

Explanatory Memorandum to the Non-Domestic Rating (Multiplier) (Wales) Order 2020

This Explanatory Memorandum has been prepared by Local Government Strategic Finance Division and is laid before Senedd Cymru 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 (Multiplier) (Wales) Order 2020. I am satisfied that the benefits justify the likely costs.

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Minister for Finance and Trefnydd
12 November 2020

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PART 1: EXPLANATORY MEMORANDUM

1. Description

This Order sets the increase in the non-domestic rating (NDR) multiplier for Wales for the financial year 2021-22. It reflects the use of the Consumer Prices Index (CPI) rather than the Retail Prices Index (RPI) to calculate the multiplier.

Under the Local Government Finance Act 1988 (the 1988 Act), the annual increase in the multiplier should be calculated using the RPI figure for the September preceding the financial year to which the multiplier applies. For 2021-22, the RPI figure would have been 294.3.

The multiplier is applied to the rateable value (RV) of each non-domestic property to calculate its non-domestic rates bill. The Order applies the CPI figure in place of the RPI figure. This results in a smaller increase in the 2021-22 rates bills to be paid by businesses and other non-domestic property owners than would be the case if the RPI figure were used.

The formula used for calculating the NDR multiplier in a non-revaluation year is:

$$(A \times B) / C.$$

A is the multiplier for the preceding financial year

B is the RPI for September of the preceding financial year

C is the RPI for September of the financial year two years before.

Welsh Ministers may substitute a figure for B which is less than the RPI figure. As CPI is used as the measure for increasing the multiplier, B is calculated based on CPI.

The substituted figure for B is calculated dividing CPI from September of the preceding financial year by CPI from September of the financial year two years before and multiplying by RPI for September of the financial year two years before. For 2021-22, B has been calculated as 292.6.

This results in the multiplier for 2021-22 being 0.538 instead of 0.541.

2. Matters of Special Interest to the Legislation, Justice and Constitution Committee

Under the 1988 Act, an order which enables the multiplier to be increased at below the level of RPI must be approved by the Senedd through a made affirmative resolution procedure (paragraph 5(15) of Schedule 7 to the 1988 Act). Under the procedure, after the Order is made, it must be laid before the Senedd for approval.

The relevant provision specifically provides that the Order must be approved by the Senedd before the votes on the Local Government Finance Reports (the final local government settlement and final police settlement) take place, or before 1 March in the preceding financial year, whichever is earlier. The debate on the

local government settlement for 2021-22 is expected to take place in early March 2021.

3. Legislative background

Under the 1988 Act, for financial years in which new rating lists do not apply (i.e. all years which are not revaluation years), the default position for determining the non-domestic rating multiplier for Wales is to apply the formula set out in paragraph 3B to Schedule 7 to the 1988 Act. An element in that formula is the RPI for September of the financial year preceding the year concerned. The financial year beginning 1 April 2021 is not a revaluation year and therefore there will not be a new rating list.

Under paragraph 5(3) of Schedule 7 to the 1988 Act, the Welsh Ministers have the power to increase a multiplier at below the level of inflation as measured by RPI. It is this power which the Welsh Ministers propose to exercise in making this Order.

The Welsh Ministers have adopted the approach of increasing the multiplier using CPI rather than RPI for each financial year since 2018-19.

As the Welsh Government is diverging from the prescribed practice of increasing the multiplier by RPI, Ministers are required, under paragraph 5(15) of Schedule 7 to the 1988 Act, after making the Order to limit the increase at below RPI, to lay it before the Senedd for approval.

The Order is subject to a made/provisional affirmative procedure and must be approved by the Senedd for it to be effective. It is also a requirement of the 1988 Act that any such Order is approved before the local government finance reports (for unitary authorities and police and crime commissioners) are approved by the Senedd, or before 1 March in the preceding financial year, whichever is earlier. This requirement for prior agreement of the multiplier arises because it plays a vital part in calculating the total funding available in the annual settlements.

The debate on the Local Government Finance Report for unitary authorities for 2020-21 is expected to be scheduled for debate in early March 2021. The debate to approve the Order is scheduled to take place on 8 December 2020.

4. Purpose and Intended Effect of the Legislation

The Order will have the effect of increasing the NDR multiplier by CPI rather than RPI for the financial year 2021-22. By applying CPI for 2021-22, the multiplier will be set at 0.538.

This will mean that non-domestic property owners and occupiers in Wales will receive lower rates bills for 2021-22 than they would have if RPI was used.

Primary legislation does not currently provide the Welsh Ministers with powers to permanently change the rate of inflation used to calculate the multiplier from RPI to CPI. Therefore, the Order will apply for 2021-22 only.

Similar orders were made to effect the equivalent change for 2018-19 to 2020-21.

All owners or occupiers of non-domestic properties who pay rates will benefit from the change. Even properties which receive significant amounts of rates relief will benefit as the residual amounts will be calculated using a lower multiplier.

