

REGULATORY APPRAISAL

LOCAL GOVERNMENT, WALES

THE LOCAL GOVERNMENT ACT 2003 (COMMENCEMENT NO. 1 AND SAVINGS) (WALES) ORDER 2006

Purpose and intended effect of the measure

1. The purpose of this Order is to bring into force section 63 of the Local Government Act 2003 on 1 April 2007. This section repeals, for Wales, the mandatory and discretionary rate relief provisions in sections 42A(1), 43(6B) and 47(3A) of the Local Government Finance Act 1988 through amending the existing provisions so that they apply to England only.
2. This Order will, together with three other Statutory Instruments (The Non-Domestic Rating (Small Business Relief) (Wales) Order 2006, The Non-Domestic Rating Contributions (Wales) (Amendment) Regulations 2006 and The Non-Domestic Rating (Demand Notices and Discretionary Relief) (Wales) (Amendment) Regulations 2006), replace the Rural Rate Relief Scheme with a small business rate relief scheme applicable to the whole of Wales.
3. The new scheme will provide rates relief as follows:
 - 50% for businesses with a rateable value of £2,000 or less;
 - 25% for businesses with a rateable value between £2,001 and £5,000;
 - 100% for post offices (and hereditaments, which include post offices) with a rateable value of £9,000 or less; and
 - 50% for Post offices (and hereditaments, which include post offices) with a rateable value between £9,001 and £12,000.
4. A hereditament is a property and interests in property which, for these purposes, are subject to business rates. The following hereditaments will not be eligible for relief under the scheme: advertising rights; beach huts; electronic communications equipment, sewage works; car parks and spaces; certain self-catering property let commercially (excluding caravans), Crown hereditaments; and hereditaments, which are occupied by billing or precepting authorities. In addition, some hereditaments, which may receive mandatory or discretionary rate relief by way of other provisions, will be excluded from relief under this scheme. These are:
 - (a) where the ratepayer is a charity and the hereditament is wholly or mainly used for charitable purposes;
 - (b) where the hereditament is occupied by a not-for-profit institution or organisation whose main object(s) is charitable or of a similar character;
 - (c) where the ratepayer is a registered community amateur sports club; and

- (d) where the premises are used for recreation and they are used by a club, society or other not-for-profit body.

All four are eligible for discretionary rate relief (i.e. where the relevant billing authority determines eligibility and the level of relief), but only those in (a) and (c) will receive alternative mandatory rate relief of 80%.

- 5. The relief under the proposed new scheme will be entirely funded by the Welsh Assembly Government and will be applied automatically to rate demand bills. There will be no need for businesses to apply.
- 6. 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. Extending rate relief to all parts of Wales means that small businesses in even poorest communities will get help to enable them to stay in business where they are most needed. The enhanced provision of relief for Post Offices will be a major contribution to the Assembly Government's policy of keeping Post Offices open.

Risk Assessment

- 7. The continuation of the existing Rural Rate Relief scheme in its current form beyond this date is no longer defensible. It was established in 1998, and extended very substantially in 2002 to provide additional help during the foot and mouth crisis to complement the Rural Recovery Plan. The Rural Recovery Plan ended in 2004 and, therefore, the rationale for providing rural rate relief at current levels no longer remains valid. The costs of the present relief scheme have risen from £0.48 million in 2001/02, to £17.5 million in 2004/05.
- 8. The Assembly Government has little control over the costs of the current rural rate relief scheme. This is because it funds 90% of the discretionary rate relief granted by local authorities in addition to all of the mandatory Rural Rate Relief. There is a real risk that the estimates for business rate yield and the amount redistributed back to local authorities could decrease with little warning should all local authorities decide to adopt the practices of the most generous authorities.

