Non-Domestic Rating Bill
HL Bill 140 of 2022–23

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The Non-Domestic Rating Bill is a government bill that would make changes to business rates. Its provisions would apply primarily in England. The Welsh government has requested that some of the provisions also apply to Wales. A clause on data sharing would also extend to, and apply in, Northern Ireland.

Between 2020 and 2021 the government conducted a review of, and consultation on, business rates.[1] Many of the measures in the bill would make changes recommended in that review.

The main measures in the bill are:

- reducing the time between revaluations of a property's rateable value from five years to three years
- instituting a duty on businesses to notify the Valuation Office Agency (VOA) of changes that could affect a property's rateable value
- introducing rates reliefs for improvements to property and heat networks
- allowing the Treasury to give businesses the immediate benefit of rates reductions, while maintaining transitional relief for rates increases

[1] HM Treasury, 'Fundamental review of business rates: Terms of reference', 11 March 2020; 'Business rates review: Interim report', March 2021; and 'Business rates review: Final report', October 2021.

In the House of Commons, the Labour Party and the Liberal Democrats did not oppose the bill; however, they criticised the government for not undertaking more substantial reforms. They also criticised the new duty to notify the VOA of relevant changes as imposing too great an administrative burden on businesses.

The bill was introduced in the House of Commons on 29 March 2023 and passed its Commons stages without amendment. It is due to have its second reading in the House of Lords on 19 June 2023.

The government has produced explanatory notes and a delegated powers memorandum alongside the bill.

1. Non-domestic rating (business rates)

1.1 Applicability

Non-domestic rating, also known as business rates, is a tax that applies to all non-domestic properties unless they are specifically exempt.[2] Business rates policy is fully devolved. In England, business rates are charged on properties such as shops, offices, factories and holiday rentals.

Some properties are exempt from business rates. These include some agricultural land and buildings, buildings used for the training or welfare of disabled people, and buildings registered for public religious worship or church halls.

Various business rates reliefs are available in England to reduce the effective rates paid.[3] Businesses that may be eligible for relief include:

- small businesses
- retail, hospitality and leisure properties

[2] HM Government, 'Business rates', accessed 22 May 2023.

[3] HM Government, 'Business rates relief', accessed 25 May 2023.

- sole businesses in a rural area
- charities and community amateur sports clubs
- local newspapers

Other situations in which a business may be eligible for relief include if:

- the property is empty or being refurbished
- rates applicable to the property have recently changed by more than a certain amount
- the business is in financial difficulty
- the property is in an enterprise zone
- the property is in a freeport
- the property is used or mainly used as a heat network

1.2 Rates

Business rates are intended to "broadly" reflect the rental value of a property.[4] This is termed a property's rateable value. This value is multiplied by the tax rate ('the multiplier'), which is set by central government. Any relevant reliefs are then deducted to calculate the final charge.

The VOA decides the rateable value of each property.[5] These valuations are collated into rating lists. Under the Local Government Finance Act 1988 lists must be updated every five years. The most recent revaluation, based on rateable values from 1 April 2021, came into effect in England and Wales on 1 April 2023.[6]

Small businesses are charged business rates at a lower rate than larger businesses. The standard multiplier for 2023/24 is 51.2 pence in the pound,

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[4] HM Treasury, 'Business rates review: Final report', October 2021, p 1.

[5] Local Government Association, 'Local taxation: Council tax and business rates', accessed 22 May 2023.

[6] HM Government, 'Business rates', accessed 22 May 2023.

while the small business multiplier is 49.9 pence in the pound.[7]

Businesses with properties that have a rateable value of less than £12,000 do not pay any business rates if it is the only property the business uses.[8] The rate of relief for properties with a rateable value of £12,001 to £15,000 decreases gradually from 100% to 0%.

1.3 Distribution of funds

Local councils collect business rates on behalf of central government.[9] Local authorities retain at least 50% of the tax collected, though the exact proportion varies. Since 1 April 2017 local authorities in devolution deal areas, including Greater Manchester, Merseyside, the West Midlands, the West Country and Cornwall, have retained 100% of business rates. In 2017/18, the local share for London boroughs increased to 67% to reflect the Greater London Authority taking on extra functions. In 2018/19 London boroughs and a number of other authorities took part in a year-long pilot to retain 100% of their business rates. In 2019/20 some authorities, including London boroughs, took part in another pilot, to retain 75% of their business rates.

