

**Explanatory Memorandum to the Local Government Finance
(Consequential and Miscellaneous Amendments and Revocations)
(Secondary Legislation) (Wales) Regulations 2024**

This Explanatory Memorandum has been prepared by the Non-Domestic Rates Policy and Reform Division and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Cabinet Secretary's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Local Government Finance (Consequential and Miscellaneous Amendments and Revocations) (Secondary Legislation) (Wales) Regulations 2024.

Mark Drakeford MS
Cabinet Secretary for Finance and Welsh Language
7 October 2024

Description

1. The Local Government Finance Act 2024 (“the 2024 Act”) amends the Local Government Finance Act 1988 (“the 1988 Act”) and the Local Government Finance Act 1992 (“the 1992 Act”) to provide for numerous changes to the non-domestic rating (“NDR”) and council tax systems in Wales. The Local Government Finance (Consequential and Miscellaneous Amendments and Revocations) (Secondary Legislation) (Wales) Regulations 2024 (“the 2024 Regulations”) provide for necessary consequential amendments to secondary legislation arising from sections of the 2024 Act which will come into force two months after Royal Assent (16 November 2024) or on 1 April 2025. They also make a small number of outstanding amendments to secondary legislation that are consequential on other Acts, together with revoking certain statutory instruments and provisions which no longer have effect.

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

2. None.

Legislative background

3. The 2024 Act gained Royal Assent on 16 September 2024. The 2024 Regulations are primarily made under powers set out in section 22(1)(a) of the 2024 Act, which enables the Welsh Ministers to make provision that is consequential on the 2024 Act. The 2024 Regulations are also made under sections 47(8), and 50(1) and (3) of, and paragraph 1 of Schedule 9 to, the 1988 Act, paragraphs 1(1) and 2(4)(e) of Schedule 2 to the 1992 Act, section 54(1) of the Local Government (Wales) Act 1994, section 173(1)(a) of the Local Government and Elections (Wales) Act 2021 and section 17(2) of the Non-Domestic Rating Act 2023.
4. The relevant functions of the Secretary of State in the 1988 Act, the 1992 Act and the Local Government (Wales) Act 1994 were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999/672) and then 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 2024 Regulations are subject to the negative resolution procedure.
6. Sections 2 and 3 of the 2024 Act introduce new sections 41ZA and 52ZA of the 1988 Act, which restate (with amendments) provisions for the compilation of NDR lists for Wales. Section 41ZA restates provisions for local rating lists that were previously set out in section 41 of the 1988 Act. Section 52ZA restates provisions for central rating lists that were previously set out in section 52 of the 1988 Act. Both new sections also make provision for NDR revaluations to take place every three years and will come into force two months after Royal Assent of the 2024 Act.

7. Section 6 of the 2024 Act restates provision for charitable NDR relief for unoccupied local rating list hereditaments in Wales, within paragraph 2 of Schedule 4ZB to the 1988 Act. It also adds to the conditions that must be met for the relief to apply and will come into force on 1 April 2025.
8. Section 8 of the 2024 Act amends section 47 of the 1988 Act so as to remove the six-month time limit (after the end of the relevant financial year) on decisions by local authorities to grant or vary discretionary NDR relief. It will come into force two months after Royal Assent of the 2024 Act.
9. Section 10 of the 2024 Act inserts a new Part A2 into Schedule 7 to the 1988 Act, which restates (with amendments) provisions (previously contained in Part 1 of Schedule 7) for the calculation of the NDR multiplier in Wales for each financial year. Section 10 also inserts a new power for the Welsh Ministers to set differential multipliers in respect of descriptions of hereditaments to be specified in regulations. It will come into force on 1 April 2025.
10. Section 20 of the 2024 Act amends section 22B of the 1992 Act so that the power for the Welsh Ministers to specify the year for new council tax valuation lists to be compiled cannot be exercised in relation to a year later than 2027 and introduces a requirement for council tax revaluations to take place in 2028 and every five years after that. It will come into force two months after Royal Assent of the 2024 Act.
11. Consequential changes to several items of secondary legislation are required to align with the coming into force of the sections of the 2024 Act set out above. In addition, the 2024 Regulations also provide an opportunity to make a small number of amendments which are consequences of policy changes introduced by other Acts; namely the Local Government Act 2003 (“the 2003 Act”), the Rating (Empty Properties) Act 2007 (“the 2007 Act”) and the Council Tax (New Valuation Lists for England) Act 2006 (“the 2006 Act”).
12. The 2003 Act amended the 1988 Act to extend partial charitable NDR relief for occupied and unoccupied local rating list hereditaments to community amateur sports clubs (“CASCs”). The 2007 Act further amended the 1988 Act to introduce full charitable NDR relief for charities and CASCs which are the ratepayers for unoccupied local rating list hereditaments. The relevant provisions of the 2003 and 2007 Acts have since been repealed, but those provisions have been restated in paragraph 2 of Schedule 4ZA and paragraph 2 of Schedule 4ZB to the 1988 Act.
13. The 2006 Act amended section 22B(3)(a) and (b) of the 1992 Act with the effect of retaining the requirement in relation to compiling a new list as it applied to Wales, but redrafted as section 22B(3).

