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Research Briefing

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By Steve Browning

Non-Domestic Rating Act 2023

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Summary

The Non-Domestic Rating Act 2023 received Royal Assent on 26 October 2023.

The Act implemented various changes to the system of non-domestic rates (known as business rates) in England and Wales. Among the changes, it:

- reduced the revaluation cycle for business rates in England from five years to three years
- introduced a new duty for ratepayers to provide the Valuation Office Agency (VOA) with information about themselves and their business, and their 'hereditament' (the property or part of the property liable for business rates)
- introduced a new duty for ratepayers to provide a taxpayer reference number to HMRC
- established penalties for ratepayers who do not comply with those new duties
- removed the effects of changes in legislation, regulation and guidance bodies from being accepted as grounds for changes in rateable value ("material change of circumstance") between revaluations
- introduced business rate relief for certain building improvements and for low-carbon heat networks

The Government set out a more complete outline of the measures in its explanatory notes to the Bill (pdf).

Background and extent

The Act mostly amends the Local Government Finance Act 1988, which is the legislative foundation of the current system of business rates. Most amendments from commitments made at the end of the Government's Business Rates Review, which reported in 2021, or from the conclusions of the follow-up technical consultation. Those exercises had considered the business rating system in England.

Most of the provisions of the Act apply to England only. But some parts also extend to Wales on the request of the Welsh Government. Section 11 of the Act extends to Northern Ireland. The Act does not extend to Scotland.

Passage of the Bill

House of Commons

The Bill received its first reading on 29 March 2023 and its second reading on 24 April 2023, where it passed without division.

While many of the measures – notably the introduction of more frequent revaluations – received support across the House, many contributors to the debate regretted that proposals in the Bill were not more ambitious. There were also concerns about the potential burden that the new reporting requirements might put on ratepayers.

The Government acknowledged those concerns, but argued that more frequent revaluations would best be introduced gradually, and that they would in any event depend on more data collection.

Members considered various amendments to the Bill in a Committee of the whole House on 22 May 2023. With the exception of several technical government amendments, none were accepted. One amendment, proposed by Helen Morgan (Liberal Democrat) was unsuccessfully pressed to a division. It sought to remove the new annual reporting requirements from businesses receiving small business rates relief when there was nothing to report.

The House then moved to third reading and passed the Bill without division.

House of Lords and final stages

Contributors to the second reading of the Bill in the House of Lords on 19 June 2023 echoed the sentiments expressed in the Commons. Again, there was a particular focus on the new duties and the associated penalties for non-compliance.

Speaking on behalf of the Government in the Lords Second Reading debate and in Grand Committee on 3 July 2023, Baroness Scott emphasised that the new arrangements would not be introduced until piloting had shown that they worked for ratepayers.

The Bill passed both stages without amendment or division.

At report stage on 19 September 2023, though, the Lords agreed to government amendments that limited financial penalties for delays in providing information to the VOA and affirmed the usual burden of proof in tribunal decisions.

The Lords agreed the Bill without division at third reading on 16 October 2023. Members highlighted the importance of continuing to monitor the effect of the new arrangements.

The House of Commons in turn accepted the Lords amendments on 25 October 2023 and the Act received Royal Assent on 26 October 2023.

Further reading

House of Commons Library research briefing papers:

- Business rates
- Business rates: the 2023 revaluation

House of Commons constituency casework article:

- How do I challenge my business rates bill in England?

1 Introduction

The Non-Domestic Rating Act 2023 received Royal Assent on 26 October 2023.

Passage through Parliament

The Bill was introduced in the House of Commons as the Non-Domestic Rating Bill 2022-23 as Bill number 285.

House of Commons

- First reading: 29 March 2023
- Second reading: 24 April 2023
- Committee of the whole House: 22 May 2023
- Third reading: 22 May 2023

House of Lords

- First reading: 23 May 2023
- Second reading: 19 June 2023
- Grand Committee: 3 July 2023
- Report stage: 19 September 2023
- Third reading: 16 October 2023

The House of Commons considered Lords amendments on 25 October 2023.

Associated documents

The Act has a dedicated page on the UK Parliament website, with links to such documents as:

- Explanatory notes to the Bill (pdf)
- Legislative Consent Motion approved by Senedd on 12 September 2023 (pdf)

Territorial extent

The majority of this Act has effect in England only.

Business rates are a devolved matter. Although the Senedd has power to legislate on business rates, some parts of the Act have effect in England and Wales. The relevant provisions were included at the request of the Welsh Government, to provide the Welsh Ministers with certain powers. This required the Senedd to pass a Legislative Consent Motion (LCM), which it did on 12 September 2023 (pdf).

Section 11 of the Act also extends to Northern Ireland. None of the Act extends to Scotland.

2 Business rates

2.1 What are business rates?

Non-domestic rates, or 'business rates', are a tax on non-domestic property. The current system in England, Wales and Scotland dates from the Local Government Finance Act 1988. Rates are levied on non-domestic properties on the basis of their rateable value and the national multiplier, and the amount payable may then be subject to a number of reliefs or exemptions.

In the business rates system, each non-domestic property is assigned a rateable value (RV). Rateable values in England and Wales are assigned by the Valuation Office Agency (VOA). Normally the RV of a property reflects the annual rent that it could have been let for on the open market.

The basic business rate liability for a property is calculated by multiplying the rateable value of a property by the multiplier. The multiplier is set by the UK Government for England, the Scottish Parliament for Scotland, and the National Assembly for Wales. Therefore, a property with a rateable value of £100,000, where the multiplier was 51.2 pence in the pound, would have an annual business rate liability of £51,200.

Bills are sent out and rates collected by billing authorities. These are district councils (in two-tier areas), unitary councils, metropolitan borough and London borough councils. In Wales, the unitary local councils are the billing authorities. The billing authorities are responsible for deciding whether to apply any exemptions or reliefs to individual businesses or properties. Some reliefs are mandatory, whilst others are given at the discretion of the billing authority. Some very large properties appear on the central rating list (see section 3.3), and their business rate payments are collected by the Secretary of State.

Revaluations

Periodically, the VOA assigns new rateable values to all non-domestic properties. This takes place separately in England and Wales. The most recent revaluation in both countries came into effect on 1 April 2023. It was based on rental conditions on 1 April 2021 (known as the 'antecedent valuation date' or AVD). Before this Act passed, the legal requirement is for a revaluation to take place every five years.

When a revaluation takes effect, it is described as the introduction of a new 'rating list'. So Government documents will refer to 'the 2017-23 rating list', or 'the 2023-26 rating list' (which is the current list).

More information on the operation of the business rates system can be found in the Commons Library research briefing Business rates. There is more information on the 2023 revaluation in the Commons Library research briefing Business rates: the 2023 revaluation.

2.2 Business rates policy reviews: 2019-2023

The Conservative Party's 2019 General Election manifesto committed to a 'fundamental review' of the business rates system.[1] The Government reiterated this commitment in the Budget of 11 March 2020, and published terms of reference for the review.[2] One of the four main areas to be covered in the terms of reference was "the administration of business rates, covering the valuation and appeals process; billing; and compliance with the tax".[3]

Report of the fundamental review

The final report of the fundamental review was published alongside the Autumn 2021 budget. It included the following proposed changes to the business rates system:

- Moving to three-yearly revaluations. This would see the next one take effect on 1 April 2026, followed by 1 April 2029 and so on.
- A new duty on ratepayers, which is to be phased in between 2023 and 2026:

  > Ratepayers will be required to notify the VOA of changes to the occupier or physical property characteristics, and to provide rent and lease information to the VOA, as well as trade information used for valuation.[4]

- Removing the initial 'Check' stage from the appeal process, and introducing time limits on 'Challenges' (the second stage of the appeal process), from 2026.[5]
- From 2026 the VOA will be required by law to resolve Challenges within the lifetime of the rating list (in that instance, from 2026 to 2029). Currently there is nothing to prevent a challenge from continuing past the lifetime of a list, even though at that point the rateable value to which it relates has been superseded.
- 100% 'improvement relief'. This will provide 12 months relief from higher bills for occupiers where eligible improvements to an existing property

1 Conservative Party, Get Brexit Done, Unleash Britain's Potential, 2019, p32
2 HM Treasury, Business rates review: terms of reference, 11 March 2020
3 As above
4 HM Treasury, Business Rates Review: final report (pdf), October 2021, p11
5 As above, p12

increase the rateable value. This will run from 2024 to 2028 in the first instance.

- "Targeted business rate exemptions" related to renewable energy. [6] This will apply to "eligible plant and machinery used in onsite renewable energy generation and storage, such as rooftop solar panels and battery storage used with renewables and electric vehicle charging points".[7] 100% relief will also be provided for eligible low-carbon heat networks that have their own rates bill. These provisions were introduced from 1 April 2022 and will run through to 2034-35.

Technical review

The Government ran a further consultation on how to implement aspects of the proposed new arrangements between 30 November 2021 and 22 February 2022,in particular:

- measures to enable more frequent revaluations
- improvement relief
- support for investment in green plant and machinery
- other administrative changes[8]

The Government published a summary of responses in March 2023, noting a high level of support for the wider proposals for more frequent revaluations and setting out more detailed mechanics for implementing them – as incorporated in the Bill.[9]

2.3 Previous reviews

Previous reviews of the business rates system took place between 2014 and 2016. There is more detail on these reviews in the Commons Library research briefing Reviewing and reforming local government finance.

