

## **REGULATORY APPRAISAL**

### **RATING AND VALUATION, WALES**

#### **THE NON-DOMESTIC RATING (DEMAND NOTICES AND DISCRETIONARY RELIEF) (WALES) (AMENDMENT) REGULATIONS 2006**

##### **Purpose and intended effect of the measure**

1. These Regulations are required to implement the Small Business Rates Relief Scheme. They amend the Non-Domestic Rating (Discretionary Relief) Regulations 1989 by removing the need for billing authorities to send a 12 months notice to ratepayers if the effect of the coming into force of section 63 of the Local Government Act 2003 (and the consequent revocation of the rural rate relief scheme in Wales and removal of billing authorities' discretion to provide rate relief under section 47 of the Local Government Finance Act 1988 in relation to rural settlements) is that ratepayers would be required to pay a greater chargeable amount. The Regulations also amend the Non-Domestic Rating (Demand Notices) (Wales) Regulations 1993 by requiring billing authorities to insert in demand notices for non-domestic rates a note regarding the effect of the introduction of the small business relief scheme.
2. These Regulations 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 Local Government Act 2003 (Commencement No. 1 and Savings) (Wales) Order 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 stations; 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 the scheme in different ways. In addition the costs of the scheme will be more stable, and it will be much easier under the new 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 also 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. These Regulations make amendments to the Regulations concerning demand notices and discretionary payments. They remove the need for billing authorities to send a 12 months notice to ratepayers if the effect of the provision of a replacement rate relief scheme, implemented by these Regulations and the other three linked Statutory Instruments, would require this notice to be given. They also insert appropriate details of the new scheme in rates demand notices.

## **ANNEX 1**

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

#### **List of Consultees – First and 2<sup>nd</sup> 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 21<sup>ST</sup> 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.