

Explanatory Memorandum to the Non-Domestic Rating (Multiplier) (Wales) 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 the Non-Domestic Rating (Multiplier) (Wales) Regulations 2023. I am satisfied that the benefits justify the likely costs.

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

PART 1: EXPLANATORY MEMORANDUM

1. Description

The Non-Domestic Rating (Multiplier) (Wales) Regulations 2023 (“the 2023 Regulations”) set the non-domestic rating (NDR) multiplier for Wales for the financial year 2023-24. They reflect the decision announced on 12 December 2022 to freeze the multiplier, rather than using the Consumer Prices Index (CPI) to calculate the increase in the multiplier.

Schedule 7 to the Local Government Finance Act 1988 (“the 1988 Act”) prescribes the default approach to annual increases in the multiplier, taking account of CPI.

In a revaluation year, which the financial year 2023-24 is, the multiplier is set at a level which will keep the total amount of NDR revenue the same in real terms, taking account of changes in the overall rateable value of the tax-base and CPI. The CPI figure for September was 10.1%, which is substantially higher than in recent years. As a policy decision has been taken to freeze the multiplier for 2023--24, rather than apply CPI, the 2023 Regulations are required.

Calculation of the multiplier

The multiplier is applied to the rateable value of each non-domestic property to calculate its NDR bill.

The formula used for calculating the multiplier for 2023-24, being a revaluation year, is set out in paragraph 4B of Schedule 7 to the 1988 Act.

The formula to calculate the multiplier for 2023-24, a revaluation year, is:

$(A \times B \times D) / (C \times E)$.

- A is the multiplier for 2022-23
- B is the CPI figure for September 2022
- C is the CPI figure for September 2021
- D is the estimated total of the rateable value of all hereditaments as at 31 March 2023
- E is the estimated total of the rateable value of all hereditaments as at 1 April 2023

Estimates for D and E are made on the basis of information available to Welsh Ministers on a date determined by them. In this case, these figures were estimated based on the information available on 22 November 2022.

The Welsh Ministers, by way of regulations, have the power to amend, repeal or disapply the subparagraphs in Schedule 7 of the 1988 Act which deal with the CPI (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.

The Welsh Ministers have decided to freeze the multiplier for 2023-24 by adjusting the figure for B in place of the CPI figure. This protects ratepayers from significant increases in their 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 x D) divided by the value for (C x E) within the formula set out above is required to be equal to 1. For 2023-24, B has been calculated as 113.9, to provide for this outcome.

This results in the multiplier for 2023-24 remaining at 0.535, instead of increasing to 0.581.

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

The procedure to be followed when making the 2023 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 2023 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 2023, whichever is earlier. This requirement arises because the multiplier plays a vital part in calculating the total funding available in the annual settlements. The debates on the final local government settlement and the final police settlement for 2023-24 are scheduled to take place in March 2023.

3. Legislative background

Under the 1988 Act, for financial years in which new rating lists apply (i.e. all years which are revaluation years), the default position for determining the multiplier for Wales is to apply the formula set out in paragraph 4B of Schedule 7 to the 1988 Act. The financial year beginning on 1 April 2023 is a revaluation year and, therefore, there will be a new rating list.

The figure for B within the formula set out in paragraph 4B of Schedule 7 to the 1988 Act is the CPI for September of the financial year preceding the year concerned.

Under paragraph 5(13A) of Schedule 7 to the 1988 Act, the Welsh Ministers have the power to amend, repeal or disapply subparagraphs (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 within the formulae set out in Schedule 7. As statutory instruments altering the multiplier in previous years have taken the approach of altering the figure for B, adopting this approach is considered to provide the greatest degree of legislative

clarity. It is this power which the Welsh Ministers propose to exercise in making the 2023 Regulations.

For 2021-22 and 2022-23, the decision was made to freeze the multiplier, requiring secondary legislation to specify an alternative figure for B. It has also been decided that the multiplier will be frozen for 2023-24, requiring the 2023 Regulations to be made. Accordingly, in making the 2023 Regulations, the multiplier remains the same figure as that calculated for the 2020-21, 2021-22 and 2022-23 financial years.

