
WELSH STATUTORY INSTRUMENTS

2017 No. 941 (W. 234)

LOCAL GOVERNMENT, WALES

**The Valuation Tribunal for Wales
(Amendment) Regulations 2017**

<i>Made</i>	- - - -	<i>25 September 2017</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>27 September 2017</i>
<i>Coming into force</i>	- -	<i>1 December 2017</i>

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 140(4) and 143(1) and (2) of, and paragraphs 1, 5, 6(2), 7A, 8 and 11 of Schedule 11 to, the Local Government Finance Act 1988(1) on the Secretary of State and now vested in them(2).

Title, commencement and interpretation

1.—(1) The title of these Regulations is the Valuation Tribunal for Wales (Amendment) Regulations 2017.

(2) These Regulations come into force on 1 December 2017.

(3) In these Regulations—

- (a) “the 2010 Regulations” (“*Rheoliadau 2010*”) means the Valuation Tribunal for Wales Regulations 2010(3); and
- (b) “the NDR Regulations” (“*y Rheoliadau Ardrethu Annomestig*”) means the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005(4).

Amendment to the 2010 Regulations

2. The 2010 Regulations are amended in accordance with regulations 3 to 15.

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- (1) 1988 c. 41. Relevant amendments were made to Schedule 11 by paragraphs 3, 8, 10, 11 and 15 of Schedule 15 to the Local Government and Public Involvement in Health Act 2007 (c. 28). There are other amendments to Schedule 11 that are not relevant to these Regulations.
 - (2) The functions of the Secretary of State under sections 140(4) and 143(1) and (2) of, and paragraphs 1, 5, 6(2), 7A, 8 and 11 of Schedule 11 to, the Local Government Finance Act 1988 were, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). By virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32) those functions are now vested in the Welsh Ministers.
 - (3) S.I. 2010/713 (W. 69), as amended by S.I. 2013/547 (W. 59), S.I. 2014/554 (W. 66) and S.I. 2016/481.
 - (4) S.I. 2005/758 (W. 63), as amended by S.I. 2006/1035 (W. 105) and S.I. 2010/713 (W. 69).

3. In regulation 3(1) (interpretation)—
 - (a) after the definition of “appeal” (“*apêl*”) insert—

““Appointments Panel” (“*Panel Penodiadau*”) means the Appointments Panel of the Governing Council established under regulation 8A;”;
 - (b) after the definition of “Governing Council” (“*Cyngor Llywodraethu*”) insert—

““national representative” (“*cynrychiolydd cenedlaethol*”) means a national representative appointed under regulation 13;”;
 - (c) omit the definition of “regional representative” (“*cynrychiolydd rhanbarthol*”).
4. After regulation 5 (establishment of the Governing Council) insert—

“Quorum for a meeting of the Governing Council

5A. A meeting of the Governing Council is not quorate unless four or more members of the Governing Council are present.”

5. In regulation 6 (membership of the Governing Council)—
 - (a) for paragraph (1)(b) substitute—

“(b) the national representatives appointed in accordance with regulation 13; and”;
 - (b) in paragraph (1)(c) for “person” substitute “persons”;
 - (c) omit paragraph (2).
6. In regulation 7 (Welsh Ministers’ appointee)—
 - (a) in paragraph (1) for “one person” substitute “up to three persons”;
 - (b) omit paragraph (2).
7. After regulation 8 insert—

“Appointments Panel of the Governing Council

8A.—(1) On 1 December 2017 there will be established an Appointments Panel of the Governing Council.

(2) The Appointments Panel must consist of three members of the Governing Council.

(3) Where the Appointments Panel appoints Chairpersons, the Appointments Panel must not consist of any persons appointed by the Welsh Ministers under regulation 7.”

8. For regulation 9 (appointment of Valuation Tribunal members) substitute—

“Number of Valuation Tribunal members and their appointment

9.—(1) The Valuation Tribunal consists of between 16 members and—

- (a) from 1 December 2017 until 31 March 2018, 145 members;
- (b) from 1 April 2018 until 31 March 2019, 135 members;
- (c) from 1 April 2019 until 31 March 2020, 120 members; or
- (d) from 1 April 2020, 105 members.

