

Explanatory Memorandum to the Non-Domestic Rating (Small Business Relief) (Wales) Order 2016

This Explanatory Memorandum has been prepared by Local Government Finance Policy 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 (Small Business Relief) (Wales) Order 2016.

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Minister for Economy, Science and Transport
18 January 2016

1. Description

The Non-Domestic Rating (Small Business Relief) (Wales) Order 2015 (“the 2015 Order”) provides for a rates relief scheme for small businesses in Wales.

The 2015 Order replaced the previous small business rates relief scheme in Wales (which had been in operation since 2008) and provided for an enhanced temporary rates relief scheme. The enhanced temporary rates relief scheme was originally introduced in 2010 but had been extended on an annual basis. The 2015 Order did not change the previously existing levels of relief available but restructured and simplified the provisions to make them clearer to understand and apply.

The Non-Domestic Rating (Small Business Relief) (Wales) (Amendment) Order 2016 (“the 2016 Order”) amends the 2015 Order to extend the application of the temporary rates relief scheme to 31 March 2017.

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

None.

3. Legislative background

The powers enabling Welsh Ministers to make a Small Business Rates Relief Scheme are contained in sections 43(4B)(b), 44(9)(b), 143(1) and 146(6) of the Local Government Finance Act 1988.

The functions of the Secretary of State, so far as they are exercisable in relation to Wales, transferred to the National Assembly for Wales by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1996/672, article 2, Schedule 1). These functions were subsequently vested in the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.

A small business rates relief scheme was first introduced in Wales via the Non-Domestic Rating (Small Business Relief) (Wales) Order 2008 (SI 2008/2770) (“the 2008 Order”) which made provision for the levels of relief available to small businesses in Wales. The scheme was amended by the Non-Domestic Rating (Small Business Relief) (Wales) (Amendment) (No 2) Order 2010 (SI 2010/2223) to make provision for an increase in the level of relief available to businesses with premises with a rateable value of up to £12,000. The temporary scheme allowed for full rates relief in respect of business premises with a rateable value of up to £6,000, and for tapering relief in respect of business premises with a rateable value between £6,001 and £12,000. Whilst this increase in the provision of relief was temporary and initially applied from 1 October 2010 to 30 September 2011, its application has been extended annually.

Further amendments to the 2008 Order extended this temporary relief annually, until the 2015 Order was introduced which restructured and simplified the small business rates relief scheme provisions as well as extending the temporary relief provisions for a further year.

The 2016 Order amends the 2015 Order to extend the provision of the enhanced temporary relief for a further twelve months, to 31 March 2017.

4. Purpose and intended effect of the legislation

The non-domestic rating system in Wales applies to all forms of non-domestic property including property owned or occupied by public sector organisations, not-for-profit organisations and charities (certain categories of property are exempted). However, the Small Business Rates Relief Scheme and the temporary rates relief scheme apply only to particular categories of rateable property which are occupied for business purposes.

The provision of a rates relief scheme for small businesses in Wales is an essential part of the Welsh Government's policy to support smaller businesses and to provide assistance to certain businesses that are important for local communities.

The 2015 Order revoked and re-enacted, with amendments, the 2008 Order, to provide for the continuance of a small business rates relief scheme and a temporary rates relief scheme. In addition, the 2015 Order restructured and simplified the provisions as follows:

- Part A contains general provision which include the definition of properties which are excepted from the small business rates relief scheme;
- Part B makes provision for a small business rates relief scheme but is subject to the temporary rates relief scheme provided for in Part C;
- Part C makes provision for a temporary rates relief scheme which is to apply from 1 April 2015 to 31 March 2016;
- Part D provides for information to be included in the notice to be given to billing authorities, the time within which such a notice is to be served and the method of service.

In order to qualify for relief under Part B or Part C of the 2015 Order, business premises must:

(a) be fully occupied;

(b) not be an excepted premises as defined by the 2015 Order (ie. those occupied by a council, a police and crime commissioner, or the Crown; those occupied by charities, registered clubs, or not-for-profit bodies whose main objectives are philanthropic, religious, concerned with education, social welfare, science, literature or the fine arts; beach huts; property which is used exclusively for the display of advertisements, parking of motor vehicles, sewage works or electronic communications apparatus); and

(c) have a rateable value of £12,000 or less.

The means by which the reduction in rates is achieved is by altering the value of E in the legislative formula which applies to the calculation of the daily rate payable. In general E (a denominator) is 1. Thus, for example, changing E to 2 results in the

daily rate being halved; and changing E to 5,000,000 results, in effect, in nothing being payable.

Subject to the limitations detailed above, the following premises are eligible to receive relief prescribed by Part B of the 2015 Order as this is more beneficial to them:

- all post offices;
- child care premises with a rateable value over £9,000;
- retail premises with a rateable value between £10,500 and £11,000;

All credit unions, and retail premises with rateable values between £11,001 and £12,000, are eligible to receive relief prescribed by Part C of the 2015 Order as this is more beneficial to them.

Under the current provisions, the temporary relief scheme comes to an end on 31 March 2016. The purpose of the 2016 Order is to extend the temporary relief scheme until 31 March 2017.

5. Consultation

Ministers have agreed to extend the temporary relief scheme for another financial year.

The intention is to make the 2016 Order before the end of January 2016 to allow Local Authorities to prepare rates bills for businesses for the year 2016-17.

Local Authorities, relevant stakeholders and other interested parties have been notified that the 2016 Order simply continues the existing schemes and does not change the existing levels of relief available.

As no change to the levels of relief is being made by the 2016 Order, no consultation is required.

6. Regulatory Impact Assessment

A regulatory impact assessment has not been produced for this instrument as the 2016 Order simply continues the existing small business rates relief thresholds.

The Order has no impact on:

(a) the statutory duties of the Welsh Ministers concerning equality of opportunity (section 77 of the Government of Wales Act 2006), the Welsh language (section 78) and sustainable development (section 79); and

(b) the local government, voluntary sector and business schemes made under sections 73, 74 and 75 of the Government of Wales Act 2006 respectively.