

# NON-DOMESTIC RATING (LISTS) (NO.2) BILL

## EXPLANATORY NOTES

### What these notes do

These Explanatory Notes relate to the Non-Domestic Rating (Lists) (No.2) Bill as brought from the House of Commons on 21 October 2020 (HL Bill 146).

- 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 by the Government on 21 July 2020 to ensure the next business rates revaluation takes effect from 1 April 2023.<sup>1</sup> This revaluation will be based on property values as of 1 April 2021 so that it better reflects the impact of COVID-19.<sup>2</sup> The Minister for Finance and Trefnydd to the Welsh Government announced on 11 August 2020 that the next non-domestic rates revaluation in Wales will also take effect in 2023 and will be based on property values as at 1 April 2021.<sup>3</sup> 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.<sup>4</sup> The 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.<sup>5</sup> 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.<sup>6</sup> At the Spring Statement 2018 the Chancellor of the Exchequer announced that the next revaluation would be brought forward from 1 April 2022 to 1 April 2021. However, to reduce the

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<sup>1</sup> Written statement by the Financial Secretary to the Treasury, made on 21 July: <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2020-07-21/HCWS400/>

<sup>2</sup> The Ratings Lists (Valuation Date) (England) Order 2020 – Secondary legislation necessary to set the valuation date of the next revaluation at 1 April 2021 that was laid on 6 August: <https://www.legislation.gov.uk/ukSI/2020/832/contents/made>

<sup>3</sup> Written Statement: Non-Domestic Rates Revaluation for Wales, made on 11 August by the Welsh Minister for Finance and Trefnydd: <https://gov.wales/written-statement-non-domestic-rates-revaluation-wales>

<sup>4</sup> HMG, Business rates administration review: discussion paper, published on 10 April 2014 and updated 10 December 2014: <https://www.gov.uk/government/publications/business-rates-administration-review-discussion-paper>

<sup>5</sup> HMG, Administration of business rates in England: interim findings, published on 10 December 2014 and updated 8 July 2015: <https://www.gov.uk/government/publications/administration-of-business-rates-in-england-interim-findings>

<sup>6</sup> HMG, Business rates: delivering more frequent revaluations, published 24 March 2016 and updated 13 March 2018: <https://www.gov.uk/government/consultations/business-rates-delivering-more-frequent-revaluations>

uncertainty for firms affected by the impacts of COVID-19, the Government announced on 6 May 2020 that the revaluation would be postponed.<sup>7</sup> The date of the next revaluation was subsequently announced by the Government as 1 April 2023, based on rents at a valuation date of 1 April 2021 so that it better reflects the impact of COVID-19.<sup>8</sup>

- 6 On 11 August 2020 the Welsh government announced that the next revaluation in Wales would also take place on 1 April 2023.<sup>9</sup>
- 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 also 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 2019<sup>10</sup> 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. Although the Government continues to recognise the benefits of frequent revaluations, this is now being considered as part of a fundamental review of business rates.<sup>11</sup> Consequently, this Bill does not change the frequency of future revaluations. This Bill also supersedes the Non-Domestic Rating (Lists) Bill [HL] which was introduced in March 2020 and would have brought forward the date of the next revaluation to 1 April 2021.

## 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 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.

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<sup>7</sup> MHCLG, ‘Business rates revaluation postponed’, 6 May: <https://www.gov.uk/government/news/business-rates-revaluation-postponed>

<sup>8</sup> Written Statement by the Financial Secretary to the Treasury, made on 12 July: <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2020-07-21/HCWS400/>

<sup>9</sup> Written Statement: Non-Domestic Rates Revaluation for Wales, made by the Welsh Minister for Finance and Trefnydd on 11 August: <https://gov.wales/written-statement-non-domestic-rates-revaluation-wales>

<sup>10</sup> Non-Domestic Rating (Lists) Bill 2017-19: <https://services.parliament.uk/Bills/2017-19/nondomesticratinglists.html>

<sup>11</sup> HM Treasury consultation, ‘Fundamental review of business rates: call for evidence’, 21 July: <https://www.gov.uk/government/consultations/hm-treasury-fundamental-review-of-business-rates-call-for-evidence>

## Territorial extent and application

- 11 The provisions of the Bill extend to England and Wales. Clause 1(1), (2)(b), and (3)(b) of the Bill apply to both England and Wales. Clause 1(2)(a) and (3)(a) apply to England only. Clause 1(4) applies to Wales only.
- 12 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. A Legislative Consent Memorandum has been laid before Senedd Cymru<sup>12</sup>.

## Commentary on provisions of Bill

### Clause 1: Compilation of rating lists

- 13 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 2023. Clause 1 also amends sections 41(5) and 52(5) of the 1988 Act 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.
- 14 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 2023 rather than 1 April 2022.

### Clause 2: Extent and short title

- 15 Clause 2 provides for the Act to extend to England and Wales and for it to be cited as the Non-Domestic Rating (Lists) Act 2020.

## Commencement

- 16 The Bill will come into force on Royal Assent.

## Financial implications of the Bill

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

## Parliamentary approval for financial costs or for charges imposed

- 18 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. A ways and means resolution was passed by the House of Commons on 30 September.
- 19 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

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<sup>12</sup> Welsh Legislative Consent Memorandum, Non-Domestic Rating (Lists) No.2) Bill, September 2020: <https://senedd.wales/laid%20documents/lcm-ld13451/lcm-ld13451%20-e.pdf>

Consolidated Fund. Whilst the Government's objective is to ensure that each revaluation is 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

- 20 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.
- 21 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.
- 22 The Government does not consider that any of the other Convention rights are engaged by the Bill's provisions.
- 23 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). Lord Greenhalgh, Minister of State at the Ministry of Housing, Communities and Local Government has stated that in his view the provisions of the Non-Domestic Rating (Lists) (No.2) Bill are compatible with Convention rights.

## Related documents

- 24 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

25 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, to 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 Senedd Cymru?	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)
Extent, and Short Title Clause 2	In part	In part	No	No	N/A	N/A	N/A	Yes (Wales)

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