The Welsh Ministers are required, under paragraph 5(13C) of Schedule 7 to the 1988 Act, after making the 2023 Regulations, to lay them before the Senedd for approval. The 2023 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 2023 Regulations will have the effect of freezing the multiplier for the financial year 2023-24, and set it at 0.535. In a revaluation year, the multiplier would otherwise be adjusted to maintain real-terms revenue in line with CPI, taking account of change in the overall rateable value of the tax-base.

The 2023 Regulations will apply to 2023-24 only. Similar instruments were made to effect a change to increase the multiplier by using CPI rather than RPI for 2018-19 to 2020-21, and for freezing the multiplier in 2021-22 and 2022-23.

All owners or occupiers of non-domestic properties in Wales who pay rates will benefit from the change and will receive lower rates bills for 2023-24 than they would have if CPI were used. Even properties which receive significant amounts of rates relief will benefit, as the residual liability will be calculated using a lower multiplier.

All the NDR revenue collected in Wales is 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 to maintain real-terms NDR revenue in line with CPI, will reduce the income into the NDR pool in 2023-24. 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 2023 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

This Regulatory Impact Assessment (RIA) presents three options in relation to the NDR multiplier for 2023-24. The options considered are as follows.

Option 1 – Use CPI to increase the multiplier (do nothing)

This option would increase the multiplier for 2023-24 to maintain real-terms NDR revenue in line with CPI as at September 2022, setting it at 0.581.

Option 2 – Freeze the multiplier (make the 2023 Regulations)

This option would result in no increase in the multiplier, setting it at 0.535.

Option 3 – Reduce the multiplier

This option would result in a lowering of the multiplier for 2023-24. As an example, reducing the multiplier by 2%, would result in a figure of 0.524.

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 2022-23 (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 2023-24 of:

$$\text{RV } \pounds 15,000 \times 0.581 = \pounds 8,715$$

The increase in the annual charge would, therefore, be £690. This is the position currently set out in primary legislation, which would apply if the 2023 Regulations are not made.

There would be no cost to the Welsh Government in pursuing this option.

Option 2 – Freeze the multiplier

This option would protect ratepayers from a substantial inflationary increase to their rates bills for all non-domestic properties. Using the example from Option 1.

The rates bill for 2022-23 was:

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

A freeze in the multiplier for 2023-24 would give a bill of:

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

A freeze in the multiplier would see rates £690 lower than if the multiplier increased in line with Option 1. This example assumes that there is no change to the rateable value of the property, as a result of revaluation.

The total saving to non-domestic ratepayers across Wales is estimated at around £100.3m in 2023-24. This would be a recurrent saving, in addition to the savings made from freezing the multiplier in since 2021-22 and limiting the increase between 2018-19 and 2020-21. There is an equivalent cost to the Welsh Government to ensure that the funding available to local government is not affected.

Any action to cap increases in the multiplier would benefit all ratepayers who do not receive 100% rates relief. Capping the multiplier on a similar basis to the UK Government would ensure that Welsh ratepayers are not at a disadvantage compared with their counterparts in England.

Option 3 – Reduce the multiplier

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

The rates bill for 2022-23 was:

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

A reduction of 2% in the multiplier for 2023-24 would give a bill of:

$$RV \quad \pounds 15,000 \times 0.524 = \pounds 7,860$$

There would, therefore, be a reduction in rates for the property of £165. Rates would, therefore, be £165 lower than Option 2, and £855 lower than Option 1.

Reducing the multiplier by 2%, for example, would give a total saving to non-domestic ratepayers across Wales of £124m in 2023-24. This would be a recurrent saving with an equivalent cost to the Welsh Government to maintain funding levels for local government.

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 are not subject to a CPI

inflationary increase. It is acknowledged that Option 3 would go further, in reducing bills for ratepayers and, in doing so, would impose a 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 similar freeze of the multiplier 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 2023 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.