
WELSH STATUTORY INSTRUMENTS

2022 No. 1350 (W. 272)

RATING AND VALUATION, WALES

The Non-Domestic Rating (Chargeable Amounts) (Wales) Regulations 2022

Made - - - - 14 December 2022

Coming into force - - 31 December 2022

The Welsh Ministers make the following Regulations in exercise of the power conferred on the Secretary of State by sections 58(1), (2), (3), (4), (5), (6), (7) and (10) and 143(1) of the Local Government Finance Act 1988⁽¹⁾ and now vested in them⁽²⁾.

A draft of these Regulations was laid before, and approved by a resolution of Senedd Cymru, in accordance with section 143(4) of that Act⁽³⁾.

In accordance with section 58(9) of that Act, the Welsh Ministers have had regard to the object of securing (so far as practicable) that the aggregate amount payable to the Welsh Ministers and all billing authorities by way of non-domestic rates as regards the financial years falling within the relevant period does not exceed that which the Welsh Ministers consider would be likely to be payable apart from these Regulations.

PART 1

Preliminary: general

Title, commencement and application

1.—(1) The title of these Regulations is the Non-Domestic Rating (Chargeable Amounts) (Wales) Regulations 2022.

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- (1) 1988 c. 41. See section 146(6) for the definition of “prescribed”. Section 58 was amended by section 117(1) of, and paragraph 68 of Schedule 13 to, the Local Government Finance Act 1992 (c. 14), section 2 of the Non-Domestic Rating Act 1994 (c. 3), section 1 of, and paragraph 5 of Schedule 1 to, the Local Government and Rating Act 1997 (c. 29), section 2(1) of, and paragraph 3 of Schedule 1 to, the Rating (Empty Properties) Act 2007 (c. 9) and section 4(1) of, and paragraph 4 of Schedule 1 to, the Telecommunications Infrastructure (Relief from Non-Domestic Rates) Act 2018 (c. 1).
- (2) The powers of the Secretary of State were transferred, in relation to Wales, to the National Assembly for Wales by virtue of article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). The functions of the National Assembly for Wales 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 (c. 32).
- (3) The reference to each House of Parliament in section 143(4) of the Act is to be read as a reference to Senedd Cymru by virtue of section 150A(2) of, and paragraph 34 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

(2) These Regulations come into force on 31 December 2022⁽⁴⁾ and apply in relation to Wales.

(3) These Regulations apply in relation to the period beginning on 1 April 2023 and ending on 31 March 2028 (“the relevant period”).

Interpretation

2. In these Regulations—

“the Act” (“*y Ddeddf*”) means the Local Government Finance Act 1988;

“base liability” (“BL”) (“*rhwymedigaeth sylfaenol*”, “BL”) is the amount calculated in accordance with regulation 4;

“central list” (“*rhestr ganolog*”) means a list compiled and maintained in accordance with section 52 of the Act⁽⁵⁾;

“chargeable day” (“*diwrnod y codir swm ynglŷn ag ef*”), in relation to occupied hereditaments shown in a local list, has the meaning given in section 43(3) of the Act, in relation to unoccupied hereditaments shown in a local list, has the meaning given in section 45(3) of the Act, and in relation to hereditaments shown in a central list, has the meaning given in section 54(3) of the Act;

“defined hereditament” (“*hereditament diffiniedig*”) has the meaning given in regulation 3;

“local list” (“*rhestr leol*”) means a list compiled and maintained in accordance with section 41 of the Act⁽⁶⁾;

“notional chargeable amount” (“NCA”) (“*swm tybiannol a godir*”, “NCA”) is the amount calculated in accordance with regulations 6 and 7;

“relevant day” (“*diwrnod perthnasol*”) is a chargeable day falling within the relevant period;

“relevant period” (“*cyfnod perthnasol*”) has the meaning given in regulation 1(3).

Defined hereditament

3. A hereditament is a defined hereditament in respect of a relevant day if it is shown in a local list or in a central list on—

- (a) 31 March 2023,
- (b) the relevant day, and
- (c) each day, if any, falling after 31 March 2023 and before the relevant day.

(4) In accordance with section 58(8) of the Act which requires regulations to come into force before 1 January immediately preceding the financial year to which they apply.

