

Explanatory Memorandum to The Non-Domestic Rating Contributions (Wales) (Amendment) Regulations 2020

This Explanatory Memorandum has been prepared by Local Government Strategic Finance Division and is laid before the 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 Contributions (Wales) (Amendment) Regulations 2020.

Rebecca Evans MS
Minister for Finance and Trefnydd
30 November 2020

Description

1. The Non-Domestic Rating Contributions (Wales) (Amendment) Regulations 2020 (“the 2020 Regulations”) amend The Non-Domestic Rating Contributions (Wales) Regulations 1992 (S.I. 1992/3238) (“the 1992 Regulations”).
2. The 1992 Regulations prescribe the rules for calculating non-domestic rates contributions paid by billing authorities (in Wales, the 22 county and county borough councils) to the non-domestic rates pool. Amendments are made annually to Schedule 4 (Adult Population Figures) to the 1992 Regulations to ensure that the basis for contributions from billing authorities to the non-domestic rates pool remains up-to-date. Amendments to the 1992 Regulations are required to enable billing authorities to calculate their non-domestic rates contributions for 2021-22.

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

3. There are no matters of special interest to the Committee.

Legislative background

4. Section 60 of, and paragraphs 4 and 6 of Schedule 8 to, the Local Government Finance Act 1988 (“the 1988 Act”) set out the power to make regulations with regard to billing authorities non-domestic rating contributions.
5. The power for the Welsh Ministers to make regulations under section 60 of, and paragraphs 4 and 6 of Schedule 8 to, the 1988 Act was given to the National Assembly by the National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999/672). Those functions were subsequently transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.
6. The Local Government Finance Act 2012 amended the 1988 Act expressly providing that the various powers in section 60 of, and Schedule 8 to, the 1988 Act (including those to make regulations) are vested in the Welsh Ministers.
7. The 2020 Regulations amend the 1992 Regulations and are subject to the negative resolution procedure.
8. Paragraph 4(6) of Schedule 8 to the 1988 Act requires that, for the 2020 Regulations to be effective for a particular financial year, they must come into force before 1 January in the preceding financial year, that is, no later than 31 December 2020 for the 2021-22 financial year.

Purpose and intended effect of the legislation

9. Billing authorities are required to pay non-domestic rates contributions to the Welsh Ministers in respect of the rates they collect from non-domestic properties in their areas. All the rates collected by billing authorities are paid into the non-domestic rating pool together with the rates collected by the Welsh Government from Central List ratepayers.
10. The pooled revenue is distributed to the Welsh unitary authorities and police and crime commissioners on the basis of adult population figures as part of the annual settlements. Billing authorities make payments into the pool on the basis of estimates completed by them before the start of each financial year. Billing authorities then submit audited returns after the end of each financial year and receive payments from the Welsh Ministers or make additional payments to the pool as appropriate.
11. The 2020 Regulations update the adult population figures for each billing authority. These will be used to set a threshold for billing authorities to calculate their provisional contributions to the pool.
12. Amendments to the 1992 Regulations are required to enable billing authorities to calculate their non-domestic rating contributions for 2021-22. The 2020 Regulations amend the 1992 Regulations by substituting a new Schedule 4 (Adult Population Figures).
13. If these changes are not made, the estimates made by billing authorities for their contributions to the rating pool will be inaccurate as they will be based on the previous year's population figures which are out-of-date.

Consultation

14. These amendments are only of interest to the relevant billing authorities and have no effect on ratepayers. The population figures are updated annually and have no policy implications. In light of this, no consultation exercise has been undertaken.

Regulatory Impact Assessment

15. These are routine amendments which are made annually to update the rules which billing authorities must apply in calculating their contributions to the non-domestic rating pool. The 2020 Regulations are of interest only to billing authorities and have no effect on ratepayers. As such, a regulatory impact assessment has not been prepared.