

LEGISLATIVE CONSENT MEMORANDUM

NON-DOMESTIC RATING (PUBLIC LAVATORIES) BILL

1. This Legislative Consent Memorandum is laid under Standing Order (SO) 29.2. SO29 prescribes that a Legislative Consent Memorandum must be laid, and a Legislative Consent Motion may be tabled, before Senedd Cymru if a UK Parliamentary Bill makes provision in relation to Wales for any purpose within, or which modifies, the legislative competence of the Senedd.
2. The Non-Domestic Rating (Public Lavatories) Bill (the Bill) was introduced into the House of Commons on 18 March 2020. The Bill can be found at: <https://publications.parliament.uk/pa/bills/cbill/58-01/0116/20116.pdf>
3. A similar Bill was introduced in Parliament in June 2019. The Senedd approved a legislative consent motion on that Bill on 16 July 2019. However the Bill fell when Parliament was prorogued in September 2019.

Policy Objective

4. Standalone public lavatories in England and Wales are currently assessed for non-domestic rating purposes in the same way as other non-domestic properties.
5. The majority of standalone public lavatories are provided by local authorities although the term can also apply to toilets operated by other providers which are made available for public use. In recent years, a number of authorities have closed their public lavatories and some have transferred such properties, or responsibility for their upkeep, to other bodies. Removing the rates liability from such facilities will reduce the cost of maintaining them and may help them to remain open.
6. Local authorities are not required to provide public lavatories and the rates liability is only one of the cost factors which authorities need to take into account in their decisions about the provision of public lavatories. There are many other factors which authorities need to take into account, including whether alternative provision is available.

Summary of the Bill

7. The relevant provisions state that where a hereditament is situated in Wales and, on a chargeable day, consists wholly or mainly of public lavatories, the chargeable amount for the chargeable day should be reduced to zero.
8. The provisions relate to all standalone lavatories which are made available for public use, whether they are owned or operated by public or private bodies.
9. The new Bill would apply the provisions from 1 April 2020.

Provisions in the Bill for which consent is required

10. 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.
11. The basic non-domestic rates liability for a property is calculated by multiplying the rateable value of a property by the multiplier and dividing by the number of days in the financial year. Section 43 provides for mandatory reliefs from the payment. Clause 1(3) of the Bill amends the 1988 Act to require billing authorities to reduce the rates liability to zero for hereditaments which consist 'wholly or mainly of public lavatories' and makes related consequential provisions. Consent is sought in relation to the whole Bill insofar as it relates to Wales.
12. This matter is considered to fall within the legislative competence of the Senedd. Section 108A of the Government of Wales Act 2006 (GoWA) defines how the legislative competence of the Senedd is to be assessed. In particular, a provision is outside of the Senedd's legislative competence if it relates to a reserved matter (section 108A(2)(c)). It is considered that paragraph 15 (*Section A1 – fiscal, economic and monetary policy*) of Schedule 7A applies to the provision granting mandatory relief for public lavatories. However, non-domestic rates falls squarely within the exceptions to this paragraph and as such the reservation does not apply. Further, the provisions do not relate to any of the general restrictions in Schedule 7B.

Reasons for making these provisions for Wales in the Non-Domestic Rating (Public Lavatories) Bill

13. 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.

Financial implications

14. Reducing the rates liability for public lavatories to zero would remove the need for rates bills to be issued for such properties. The current rates liability for public lavatories is estimated at approximately £450,000 a year.

Conclusion

15. 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.

Rebecca Evans MS
Minister for Finance and Trefnydd
May 2020