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Non-Domestic Rating (Preparation for Digital Services) Bill

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Summary

The *Non-Domestic Rating (Preparation for Digital Services) Bill 2017-19* was introduced into the House of Commons on 25 April 2019. The date of Second Reading is yet to be announced at the time of writing. The Bill, and its Explanatory Notes, can be found on the Bill pages of the Parliamentary website.

In the 2014-16 Business Rates Review, the Government made a commitment to link local authority business rate systems to Her Majesty's Revenue and Customs (HMRC) digital tax accounts. This will enable businesses to manage their rates bills in one online location. The Bill is a paving bill to allow development work on a new digital system: further legislation will be needed to introduce and implement any new system.

The provisions in the Bill originally formed part of the *Local Government Finance Bill 2016-17*, which fell due to the early general election in June 2017 and which has not been revived.

1. The *Non-Domestic Rating Bill*

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Business rates are devolved to Scotland, Wales and Northern Ireland. The Government's Explanatory Notes state that the Bill extends to England and Wales and has effect in England only. At the time of writing, the Speaker has not yet considered the Bill for certification with regard to the 'English Votes for English laws' procedures specified in the House of Commons's Standing Orders 83J to 83O.[1]

1.1 Business rates

Non-domestic rates, or 'business rates', are a tax on non-domestic property. Rates have been in existence in some form since the Poor Law of 1601, though a standardised system of non-domestic rating dates to the *Rating and Valuation Act 1925*. The current system in England, Wales and Scotland dates from the *Local Government Finance Act 1988.*[2]

In order to operate the non-domestic rating system, every non-domestic property in the UK is assigned a 'rateable value'. In England and Wales, the responsibility for this falls to the Valuation Office Agency (VOA). The rateable value is based on the annual sum for which the property would let on the open market, on the 'antecedent valuation date' (AVD).

The property's annual rate bill is then multiplied by a 'multiplier', set by the UK Government for England and by the devolved administrations in Scotland, Wales and Northern Ireland. The standard multiplier in England in 2019-20 is 50.4p in the pound. Thus a property with a rateable value of £100,000 would pay £50,400 per annum.

Numerous reliefs are available from business rates for certain types of property and/or certain types of occupant, and an appeals system is operated by the VOA and the Valuation Tribunal for England. Further details can be found in the Commons Library briefing paper *Business rates*.

1 *Non-Domestic Rating (Preparation for Digital Services) Bill 2017-19*, Explanatory Notes, 2019, p5
2 Technically, the 1988 Act introduced the 'National Non-Domestic Rate' (NNDR) in place of local business rating. However, the phrase 'business rates' remained in use throughout.

Rateable values are all subject to regular general revaluations. The most recent of these came into effect on 1 April 2017 in England, Scotland and Wales. Current rateable values are thus based on an antecedent valuation date of 1 April 2015.[3]

In England, business rate billing, collection and reliefs are operated by district and unitary authorities (i.e. the lower tier of local government). As of 1 April 2019, there are 317 billing authorities in England.

1.2 Policy background

The current Bill originates from the following Government policy commitment:

> By 2022, local authority business rate systems will be linked to HMRC digital tax accounts so that businesses can manage their rates bills in one place alongside other taxes. As a first step, Government will work with local authorities across England to standardise business rate bills and ensure ratepayers have the option to receive and pay bills online by April 2017. In addition, local authorities will make explanatory note available online, end multi-year billing and introduce an online bills calculator.[4]

An identical commitment also appeared in the 2016 Budget document.[5] This commitment emerged from two overlapping reviews of business rates that took place in 2014-16: the *Administration of Business Rates review* (April 2014 – July 2015) and the *Business Rates review* (March 2015 – March 2016). The former review invited comments on four topics, including:

> …administration of billing and collection of business rates by local authorities, including the administrative application of reliefs and exemptions; and of valuation by the Valuation Office Agency, including the scope for improvements in communication and the exchange of information between ratepayers, the Valuation Office Agency and local authorities.[6]

The *Administration of Business Rates Review* published a paper in December 2014 which provided some feedback from ratepayers:

> A.23 Most respondents would welcome a standard digital solution for billing and collection, whether through common systems or portals. Many felt this would result in administrative savings for both ratepayers and local authorities. The IT costs and complexity of implementation were acknowledged in many responses and many local authorities suggested that central government would need to fund these costs.
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> A.24 The solution for some respondents is a portal, with online application and payment, rather than e-billing i.e. the emailing of bills in PDF. A billing system using email needs up-to-date email addresses, which is an existing issue for some local authorities which already operate e-billing.

