

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.

Policy Objective(s)

4. The UK Government's stated policy objective is to ensure that non-domestic rates bills more accurately reflect the current rental value of properties.
5. The Valuation Office Agency (VOA) has a statutory duty to maintain accurate valuation lists for non-domestic rating (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.
6. 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.
7. 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.
8. 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 ensures that revaluation in Wales takes place in line with that in England, where the date is also being brought forward to 2021, and that there is consistency in the approach to valuation.
9. Businesses and other ratepayers have supported the change of date.

10. As this reduces the period since the previous revaluation (in 2017) from five years to four, there is a need to amend the 1988 Act to alter the revaluation date. This may only be achieved through primary legislation.

Summary of the Bill

11. The Bill is sponsored by the Ministry of Housing, Communities and Local Government (MHCLG).
12. The provisions for Wales in the Bill will 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.
13. 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

14. The Bill amends the Local Government Finance Act 1988 and brings forward both 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(3), 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 Welsh Ministers.
15. 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

16. Considerable preparatory work is 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 provides the statutory basis for this work.
17. The possibility of making this change through a future Welsh Government Bill has been 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 result in less certainty for businesses and other ratepayers in Wales in the interim.
18. A Welsh Government Bill would need to be laid, debated, passed and commenced before the end of June for the changes to be effective for April 2021. The Bill will also require the amendment of the Non-Domestic Rating (Chargeable Amounts) (Wales) Regulations 2016 and these revised regulations must be in force by 31 December 2020, otherwise they will not be effective.
19. The Bill will 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

20. Periodic revaluations are a required feature of the non-domestic rating system and the costs are built into budget planning. It is estimated that the work involved in preparing new rating lists for 1 April 2021 will cost a total of £3.6m over three years.
21. 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 has been 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 will be nugatory if the date change is not implemented in Wales. Businesses and other ratepayers would also be affected.

Conclusion

22. 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.

Rebecca Evans AM
Minister for Finance and Trefnydd
April 2020