

EXPLANATORY MEMORANDUM & REGULATORY IMPACT ASSESSMENT

Explanatory Memorandum to The Non-Domestic Rating (Small Business Relief) (Wales) (Amendment) Order 2007

This Explanatory Memorandum has been prepared by Local Government Finance Division and is laid before the National Assembly for Wales.

- (i) **Description**
The Non-Domestic Rating (Small Business Relief) (Wales) Order 2006 which makes provision for a small business rates relief scheme in Wales excepts certain self-catering properties (not including caravans) from gaining relief under the scheme. This amendment to the Order removes this exception, making those properties eligible to receive relief on the same basis as other businesses, and backdates any entitlement to 1st April 2007.
- (ii) **Matters of special interest to the Subordinate Legislation Committee**
Legal Services Department have advised that whilst it is not usual to make legislation retrospective, they consider the fact that the amendment confers a benefit and not a burden is a sufficient justification for the Assembly Government to make legislation with retrospective effect. The Legal Adviser to the then Parliamentary Service has agreed with this advice and pointed out that whilst any retrospective effect will have to be formally reported, no adverse comment will be made.
- (iii) **Legislative Background**
Welsh Ministers have powers to introduce and amend the Small Business Rates Scheme under sections 43(4B)(b), 44(9) and 143(1) and (2) of the Local Government Finance Act 1988.
- (iv) **Purpose and intended effect of the legislation**
The provision of a rate relief scheme to small businesses in Wales is an essential part of the Assembly Government's social policy, particularly to ensure that businesses are sustainable in deprived communities. The self-catering sector is an integral part of the tourism industry and makes a significant economic contribution - particularly in rural parts of the country, and it should be given comparable treatment to other small businesses in Wales for the purposes of rate relief.

The Small Business Rate Relief Scheme replaced the Rural Rate Relief Scheme from 1 April 2007. It provides

- 50 per cent relief for businesses with a rateable value of £2,000 or less;

- 25 per cent relief for businesses with a rateable value between £2,001 and £5,000;
- 100 per cent relief for post offices (and hereditaments that include post offices) with a rateable value of £9,000 or less; and,
- 50 per cent relief for post offices (and hereditaments that include post offices) with a rateable value between £9,001 and £12,000.

The effect of this amendment to the Small Business Rate Relief Order will be to make all self catering businesses eligible to receive relief on the same basis as other businesses, and to backdate this entitlement to 1st April 2007.

(v) **Implementation**

This legislation should be made as soon as possible because it is being applied retrospectively to 1st April 2007. Ratepayers who will become entitled to relief as a result of this amendment will continue to pay the standard business rate and will not receive any refunds until this legislation comes into force.

(vi) **Consultation**

Following representations on the exception of this class of business from the scheme, the Assembly Government undertook a consultation about the impact of excluding this particular business sector from gaining relief. The consultation took place between 7 March and 27 April 2007.

Regulatory Impact Assessment –

(a) **Options (for achieving the policy objective – as set out in paragraph (iv) above) -**

The other option was to make no change, in which case the benefits described in para (b) below would not be realised.

(b) **Benefits**

The effect of this amendment to the Small Business Rate Relief Order will be to make self catering businesses, dependent upon their rateable value, eligible to receive relief on the same basis as other businesses, and to backdate this entitlement to 1st April 2007.

Based on data provided by the Valuation Office Agency, an estimated 2,870 businesses will now benefit from the scheme.

(c) **Costs**

The intention was that the small business rate relief scheme as originally implemented should be broadly within the cost envelope of the rural rate relief scheme that it replaced – approximately £17 million

in forgone non-domestic rating (NDR) income. However, there were some unknowns in preparing the estimate of the costs of the scheme, the main ones being that we did not know the number of small businesses that would be ineligible for small business relief and we did not know what use local authorities would make of their discretionary powers to grant hardship relief (which is 75% funded by the Assembly Government) to help businesses that suffered hardship as a result of the ending of the rural rate relief scheme.

Estimates received from local authorities indicate that the scheme will cost around £14 million this financial year. Little use appears to have been made of the discretionary hardship powers.

The cost of granting relief to all self catering businesses this year backdated to 1st April 2007 is estimated at around £1.7 million based on statistics provided by the Valuation Office Agency as at 31 March 2007 so the cost of the scheme as amended should remain within the £17 million cost envelope.

There should be no additional costs for local authorities, and the amending of the affected rates bills met from within their existing administrative resources

(d) Competition Assessment

This has been scored against the competition filter test which indicated that there should be no detrimental effect on competition,

(e) Consultation

The consultation resulted in over 80 responses from local authorities, other organisations and individuals within the self-catering industry. The responses were conclusively in favour of including self catering properties within the Scheme.

After consideration of the consultation responses the Minister for Social Justice and Public Service Delivery announced on 12 June 2007 in a statement during a plenary session of the Assembly that the Order will be changed to allow all self catering businesses, dependent upon their rateable value, to be eligible for non-domestic rating relief on the same basis as other businesses, and that this will be backdated to 1st April 2007.

(f) Post implementation review

The Welsh Assembly Government will review the operation and costs of the scheme on an annual basis. It will compare the audited returns from local authorities of the amount of relief that they have given by October each year to the original estimates.

The operation of the scheme will be discussed at meetings of the Local Taxation Working Group, which is attended by local authority and Assembly officials.