

SL(6)448 – The Non-Domestic Rating (Miscellaneous and Consequential Amendments to Secondary Legislation) (Wales) Regulations 2024

Background and Purpose

The Non-Domestic Rating Act 2023 (“the 2023 Act”) implements a number of changes to the system of non-domestic rating in England and Wales.

The Non-Domestic Rating Act 2023 (Consequential Amendments to Secondary Legislation) (Wales) Regulations 2023 (“the 2023 Regulations”) came into force on 27 October 2023 and made technical amendments to secondary legislation in relation to Wales consequential on the 2023 Act.

The Non-Domestic Rating (Miscellaneous and Consequential Amendments to Secondary Legislation) (Wales) Regulations 2024 (“the Regulations”) address matters raised in the three technical reporting points in the Legislation, Justice and Constitution Committee’s [report on the 2023 Regulations](#).

Certain amendments made by the 2023 Regulations should have been expressed as having effect for financial years beginning on or after 1 April 2024. Instead these provisions took effect from the date that the 2023 Regulations came into force, 27 October 2023.

The Regulations resolve this issue by:

- restating the law as it applied before 27 October 2023 with immediate effect (Part 2), and
- re-making the amendments in the 2023 Regulations to take effect from 1 April 2024 (Part 3).

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 or meaning needs further explanation.

In accordance with regulation 1(3) and (4), Parts 1 and 2 of the Regulations come into force on 19 January 2024 and Part 3 comes into force on 1 April 2024.

The italic date information set out below the title of the Regulations refers only to 19 January 2024 as the coming into force date. The Welsh Government is asked why this does not follow the usual format for instruments that have more than one coming into force date, either by providing that the Regulations come into force “in accordance with regulation 1(3) and (4)” or by specifying the two separate coming into force dates (see Statutory Instrument Practice at paragraph 3.10.4).

Merits Scrutiny

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

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.

It is noted that, in light of the premature commencement of the amendments in the 2023 Regulations, the law was incorrect from 27 October 2023 until 19 January 2024 (the date that the Regulations come into force).

Paragraph 18 of the Explanatory Memorandum provides that:

Copies of the 2024 Regulations will be issued free of charge to all known recipients of the 2023 Regulations to ensure that users who require a copy are not unnecessarily disadvantaged by having to pay for it. The Welsh Government is not aware of any adverse effects arising from the omissions in the 2023 Regulations. Any such impacts would have been brought to the attention of the Welsh Government by stakeholders, particularly local billing authorities.

3. 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 convention (i.e. the convention 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 the Minister for Finance and Local Government in a [letter to the Llywydd](#) dated 17 January 2024.

In particular, we note what the letter says regarding the need to bring the Regulations into force as soon as possible to address the issues raised by this Committee in its report on the 2023 Regulations, and to ensure the intended policy effect of the relevant secondary legislation is preserved.



This urgency is also cited in paragraph 19 of the Explanatory Memorandum as a reason why no consultation has been carried out in relation to the Regulations.

Welsh Government response

A Welsh Government response is required to the technical reporting point only.

Legal Advisers

Legislation, Justice and Constitution Committee

23 January 2024



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

Legislation, Justice and Constitution Committee