

**Explanatory Memorandum to
The Non-Domestic Rating Contributions (Wales) (Amendment)
Regulations 2014**

This Explanatory Memorandum has been prepared by the Local Government Finance and Performance Division, and is laid before the National Assembly for Wales 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 2014.

Leighton Andrews

Minister for Public Services

28 November 2014

1. Description

The Non-Domestic Rating Contributions (Wales) (Amendment) Regulations 2014 (“the Regulations”) amend the Non-Domestic Rating Contributions (Wales) Regulations 1992 (SI 1992/3238) (“the 1992 Regulations”) for the financial years beginning on or after 1 April 2015.

The 1992 Regulations prescribe the rules for calculating Non-Domestic Rates contributions paid by Local Authorities to the non-domestic rates pool. Amendments are made annually to Schedule 4 to the 1992 Regulations to ensure that the basis for Authorities’ contributions to the non-domestic rates pool remain up-to-date.

In addition, the Regulations amend the rules relating to the percentage amounts in respect of discretionary relief in paragraph 3 of Schedule 1 to the Regulations, taking account of amendments to section 47 of the Local Government Finance Act 1988 (“the 1988 Act”) by section 69 of the Localism Act 2011.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

There are no matters of special interest to the Committee.

3. Powers

The relevant legal powers for this instrument to be made are conferred upon Welsh Ministers by the Local Government Finance Act 1988 (section 60 and paragraphs 4 and 6 of Schedule 8).

The powers conferred on the Secretary of State under paragraphs 4 and 6 of Schedule 8 to the 1988 Act were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999. The powers 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. However, the Local Government Finance Act 2012 amended the 1988 Act, providing that the various powers in Schedule 8 to the 1988 Act (including those to make regulations) were vested in the Welsh Ministers.

These Regulations amend the Non-Domestic Rating Contributions (Wales) Regulations 1992 and are subject to the negative resolution procedure.

The Local Government Finance Act 1988 (paragraph 4(6) of Schedule 8) requires that for these Regulations to be effective for a financial year, they must come into force before 1 January in the preceding financial year (ie. no later than 31 December 2014 for the 2015-16 financial year.)

4. Purpose and intended effect of the legislation

Updating adult population figures

Local Authorities (county and county borough councils) are required to pay Non-Domestic Rating contributions to the Welsh Ministers in respect of the rates they collect from non-domestic properties in their areas. Local Authorities do not retain the Non-Domestic Rates they collect. Rates are paid into the National Non-Domestic Rating Pool from which they are redistributed to Local Authorities and Police and Crime Commissioners on the basis of adult population. Local Authorities make payments into the pool on the basis of estimates completed before the start of a financial year. Local Authorities submit audited returns after the end of the financial year and receive payments from the Welsh Ministers or make additional payments to the pool as appropriate.

The Regulations update the adult population figures for each Authority. These are used to set a threshold for Local Authorities to recalculate, where necessary, their provisional contributions to the pool.

Amendments to the 1992 Regulations are now required to enable Local Authorities to calculate their Non-Domestic Rating contributions for 2015-16. The Regulations amend the 1992 Regulations by substituting a new Schedule 4 (Adult Population Figures).

If these changes are not made, the estimates made by Local Authorities for their contributions to the rating pool will be inaccurate as they will be based on the previous years' population figures which are out-of-date.

Amendments to Section 47 of the Local Government Finance Act 1988

Section 47 of the 1988 Act provides a wide power for local authorities to reduce the rates which ratepayers would have to pay by granting certain discretionary reliefs. The 1992 Regulations authorise Local Authorities to offset a percentage of some of those reliefs against their contributions to the Non-Domestic Rates Pool. The reliefs include reductions in respect of charities, community sports clubs and non-profit making bodies under what was section 47(2) of the 1988 Act.

Section 69 of the Localism Act 2011 repealed section 47(2) of the 1988 Act. In order to regularise the legislative basis for maintaining the position in Wales as it was before section 69 was brought into force, amendments are required to the 1992 Regulations.

These Regulations, therefore, amend the rules for the financial years beginning on or after 1 April 2015 by substituting paragraph 3 of Schedule 1 to the 1992 Regulations. The percentage amounts in respect of discretionary relief in paragraph 3 are unchanged.

5. Consultation

These amendments are only of interest to Local Authorities and have no effect on ratepayers. They are technical in nature, and the population figures are updated annually and have no policy implications. The amendments required as a result of the Localism Act 2011 have no financial implications and merely ensure that the reductions in Local Authorities' contributions can continue unchanged. In light of this, no consultation exercise has been undertaken.

6. Regulatory Impact Assessment

These are routine amendments which are made annually to update the rules Local Authorities (county and county borough councils) must apply in calculating their contributions to the Non-Domestic Rating Pool. They are technical in nature, of interest only to Local Authorities and have no effect on ratepayers. As such, a regulatory impact assessment has not been prepared.