

NON-DOMESTIC RATING (LISTS) BILL [HL]

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Non-Domestic Rating (Lists) Bill [HL] as introduced in the House of Lords on 18 March 2020 (HL Bill 109).

- These Explanatory Notes have been prepared by the Ministry of Housing, Communities and Local Government in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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Overview of the Bill

- 1 This Bill implements commitments made at the Queen’s Speech on 19 December 2019 to bring forward the next business rates revaluation.¹ The Bill brings forward by one year the next revaluation for non-domestic rates to 1 April 2021. The Cabinet Secretary for Finance to the Welsh Government announced in a written statement on 11 July 2018 that the date for the next revaluation in relation to Wales would also be brought forward to 1 April 2021 in line with its English counterpart.² The Bill also moves the latest date by which draft rateable values must be published from 30 September preceding the new rating list to 31 December preceding in relation to both England and Wales.

Policy background

- 2 Liability for non-domestic rates (known as business rates) is based upon the rateable value of the hereditament (the property or part of the property which is liable for business rates). Rateable values are set independently of both the United Kingdom and Welsh Governments by the Valuation Office Agency (VOA) and appear on non-domestic rating lists. There is a rating list for each Billing Authority and also a Central Rating List held by the Secretary of State (typically containing network hereditaments which span many billing authority areas).
- 3 Broadly speaking rateable values represent annual rental values. Between 1990 and 2010 new rating lists were compiled every five years allowing the VOA to update rateable values to reflect changes in the rental market. The process of compiling new rating lists is known as a revaluation.
- 4 At the time of an economic downturn in 2012, the 2015 revaluation was postponed to 2017 in both England and Wales to give businesses certainty over their rates bills while the economy recovered. Alongside this, the Government undertook a review of business rates administration and asked ratepayers how frequently revaluations should take place after the 2017 revaluation.³ The United Kingdom Government received over two hundred written responses to the review and officials held over thirty workshops throughout England. The interim findings were published in December 2014.⁴ A key theme of the responses was for the business rates system to be made more responsive to economic conditions.
- 5 At Budget 2016 the Government announced it would aim to introduce more frequent revaluations and published a discussion paper on how this should be delivered.⁵ At the Spring Statement 2018 the Chancellor of the Exchequer announced that the next revaluation will be brought forward from 1 April 2022 to 1 April 2021.
- 6 In July 2018 the Welsh Government announced that the next revaluation in Wales would also take place on 1 April 2021.⁶ A Legislative Consent Motion was approved by the National Assembly for Wales on 9 July 2019.⁷

¹ <https://www.gov.uk/government/publications/queens-speech-december-2019-background-briefing-notes>

² <https://gov.wales/written-statement-non-domestic-rates-revaluation>

³ <https://www.gov.uk/government/publications/business-rates-administration-review-discussion-paper>

⁴ <https://www.gov.uk/government/publications/administration-of-business-rates-in-england-interim-findings>

⁵ <https://www.gov.uk/government/consultations/business-rates-delivering-more-frequent-revaluations>

⁶ <https://gov.wales/written-statement-non-domestic-rates-revaluation>

⁷ <http://record.assembly.wales/Plenary/5672#A52335>

- 7 The VOA is required to publish draft rateable values ahead of the new rating lists coming into force. Under the current system the VOA is required to publish draft rateable values by no later than the 30 September preceding the new rating list coming into force. However, in practice ratepayers cannot estimate their new rates bill from just their draft rateable value as they also need to know the new non-domestic rating multipliers and details of the transitional arrangements. Historically these have only been confirmed at the time of the autumn fiscal event which comes later than the end of September. Therefore, in order to enable the alignment of the publication of draft rateable values with the confirmation of the multipliers and transitional arrangements, the Bill will shorten the period of the draft rating list to no less than three months in England and Wales. Therefore, the VOA will be required to publish draft rateable values no later than 31 December preceding the revaluation.
- 8 At the Autumn Budget 2017 the Chancellor of the Exchequer announced that revaluations in England would, after the next revaluation, move from every five years to every three years. A previous Non-Domestic Rating (Lists) Bill was introduced in the House of Commons on 12 June 2019⁸ which provided for three yearly revaluations in England. It passed Second Reading in the House of Lords on 30 September 2019 before Parliament was prorogued on 8 October 2019. The Government continues to recognise the benefits of frequent revaluations and will consider the revaluation process as part of a fundamental review of business rates.⁹

Legal background

- 9 Part 3 of the Local Government Finance Act 1988 (“the 1988 Act”) concerns non-domestic rating. Sections 41, 52 and 54A of the 1988 Act require new local and central rating lists to be compiled at regular intervals as outlined in paragraphs 2 and 3 above. Sections 41 and 52 set the dates by which draft lists must be compiled as described in paragraph 7 above.
- 10 Sections 57A and 58 provide powers for the creation of transitional arrangements schemes in England and Wales respectively, which phase in increases and decreases in rateable values for hereditaments after a revaluation. Such regulations are made in relation to a “relevant period” between revaluations. The most recent example of regulations made under section 57A in England is the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016 (S.I. 2016/1265) (the “2016 English Chargeable Amounts Regulations”). The most recent example of regulations made under section 58 in Wales is the Non-Domestic Rating (Chargeable Amounts) (Wales) Regulations 2016 (S.I. 2016/1247) (W. 295).
- 11 Clause 1 of the Bill makes amendments to sections 41, 52 and 54A of the 1988 Act. These relate to the date of the next revaluation and the date by which draft lists must be published before revaluations.
- 12 Clause 2 of the Bill makes consequential amendments to sections 57A and 58 of the 1988 Act, and to regulations 4 and 10 of the 2016 English Chargeable Amounts Regulations. These changes relate to the length of the “relevant period” for the purposes of the transitional arrangement schemes.