3 The next revaluation will come into effect on 1 April 2021. The AVD for that revaluation is 1 April 2019.
4 HM Treasury / DCLG, *Business Rates Review: summary of responses*, March 2016, p11
5 HM Treasury, *Budget 2016*, p. 46
6 HM Treasury, *Administration of business rates in England: discussion paper*, 2014, p5

> A.25 Many respondents called for standardised bills across all local authorities, with no jargon and with clear explanations of reliefs. This would be of particular help for ratepayers with properties in different local authority areas.
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> …
>
> A.28 A number of local authorities were cautious about not adding extra costs – as e-billing systems are expensive – and ensuring that software companies are consulted. Some in the local authority sector thought that the initial costs of digital billing would outweigh the financial benefits and there would not be a return on investment within a suitable investment period. On e-billing, a few local authorities also pointed out that they would need legal powers to enforce this. Also, some local authorities suggested Government should require payment by direct debit.[7]

A similar range of issues have been identified in Scotland by the Barclay Review of business rates. That Review concluded in August 2017 and included recommendations for rate bills to follow a standard format and for a common billing system to be used across Scotland.[8]

1.3 Policy implementation

The Government's policy (see above) included a commitment to work with local authorities to standardise rate bills and offer the option to pay business rates online by 2017. This policy commitment was set out in four parts in a Business Rates Information Letter published in December 2016:

- To introduce a mandatory requirement to provide the option for business rates bills to be issued, and payment to be made, online by April 2018. (This option is already available from most billing authorities.);
- To alter regulations so that explanatory notes for business rates need only be published online, not made available with every rate bill online only;
- To alter regulations to prevent a single rate bill from including demands from multiple years;
- To share a model best practice standard bill during 2017.[9]

The first of these commitments was postponed following the falling of the 2016-17 Bill.[10] The second and third were implemented by the *Non-Domestic Rating (Demand Notices) (Amendment) (England) Regulations 2017* (SI 2017/39). The fourth was also noted in a further Business Rates Information Letter in 2017:

> We are continuing to work with local billing authorities and other stakeholders to develop guidance and a model bill to support this aim.[11]

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7 HM Treasury, *Administration of business rates in England: interim findings*, 2014, p4
8 See Scottish Government, *Non-domestic rates review*, August 2017; Scottish Government, *Implementing the Barclay Review* consultation document, June 2018
9 MHCLG, *Business Rates Information Letter 3/2016*, December 2016, p4
10 See MHCLG, *Business Rates Information Letter 7/2017*, November 2017, p2
11 Ibid.

The Government had established a 'business rates billing and collection forum' with local authorities during 2015, to work on design options, the presentation of explanatory text and information that should appear on business rate bills.[12]

The commitment(s) emerged from concerns raised in the *Administration of business rates review:*

> Bills can be difficult to understand and inconsistent in content and format. This is an especially common view of ratepayers who have to deal with multiple bills for many different local authorities. We also heard that many businesses are in favour of local authorities using more electronic billing as business rates are mostly collected by paper or emailed bills and that only a handful of local authorities have considered online billing for business rates or other digital options.[13]

There is some scope for variation in the administration of business rates between local authorities. Government regulations prescribe several pieces of information that must appear on a rates bill (for instance, the rateable value, the multiplier, application of certain reliefs).[14] However, there is no requirement for bills to be presented in a standard format. This means that businesses that face rate bills in many different authority areas may be faced with rate bills in different formats, increasing their administrative burden.

For the Government to implement its policy to link business rates billing and collection with HMRC digital tax accounts, it is necessary to legislate to give HMRC the powers to undertake this work. As a statutory agency, HMRC may only undertake functions that it is permitted in statute to undertake. Its powers are set out in the *Commissioners for Revenue and Customs Act 2005*, in particular sections 5 and 9.

