

SL(6)065 - The Non-Domestic Rating (Miscellaneous Provisions) (No. 2) (Amendment) (Wales) Regulations 2021

Background and Purpose

Paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988 ("the **1988 Act**") provides that the rateable value of a non-domestic property (hereditament) is taken to be an amount equal to the rent at which it is estimated the hereditament might reasonably be expected to be let from year to year, subject to specified assumptions.

In those cases where there is no available information on the general rental market, and profit and loss cannot be used as an indication of rental value, the rateable value of a non-domestic hereditament is instead ascertained by 'decapitalising' the estimated total capital value of the hereditament. The relevant decapitalisation rates are prescribed in regulation 2 of the Non-Domestic Rating (Miscellaneous Provisions) (No. 2) Regulations 1989 ("the **1989 Regulations**").

These [Regulations](#) amend, with effect from 9 November 2021, the decapitalisation rates for non-domestic rating lists compiled on or after 1 April 2023.

Procedure

Negative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

Technical Scrutiny

The following point is identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(v) – that for any particular reason its form of meaning needs further explanation.

Regulation 2(2) of the subject Regulations amends regulation 2(1G) of the 1989 Regulations so that it refers to a non-domestic rating list in Wales "compiled on 1 April 2021".

The Welsh Government is asked to clarify the purpose of this drafting given that the effect of section 54A of the 1988 Act (as amended) is to require the non-domestic lists referred to in



sections 41 and 52 of that Act to be compiled in Wales on 1 April 2017, on 1 April 2023 and on 1 April in every fifth year afterwards.

Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Welsh Government response

Technical Scrutiny point:

The effect of the Non-Domestic Rating (Miscellaneous Provisions) (No.2) (Amendment) (Wales) Regulations 2021 is to amend the Non-Domestic Rating (Miscellaneous Provisions) (No.2) Regulations 1989 by inserting regulations 2(1H) and (2H) to prescribe the decapitalisation rates for certain hereditaments in Wales for non-domestic rating lists compiled on or after 1 April 2023.

The Welsh Government has considered the Committee's comments and agrees that the effect of section 54A of the Local Government Finance Act 1988 (as amended) ('the 1988 Act') is that non-domestic rating lists (specified in sections 41 and 52 of that Act) must be compiled in Wales on 1 April 2017, 1 April 2023 and on 1 April in every fifth year thereafter.

Regulations 2(1G) and 2(2G) of the Non-Domestic Rating (Miscellaneous Provisions) (No.2) Regulations 1989 were inserted by statutory instrument (2019/1477) in 2019 in anticipation of the UK Government's Non-Domestic Rating (Lists) Bill 2019 receiving Royal Assent which would have provided that 1 April 2021 would be the date of the next rating list to be compiled in Wales. However, that Bill was not enacted. The Bill was dropped with a subsequent Bill being introduced and the Non-Domestic Rating Lists Act 2021 received Royal Assent on 15 March 2021, amending sections 54A(4)(b) and (5)(b) of the 1988 Act to provide that the next rating lists are to be compiled on 1 April 2023.

The drafting approach taken in this instrument is consistent with the approach taken to previous amendments to the 1989 instrument. The legal effect of the amendments to the 1989 instrument is that the rates prescribed to a rating list compiled on 1 April 2017 will continue in effect until a rating list is compiled on or after 1 April 2023.

Committee Consideration

The Committee considered the instrument and Government response at its meeting on 1 November 2021 and reports to the Senedd in line with the reporting point above.