2. Background

2.1 2019 Conservative manifesto commitment and Queen's Speech

In its 2019 election manifesto, the Conservative Party said it would review and reconsider the basis for business rates.[10] It said it would "cut the burden of tax on business by reducing business rates" and that it would do this "via a fundamental review of the system".

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[7] HM Government, 'Estimate your business rates', accessed 22 May 2023.

[8] HM Government, 'Business rates relief', accessed 22 May 2023.

[9] Department for Levelling Up, Housing and Communities, 'National non-domestic rates collected by councils in England: 2021 to 2022 technical notes', 25 January 2023.

[10] Conservative Party, 'Conservative Party manifesto 2019', November 2019, p 32.

In the December 2019 Queen's Speech, the government committed to conducting a "fundamental review" of business rates.[11] It said this would "protect high streets and communities from excessive tax hikes and keep town centres vibrant".[12] It said it would introduce legislation to bring forward the next business rates revaluation and make future revaluations in England more frequent:

> We will also progress legislation to bring forward the next business rates revaluation by one year from 2022 to 2021 and move business rates revaluations from a five-yearly cycle to a three-yearly cycle. This will allow the government to press ahead with delivering an important reform that has been strongly welcomed by business.[13]

2.2 Business rates review

In March 2020 the government launched a review of, and consultation on, business rates.[14] The objective of the review was to reduce the overall burden on businesses, improve the business rates system and consider more fundamental changes in the medium to long term. The main areas to be considered by the review were:

- improvements that could be made from April 2021 when a revaluation was due to take place
- whether a tax on open-market rental values remained the best base for commercial property
- how open-market rental values were determined, and how often
- the effectiveness and operation of different reliefs
- how to minimise the impact of business rates on investment and growth, including the treatment of plant and machinery
- how the business rates multiplier(s) should be set

[11] HM Government, 'Queen's Speech 2019', 19 December 2019, p 111.

[12] As above, p 12.

[13] As above.

[14] HM Treasury, 'Fundamental review of business rates: Terms of reference', 11 March 2020.

- who paid the tax
- the administration of business rates
- exploring alternatives to business rates

On short-term proposals for change, key points from responses included in an interim report published in March 2021 were:[15]

- reliefs and exemptions were overly complex and challenging to navigate
- the extensive reliefs regime was made necessary by the high overall burden of business rates
- small business rates relief thresholds could be a potential deterrent to expansion for small businesses
- there should be relief for improvements to property
- local authorities should not have more discretion to set reliefs and exemptions
- the complexity of the reliefs system and the high overall burden created incentives for firms to attempt avoidance and evasion
- the current requirement that any changes must be revenue neutral for the Treasury placed a high burden on firms and prevented the tax burden from adjusting to reflect changing economic conditions
- the multiplier should not be subject to annual uprating by inflation or reset at revaluation
- the government should not introduce new multipliers varying by region or locality

On the longer-term proposals, most respondents stated that:

- revaluations should happen more often, and new requirements to provide information in annual returns, including a requirement to provide the VOA with lease information, were acceptable if

[15] HM Treasury, 'Business rates review: Interim report', March 2021, pp 4–28.

this enabled more frequent revaluations to take place

- the gap between when the revaluations were assessed and when they came into force should be shorter than the current two years
- 'downwards transitional arrangements', which delay when a business can take full advantage of a reduced valuation, should be abolished, but support for those with rising bills should be maintained
- there should be either temporary or permanent exemptions for the various forms of green energy generation
- billing should be digital, with exemptions where necessary

Approximately half of respondents supported the proposal to introduce a requirement to notify the VOA of changes to a property that could impact its business rates liability, though others were concerned it would create an administrative burden for businesses.

