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WELSH STATUTORY INSTRUMENTS

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**2015 No. 229 (W. 11)**

**RATING AND VALUATION, WALES**

**The Non-Domestic Rating (Small Business Relief) (Wales) Order 2015**

<i>Made</i>	- - - -	<i>11 February 2015</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>13 February 2015</i>
<i>Coming into force</i>	- -	<i>9 March 2015</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 2015.
- (2) This Order comes into force on 9 March 2015 but it has effect from 1 April 2015.
- (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 within the meaning given by paragraph 1(1) of the electronic communications code;
- (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 cyfathrebiadau 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) which is an excepted hereditament as defined in section 47(9) of the 1988 Act (6); or
- (d) which is a Crown hereditament as defined in section 65A(4) of the 1988 Act (7);

“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 125(1) of the Postal Services Act 2000(8);

“relevant financial year” (“*blwyddyn ariannol berthnasol*”) means the financial year in respect of which a ratepayer has served a notice in accordance with article 16;

“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;

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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) 2003 c. 21. Section 106(1) of the Communications Act 2003 provides that “the electronic communications code” means the code set out in Schedule 2 to the Telecommunications Act 1984 (c. 12).

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

(7) 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).

(8) 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).

- (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 16(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.

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

3.—(1) Part C of this Order applies only where the chargeable day falls on a date in the period beginning with 1 April 2015 and ending with 31 March 2016 (“the relevant period”).

- (2) Where a hereditament complies with—
  - (a) the conditions in article 6, 7, or 9 and also (on a chargeable day during the relevant period) the conditions in article 12, 13, or 14;
  - (b) the conditions in more than one of articles 6, 7, 8 or 9; or
  - (c) (on a chargeable day during the relevant period) the conditions in more than one of articles 12, 13 or 14;

the article which is to apply is the article which has the effect of a lower amount being chargeable in respect of the hereditament.

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

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

## **PART B**

### **Relief**

#### **Conditions for relief**

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

#### **Rateable value conditions**

- 6. The rateable value conditions are—
  - (a) the rateable value of the hereditament is not more than £7,800;
  - (b) the hereditament is not an excepted hereditament; and
  - (c) the hereditament is wholly occupied.

#### **Child care conditions**

- 7. 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>(9)</sup>;
- (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 16.

#### **Post office conditions**

8. 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 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 16.

#### **Retail premises conditions**

9. 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 £7,800 but not more than £11,000;
  - (e) the ratepayer has given notice to the billing authority in respect of the hereditament in accordance with article 16; and
  - (f) the ratepayer has not given notice in accordance with article 16 to the billing authority, or to any other billing authority in Wales, in respect of any other hereditament.

#### **Amount of E**

10.—(1) The amount specified in paragraph (2) is prescribed as the amount of E for the purposes of section 44(9) of the 1988 Act where the conditions in article 6, 7, 8 or 9 are satisfied.

(2) Where in relation to a hereditament the conditions prescribed by the article specified in column (1) of the table are satisfied and the rateable value of the hereditament is within the range in corresponding column (2), then E is the amount specified in corresponding column (3).

**Table**

<i>(1)</i> <i>Article</i>	<i>(2)</i> <i>Rateable Value</i> <i>(£)</i>	<i>(3)</i> <i>Amount of E</i>
6 (Rateable Value)	0 to 2,400	2

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(9) 2010 nawm 1.

6 (Rateable Value)	2,401 to 7,800	1.333333
7 (Child Care)	2,001 to 12,000	2
8 (Post Office)	0 to 9,000	1,000,000
8 (Post Office)	9,001 to 12,000	2
9 (Retail Premises)	7,801 to 11,000	1.333333

## PART C

### Temporary relief

#### Conditions for relief

11. For the purposes of section 43(4B)(b)(ii) of the 1988 Act, the conditions to be satisfied are those prescribed in article 12, 13 or 14.

#### Rateable value conditions

12. 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.

#### Child care conditions

13. 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;
- (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 £9,000; and
- (e) the ratepayer has given notice to the billing authority in respect of the hereditament in accordance with article 16.

#### Retail premises conditions

14. The retail premises conditions are—

- (a) the hereditament is wholly or mainly used for the purposes of retail premises;
- (b) the rateable value of the hereditament is more than £10,499 but not more than £11,000;
- (c) the ratepayer has given notice to the billing authority in respect of the hereditament in accordance with article 16; and
- (d) the ratepayer has not given notice in accordance with article 16 to the billing authority, or to any other billing authority in Wales, in respect of any other hereditament.

## Amount of E

15.—(1) The amount specified in, or calculated in accordance with, paragraph (2) is prescribed as the amount of E for the purposes of subsection 44(9) of the 1988 Act where the conditions in article 12, 13 or 14 are satisfied.

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

**Table**

<i>(1)</i> <i>Article</i>	<i>(2)</i> <i>Rateable Value</i> <i>(£)</i>	<i>(3)</i> <i>Amount of E</i>
12 (Rateable Value)	0 to 6,000	5,000,000
12 (Rateable Value)	6,001 to 12,000	Calculated in accordance with paragraphs (3) and (4) of this article
13 (Child Care)	0 to 6,000	5,000,000
13 (Child Care)	6,001 to 9,000	Calculated in accordance with paragraphs (3) and (4) of this article
14 (Retail Premises)	10,500 to 11,000	1.333333

(3) Subject to paragraph (4), the amount of E 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.