1.4 Legislative action

The Government introduced the *Local Government Finance Bill 2016-17* in January 2017. This Bill completed its Committee Stage in the House of Commons before falling due to the early general election in June 2017. It has not been revived, but elements of it remain Government policy.[15] Clause 1 of the current Bill is identical to clause 14 of the 2017 Bill.

The current Bill purely gives HMRC the statutory power to incur expenditure on planning the new service:

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12 See the update, headed 'Billing and collection', to DCLG, *Administration of business rates review: interim findings*, dated 8 July 2015

13 HM Treasury, *Administration of business rates in England: interim findings*, 2014, p31

14 There are several regulations on this matter. The main ones are the *Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003* (SI 2003/2613) and the *Council Tax and Non-Domestic Rating (Demand Notices) (England) (Amendment) Regulations 2008* (SI 2008/387).

15 Examples include the *Telecommunications Infrastructure (Relief from Non-Domestic Rates) Act 2018*; and a commitment to provide relief for public toilets from non-domestic rates by April 2020 (see clause 8 of the *Local Government Finance Bill 2016-17*). For further information see the Library briefing on the 2016-17 Bill and the briefing on progress of the Bill.

> HMRC will have a leading role in designing and building the digital billing and collection service for business rates. HMRC functions do not currently extend to this work. This is narrow paving legislation to give HMRC the power to begin designing and developing the digital service. Further legislation will be needed to underpin the digital service in due course.[16]

According to an 'information sheet' that the Government has published alongside the Bill, no decisions have yet been made on the future shape of business rates administration:

> The Bill provides HMRC with the ability to undertake the planning, consultation and testing that is needed to fully inform the design of the service. We will engage closely with local government and the business sector, in developing detailed proposals and seeking views.
>
> ...
>
> The government is committed to modernising the payment and collection of business rates, but has made no decisions on the future design of business rates administration. Further legislation would be needed to implement any changes.[17]

The Government anticipates implementing the new digital system by 2024 at the earliest:

> 2.31 Budget 2016 announced that local authority business rate systems will be linked to HMRC digital tax accounts by 2022. However, the government will delay implementation until after 2024 to prioritise the delivery of the next revaluation one year earlier than planned, and the move to three-year revaluations. The government will aim to implement this new business rate digital system at the earliest opportunity after the start of the three-year revaluation cycle from 2024.[18]

1.5 The Bill

The Bill consists of two clauses.

Clause 1 (1) states that HMRC can spend money on "facilitating the administration or payment of non-domestic rates in England". The HMRC currently has no powers in law to incur expenditure for this purpose. As the clause applies to non-domestic rates in England, it does not apply across the rest of the UK.

The Explanatory Notes to the Bill state:

> The work will include but not be limited to: stakeholder engagement; user research; product design and development; testing services. Legislation would need to be introduced at a later date to provide the framework for the digital service itself, and to enable HMRC to operate it.[19]

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16 *Non-Domestic Rating (Preparation for Digital Services) Bill 2017-19*, Explanatory Notes, 2019, p2

17 MHCLG, *Factsheet; provision of digital services by HMRC*, 25 April 2019

18 HM Treasury, *Business rates: delivering more frequent revaluations – summary of responses*, March 2018, p9

19 *Non-Domestic Rating (Preparation for Digital Services) Bill 2017-19*, Explanatory Notes, 2019, p3

The clause appears in italics in the Bill because it will require a Money Resolution at Second Reading. A Money Resolution is required where a Bill authorises new public expenditure.

Clause 1 (2) defines 'digital services' as either digital or IT services, and also includes services "relating to the administration of services".

Clause 1 (3) defines 'non-domestic rates' in relation to part 3 of the *Local Government Finance Act 1988*, which is the legal foundation of today's non-domestic rating system.

Clause 2 (1) provides that the Act will extend to England and Wales only, though due to the provision in clause 1 (1), it will have territorial effect in England only. Clause 2 (2) provides the citation for the Bill.

In the absence of any provision otherwise, the Bill comes into force on the day that it receives Royal Assent.

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