(2) For the purposes of this regulation, a vacancy arises when the number of members falls below—

- (a) 16; or

- (b) the number of members described in paragraph (1)(a) to (d) and in the view of the President, the number required to carry out the Valuation Tribunal's functions.
- (3) Where a vacancy arises, the Appointments Panel must appoint a person to fill the vacancy.
- (4) Where a vacancy has not been filled by the Appointments Panel within 3 months of the vacancy arising, the Welsh Ministers may, after consultation with the President, appoint a person to fill the vacancy.
- (5) A person may not be appointed under this regulation, if at the end of the period of appointment they would have served 10 years or more as a member of the Valuation Tribunal.
- (6) But, a person who was a member of the Valuation Tribunal before these Regulations come into force may be appointed for a period not exceeding five years."
9. In regulation 10 (duration of membership of the Valuation Tribunal)—
- (a) for paragraph (1) substitute—
- “(1) Each appointment of a member under regulation 9 has effect for a period of five years.”;
- (b) in paragraph (2)(a) for “specified under paragraph (1)” substitute “of five years”;
- (c) for paragraph (3) substitute—
- “(3) The Appointments Panel must, if so directed by the Welsh Ministers, give a member notice in writing terminating that member's term of office.”;
- (d) after paragraph (3) insert—
- “(4) Before giving a direction under paragraph (3), the Welsh Ministers must consult the Appointments Panel.”
10. In regulation 11 (the President of the Valuation Tribunal)—
- (a) in paragraph (4)(a) for “two” substitute “three”;
- (b) omit paragraph (8).
11. In regulation 12 (Chairpersons of the Valuation Tribunal)—
- (a) for paragraph (2) substitute—
- “(2) The President will constitute one of the Chairpersons and the Appointments Panel must appoint the remaining number of Chairpersons within the prescribed period.”;
- (b) in paragraph (3) for “election” substitute “appointment”.
12. For regulation 13 (regional representatives of the Valuation Tribunal) substitute—

“National representatives of the Valuation Tribunal

13.—(1) Where there is a vacancy, members of the Valuation Tribunal must, appoint three national representatives from among their number.

(2) The appointment under paragraph (1) must be made in accordance with Part 1 of Schedule 2.

(3) For the purposes of this regulation, a vacancy occurs when the number of national representatives falls below three.

(4) Where at the expiry of three months beginning with the date on when a vacancy occurs, no appointment has taken place, the Welsh Ministers must, after consultation with the President, appoint a national representative from among the members to fill that vacancy.

- (5) A national representative holds office until whichever of the following first occurs—
 - (a) the expiration of the period of three years from the date on which the national representative takes office;
 - (b) the national representative ceases to be a member of the Valuation Tribunal;
 - (c) the national representative resigns by giving notice in writing to the President;
 - (d) notice of termination under paragraph (6) takes effect.
- (6) The President—
 - (a) may, after consultation with the Governing Council, terminate the national representative’s term of office by giving the national representative written notice; and
 - (b) must, if so directed by the Welsh Ministers, terminate the national representative’s term of office by giving the national representative written notice.
- (7) Before giving a direction under paragraph (6)(b) the Welsh Ministers must consult the President.”

13. In regulation 19(1) (minutes) after “the Governing Council” insert “, the Appointments Panel”.

14. Omit Schedule 1 (appointment of members).

15. In Schedule 2 (election procedure)—

- (a) omit paragraph 6;
- (b) for paragraph 7 substitute—
 - “7. Nominations must be—
 - (a) made by a candidate to the chief executive; and
 - (b) accompanied by a statement of no less than 250 words and no more than 500 words supplied for circulation with the notice of poll.”;
- (c) for paragraph 8 substitute—
 - “8. If the number of candidates for a vacancy does not exceed the number of vacancies, the candidate or candidates are to be appointed.”;
- (d) for paragraph 9 substitute—
 - “9. If the number of candidates exceed the number of vacancies, an election by voting papers (a poll) must be held.”;
- (e) omit paragraph 11;
- (f) in paragraph 12—
 - (i) for “regional” where it first appears substitute “national”;
 - (ii) in sub-paragraph (a)(i) omit the words from “, who was appointed” to “representative arises”;
 - (iii) for sub-paragraph (c) substitute—
 - “(c) the member or members elected as national representative will be the member or members with the highest number of votes cast, up to the number of national representatives to be elected.”;
- (g) in paragraph 14 omit “at least 21 days”;
- (h) for paragraph 15(c) substitute—

- “(c) be accompanied by any statement supplied by a candidate under paragraph 7(b).”;
- (i) omit paragraphs 17 to 19;
- (j) omit paragraph 22;
- (k) in paragraph 24, omit sub-paragraphs (2) to (4);
- (l) in paragraph 25—
 - (i) omit sub-paragraph (2);
 - (ii) in sub-paragraph (3)—
 - (aa) after “means” insert “a member of the Valuation Tribunal who is a member on the date on which the notice of poll is sent.”;
 - (bb) omit paragraphs (a) to (c);
 - (iii) omit sub-paragraphs (4) and (5).