⁸ <https://services.parliament.uk/Bills/2017-19/nondomesticratinglists.html>

⁹ <https://www.gov.uk/government/publications/queens-speech-december-2019-background-briefing-notes>

Territorial extent and application

- 13 The provisions of the Bill extend to England and Wales. Clause 1(1), (2)(b), and (3)(b) of the Bill applies to both England and Wales. Clause 1(2)(a) and (3)(a) applies to England only. Clause 1(4) applies to Wales only. Clause 2(1) and (3) to (6) applies to England only. Clause 2(2) applies to Wales only.
- 14 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom. The table also summarises the position regarding legislative consent motions and matters relevant to Standing Orders Nos. 83J to 83X of the Standing Orders of the House of Commons relating to Public Business.

Commentary on provisions of Bill

Clause 1: Compilation of rating lists

- 15 Clause 1 amends section 41(2A) and section 52(2A) of the 1988 Act to provide for the next English rating lists to be compiled on 1 April 2021. Clause 1 also amends sections 41(5) and 52(5) of the 1988 Act so as to move the requirement to prepare draft rating lists in both England and Wales from no later than 30 September to no later than 31 December preceding the new rating list coming into force.
- 16 Clause 1 also amends section 54A(4)(b) and (5)(b) of the 1988 Act to provide that the next Welsh rating lists are to be compiled on 1 April 2021 rather than 1 April 2022.

Clauses 2: Consequential amendments

- 17 Clause 2 makes consequential changes to section 57A of the 1988 Act and the 2016 English Chargeable Amounts Regulations so that they reflect the shortened period of the 2017 rating list.
- 18 Clause 2 also makes consequential changes to the meaning of “relevant period” in section 58 of the 1988 Act, reflecting the shortened four-year period of the 2017 Welsh lists.

Commencement

- 19 The Bill will come into force at the end of the period of two months beginning with the day on which it is passed.

Financial implications of the Bill

- 20 The Bill does not contain provisions that may lead to new public expenditure.

Parliamentary approval for financial costs or for charges imposed

- 21 A ways and means resolution is required for the Bill. A ways and means resolution is required where a Bill authorises new charges on the people - broadly speaking, new taxation or other similar charges.
- 22 The share of the proceeds of locally collected non-domestic rates retained by central Government and the proceeds of the central rating list pass through the Government’s Consolidated Fund. Whilst the Government’s objective is to ensure that each revaluation is

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revenue neutral after allowing for inflation and future appeals, some ratepayers will incur greater liability for non-domestic rates following a revaluation since the rateable values of the hereditaments they own or occupy will rise following reassessment.

Compatibility with the European Convention on Human Rights

- 23 The Government has examined the compatibility of the provisions in the Bill with the Convention. In particular, the Government has considered potential arguments that any increases in individual ratepayers' business rates bills arising from the revaluation amounts to a deprivation of a possession or is a disproportionate interference with the rights of that ratepayer under Article 1 of Protocol 1 to the Convention.
- 24 The Government believes that the Bill's provisions are compatible with the Convention. The Government is of the view that this Bill falls within the exception to Article 1 of Protocol 1 to the Convention (Protection of Property), which preserves the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes.
- 25 The Government does not consider that any of the other Convention rights are engaged by the Bill's provisions.
- 26 Section 19 of the Human Rights Act 1998 requires the Minister in charge of a bill in both Houses of Parliament to make a statement about the compatibility of the Bill with the Convention Rights (as defined by section 1 of that Act). The Earl of Courtown has stated that in his view the provisions of the Non-Domestic Rating (Lists) Bill are compatible with Convention rights.

Related documents

- 27 The following documents are relevant to the Bill and can be read at the stated locations:
 - The Local Government Finance Act 1988
<https://www.legislation.gov.uk/ukpga/1988/41/contents>
 - Consultation exercise on Delivering More Frequent Revaluations.
<https://www.gov.uk/government/consultations/business-rates-delivering-more-frequent-revaluations>

Annex A – Territorial extent and application in the United Kingdom

28 The territorial extent and application of the Bill is summarised as follows. The Bill extends to England and Wales. Different provisions within the Bill apply to England only, Wales only, or to both England and Wales. Please see the table below for further details.

| Provision | Extends to E & W and applies to England? | Extends to E & W and applies to Wales? | Extends and applies to Scotland? | Extends and applies to Northern Ireland? | Would corresponding provision be within the competence of the National Assembly for Wales? | Would corresponding provision be within the competence of the Scottish Parliament? | Would corresponding provision be within the competence of the Northern Ireland Assembly? | Legislative Consent Motion sought? |
|--|--|--|----------------------------------|--|--|--|--|------------------------------------|
| Compilation of rating lists Clause 1 | In part | In part | No | No | N/A | N/A | N/A | Yes (Wales) |
| Consequential amendments Clause 2 | In part | In part | No | No | N/A | N/A | N/A | Yes (Wales) |
| Interpretation Clause 3 | In part | In part | No | No | N/A | N/A | N/A | Yes (Wales) |
| Extent, Commencement and Short Title Clause 4 | In part | In part | No | No | N/A | N/A | N/A | Yes (Wales) |

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