

Explanatory Memorandum to The Rating Lists (Valuation Date) (Wales) Order 2023

This Explanatory Memorandum has been prepared by Local Government Finance Reform Division and is laid before the Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Rating Lists (Valuation Date) (Wales) Order 2023.

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Minister for Finance and Local Government
19 September 2023

Description

1. The Rating Lists (Valuation Date) (Wales) Order 2023 (“the Order”) is a technical piece of legislation which sets 1 April 2024 as the reference date for the next non-domestic rating (NDR) revaluation in Wales.
2. Following consultation, the Welsh Government has committed to, by default, reduce the interval between revaluations from five to every three years. Following the revaluation which took effect on 1 April 2023, the next revaluation is planned to take place on 1 April 2026, subject to the passage of necessary primary legislation.
3. For all previous revaluations since 1990, the AVD has been set two years ahead of the new lists coming into effect, for example 1 April 2021 for the 2023 list. The making of the Order is required to enable the Valuation Office Agency (VOA) to undertake the necessary preparatory work for a revaluation on 1 April 2026 to be deliverable.

Matters of special interest to the Legislation, Justice and Constitution Committee

4. There are no matters of special interest to bring to the attention of the Committee.

Legislative background

5. Sections 41 and 52 of the Local Government Finance Act 1988 (“the 1988 Act”) make provision for valuation officers to compile NDR lists. Previously, new lists had to be compiled every five years starting on 1 April 1990. However, section 54A of the 1988 Act (inserted by section 30 of the Growth and Infrastructure Act 2013 and amended by section 1 of the Non-Domestic Rating (Lists) Act 2021) provides that the Welsh Ministers may, by order, provide that the local and central lists must be compiled on a date specified in that order rather than on 1 April 2015. The Rating Lists (Postponement of Compilation) (Wales) Order 2014 (“the 2014 Order”) moved the 2015 revaluation to 1 April 2017. Section 54A(4) and (5) states that, if such an order has effect, sections 41 and 52 apply as if they required a list to be compiled on the specified date, on 1 April 2023 and on 1 April in every fifth year afterwards.
6. Primary legislation is required to shorten the interval between revaluations to three years and, as a consequence, change the date of the next revaluation to 1 April 2026. Following consultation, the Welsh Government is committed to implementing its policy of more frequent, three-yearly, revaluations, and is preparing to deliver this policy subject to the passage of the necessary primary legislation.
7. Sections 42(4) and 53(3) of the 1988 Act provide that NDR lists must contain the rateable values (RV) of the properties listed. Schedule 6 to the 1988 Act contains provisions setting out how the RV is to be determined. Paragraph 2(3) of that Schedule provides that, for the purposes of compiling a list, the RV should be determined by reference to the day on which the list is to be compiled or on a

preceding day specified by the Secretary of State in an order. That date is known as the antecedent valuation date (AVD).

8. The power of the Secretary of State under paragraph 2(3)(b) of Schedule 6 to the 1988 Act, so far as it is exercisable in relation to Wales, was transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999. Those functions were subsequently transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to the Government of Wales Act 2006.
9. Section 143(3) of the 1988 Act provides that an order setting the AVD under paragraph 2(3)(b) of Schedule 6 to the 1988 Act is to be made using the negative resolution procedure.

Purpose and intended effect of the legislation

10. During a rates revaluation, the VOA assesses each non-domestic property to determine its RV and compiles the rating lists (central and local lists). For most non-domestic properties, the RV is based on the estimated open market rental value on a specific date, the AVD. The AVD is set by the Welsh Ministers making an order under paragraph 2(3)(b) of Schedule 6 to the 1988 Act.
11. The purpose of the AVD is to: (a) ensure all properties are valued on the same basis, so the distribution of the rates liability is fair between different properties; and (b) allow valuation officers to collect all available rental and other information, so they can accurately assess RV for the purposes of compiling lists.
12. For all previous revaluations since 1990, the AVD has been set at two years prior to the new list taking effect. For the next revaluation, the lists are proposed to take effect on 1 April 2026. Therefore, an order under Schedule 6 to the 1988 Act should specify 1 April 2024 as the day by reference to which the RV of a non-domestic hereditament is to be determined for the purposes of the local and central rating lists taking effect on 1 April 2026.
13. The AVD order is a technical piece of legislation required to enable the VOA to undertake the necessary preparatory work for the revaluation. A similar order has already been made in England and it is a routine consequence of the proposal to undertake the next revaluation in 2026.
14. The Order also revokes the Rating Lists (Valuation Date) (Wales) Order 2020 which set the AVD for the 2023 revaluation as 1 April 2021.

Consultation

15. An AVD has been set for each previous revaluation since 1990 and, as with these previous exercises, the date has been agreed with the VOA without further consultation on what is a technical piece of legislation. In each case, all previous AVDs have been set two years before the date each respective list has come into force. The Order follows the same established practice.

Regulatory Impact Assessment

16. A regulatory impact assessment has not been prepared for this Order as it only makes a necessary technical change in order to set the AVD for the planned non-domestic rates revaluation on 1 April 2026. There are no changes to the purpose or effect of the policy. This is in line with the policy set out in the Welsh Ministers' code of practice for carrying out regulatory impact assessments for subordinate legislation.