Amendment to the NDR Regulations

- 16. The NDR Regulations are amended in accordance with regulations 17 and 18.
- 17. After regulation 25 (disposal by written representations) of the NDR Regulations insert—

“Disposal by written representations – where parties have come to an agreement

25A.—(1) The valuation tribunal may dispose of an appeal under these Regulations without a hearing if—

- (a) a party informs the valuation tribunal in writing—
 - (i) that parties have come to an agreement;
 - (ii) what that agreement is and the decision the valuation tribunal is asked to make; and
 - (iii) that parties agree for the appeal to be disposed of without a hearing; and
 - (b) the clerk sends a notice to all parties to the proceedings stating—
 - (i) the valuation tribunal is minded to dispose of the appeal without a hearing;
 - (ii) the decision the valuation tribunal is minded to take; and
 - (iii) that any party can object to the appeal being disposed of without a hearing.
- (2) If a notice is sent under paragraph (1)(b), a party may request to the clerk that the appeal be disposed of with a hearing.
- (3) A request under paragraph (2) must be made in writing and received by the clerk within 4 weeks of the date on which the clerk sent a notice under paragraph (1)(b).
- (4) The valuation tribunal must not dispose of an appeal without a hearing if—
- (a) in the opinion of the clerk, the appeal raises issues of public importance such as to require that hearing be held;
 - (b) a period of four weeks from which the notice under paragraph (1)(b) was sent has not elapsed; or
 - (c) a party to the appeal has requested a hearing.
- (5) The functions of the valuation tribunal under this Regulation may be performed on its behalf by the clerk.”

- 18. After regulation 27(4) (notice of hearing) of the NDR Regulations insert—

“(5) Where a hearing is requested under regulation 25A(2) and the hearing is postponed, the clerk must inform parties to the proceedings if the valuation tribunal is of the view that parties to the proceedings can come to an agreement.”

Transitional provisions

19.—(1) On 1 December 2017 any person who, immediately before that date was a regional representative is appointed a national representative.

(2) The term of office for a person appointed under paragraph (1) ends on the same day as their term of office as regional representative would have ended.

20. On 1 December 2017 any person who immediately before that date was a member or Chairperson of the Valuation Tribunal continues to hold and vacate their office in accordance with the terms of the instrument appointing them.

21. Regulations 17 and 18 do not apply to any appeal under the NDR Regulations which was referred to the Valuation Tribunal before 1 December 2017.

22. Deputy regional representatives appointed under regulation 13 of the 2010 Regulations cease to hold office as deputy regional representatives the day these Regulations come into force.

25 September 2017

Mark Drakeford
Cabinet Secretary for Finance and Local
Government, one of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulations 3 to 15 amend the Valuation Tribunal for Wales Regulations 2010 (“the 2010 Regulations”). Regulations 17 and 18 amend the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005 (“the NDR Regulations”).

Regulations 4, 5 and 6 amend the operation and membership of the Governing Council of the Valuation Tribunal. The amendments allow the Welsh Ministers to appoint up to three persons to be members of the Governing Council. The newly created national representatives will also be members of the Governing Council, as well as the President. The amendments require at least four members of the Governing Council to be present, for a meeting of the Governing Council to be quorate.

Regulation 7 establishes the Appointments Panel of the Governing Council. Under regulation 13, the Appointments Panel must prepare minutes of its meetings.

Regulations 8, 9 and 15 amend how members of the Valuation Tribunal are appointed. From 1 December 2017, members of the Valuation Tribunal are appointed by the Appointments Panel. New members will be appointed for a 5 year term and may be re-appointed for a further 5 year term if, at the end of their period of re-appointment they would have served no more than 10 years as a member of the Valuation Tribunal. Existing members of the Valuation Tribunal who have served more than 10 years as a member may be re-appointed for one further 5 year term.

Regulation 10 extends the President’s term of office from two years to three years.

Regulations 11 and 15 amend how Chairpersons are appointed. Chairpersons are to be appointed by the Appointments Panel.

Regulation 12 replaces the four regional representatives with three national representatives. Regulation 22 abolishes the office of deputy regional representative.

Regulation 15 makes a number of amendments to the election procedure for the President set out in Schedule 2 to the 2010 Regulations. This procedure also applies to the national representatives.

Regulations 17 and 18 amend the NDR Regulations to enable appeals under these Regulations to be disposed of without a hearing.

Regulations 19 to 22 make transitional provisions in relation to these Regulations.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Local Government Finance and Public Services Performance Division, Welsh Government, Cathays Park, Cardiff CF10 3NQ.