Respondents were "widely opposed" to the replacement of business rates with a capital values tax (as opposed to one based on rental values, like the current tax).[16] This would place the responsibility for the tax on owners and could require leases to be renegotiated. Respondents also highlighted that there was no comprehensive register of freehold property ownership and this could make it difficult to locate owners.

Respondents' views were mixed on whether an online sales tax would help high street businesses.[17]

In the final report of the review, published in October 2021, the government stated it was not proposing to change the nature of business rates or the basis of valuation.[18] As well as several non-legislative measures for 2022/23, such as tax cuts for some retail, hospitality and leisure

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[16] HM Treasury, 'Business rates review: Interim report', March 2021, p 24.

[17] As above, p 26.

[18] HM Treasury, 'Business rates review: Final report', October 2021, p 4.

properties and freezing the multiplier, the government said it would:[19]

- introduce a new relief to support investment in property improvements
- move from five-yearly to three-yearly revaluations to ensure the tax businesses pay is more responsive to economic changes
- make the system easier to navigate by digitalising business rates

The government also said it would legislate to clarify that changes brought about by legislation or other government measures could not be considered as a 'material change in circumstance' (MCC).[20] An MCC can be used as a basis to change a valuation between regular revaluations. During the Covid-19 pandemic, many businesses submitted to the VOA that government measures restricting the use of their property were an MCC. The government stated that matters such as the impact on rental values of coronavirus and associated interventions were part of the general market conditions and therefore did not constitute an MCC.[21] The government has highlighted it instead supported ratepayers through business rates relief.

3. Bill provisions

Most of the bill's provisions would give effect to the outcomes of the business rates review.[22] The bill has 20 clauses and one schedule.

The bill would extend to England and Wales and all provisions would apply in England. Business rates policy is fully devolved. The Welsh government has requested that some of the provisions apply to Wales as well as England. A clause on data sharing would also extend to, and apply in, Northern Ireland.[23] Clause 11, which concerns the disclosure of valuation information

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[19] HM Treasury, 'Business rates review: Final report', October 2021, pp 1–2.

[20] As above, p 12.

[21] Explanatory notes, p 11.

[22] Department for Levelling Up, Housing and Communities, 'Delegated powers memorandum', 29 March 2023, pp 1–6.

[23] Explanatory notes, p 13.

to Northern Ireland rating officials, would also extend to and apply in Northern Ireland.

3.1 Reliefs for improvements and heat networks

Clause 1 would introduce business rates relief for improvements to existing properties, to last for one year after works had been completed. The amount of relief available would be the increase in rateable value attributable to the works. Clause 1 would also introduce full relief for heat networks if the property was wholly or mainly used as a heat network. These reliefs would also apply in Wales.

Clauses 2, 3 and 4 make further provisions concerning liability and reliefs.

3.2 Shortening the business rates revaluation cycle

Clause 5 would amend the Local Government Finance Act 1988 to provide that English rating lists would be compiled every three years rather than every five years. Properties' rateable value would therefore be reassessed every three years.

To support this change, clause 13 would impose new duties on ratepayers in England to provide information that could lead to a change in the rateable value of the property to the VOA. This would extend to those receiving full relief and therefore not paying any business rates. Ratepayers would have to provide this information within 60 days of the change or face a penalty.

Ratepayers would also be required to make an annual confirmation in which they confirmed within 60 days of the start of the financial year that they had either provided notifiable information or confirmed that they were not required to provide such information.

Clause 13 would also require ratepayers to provide an up-to-date taxpayer reference number to HM Revenue and Customs (HMRC). This is intended to support the digitalisation of business rates.[24] This provision would also apply in Wales.

Clause 13 would establish penalties for not complying with these new duties as well as a process for reviewing and appealing penalties.

3.3 Transitional relief

Clause 6 concerns transitional relief. When rates change, the government is required to make regulations about transitional arrangements.[25] These are arrangements that delay the full impact of both increases and decreases in rateable value. Limits to reductions in bills are known as downward caps.

At present the secretary of state must, when making regulations about transitional relief, aim for them to be revenue neutral overall.[26] Clause 6 would remove this requirement. It would retain, however, the requirement for the secretary of state to ensure that transitional arrangements do not generate additional revenue. The effect of this is that downward caps could be removed while protection for businesses whose rates increase could be retained.