[6] HM Treasury, Autumn 2021 Budget, p144

[7] HM Treasury, Business Rates Review: final report (pdf), October 2021, p8

[8] DLUHC and HM Treasury, Business Rates Review: technical consultation, 15 March 2023

[9] DLUHC and HM Treasury, Business rates technical consultation: Summary of responses (pdf), 15 March 2023

3 The Act

As presented in later sections of this briefing, consideration of the Bill in both Houses led to only two significant changes to the Bill, both to clause 13(5), as noted in section 3.13. There were also several minor drafting and consequential amendments. This means that references to and numbering of clauses in the Bill transferred without any alteration to sections of the Act.

3.1 Liability and mandatory reliefs (clause 1)

Improvement relief

The 2021 Fundamental Review of Business Rates noted that responses to the review stated that businesses could be disincentivised from improving their properties, because doing so would lead to an immediate increase in their rateable value and thus their business rates bills. To address this, the Government announced that it would introduce 100% 'improvement relief', which would delay increases in bills for 12 months where properties had been subject to eligible improvements.[10]

The Government's 2021 technical consultation stated that improvement relief would be available on properties which had undergone 'qualifying works' and in which the property had remained occupied by the same ratepayer throughout the period of 'qualifying works'.[11] The occupation requirement is intended to ensure that the relief cannot be 'inherited' by a new ratepayer if the previous ratepayer leaves, and that the relief cannot flow to landlords.

Qualifying works will need to lead either to an increase in the size of the building; upgrades such as heating, air conditioning, or raised flooring; or the addition of other plant and machinery that would ordinarily cause an increase in rateable value. Repair works, a change of use of the property, or adding land to the property, would not be qualifying works. The technical consultation said:

> The object of the relief is to help occupiers making improvements in support of their existing business premises and is not intended to subsidise general commercial property development such as new construction or refurbishment.[12]

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[10] HM Treasury, Business Rates Review: final report, October 2021, p8

[11] HM Treasury, Business rates review: technical consultation, November 2021, paragraph 4.3

[12] As above, paragraph 4.8

Where the VOA considers that improvement relief should apply, it will issue a certificate stating the change in the value of the property that has resulted from the qualifying works. The billing authority (the district or unitary council, which operates the business rates system) will be required to calculate business rate bills using the property's new rateable value minus the amount stated on the certificate. The relief will be automatically applied to business rates bills.

It would be possible for a property to be subject to more than one set of qualifying works in a year, and to receive certificates in respect of each set of qualifying works.

A similar relief has operated in Scotland since 2018/19, as part of the Scottish Government's 'business growth accelerator relief' scheme.[13] In Northern Ireland, a scheme called 'Back in Business' offers 50% relief for 24 months on retail properties that have been newly occupied after having been empty for 12 months or more.[14]

The relief was originally to have been introduced in the 2023/24 financial year, but the 2022 Autumn Statement announced that it would be introduced from 1 April 2024.[15] The relief will be mandatory until 1 April 2028 (such that works completed on 31 March 2028 will benefit for one year's relief until 31 March 2029). Local authorities will be compensated in full for any loss of income resulting from the relief.

Support for low-carbon properties

Renewable plant and machinery exemption

From 1 April 2022, new installations of plant and machinery related to the generation of renewable energy must be disregarded by business rates valuations. This will mean that existing and new installations of solar panels or wind turbines (for instance) cannot be taken into account in a property's rateable value. This was implemented by the Valuation for Rating (Plant and Machinery) (England) (Amendment) Regulations 2022. These regulations list the range of plant and machinery that this exemption covers.

Where a source of renewable energy generation, such as solar panels, is installed on a building in order to generate power for use by the occupiers of the building, rather than for commercial sale, a separate exemption from business rates applies to the solar panels. This exemption has been in place since 2017.

13 See the Non-Domestic Rates (New and Improved Properties) (Scotland) Regulations 2018 (SI 2018/75)

14 See the Rates (Temporary Rebate) (Amendment) Order (Northern Ireland) 2022

15 HM Treasury, Autumn Statement 2022, p59

Heat networks relief

The Government will provide an exemption from business rates for heat networks from 1 April 2022 through to 31 March 2035. The Act introduces a mandatory exemption from 1 April 2024. The Government will fund billing authorities to offer a discretionary discount for the 2022/23 and 2023/24 financial years.

The Government has published guidance for billing authorities on eligibility for heat networks relief.[16] The guidance defines a heat network as “a facility, such as a district heating scheme, which supplies thermal energy from a central source to consumers via a network of pipes for the purposes of space heating, space cooling or domestic hot water”.[17] The business rates exemption will apply to heat networks that provide more thermal energy than electricity. This will prevent electricity power stations from becoming eligible for the relief.

The thermal energy must also be generated from a low carbon source. The guidance defines this as follows:

> 18. A low carbon source is a source of which at least:
>
> a. 50% is renewable as defined below,
>
> b. 50% is waste heat,
>
> c. 75% is cogeneration heat (where cogeneration’ means the simultaneous generation in one process of thermal energy and electrical or mechanical energy), or
>
> d. 75% is a combination of the sources above.
>
> 19. A renewable source is any of the sources listed in Class 1(e) of the Schedule to the Valuation for Rating (Plant and Machinery) (England) Regulations 2000 (SI 2000 No. 540) as inserted by regulation 2(b) of SI 2022 No. 405.[18]

The business rates exemption applies to heat networks that are listed separately on the rating list. Being separately listed would indicate that the VOA regards the heat network as a ‘hereditament’ (property) in its own right. The exemption will not enable a reduction in the rateable value, or the business rates bill, for larger properties that contain heat networks.

The Act

Section 1 of the Act introduced a new schedule 4ZA into the Local Government Finance Act 1988. The contents of new schedule 4ZA set out how liability for business rates, and mandatory reliefs, should be calculated. It replaced

16 HM Treasury, Business rates heat network relief: local authority guidance 2022-23, 21 Jul 2022

17 As above, 21 Jul 2022, para 14

18 As above, para 18-19

much of section 43 and all of section 44 of the 1988 Act. The provisions in section 1 extend to England and Wales.

New schedule 4ZA paragraphs 2, 4, 7 and 8 restate the eligibility conditions for charitable relief; small business relief; public lavatories relief; and rural rate relief respectively.[19] Paragraph 9 restates which relief should take precedence if more than one relief applies, while paragraph 10 defines the variables ("A", "B" and so on) that the Act uses in order to express how liability for business rates is calculated.

Paragraph 3 of new schedule 4ZA introduced improvement relief, and paragraph 6 introduced heat networks relief. Paragraph 3 permits "the appropriate national authority" to introduce regulations to award relief to apply within one year of "qualifying improvement works" being completed. The regulations would define "qualifying improvement works". Paragraph 3 (3) (a) permits the twelve-month period during which improvement relief can apply to be extended, and paragraph 3 (3) (b) permits improvement relief to be extended beyond the 2028/29 financial year.

Paragraph 6 (1) permits 100% business rate relief to be given to a property that is wholly or mainly used as a heat network. Paragraph 6 (2) would permit the "appropriate national authority" to make regulations prescribing the conditions that would define a heat network and make it eligible for business rates relief. The relief would be in place until 31 March 2035. Paragraph 6 (3) permits that date to be extended via regulations.

Paragraph 8 re-enacts the provisions for rural rate relief from the 1988 Act. However, paragraph 5 of this new schedule also states that any properties falling under the definitions of heat networks, public lavatories or rural properties will be liable for a zero business rates bill.

Paragraph 8 changes the legislative provision in respect of properties receiving rural rate relief in England. Previous legislative provisions awarded these properties 50% relief. The Government has funded billing authorities to increase this to 100%, via a discretionary discount, since 2016-17. That decision addressed an anomaly in earlier legislation covering rural rate relief and small business relief. The legislative position was that a property that attracts both these reliefs was entitled to rural rate relief but not small business rate relief. This meant that a property could only be entitled to 50% rate relief instead of 100% because it was located in a rural area, whereas it would have attracted 100% small business rate relief if it had been located elsewhere.

Paragraphs 5 and 8 establish that properties eligible for rural rate relief will receive 100% relief. Local authorities will continue to receive compensatory payment from the Government for their share of eligible relief awarded.[20]

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19 Paragraph 18 of the Schedule to the Act repealed four Acts that introduced specific reliefs encompassed by section 1.

20 This commitment was contained in Business Rates Information Letter 6/2017 (pdf), 25 October 2017

Paragraph 8 does not have effect in Wales, where properties that qualify for both small business relief and rural rate relief receive whichever is the greater amount of relief.

Paragraph 11 provides that the “appropriate national authority” for both improvement relief and heat network relief is the Secretary of State in respect of England, and the Welsh Ministers in respect of Wales.

