

Explanatory Memorandum to the Non-Domestic Rating (Small Business Relief) (Wales) Order 2015

This Explanatory Memorandum has been prepared by Local Government Finance and Performance 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 2015.

Edwina Hart
Minister for Economy, Science and Transport
11 February 2015

1. Description

The Non-Domestic Rating (Small Business Relief) (Wales) Order 2008 (“the 2008 Order”) sets out the legislative framework for the operation of a Small Business Rate Relief Scheme in Wales. In 2010, the 2008 Order was amended to make provision for an increase in the level of small business rate relief to certain categories of ratepayer (“the temporary rate relief scheme”).

The temporary rate relief scheme was originally intended to apply between 1 October 2010 and 30 September 2011 but has continued to apply to date. This has been achieved by amending the 2008 Order annually – the latest Order was made in March 2014 and will cease to have effect on 31 March 2015. However, a consequence of the amendment Orders is that the legislation has now become difficult to navigate.

The Non-Domestic Rating (Small Business Relief) (Wales) Order 2015 (“the 2015 Order”) revokes and re-enacts with amendments the 2008 Order to make provision for the continuance of a small business rate relief scheme and a temporary rate relief scheme. The 2015 Order does not change the existing levels of relief available. The temporary rate relief scheme will run from 1 April 2015 to 31 March 2016. In addition, the 2015 Order restructures and simplifies the provisions to make them clearer to understand and apply.

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 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. The Non-Domestic Rating (Small Business Relief) (Wales) Order 2008 (SI 2008/2770) was amended by the Non-Domestic Rating (Small Business Relief) (Wales) (Amendment) (No 2) Order 2010 (SI 2010/2223) (“the 2010 (No 2) Order”).

The purpose of the 2010 (No 2 Order) was to make provision for an increase in the level of relief to enable business premises with a rateable value up to £6,000 to receive full relief on their rates bills, and for this relief to be reduced on a tapering basis for most businesses with a rateable value between £6,001 and £12,000. Whilst this increase in the provision of relief initially applied from 1 October 2010 to 30 September 2011, its application has been extended annually.

Previous extensions to the 2010 (No 2) Order are as follows:

- The Non-Domestic Rating (Small Business Relief) (Wales) Amendment Order 2011 (SI 2011/995) extended the relief from 31 March until 30 September 2012;
- The Non-Domestic Rating (Small Business Relief) (Wales) Amendment Order 2012 (SI 2012/465) extended the relief for a further six months until 31 March 2013;
- The Non-Domestic Rating (Small Business Relief) (Wales) Amendment Order 2013 (SI 2013/371) extended the relief from 31 March 2013 until 31 March 2014;
- The Non-Domestic Rating (Small Business Relief) (Wales) Amendment Order 2014 (SI 2014/372) extended the relief from 31 March 2014 until 31 March 2015.

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 rate relief scheme apply only to particular categories of rateable property which are occupied for business purposes.

The provision of a rate 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 Non-Domestic Rating (Small Business Relief) (Wales) Order 2015 revokes and re-enacts with amendments the 2008 Order, to provide for the continuance of a small business rate relief scheme and a temporary rate relief scheme.

In addition, the 2015 Order restructures and simplifies the provisions as follows:

- Part A contains general provision which include the definition of properties which are excepted from the small business rate relief scheme;
- Part B makes provision for a small business rate relief scheme but is subject to the temporary rate relief scheme provided for in Part C;
- Part C makes provision to extend the temporary rate relief scheme 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 limitation 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.

5. Consultation

Ministers have agreed to revoke and remake the 2008 Order to provide clarity to Local Authorities and ratepayers about the application of the available reliefs under the rate relief schemes, and to extend the temporary relief scheme for another financial year.

The intention is to make the 2015 Order before the end of February 2015 to allow Local Authorities to prepare rates bills for businesses for the year 2015-16.

Local Authorities, relevant stakeholders and other interested parties have been notified that the 2015 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 2015 Order, no consultation is required.

6. Regulatory Impact Assessment

A regulatory impact assessment has not been produced for this instrument as the 2015 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.