Explanatory Memorandum to the Non-Domestic Rating (Multiplier) (Wales) Order 2018

This Explanatory Memorandum has been prepared by Local Government Strategic Finance 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 (Multiplier) (Wales) Order 2018.

Mark Drakeford AM
Cabinet Secretary for Finance
4 January 2018

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PART 1: EXPLANATORY MEMORANDUM

1. Description

This Order sets the increase in the non-domestic rating (NDR) multiplier for the financial year 2018-19. It reflects the use of the Consumer Price Index (CPI) rather than the Retail Price index (RPI) to calculate the multiplier.

The annual increase in the multiplier is usually set according to the RPI figure as at the September preceding the financial year to which the multiplier applies. For 2018-19 this would have been 3.9%.

The multiplier is applied to the rateable value (RV) of each non-domestic property to calculate its non-domestic rates bill. The effect of the Order is to reduce the increase in the 2018-19 rates bills to be paid by businesses and other non-domestic property owners across Wales.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

In this instance, the requirement of Standing Order 27.7, that the motion to approve the Order must not be considered until 20 sitting days have elapsed since the Order was laid, is not being complied with.

In the Autumn Budget on 22 November, the Chancellor announced that the UK Government would bring forward its planned use of CPI to uprate the multiplier in England, from 2020-21 to 2018-19.

Under the Local Government Finance Act 1988 (the 1988 Act), an order which enables the multiplier to be increased at below the level of RPI must be agreed by the Assembly through an affirmative resolution procedure (paragraph 5(15) of Schedule 7 to the 1988 Act).

The relevant provision specifically provides that the Order must be approved by the Assembly prior to the vote on the Local Government Finance Report (the local government settlement) taking place. The debate on the settlement is scheduled to take place on 16 January 2018. Given the timing of the Autumn Budget and the Assembly's Christmas Recess, the requirement in Standing Orders for the Order to be laid for at least 20 sitting days before being debated cannot be met.

Delaying the debate on the settlement has been considered but this could have an adverse effect on local authorities, giving them less time to set budgets for 2018-19 and increasing the risk of not meeting the statutory deadlines for issuing non-domestic rating bills.

3. Legislative background

Under the 1988 Act, the default position for determining the non-domestic rating multiplier for Wales is, for financial years in which new rating lists do not apply, 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 2018 is not a financial year for which a new rating list needs to be compiled.

However, 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.

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

The Order is subject to an affirmative resolution procedure and must be approved by the Assembly 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 (unitary authority and police and crime commissioners) are approved by the Assembly. This requirement for prior agreement of the multiplier arises because it plays a vital part in calculating the total funding available in the settlements.

The debate on the Local Government Finance Report for unitary authorities for 2018-19 (which sets out the settlement) is scheduled for 16 January 2018. The debate to approve the Order is also scheduled to take place on 16 January.

Assembly Standing Orders (27.7) require that an order subject to the affirmative resolution procedure must be laid for at least 20 (non-recess) days before it is debated, or it must be the subject of a report by the relevant Committee. The timing of the Autumn Budget, combined with the timing of the publication of the Final Budget and the requirement for the Assembly to approve the Order before approving the Local Government Finance Report, means it is not possible to comply with the requirement in Standing Orders for the Order to be laid for 20 days before it is debated.

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 2018-19. For 2017-18, the NDR multiplier is 0.499. If RPI were used to calculate the multiplier for 2018-19, the multiplier would be 0.518. By applying CPI for 2018-19 to CPI, the multiplier will be set at 0.514. This will mean that non-domestic property owners in Wales will receive lower rates bills for 2018-19 than they would have expected.

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 to increase the multiplier by CPI rather than RPI will apply for 2018-19 only.

All owners 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 due will be calculated using a lower multiplier.

All the non-domestic rates collected in Wales are pooled centrally and redistributed 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 Assembly 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.

It is estimated the effect of using CPI rather than RPI to increase the multiplier in Wales is to reduce income into the non-domestic rates pool by £9m in 2018-19. This loss of income is being fully funded by the Welsh Government and will be reflected in the calculations for the local government settlement so that there is no financial impact on local authorities.

5. Consultation

Given the timing of the Chancellor’s announcement, no consultation has been undertaken on the policy behind this Order. 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 see the multiplier increase to 0.518 in 2018-19. This is an increase of 3.9% which was the RPI at September 2017.

Option 2 – Increase the multiplier by the equivalent of CPI

This option would increase the multiplier for 2018-19 by CPI at September 2017 (2.8%), resulting in a multiplier of 0.514.

Option 3 – Utilisation of existing relief provisions

The existing legislation allows local authorities to provide relief to ratepayers within their areas where it can be demonstrated to be in the interests of other local taxpayers. This option would require all authorities to offer a complex system of relief.

Costs and benefits

Option 1 – Use RPI to increase the multiplier

Using RPI to increase the multiplier has the following effect on the non-domestic rates bill of a premises.

For example, if a property has a rateable value (RV), as assessed by the Valuation Office Agency, of £15,000, the rates bill for 2017-18 (before any reliefs) is:

RV   £15,000 x 0.499 = £7,485

Applying RPI would see the annual rates bill for 2018-19 increase to:

RV £15,000 x 0.518 = £7,770

The increase in the annual charge would therefore be £285.

There would be no direct cost to the Welsh Government of applying RPI as this is the usual basis on which the multiplier is increased. However, it would increase the overall cost of reliefs by approximately £8m.

Option 2 – Increase the multiplier by the equivalent of CPI

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

The rates bill for 2017-18 is:

RV £15,000 x 0.499 = £7,485

An increase using CPI for 2018-19 gives a bill of:

RV £15,000 x 0.514 = £7,710.

The increase in rates for the property is therefore £225, a reduction of £60 compared to using RPI.

The total saving to non-domestic ratepayers across Wales is estimated at £9m. This would be a recurrent saving as the multiplier cannot be increased at a level above RPI in future years. The approach means that ratepayers in Wales are not placed at a disadvantage compared to other parts of the UK.

The cost of limiting the increase in the multiplier to CPI would be borne by the Welsh Government. There would be no financial impact on local authorities.

Option 3 – Utilisation of existing relief provisions

Using the discretionary powers available to local authorities would be a much more complex and time-consuming way to achieve the same objective as limiting the increase to the multiplier.

There would be a need to:

- Secure the agreement of all authorities to provide a discretionary relief scheme which has the same effect on rates bills as applying CPI;
- Devise a suitable scheme to reimburse each authority;
- Implement changes to local authority billing and software systems; and
- Set aside a budget allocation to be managed outside the NDR pool.

Option selection

Option 2 is 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. Limiting the increase in the multiplier will not result in any reduction in funds available for local authorities as the change will be fully funded by the Welsh Government.

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

Equalities
Section 149(1) of the Equality Act 2010 requires the Welsh Ministers to have regard, in the exercise of their functions, to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the 2010 Act; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; foster good relations between people who share a relevant protected characteristic and people who do not share it.

For the purposes of section 149, the protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. No specific impacts, positive or negative, on persons who share a protected characteristic have been identified.

Well-being of Future Generations (Wales) Act 2015
Consideration has also been given to the wellbeing duty contained in section 3 of the 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 Wales is 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.