finance Act 1988 (“the 1988 Act”). Section 58 enables the Welsh Ministers to prescribe rules to govern the chargeable amount for particular properties.
- 3.2 Section 58(8) of the 1988 Act provides that regulations made under section 58 must come into force before 1 January immediately preceding the financial year to which they are to apply. To have effect in relation to the 2023-24 financial year, the Regulations must come into force before 1 January 2023.
- 3.3 The Regulations are subject to the draft affirmative procedure.

4. Purpose and intended effect of the legislation

- 4.1 The Regulations will assist ratepayers whose NDR liability is increased by more than £300, as a result of an increase in the rateable value of their hereditament, following the compilation of the new non-domestic rating list on 1 April 2023. Eligible ratepayers will be entitled to a phased reduction in any resulting increase in their liability over a two-year period (67% reduction in 2023-24, and 34% in 2024-25).
- 4.2 In order to be eligible for transitional relief, the hereditament must:
 - have been shown on a local list or central list on 31 March 2023 (the day before the new lists compiled on 1 April 2023 have effect);
 - have an increase in liability of more than £300 (the de minimis threshold below which the administrative costs of providing this relief are deemed to outweigh the benefits);

- not be in receipt of relief under section 44A of the 1988 Act (for partially occupied properties);
- not be a case to which section 45A of the 1988 Act applies (unoccupied hereditaments: zero rating); and
- be the same ratepayer who occupied the hereditament on 31 March 2023. This ratepayer must continue to occupy the hereditament for the duration of the transitional relief period. If not, the relief ceases to apply.

4.3 If the hereditament meets the necessary eligibility criteria, then the level of transitional relief applicable is determined by the following steps.

4.3.1 First calculate the base liability (BL) for a hereditament using the formula:

If the hereditament meets the conditions to be eligible for Small Business Rates Relief (SBRR):

$$\frac{A \times 0.535}{E}$$

In all other cases:

$$A \times 0.535$$

Where:

- A is the rateable value for a hereditament on a local list or central list as at 31 March 2023;
- 0.535 is the multiplier set for 2022-23; and
- E is the amount which applies to the defined hereditament on 31 March 2023 in accordance with the Non-Domestic Rating (Small Business Relief) (Wales) Order 2017 – this determines the amount of SBRR the hereditament is eligible for.

4.3.2 Calculate the notional chargeable amount (NCA) for a hereditament using the formula:

If the hereditament meets the conditions to be eligible for SBRR:

$$\frac{A \times B}{E}$$

In all other cases:

$$A \times B$$

Where:

- A is the rateable value for the hereditament on a local list or central list as at 1 April 2023;
- B is the non-domestic rating multiplier for the financial year beginning on 1 April 2023, to be set by the Welsh Ministers according to paragraph 4B of Schedule 7 to the Local Government Finance Act 1988; and
- E is the amount which applies to the defined hereditament on 1 April 2023 in accordance with the Non-Domestic Rating (Small Business Relief) (Wales) Order 2017.

- 4.3.3 Compare the base liability to the notional chargeable amount. The hereditament is entitled to relief where the increase in liability is more than £300:

$$NCA > (BL + 300)$$

- 4.3.4 Calculate the chargeable amount for the relevant day in accordance with section 43, 45 or 54 of the 1988 Act, as appropriate, then reduce that amount by the level of transitional relief which applies for the relevant year using the following formula:

For a year commencing 1 April 2023:

$$\frac{(NCA - BL) \times 0.67}{366}$$

For a year commencing 1 April 2024:

$$\frac{(NCA - BL) \times 0.34}{365}$$

- 4.3.5 For the year commencing on or after 1 April 2025, the chargeable amount is reduced by zero through transitional relief, although other reliefs may continue to apply.
- 4.3.6 If, in any year, applying the above formulas would result in a negative figure, then the chargeable amount will be zero.
- 4.4 The NCA is set based on the parameters, as defined above, which apply on 1 April 2023. This is used to determine the amount of relief which will apply in each year. The NCA is not recalculated on 1 April 2024. The effect of calculating the level of relief applicable in this way is that the ratepayer will be required to meet the costs of any increase in liability due to inflationary pressures in 2024-25, reflected in an increase in the multiplier. The relief calculated as at 1 April 2023 is deducted from the chargeable amount for the relevant day.