(5) Section 1(4)(b) of the Non-Domestic Rating (Lists) Act 2021 (c. 8) amended section 54A(5)(b) of the Act so that section 52(2) of the Act has effect as if a list is to be compiled on 1 April 2023. Section 52 of the Act was amended by section 139 of, and paragraph 28 of Schedule 5 to, the Local Government and Housing Act 1989 (c. 42), section 29(7) to (10) and section 30(3) of the Growth and Infrastructure Act 2013 (c. 27) and section 1(3) of Non-Domestic Rating (Lists) Act 2021 (c. 8).

(6) Section 1(4)(a) of the Non-Domestic Rating (Lists) Act 2021 (c. 8) amended section 54A(4)(b) of the Act so that section 41(2) of the Act has effect as if a list is to be compiled on 1 April 2023. Section 41 of the Act was amended by section 139 of, and paragraph 19 of Schedule 5 to, the Local Government and Housing Act 1989, section 117(1) of, and paragraph 59 of Schedule 13 to, the Local Government Finance Act 1992 (c. 14), section 29(2) to (5) and section 30(2) of the Growth and Infrastructure Act 2013 and section 1(2) of the Non-Domestic Rating (Lists) Act 2021.

PART 2

Preliminary: calculations

Base liability

4.—(1) Where, on 31 March 2023, section 43(4B)(b) of the Act(7) applies to a defined hereditament, the base liability (“BL”) for that defined hereditament is calculated by applying the formula—

$$\frac{A \times 0.535}{E}$$

(2) In all other cases, the BL for a defined hereditament is calculated by applying the formula—

$$A \times 0.535$$

(3) For the purposes of this regulation—

A is the rateable value shown for the defined hereditament in a local list or in a central list on 31 March 2023, and

E is the amount of E which applies to the defined hereditament on 31 March 2023 in accordance with the Non-Domestic Rating (Small Business Relief) (Wales) Order 2017(8).

Notional chargeable amount

5. The notional chargeable amount (“NCA”) for a defined hereditament is calculated in accordance with regulations 6 and 7.

6.—(1) Where, on 1 April 2023, section 43(4B)(b) of the Act applies to a defined hereditament, the NCA for that defined hereditament is calculated by applying the formula—

$$\frac{A \times B}{E}$$

(2) In all other cases, the NCA for a defined hereditament is calculated by applying the formula—

$$A \times B$$

(3) For the purposes of this regulation—

A is the rateable value shown for the defined hereditament in a local list or in a central list on 1 April 2023,

B is the non-domestic rating multiplier for the financial year beginning on 1 April 2023 calculated in accordance with paragraph 4B of Schedule 7 to the Act(9), and

E is the amount of E which applies to the defined hereditament on 1 April 2023 in accordance with the Non-Domestic Rating (Small Business Relief) (Wales) Order 2017.

7.—(1) This regulation applies to a defined hereditament where for a day after 1 April 2023 the rateable value shown in a local list or in a central list for the defined hereditament is different to that shown for it in a local list or in a central list on 1 April 2023.

(7) Section 43(4B) of the Act was inserted by section 61(3) of the Local Government Act 2003 (c. 26). S.I. 2017/1229 (W. 293) is the order referred to in section 43(4B)(b) of the Act.

(8) S.I. 2017/1229 (W. 293), amended by 2018/1192 (W. 243); there is another amending instrument but it is not relevant to these Regulations.

(9) Paragraph 4B of Schedule 7 to the Act was inserted by section 62(4) of the Local Government Act 2003 (c. 26).

(2) From the day on which the change in rateable value has effect, regulation 6 has effect as regards the defined hereditament with the following amendments—

- (a) in paragraph (1), for “1 April 2023”, substitute “the day on which the change in rateable value has effect”, and
- (b) in paragraph (3), for the definition of ‘A’ substitute “A is the rateable value shown for the defined hereditament in a local list or in a central list on the day on which the change in rateable value has effect”.

PART 3

Cases to which the prescribed rules apply

8. For the purpose of section 58(2) of the Act, the cases are those that fall within the descriptions prescribed in regulation 9, and do not fall within the descriptions prescribed in regulation 10.

Prescribed descriptions

9. A defined hereditament where—

- (a) the NCA is greater than the sum calculated by applying the formula—

$$BL + 300$$

, and

- (b) on the relevant day, the occupier of the hereditament is the same person as the occupier on 31 March 2023.

Exceptions

10. A defined hereditament where on the relevant day—

- (a) the chargeable amount would otherwise be zero under section 45A of the Act(**10**), or
- (b) an apportionment under section 44A(1) of the Act(**11**) applies to the hereditament and has effect in relation to the chargeable amount.

