

Explanatory Memorandum to the Non-Domestic Rating (Multiplier) (Wales) (No 2) Order 2014

This Explanatory Memorandum has been prepared by the Local Government and Communities Department 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) (No 2) Order 2014. I am satisfied that the benefits outweigh any costs.

Leighton Andrews AM
Minister for Public Services

23 December 2014

1. Description

This Order sets the increase in the Non Domestic Rate (NDR) Multiplier at 2% for the financial year 2015-16.

Ordinarily the multiplier is increased in line with the Retail Price Index (RPI) figure as at the September preceding the financial year to which the multiplier applies. For 2015-16 this would have been 2.3%.

The multiplier, in combination with the Rateable Value (RV) of a non domestic property, is a key element used in calculating the non domestic rates bill. The effect of the Order is to reduce the increase in the 2015-16 rates bill 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

Standing Order 27.7 provides that no motion under Standing Order 27.5 (motion for approval) may be considered in plenary until either (i) the committee responsible for the functions specified in Standing Orders 21.2 and 21.3 and any other committee which has given the notice mentioned in Standing Order 27.8 has reported on the instrument or draft, or 20 days have elapsed since the instrument or draft instrument was laid, whichever is the earlier. It will not be possible for 20 days to have elapsed since the laying date in this instance.

The Chancellor's Autumn Statement announced the imposition of a 2% cap on the increase in the NDR multiplier in England. This statement was made on 3 December. Under the relevant legislation, a multiplier which is set below the level of inflation must be approved by the Assembly in accordance with an affirmative procedure. The relevant legislation provides that the Order under paragraph 5(3) of the Local Government Finance Act 1988 (the 1988 Act) specifying the amount of item B, which is one of the components of the formula in accordance with which the multiplier is calculated, shall not be effective unless it is approved by a resolution of the Assembly before the approval by the Assembly of the local government finance report for the financial year or before 1 March in the preceding financial year, whichever is the earlier. The Local Government settlement debate is scheduled to take place on 13 January 2015. The availability of Assembly members due to the Christmas recess and the rules in the Assembly's Standing Orders governing calculations of periods of time mean that it will not be possible to make the Order available to Assembly Members for a period of 20 days. The Constitutional and Legislative Affairs Committee has been notified of this by letter.

In terms of the procedural requirements for an Order under paragraph 5(3) of the 1988 Act, the Order in respect of the current financial year was made under the usual form of affirmative procedure, whereby it was approved in draft by the Assembly before the Assembly's approval of the Local Government Finance report, following which the Order was made by the Welsh Ministers. However,

in reconsidering the matter, it is considered that paragraph 5(15) of Schedule 7 to the Local Government Finance Act 1988 requires a slightly different, and very unusual, procedure from that which was followed last year.

Paragraph 5(15) provides that an Order made by the Welsh Ministers under sub-paragraph (3), in its application to a particular financial year, shall not be effective unless it is approved by resolution of the Assembly before the approval by the Assembly of the Local Government Finance report for the year, or before 1 March in the preceding financial year (whichever is earlier). It is considered that paragraph 5(15) requires the Order first to be made by the Welsh Ministers, then approved by the Assembly – and the approval by the Assembly of the Order must be given before the approval of the Local Government Finance report. However, it is considered that this does not affect the validity of the Order currently in force, because that Order had been approved by the Assembly before the Assembly approved the Local Government Finance report, the only difference being that it was laid in draft before the Assembly rather than being laid as an Order which had already been made.

3. Legislative background

Under the Local Government Finance Act 1988, the default position is that, for financial years at the beginning of which new rating lists do not need to be compiled, the NDR multiplier for Wales is set by applying a formula set out in paragraph 3B to Schedule 7 to that Act:

$$\frac{A \times B}{C}$$

where:

A = the non-domestic rating multiplier for the financial year preceding the year concerned

B = is the retail prices index for September of the financial year preceding the year concerned

C = the retail prices index for September of the financial year which precedes that preceding the year concerned.

2015 is a year when new lists are not being compiled. The formula in paragraph 3B (shown above) includes an item B which is the RPI for September of the financial year preceding the year concerned, unless the Welsh Ministers exercise their power under paragraph 5(3) of Schedule 7 to the Act to specify by Order a different amount for item B.

The Welsh Ministers are exercising this power in relation to the 2015 financial year, by making this Order to specify that amount for item B is lower than the RPI for September of the preceding financial year.

The Order is subject to the affirmative procedure. Paragraph 5(15) of Schedule 7 to the 1988 Act provides that an Order made by the Welsh Ministers under

sub-paragraph (3), in its application to a particular financial year (including an Order amending or revoking another), shall not be effective unless it is approved by resolution of the Assembly before the approval by the Assembly of the local government finance report for the year, or before 1 March in the preceding financial year (whichever is earlier).

4. Purpose & intended effect of the legislation

The UK Government announced in the Autumn Statement 2014 they would be implementing a 2% cap on the RPI increase in the NDR multiplier for 2015-16. The default position is to increase the multiplier in line with the RPI figure from September from the preceding year. This would mean the multiplier would ordinarily rise by 2.3%.

The Order will have the effect of increasing the NDR multiplier for Wales at the same rate as England (2%). It will therefore increase from £0.473 in 2014-15 to £0.482 in 2015-16.

This measure will help ensure Wales continues to offer an attractive business environment by reducing the tax burden to businesses.