3.2 Unoccupied properties: liability and reliefs (section 2)

Section 2 of the Act introduced new schedule 4ZB into the Local Government Finance Act 1988. Paragraph 1 of the new schedule introduced a power for the Secretary of State to decide, via regulations, whether unoccupied properties should have their business rates liability calculated using the small business multiplier or the standard multiplier in England. It also provides this power to the Welsh Ministers in respect of Wales.

Paragraph 3 (6) clarifies that only these two figures may be used to calculate the liability on an unoccupied property. However, paragraph 3 (7) provides that the regulations may apply one figure or the other to different classes of unoccupied property. That decision may be based on, for instance, a property’s location, its use, its physical condition, or the ratepayer.

The earlier legislation provided that unoccupied properties’ rates liability must be calculated using the standard multiplier. The small business multiplier is used to calculate the rate liability for properties that are occupied and have a rateable value of £51,000 or under.

Paragraph 2 of the new schedule re-enacts provisions in section 45A of the 1988 Act. These provide that properties that are empty, where the ratepayer is a charity or a community amateur sports club (CASC), face a zero business rate bill.

These two provisions replace sections 45A and 46 of the 1988 Act, which are repealed via section 2 (2) and section 2 (3) respectively.

Paragraph 2 (1) (c) also repeals the rate relief for telecommunications infrastructure, in section 45 (4C-4G) of the 1988 Act. This relief was introduced in 2017 and ran for five years until 31 March 2022. More information on telecommunications relief can be found in the Commons Library research briefing Telecommunications Infrastructure (Relief from Non-Domestic Rates) Bill 2017-19.

3.3 Central list reliefs (section 3)

Section 3 of the Act introduced new schedule 5A into the Local Government Finance Act 1988. This permits properties on the central rating list to receive charitable rate relief, improvement relief, and rate relief for unoccupied properties. These powers are available to the Secretary of State in respect of England, and the Welsh Ministers in respect of Wales.

Similar provisions for charitable rate relief and rate relief for unoccupied properties appeared in clause 10 of the Local Government Finance Bill 2016-17. That Bill fell because of the snap general election in 2017.

The central rating list

The 'central rating list' is a centrally-held list of non-domestic properties. Most properties on the central list are related to the utilities or to property belonging to formerly nationalised industries. Whereas 'local rating lists' include a rateable value for each individual property, on the central list, each company or group of companies (a 'person' in the legislation) is given a single rateable value. The rateable value is assigned by the 'central valuation officer', and the business rate revenue from the properties on the central list is paid directly to the Government. The revenue from the central list must be directed to the benefit of local government.[21]

Sections 52-54 of the 1988 Act establish separate central lists for England and Wales. Lists of central properties are available in the Central Rating List (England) Regulations 2005 (SI 2005/551) and the Central Rating List (Wales) Regulations 2005 (SI 2005/422). Both lists have been subject to amendments since their initial publication (see guidance notes on the VOA webpages). The Welsh central rating list is the responsibility of the Welsh Government, which receives revenues from it.

At present, properties on the central list cannot qualify for charitable relief or empty property relief.

The Act

Paragraph 1 (3) of new schedule 5A restates how the business rates bill for a central list property should be calculated. This re-enacts sub-sections 54 (4-7) of the 1988 Act (which were repealed by section 3 (1) (c) of the Act).

Paragraph 2 (2) provides that charitable rate relief is available on a central list entry for any of the properties that make up the entry on that list. Paragraph 2 (3) extends this provision to unoccupied properties for which the ratepayer is a charity, and where it appears that the property will be used for

21 See paragraph 2(3) of schedule 7B to the Local Government Finance Act 1988.

charitable purposes when it is next occupied. This replicates the provisions of charitable relief that apply to properties on local rating lists.

Paragraph 3 replicates the provisions for improvement relief in paragraph 3 of new schedule 4ZA, within section 1 (see under 'improvement relief' above). Either the Secretary of State (in respect of England) or the Welsh Ministers may make regulations defining 'qualifying improvement works' that will define eligibility conditions for improvement relief. Regulations may also extend the twelve-month period during which a property can receive improvement relief, and may extend the application of improvement relief past 31 March 2029.

Paragraph 4 (1) (c) permits the Secretary of State to make regulations specifying classes of properties which, if they are unoccupied and are located within an entry on the central rating list, are to have a zero-rate liability. It is expected that these provisions will only ever apply to a small number of central list properties.

Paragraph 4 (4), together with paragraph 6 (8), provide that where the classes of properties specified in regulations are occupied, the Treasury may specify in regulations whether the small business multiplier or standard multiplier applies to them. At present the small business multiplier cannot be used for properties on the central rating list. As with the provisions in section 2, regulations may allow that decision is different depending on the rateable value, use, location, physical characteristics, or ratepayer of a property.

Paragraph 5 provides that, where a property located on the central list would qualify for both unoccupied property relief (of 100%) and charitable relief (of 80%), charitable relief will take precedence.

The provisions in this new schedule relating to charitable relief and improvement relief extend to Wales. The Welsh Ministers have the power to make regulations defining improvement relief, and extending its application. However, the provisions regarding unoccupied properties and the central list in paragraph 4 extend to England only.

As well as bringing the central list more closely into alignment with practice with regard to reliefs for properties on local rating list, this provision enables properties that may qualify for reliefs to be moved between the central and local lists in future, if required, without triggering swings in liability for the ratepayer.

3.4 Discretionary relief in-year (section 4)

Section 4 of the Act made a technical amendment to the 1988 Act. It gives billing authorities in England greater latitude to award retrospective discretionary relief. Section 47 (7) of the 1988 Act stated that a decision to award discretionary relief could not be taken more than six months after the end of the financial year to which it applies.

Section 4 inserts a new section 47 (6A) into the 1988 Act that, bringing the earlier situation to an end as of the 2022/23 financial year. This means that English billing authorities would be able to make a decision to award discretionary relief retrospectively from the 2023/24 financial year onwards. The section prevents billing authorities from making a decision to award retrospective discretionary relief in respect of any period before 1 April 2023.

Section 4 (3) inserts a phrase into section 47 (7) of the 1988 Act that has the effect of not applying this section to Wales. That is, the six-month limit stays in place in Wales.

3.5 Frequency of revaluations (section 5)

In 2016, the UK Government said it intended to change the five-year cycle of revaluations applying in England. It announced that it would bring the revaluation then scheduled for 2022 forward to 2021, to be followed by three-yearly revaluations (2024, 2027 and so on).[22] Support for more frequent revaluations had been one of the findings of the 2014-15 business rates review.[23]

After the VOA had made substantial progress on the 2021 revaluation for England, it was postponed in May 2020 due to the Covid-19 pandemic.[24] The Government then delayed the 2022 revaluation to 2023 via the Non-Domestic Rating (Lists) Act 2021.[25]

Subsequently, in June 2021 the Government consulted on moving to a three-yearly revaluation cycle.[26] The final report of the fundamental review of business rates confirmed this decision in October 2021. So subsequent revaluations in England will now take effect in 2026, 2029 and so on.[27] In the longer term, the UK Government will consider the case for an annual revaluation cycle.[28]

Before the present Act passed, new rateable values set at a revaluation were based on the situation two years previously. Thus the 2023 revaluation is based on rental values as at 1 April 2021. This is known as the ‘antecedent valuation date’ (AVD). The UK Government has stated that reducing the

[22] This originally took the form of a consultation entitled Business rates: delivering more frequent revaluations, published on 24 March 2016.

[23] HM Treasury, Administration of business rates in England: interim findings, 10 December 2014, p13-15

[24] MHCLG, Business rates revaluation postponed, 6 May 2020

[25] HC WS 400 2019-21, 21 Jul 2020

[26] The Non-Domestic Rating (Lists) Bill 2017-19 would have changed the frequency to three years, but it did not complete its passage through Parliament. See the Commons Library research briefing for further background on the 2017-19 Bill. The 2017-19 Bill is a separate piece of legislation from the Non-Domestic Rating (Lists) Act 2021.

[27] HM Treasury, Business Rates Review: final report (pdf), October 2021, p10

[28] As above

length of time between the AVD and a revaluation taking effect remains "an aspiration once the new three-yearly cycle and supporting changes are fully bedded in".[29] Responses to the fundamental review of business rates expressed support for a move to a one-year gap between the AVD and a revaluation.[30] In Scotland, the revaluation that took effect on 1 April 2023 was based on an AVD of 1 April 2022.

The Act

Section 5 of the Act amended section 41 of the 1988 Act to provide for a three-yearly revaluation cycle. Section 5 (1) applies this to local valuation lists, and section 5 (2) applies it to the revaluation of the central list. Section 5 (3) amends the legislative requirement to establish a transitional scheme (see further below), as long as that requirement would apply to a three-yearly valuation period rather than a five-yearly one.

This section applies to England only. The Welsh Government consulted in late 2022 on moving to a three-yearly revaluation cycle following the most recent Welsh revaluation, which took effect on 1 April 2023.[31] The Scottish Government has legislated to establish a three-yearly cycle.[32] In Northern Ireland rating legislation, there is no prescribed timeframe for revaluations, and moving to a three-yearly cycle will be a decision for the incoming Finance Minister when devolution is restored.

