

Explanatory Memorandum to The Non-Domestic Rating (Heat Networks Relief) (Wales) Regulations 2024

This Explanatory Memorandum has been prepared by the Non-Domestic Rates Policy & Reform Division and is laid before Senedd Cymru 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 (Heat Networks Relief) (Wales) Regulations 2024. I am satisfied that the benefits justify the likely costs.

Rebecca Evans MS
Minister for Finance and Local Government
17 January 2024

PART 1: EXPLANATORY MEMORANDUM

Description

1. Paragraph 6 of Schedule 4ZA to the Local Government Finance Act 1988 (“the 1988 Act”) includes provision for a non-domestic rating (NDR) heat networks relief. The Non-Domestic Rating (Heat Networks Relief) (Wales) Regulations 2024 (“the Regulations”) give effect to that relief by defining ‘heat network’ and specifying conditions to be satisfied when determining eligibility for this full relief from NDR liability.

Matters of special interest to the Legislation, Justice and Constitution Committee

2. None.

Legislative background

3. The Non-Domestic Rating Act 2023 (“the 2023 Act”), which gained Royal Assent on 26 October 2023, made provision for a new full relief from NDR liability for eligible heat networks.
4. Section 1 of the 2023 Act inserted Schedule 4ZA into the 1988 Act, with the section commencing on Royal Assent and its provisions having effect in relation to financial years from 1 April 2024. Paragraph 6 of Schedule 4ZA to the 1988 Act provides for full relief from NDR liability where a hereditament on a local rating list is wholly or mainly used for the purposes of a heat network. Any conditions to be satisfied to be eligible for the relief, and the definition of “heat network”, are to be prescribed in regulations made by the appropriate national authority.
5. The power to make the Regulations is conferred on Welsh Ministers by paragraph 6(1)(b) and (2) of Schedule 4ZA to the 1988 Act. Paragraph 11(b) confirms that the Welsh Ministers are the ‘appropriate national authority’ for the purposes of paragraph 6(1)(b) and (2).
6. The Regulations are subject to the negative procedure by virtue of section 143(3) of the 1988 Act.

Purpose and intended effect of the legislation

7. The purpose of the Regulations is to prescribe the conditions for full relief from the chargeable amount of NDR for low-carbon heat networks. The Regulations are intended to support the development and growth of the low-carbon heat sector that is anticipated over the next decade, by helping to minimise the financial barriers to the establishment of heat networks. This is intended to help support the transition away from the use of fossil fuels and the decarbonisation of heat and aligns with the [proposed Heat Strategy for Wales](#).

8. The Regulations define a heat network as a facility which supplies thermal energy from a central source to other locations, for the purposes of space heating, space cooling or heating domestic hot water.
9. The relief will be applicable if, for the 12 months following the chargeable day concerned (as defined in section 43(3) of the 1988 Act), it appears to the billing authority that the thermal energy supplied by the heat network will be generated from a low-carbon source. A low-carbon source is defined in the Regulations as a source which is at least:
 - a. 75% cogenerated heat (the simultaneous generation of thermal energy, along with electrical or mechanical energy, in one process),
 - b. 50% renewable heat (thermal energy generated by excepted renewables plant and machinery, as defined in paragraph (e) in Class 1 of the Schedule to the Valuation for Rating (Plant and Machinery) (Wales) Regulations 2000),
 - c. 50% waste heat (thermal energy unavoidably generated as a by-product of another process, which would have no use other than for the purposes of a heat network), or
 - d. 75% a combination of the sources above.
10. This definition is largely based on that which is widely recognised and understood in the heat network sector, and used for other purposes (such as the Heat Networks Investment Project). It will be the responsibility of billing authorities to determine eligibility for relief as part of their role in administering NDR. It is anticipated that billing authorities will require ratepayers to complete a declaration confirming that their heat network supplies thermal energy which meets the conditions for relief.

Consultation

11. The Welsh Government undertook a consultation on a package of measures to provide renewable energy rates support including the proposed relief. The consultation took place from 23 May to 15 August 2023 and received 33 responses from a range of stakeholders including individual businesses, members of the public who may also be ratepayers, representative bodies for sectors of the tax-base, professional rating or taxation representatives, and local government. Consultation responses were broadly in support of proposals. A summary of responses was published on 16 October 2023. The consultation documents and a summary of the responses are available at: <https://www.gov.wales/renewable-energy-rates-support>.

PART 2: REGULATORY IMPACT ASSESSMENT

Options

This Regulatory Impact Assessment (RIA) presents two options in relation to heat networks relief. The options considered are as follows.

- **Option 1 – Do nothing.** Retain the existing arrangements and not provide heat networks relief.
- **Option 2 – Make the Regulations.** Legislate to incentivise growth in the low-carbon heat network sector by providing relief.

Costs and benefits

Option 1 – Do nothing

Option 1 would not require any legislative change. No heat networks relief would be provided. There would be no administrative costs for billing authorities.

Ratepayers in Wales would be at a disadvantage compared with those in England, where heat networks relief will be provided. There would be a risk that investment in the sector that would have otherwise occurred in Wales would either no longer occur or instead occur in England. This option would not support the Welsh Government's policy aim of supporting ratepayers investing in renewable energy and would not contribute towards the aims of the Heat Strategy for Wales.

Option 2 – Make the Regulations

Option 2 would be to make the Regulations to give effect to heat networks relief and support growth and investment in low-carbon heat. Eligible ratepayers would benefit from full relief from their NDR liability.

This option would provide ratepayers in Wales with the same incentive as those in England in relation to the use of low-carbon heat networks. This will help to support wider renewable energy ambitions and progress towards net-zero.

Implementing heat networks relief will result in minimal administrative costs for some billing authorities associated with software changes and billing updates. Due to the small number of ratepayers benefitting from the relief, these costs will be negligible. The relief has been designed to operate on the same basis across Wales and England, which would further minimise these impacts.

There is an estimated £100,000 annual reduction in revenue paid into the NDR pool associated with this option. This is a very small proportion of the £1.1bn in revenue raised annually by NDR.

Option selection

The benefits of Option 2 are considered to outweigh the associated costs, as well as the benefits of Option 1. Option 2 is, therefore, the Welsh Government's preferred option.

Duties

Well-being of Future Generations (Wales) Act 2015. Incentivising the use of low-carbon heat through heat networks relief contributes towards the wellbeing goals of a prosperous Wales, a globally responsible Wales, and a resilient Wales.

UNCRC. No particular impact on the rights of children has been identified.

Welsh language. No effect on the opportunities to use the Welsh language or the equal treatment of the language has been identified.

Equalities. No specific impacts, positive or negative, on persons who share a protected characteristic (as determined by the Equality Act 2010) have been identified.

Voluntary sector. No specific impacts on the voluntary sector have been identified.

Justice. No specific impacts on the justice system have been identified.

Competition assessment

A competition filter test has been applied to the Regulations and the risk of a significant detrimental impact on competition is considered to be low.

Post-implementation review

The Welsh Government will work with billing authorities to monitor eligibility for the relief.