Options

Option 1: Do Nothing

- 9. The policy objectives described previously are being achieved through the package of these Regulations and the other Statutory Instruments listed in paragraph 2. In brief their purposes are as follows –
 - (a) The Local Government Act 2003 (Commencement No. 1 and Savings) (Wales) Order 2006 has the effect of repealing in Wales the primary and secondary legislative base for the existing rural rate relief scheme, and that scheme, therefore, will cease;
 - (b) The Non-Domestic Rating (Small Business Relief) (Wales) Order 2006 establishes the new small business rate relief scheme by identifying

those hereditaments, which are eligible or are ineligible and specifying the rate relief to be provided;

- (c) The Non-Domestic Rating (Demand Notices and Discretionary Relief) (Wales) (Amendment) Regulations 2006 make consequential amendments to the Regulations concerning demand notices and discretionary payments; and
- (d) The Non-Domestic Rating Contributions (Wales) (Amendment) Regulations 2006 ensure that if a billing authority decides to give discretionary rate relief in addition to the rate relief available under the proposed scheme, then the billing authority must fund the whole of such discretionary relief.

10. The four Statutory Instruments are, therefore, inter-dependent:

- not making (a) or (b) will prevent the substantive policy objective being achieved and will make (c) and (d) redundant;
- not making (c) will mean that demand notices are not accurate and that problems may be caused for billing authorities in that they will be unable to implement for 12 months any change to their discretionary scheme, which results in an increase in a ratepayer's payable rates; and
- not making (d) will impact upon the achievement of the policy objective of containing the cost of the proposed scheme within the current budget.

11. Therefore, if any of these Statutory Instruments are not made, the Assembly will not be able to implement the Small Business Rate Relief scheme.

Option 2: Make the Legislation

12. 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. Extending rate relief to all parts of Wales means that small businesses in even the poorest communities will get help to enable them to stay in business where they are most needed. The provision of full rate relief to post offices (including businesses, which incorporate a post office) with a rateable value up to £9,000, and 50% relief for those with a rateable of up to £12,000 will be a major contribution to the Assembly Government's policy of keeping Post Offices open.

Benefits

13. In addition to the benefits described in paragraph 12, it will be easier to estimate the overall business rate yield that is distributed to local authorities, and to monitor the effectiveness of the new scheme as it will be applied consistently across Wales, and detailed statistical information of the rateable values of businesses in each local authority are available.

Costs

14. There will be no additional costs for the Assembly or local authorities. The cost to the Assembly of the new scheme should be similar to the costs of the existing scheme (around £17.5 million). There should, though, be administrative savings for local authorities, as they will no longer be required to maintain and update rural settlement lists. As the new scheme is mandatory, there is no flexibility for local authorities to be progressively more generous, or discretion for them to apply it in different ways, the costs of the scheme will be more stable, and it will be much easier than the current scheme to monitor and estimate the cost for future years. The costs of meeting the scheme are deducted from the contribution that local authorities make to the non domestic rating pool.

Consultation

With Stakeholders

15. A consultation on the future of business rates relief was undertaken between 8 December 2005 and 3 March 2006. As part of the consultation, local authorities, local businesses and representatives of the business community were invited to a series of regional workshops to discuss the issues in Cwmbran, Builth Wells, Llandudno and Llanelli.

16. The responses to the above consultation largely supported the view that the current rate relief for small business in Wales lacked sufficient focus, and highlighted inconsistencies and inequities inherent in a scheme where entitlement depended on geographical location and was applied differently across Wales. In this context there was strong support for a scheme that included all areas of Wales.

17. A further consultation was undertaken on the proposed new scheme and draft Statutory Instruments between 14 September 2006 and 27 October 2006. (A list of consultees is attached at Annex 1 and a summary of the consultation responses is attached at Annex 2). In addition, having considered suggestions from local authority officials at a meeting of the Local Taxation Working Group, the Minister for Local Government and Public Services has made two changes to the proposed scheme:

- (i) the cut off points for receiving relief have been raised by £1; and
- (ii) commercially let self catering accommodation has been excepted from the scheme.

18. There was general support for the structure of the scheme, and for the additional relief for post offices. The main concerns focussed on businesses currently receiving rural rate relief that either have a rateable value over £5,000 and, therefore, will not qualify for relief under the new scheme, or businesses with a rateable value of £5,000 or less that will, therefore, receive a lower level of relief than at present. Suggestions as to how these business could be helped included keeping the current scheme as it is, providing transitional assistance, raising the thresholds for relief under the new scheme, and the amount of relief provided, and extending the rural rate relief scheme to include all business.