3.6 Transitional arrangements (section 6)

Large changes in rateable values at a revaluation can translate into large sudden increases, or decreases, in business rate bills. To protect businesses from sharp effects of this kind, transitional arrangements (also known as 'transitional relief') are used to dampen the effects of revaluations on business rate bills.

The UK Government is legally required to operate a transitional scheme in England. Details of the transitional scheme that will operate during the 2023-26 rating list can be found in section 3.2 of the Library briefing paper Business rates: the 2023 revaluation. Transitional schemes typically set maximum percentages by which a property's business rates bill can increase in each year of the rating list. For instance, for the 2023/24 financial year, the bill due on a small property could only increase by a maximum of 5% above the bill for 2022/23.

29 HM Treasury, Business Rates Review: final report, October 2021, p11
30 As above, p18-19
31 Welsh Government, Reforming non-domestic rates in Wales, 21 Sep 2022
32 These changes were implemented by section 2 of the Non-Domestic Rates (Scotland) Act 2020.

The 1988 Act required transitional schemes in England to be as close as possible to revenue neutral.[33] So transitional schemes in England prior to the 2023/26 scheme also set maximum percentages by which a property's business rates bill can fall (known as 'downwards caps'). This meant that, where the revaluation led to substantial reductions in business rates bills, these too were phased in throughout the lifetime of the list. The Commons Library research briefing Business rates: the 2017 revaluation describes the effects of this approach.

The Government announced at the 2022 Autumn Statement that this practice would not form part of the 2023-26 transitional scheme.[34] It provided further details in the response to its consultation on the transitional relief scheme, stating that it would be:

> … delivering significant reform to Transitional Relief by permanently removing the requirement for revenue neutral transitional arrangements. The 2023 scheme will therefore not fund upwards transitional relief ('upwards caps') by restricting falls in bills to raise revenue ('downwards caps'). This will make the business rates system fairer and more responsive, delivering on a key stakeholder ask to allow ratepayers whose properties see a fall in rateable value to immediately see the full benefit of the revaluation reflected in their bills.
>
> Instead, the government will Exchequer fund upwards caps for the 2023 TR scheme at a cost of £1.6 billion, a format which has been the preferred option of the majority of respondents to this consultation.[35]

Section 6 of the Act makes the legislative change required for this commitment to be implemented.

The Act

Section 6 amended section 57A of the 1988 Act. Section 6 (a) changes the deadline by which transitional scheme regulations must come into force from 1 January preceding the start of the scheme to 1 February. The Government has stated that this will "provide greater policy flexibility and opportunity for parliamentary scrutiny".[36]

Section 6 (b) amends section 57A (10) of the 1988 Act by substituting the words 'no greater than' for 'the same as'. This has the effect of requiring that a transitional scheme cannot lead to an overall rise in business rates revenue, rather than requiring it to lead to the collection (as far as possible) of the same amount in business rate revenue.

[33] This requirement can be found in section 57A (10) of the Local Government Finance Act 1988.

[34] HM Treasury, Autumn Statement 2022, para 2.16

[35] DLUHC, Business Rates Revaluation 2023: Consultation on the transitional arrangements – summary of responses and government response, 2022, para 5

[36] HM Treasury, Business Rates Review: technical consultation: summary of responses, March 2023, para 1.57

Section 6 extends to England only. The requirement for transitional schemes to be revenue-neutral did not extend to Wales. The Welsh Government instituted transitional schemes for the 2017-23 and 2023-26 valuation lists using separate powers, found in section 58 of the Local Government Finance Act 1988. These transitional schemes did not include any form of 'downward cap' for businesses whose bill fell after revaluation.

The response to the consultation on the 2023-26 transitional scheme also said that although the Government would continue to announce transitional schemes, the shorter revaluation cycle meant that future schemes would be more tightly targeted. The Government will not routinely consult on transitional arrangements before future revaluations.[37]

3.7 Completion notices (section 7)

Billing authorities may serve a 'completion notice' on the owner of a new building. A completion notice fixes a date by which the billing authority believes a building should be completed. On that date, the property is added to the business rates list and then becomes liable for rates. This power ensures that a property cannot be held indefinitely in a state of near completion and thus avoid being liable for business rates.

The powers to serve completion notices in respect of non-domestic properties are found in section 46 and schedule 4A of the Local Government Finance Act 1988. Paragraph 1 (1) of schedule 4A states that:

> If it comes to the notice of a billing authority that the work remaining to be done on a new building in its area is such that the building can reasonably be expected to be completed within 3 months, the authority shall serve a notice under this paragraph on the owner of the building as soon as is reasonably practicable unless the valuation officer otherwise directs in writing.

The completion notice must specify a completion day, which may not be more than three months from the date the notice is issued. Schedule 4A also includes provisions for appeals against completion notices, to be heard by the Valuation Tribunal, and provisions for how notices must be served on building owners.

The provisions of Section 46A and schedule 4A as set out in the 1988 Act only permitted completion notices to be served for new buildings. They could not be served on buildings that have been removed from the valuation list because they were undergoing alteration or refurbishment and were therefore considered as being incapable of beneficial occupation.

Section 7 of the Act closed this loophole by amending the definition of a 'new building' to include refurbished buildings. Section 7 applies in England only.

[37] HM Treasury, Business Rates Review: technical consultation: summary of responses, March 2023, para 11

This change aims to ensure that the completion notice process applies in the same way to refurbished properties as it does to new properties. Section 7 amended the definition found in section 46A (6) of the 1988 Act. New section 46A (6) (b) (ii) provides that the definition of a 'building' also includes a hereditament (property) that has previously been on the valuation list.

New section 46A (6) (b) (iii) provides that the definition of a 'building' would also include a part of an existing property that had previously been on the valuation list. That is, where an existing property was being added to or extended, and had therefore been removed from the valuation list, a completion notice could be issued for the new part, requiring it to be placed back on the valuation list.

3.8 Administration of the central rating list (section 8)

As noted in section 3.4, the contents of the English central rating list are established by statutory instrument. As a result, all alterations to the central rating list must also be made via statutory instrument.

Section 8 permits the English central list to be altered by means of a direction from the Secretary of State to the central valuation officer, a less cumbersome process. It is almost identical to clause 11 (1) of the Local Government Finance Bill 2016-17, which failed to progress due to the snap general election in June 2017.

The Government has suggested that the number of alterations to the central list will increase in the next few years, as more telecommunications networks may be moved to the central list. A Government consultation in 2021 proposed moving certain large telecommunication networks, the Channel Tunnel Rail Link and mobile telecom operators on to the central list. In its response to consultation on how the central list should be administered, the Government decided to proceed with moving the first two of these categories of property on to the central list, but to leave mobile telecom operators on local lists for the time being.[38]

The Welsh Government published a consultation on the Welsh central rating list in January 2022.[39] It proposed moving large telecoms networks to the central list, and assessing 5G masts by company as single hereditaments, placing them on the central list. However, the Welsh Government's response

38 DLUHC, Business rates revaluation 2023: the central rating list – summary of responses and Government response, 6 May 2022, para 12

39 Welsh Government, Consultation on the non-domestic rates revaluation 2023: central rating list, 21 Jan 2022

to the consultation stated that none of these changes would be made for Wales's 2023-26 rating list.[40]

The Act

Section 8 inserted new section 52A into the Local Government Finance Act 1988. Its provisions apply only to the English central rating list. New section 52A (1) permits the Secretary of State to direct the central valuation officer regarding how to compile the central list. Subsection 2 (a) permits the Secretary of State to require entries in the central list to include the type of properties occupied by the 'person' (the company occupying the properties listed).

New subsection 5 allows different classes of property contained within an entry on the central list to be allocated a single rateable value. These provisions will produce a central list that looks much the same as at present – with a single rateable value for each company – but with the option of assigning separate rateable values for separate properties sitting underneath the list.

3.9 Business rates retention (section 9)

Section 9 of the Act corrected a legislative error in schedule 7B of the Local Government Finance Act 1988. This concerns administration of the Business Rates Retention Scheme (BRRS), which was introduced via the Local Government Finance Act 2012. The BRRS is explained in more detail in the Commons Library research briefing Reviewing and reforming local government finance. It operates in England only, and thus section 9 has effect in England only.

The Business Rates Retention Scheme governs the distribution of business rates revenue between local and central government in England. In all local areas, a percentage of the rate revenue collected by local authorities – the 'central share' of business rates - must be paid to the Government. In most areas this is 50%, but a small number of areas keep all or most of their business rate revenue (and forgo other grant entitlements as a result).

Paragraph 2 of schedule 7B governs the accounting treatment of the central share of rate revenue, which is held in the "main non-domestic rating account". All Government revenues from business rates retention pass through this account, as well as other business rates income collected directly by central government. Paragraph 2 (3) requires all business rates income held in the main non-domestic rating account to be used "for the purposes of local government in England" if it is not directly needed for the purposes of the BRRS – in other words, the revenue must be recycled into

[40] Welsh Government, Non-domestic rates revaluation 2023: central rating list, 17 Jun 2022

other local government grant funding and cannot be spent on non-local government matters.