Purpose and intended effect of the legislation

14. The 2024 Regulations make necessary consequential amendments to secondary legislation arising from sections 2, 3, 6, 8, 10 and 20 of the 2024 Act, and to address matters consequential on previous Acts, to ensure the provisions remain effective and existing policy effects are preserved.
15. Part 2 of the 2024 Regulations comes into force on 16 November 2024, to coincide with the commencement of sections 2, 3, 8 and 20 of the 2024 Act. There are 23 items of the secondary legislation identified as requiring amendments to references to primary legislation amended by the 2024 Act, to ensure they remain effective. These are:

Non-domestic rates

- Income Support (General) Regulations 1987;
- The Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989;
- The Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989;
- The Non-Domestic Rating (Miscellaneous Provisions) (No.2) Regulations 1989;
- The Non-Domestic Rating (Collection and Enforcement) (Miscellaneous Provisions) Regulations 1990;
- The Non-Domestic Rating Contributions (Wales) Regulations 1992;
- The Local Government Reorganisation (Wales) (Finance) (Miscellaneous Amendments and Transitional Provisions) Order 1996;
- The Jobseeker's Allowance Regulations 1996;
- The Valuation for Rating (Plant and Machinery) (Wales) Regulations 2000;
- The State Pension Credit Regulations 2002;
- The Employment and Support Allowance Regulations 2008;
- The Energy Performance of Buildings (England and Wales) Regulations 2012;
- The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015;
- The Non-Domestic Rating (Miscellaneous Provisions) (Wales) Regulations 2017;
- The Non-Domestic Rating (Demand Notices) (Wales) Regulations 2017;
- The Non-Domestic Rating (Chargeable Amounts) (Wales) Regulations 2022;
- The Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2023;
- The Non-Domestic Rating (Improvement Relief) (Wales) Regulations 2023; and
- The Non-Domestic Rating (Miscellaneous and Consequential Amendments to Secondary Legislation) (Wales) Regulations 2024.