PART 4

Prescribed rules

Rules for finding the chargeable amount

11. For the purpose of section 58(3)(a) of the Act, the chargeable amount for a defined hereditament to which regulation 8 applies (cases that fall within the prescribed description) is to be found in accordance with the rules prescribed in regulations 12 to 16.

(10) Section 45A of the Act was inserted by section 1(2) of the Rating (Empty Properties) Act 2007 (c. 9) and amended by S.I. 2013/463.

(11) Section 44A of the Act was inserted by section 139 of, and paragraph 22 of Schedule 5 to, the Local Government and Housing Act 1989 (c. 42). It was amended by section 117(1) of, and paragraph 62 of Schedule 13 to, the Local Government Finance Act 1992 (c. 14), and by section 2(1) of, and paragraph 1 of Schedule 1 to, the Rating (Empty Properties) Act 2007 (c. 9).

12. The chargeable amount for a relevant day is the amount calculated in accordance with section 43(12), 45(13) or 54(14) of the Act as appropriate, less the amount calculated under whichever of regulations 14 to 16 applies.

13. If the result of reducing the chargeable amount in accordance with the rules in regulations 14 to 16 is to produce a negative figure, the chargeable amount is zero.

Financial year commencing on 1 April 2023

14. In the financial year commencing on 1 April 2023, the chargeable amount is reduced by an amount calculated by applying the formula—

$$\frac{(NCA - BL) \times 0.67}{366}$$

Financial year commencing on 1 April 2024

15. In the financial year commencing on 1 April 2024, the chargeable amount is reduced by an amount calculated by applying the formula—

$$\frac{(NCA - BL) \times 0.34}{365}$$

Financial years commencing on 1 April 2025, 1 April 2026 and 1 April 2027

16. In the financial years commencing on 1 April 2025, 1 April 2026 and 1 April 2027 the chargeable amount is reduced by zero.

PART 5

Revocation

17. The Non-Domestic Rating (Chargeable Amounts) (Wales) Regulations 2016(15) are revoked.

Rebecca Evans
Minister for Finance and Local Government, one
of the Welsh Ministers

14 December 2022

(12) Section 43 of the Act was amended by section 117(1) of, and paragraph 60 of Schedule 13 to, the Local Government Finance Act 1992 (c. 14), section 1 of, and paragraph 2 of Schedule 1 to, the Local Government and Rating Act 1997 (c. 29), section 127(4) of, and paragraph 21 of Schedule 8 to, the Postal Services Act 2000 (c. 26), section 61 of the Local Government Act 2003 (c. 26), section 1177 of, and paragraph 207 of Schedule 1 to, the Corporation Tax Act 2010 (c. 4), section 91(1) of, and paragraph 131 of Schedule 12 to, the Postal Services Act 2011 (c. 5), section 1(1) to (4) of the Telecommunications Infrastructure (Relief from Non-Domestic Rates) Act 2018 (c. 1) and section 1 of the Non-Domestic Rating (Public Lavatories) Act 2021 (c. 13).

(13) Section 45 of the Act was amended by section 139 of, and paragraph 23 of Schedule 5 to, the Local Government and Housing Act 1989 (c. 42), section 117(1) of, and paragraph 63 of Schedule 13 to, the Local Government Finance Act 1992, section 1 and section 2(2) of, and Schedule 2 to, the Rating (Empty Properties) Act 2007 (c. 9) and section 2 of the Telecommunications Infrastructure (Relief from Non-Domestic Rates) Act 2018.

(14) Section 54 of the Act was amended by section 3(2) of the Telecommunications Infrastructure (Relief from Non-Domestic Rates) Act 2018.

(15) S.I. 2016/1247 (W. 295).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations come into force on 31 December 2022 and apply in relation to Wales.

These Regulations prescribe rules to be used to find the chargeable amount for cases which fall within the descriptions prescribed in the Regulations.

The prescribed rules apply to a chargeable day falling within the period of five years beginning on 1 April 2023 and ending on 31 March 2028 (“the relevant period”). A chargeable day is defined in regulation 2.

The prescribed rules apply to defined hereditaments. A defined hereditament is a hereditament shown in a local list or in a central list on 31 March 2023, the relevant day and every day between. Where a hereditament is removed from a local list or a central list, subject to any appeals, the prescribed rules do not apply to the hereditament from the day on which the removal took effect. Such a removal would not impact the application of the prescribed rules to the hereditament prior to the day on which the removal took effect.

