



Welsh Government
Consultation Document

Technical Consultation on The Non-Domestic Rating (Small Business Relief) (Wales) (Amendment) Order 2019

Date of issue: 18 September 2019
Action required: Responses by 30 October 2019

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

Overview	The Welsh Government is seeking views on provisions regarding Automatic Teller Machines and Small Business Rates Relief in Wales.
How to respond	<p>Responses can be emailed or sent direct to:</p> <p>Non-Domestic Rates Policy Branch Cathays Park Cardiff CF10 3NQ Email: LGF1Consultations@gov.wales</p>
Further information and related documents	Large print, Braille and alternative language versions of this document are available on request.
Contact details	<p>For further information, or queries regarding this consultation, please email:</p> <p>LGF1Consultations@gov.wales Non-Domestic Rates Policy Branch Cathays Park Cardiff CF10 3NQ</p>

General Data Protection Regulation (GDPR)

The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

Your rights

Under the data protection legislation, you have the right:

- to be informed of the personal data held about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection.

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the GDPR, please see contact details below:

Data Protection Officer:
Welsh Government
Cathays Park
CARDIFF
CF10 3NQ

e-mail:

DataProtectionOfficer@gov.wales

The contact details for the Information Commissioner's Office are:

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Tel: 01625 545 745 or
0303 123 1113

Website: <https://ico.org.uk/>

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1 Introduction

- 1.1 This is a technical consultation on The Non-Domestic Rating (Small Business Relief) (Wales) (Amendment) Order 2019 (the Draft 2019 Order) (Annex A).
- 1.2 The Draft 2019 Order makes amendments to the Non-Domestic Rating (Small Business Relief) (Wales) Order 2017 (SI 2017/1229) (the 2017 Order) to ensure that Automatic Teller Machines (ATMs) are excepted hereditaments and therefore not eligible for Small Business Rates Relief (SBRR).
- 1.3 The proposed 2019 Order is intended to be operational from 1 April 2020.
- 1.4 We welcome your comments regarding the practical application of the Draft 2019 Order. This technical consultation will be open for a six-week period and will close on 30 October 2019.

2 Context

- 2.1 Non-domestic rates apply to most types of non-domestic property. This includes uses such as parking, advertising rights, telecommunications masts and ATMs.
- 2.2 SBRR, as it operates in Wales, excludes certain types of property from eligibility on the grounds that they are not 'small businesses' in the sense in which the relief is intended to support. The exclusions include car parks, advertising rights (eg. billboards) and electronic communications apparatus (ECA). The exclusion of electronic communications apparatus is intended to cover a wide range of equipment, including ATMs.
- 2.3 Provisions to exclude ECA are incorporated into the current SBRR scheme, through the 2017 Order. The SBRR guidance¹ accompanying the 2017 Order also reflects the exclusion of ECAs. The consultation² on the SBRR scheme referred explicitly to the exclusion of ATMs from eligibility for the relief.
- 2.4 In January 2018, a rating agent acting on behalf of an ATM ratepayer, Cardtronics UK Ltd, brought a legal challenge against Pembrokeshire County Council for the non-award of SBRR in relation to its ATM sites in the county.³ The court ruled in favour of Cardtronics UK Ltd on the ground that ATMs are not ECA. Therefore, where applicable, ATMs which meet the relevant criteria would now be eligible for SBRR.
- 2.5 SBRR is not intended to support ATMs on the basis that they are not viewed as small businesses. As such, the Draft 2019 Order has been prepared to amend the existing legislation. The effects of the amendments are to ensure that non-domestic properties which are used exclusively for ATMs do not benefit from SBRR.

¹ Permanent Small Business Rates Relief Scheme for Wales. 2019.

<https://businesswales.gov.wales/sites/business-wales/files/Permanent%20Small%20Business%20Rates%20Relief%20Scheme%20for%20Wales.pdf>

² Delivering a tax cut for small businesses: A new small business rates relief scheme for Wales. 13 December 2017

<https://gov.wales/delivering-tax-cut-small-businesses-new-small-business-rates-relief-scheme-wales>

³ *Cardtronics UK Limited v Pembrokeshire County Council* [2018] EWHC 1167

3 Structure of the Legislation

3.1 The Draft 2019 Order makes amendments to the 2017 Order. The provisions insert into article 2 a definition of an ATM as:

3.2 *“an automated facility providing self-service access to a range of banking services”.*

The provisions also amend the definition of an “excepted hereditament” in article 2 of the 2017 Order to include a hereditament *“which is used exclusively for an automated teller machine”*.

3.3 These provisions clarify how ATMs should be treated with regards to SBRR. The effect will be to fulfil the original policy intention to ensure that ATMs are not eligible to receive SBRR.

Q1	Are there any issues regarding the administration and enforcement of the Draft Order?
Q2	Do you have any other comments about the Draft Order?

4 Next Steps

- 4.1 The consultation on the Draft 2019 Order will be open for a six-week period. Following the close of the technical consultation, responses will be considered and any further amendments which may be required will be drafted.
- 4.2 Subject to the views submitted during the technical consultation exercise, it is intended that the Draft 2019 Order will come into effect from 1 April 2020.

CONSULTATION RESPONSE FORM

Your name:	
Organisation (if applicable):	
Email / Telephone number:	
Your address:	

Questions

1. Are there any issues regarding the administration and enforcement of the Draft Order?
2. Do you have any other comments about the Draft Order?

- 3. We would like to know your views on the effects that the Draft Order would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.**

What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

- 4. Please also explain how you believe the Draft Order could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.**

- 5. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:**

Responses to consultations are likely to be made public on the internet or in a report. If you would prefer your response to remain anonymous, please tick here

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