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WELSH STATUTORY INSTRUMENTS

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**2017 No. 1229 (W. 293)**

**RATING AND VALUATION, WALES**

**The Non-Domestic Rating (Small  
Business Relief) (Wales) Order 2017**

<i>Made</i>	- - - -	<i>6 December 2017</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>13 December 2017</i>
<i>Coming into force</i>	- -	<i>8 January 2018</i>

The Welsh Ministers make the following Order in exercise of the powers conferred on the National Assembly for Wales by sections 43(4B)(b), 44(9)(b), 143(1) and 146(6) of the Local Government Finance Act 1988<sup>(1)</sup>, and conferred on the Secretary of State by section 143(2) of that Act and now vested in them<sup>(2)</sup>.

**PART A**

**General**

**Title, commencement and application**

- 1.—(1) The title of this Order is the Non-Domestic Rating (Small Business Relief) (Wales) Order 2017.
- (2) This Order comes into force on 8 January 2018 but has effect from 1 April 2018.
- (3) This Order applies in relation to Wales.

**Interpretation**

2. In this Order—
- “the 1988 Act” (“*Deddf 1988*”) means the Local Government Finance Act 1988;

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(1) 1988 c. 41. Section 61(1) of the Local Government Act 2003 (c. 26) inserted subsection (4B) into section 43 of the Local Government Finance Act 1988. Section 61(5) of the Local Government Act 2003 inserted subsection (9) into section 44 of the Local Government Finance Act 1988.

(2) The functions of the Secretary of State so far as exercisable in relation to Wales transferred to the National Assembly for Wales by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672, article 2, Schedule 1). The functions of the National Assembly for Wales were then vested in the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

“electronic communication” (“*cyfathrebiad electronig*”) has the meaning given in section 15(1) of the Electronic Communications Act 2000(3);

“electronic communications apparatus” (“*cyfarpar cyfathrebiadau electronig*”) includes—

- (a) apparatus designed or adapted for use in connection with the provision of an electronic communications network;
- (b) apparatus designed or adapted for a use which consists of or includes the sending or receiving of communications or other signals that are transmitted by means of an electronic communications network;
- (c) lines;
- (d) other structures (including structures forming part only of a building) or things used, designed or adapted for use in connection with the provision of an electronic communications network; and
- (e) any ancillary equipment occupied exclusively for the purpose of a person who is licensed under section 8 of the Wireless Telegraphy Act 2006(4) or who has a grant of recognised spectrum access under section 18 of that Act;

“excepted hereditament” (“*hereditament a eithrir*”) means a hereditament—

- (a) which is used exclusively for the display of advertisements, the parking of motor vehicles, sewage works or electronic communications apparatus;
- (b) which is a beach hut or a post office;
- (c) to which either paragraph (a) or (b) of section 43(6) of the 1988 Act(5) applies (charities or community amateur sports clubs);
- (d) to which either paragraph (a) or (b) of section 47(5B) of the 1988 Act(6) applies (not for profit organisations);
- (e) which is an excepted hereditament as defined in section 47(9) of the 1988 Act(7);
- (f) which is a Crown hereditament as defined in section 65A(4) of the 1988 Act(8);

“line” (“*linell*”) means any wire, cable, tube, pipe or similar thing (including its casing or coating) which is designed or adapted for use in connection with the provision of any electronic communications network or electronic communications services;

“person authorised to sign on behalf of the ratepayer” (“*person sydd wedi ei awdurdodi i lofnodi ar ran y trethdalwr*”) means, where the ratepayer is—

- (a) a partnership, a partner of that partnership;
- (b) a trust, a trustee of that trust;
- (c) a body corporate, a director of that body; and

in any other case, a person duly authorised to sign on behalf of the ratepayer;

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(3) Section 15(1) of the Electronic Communications Act 2000 (c. 7) provides that “electronic communication” means a communication transmitted (whether from one person to another, from one device to another or from a person to a device or vice versa)—

- (a) by means of an electronic communications network; or
- (b) by other means but while in an electronic form.

