

EXPLANATORY MEMORANDUM TO

The Valuation for Rating (Plant and Machinery) (Wales) (Amendment) Regulations 2010.

1. This Explanatory Memorandum has been prepared by the Local Government Finance Division and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

2. Purpose of Instrument

These Regulations amend the Valuation for Rating (Plant and Machinery) (Wales) Regulations 2000 (“the 2000 Regulations”) by inserting a new regulation 2A.

The new provision applies to any plant and machinery installed on or after 1 April 2010 and has effect between the date of installation and the date of the first five-yearly compilation of rating lists of non-domestic hereditaments thereafter. The purpose of the amendment is to provide that ratepayers who install plant and machinery with the capacity to generate amounts of electricity or heat below certain thresholds (“microgeneration capacity”) will not see any increase in their rates bills as a consequence until the next five-yearly revaluation.

3. Matters of special interest to the Subordinate Legislation Committee

None.

4. Legislative Background

Regulation 2 of the 2000 Regulations provides that the classes of plant and machinery listed in the Schedule to the Regulations are to be treated as being part of a non-domestic hereditament and therefore relevant to its value for the purposes of rates. Any other plant and machinery present at the hereditament is not relevant to its value.

New regulation 2A will apply to valuations for days on or after 1 April 2010 and has broadly the same effect. However, it also provides that where plant and machinery which is otherwise relevant to a hereditament’s value has microgeneration capacity, that capacity is not relevant to the value. The definition of “microgeneration capacity” for these purposes is based on the definition in section 26 of the Climate Change and Sustainable Energy Act 2006

Section 143(2) of, and paragraph 2(8) of Schedule 6 to, the Local Government Finance Act 1988 gives the Secretary of State the power to make regulations providing that prescribed assumptions as to a hereditament are to be made, for the purpose of valuation for non-domestic rating.

These powers were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999, and by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 these powers are now vested in the Welsh Ministers.

The Regulations will follow the negative procedure.

5. Policy Background

Micro generators, as defined by the Climate Change and Sustainable Energy Act 2006 are generally considered to be a sustainable method of energy production, but their installation may increase the rateable value of properties at the time of installation, thereby increasing in the amount of rates paid by the occupier or owner. This is because, although all non-domestic properties are revalued every five years, in between revaluations, valuation officers are responsible for maintaining an up to date list of the rateable values of non-domestic properties.

This instrument replicates in Wales the Valuation for Rating (Plant and Machinery) (England) (Amendment) Regulations 2008 SI 2332 – 2008, made in England last year, which provide that where plant and machinery which is assumed to be part of a non-domestic property has microgeneration capacity, that capacity will not affect the rateable value. This will continue until the first revaluation of properties for the purposes of compiling new rating lists after the plant and machinery is installed, and will ensure that properties installing this equipment in Wales are valued in the same way as those in England.

The effect of this will be that ratepayers who install this equipment between the 5-yearly statutory revaluations will not have increased rates bills as a consequence of installing this equipment until the revaluation following their installation, thereby in the short term removing a possible financial disincentive to the installation of this equipment.

6. Implementation

If this legislation is not made, business premises in Wales that install plant and machinery with microgeneration capacity may have their valuation amended to take into account any consequential additional value from the date of the installation, and so their non domestic rates liability could increase from that day instead of deferring it until the subsequent statutory 5-yearly revaluation..

7. Consultation

The draft regulations were published for consultation between 28 September and 20 November 2009. Three responses were received – none were opposed to the draft regulations, Bridgend County Borough Council supported them, the Royal Institute of Chartered Surveyors and the renewable Energy Association supported them, but

wanted them to go further, for example by permanently discounting any value that these installations add to rateable values, and making similar provision for other types of sustainable energy provision. These suggestions were not adopted, as the Assembly Government would have to fund any changes that are more generous than those being made in England, and any additional changes would be complex to make, would require an evaluation as to their feasibility and impact, and would therefore have delayed the making of the proposed regulations.

8. Regulatory Impact Assessment –

A regulatory impact assessment has not been produced for this instrument as no impact on the business, public or voluntary sectors is foreseen.