(4) Amounts calculated under paragraph (3) are calculated to three decimal places only—

- (a) adding one thousandth where (apart from this sub-paragraph) there would be more than five ten-thousandths; and
- (b) ignoring the ten-thousandths where (apart from this sub-paragraph) there would be five, or less than five, ten thousandths.

## PART D

### Miscellaneous

#### Notice

16.—(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) 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 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 (10) (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 2015

(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 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.

### **Revocation and savings provision**

17. The Orders specified in Schedule 2 are revoked but continue to apply to a financial year ending on or before 31 March 2015.

11 February 2015

*Edwina Hart*  
Minister for Economy, Science and Transport,  
one of the Welsh Ministers

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(10) 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), and paragraphs 2 and 3 of Schedule 16 to the Local Government and Public Involvement in Health Act 2007 (c. 28).

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## SCHEDULE 1

Article 16

### Information and other matters to be contained in a notice

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 above is used wholly for the purposes of child care as described in this Order;
    - (ii) 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 above is used wholly or partly for the purposes of a post office as described in this Order.
5. 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 this Order;
    - (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 7 below;
  - (c) confirmation that neither the ratepayer nor anyone on the ratepayer's behalf has given a notice under article 16 of this Order to any billing authority in Wales in respect of any other hereditament;
  - (d) if the confirmation in sub-paragraph (c) cannot be given, full details of any notice given to a billing authority must be provided; and
  - (e) 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 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 this Order in respect of a hereditament other than the one mentioned in paragraph 2 and the address of that other hereditament.
6. Except in the case of a post office, confirmation that the hereditament is not an excepted property as described in this Order.
7. 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.



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8. 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.

9. 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.

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

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

12. The date of the notice.

## SCHEDULE 2

Article 17

### Revocation and savings

<i>Orders revoked</i>	<i>References</i>
Non-Domestic Rating (Small Business Relief) (Wales) Order 2008	<a href="#">S.I. 2008/2770 (W. 246)</a>
Non-Domestic Rating (Small Business Relief) (Wales) (Amendment) Order 2010	<a href="#">S.I. 2010/273 (W. 36)</a>
Non-Domestic Rating (Small Business Relief) (Wales) (Amendment) (No 2) Order 2010	<a href="#">S.I. 2010/2223 (W. 195)</a>
Non-Domestic Rating (Small Business Relief) (Wales) (Amendment) Order 2011	<a href="#">S.I. 2011/995 (W. 148)</a>
Non-Domestic Rating (Small Business Relief) (Wales) (Amendment) Order 2012	<a href="#">S.I. 2012/465 (W. 76)</a>
Non-Domestic Rating (Small Business Relief) (Wales) (Amendment) Order 2013	<a href="#">S.I. 2013/371 (W. 44)</a>
Non-Domestic Rating (Small Business Relief) (Wales) (Amendment) Order 2014	<a href="#">S.I. 2014/372 (W. 40)</a>

## EXPLANATORY NOTE

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

This Order comes into force on 9 March 2015 but has effect from 1 April 2015 and it applies in relation to Wales.

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This Order re-enacts the Non-Domestic Rating (Small Business Relief) (Wales) Order 2008 (S.I. 2008/2770) with amendments. The Order provides for a rate relief scheme and a temporary rate relief scheme. The temporary rate relief scheme will run from 1 April 2015 to 31 March 2016 and applies only to certain categories of hereditament.

Part A of this Order contains general provision which includes the definition of hereditaments which are excepted from the small business rate relief scheme.

Article 3 makes provision about application of this Order.

Article 4 prescribes a maximum rateable value of £12,000 for hereditaments which might be eligible for relief from non-domestic rates.

Part B of this Order makes provision about the relief scheme but is subject to the temporary rate relief scheme provided for in Part C.

Articles 5 to 9 prescribe conditions of eligibility for relief from non-domestic rates.

Article 10 prescribes the amount of E for the purposes of the formula contained in section 43(4A) (b)

of the Local Government Finance Act 1988. That formula provides the mechanism for calculating the amount of non-domestic rates payable in respect of eligible hereditaments under the rate relief scheme.

Articles 5 to 10 have the effect of granting, subject as indicated in those articles, the rate relief in the illustrative table below—

<i>Type of Condition</i>	<i>Rateable Value</i> (£)	<i>Relief</i> (%)
Rateable Value	0 to 2,400	50
Rateable Value	2,401 to 7,800	25
Child Care	2,000 to 12,000	50
Post Office	0 to 9,000	100
Post Office	9,001 to 12,000	50
Retail Premises	7,801 to 11,000	25

Part C makes provision for the temporary rate relief scheme which commences on 1 April 2015 and ceases on 31 March 2016.

Articles 11 to 14 prescribe the conditions of eligibility under the temporary rate relief scheme.

Article 15 prescribes the amount of E for the purposes of the formula contained in section 43(4A) (b) of the Local Government Finance Act 1988. That formula provides the mechanism for calculating the amount of non-domestic rates payable in respect of eligible hereditaments under the temporary rate relief scheme.

Part D provides for information to be included in the notice to be given to billing authorities, the time within which such a notice is 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, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with this Order.