All the non-domestic rates collected in Wales are pooled centrally and distributed to unitary authorities and to police and crime commissioners as part of the annual local government settlements. The total amount to be distributed in this way is known as the Distributable Amount. It is calculated by applying the multiplier to the estimated national total of rateable value, taking account of any surplus or deficit carried forward from previous years.

The Distributable Amount is a key component of the annual local government revenue settlements and the 1988 Act requires that it is approved by the Senedd as part of the annual local government finance reports. The multiplier therefore needs to be determined before the annual settlements can be finalised.

There is a clear purpose to the policy behind the legislation. It is aimed at supporting economic growth and reducing the tax liability for businesses and other non-domestic ratepayers in Wales, ensuring they are not at a disadvantage compared to other parts of the United Kingdom.

Using CPI rather than RPI to increase the multiplier in Wales will reduce the income into the non-domestic rates pool in 2021-22. The reduction will be fully funded by the Welsh Government and will be reflected in the calculations for the local government settlements so that there is no financial impact on local authorities or police budgets.

CPI has been used to calculate the multiplier in Wales since 2018-19 and the Welsh Ministers have determined that CPI should be used to calculate the multiplier for future years. The use of CPI since 2018-19 has been achieved through annual orders. To make the change on a permanent basis requires primary legislation to amend the Local Government Finance Act 1988. Provisions are included in the Local Government and Elections (Wales) Bill to achieve this. It is expected that the amendment will have effect in time for the 2022-23 financial year.

5. Consultation

No consultation has been undertaken on the policy behind this Order. The policy position has not changed since this was agreed for the 2018-19 financial year. The proposals benefit all ratepayers in Wales and there is no impact on the resources available to local authorities.

PART 2: REGULATORY IMPACT ASSESSMENT

Options

Option 1 – Use RPI to increase the multiplier

This option would increase the multiplier for 2021-22 by RPI at September 2020 (1.1%), resulting in a multiplier of 0.541.

Option 2 – Increase the multiplier by the equivalent of CPI

This option would increase the multiplier for 2021-22 by CPI at September 2020 (0.5%), resulting in a multiplier of 0.538.

Costs and benefits

Option 1 – Use RPI to increase the multiplier

The following illustrates the effect of using RPI to increase the multiplier on the non-domestic rates bill of a property.

For example, if a property has a rateable value (RV) as assessed by the Valuation Office Agency of £15,000, the rates bill for 2020-21 (before any reliefs) would have been:

$$\text{RV } £15,000 \times 0.535 = £8,025$$

Applying RPI would result in an annual rates bill for 2021-22 of:

$$\text{RV } £15,000 \times 0.541 = £8,115$$

The increase in the annual charge would therefore be £90.

Option 2 – Increase the multiplier by the equivalent of CPI

This option would result in a lower increase in rates bills for all non-domestic properties than under RPI. Using the example from Option 1.

The rates bill for 2020-21 was:

$$\text{RV } £15,000 \times 0.535 = £8,025$$

An increase using CPI for 2021-22 would give a bill of:

$$\text{RV } £15,000 \times 0.538 = £8,070$$

The increase in rates for the property would therefore be £45, £45 less than if RPI were used.

The total saving to non-domestic ratepayers across Wales is estimated at around £7.3m, not accounting for the impact of relief schemes. This would be a recurrent saving as the multiplier cannot be increased at a level above RPI in future years. This saving is additional to the savings made from applying the same approach in each year since 2018-19.

Option selection

The cost of limiting the increase in the multiplier (Option 2) would be borne by the Welsh Government. There would be no financial impact on local authorities. The approach also means that ratepayers in Wales would not be at a disadvantage compared to other parts of the UK.

Option 2 is therefore the preferred option.

Analysis of other effects and impacts

Promoting Economic Opportunity for All (Tackling Poverty)

Limiting the increase in the multiplier provides support for all ratepayers which could help to prevent hardship.

UNCRC

No particular impact on the rights of children has been identified.

Welsh language

No effect on the opportunities to use the Welsh language or the equal treatment of the language has been identified.

Equalities

No specific impacts, positive or negative, on persons who share a protected characteristic (as determined by the Equality Act 2010) have been identified.

Well-being of Future Generations (Wales) Act 2015

Limiting the increase in the multiplier will assist all ratepayers and, as such, will help to contribute to the achievement of the wellbeing goals of a prosperous and a more equal Wales.

Impact on voluntary sector

Limiting the increase in the multiplier will benefit all ratepayers including those operating in the voluntary, charitable and not-for-profit sectors.

Competition Assessment

A competition filter test has been applied to the Order. As the change benefits all ratepayers, no effect on competition within Wales is indicated. Limiting the multiplier means that ratepayers in Wales are not placed at a disadvantage compared to other parts of the UK.

Post implementation review

The Welsh Government will monitor the impact of the change on the non-domestic rates pool.