Explanatory Memorandum to the Non-Domestic Rating (Multiplier) (Wales) 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) Order 2014. I am satisfied that the benefits outweigh any costs.

Lesley Griffiths AM
Minister for Local Government and Government Business

6 January 2014

1. Description

This Order sets the increase in the Non Domestic Rate (NDR) Multiplier at 2% for the financial year 2014-15.

It is normally the case the increase is set according to the Retail Price Index (RPI) figure as at the September preceding the financial year to which the multiplier applies. For 2014-15 this would have been 3.2%.

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 2014-15 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

The 21 day rule is not being complied with 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 the 5 December. Under the relevant legislation, a multiplier which is set below the level of inflation must be agreed by Assembly Members as part of the affirmative procedure. The relevant legislation specifically provides that this must take place prior to the vote on the Local Government settlement if the order is to be effective. The settlement debate is scheduled to take place on the 14 January. 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 the requirement for the Order to be available to Assembly Members for a period of 20 days cannot be met.

Without the certainty of an agreed settlement it would be difficult for authorities to set their budgets for 2014-15, which would then increase the risk of the statutory deadlines for the issue of NDR bills not being met.

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. An element in that formula is the retail prices index for September of the financial year preceding the year concerned. The financial year commencing 1 April 2014 is not a financial year at the beginning of which new rating lists need to be compiled.

However, under paragraph 5(3) of Schedule 7 to that Act, the Welsh Ministers have powers to increase a multiplier below the level of inflation. It is that power which the Welsh Ministers propose to exercise by making this Order.

The Order is subject to the affirmative procedure.

4. Purpose & intended effect of the legislation

The Order will have the effect of setting the increase in the multiplier at 2% for the financial year 2014-15. In the financial year 2013-14 the NDR multiplier is £0.464. If inflation was used to calculate the multiplier for 2014-15, the multiplier would be £0.479 (0.4788 un-rounded). By restricting the increase for 2014-15 to 2%, the multiplier will be set at a slightly lower level of £0.473. This will obviously present property owner in Wales with a lower rates bill for 2014-15 than they would normally have expected to receive.

All owners of non domestic properties will be affected by the cap. Even those properties which receive significant amounts of rate relief will be affected as the residual amounts due will be calculated using a lower multiplier.

There is a clear objective to the policy. It is aimed at reducing the tax burden to businesses in Wales and to make sure they are not disadvantaged when the cost of non domestic rates in Wales is compared with the cost in other parts of the United Kingdom.

There are no adverse financial effects for Local Government in Wales as the cost of capping the multiplier will be met through the NDR Pool which will be used to 'top up' the distributable amounts which support Local Government and Police funding.

5. Consultation

Because of the nature of the Chancellor's announcement no consultation has been undertaken on the policy underpinning this Order.

PART 2 – REGULATORY IMPACT ASSESSMENT

Options

Option 1 – Retain the inflationary increase to the multiplier

This option retains would see the NDR multiplier increase from £0.464 to £0.479. This is an increase of 3.2% which was the RPI figure as at September 2013.

Option 2 – Cap the multiplier at 2%

This option would see Wales follow England and restrict the increase to the NDR multiplier to 2% for 2014-15.

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 to the multiplier

Retaining the inflationary increase in the multiplier has the following effect on the non domestic rates bill of a premises:

If a property has a Rateable Value, as assessed by the Valuation Office Agency, of £15,000 then the total rates bill for 2013-14 is:

RV£15,000 x 0.464 = £6,960

An inflationary increase of 3.2% would see the annual NDR bill for the property increase to:

RV£15,000 x 0.479 = £7,185

The increase in the annual charge is therefore £225.

Maintaining the inflationary increase in Wales would mean there would be the potential for the business environment in Wales to be perceived as being less favourable than other regions of the UK. This could act as a disincentive for businesses thinking of locating to Wales, or act as an incentive for businesses thinking of 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 would result in a lower than anticipated increase in the non domestic rates bill for a property. Using comparable data from Option 1 then:

The rates bill for 2013-14 is:

RV£15,000 x 0.464 = £6,960

An increase of 2% for 2014-15 gives a revised bill of:

RV£15,000 x 0.473 = £7,095.

The increase in rates for the property is therefore £90 less than anticipated.

This option means Wales follows England in restricting the increase to the multiplier. The disadvantages of the Welsh business environment being perceived as less favourable than that in other parts of the UK are, therefore, avoided.

The cost of capping the increase in the multiplier to 2% would be borne by the Welsh Government through the NDR Pool arrangements. 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 would achieve.

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. There would be a degree of risk surrounding the ability of the budget to match the benefits offered by restricting the multiplier increase using the NDR Pool.

It would also be highly unlikely we 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