

Explanatory Memorandum to the Non-Domestic Rating (Multiplier) (Wales) (No 2) Order 2018

This Explanatory Memorandum has been prepared by Local Government Strategic Finance Division 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 2018.

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Cabinet Secretary for Finance
7 November 2018

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PART 1: EXPLANATORY MEMORANDUM

1. Description

This Order sets the increase in the non-domestic rating (NDR) multiplier for the financial year 2019-20. It reflects the use of the Consumer Prices Index (CPI) rather than the Retail Prices index (RPI) to calculate the multiplier.

Under the Local Government Finance Act 1988 (the 1988 Act), the annual increase in the multiplier should be set according to the RPI figure as at the September preceding the financial year to which the multiplier applies. For 2019-20 this would have been 3.27%. The CPI figure for September 2018 was 2.40%.

The multiplier is applied to the rateable value (RV) of each non-domestic property to calculate its non-domestic rates bill. The effect of the Order is a smaller (compared to using RPI) increase in the 2019-20 rates bills to be paid by businesses and other non-domestic property owners across Wales.

The formula used in calculating the NDR multiplier in a non revaluation year is $(A \times B) / C$.

A is the multiplier for previous financial year

B is the RPI for September of the preceding financial year

C is the RPI for September of the financial year two years before.

However, Welsh Ministers may substitute a figure for B which is less than the RPI figure. In order to increase the multiplier by CPI, which is a lesser figure than RPI, a figure for B has been inserted which has the effect of increasing the multiplier by CPI.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

Under the 1988 Act, an order which enables the multiplier to be increased at below the level of RPI must be agreed by the Assembly through an affirmative resolution procedure (paragraph 5(15) of Schedule 7 to the 1988 Act).

The relevant provision specifically provides that the Order must be approved by the Assembly prior to the vote on the Local Government Finance Reports (the final local government settlement and final police settlement) taking place. The debate on the settlement is scheduled to take place in mid January 2019.

3. Legislative background

Under the 1988 Act, for financial years in which new rating lists do not apply, the default position for determining the non-domestic rating multiplier for Wales is to apply the formula set out in paragraph 3B to Schedule 7 to the 1988 Act. An element in that formula is the RPI for September of the financial year preceding the year concerned. The financial year beginning 1 April 2019 is not a financial year for which a new rating list needs to be compiled.

However, under paragraph 5(3) of Schedule 7 to the 1988 Act, the Welsh Ministers have the power to increase a multiplier at below the level of inflation as measured by RPI. It is this power which the Welsh Ministers propose to exercise in making this Order.

As the Welsh Government is diverging from the normal practice of increasing the multiplier by RPI, Ministers are required, under paragraph 5(15) of Schedule 7 to the 1988 Act, to lay the Order to limit the increase at below RPI before the Assembly for approval.

The Order is subject to an affirmative resolution procedure and must be approved by the Assembly for it to be effective. It is also a requirement of the 1988 Act that any such Order is approved before the Local Government Finance Reports (unitary authority and police and crime commissioners) are approved by the Assembly. This requirement for prior agreement of the multiplier arises because it plays a vital part in calculating the total funding available in the settlements.

The debate on the Local Government Finance Report for unitary authorities for 2019-20 (which sets out the settlement) is scheduled for mid January 2019. The debate to approve the Order is scheduled to take place on 11 December.

Assembly Standing Orders (27.7) require that an order subject to the affirmative resolution procedure must be laid for at least 20 (non-recess) days before it is debated, or it must be the subject of a report by the relevant Committee.

4. Purpose and intended effect of the legislation

The Order will have the effect of increasing the NDR multiplier by CPI rather than RPI for the financial year 2019-20. By applying CPI for 2019-20, the multiplier will be set at 0.526.

This will mean that non-domestic property owners and occupiers in Wales will receive lower rates bills for 2019-20 than they otherwise would have.

Primary legislation does not currently provide the Welsh Ministers with powers to change permanently the rate of inflation used to calculate the multiplier from RPI to CPI. Therefore, the Order will apply for 2019-20 only.

This follows on from 2018-19 where the change was achieved through subordinate legislation, the Non-Domestic Rating (Multiplier) (Wales) Order 2018.

All owners or occupiers of non-domestic properties who pay rates will benefit from the change. Even properties which receive significant amounts of rates relief will benefit as the residual amounts will be calculated using a lower multiplier.