- 4.5 If there is a change in the rateable value of the hereditament during the transitional relief period, for example because of an appeal, then the NCA will be recalculated using the new rateable value.
- 4.6 The Regulations also revoke the Non-Domestic Rating (Chargeable Amounts) (Wales) Regulations 2016 which will not be required from 1 April 2023, as the relevant rating list will be closed.

5. Consultation

- 5.1 The Welsh Government's budget settlement for 2023-24 was not confirmed prior to the UK Government's Autumn Statement on 17 November 2022. To have effect from 1 April 2023, the Regulations must be in force before 1 January 2023. As a consequence of these timing constraints, the Regulations have not been the subject of a consultation. The Regulations benefit ratepayers and are based on those developed to provide transitional relief following the 2017 revaluation and the Welsh Government is confident they will achieve the policy intent.

PART 2: REGULATORY IMPACT ASSESSMENT

6. Options

6.1 This Regulatory Impact Assessment (RIA) presents three options in relation to the provision of transitional relief following the 2023 NDR revaluation. The options considered are as follows:

- Option 1 – Do nothing;
- Option 2 – Provide transitional relief to small businesses; and
- Option 3 – Make the Regulations.

7. Costs and benefits

Option 1 – Do nothing

7.1 Option 1 would not require any legislative change. No transitional relief would be provided and any ratepayer with an increase in their NDR liability following the revaluation would have to pay their full liability (subject to any existing reliefs) from 1 April 2023.

Costs

7.2 This is the baseline option and as such there would be no additional costs for the Welsh Government or local authorities associated with this option.

7.3 Under this option, ratepayers would immediately be required to pay any increase in liability following revaluation in full. Illustrative examples are included in Table 1.

Table 1: Illustrative liability changes under Option 1

£

Rateable value		Annual liability		Liability		
2017 list	2023 list	2017 list	2023 list	2023-24	2024-25	2025-26
6,000	7,000	0	624	624	624	624
6,000	12,000	0	6,420	6,420	6,420	6,420
10,000	15,000	3,567	8,025	8,025	8,025	8,025
10,000	20,000	3,567	10,700	10,700	10,700	10,700
15,000	17,000	8,025	9,095	9,095	9,095	9,095
15,000	25,000	8,025	13,375	13,375	13,375	13,375
30,000	40,000	16,050	21,400	21,400	21,400	21,400
30,000	50,000	16,050	26,750	26,750	26,750	26,750
100,000	130,000	53,500	69,550	69,550	69,550	69,550
100,000	150,000	53,500	80,250	80,250	80,250	80,250
1,000,000	1,300,000	535,000	695,500	695,500	695,500	695,500
1,000,000	1,500,000	535,000	802,500	802,500	802,500	802,500

Note: Illustrations based on 2022-23 Multiplier. Illustrative liability estimates do not account for other reliefs (except SBRR) for which a ratepayer may be eligible or inflationary increases in the multiplier in future years.

Benefits

- 7.4 If no transitional relief were provided, existing procedures would be retained, avoiding any new administrative burdens. There would be no amendments required to local authorities' software systems and no associated administrative costs from applying the relief to the bills of eligible ratepayers.
- 7.5 Not providing a relief scheme would also ensure the NDR system remains relatively simple, meaning that ratepayers are able to calculate their liability easily from year to year.
- 7.6 There would also be no dilution of the principle of regular revaluations, which are intended to ensure NDR liabilities accurately reflect the fluctuation in rental values in the property market and to redistribute rates paid accordingly.

Disadvantages

- 7.7 If this option is selected, the full impact of a revaluation would be felt by ratepayers immediately. This would not support the Welsh Government's policy aim of supporting ratepayers whose NDR liability will increase as a consequence of revaluation.

Option 2 – Provide transitional relief to small businesses

- 7.8 Option 2 would be to make Regulations to provide transitional relief targeted at small businesses affected by the revaluation. This transitional relief would provide ratepayers whose entitlement to SBRR was reduced and liability increased by more than £100, following the revaluation, with a phased increase in their liability over a two-year period. This relief would be very similar to that provided following the 2017 revaluation.

