OFFERYNNAU STATUDOL CYMRU

WELSH STATUTORY INSTRUMENTS

2019 Rhif 1508 (Cy. 279)

2019 No. 1508 (W. 279)

ARDRETHU A PHRISIO, CYMRU

RATING AND VALUATION, WALES

Gorchymyn Ardrethu Annomestig (Rhyddhad Ardrethi i Fusnesau Bach) (Cymru) (Diwygio) 2019

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

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Gorchymyn)

Mae'r Gorchymyn hwn yn diwygio Gorchymyn Ardrethu Annomestig (Rhyddhad Ardrethi i Fusnesau Bach) (Cymru) 2017 (O.S. 2017/1229 (Cy. 293)) ("Gorchymyn 2017"). Mae Gorchymyn 2017 yn darparu ar gyfer cynllun rhyddhad ardrethi annomestig ("y cynllun") sy'n gymwys i gategorïau penodol o hereditamentau.

Effaith y diwygiadau a wneir gan y Gorchymyn hwn yw sicrhau nad yw hereditamentau a ddefnyddir ar gyfer peiriannau arian awtomatig yn unig yn cael budd o ryddhad ardrethi i fusnesau bach o dan y cynllun.

Mae hyn yn dilyn dyfarniad yr Uchel Lys yn *Cardtronics UK Limited v Pembrokeshire County Council* [2018] EWHC 1167 (Admin) nad oedd peiriannau arian awtomatig yn "cyfarpar cyfathrebiadau electronig" o fewn ystyr Gorchymyn Ardrethu Annomestig (Rhyddhad Ardrethi i Fusnesau Bach) (Cymru) 2015 (O.S. 2015/229 (Cy. 11)), ac felly yn gymwys i gael rhyddhad ardrethi i fusnesau bach.

Mae'r Gorchymyn hwn yn diwygio erthygl 2 o Orchymyn 2017 drwy fewnosod diffiniad newydd sef "peiriant arian awtomatig" ac mae'n cynnwys y diffiniad hwnnw o fewn y diffiniad o "hereditament a eithrir". Mae hyn yn golygu na fydd peiriannau arian awtomatig yn gymwys i gael rhyddhad ardrethi i fusnesau bach gydag effaith o 1 Ebrill 2020.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Non-Domestic Rating (Small Business Relief) (Wales) Order 2017 (S.I. 2017/1229 (W. 293)) ("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 follows 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 (S.I. 2015/229 (W. 11)), and were therefore eligible for small business rates relief.

This Order amends article 2 of the 2017 Order by inserting a new definition of an "automatic teller machine" and includes that definition within the definition of "excepted hereditament". This means that automatic teller machines will not be eligible for small business rates relief with effect from 1 April 2020.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Gorchymyn hwn. O ganlyniad, lluniwyd asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Gorchymyn hwn. Gellir cael copi oddi wrth yr Is-adran Cyllid Strategol Llywodraeth Leol, Llywodraeth Cymru, Parc Cathays, Caerdydd, CF10 3NQ.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to this Order. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with this Order. A copy can be obtained from the Local Government Strategic Finance Division, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

2019 Rhif 1508 (Cy. 279)

ARDRETHU A PHRISIO, CYMRU

Gorchymyn Ardrethu Annomestig (Rhyddhad Ardrethi i Fusnesau Bach) (Cymru) (Diwygio) 2019

Gwnaed	*18 Rhagfyr 2019*
Gosodwyd gerbron Cynulliad Cenedlaethol Cymru	*20 Rhagfyr 2019*
Yn dod i rym	*1 Ebrill 2020*

Mae Gweinidogion Cymru yn gwneud y Gorchymyn a ganlyn drwy arfer y pwerau a roddir i Gynulliad Cenedlaethol Cymru gan adran 43(4B)(b) o Ddeddf Cyllid Llywodraeth Leol 1988(**1**), ac a roddir i'r Ysgrifennydd Gwladol gan adrannau 143(1) a 146(6) o'r Ddeddf honno, ac a freiniwyd bellach ynddynt hwy(**2**).

Enwi a chychwyn

1.—(1) Enw'r Gorchymyn hwn yw Gorchymyn Ardrethu Annomestig (Rhyddhad Ardrethi i Fusnesau Bach) (Cymru) (Diwygio) 2019.