The prescribed rules reduce the increase in a ratepayer’s liability as a result of the 2023 revaluation. Regulation 4 provides the calculations for the chargeable amount for the hereditament on 31 March 2023 (the base liability). This is the day before the new lists compiled on 1 April 2023 have effect. 0.535 is the non-domestic rating multiplier calculated for the financial year 2022-23 under paragraph 3B of Schedule 7 to the Act.

Regulation 6 provides the formula for finding the notional chargeable amount (“NCA”). This is the chargeable amount which would apply for the defined hereditament on 1 April 2023 if the prescribed rules did not apply. There are two formulae in regulation 6 to reflect the possibility that the prescribed rules apply to ratepayers in receipt of small business rate relief and ratepayers who do not receive such relief.

The formula to find the NCA uses the rateable value, non-domestic rating multiplier and, where necessary, E, as they are on 1 April 2023. E is the figure prescribed by the Welsh Ministers in the Non-Domestic Rating (Small Business Relief) (Wales) Order 2017 (S.I. 2017/1229) (W. 293) which applies to the hereditament in question on 1 April 2023. The fact that the relevant day for which the chargeable amount is being calculated may be later than 1 April 2023 does not change these figures. This is because the reduction in liability is based on a proportion of the increase in liability between 31 March 2023 and 1 April 2023 due to the compilation of the new lists.

Regulation 7 modifies regulation 6 in the event that a change to the rateable value for a hereditament takes effect during the relevant period but from a day after 1 April 2023. It operates so that the NCA, used for the purposes of regulations 8 and 9(a) and the formulae in regulations 14 and 15, is calculated using the new rateable value rather than the rateable value on 1 April 2023. The non-domestic rating multiplier and E will remain as they were on 1 April 2023.

Part 3 prescribes the descriptions of cases to which the prescribed rules apply. Regulations 9 and 10 both have to be read in conjunction with regulation 8. Regulation 9(a) provides that for the prescribed rules to apply, the base liability must have increased by more than £300. Regulation 9(b) requires the same person to have occupied the defined hereditament in order to be eligible for a reduction. Where occupation of the hereditament changes on 1 April 2023 or at any later date during the relevant period, the prescribed rules do not apply.

Regulation 10 describes cases where the prescribed rules do not apply. Regulation 10(a) addresses the possibility of an unoccupied hereditament falling within the cases in section 45A(2) or (3) of the

Act (charities and registered community amateur sports clubs). In such a case, the ratepayer's liability would be zero in accordance with section 45A(1) of the Act. Regulation 10(b) addresses the situation where a part of a hereditament is unoccupied and the billing authority has required the valuation officer to apportion the rateable value of the hereditament between the occupied and unoccupied parts of the hereditament under section 44A(1) of the Act. The prescribed rules do not apply to such a case. No reduction in chargeable amount is therefore available where such an apportionment applies to a defined hereditament and has effect in relation to the chargeable amount.

Where a defined hereditament is a case which falls within all of the descriptions prescribed in regulation 9 and does not fall within the descriptions in regulation 10, the rules prescribed in regulations 12 to 16 apply. These rules are to be used to find the chargeable amount for a chargeable day.

The first step under regulation 12 is to calculate the chargeable amount for the hereditament under section 43 of the Act for occupied hereditaments, section 45 of the Act for non-occupied hereditaments and section 54 of the Act for hereditaments shown in the central list. The second step is to reduce that amount by the amounts calculated under whichever of regulations 14 to 16 applies.

Regulations 14 and 15 provide a phased reduction in chargeable amounts during the period beginning on 1 April 2023 and ending on 31 March 2025. In the first year, the chargeable amount is reduced by an amount equal to 67% of the increase in liability between 31 March 2023 and 1 April 2023. In the second year the chargeable amount is reduced by 34% of the increase in liability between 31 March 2023 and 1 April 2023. The reduction in chargeable amount is calculated for each relevant day, with the figure 366 used in regulation 14 to reflect that 2024 is a leap year. Regulation 16 provides that during the period beginning on 1 April 2025 and ending on 31 March 2028 the chargeable amount is that found under section 43 of the Act for occupied hereditaments, section 45 of the Act for non-occupied hereditaments, and section 54 for hereditaments shown in the central list (i.e. there is no reduction for those financial years).

Regulation 13 ensures that the prescribed rules do not reduce the chargeable amount to below zero.

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 Policy Division, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.