(4) 2006 c. 36. Section 8 was amended by S.I. 2011/1210.

(5) Section 43(6) was amended by section 64(1) of the Local Government Act 2003 (c. 26), and section 1177 of, and paragraphs 206 and 207 of Part 2 of Schedule 1 to, the Corporation Tax Act 2010 (c. 4).

(6) Section 47(5B) was inserted by section 69 of the Localism Act 2011 (c. 20).

(7) Section 47(9) was amended by paragraph 65 of Schedule 13 to the Local Government Finance Act 1992 (c. 14).

(8) Section 65A was inserted by section 3 of the Local Government and Rating Act 1997 (c. 29). Subsection (4) was amended by paragraph 73 of Schedule 6 to the Criminal Justice and Police Act 2001 (c. 16) and by paragraphs 180 and 181 of Schedule 16 to the Police Reform and Social Responsibility Act 2011 (c. 13).

“post office” (“*swyddfa bost*”) means a public post office within the meaning given by section 125(1) of the Postal Services Act 2000(9);

“qualifying hereditament” (“*hereditament cymwys*”) means a hereditament falling within article 12(1)(c) of this Order;

“relevant financial year” (“*blwyddyn ariannol berthnasol*”) means the financial year in respect of which a ratepayer has served a notice in accordance with article 14;

“signature” (“*llofnod*”), “sign” (“*llofnodi*”) or “signed” (“*llofnodwyd*”), in relation to a notice served in accordance with article 13(3) or 14(6) by electronic communication includes the incorporation in it, or the logical association with it, of an electronic signature, as defined in section 7(2) of the Electronic Communications Act 2000;

“structure” (“*strwythur*”) includes a building only if the sole purpose of that building is to enclose other electronic communications apparatus.

### **General provision about application of this Order**

3. Where a hereditament complies with the conditions in more than one of articles 7, 8 or 9, the article which applies is the article which has the effect of the lowest amount being chargeable in respect of the hereditament.

### **Notice of multiple hereditaments**

4. Where a ratepayer is liable to pay non-domestic rates for more than two hereditaments shown on a local non-domestic rating list which satisfy only the conditions in article 7 (rateable value conditions), the ratepayer must give notice of those hereditaments to the billing authority for that list in accordance with article 13.

### **Maximum rateable value for rate relief**

5. For the purposes of section 43(4B)(b)(i) of the 1988 Act, the amount prescribed for a hereditament is £20,500.

## **PART B**

### **Relief**

#### **Conditions of relief**

6. The conditions to be satisfied for the purposes of section 43(4B)(b)(ii) of the 1988 Act are those prescribed in articles 7 to 9.

#### **Rateable value conditions**

7. The rateable value conditions are—

- (a) the rateable value of the hereditament is not more than £12,000;
- (b) the hereditament is not an excepted hereditament; and
- (c) the hereditament is wholly occupied.

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(9) 2000 c. 26. The definition of “public post office” was inserted into subsection (1) by paragraph 49(1) of Schedule 12 to the Postal Services Act 2011 (c. 5).

### Child care conditions

8. The child care conditions are—

- (a) the hereditament is wholly used for the purposes of child minding or the provision of day care by a person registered under Part 2 of the Children and Families (Wales) Measure 2010<sup>(10)</sup>;
- (b) the hereditament is not an excepted hereditament;
- (c) the hereditament is wholly occupied;
- (d) the rateable value of the hereditament is not more than £20,500; and
- (e) the ratepayer has given notice to the billing authority in respect of the hereditament in accordance with article 14.

### Post office conditions

9. The post office conditions are—

- (a) the hereditament, or part of the hereditament, is used for the purposes of a post office;
- (b) the rateable value of the hereditament is not more than £12,000;
- (c) the hereditament is wholly occupied; and
- (d) the ratepayer has given notice to the billing authority in respect of the hereditament in accordance with article 14.

### Amount of E

10. The amount of E prescribed for the purposes of section 44(9) of the 1988 Act is to be determined in accordance with articles 11 and 12.

