

# SL(6)072 – The Valuation for Rating (Wales) (Coronavirus) Regulations 2021

## Background and Purpose

These [Regulations](#) specify assumptions that are to be made when applying the provisions of sub-paragraphs (1) to (7) of paragraph 2 of Schedule 6 to the Local Government Finance Act 1988 in connection with a non-domestic property's rateable value. The rateable value is used to calculate liability for non-domestic rates.

The effect of the Regulations is that ratepayers for non-domestic properties in Wales affected by:

1. the Welsh Government or UK Government's response to coronavirus;
2. any requirements of, advice or guidance in response to coronavirus from any UK public authority, the Welsh Government, the Scottish Government, the Northern Ireland Executive, the UK Government or a government outside of the UK, or
3. measures taken to ensure compliance with health and safety legislation,

will not be able to cite those matters as causing a material change of circumstances for the purpose of appealing a non-domestic property's rateable value on the 2017 rating lists.

The Regulations came into force on 1 November 2021.

## 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

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

## Merits Scrutiny

The following 2 points are identified for reporting under Standing Order 21.3 in respect of this instrument.

**1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd**



We note the breach of the 21-day rule (i.e. the rule that 21 days should pass between the date a “made negative” instrument is laid before the Senedd and the date the instrument comes into force), and the explanation for the breach provided by Rebecca Evans MS, Minister for Finance and Local Government, in a letter to the Llywydd dated 1 November 2021. In particular, we note the following in the letter:

*“ [This statutory instrument]... will come into force at 6pm on the day on which it is laid. The rationale is to prevent any further risk to public funds arising from certain non-domestic rates appeals related to Covid-19.”*

Given the stated urgency, and the reference to an “immediate risk” to public finances at paragraph 5 of the Explanatory Memorandum accompanying the Regulations, the Committee requests an explanation from the Welsh Government as to the reason for these Regulations being laid before the Senedd on 1 November 2021, noting that equivalent regulations applying to England (The Valuation for Rating (Coronavirus) (England) Regulations 2021 (SI 2021/398)) were laid before the UK Parliament and came into force on 25 March 2021, over seven months prior to the subject Regulations.

## **2. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd**

We note the explanation provided by the Minister for Finance and Local Government in the letter dated 1 November 2021 referred to above that the provisions of these Regulations would be superseded by the UK Government’s Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Bill, should that Bill be enacted.

We further note the Welsh Government’s intention, as set out in paragraph 6 of the Explanatory Memorandum, to revoke these Regulations in those circumstances.

## **Welsh Government response**

### Merit Scrutiny point:

The Valuation for Rating (Coronavirus) (England) Regulation 2021 (SI 2021/398) (the UKG Regulations) were laid before the UK Parliament and came into force on 25 March. The UKG Regulations were laid, without prior discussion with Welsh Government officials. Consequently, the timing of the making of the UKG Regulations meant that it was not possible to develop immediately policy or regulations applicable to Wales, because of the operation of the Senedd pre-election period between 25 March and 6 May.

Following the election, the UK Government’s Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Bill (the Bill) was introduced on 12 May, again without prior discussion with the Welsh Government as to whether provisions for Wales should be included on introduction.

The Welsh Government then considered various options to address the issues created by Material Change of Circumstances appeals relying on Covid-19 related matters. Attention



was focused on including provisions applying to Wales, in the Bill. Those provisions would have retrospective effect, which could not be achieved using subordinate legislation.

The Minister for Finance and Local Government wrote to the then Secretary of State for Housing, Communities and Local Government on 27 July asking for relevant provisions for Wales to be included within the Bill. A response was received on 3 September from the then Minister for Regional Growth and Local Government, confirming that relevant provisions for Wales would be tabled as an amendment at Report Stage in the House of Commons on 9 September.

In tandem with developing provisions for inclusion in the Bill, the Welsh Government also recognised the need to pursue the making of regulations to protect public finances while the Bill progressed through Parliament and as a mitigation against the risk of the Bill falling.

Though the UK Government did not consult when making the UKG Regulations the Welsh Government considered it appropriate to carry out a technical consultation on its draft regulations. That consultation took place for six weeks between 16 August and 27 September, with a summary published on 21 October.

Following the outcome of the consultation, draft regulations were finalised and laid at the earliest possible date. This occurred on 1 November, as it was considered to be poor practice to lay the regulations the week before, ie during recess.

## Committee Consideration

The Committee considered the instrument and Government response at its meeting on 15 November 2021 and reports to the Senedd in line with the reporting points above. In addition, the Committee agreed to write to the Welsh Government to seek further clarification in relation to its response.

