

LEGISLATIVE CONSENT MEMORANDUM

NON-DOMESTIC RATING (LISTS) BILL

1. This legislative consent memorandum is laid under Standing Order (SO) 29.2. SO29 prescribes that a legislative consent memorandum must be laid, and a legislative consent motion may be tabled, before the Senedd Cymru if a UK Parliamentary Bill makes provision in relation to Wales for any purpose within, or which modifies the legislative competence of the Senedd.
2. The Non-Domestic Rating (Lists) Bill (the Bill) was introduced in the House of Lords on 18 March 2020. The Bill can be found at: <https://services.parliament.uk/Bills/2019-21/nondomesticratinglists.html>
3. A similar bill was introduced in Parliament in June 2019. The Senedd approved a legislative consent motion on that bill on 9 July 2019. However the bill fell when Parliament was prorogued in September 2019.
4. A legislative consent memorandum (LCM) in respect of the Bill, was laid before the Senedd on 28 April 2020.
5. However, the UK Government has since decided not to progress the Bill, which is now in indefinite abeyance. This means the revaluation date for non-domestic rating (NDR) will remain as 2022. The UK Government statement is available at: <https://www.gov.uk/government/news/business-rates-revaluation-postponed>.
6. Nevertheless, a revised LCM regarding provisions for Wales in the UK Government's Bill is required to be laid because a provision was missed in the LCM laid on 28 April 2020. As the Bill has not been formally withdrawn, an LCM is required as with any other live Bill.

Policy Objective(s)

7. The UK Government's stated policy objective was to ensure that non-domestic rates bills more accurately reflect the current rental value of properties.
8. The Valuation Office Agency (VOA) has a statutory duty to maintain accurate valuation lists for NDR and council tax purposes in Wales and England. The VOA compiles and maintains the valuation data which is held on the lists. These lists support the collection of over £2.7 billion (net) of local tax revenue each year in Wales, all of which contributes towards local government spending on services.
9. Periodic revaluations of properties are required. These comprise the review of the rateable values of all non-domestic properties at a particular point in time. Revaluation is not a revenue-raising exercise. It is carried out to maintain fairness in the system by redistributing the total rates payable between ratepayers to reflect changes in the property market. At revaluation, the VOA

assesses the rateable values of non-domestic properties so that they better reflect market conditions, primarily the rental market.

10. The valuation cycles are governed by the Local Government Finance Act 1988 (the 1988 Act). For NDR, revaluations are required to take place every five years. As the previous revaluation took effect on 1 April 2017, the next revaluation in Wales is scheduled to take place on 1 April 2022.
11. In July 2018, the Cabinet Secretary for Finance announced that the next NDR revaluation exercise for Wales would be brought forward from 2022 to 1 April 2021. This was to ensure that revaluation in Wales takes place in line with that in England, where the date was also being brought forward to 2021, and that there was consistency in the approach to valuation.
12. Businesses and other ratepayers supported the change of date.
13. As the change would reduce the period since the previous revaluation (in 2017) from five years to four, there was a need to amend the 1988 Act to alter the revaluation date. This may only be achieved through primary legislation.
14. The UK Government has since decided not to progress its NDR Bill, so the revaluation date for non-domestic rates will remain as 2022. The laying of this LCM is simply to revise a missed provision in the original LCM laid on 28 April 2020.
15. The Bill is sponsored by the Ministry of Housing, Communities and Local Government (MHCLG).
16. The provisions for Wales in the Bill would amend the 1988 Act and bring forward the NDR revaluation date in Wales from 2022 to 1 April 2021 and amend the date for the issue of draft rating lists.
17. The Bill also includes provisions for the operation of the NDR system in England which are not relevant to Wales.

Provisions in the Bill for which consent is required

18. The Bill amends the Local Government Finance Act 1988 and brings forward the non-domestic rates revaluation from 2022 to 2021 in England and Wales and adjusts the deadline for the submission of proposed Non-Domestic Rating Lists from September to December in the preceding revaluation year. These amendments are set out in clauses 1(2)(b), 1(3)(b), 1(4) and 2(2) of the provisions in the Bill as they relate to Wales and consent is sought in respect of those provisions. The amended clauses do not contain any subordinate legislation powers for the Welsh Ministers.
19. Consent is required for these provisions because they fall within the legislative competence of the Senedd Cymru insofar as they have the effect of modifying functions of valuation officers of the VOA. The VOA is an executive agency sponsored by HMRC and valuation officers, as holders of an office that has

functions of a public nature, are a “public authority” under paragraph 8(4) of Part 1 of Schedule 7B to the Government of Wales Act 2006 (GOWA 2006). Paragraph 10(1) of Part 1 of Schedule 7B to GOWA 2006 provides that a provision of an Act of the Senedd may not remove or modify (or confer power by subordinate legislation to remove or modify) any functions of a public authority. Therefore, in accordance with paragraph 10(1) of Part 1 of Schedule 7B to GOWA 2006, the consent of HM Treasury would be required to change the date or frequency of NDR revaluations and adjust the deadline for the submission of proposed NDR Lists from September to December of the preceding revaluation year.

Reasons for making these provisions for Wales in The Non-Domestic Rating (Lists) Bill

20. Considerable preparatory work was required in preparing new rating lists to take effect on 1 April 2021 and in making ratepayers aware of the prospective changes. The confirmation of the valuation date in legislation would have provided the statutory basis for this work.
21. The possibility of making this change through a future Welsh Government Bill was discounted because there is no suitable legislative opportunity within the timescale required to enable the VOA to complete the necessary valuation work. Also, using a later Welsh Government Bill would have resulted in less certainty for businesses and other ratepayers in Wales in the interim.
22. A Welsh Government Bill would have needed to be introduced, debated, passed and commenced before the end of June 2020 for the changes to be effective for 1 April 2021. The Bill also requires the amendment of the Non-Domestic Rating (Chargeable Amounts) (Wales) Regulations 2016 and these revised regulations would need to be in force by 31 December 2020, otherwise they would not be effective.
23. The Bill would ensure that the timing of the revaluation in Wales aligns with that in England and that valuations are carried out in a consistent manner.

Financial implications

24. Periodic revaluations are a required feature of the non-domestic rating system and the costs are built into budget planning.
25. The VOA assesses the value of every non-domestic property with reference to a specified date, the Antecedent Valuation Date (AVD). To allow for the work necessary to assess all properties and draw up new lists to apply from 1 April 2021, the AVD was set as 1 April 2019. As the VOA has begun work in preparation for the revaluation date being brought forward, some of the costs incurred may be nugatory.

Conclusion

26. It is the view of the Welsh Government that it is appropriate to deal with these provisions in this UK Bill for reasons of timing and coherence. The interconnected nature of the Welsh and English systems for administering revaluations for rating purposes also supports the provisions being taken forward at the same time and in the same legislative instrument.

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