### Amount of E where article 12 does not apply

11.—(1) Unless article 12 applies (ratepayer liable for more than two qualifying hereditaments), where the conditions in article 7, 8 or 9 are satisfied, E is the amount specified in, or calculated in accordance with, paragraph (2).

(2) Where a hereditament satisfies the conditions prescribed by the article specified in column (1) of the table below, and the rateable value of the hereditament is within the range in the corresponding row in column (2), E is the amount specified or as calculated in the corresponding row in column (3).

**Table**

(1) Article	(2) Rateable value (£)	(3) Amount of E
7 (rateable value)	0 to 6,000	5,000,000
7 (rateable value)	6,001 to 12,000	Calculated in accordance with paragraph (3) of this article
8 (child care)	0 to 6,000	5,000,000

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<sup>(10)</sup> 2010 nawm 1.

(1) Article	(2) Rateable value  (£)	(3) Amount of E
8 (child care)	6,001 to 20,500	Calculated in accordance with paragraph (4) of this article
9 (post office)	0 to 9,000	5,000,000
9 (post office)	9,001 to 12,000	2

(3) The amount of E (for hereditaments meeting the rateable value conditions or post office conditions) is derived from dividing 6000 by the figure reached by subtracting 6000 from the rateable value of the hereditament shown in the local non-domestic rating list for that day, calculated to three decimal places (rounding up or down as appropriate).

(4) The amount of E (for hereditaments meeting the child care conditions) is derived from dividing 14,500 by the figure reached by subtracting 6000 from the rateable value of the hereditament shown in the local non-domestic rating list for that day, calculated to three decimal places (rounding up or down as appropriate).

**Amount of E where a ratepayer is liable for more than two qualifying hereditaments shown on a local non-domestic rating list**

12.—(1) This article applies—

- (a) separately to each local non-domestic rating list (“a list”);
- (b) only to hereditaments which do not satisfy the conditions in article 8 or 9 (the child care conditions or post office conditions); and
- (c) where a ratepayer is liable to pay non-domestic rates for more than two hereditaments shown for the day on a list and which satisfy the conditions in article 7 (rateable value conditions) (“qualifying hereditaments”).

(2) The amount of E for the two qualifying hereditaments with the highest notional values, as determined in accordance with paragraphs (4) to (6), is the amount specified in, or calculated in accordance with, article 11(2).

(3) The amount of E for any other qualifying hereditaments is 1.

(4) The notional value of a qualifying hereditament with a rateable value of £6,000 or less, is A.

(5) The notional value of a qualifying hereditament with a rateable value of £6,001 or more is calculated in accordance with the formula—

$$((12,000 - A)/6000) \times A$$

(6) A is the rateable value of the qualifying hereditament.

## PART C

### Miscellaneous

#### **Notice served in relation to multiple hereditaments**

**13.**—(1) A notice under this article must contain the information and other matters specified in Schedule 1 and must be signed by the ratepayer or a person authorised to sign on behalf of the ratepayer.

(2) A notice must be given when a ratepayer is, or becomes, liable to pay non-domestic rates for more than two qualifying hereditaments.

(3) A notice is to be served on the billing authority concerned by—

- (a) addressing it to the authority; and
- (b) delivering or sending it to the authority's office by post or electronic communication.

(4) Any notice sent by electronic communication is to be regarded, unless the contrary is proved, as served when it is received in legible form.

(5) When a notice has been given the billing authority may from time to time require the ratepayer to give further notices in accordance with this article.

#### **Notice served when child care conditions or post office conditions are met**

**14.**—(1) A notice under this article must contain the information and other matters specified in Schedule 2 and must be signed by the ratepayer or a person authorised to sign on behalf of the ratepayer.

(2) Subject to paragraphs (3) to (5), a notice given no later than 30 September in a financial year may have effect from a date no earlier than 1 April in the preceding financial year.

(3) A notice may not be given earlier than 1 October in the financial year preceding the relevant financial year.

