

# The Welsh Government's Legislative Consent Memorandum on the Non-Domestic Rating (Public Lavatories) Bill

June 2020

## 1. Background

### The UK Government's Non-Domestic Rating (Public Lavatories) Bill

1. The UK Government's Non-Domestic Rating (Public Lavatories) Bill (the Bill)<sup>1</sup> was given its first reading in the House of Commons on 18 March 2020.

2. The explanatory notes to the Bill state:

“This Bill implements the commitments made by the Chancellors of the Exchequer at Budget 2018 and Budget 2020 to introduce a 100% mandatory business rates relief for public lavatories.”<sup>2</sup>

3. The Bill amends section 43 of the *Local Government Finance Act 1988* which sets out how a ratepayer's liability for non-domestic rates on an occupied property is to be calculated.

4. A similar Bill was introduced in the UK Parliament in June 2019.<sup>3</sup> Following the laying of the Welsh Government's Legislative Consent Memorandum (LCM) on the 2017-19 Bill<sup>4</sup>, the Senedd approved a legislative consent motion on that Bill on

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<sup>1</sup> [Non-Domestic Rating \(Public Lavatories\) Bill \(Bill 116\) 2019-21](#), as introduced

<sup>2</sup> [Non-Domestic Rating \(Public Lavatories\) Bill: Explanatory Notes](#), (Bill 116-EN) March 2020

<sup>3</sup> [Non-Domestic Rating \(Public Lavatories\) Bill \(HL Bill 185\) 2017-19](#), June 2019

<sup>4</sup> Welsh Government, [Legislative Consent Memorandum, Non-Domestic Rating \(Public Lavatories\) Bill](#), June 2019



16 July 2019.<sup>5</sup> However the Bill fell when the UK Parliament was prorogued in September 2019.

**5.** The 2019-21 Bill does not differ substantially from the 2017-19 Bill, and the policy intention remains the same. However, the 2019-21 Bill will have retrospective effect in relation to financial years beginning on or after 1 April 2020. Clause 3, which makes financial provision regarding lost business rates income to local authorities, is also new.

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**6.** In accordance with Standing Orders 29.1 and 29.2, an LCM is required because provisions within the Bill modify or fall within the Senedd's legislative competence.

**7.** On 7 May 2020 the Minister for Finance and Trefnydd, Rebecca Evans MS, laid before the Senedd an LCM<sup>6</sup> in respect of the Bill.

**8.** The Business Committee agreed that the Legislation, Justice and Constitution Committee and the Economy, Infrastructure and Skills Committee should report on the LCM by 2 July 2020.<sup>7</sup>

### Provision for which the Senedd's consent is required

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**9.** Paragraphs 10 to 12 of the LCM set out the Welsh Government's assessment of which provisions require the consent of the Senedd.

**10.** Annex A to the Bill's explanatory notes lists the clauses which the UK Government believes require consent.

**11.** The Welsh Government and the UK Government agree that all of the Bill's provisions require the consent of the Senedd in so far as they relate to Wales.

**12.** Paragraph 13 of the LCM set out the reasons for making the provisions for Wales in the Bill. The LCM states:

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<sup>5</sup> [Plenary, 16 July 2019](#)

<sup>6</sup> [Welsh Government, Legislative Consent Memorandum, Non-Domestic Rating \(Public Lavatories\) Bill, May 2020](#)

<sup>7</sup> [See Business Committee, Timetable for consideration of the Legislative Consent Memorandum on the Non-Domestic Rating \(Public Lavatories\) Bill, May 2020; and Revised Timetable for consideration of the Legislative Consent Memorandum on the Non-Domestic Rating \(Public Lavatories\) Bill, June 2020](#)

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“The possibility of making this change through a future Welsh Government Bill has been discounted because there is currently no suitable primary legislative opportunity which would allow the rates liability on public lavatories to be removed in Wales at the same time as in England. Including provisions for Wales within the Bill provides the zero-rating of liability for public lavatories in Wales and will reduce the cost of maintaining them and may help them to remain open.”<sup>8</sup>

**13.** The LCM concludes:

“It is the view of the Welsh Government that it is appropriate to deal with these provisions in this UK Bill for reasons of timing and coherence so that public lavatories in Wales are treated on an equivalent basis to those in England. This will contribute to the delivery of public health objectives.”<sup>9</sup>

## 2. Committee consideration

**14.** We considered the LCM at our meeting on 8 June 2020.<sup>10</sup>

### Our view

**15.** We note the Welsh Government's assessment of the provisions in the Bill which require Senedd consent. We also note the Welsh Government's reasons as to why, in its view, making provision for Wales in the Bill is appropriate.

**16.** Further, we note that the amendments made by the Bill, once enacted, will have effect in relation to financial years beginning on or after 1 April 2020, meaning that the Bill has retrospective effect.

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<sup>8</sup> Welsh Government, LCM, paragraph 13

<sup>9</sup> Welsh Government, LCM, paragraph 15

<sup>10</sup> [Legislation, Justice and Constitution Committee, 8 June 2020](#)

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