

Explanatory Memorandum to The Non-Domestic Rating Contributions (Wales) (Amendment) Regulations 2018

This Explanatory Memorandum has been prepared by Local Government Strategic Finance 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 2018.

Mark Drakeford AM
Cabinet Secretary for Finance
15 November 2018

Description

1. The Non-Domestic Rating Contributions (Wales) (Amendment) Regulations 2018 (the 2018 Regulations) amend The Non-Domestic Rating Contributions (Wales) Regulations 1992 (SI 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 authorities to the non-domestic rates pool remains up-to-date. Amendments to the 1992 Regulations are required to enable authorities to calculate their non-domestic rates contributions for 2019-20.

Matters of special interest to the Constitutional and Legislative Affairs Committee

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

Powers

4. The relevant legal powers for this instrument to be made are conferred upon the Welsh Ministers by the Local Government Finance Act 1988 (“the 1988 Act”) (section 60 and paragraphs 4 and 6 of Schedule 8).
5. The powers under section 60 of and paragraphs 4 and 6 of Schedule 8 to the 1988 Act were originally conferred on the Secretary of State and were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999/672). 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.
6. The Local Government Finance Act 2012 amended the 1988 Act which now expressly provides 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 2018 Regulations amend the 1992 Regulations and are subject to the negative resolution procedure.
8. The 1988 Act (paragraph 4(6) of Schedule 8) requires that, for these Regulations to be effective for a particular financial year, they must come into force before 1 January in the preceding financial year (ie. no later than 31 December 2018 for the 2019-20 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. Authorities in Wales do not retain the non-domestic rates they collect. All rates are paid into the Non-Domestic Rating Pool from which they are distributed to unitary authorities and police and crime commissioners on the basis

of adult population figures as part of the annual settlements. Authorities make payments into the pool on the basis of estimates completed before the start of each financial year. 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.

10. The 2018 Regulations update the adult population figures for each billing authority. These are used to set a threshold for authorities to calculate their provisional contributions to the pool.
11. Amendments to the 1992 Regulations are required to enable authorities to calculate their non-domestic rating contributions for 2019-20. The 2018 Regulations amend the 1992 Regulations by substituting a new Schedule 4 (Adult Population Figures).
12. If these changes are not made, the estimates made by 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

13. These amendments are only of interest to the relevant 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

14. 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 2018 Regulations are of interest only to billing authorities and have no effect on ratepayers. As such, a regulatory impact assessment has not been prepared.