(4) Subject to paragraph (5), where in relation to the hereditament to which the notice relates—

- (a) the part of the relevant conditions concerning rateable value becomes satisfied due to an alteration of a local non-domestic rating list; and
- (b) a notice is given within 4 months after the date of which the billing authority concerned is notified of the alteration pursuant to regulations under section 55 of the 1988 Act<sup>(11)</sup> (alteration of lists),

the notice may have effect from a date no earlier than the date on which the alteration takes effect under those regulations.

(5) No notice may have effect for a day earlier than 1 April 2018.

(6) A notice is to be served on the billing authority concerned by—

- (a) addressing it to the authority; and
- (b) delivering or sending it to the authority's office by post or electronic communication.

(7) Any notice sent by electronic communication is to be regarded, unless the contrary is proved, as served when it is received in legible form.

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<sup>(11)</sup> Section 55 was amended by paragraphs 30 and 79 of Schedule 5 to the Local Government and Housing Act 1989 (c. 42); paragraph 1 of Schedule 10 and paragraph 67 of Schedule 13 to the Local Government Finance Act 1992 (c. 14); paragraph 84 of Schedule 16 to the Local Government (Wales) Act 1994 (c. 19); paragraphs 2 and 3 of Schedule 16 to the Local Government and Public Involvement in Health Act 2007 (c. 28); and section 32 of the Enterprise Act 2016 (c. 12).

(8) When a notice has been given in respect of a financial year the billing authority may require the ratepayer to give further notices in accordance with this article in relation to such subsequent financial years as it may from time to time specify.

**Revocation and saving provision**

**15.** The Orders specified in Schedule 3 are revoked but continue to apply to a financial year ending on or before 31 March 2018.

6 December 2017

*Mark Drakeford*  
Cabinet Secretary for Finance, one of the Welsh  
Ministers

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

## SCHEDULE 1

Article 13

### Information to be contained in a notice where the ratepayer is liable for more than two qualifying hereditaments

1. The name, address (including post code), facsimile number (where applicable), telephone number and electronic mail address (where applicable) of the ratepayer.
2. The addresses (including post codes) of the hereditaments and, where known, the non-domestic rating account numbers.
3. The date upon which the ratepayer became, or will become, liable to pay non-domestic rates for the hereditaments.
4. Authority from the ratepayer for the billing authority to which the notice is given to obtain from any person any information which the authority considers relevant for the purposes of confirming any information given in the notice or otherwise ascertaining the ratepayer's eligibility for relief in respect of the hereditaments mentioned in paragraph 2.
5. The signature of the ratepayer or person authorised to sign on behalf of the ratepayer.
6. A description of the capacity of the person signing the notice.
7. The date of the notice.

## SCHEDULE 2

Article 14

### Information and other matters to be contained in a notice where the child care conditions or post office conditions apply

1. The name, address (including post code), facsimile number (where applicable), telephone number and electronic mail address (where applicable) of the ratepayer.
2. The address (including post code) of the hereditament for which small business rate relief is sought and, where known, the non-domestic rating account number.
3. In the case of premises used for child care—
  - (a) confirmation that—
    - (i) the hereditament mentioned in paragraph 2 is used wholly for the purposes of child care as described in this Order;
    - (ii) the hereditament is not an excepted hereditament as described in this Order;
    - (iii) the hereditament is wholly occupied; and
  - (b) the name and address of the registered provider and their registration number.
4. In the case of a post office, confirmation that the hereditament mentioned in paragraph 2 is used wholly or partly for the purposes of a post office as described in this Order.
5. Confirmation as to either—
  - (a) the date on which the hereditament was first used as described in the notice and that it has continued to be so used to the date of the notice; or
  - (b) the date on which the hereditament will be first used as described above.
6. An undertaking by the ratepayer (or if the person signing the notice is not the ratepayer, an undertaking on behalf of the ratepayer) that the ratepayer will as soon as practicable inform the



billing authority in writing if they consider that they may no longer be eligible to receive rate relief under this Order.