The provisions in paragraph 2 (4) meant that business rate revenues were not transparently accounted for in the main non-domestic rating account. This is because, when determining how much business rates income is not directly needed for the BRRS, the legislative provisions did not require certain credits and debits to the account to be taken into account. For instance, the total tariff credits and top-up debits within the business rate retention scheme were not included in the statutory calculation of the sums not needed for the BRRS.

Section 9 (2) amended paragraphs 2 (3) and 2 (4) of schedule 7B of the 1988 Act, requiring all debits and credits to the main non-domestic rating account to be taken into account. This change to the accounting provisions reflects current practice: it does not mean that a sum of money has been unavailable to local government up till now.

3.10 Sharing information with ratepayers (section 10)

In the November 2021 document Business Rates Review: technical consultation, the Government announced that it would in future publish more information for ratepayers explaining how the VOA determines rateable values. The project to deliver on this commitment is known as "Transparency phase 1" and "Transparency phase 2". "Transparency phase 1" has been completed: it consists of making additional information available on the Government's online portal that gives access to properties' rateable values. The property details on this portal now include additional detail of how the property's rateable value has been calculated, and information about comparable properties where appropriate.

"Transparency phase 2" will provide greater access for ratepayers to "rental evidence" – that is, the evidence that the VOA uses to determine rateable values.[41] This could include providing information to ratepayers about similar properties that the VOA is currently required to keep confidential. Section 18 (2) of the Commissioners of Revenue and Customs Act 2005 states that the VOA (and HMRC) may only disclose information "for the purposes of a function of the Revenue and Customs".

The Government published a further consultation in March 2023 on how to implement "Transparency phase 2".[42] This stated that:

41 HM Treasury, Business rates review: technical consultation, November 2021, paras 3.24-3.26

42 HM Treasury, Business rates: transparency and disclosure of information on business rates valuations, March 2023

- Ratepayers would be able to access “a summary of evidence underpinning their valuation”.
- This would only be available where a ratepayer had complied with the proposed new duty to provide information to the VOA (see section 5.13).
- The system for accessing this information will be wholly or largely automated.
- The VOA will not make available commercially sensitive matters such as contractual arrangements between a tenant and landlord (see section 5.4). However, the consultation sought views on what type of information could and should not be shared.

The limits on disclosure of information in the Commissioners of Revenue and Customs Act 2005 meant that the Government required additional powers in order to implement “Transparency phase 2”.

The Act

Section 10 of the Act introduced new paragraph 7B into schedule 9 of the Local Government Finance Act 1988. New paragraph 7B (1) provides that a ratepayer for a hereditament (a property) may make a request for “Revenue and Customs information” that has been used by a valuation officer in order to assign a rateable value to the ratepayer’s property. This provision extends to England and Wales.

New paragraph 7B (2) permits the valuation officer may disclose this information if they “consider it reasonable to do so”. New paragraph 7B (3) provides that the request must be made through an online process or through an alternative means. New paragraph 7B (4) provides that any disclosure of information must take place in line with data protection legislation.

New paragraph 7B (5) would define “Revenue and Customs information” as information held as defined in section 18 (1) of the Commissioners of Revenue and Customs Act 2005.

3.11 Northern Ireland: information sharing (section 11)

Section 11 introduced new section 63D into the Local Government Finance Act 1988. It created a legal power that did not previously, for a valuation officer to provide information to rating officials in Northern Ireland. The VOA covers England and Wales: the equivalent functions in Northern Ireland are operated by Land and Property Services, within the Northern Ireland Department of Finance and Personnel. Section 11 therefore extends to Northern Ireland as well as to England and Wales.

New subsection 63D (1) and (2) provides a power for valuation officers in England and Wales to disclose information on request to Northern Ireland rating officials. New subsection 63D (3) provides that this may not be done if it would breach confidentiality or any other restriction on the disclosure of information, and new subsection 63D (4) provides that a disclosure must not breach data protection legislation.

New subsection 63D (5) provides that information disclosed under this section must only be used for the purposes of a Northern Ireland rating official's functions under the Rates (Northern Ireland) Order 1977. This Order is the core legislation underpinning the Northern Ireland rating system. (It also applies to domestic properties: these are still subject to rates in Northern Ireland, where council tax was never introduced.) The information may also not be disclosed further by the Northern Ireland rating official.

The requirement to use the provided information only for rating functions mirrors the requirements in section 18 of the Commissioners of Revenue and Customs Act 2005. However, new section 63D (6) permits the information to be used, or further disclosed, under certain circumstances. New section 63D (8) provides that the sanctions set out in section 19 of the 2005 Act would apply if such information was wrongfully used.

3.12 Digitisation of business rates (section 12)

The Government has a long-standing commitment to greater digitisation of the business rates system. This issue originated in the 2014-16 business rates reviews, and was referred to in the 2016 Budget.[43] The short Non-Domestic Rating (Preparation for Digital Services) Act 2019 was passed in order to permit HMRC to spend money on establishing digital systems. The Government's 2021 consultation Fundamental review of business rates: more frequent revaluations (pdf) noted a need for "further digitisation of ratepayer interactions with the system".[44] A further consultation in July 2022, Digitalising Business Rates: connecting business rates and tax data, was followed by a summary of responses in March 2023.

The aim of digitisation is to link business rates more effectively into the broader tax system. The 2022 consultation said:

> The way the business rates system is currently set up makes it difficult for the government to precisely target support when responding to the needs of businesses. By bringing together businesses' property data and tax information in one place, the government will be better able to design and

[43] HM Treasury, Budget 2016, p46

[44] HM Treasury, Fundamental review of business rates: more frequent revaluations, 2021, p5

apply reliefs to support businesses that are most in need, rather than having to rely on property information in isolation.[45]

The consultation sought views on what existing sources of data could be used to link business rates records to HMRC tax records. It also sought views on the process of billing authorities sharing information with HMRC to facilitate data matching, and on the introduction of financial penalties for non-compliance with any new requirements to supply data.

The Government response of March 2023 set out the following decisions:[46]

- The Government will require business ratepayers to provide a taxpayer reference number. This may be a self-assessment unique tax reference; a partnership unique tax reference; a corporation tax unique tax reference; a VAT registration number or an NI number. This duty will now apply in both England and Wales.

- Taxpayer reference numbers and property information (see section 5.13) are to be provided via the same online system, within 60 days of becoming the ratepayer for a property.

- A penalty of £100 will be charged for a failure to provide a taxpayer reference number, followed by an additional £60 per day after a further 30-day grace period. The maximum total penalty will be £1,800, or £3,000 for false information provided deliberately or carelessly. Ratepayers will not receive two penalties where they fail to comply with both this duty and the new duty to supply property information (see section 5.13).

The Act

Section 12 inserted new provisions into section 63A of the Local Government Finance Act 1988. These provisions extend to England and Wales.

Section 12 (1) permits HMRC officials to disclose Revenue and Customs information to ‘qualifying persons’. This provision amended section 63A, which only permitted VOA officials to disclose this type of information. Thus it allows HMRC to share taxpayer information with billing authorities. The remainder of section 63A already specified that the type of information that may be disclosed must be prescribed by regulations, and that a billing authority is a ‘qualifying person’.

Section 12 (2) inserted a new section 63E into the 1988 Act. This new section made the reverse provision to that in section 12 (1), permitting billing authorities to share specified information with HMRC. New section 63E (1) permits billing authorities to share non-domestic rating information “for the

[45] HM Treasury, Digitalising Business Rates: connecting business rates and tax data, July 2022, foreword

[46] HMRC, Digitalising Business Rates: connecting business rates and tax data – summary of responses, 15 March 2023

purpose of assisting His Majesty's Revenue and Customs in carrying out its functions". New section 63E (2) permits HMRC to require a billing authority to share information for this purpose, but new section 63E (3) provides that this could not be done if it would contravene data protection legislation.

3.13 Provision of information by ratepayers (section 13)

In the final report of the fundamental review of business rates, published in October 2021, the Government proposed introducing additional legal requirements on ratepayers to provide information to the VOA to assist with the valuation process.[47] This proposal was consulted upon in the November 2021 publication Business Rates Review: technical consultation, and it was also covered in the summary of responses and Government response to that consultation.

Before the passage of the present Act, there was no legal duty on business ratepayers to notify the VOA of changes to their property that would have an impact on the property's rateable value and thus on the business rate bill. To aid the VOA's gathering of information used to assign rateable values when revaluations become more frequent, the Government proposed to introduce a duty on ratepayers to notify the VOA of "any changes to the occupier and property characteristics that affect the assessment of their hereditament for business rates".[48] This must be supplied within 60 calendar days of the relevant change. The Government had originally proposed a 30-day period but extended this in response to concerns expressed during the consultation.

Ratepayers will be required to notify the VOA of any change to their property's physical characteristics, or any change of occupier. Ratepayers will also be required to provide rent and lease information, and any trade information relevant to the valuation process.[49] Trade details will be required regarding properties such as pubs and hotels, where trading figures are used to calculate rateable value.