All businesses (which own or occupy properties) and other non-domestic properties in Wales will benefit from a lower than inflationary increase in their rates bill for 2015-16. Even those properties which receive significant amounts of rate relief will benefit as the residual amounts due will be calculated using a lower NDR multiplier.

There will be no adverse financial effects for Local Government in Wales. Whilst the cost of capping the multiplier will reduce the Distributable Amount which supports Local Government and Police funding, this will be offset by a corresponding increase in the Revenue Support Grant.

No consultation has been undertaken on the policy underpinning this Order due to the nature of the announcement made by the Chancellor. However, a similar measure was also implemented in respect of rates bill for 2014-15 and was well received by businesses.

PART 2 – REGULATORY IMPACT ASSESSMENT

Options

Option 1 – Retain the inflationary increase (2.3%) to the NDR multiplier

This option would see the NDR multiplier increase from £0.473 to £0.484. This is the default position and would see the multiplier increase by the RPI figure from September 2014 (2.3%).

Option 2 – Cap the NDR multiplier at 2%

This option would see Wales follow England and to extend the cap on the RPI increase to the NDR multiplier at 2% for 2015-16. This would mean the multiplier in Wales would increase from £0.473 in 2014-15 to £0.482 in 2015-16.

Option 3 – Utilisation of existing relief provisions

The existing legislation allows Local Authorities to provide relief to businesses within their areas where it can be demonstrated to be in the interests of other taxpayers in their respective areas. This option would require the Welsh Government to oversee a programme of NDR reliefs being offered by all Local Authorities.

Costs & benefits

Option 1 - Retain the inflationary increase (2.3%) to the multiplier

In Wales there is one uniform multiplier rate for all businesses. Retaining the inflationary increase, will mean the multiplier rate in Wales will be 0.484 for 2015-16.

In England, the business multiplier has two different rate figures. As the UK Government have decided to cap increases to the multiplier at 2%, the provisional rates are 0.480 for small businesses (those with an RV of less than 18,000, or 25,000 in Greater London) and 0.493 for all other businesses.

These figures also apply to Scotland. However Scotland uses a higher threshold in relation to small businesses (any business with an RV of £35,000 or less is classed as a small business). It is not known at this point in time, whether or not Scotland will retain the inflationary increase. However, officials believe it is likely they will also cap the multiplier at 2%.

The two examples below illustrate the cost to businesses in Wales, in comparison to England and Scotland.

Non- Domestic Rates bill for a property which has an RV of £15,000* (E.g. a small shop or restaurant)

	2014-15	2015-16
Wales	£7,095	£7,260
England and Scotland	£7,065	£7,200

*as assessed by the Valuation Office Agency without any reliefs applied

Non- Domestic Rates bill for a property which has an RV of £150,000* (E.g. a medium sized supermarket or large office)

	2014-15	2015-16
Wales	£70,950	£72,600
England and Scotland	£72,300	£73,950

*as assessed by the Valuation Office Agency without any reliefs applied

Small businesses in Wales will continue to have a slightly higher non-domestic rates bill than similar businesses in England and Scotland, but the % difference in cost will slightly increase compared with 2014-15. For larger businesses in Wales, the rate will continue to be slightly lower than for similar businesses located in England, however this difference will become slightly smaller compared with 2014-15.

This could potentially lead to fewer businesses locating to Wales, or more businesses moving out of Wales. Either way, there is the potential for a negative impact on the reputation of Wales within the business community, as well as a potential negative impact on Welsh GDP, if significant numbers of businesses thought the absence of a cap a sufficient disincentive to invest – or a reason to disinvest.

Option 2 – Cap the multiplier at 2%

This option means Wales follows England in restricting the increase to the multiplier. Using comparable data from Option 1 then:

Non- Domestic Rates bill for a property which has an RV of £15,000* (E.g. a small shop or restaurant)

	2014-15	2015-16
Wales	£7,095	£7,230
England and Scotland	£7,065	£7,200

*as assessed by the Valuation Office Agency without any reliefs applied

Non- Domestic Rates bill for a property which has an RV of £150,000* (E.g. a medium sized supermarket)

	2014-15	2015-16
Wales	£70,950	£72,300
England and Scotland	£72,300	£73,950

*as assessed by the Valuation Office Agency without any reliefs applied

The above figures illustrate that small businesses in Wales will continue to have a slightly higher non-domestic rates than in England. For larger businesses in Wales, the rate will continue to be slightly lower than in England. The % difference in relation to Non-Domestic Rates between the two countries would remain the same compared with 2014-15.

The cost of capping the increase in the multiplier to 2% would be borne by the Welsh Government and there would be no financial effect on Local Authorities.

Option 3 - Utilisation of existing relief provisions

Using the discretionary powers available to Local Authorities would be a much more cumbersome way to achieve the same objective as restricting the increase to the multiplier.

There would be a requirement to:

- Gain the agreement of all Authorities to provide a relief scheme which has the same effect on NDR bills;
- Devise a suitable scheme to reimburse each Local Authority;
- Implement changes to Local Authority software systems; and
- Set aside a budget allocation which would not be part of the NDR Pool. .

It would also be highly unlikely the Welsh Government could implement such a scheme within the required timescales.

Option Selection

After considering each of the options above, Option 2 is considered to be the most effective choice.

Consultation

The timing of the Chancellor's Autumn Statement and the need to agree the Local Government settlement means no consultation has been undertaken on these proposals