7. Authority from the ratepayer for the billing authority to which the notice is given to obtain from any person any information which the authority considers relevant for the purposes of confirming any information given in the notice or otherwise ascertaining the ratepayer's eligibility for relief in respect of the hereditament mentioned in paragraph 2.

8. The signature of the ratepayer or person authorised to sign on behalf of the ratepayer.

9. A description of the capacity of the person signing the notice.

10. The date of the notice.

### SCHEDULE 3

Article 15

#### Revocation and savings

<i>Orders revoked</i>	<i>References</i>
Non-Domestic Rating (Small Business Relief) (Wales) Order 2015	<a href="#">S.I. 2015/229 (W. 11)</a>
Non-Domestic Rating (Small Business Relief) (Wales) (Amendment) Order 2016	<a href="#">S.I. 2016/32 (W. 13)</a>
Non-Domestic Rating (Small Business Relief) (Wales) (Amendment) Order 2017	<a href="#">S.I. 2017/25 (W. 9)</a>

### EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order comes into force on 8 January 2018 but has effect from 1 April 2018, and it applies to Wales.

In accordance with section 43(4B) of the Local Government Act 1988 (“the 1988 Act”) the Order provides for a small business rates relief scheme for Wales (“the scheme”).

The Order provides that hereditaments meeting the conditions set out in articles 7 (rateable value conditions); 8 (child care conditions) or 9 (post office conditions) will receive relief under the scheme.

Part A of the Order contains general provisions including the definition of hereditaments which are excepted from receiving relief under the scheme.

Article 3 makes provision about the application of the Order. It provides that where a hereditament qualifies for relief because it meets the conditions in more than one of articles 7, 8 or 9, then the article which will provide the greatest amount of relief is to be applied to it.

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Under the scheme, in accordance with article 12, where a ratepayer is liable for more than two hereditaments on a single local non-domestic rating list (“local list”), and those hereditaments meet only the rateable value conditions, the ratepayer will only receive relief for a maximum of two such hereditaments. In order to assist billing authorities to administer this restriction, article 4 requires relevant ratepayers to provide notice of such hereditaments to the appropriate billing authority.

Article 5 prescribes a maximum rateable value of £20,500 for hereditaments which are eligible for relief under the scheme.

Part B of the Order makes provision about the relief scheme, with articles 7 to 9 prescribing the conditions of eligibility.

Articles 10 to 12 prescribe the amount of E for the purposes of the formula within section 43(4A) (b) of the 1988 Act. That formula provides the mechanism for calculating the amount of non-domestic rates payable in respect of hereditaments qualifying for relief under the scheme.

In accordance with article 11 the rate of relief that hereditaments will receive is as set out in the illustrative table below—

Type of condition	Rateable value (£)	Relief (%)
Rateable value	0 to 6,000	100
Rateable value	6,001 to 12,000	Tapered from 100 to 0
Child care	0 to 6,000	100
Child care	6,001 to 20,500	Tapered from 100 to 0
Post office	0 to 9,000	100
Post office	9,001 to 12,000	50

In accordance with article 12 however, a ratepayer will only be able to receive relief for up to two hereditaments which meet only the rateable value conditions, and which appear on any single local list (referred to in the article as qualifying hereditaments). In accordance with article 12(1)(b), no account is taken of any hereditaments a ratepayer is liable for, which satisfy the child care conditions or post office conditions.

In order to ensure that a ratepayer continues to receive the maximum relief possible under the scheme, even where the provisions of article 12 apply, article 12(2) provides that relief will be applied to the two relevant hereditaments with the highest “notional values”. The notional value of a hereditament is calculated in accordance with article 12(4) to (6). Article 12(3) prescribes that the amount of E for any further qualifying hereditaments will be 1 (which is equivalent to 0% relief).

Part C of the Order provides for the information that must be included in the notices to be given to billing authorities, the time within which such notices are to be served and the method of service.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to this Order. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with this Order. A copy can be obtained from the Local Government Strategic Finance Division, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.