As well as a duty to notify the VOA of changes to their property, ratepayers will also be subject to a duty to provide an annual confirmation of the current information held on their property. In its response to consultation published in March 2023, the Government said that "the annual confirmation process will not be introduced until the government has ensured it will be sufficiently

47 HM Treasury, Business Rates Review: final report, October 2021

48 HM Treasury, Business rates technical consultation: summary of responses and Government response, March 2023, p10

49 As above. Examples of when the duty might apply are provided in HM Treasury, Business Rates Review: technical consultation, 30 November 2021, para 2.14

straightforward for ratepayers to complete".[50] The annual confirmation will be required in the 60-day period following 30 April each year.

Both categories of information are to be provided via a new online system that is to be "soft launched" during the period of the 2023-26 valuation list.

The duty to supply information regarding a ratepayer's property will apply only in England, while the duty to supply a taxpayer reference number will apply in England and Wales.

The requirements to supply information will not apply to properties that are exempt from business rates, but they will apply to properties that are on the rating list but for which the business rate liability is zero. For composite properties (where part of the property is domestic and thus subject to council tax instead of business rates), the duty will not apply to changes to the domestic part of the property if they have no effect on rateable value.

The Government intends to introduce financial penalties for non-compliance with the information regime. The November 2021 consultation document stated that these are not expected to be introduced until 2026.[51] The Government included a table of the proposed penalty charges in the response to consultation.[52] Some elements of the penalty charges are linked to the rateable value of the property in question.

Ratepayers will not be able to access the Challenge stage of the appeals process, or greater transparency regarding the calculation of rateable values, if they have not complied with the requirements of the information duty.

The November 2021 consultation document stated that the 'Check' stage of the appeals process will be removed from the start of the 2026-29 rating list (as the annual confirmation should make it unnecessary).[53] The Government also plans to introduce a time limit for launching a 'challenge' against a rateable value set at a revaluation. For the 2026-29 rating list, a challenge will have to be launched within six months of the beginning of the rating list.[54] The Government's intention is to move to a three-month window for the 2029 rating list.

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[50] HM Treasury, Business rates technical consultation: summary of responses and Government response, March 2023, p13

[51] HM Treasury, Business Rates Review: technical consultation, 30 November 2021, para 2.19

[52] HM Treasury, Business rates technical consultation: summary of responses and Government response, March 2023, para 2.28

[53] HM Treasury, Business Rates Review: technical consultation, 30 November 2021 para 3.1. See section 7 of the Commons Library research briefing Business rates for a description of the current process, known as 'Check, Challenge, Appeal'.

[54] HM Treasury, Business Rates Review: technical consultation, 30 November 2021 para 3.19; see also HM Treasury, Business rates technical consultation: summary of responses and Government response, March 2023, para 1.31

The Act

Section 13 amended schedule 9 of the Local Government Finance Act 1988. The amendments require ratepayers to supply a taxpayer reference number and to supply specified information about the properties that they occupy. The amendments also include penalty regimes for each of these two duties.

New paragraph 4C, in schedule 9, requires ratepayers to provide a taxpayer reference number to HMRC. New paragraph 4D provides that this must be done within 60 days of an individual becoming a ratepayer, or within 60 days of knowing that an incorrect reference has been supplied. New paragraph 4E provides that the number must be provided via an online facility, or via another manner agreed with HMRC. New paragraph 4F (1) states that a unique taxpayer reference, a VAT registration number, or an NI number can be accepted, and new paragraph 4F (2) provides that these definitions may be changed via regulations.

New paragraph 4H provides that HMRC must consult the Welsh Ministers before making regulations under new paragraph 4F if those regulations are to apply to Wales.

Property information

New paragraph 4J requires a ratepayer to supply valuation officers (VOs) with any information regarding their property "that would or might affect the existence, extent or rateable value" of the property, and to notify VOs of any change in the identity of the ratepayer.[55] This must be done within 60 days of the change in question.

New paragraph 4K introduced the 'annual confirmation' requirement, requiring all ratepayers to provide all such relevant information on an annual basis. This must be done within 60 days of 30 April each year. This duty will apply to ratepayers who currently receive 100% relief on their business rate bills and thus pay no rates, but it will not apply in respect of properties that are exempt from business rates.

New paragraph 4L provides that this information must be provided via an online facility, or in a different manner agreed with the valuation officer.

New paragraph 4M permits a valuation officer to serve an 'information notice' requiring a ratepayer to provide relevant information for valuation purposes, and to do so within 60 days of the service of the notice. This replicates existing powers for VOs to request information.

Section 13 (4) inserted details of the penalty regime for failing to meet the duty to provide a taxpayer reference number into schedule 9 of the 1988 Act. Section 13 (5) inserted details of the penalty regime for failing to meet the

55 New paragraph 4J (2) (b)

duty to provide information about a ratepayer's property. Section 13 (6) and 13 (7) inserted details of the appeal processes regarding these two duties.

The penalty regime regarding taxpayer reference numbers sets out provisions for penalties as set out above. The penalty regime regarding property information includes a provision that a ratepayer may be imprisoned for up to three months if they "knowingly or recklessly make a false statement in purported compliance with a valuation notification requirement".[56] New paragraph 5ZD (1) sets out the penalties available.[57]

Two Government amendments were agreed during Lords report stage (as presented in section 5.3):

- impose a 30-day cap on daily penalties for not providing property information, limiting the maximum financial penalty to £1,800 (via new paragraph 5ZD(3) of Schedule 9)
- require the Valuation Tribunal to be satisfied beyond a reasonable doubt that the ratepayer had committed the offence, overturning the original drafting that had reversed the usual burden of proof (via new paragraph 5ZC(3) of Schedule 9)

Sub-sections 13 (6) and 13 (7) provide for ratepayers to appeal against penalty notices to the VOA. The VOA must review the decision within 45 days. A ratepayer who is still unhappy may appeal to the Valuation Tribunal after another 30 days.

As noted above, the duty to supply property information only applies in England. Thus the provisions in section 13 for the penalty and appeals regime applying to that duty also apply in England only. The provisions for the penalty and appeals regime for the duty to supply a taxpayer reference number apply in England and Wales.

3.14 Material changes in circumstance (section 14)

Rateable values may only be altered outside of the regular cycle of revaluations under certain circumstances. These are set out in the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009. Regulation 4 (1) of the 2009 regulations sets out a number of circumstances in which a property's rateable value can be altered at a time other than a general revaluation. One of these, in regulation 4 (1) (b), is when:

56 New paragraph 5ZC (2)

57 HM Treasury, Business rates technical consultation: summary of responses and Government response, March 2023, para 2.28

> ...the rateable value shown in the list for a hereditament is inaccurate by reason of a material change of circumstances which occurred on or after the day on which the list was compiled.

The regulations also say that a 'material change in circumstances' (MCC) constitutes a change to any of the matters set out in the Local Government Finance Act 1988 schedule 6, paragraph 2 (7). As introduced, these included "matters affecting the physical state or physical enjoyment of the hereditament", "matters affecting the physical state of the locality in which the hereditament is situated or which, though not affecting the physical state of the locality, are nonetheless physically manifest there", and "the use or occupation of other premises situated in the locality of the hereditament."

In the fundamental review of business rates, the Government stated that it:

> ...will legislate to clarify that factors arising from legislation, regulations, licensing changes, or guidance are not in scope for MCC claims. Reflecting responses to the consultation, the government will not restrict MCC claims any more widely than the above areas at this time. This approach will provide forward-looking clarity and certainty for ratepayers regarding the impact of legislative and regulatory changes.[58]

The Government's November 2021 consultation provided some additional details on these plans, and also stated:

> Ratepayers will still be able to make an MCC Challenge on the basis of the following matters even where they have been caused by a change in legislation, licensing or guidance:
>
> - a physical change to the property
> - a physical change in the locality
> - the property joining or leaving the categories 'domestic' or 'exempt'
> - the property forming or no longer being a "hereditament" (the term used to describe a unit of property for business rates).[59]

The Government's proposals on this matter, and section 14, apply to England only.

Separately, the Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Act 2021 had already established that certain impacts of the Covid-19 pandemic could not be used as grounds for an appeal based on a material change in circumstances. The relevant provisions, in section 1 of that Act, extend to England and Wales. Further information on that change is available in the Commons Library briefing on the bill that led to the 2021 Act.

58 HM Treasury, Business Rates Review: final report, October 2021, p.12

59 DLUHC and HM Treasury, Business Rates Review: technical consultation, 30 November 2021, para 3.13

The Act

Section 14 implemented the Government's commitment by amending schedule 6 of the Local Government Finance Act 1988.

Section 14 (1) (c) restates paragraph 2 (7) of schedule 6 of the 1988 Act. The text of the new paragraph includes the same provisions as the earlier version of paragraph 2 (7). The provisions are rewritten by this sub-section because the provisions below – restricting appeals on the basis of an MCC – are intended only to apply to changes in the physical enjoyment of a property, not to changes to its physical state.

Section 14 (1) (d) inserted new paragraph 2ZA into schedule 6 of the 1988 Act. New sub-paragraph 2ZA (1) applies the changes to the scope of MCC claims to any future alterations to the list that take place outside of a revaluation, and to future revaluations.