Costs

- 7.9 This option would support an estimated **6,900 properties**, at a cost to the Welsh Government of £8.3m in 2023-24 and £4.2m in 2024-25, totalling £12.5m over a two-year period.
- 7.10 Transitional relief is complex for local authorities to administer and may require costly software changes. Providing relief on a very similar basis to that provided following the 2017 revaluation would minimise the administrative burden and cost for local authorities.
- 7.11 The additional costs for ratepayers associated with Option 1 would be reduced for ratepayers with an increased liability of more than £100 and who are eligible for SBRR prior to revaluation. Ratepayers who are not eligible would be required to pay their full liability increase following revaluation from 1 April 2023. Illustrative examples are included in Table 2.

Table 2: Illustrative liability changes under Option 2

£

Rateable value		Annual liability		Liability		
2017 list	2023 list	2017 list	2023 list	2023-24	2024-25	2025-26
6,000	7,000	0	624	206	412	624
6,000	12,000	0	6,420	2,119	4,237	6,420
10,000	15,000	3,567	8,025	5,038	6,509	8,025
10,000	20,000	3,567	10,700	5,921	8,275	10,700
15,000	17,000	8,025	9,095	9,095	9,095	9,095
15,000	25,000	8,025	13,375	13,375	13,375	13,375
30,000	40,000	16,050	21,400	21,400	21,400	21,400
30,000	50,000	16,050	26,750	26,750	26,750	26,750
100,000	130,000	53,500	69,550	69,550	69,550	69,550
100,000	150,000	53,500	80,250	80,250	80,250	80,250
1,000,000	1,300,000	535,000	695,500	695,500	695,500	695,500
1,000,000	1,500,000	535,000	802,500	802,500	802,500	802,500

Note: Illustrations based on 2022-23 Multiplier. Illustrative liability estimates do not account for other reliefs (except SBRR) for which a ratepayer may be eligible or inflationary increases in the multiplier in future years.

Benefits

- 7.12 The NDR tax-base in Wales is heavily skewed towards properties with low rateable values. Over half of properties are currently eligible for SBRR. This option would provide transitional relief to all of those ratepayers with an increase in liability of more than £100.
- 7.13 As NDR can represent a higher proportion of overheads for smaller businesses and these businesses may also have less opportunity to adapt to an increase in costs in the shorter term (for example by increasing prices or reducing production costs), it is possible that small businesses currently in receipt of SBRR may be affected by an increase in their bills to a greater relative degree than larger businesses, although this will depend on the nature of the business. As such, targeting a transitional relief scheme which is to be fully funded by the Welsh Government at small businesses would represent an effective use of finite resources.

Disadvantages

- 7.14 The scheme would support a relatively small number of businesses. Targeting transitional relief at ratepayers with reduced SBRR entitlement means that any property above the upper SBRR rateable value threshold of £12,000, prior to revaluation, would not benefit. Also, as SBRR is based on property value rather than the size of the business, some small businesses might not benefit from the scheme.
- 7.15 Transitional relief is complex for local authorities to administer and for ratepayers to understand and estimate their liability. During any transitional period, some properties with similar valuations may pay different rates bills.

- 7.16 The transitional relief scheme would be funded by the Welsh Government. This means that funding allocated to the scheme will not be available to support other Welsh Government priorities.

Option 3 – Make the Regulations

- 7.17 Option 3 would provide transitional relief to all ratepayers with an increase in liability of more than £300, following revaluation. This option would set no upper limit on eligibility for transitional relief. Increased liability would be phased in over two years, as described for Option 2.

Costs

- 7.18 This option would support an estimated **39,600 properties**, at a cost to the Welsh Government of £75.2m in 2023-24 and £37.6m in 2024-25, totalling £112.8m over a two-year period.
- 7.19 Transitional relief can be complex for local authorities to administer and potentially require costly software changes. Providing relief based on the general approach taken following the 2017 revaluation, with alterations to widen eligibility, should help to minimise the administrative burden and cost for local authorities. It has not been possible to estimate the transitional cost to local authorities at this stage.
- 7.20 The additional costs for ratepayers associated with Option 1 would be reduced for all ratepayers with an increased liability of more than £300. Illustrative examples are included in Table 3.