19. A number of representations from businesses that are likely to receive less relief under the new scheme were received. The majority of these were located in Wrexham, where the local authority operates a generous discretionary scheme, which exempts business in rural settlement areas with a rateable value under £12,000 from paying any rates. The council wrote to these businesses suggesting that they respond to the consultation. (They did not write an equivalent letter to those business that are likely to benefit from the new scheme)

With Subject Committee

20. The results of the first consultation were discussed by the Local Government and Public Services Committee on 30 March 2006 (LGPS(2)-06-06 Paper 4). The consultation paper for the new scheme, and the briefing for the Committee (LGPS(2)-12-06 Paper 2) constituted the analysis of the favoured scheme, and the Committee discussed these as part of the second consultation at its meeting on 21 September 2006. Extracts of the minutes of these meetings are attached at Annex 3. No changes to the scheme were proposed. Committee Members were also sent on 4 October 2006 a copy of the responses to the questions raised by a Committee Member, and the note on the Assembly's powers was sent on 6 November 2006.
21. The Committee discussed the outcome of the consultation and the draft Statutory Instruments on 23 November 2006 (LGPS(2)-16-06(p.3)). The Committee were content with the Order and no amendments were made. Several points of clarification were raised. These included assistance available to businesses that will receive less relief than under the current rural rate relief scheme, provisions for hardship relief and a request that the effectiveness of the scheme be reviewed at the end of the first year. The Committee was content with the responses given to these points of clarification.
22. The Enterprise, Innovation and Networks Committee discussed the consultation on 18 October 2006 (Paper EIN(2) 08-06(p.6)) and issued a response to the consultation supporting this scheme.

Review

23. The Welsh Assembly Government will review the operation and costs of the scheme on an annual basis, as local authorities have to provide audited returns of the amount of relief that they have given by October each year, which will then be compared with 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.

Summary

24. This Order will bring into force section 63 of the Local Government Act 2003 on 1 April 2007 and has the effect of repealing the Rural Rate Relief Scheme established by the Local Government Finance Act 1988 and various orders made by the National Assembly. The provision of a replacement rate relief scheme is being implemented by this Order and the other three linked Statutory Instruments listed in paragraph 2 above.

ANNEX 1

SMALL BUSINESS RATE RELIEF SCHEME CONSULTATION 14 SEPTEMBER - 27 OCTOBER 2006

List of Consultees – First and 2nd Consultation

All Assembly Members
All local authorities in Wales (Chief Executives, Directors of Finance and Local Taxation Working Group members)
Welsh Local Government Organisation
Valuation Tribunals
Valuation Office Agency
IRRV
Welsh National Park Authorities
Department for Communities & Local Government
Northern Ireland
Scottish Executive
Age Concern Cymru
Association of Town Centre Managers
British Holiday & Home Parks Association
British Hospitality Association
The British Retail Consortium
Business Eye (Rhydaman)
CBI Wales
CIPFA
Chamber Wales
Citizens Advice Cymru
Community Pharmacy Wales
Engineering Employers Federation Cymru Wales
Federation of Small Businesses
Forum of Private Business
GVA Grimley
Institution of Civil Engineers
King Sturge (London)
National Federation of Subpostmasters Wales
National Federation of Women's Institutes Wales
National Pharmacy Association Ltd
One Voice Wales (Community Councils)
Pensioners Forum Wales
Pharmaceutical Services Negotiating Committee
PostComm (Postal Services Commission)
Postwatch Wales
PriceWaterhouseCoopers
RICS Wales
The Rating Advisory Bureau, Cheltenham
Royal Mail Group Wales
Storeys: SSP (Newcastle)
Sports Council for Wales
Tourism Wales