New sub-paragraph 2ZA (3) sets out a series of 'relevant factors' that cannot be used as a basis for an MCC appeal. These are:

- legislation of any country or territory
- provisions made under legislation of any country or territory
- advice or guidance given by a public authority of any country or territory
- any action taken to comply with any of the above

New sub-paragraph 2ZA (1) is drafted so as to prevent valuation officers from having to take into account 'relevant factors' that arise after the valuation date, but before a revaluation is to take effect.

New sub-paragraph 2ZA (4) provides that these relevant factors cannot be applied where the VOA must make a decision on whether a property is domestic or non-domestic, or on whether it is exempt from business rates.[60]

Section 14 (2) amended the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009. These regulations provide the foundation of the current appeals system in England. As noted above, they permit a proposal to change a rateable value on the basis of an MCC, in regulation 4 (1) (b). Section 14 (2) added the provision that such a proposal is subject to the provisions of new paragraph 2ZA.

[60] A small number of categories of property are exempt from business rates. These are set out in schedule 5 of the Local Government Finance Act 1988. Exemption is a distinct legal category from a property that receives 100% relief from business rates, for instance via small business rate relief or rural rate relief.

3.15 Changes to the multiplier (section 15)

Since the introduction of the national non-domestic rate system in 1990, the business rate multiplier (see section 2.1) has been set annually for England by HM Treasury. Previously, individual billing authorities set their own multipliers, and were able to set them at any level they chose. This could lead to wide variations in rate bills between financial years.

Consumer Prices Index

Schedule 7 of the Local Government Finance Act 1988 provides that, for a given financial year, the multiplier will rise by the percentage of the Retail Price Index (RPI) for the previous September – unless the Treasury sets a lower figure. This ensures that business rates revenue keeps pace with inflation.[61]

In the 2016 Budget, the Government committed to legislating to replace RPI with the Consumer Prices Index (CPI) for this purpose.[62] Clause 5 of the Local Government Finance Bill 2016-17 would have made this change, but that Bill fell because of the snap general election in 2017.

Since 2018, Government policy has been to increase the multiplier in England by a maximum of the Consumer Price Index (CPI), which is normally lower than the RPI (though from 2021-22 to 2023-24 the multiplier was frozen).[63] The Government planned to legislate to provide that the maximum level of uprating must be based on the CPI instead of the RPI.

The Act

Section 15 amended schedule 7 of the 1988 Act, which applies to England only. Section 15 inserted a new Part A1 into schedule 7. New paragraphs A1 and A2 of the new Part A1 set out its contents.

New paragraph A3 states the formula for calculating the standard multiplier in respect of the first financial year after a revaluation takes effect (a 'revaluation year'). This formula is different from other years in order to ensure that the change in the multiplier is offset by the change in rateable value resulting from the revaluation. If total rateable value rises at a revaluation, there is a corresponding downward pressure on the multiplier, and if total rateable value falls, the multiplier will rise. The calculation in

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61 See the Local Government Finance Act 1988, schedule 7, para 5 (3). The Scottish Government and Northern Ireland Executive are not legally required to follow this system but have normally done so in the past.

62 HM Treasury, Budget 2016, 2016, p108

63 From 1990 to 2014-15, the multiplier rose each year by the RPI rate. In 2014-15 and 2015-16, the then Chancellor, George Osborne, announced that the multiplier would be increased by 2%, instead of 3.2% (2014-15) and 2.8% (2015-16).

paragraph A3 includes this provision alongside the requirement to increase the multiplier by CPI.

New paragraphs A4 (1) and (2) state the formula for calculating the standard multiplier in all other years. New paragraph A4 (3) provides that the Secretary of State can adjust the multiplier to increase it by a lower percentage than the rate of CPI.

New paragraphs A4 (5) and A4 (6) make identical provisions for the small business multiplier.

The Act provides for the standard multiplier and small business multiplier to be calculated independently of one another. The earlier legislative requirement was for the small business multiplier to be increased by a maximum of CPI, and the standard multiplier to be increased in order to make up for any revenue forgone as a result of the level of the small business multiplier. This could inadvertently lead (and has led) to instances of the standard multiplier rising by more than RPI.

Paragraph A7 (1) provides that the Secretary of State must calculate the multipliers for a new financial year, and inform billing authorities of the calculations “as soon as reasonably practicable”. This replaced the requirement that the Government could not formally confirm multipliers for the forthcoming financial year until the House of Commons had approved the local government finance report. In recent years, ‘draft multipliers’ have typically been published in the autumn preceding the relevant financial year. However, they have not been confirmed until the Commons approves the local government finance report, which in recent years has taken place in the February preceding the financial year to which it applies.

New paragraph A9 corrects an anomaly in the existing legislation that requires the multiplier to be rounded down when it is calculated to between five and six ten-thousandths.

New paragraphs A10 and A11 provide details of the variables which must be used in the calculations set out in new paragraphs A3 to A6.

[illegible]

4 Consideration in the House of Commons

4.1 Second reading

Second reading of the Bill took place in the Commons on 24 April 2023.[64]

The Bill was agreed without a division.[65]

Introducing the Bill, the then Financial Secretary to the Treasury, Victoria Atkins, said that it built on the Government's existing initiatives to reform the business rates system. Noting support from businesses for more frequent revaluations, she said that moving to a three-year cycle was a necessary first step towards achieving such an ambition, and that the new reporting requirements for businesses would further facilitate this.[66]

She argued that further proposals, such as using the consumer price index as the basis for multipliers, and introducing new reliefs, would help businesses to thrive.[67]

The shadow Minister for Local Government, Sarah Owen, described the Bill as "inadequate". She said that it did not go far enough and was being delivered too late to help struggling businesses. She highlighted the added burden of the proposed reporting requirements and associated penalties for non-compliance as a particular concern. Nevertheless, she said that Labour would not vote against the Bill but would work to improve it during its passage.[68]

Sally-Ann Hart (Conservative) welcomed the Bill, but felt that it did not go far enough. She hoped that it would be the first step towards annual revaluations. She also expressed concern about the effect of the new reporting duty.[69]

While supporting many of the reforms proposed in the Bill, Helen Morgan (Liberal Democrat) described it as "a disappointment", especially its lack of support for the larger 'anchor tenants' that helped high streets to thrive. She was also "nervous" about the burden that the new reporting requirements would impose, especially as many small businesses that did not pay rates would nevertheless have to fill in annual returns or be fined. More widely, she

64 HC Deb, 24 April 2023, c529-545
65 As above, c544
66 As above, c529-530
67 As above, c530
68 As above, c531-533
69 As above, c533

argued that the whole business rates system was "broken" because it taxed investment in improvement rather than profits and land value.[70]

Peter Aldous (Conservative) echoed concerns about the proposed duty to notify. He argued that if it was to be retained, there should at least be some corresponding requirement for the Valuation Office Agency (VOA) to be more transparent in its dealings with ratepayers.[71]

Summing up for the Opposition, James Murray, the shadow Financial Secretary, said that the Bill was a missed opportunity to undertake the fundamental reform of the business rates system that the Government had promised. While he welcomed the new reliefs and the move to three-year revaluations, he worried that "the Government have kicked the prospect of annual revaluations far into the long grass." He also highlighted the added cost to businesses of complying with the new reporting requirements, and asked when the Government would publish its analysis of what those costs would be.[72]

Responding on behalf of the Government, Lee Rowley, Under-Secretary of State for Levelling Up, reiterated the role of the Bill as a continuation of support offered to businesses in the autumn statement. In regard to the revaluation cycle, he emphasised the need for a gradual approach and noted that the interim approach had been widely welcomed.[73]

Turning to the proposed annual reporting requirements, the Minister said that the Government was "committed to a soft launch of the collection of this data" and would not institute the compliance regime until the process had been tested and worked as well as possible for businesses.[74]

Finally, he argued that neither Labour nor Liberal Democrat MPs had offered clear concrete alternatives to the type of reforms that the Bill proposed.[75]

4.2 Committee of the whole House and third reading

Committee of the Whole House

A Committee of the whole House considered amendments to the Bill on 22 May 2023. Immediately afterwards the Bill received its third reading.[76]

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70 HC Deb, 24 April 2023, c534-536
71 As above, c536-540
72 As above, c540-542
73 As above, c542-543
74 As above, c543
75 As above, c543-544
76 HC Deb, 22 May 2023, c55-75

Apart from four government amendments that corrected drafting errors, no proposed amendments or new clauses were passed. All those amendments and new clauses were proposed by Peter Aldous or Helen Morgan.