Council tax

- The Council Tax (Situation and Valuation of Dwellings) Regulations 1992

- The Council Tax (Contents of Valuation Lists) Regulations 1992
 - The Council Tax (Demand Notices) (Wales) Regulations 1993; and
 - The Local Authorities (Calculation of Council Tax Base) (Wales) Regulations 1995.
16. Regulations 2 to 5, 8, and 12 to 21 of the 2024 Regulations ensure that the relevant statutory instruments make references to new sections 41ZA and 52ZA of the 1988 Act (as appropriate), which deal with compilation and maintenance of NDR lists.
17. Regulations 6, 7, 9 and 10 of the 2024 Regulations relate to council tax valuation lists. Regulation 6 amends the Council Tax (Situation and Valuation of Dwellings) Regulations 1992 to ensure that dwellings are valued according to the correct date and related assumptions. Regulation 7 amends the Council Tax (Contents of Valuation Lists) Regulations 1992 to ensure they apply to council tax lists compiled in future under section 22B of the 1992 Act. Regulation 9 amends the Council Tax (Demand Notices) (Wales) Regulations 1993 to update a reference to an amended provision in the 1992 Act and to make reference to section 22B(3A) and (7A) of the 1992 Act in relation to the compilation of valuation lists. Regulation 10 amends the Local Authorities (Calculation of Council Tax Base) (Wales) Regulations 1995 in consequence to the new duties on billing authorities in relation to the depositing and keeping of council tax valuation lists introduced by the 2024 Act.
18. Regulation 11 of the 2024 Regulations omits articles 5 and 10 of the Local Government Reorganisation (Wales) (Finance) (Miscellaneous Amendments and Transitional Provisions) Order 1996 (“the 1996 Order”) as they no longer have effect. Article 5 of the 1996 Order specified the effect of regulation 4B and amended regulation 18(1) of the Non-Domestic Rating (Alteration of Lists and Appeals) Regulations 1993, which were revoked in relation to Wales by the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005. Article 10 of the 1996 Order amended section 86(1) of the Local Government and Housing Act 1989, which was subsequently omitted by the Housing (Wales) Act 2014. Regulation 11 of the 2024 Regulations also amends article 6(8) of the 1996 Order, to insert definitions for terms defined in section 41A of the 1988 Act (which is omitted by the 2024 Act).
19. Regulation 22 of the 2024 Regulations revokes the Non-Domestic Rating (Discretionary Relief) Regulations 1989 (“the 1989 Regulations”), which set out processes local authorities must follow when making or revoking a decision or determination about granting discretionary relief. This supports the policy intention of section 8 of the 2024 Act, to remove residual constraints on the otherwise broad powers of local authorities to award discretionary relief. Regulation 22 of the 2024 Regulations also revokes the Non-Domestic Rating (Demand Notices and Discretionary Relief) (Wales) (Amendment) Regulations 2006, which amended the 1989 Regulations in relation to Wales, and the Rating Lists (Postponement of Compilation) (Wales) Order 2014, which postponed the compilation of non-domestic

rating lists from 1 April 2015 to 1 April 2017, as both instruments no longer have effect.

20. Part 3 of the 2024 Regulations comes into force on 1 April 2025, to coincide with the commencement of sections 6 and 10 of the 2024 Act and the new chargeable financial year.
21. Regulation 23 of the 2024 Regulations amends regulation 3(2) of the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989. The amendments reflect the additional circumstances in which a ratepayer's liability is reduced to zero, as a consequence of full charitable NDR relief for unoccupied local rating list hereditaments initially introduced by the 2007 Act.
22. Regulation 24 of the 2024 Regulations amends the Non-Domestic Rating (Collection and Enforcement) (Miscellaneous Provisions) Regulations 1990 ("the 1990 Regulations"). The 1990 Regulations provide that (among other things) joint owners and occupiers of a hereditament are treated as jointly and severally liable for the amount of NDR that would be payable if there were only one owner or occupier. The amendments provide for the consistent treatment of charities and CASCs which are jointly and severally liable in respect of occupied and unoccupied local rating list hereditaments, following the changes to charitable relief introduced by the 2003 and 2007 Acts.
23. Regulation 25 omits paragraph 39 of Schedule 1 to the Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007. This provision no longer has effect, as it amended Part 1 of Schedule 7 to the 1988 Act, which is omitted by the 2024 Act.
24. Regulation 26 of the Regulations amends the Non-Domestic Rating (Demand Notices) (Wales) Regulations 2017 to refer to provisions in new Part A2 of Schedule 7 to the 1988 Act (as inserted by the 2024 Act), for the calculation of the NDR multiplier for the relevant year.
25. Regulation 27 omits regulation 7 of the Non-Domestic Rating (Miscellaneous and Consequential Amendments to Secondary Legislation) (Wales) Regulations 2024, to ensure that the provisions in regulation 3(7) of the 1990 Regulations (as amended by regulation 24 of the 2024 Regulations) only include amendments made in relation to England.

Consultation

26. No consultation has been undertaken in respect of the 2024 Regulations. The 2024 Regulations primarily make technical and textual amendments to update references in secondary legislation and ensure the existing policy effects are maintained, as a consequence of the policy and legislative changes introduced by the 2024 Act and previous Acts dealing with related matters. The policy changes introduced by the 2024 Act were the subject of recent consultations on the reform of NDR and council tax.

Regulatory Impact Assessment (RIA)

27. An RIA has not been prepared for the 2024 Regulations. The 2024 Regulations have the effect of preserving the existing policy position by ensuring the secondary legislation they amend remains effective and is compatible with the policy intention of changes introduced by primary legislation. This is in line with the policy set out in the Welsh Ministers' code of practice for carrying out RIAs for subordinate legislation.