

EXPLANATORY MEMORANDUM & REGULATORY IMPACT ASSESSMENT

Explanatory Memorandum to The Non-Domestic Rating (Unoccupied Property) (Amendment) (Wales) Regulations 2007

This Explanatory Memorandum has been prepared by Local Government Finance Division and is laid before the National Assembly for Wales.

(i) **Description**

The Non-Domestic Rating (Unoccupied Property) Regulations 1989 ('the 1989 Regulations') exempt empty industrial properties and all empty properties with a rateable value under £1,500 from liability for paying rates.

These Regulations will amend the 1989 Regulations so that empty industrial properties are only exempt from liability for 6 months, and increase the threshold from £1,500 to £2,200.

(ii) **Matters of special interest to the Subordinate Legislation Committee**

None

(iii) **Legislative Background**

These Regulations will be made under section 45(1)(d), (9), (10), 143(2), and 146(6) of the Local Government Finance Act 1988. These powers were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 and are now vested in the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

The Regulations will follow the negative procedure.

(iv) **Purpose and intended effect of the legislation**

a) The 1989 Regulations exempted all qualifying industrial properties from liability to pay rates. These Regulations will amend the 1989 Regulations so that from 1 April 2008 only industrial properties which have been unoccupied for a continuous period not exceeding six months are excluded from liability. After that period of six months, the ratepayer will become liable to pay the unoccupied rate which is 100% of the occupied rate. The Rating (Empty Properties) Act 2007 reduced the amount of empty property relief from 50% to 0%.

b) All empty properties with a rateable value under £1,500 are currently exempted from paying rates. This legislation will increase the threshold to £2,200.

(v) **Implementation**

This legislation will have effect from 1st April 2008, but needs to be made as soon as possible to enable local authorities to prepare and issue rates demand notices prior to this date, to install and test upgrades to billing software, and to identify and give notice to affected ratepayers of their new liability.

(vi) **Consultation**

- a) No external consultation has been undertaken on the ending of the exemption of industrial properties empty for more than 6 months in Wales. A cabinet statement announcing this change, and the reasons for making it was published on 8 October 2007.

The Barker Report on Land Use Planning published on 5 December 2006 recommended that the U.K. Government should make better use of fiscal incentives to encourage efficient use of urban land and, in particular, the reform of relief from business rates in respect of empty property.

Subsequently, the report of the Lyons Inquiry, published on 21 March 2007, also recommended the reform and reduction of the existing reliefs from business rates in respect of empty property. Lyons rationale for the recommendation was the need to ensure that previously developed land was used more effectively to protect the environment and support urban regeneration.

- b) The increasing of the threshold at which empty properties become liable to pay rates has been discussed with local authority revenue managers, who requested this at a meeting of the Local Taxation Working Group. This will also remove the discrepancy whereby owners of empty properties in Wales with a rateable value between £1,501 and £2,200 are liable to pay rates, whereas those in England are not.

Regulatory Impact Assessment –

- (a) **Options (for achieving the policy objective – as set out in paragraph (iv) above) –**

Other options were to make no change, or to increase the period after which empty industrial properties cease to be exempt, for example, from the proposed six months to twelve months.

Both these options carried significant financial risks. The UK Government is reducing to 6 months the period that empty properties are exempted from liability to pay non domestic rates in England from 1st April 2008. The Statement of Funding policy agreed between the Treasury and Devolved Administrations makes it clear that if we implement a relief scheme that is more generous than England,

thereby reducing the increase in NDR yield compared to England and not decreasing the demand for cash from the Treasury in proportion to England (this relates to the NDR pooling arrangements for collected NDR), then the Treasury reserves the right to reduce the Assembly's Assigned Budget by an amount equal to the additional cash requirement. With the Government of Wales Act 2006 we now have our own Consolidated Fund, but the arrangements in respect of the operation of the rating pool remain unchanged.

The reduction from the potential full increase NDR yield for the Assembly Government of adopting any option other than the one adopted could be up to £43 million pounds.

If the threshold at which empty business become liable to pay rates was not raised, the benefits in para b(ii) would not be realised.

(b) **Benefits**

i) The change in liability in respect of empty industrial property should encourage owners to let these properties, and may result in a reduction in the rental costs of property. It will also ensure that the Assembly Government will not have to reduce expenditure from other priorities in order to take on the new burden of funding rates relief for empty industrial properties.

ii) The increasing of the threshold at which empty properties become liable to pay rates will reduce the rates liability for the owners of the smallest empty properties, and will result in administrative savings for local authorities who will not have to use resources billing or taking enforcement measures for any subsequent non payment of rates from owners of the smallest empty properties. This will also remove the discrepancy whereby owners of empty properties in Wales with a rateable value between £1,501 and £2,200 are liable to pay rates, whereas those in England are not.

(c) **Costs**

There are no financial costs to the Assembly Government as a result of either changes. The change in liability for empty industrial properties will mean that these will now become liable to pay business rates after they have been empty for more than 6 months, and the revenue collected will be paid into the rating pool.

(d) **Competition Assessment**

This has been scored against the competition filter test which indicated that there should be no detrimental effect on competition,

(e) Consultation

See paragraph vi of the explanatory memorandum.

(f) Post implementation review

The Welsh Assembly Government will review relief for empty properties and small businesses on an annual basis, and it will be discussed at meetings of the Local Taxation Working Group, which is attended by local authority and Assembly officials.