All the non-domestic rates collected in Wales are pooled centrally and distributed to unitary authorities and to police and crime commissioners as part of the annual local government settlements. The total amount to be distributed in this way is known as the Distributable Amount. It is calculated by applying the multiplier to the estimated national total of rateable value, taking account of any surplus or deficit carried forward from previous years. The Distributable Amount is a key component of the annual local government revenue settlements and the 1988 Act requires that it is approved by the Assembly as part of the annual Local Government Finance Reports. The multiplier therefore needs to be determined before the annual settlements can be finalised.

There is a clear purpose to the policy behind the legislation. It is aimed at supporting economic growth and reducing the tax liability for businesses and other non-domestic ratepayers in Wales, ensuring they are not at a disadvantage compared to other parts of the United Kingdom.

It is estimated the effect of using CPI rather than RPI to increase the multiplier in Wales is to reduce income into the non-domestic rates pool in 2019-20. This loss of income is being fully funded by the Welsh Government and will be reflected in the calculations for the local government settlement so that there is no financial impact on local authorities.

5. Consultation

No consultation has been undertaken on the policy behind this Order, the policy for which was agreed for the 2018-19 financial year. The proposals benefit all ratepayers in Wales and there is no impact on the resources available to local authorities.

Part 2: Regulatory Impact Assessment

Options

Option 1 – Use RPI to increase the multiplier

This option would see the multiplier increase to 0.531 in 2019-20. This is an increase of 3.27% which was the RPI at September 2018.

Option 2 – Increase the multiplier by the equivalent of CPI

This option would increase the multiplier for 2019-20 by CPI at September 2018 (2.40%), resulting in a multiplier of 0.526.

Costs and benefits

Option 1 – Use RPI to increase the multiplier

Using RPI to increase the multiplier has the following effect on the non-domestic rates bill of a premise.

For example, if a property has a rateable value (RV), as assessed by the Valuation Office Agency, of £15,000, the rates bill for 2018-19 (before any reliefs) is:

$$RV \quad £15,000 \times 0.514 = £7,710$$

Applying RPI would see the annual rates bill for 2019-20 increase to:

$$RV \quad £15,000 \times 0.531 = £7,962$$

The increase in the annual charge would therefore be £252.

There would be no direct cost to the Welsh Government of applying RPI as this is the usual basis on which the multiplier is increased. However, it would increase the overall cost of reliefs by approximately £8m.

Option 2 – Increase the multiplier by the equivalent of CPI

This option would result in a lower than anticipated increase in the rates bills for all non-domestic properties. Using the example from Option 1.

The rates bill for 2018-19 is:

$$RV \quad £15,000 \times 0.514 = £7,710$$

An increase using CPI for 2019-20 gives a bill of:

RV £15,000 x 0.526 = £7,895.

The increase in rates for the property is therefore £185, a reduction of £67 compared to using RPI.

The total saving to non-domestic ratepayers across Wales is estimated at £9m. This would be a recurrent saving as the multiplier cannot be increased at a level above RPI in future years. The approach means that ratepayers in Wales are not placed at a disadvantage compared to other parts of the UK.

The cost of limiting the increase in the multiplier to CPI would be borne by the Welsh Government. There would be no financial impact on local authorities.

Option selection

Option 2 is the preferred option.

Analysis of other effects and impacts

Promoting Economic Opportunity for All (Tackling Poverty)

Limiting the increase in the multiplier provides support for all ratepayers which could help to prevent hardship.

UNCRC

No particular impact on the rights of children has been identified. Limiting the increase in the multiplier will not result in any reduction in funds available for local authorities as the change will be fully funded by the Welsh Government.

Welsh language

No effect on the opportunities to use the Welsh language or the equal treatment of the language has been identified.

Equalities

Section 149(1) of the Equality Act 2010 requires the Welsh Ministers to have regard, in the exercise of their functions, to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the 2010 Act; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; foster good relations between people who share a relevant protected characteristic and people who do not share it.

For the purposes of section 149, the protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. No specific impacts, positive or negative, on persons who share a protected characteristic have been identified.

Well-being of Future Generations (Wales) Act 2015

Consideration has also been given to the wellbeing duty contained in section 3 of the Well-being of Future Generations (Wales) Act 2015. Limiting the increase in the multiplier will assist all ratepayers and, as such, will help to

contribute to the achievement of the wellbeing goals of a prosperous and a more equal Wales.

Impact on voluntary sector

Limiting the increase in the multiplier will benefit all ratepayers including those operating in the voluntary, charitable and not-for-profit sectors.

Competition Assessment

A competition filter test has been applied to the Order. As the change benefits all ratepayers, no effect on competition within Wales is indicated. Limiting the multiplier means that Wales is not placed at a disadvantage compared to other parts of the UK.

Post implementation review

The Welsh Government will monitor the impact of the change on the non-domestic rates pool.