Table 3: Illustrative liability changes under Option 3

£

Rateable value		Annual liability		Liability		
2017 list	2023 list	2017 list	2023 list	2023-24	2024-25	2025-26
6,000	7,000	0	624	206	412	624
6,000	12,000	0	6,420	2,119	4,237	6,420
10,000	15,000	3,567	8,025	5,038	6,509	8,025
10,000	20,000	3,567	10,700	5,921	8,275	10,700
15,000	17,000	8,025	9,095	8,378	8,731	9,095
15,000	25,000	8,025	13,375	9,791	11,556	13,375
30,000	40,000	16,050	21,400	17,816	19,581	21,400
30,000	50,000	16,050	26,750	19,581	23,112	26,750
100,000	130,000	53,500	69,550	58,797	64,093	69,550
100,000	150,000	53,500	80,250	62,328	71,155	80,250
1,000,000	1,300,000	535,000	695,500	587,965	640,930	695,500
1,000,000	1,500,000	535,000	802,500	623,275	711,550	802,500

Note: Illustrations based on 2022-23 Multiplier. Illustrative liability estimates do not account for other reliefs (except SBRR) for which a ratepayer may be eligible or inflationary increases in the multiplier in future years.

Benefits

- 7.21 This option would support all ratepayers with increased liability of more than £300. It would not be exclusive to those currently in receipt of SBRR. This approach would be much more generous than Option 2 and the relief that the Welsh Government provided following the previous revaluation in 2017.
- 7.22 Businesses have faced considerable economic changes and challenges since the previous revaluation and, in particular, due to the impact of the coronavirus pandemic and recent cost-of-living pressures. As a consequence, many ratepayers for medium and large properties may have difficulty paying their full increase in liability in the first year following revaluation. Some of these ratepayers may also see the largest increases in liability. This option would ensure all parts of the tax-base are supported in a straightforward and consistent manner.
- 7.23 This approach would provide relief which is as wide-reaching as that announced by the UK Government for England, in terms of eligibility, but ensure that all ratepayers are paying their full liability by the proposed final year of the rating list, before the next proposed revaluation. This would take account of proposals announced by the Welsh Government to move to three-yearly revaluations.

Disadvantages

- 7.24 Providing more generous transitional relief than was provided following the 2017 revaluation would be more costly than Options 1 and 2. It could also raise stakeholder expectations that such an approach will be a feature of the proposed more frequent revaluations.
- 7.25 Transitional relief is complex for local authorities to administer and for ratepayers to understand and estimate their liability. During any transitional period, some properties with similar valuations may pay different rates bills.
- 7.26 The transitional relief scheme would be funded by the Welsh Government. This means that funding allocated to the scheme would not be available to support other Welsh Government priorities.

8. Options summary

- 8.1 Doing nothing would not provide any transitional relief to ratepayers in Wales whose NDR liability is increased as a consequence of the revaluation taking effect on 1 April 2023. Option 1 is, therefore, not the preferred approach.
- 8.2 Option 2 would target transitional relief at the smallest businesses in Wales, but not support medium and large businesses with increased liability. Eligibility for transitional relief would be much more limited than that announced by the UK Government for ratepayers in England, putting Welsh businesses at a disadvantage.

- 8.3 The approach described by Option 3 would provide transitional relief for which eligibility is not limited to any sector or size of property within the NDR tax-base. It could support over five times as many businesses as Option 2. Option 3 is, therefore, the preferred approach.

9. Duties

- 9.1 ***Well-being of Future Generations (Wales) Act 2015***. Providing a transitional relief scheme will assist ratepayers affected by an increase in their rateable value following revaluation, by phasing in any increase in their liability, supporting businesses and the economy in Wales. This will support stability in the NDR tax-base and contribute to the wellbeing objective of a prosperous Wales.
- 9.2 ***UNCRC***. No particular impact on the rights of children has been identified.
- 9.3 ***Welsh language***. No direct effect on the opportunities to use the Welsh language or the equal treatment of the language has been identified in connection with this legislation.
- 9.4 ***Equalities***. No specific impacts, positive or negative, on persons who share a protected characteristic (as determined by the Equality Act 2010) have been identified.
- 9.5 ***Voluntary sector***. No particular impact on the voluntary sector has been identified.

10. Competition assessment

- 10.1 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.