One amendment (number 20) was pressed to division, where it was defeated. The amendment was proposed by Helen Morgan and would have exempted businesses receiving small business rates relief from the need to submit annual updates when there was nothing to report.[77]

The themes covered by the proposals included reinforcing moves to more frequent revaluations, abolishing downward transition (see section 3.6), removing certain reporting requirements for businesses receiving Small Business Rate Relief Exemption, and imposing new reciprocal requirements on the VOA.[78]

Supporting their proposals, Peter Aldous and Helen Morgan emphasised the importance of reducing burdens on small businesses and promoting more realistic and frequent revaluations, noting that such a system was in place in the Netherlands.[79]

On behalf of the Opposition, Sarah Owen reiterated concerns about the shortcomings of the Bill. As well as referring to new burdens for businesses, she highlighted constraints for local authorities in implementing new reliefs and wider arrangements. She argued that while many of the amendments were “reasonable”, they had unintended consequences that would add “more financial constraints to this already flawed Bill”. The one exception she noted was amendment 20, which she described as a “common sense” proposal.[80]

Responding on behalf of the Government, Lee Rowley again noted the intention to move towards more frequent revaluation. He argued that an immediate move would only lead to more upheaval, and that the Netherlands had moved to such a system through intermediate stages. He also reminded the Committee that very many small businesses had already been exempted from business rates altogether.[81]

Helen Morgan said that amendment 20 was nevertheless concerned with reducing bureaucracy for small businesses and pressed it to a vote, in which it was defeated by 282 to 168. Peter Aldous was the only Conservative who voted for the amendment.[82]

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77 HC Deb, 22 May 2023, c69-73
78 As above, c55-58
79 As above, c55-58; c65-66
80 As above, c62-64
81 As above, c66-68
82 As above, c68-72; Division 234

Third reading

The House then moved to third reading of the Bill, which it passed without division.[83]

Lee Rowley described it as the most significant reform of the business rates system since it had been launched in 1990. He said that the Government's approach had been to listen to stakeholders' views and to take "evidence-based" action accordingly. He thanked Members across the House for their "constructive" contributions.[84]

Responding for the Opposition, Sarah Owen described the Bill as a "missed opportunity" that "tinker[ed] around the edges" of an "outdated, dysfunctional" system rather than scrapping it altogether. She highlighted Labour's proposals to move to a "proportionate" system that would support physical businesses and "make online tech giants finally pay their fair share of tax", as well as raising the threshold for business rates relief to £25,000. She concluded by hoping that a future Government would "build on the small steps in the right direction made today".[85]

83 HC Deb, 22 May 2023, c75

84 As above, c73

85 As above, c74-75

5 Consideration in the House of Lords and final stages

5.1 Second reading

The Bill received its first reading in the House of Lords on 23 May 2023 and its second reading on 19 June 2023.[86] The House agreed the Bill without division.[87]

Speaking on behalf of the Government, Baroness Scott, Parliamentary Under-Secretary of State for Levelling Up, argued that the Bill delivered on the main issues raised by stakeholders in the consultation. She said they had wanted to retain business rates and were most concerned to shorten the revaluation cycle. She noted that moving to a three-year cycle might be the first stage in further reductions, and that moving more quickly might destabilise the entire process.[88] Concluding the debate, she highlighted the importance of "get[ting] the balance right" between the interests of ratepayers and sustaining local services.[89] She argued that the reforms in the Bill would "lead to fairer and more accurate bills and a more adaptive system".[90]

On behalf of the Opposition, Baroness Hayman said that Labour "broadly support[ed]" the Bill, but that it was nevertheless "a bit of a missed opportunity". She hoped that the Government would move beyond "commitments to explore".[91]

New reporting requirements

A theme running through many of the contributions related to the proposed new reporting obligations in clause 13.

Baroness Scott argued that they were essential to ensuring that valuations were accurate and sustainable. She said that the reporting effort would generally be straightforward and that confirmation where details had not changed "would only take a few minutes", and there would be frequent reminders sent to ratepayers to comply.[92]

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86 HL Deb 23 May 2023, c747; HL Deb 19 June 2023, c61-86
87 HL Deb 19 June 2023, c86
88 As above, c61-63
89 As above, c82
90 As above, c86
91 As above, c80-82
92 As above, c61-63

Nevertheless, various contributors questioned the value of the reporting approach and assumptions made about it. The Earl of Lytton (Crossbencher), for instance, described the tax reference requirements as “needlessly fussy”. He highlighted the need for clearer guidance for business and worried that complexity might encourage “so-called rating agent cowboys”.[93]

Baroness Scott replied that guidance would be developed as the new system was tested, and that the new duty would not be activated until it worked satisfactorily.[94] She said that the Government would consider how best to deal with potential complexity as part of its forthcoming consultation on business rate avoidance and evasion.[95]

Baroness Scott also argued that the new reporting obligations were essential to improving the transparency of the VOA’s work. She reported that the VOA had estimated that the annual cost of complying with the new reporting requirements was £35 per ratepayer per year, up from the current estimated cost of £15. Providing tax references would cost £2-6. She added that the Government had invested £500 million in the VOA to deal with the reforms.[96]

5.2 Grand Committee

Grand Committee review of the Bill took place on 3 July 2023. The Grand Committee made no changes to the Bill. No amendments were pushed to division.[97]

The Grand Committee considered the Bill and amendments in the following groups:

1. Clauses 1-4 (reliefs)[98]
2. Clauses 5-9 (in particular, frequency of revaluations and transitional reliefs)[99]
3. Clauses 10-12 (in particular, disclosure of valuation information to ratepayers)[100]
4. Clause 13 (requirements for ratepayers etc to provide information)[101]

[93] HL Deb 19 June 2023, c70-71
[94] As above, c84
[95] As above, c85. For the consultation, see HM Treasury and DLUHC, Business Rates Avoidance and Evasion: Consultation, 6 July 2023.
[96] HL Deb 19 June 2023, c84-85
[97] HL Deb 3 July 2023, c93GC-136GC
[98] As above, c93GC-100GC
[99] As above, c100GC-106GC
[100] As above, c107GC-116GC
[101] As above, c116GC-122GC

5. Clauses 14-15 (in particular, material change in circumstances)[102]

6. Clauses 16-20 (in particular, the effects of business rates and the proposed Act on the retail and hospitality sectors)[103]

The Earl of Lytton introduced a series of amendments to clause 13 "to fix a number of issues that appear to me to be typos or errors of construction or perception to do with the way in which the penalty regime will work." He noted that while there was a cap on the daily penalties that might be applied for not providing a taxpayer reference to HMRC, there was no such cap on penalties for non-compliance with VOA requirements, a difference that he argued was "contrary to legal principle in general". He also argued that "the burden of proof [was] inverted" in new requirements that valuation tribunals would have to be satisfied beyond reasonable doubt that a taxpayer had not knowingly or recklessly made a false statement.[104]

Responding on behalf of the Government, Baroness Scott emphasised the importance of a "robust" compliance scheme. She noted that penalties would only be applied after a series of reminders. In regard to the burden of proof, she pointed out that while the new arrangement would apply to the valuation tribunal, earlier decisions by the VOA would require proof beyond a reasonable doubt that the offence had been committed. She assured the Earl of Lytton that the Government would nevertheless review the text.

Noting that he might return to the issues, the Earl of Lytton withdrew his amendments.[105]

5.3 Report stage

Report stage took place on 19 September 2023.[106]

The House agreed to three Government amendments:[107]

- Amendment 12, which would limit the cumulative daily penalties imposed on a ratepayer who does not comply with the new reporting requirements to £1,800

  Baroness Swinburne explained that this amendment would bring arrangements for that penalty into line with those applied separately in the Bill for failure to provide HMRC with a taxpayer reference.[108]

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102 HL Deb 3 July 2023, c122GC-128GC
103 As above, c128GC-136GC
104 As above, c117GC-118GC
105 As above, c120GC-122GC
106 HL Deb 19 September 2023, c1345-1376
107 As above, c1366-1369 and c1375-1376
108 As above, c1367-1368

- Amendment 13, which would require a valuation tribunal to remit any penalties imposed or a ratepayer unless it is satisfied beyond a reasonable doubt that the ratepayer knowingly or recklessly made a false statement

  Baroness Swinburne explained that this amendment responded to the concerns raised in Grand Committee by the Earl of Lytton that the Bill as drafted had reversed the "correct burden of proof for a criminal offence."[109]

- Amendment 20, a drafting amendment which would remove a section of the Local Government Finance Act 1988 "which is no longer needed" as a result of provisions in clause 15.[110]

No other amendments were agreed to or pushed to division.

5.4 Third reading

Third reading took place on 16 October 2023. The Lords agreed the Bill without division.[111]

Speaking for the Government, Baroness Swinburne expressed her gratitude for the cooperation and attention to detail that the Lords had applied.[112]

Lord Shipley (Liberal Democrat) highlighted the benefit of such reforms as more frequent revaluations, but also of the need for continued monitoring and review, notably of such issues as material change of circumstance.[113]

Baroness Hayman (Labour) agreed with Lord Shipley's comments. She said that the Bill was "now in a better place".[114]

5.5 Commons consideration of Lords amendments

The House of Commons considered and approved all three Lords amendments to the Bill on 25 October 2023.[115]

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[109] HL Deb 19 September 2023, c1367-1368

[110] This amendment would omit section 140(2)b of that Act.

[111] HL Deb 16 October 2023, c13-16

[112] As above, c13-15

[113] As above, c15

[114] As above, c15-16

[115] HC Deb 25 October 2023, c867-871

5.6 Royal Assent

The Non-Domestic Rating Act received Royal Assent on 26 October 2023.[116]

[116] HL Deb 26 October 2023, c695

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