(2) Daw'r Gorchymyn hwn i rym ar 1 Ebrill 2020.

(**1**) 1988 p. 41. Mewnosodwyd is-adran (4B) o adran 43 o Ddeddf Cyllid Llywodraeth Leol 1988 gan adran 61(1) a (3) o Ddeddf Llywodraeth Leol 2003 (p. 26). Trosglwyddwyd swyddogaethau Cynulliad Cenedlaethol Cymru o dan adran 43(4B) o Ddeddf Cyllid Llywodraeth Leol 1988 i Weinidogion Cymru yn rhinwedd paragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p. 32).

(**2**) Trosglwyddwyd swyddogaethau'r Ysgrifennydd Gwladol o dan adrannau 143(1) a 146(6) o Ddeddf Cyllid Llywodraeth Leol 1988, i'r graddau yr oeddent yn arferadwy o ran Cymru, i Gynulliad Cenedlaethol Cymru yn rhinwedd erthygl 2 o Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672), ac Atodlen 1 iddo. Trosglwyddwyd swyddogaethau Cynulliad Cenedlaethol Cymru wedi hynny i Weinidogion Cymru yn rhinwedd paragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006.

2019 No. 1508 (W. 279)

RATING AND VALUATION, WALES

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

Made	*18 December 2019*
Laid before the National Assembly for Wales	*20 December 2019*
Coming into force	*1 April 2020*

The Welsh Ministers make the following Order in exercise of the powers conferred on the National Assembly for Wales by section 43(4B)(b) of the Local Government Finance Act 1988(**1**) and conferred on the Secretary of State by sections 143(1) and 146(6) of that Act and now vested in them(**2**).

Title and commencement

1.—(1) The title of this Order is the Non-Domestic Rating (Small Business Relief) (Wales) (Amendment) Order 2019.

(2) This Order comes into force on 1 April 2020.

(**1**) 1988 c. 41. Subsection (4B) of section 43 of the Local Government Finance Act 1988 was inserted by section 61(1) and (3) of the Local Government Act 2003 (c. 26). The functions of the National Assembly for Wales under section 43(4B) of the Local Government Finance Act 1988 were transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

(**2**) The functions of the Secretary of State under sections 143(1) and 146(6) of the Local Government Finance Act 1988 so far as exercisable in relation to Wales transferred to the National Assembly for Wales by virtue of article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). The functions of the National Assembly for Wales were subsequently transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

Diwygio Gorchymyn Ardrethu Annomestig (Rhyddhad Ardrethi i Fusnesau Bach) (Cymru) 2017

2.—(1) Mae Gorchymyn Ardrethu Annomestig (Rhyddhad Ardrethi i Fusnesau Bach) (Cymru) 2017(**1**) wedi ei ddiwygio fel a ganlyn.

(2) Yn erthygl 2—

(a) yn y man priodol mewnosoder y diffiniad a ganlyn—

"ystyr "peiriant arian awtomatig" ("*automatic teller machine*") yw cyfleuster awtomatig sy'n darparu mynediad hunanwasanaeth i ystod o wasanaethau bancio;";

(b) yn y diffiniad o "hereditament a eithrir" ("*excepted hereditament*"), ar ôl paragraff (f) mewnosoder—

"(g) a ddefnyddir ar gyfer peiriant arian awtomatig yn unig;".

Amendments to the Non-Domestic Rating (Small Business Relief) (Wales) Order 2017

2.—(1) The Non-Domestic Rating (Small Business Relief) (Wales) Order 2017(**1**) is amended as follows.

(2) In article 2—

(a) in the appropriate place insert the following definition—

""automatic teller machine" ("*peiriant arian awtomatig*") means an automated facility providing self-service access to a range of banking services;";

(b) in the definition of "excepted hereditament" ("*hereditament a eithrir*"), after paragraph (f) insert—

"(g) which is used exclusively for an automatic teller machine;".

Rebecca Evans

Y Gweinidog Cyllid a'r Trefnydd, un o Weinidogion Cymru
18 Rhagfyr 2019

Minister for Finance and Trefnydd, one of the Welsh Ministers
18 December 2019

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(**1**) O.S. 2017/1229 (Cy. 293).

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(**1**) S.I. 2017/1229 (W. 293).

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