
WELSH STATUTORY INSTRUMENTS

2008 No. 2770 (W.246)

RATING AND VALUATION, WALES

**The Non-Domestic Rating (Small
Business Relief) (Wales) Order 2008**

<i>Made</i>	- - - -	<i>18 October 2008</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>22 October 2008</i>
<i>Coming into force</i>	- -	<i>1 December 2008</i>

The Welsh Ministers make the following Order in exercise of the powers conferred on the Secretary of State by sections 43(4B)(b), 44(9), 143(1) and (2) and 146(6) of the Local Government Finance Act 1988⁽¹⁾ and now vested in them⁽²⁾:

Title, commencement and application

1.—(1) The title of this Order is The Non-Domestic Rating (Small Business Relief) (Wales) Order 2008.

(2) This Order comes into force on 1 December 2008 but it has effect from 1 April 2008.

(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;

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

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

(a) apparatus within the meaning given by paragraph 1(1) of the electronic communications code;

(1) 1988 c. 41.

(2) The functions of the Secretary of State contained in the Local Government Finance Act 1988 in relation to Wales were 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 vested in the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

(3) 2000 c. 7.

- (b) structures in the nature of huts or other buildings (including structures forming part only of a building) used, or designed for use, solely to house apparatus falling within the description in paragraph (a); and
- (c) any ancillary equipment occupied exclusively for the purposes 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;

“electronic communications code” (*“cod cyfathrebu electronig”*) has the same meaning as in section 106(1) of the Communications Act 2003⁽⁵⁾;

“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 one or more of paragraphs (a) to (c) of section 47(2) of the 1988 Act applies,
- (d) which is an excepted hereditament as defined in section 47(9) of the 1988 Act, or
- (e) which is a Crown hereditament as defined in section 65A(4) of the 1988 Act;

“person authorised to sign on behalf of the ratepayer” (*“person 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;

“post office” (*“swyddfa bost”*) means a public post office within the meaning given by section 42(3) of the Postal Services Act 2000⁽⁶⁾;

“relevant financial year” (*“blwyddyn ariannol berthnasol”*) means the financial year in respect of which a ratepayer has served a notice in accordance with article 10;

“retail premises” (*“mangre fanwerthu”*) means any hereditament where there is carried on a trade or business consisting wholly or mainly of the sale of goods;

“sale of goods” (*“gwerthu nwyddau”*) includes the sale of any of the following—

- (a) meals or refreshments for consumption on or off the premises on which they are sold or prepared;
- (b) intoxicating liquor for consumption on or off the premises on which it is sold;
- (c) petrol or other automotive fuels for fuelling motor vehicles intended or adapted for use on roads; and

“signature” (*“llofnod”*), “sign” (*“llofnodi”*) or “signed” (*“llofnodwyd”*), in relation to a notice served in accordance with article 10(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.

Maximum rateable value for rate relief

3. For the purposes of section 43(4B)(b)(i) of the 1988 Act, the amount prescribed for a hereditament is £12,000.

⁽⁴⁾ 2006 c. 36.

⁽⁵⁾ 2003 c. 21.

⁽⁶⁾ 2000 c. 26.

Conditions for relief

4. For the purposes of section 43(4B)(b)(ii) of the 1988 Act, the conditions to be satisfied are those prescribed in article 5, 6, 7, 8 or 9.

5. The conditions prescribed by this article (“the rateable value conditions”) are—

- (a) until and including 31 March 2012 the rateable value of the hereditament is £6,500 or less, and after that date £5,000 or less;
- (b) the hereditament is not an excepted hereditament; and
- (c) the hereditament is wholly occupied.

6. The conditions prescribed by this article (“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 £12,000 or less;
- (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 10.

7. The conditions prescribed by this article (“the retail premises conditions”) are—

- (a) the hereditament is wholly or mainly used for the purposes of retail premises;
- (b) the hereditament is not an excepted hereditament;
- (c) the hereditament is wholly occupied;
- (d) the rateable value of the hereditament is more than £6,500 but not more than £9,000;
- (e) the ratepayer has given notice to the billing authority in respect of the hereditament in accordance with article 10; and
- (f) the ratepayer has not given notice in accordance with article 10 to the billing authority, or to any other billing authority in Wales, in respect of any other hereditament.

