

SL(5)486 – The Non-Domestic Rating (Small Business Relief) (Wales) (Amendment) Order 2019

Background and Purpose

This Order amends the Non-Domestic Rating (Small Business Relief) (Wales) Order 2017 (“the 2017 Order”). The 2017 Order provides for a non-domestic rate relief scheme (“the scheme”) which applies to certain categories of hereditament.

The effect of the amendments made by this Order is to ensure that hereditaments which are used exclusively for automatic teller machines do not benefit from small business rates relief under the scheme.

This is as a result of the ruling of the High Court in *Cardtronics UK Limited v Pembrokeshire County Council* [2018] EWHC 1167 (Admin) that automatic teller machines were not “electronic communication apparatus” within the meaning of the Non-Domestic Rating (Small Business Relief) (Wales) Order 2015, and were therefore eligible for small business rates relief.

Procedure

Negative.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

One point is identified for reporting under Standing Order 21.3 in respect of this instrument.

1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly

While the Explanatory Memorandum to this Order correctly refers to the enabling power in section 43(4B)(b) of the Local Government Finance Act 1988 (“the 1988 Act”), paragraph 10 of the Explanatory Memorandum also refers to the enabling power in paragraph 2(8) of Schedule 6 to the 1988 Act, which does not seem to be relevant to this Order.

Implications arising from exiting the European Union

No implications are identified for reporting under Standing Order 21.3 in respect of this instrument.

Government Response

A government response is required.

Legal Advisers

Constitutional and Legislative Affairs Committee

8 January 2020