Wales Tourism Alliance/Wales Holidays, Newtown
Welsh Automotive Forum
Welsh Consumer Council
Anite Public Sector
Capita Software Services
ESP Consultancy
IBS Open Systems
Northgate Information Solutions
Ammanford Chamber
Carmarthenshire Chamber of Commerce
Carmarthenshire Tourist Association
Clarice Toys, Tenby
Fourcroft Hotel, Tenby
Galloping Cat, Crymych
Menter Iaith Abertawe
National Botanic Garden of Wales, Llanarthne
Swansea City Centre Partnership (BIDs Administration Officer)
Tenby Bookshop
Tenby House Hotel
Tywi Valley Tourism Growth Area
West Wales Chamber of Commerce
Aberdare Chamber of Commerce
Arts Factory Rhondda
Bargoed Chamber of Trade
Barry Chamber of Commerce
Bryncynon Community Revival Strategy
Business in Focus
Caerphilly Independent Retail Partnership
Cardiff Chamber of Commerce
Cynon Valley Crime Prevention Association
Gellideg Foundation Group
HM Marketing
Llantwit Major Chamber of Trade and Commerce
Menter Caerdydd
Menter Merthyr
Menter y Fro (Bro Morgannwg)
Merthyr Chamber of Commerce
Merthyr Tydfil Housing Association
Merthyr Tydfil Interlink
Monmouth & District Chamber of Trade
& Commerce
Newport & Gwent Chamber of Commerce
Penarth Town
Royal Oak, Treorchy
The St David's Hotel & Spa, Cardiff
Tiger Bay Training Ltd, Penarth
Venture Wales, Abercynon
Voluntary Action Merthyr Tydfil
Workers Educational Association
"Tez" (Location and company not known)

Anglesey Coastal Cottages
Bangor Retail Forum
Bryn Bras Castle
Carlee Environmental Cleaning Services
Celt Rowlands & Co
Cofi Roc Cyf
Flintshire Local Voluntary Council
Glan-y-Bala Holidays
Holyhead Boatyard Ltd
Holywell Town Council
Richard & Sue Ikin
Lleiniog Holiday Cottages, Llandudno
Maesgeirchen Post Office
Menai Holiday Cottages, Menai Bridge
Menter Iaith Gwynedd
Menter Iaith Mon
The Newborough Arms, Bontnewydd
North Wales Chamber of Commerce
North Wales Tourism
Present Thoughts Ltd, Abersoch
SAKS Ltd, Bangor
Visit Denbigh
Waverley Hotel, Llandudno
Welsh Association of Self Catering Operators
Guy Woodcock & Co Chartered Surveyors
Brecon Chamber of Trade & Commerce
Corris Caverns Ltd
Graig Farms Producers
J V Like Landrover, Brecon
Lawzam Ltd, Rhayader
Llandrindod Wells Business Forum
Llandrindod Wells Town Trust Business Forum
Menter Maldwyn, Newtown
Mid Wales Manufacturing Group
Newtown Chamber of Trade
Lyn Ozcan, Llandovery
Rhayader 2000
Rhayader & District Chamber of Trade
Ty Croeso Hotel & Restaurant, Crickhowell
The Welshpool Partnership
Country Land & Business Association
Countryside Council for Wales
Dwr Cymru Welsh Water
Environment Agency Wales
Farmer's Union of Wales
Groundwork Wales
NFU Cymru
Welsh Black Cattle Society Organic Club
Young Farmers Club Wales
Pensioners Forum Wales

Crumbs Cream Café, Tenby
D Fecci & Sons Ltd
The Five Arches Tavern & Restaurant
Alan McGrath, Licensee
Huckaback Ltd
Diana Falkiner
T P Hughes & Son Ltd
Licensed Victuallers Association Wales
Llanwnda Community Council
Bethan Williams, Clerk
Porthcawl Chamber of Trade
Swansea & District Licensed Victuallers

ANNEX 2

**Summary of Consultation Responses – 14 September – 27 October 2006
(See separate document)**

ANNEX 3

EXTRACT FROM LGPS COMMITTEE MINUTES 30 MARCH 2006

Item 5: Business Rate Relief Scheme – Outcome of consultation

Paper: LGPS(2)-06-06(p.4)

6.1 The Committee discussed the paper on the outcomes of the consultation undertaken into the Business Rate Relief Scheme.

Action:

The Minister to provide an analysis of, which option was favoured among the responses from representative bodies.

EXTRACT FROM LGPS COMMITTEE MINUTES 21ST SEPTEMBER 2006

Item 3: Small Business Rate Relief Scheme

Paper: LGPS(2)-12-06(p.2)

3.1 The Minister introduced her paper and responded to queries from Committee members.

Action

3.2 Committee members would receive a copy of the responses Dai Lloyd AM had received to written questions he had asked the Minister.

3.3 The Minister would provide a paper detailing how the Assembly's extended legislative powers under the Government of Wales Act 2006 might be used to link business rate relief to Green Dragon environmental standards.