8. The conditions prescribed by this article (“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 XA of the Children Act 1989⁽⁷⁾;
- (b) the hereditament is not an excepted hereditament;
- (c) the hereditament is wholly occupied;
- (d) the rateable value of the hereditament is more than £2,000 but not more than £12,000; and
- (e) the ratepayer has given notice to the billing authority in respect of the hereditament in accordance with article 10.

9. The conditions prescribed by this article (“the credit union conditions”) are—

- (a) the hereditament is wholly used for the purposes of a credit union which is registered as a credit union in accordance with the Credit Unions Act 1979⁽⁸⁾;
- (b) the hereditament is not an excepted hereditament;
- (c) the hereditament is wholly occupied;
- (d) the rateable value of the hereditament is more than £2,000 but not more than £9,000; and
- (e) the ratepayer has given notice to the billing authority in respect of the hereditament in accordance with article 10.

(7) 1989 c. 41. Part XA was inserted by section 79(1) of the Care Standards Act 2000 (c. 14).

(8) 1979 c. 34.

Notices

10.—(1) A notice under this article must contain the information and other matters specified in the Schedule 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 on which the billing authority concerned is notified of the alteration pursuant to regulations under section 55 of the 1988 Act (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 2008.

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

- (a) addressing it to the authority; and
- (b) delivering it 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 a legible form.

(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.

Amount of E

11. The amount of E prescribed for the purposes of section 44(9) of the 1988 Act—

- (a) where the rateable value conditions are satisfied and the rateable value of the hereditament is £2,000 or less, is 2;
- (b) where the rateable value conditions are satisfied and the rateable value of the hereditament is more than £2,000, is 1.333333;
- (c) where the post office conditions are satisfied and the rateable value of the hereditament is £9,000 or less, is 1,000,000;
- (d) where the post office conditions are satisfied and the rateable value of the hereditament is more than £9,000 but not more than £12,000, is 2;
- (e) until and including 31 March 2012 where the retail premises conditions are satisfied, is 1.333333;
- (f) until and including 31 March 2012 where the child care conditions are satisfied, is 2;
- (g) until and including 31 March 2012 where the credit union conditions are satisfied, is 2.

Revocation, Savings and Transitional Provision

12.—(1) The Non-Domestic Rating (Rural Settlements) (Wales) Order 1998⁽⁹⁾ and the Non-Domestic Rating (Rural Rate Relief) (Wales) Order 2002⁽¹⁰⁾ remain in force as they apply to any financial year ending on or before 31 March 2007.

(2) The Non-Domestic Rating (Small Business Relief) (Wales) Order 2006⁽¹¹⁾ is revoked but is to remain in force as it applies to the financial year ending on 31 March 2008.

(3) Article 6(d) does not apply in respect of the financial year beginning on 1 April 2008.

18 October 2008

Brian Gibbons
Minister for Social Justice and Local
Government, one of the Welsh Ministers

⁽⁹⁾ S.I. 1998/2963.

⁽¹⁰⁾ S.I. 2002/331 (W.44).

⁽¹¹⁾ S.I. 2006/3345 (W.306).

SCHEDULE

Article 10

Information and other matters to be contained in a notice under article 10 of the Non-Domestic Rating (Small Business Relief) (Wales) Order 2008 (“the 2008 Order”)

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 a post office, confirmation that the hereditament mentioned in paragraph 2 above is used wholly or partly for the purposes of a post office as described in the 2008 Order.
4. In the case of retail premises—
 - (a) confirmation that—
 - (i) the hereditament mentioned in paragraph 2 above is used wholly or mainly for the purposes of retail premises as described in the 2008 Order; and
 - (ii) the hereditament is wholly occupied;
 - (b) the full address of any other hereditament(s) in Wales which the ratepayer occupies or has occupied at any time since the date in paragraph 8 below;
 - (c) confirmation that neither the ratepayer nor anyone on his/her behalf has given a notice under Article 10 of the 2008 Order to any billing authority in Wales in respect of any other hereditament. If this confirmation cannot be given, full details must be given; and
 - (d) an undertaking by the ratepayer (and 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 of—
 - (i) the address of any hereditament in Wales which the ratepayer has started to occupy since giving the notice;
 - (ii) the date on which the ratepayer started to occupy that hereditament;
 - (iii) the date on which the ratepayer ceased to occupy the hereditament mentioned in paragraph 2 for the purposes of retail premises;
 - (iv) the date on which a notice was given to any billing authority in Wales by or on behalf of the ratepayer under the 2008 Order in respect of a hereditament other than the one mentioned in paragraph 2 and the address of that other hereditament.
5. In the case of premises used for child care—
 - (a) confirmation that—
 - (i) the hereditament mentioned in paragraph 2 above is used wholly for the purposes of child care as described in the 2008 Order; and
 - (ii) the hereditament is wholly occupied; and
 - (b) the name and address of the registered provider and their registration number.
6. In the case of premises used as a credit union—
 - (a) confirmation that—
 - (i) the hereditament mentioned in paragraph 2 above is used wholly for the purposes of a credit union as described in the 2008 Order; and
 - (ii) the hereditament is wholly occupied; and

- (b) the registered office of the credit union;
 - (c) the address of the head office of the credit union, if different from the registered office; and
 - (d) the firm reference number allocated to the credit union by the Financial Services Authority.
7. Confirmation that the hereditament is not an excepted property as described in the 2008 Order.

This confirmation is not required when the rate relief sought relates to a post office

8. 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.
9. An undertaking by the ratepayer (and 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 the 2008 Order.
10. 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.
11. The signature of the ratepayer or person authorised to sign on behalf of the ratepayer.
12. A description of the capacity of the person signing the notice .
13. The date of the notice.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order comes into force on 1 December 2008 but has effect from 1 April 2008 and it applies to Wales.

This Order re-enacts the Non-Domestic Rating (Small Business Relief) (Wales) Order 2006 (“the 2006 Order”) with amendments. The 2006 Order provided for a small business rate relief scheme for Wales following the coming into force of section 63 of the Local Government Act 2003. That section made amendments to sections 42A, 43 and 47 of the Local Government Finance Act 1988 (“the 1988 Act”).

In addition to drafting amendments this Order makes the following changes of substance—

- an increase to the upper rateable value threshold for receipt of the general relief;
- provision of specific relief for retail premises (as defined in article 2), child care providers and credit unions;

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

- provision for ratepayers claiming relief to give notice to the billing authority but this does not apply to those ratepayers who claim relief on the basis of their rateable value only. This provision also applies in respect of post offices which were eligible under the 2006 Order.

Article 2 of the Order defines hereditaments which are excepted from the small business rate relief scheme but this provision does not apply to relief given in respect of post offices.

Article 3 prescribes a maximum rateable value of £12,000 for hereditaments which might be eligible for relief.

Articles 5 to 9 prescribe conditions of eligibility.

Article 10 provides for the information to be included in the notice to be given to billing authorities, the times within which such a notice is to be served and methods of service.

Article 11 prescribes the amount of E for the purposes of the formula contained in section 43(4A)(b) of the 1988 Act. That formula provides the mechanism for calculating the amount of rates payable in respect of particular hereditaments.

Articles 5 and 11 have the effect of granting, subject as indicated in those articles, (a) 50% rate relief to hereditaments which have a rateable value of £2,000 or less; and (b) 25% rate relief to hereditaments which have a rateable value of more than £2,000 but not more than £6,500 (but the latter figure will be £5,000 as from 1 April 2012).

Articles 6 and 11 have the effect of granting, subject as indicated in those articles, 100% rate relief to post offices which have a rateable value of £9,000 or less, and 50% rate relief to post offices which have a rateable value of more than £9,000 but not more than £12,000.

Articles 7 and 11 have the effect of granting, subject as indicated in those articles, 25% rate relief to retail premises which have a rateable value of more than £6,500 but not more than £9,000. This relief will cease on 31 March 2012.

Articles 8 and 11 have the effect of granting, subject as indicated in those articles, 50% rate relief to premises used for child care provision which have a rateable value of more than £2,000 but not more than £12,000. This relief will cease on 31 March 2012.

Articles 9 and 11 have the effect of granting, subject as indicated in those articles, 50% rate relief to premises used for credit unions which have a rateable value of more than £2,000 but not more than £9,000. This relief will cease on 31 March 2012.

The rural rate relief scheme for Wales lapsed but was saved by the 2006 Order in relation to financial years ending on or before 31 March 2007 and that saving is continued by this Order. The 2006 Order is revoked but will remain in force in relation to the financial year ending on 31 March 2008.

A regulatory impact assessment has been prepared in connection with these Regulations. A copy can be obtained at <http://www.assemblywales.org/bus-home/bus-guide-docs-pub/bus-business-documents/bus-business-documents-doc-laid.htm>.