3.4 Provisions for exchange of information

Clause 10 would allow the VOA to share information used to calculate a property's rateable value with the ratepayer. This could include analysed price per area and an explanation of how the evidence had been used.[27] This clause would also apply in Wales.

Clause 11 would enable the VOA in England and Wales to disclose information to rating officials in the Northern Ireland Department of

[24] Explanatory notes, p 20.

[25] As above, p 6.

[26] As above, p 6.

[27] As above, p 9.

Finance to support their statutory function of compiling rating lists and defending appeals.[28] At present, laws about confidentiality mean that valuation officers cannot share information that could be used to identify a person. Mechanisms already exist for the sharing of English valuation information with Scotland and Wales.[29]

Clause 12 would provide for billing authorities and HMRC to share rating information. This would support the digitalisation of business rates by joining up existing tax data with business rates data. This provision would be necessary because the government intends for HMRC, rather than the VOA, to administer the new digital business rates system.[30]

3.5 Material change of circumstances

Clause 14 concerns MCCs, the basis for requesting valuation changes outside regular revaluations. It would provide that matters concerning legislation and advice or guidance given by a public authority would not be grounds for a change in rateable value between revaluations.

3.6 Other measures

Clauses 7, 8 and 9 would make other administrative changes to the business rates system on completion notices, administration of central lists and credits to and debits from main government non-domestic rating accounts.

Clause 15 would provide that the standard and small business non-domestic rating multipliers should be indexed in line with the change in the consumer prices index (CPI) instead of the retail prices index (RPI). The CPI is usually lower than the RPI. Uprating in line with the CPI has been government policy for several years; however, it has been delivered by an annual statutory instrument. The bill would also provide that the government

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[28] Explanatory notes, p 8.

[29] As above, p 19.

[30] As above, p 20.

could, by regulations, specify that the multiplier was indexed by a figure less than the CPI.

4. House of Commons stages

4.1 Second reading

The bill's second reading took place in the House of Commons on 24 April 2023.

Introducing the bill, Financial Secretary to the Treasury Victoria Atkins said the bill would make the business rates system "more flexible, transparent and fair" in response to concerns from businesses about the impact of this tax on their "ability to stay competitive".[31]

Commenting on the reduction in valuation cycles, Ms Atkins said every three years had been chosen rather than every year or every two years because this would ensure the VOA had the capacity to deliver the change.

Ms Atkins also highlighted the provisions requiring both the VOA and ratepayers to share information with each other, the bill's relief for improvement works and heat networks, reforms to MCCs and defaulting to uprating by the CPI rather than RPI.

Shadow Minister for Levelling Up, Housing, Communities and Local Government Sarah Owen criticised the government for not undertaking more "substantial" reforms to the business rates system. [32] She said the Labour Party advocated eliminating business rates altogether and instead instituting an online sales tax, the proceeds of which would be used to support high street shops.

[31] HC Hansard, 24 April 2023, cols 529–31.

[32] HC Hansard, 24 April 2023, col 531.

Ms Owen highlighted worries by some small shop owners that the bill's new duty to notify the VOA of changes would create a significant administrative burden and that businesses could incur fines because they did not know which changes they were required to report to the VOA. She also argued that local authorities would need additional resources to manage increased administration caused by measures in the bill.

Helen Morgan, Liberal Democrat spokesperson for levelling up, housing and communities, also criticised the bill for not introducing more fundamental reforms.[33] Ms Morgan said the Liberal Democrats would abolish business rates and replace them with a commercial landowner levy. She also said, however, that the bill contained "some steps in the right direction", including more frequent revaluations and reliefs for improvements.

Ms Morgan agreed with Labour's Sarah Owen that the new duty to notify the VOA would place too high a burden on businesses. She said the VOA should have to respond to businesses about valuation changes swiftly to help them plan their finances.

The bill passed second reading without division and was committed to a committee of the whole House.

4.2 Committee of the House and third reading

The bill was considered in a committee of the whole House on 22 May 2023. The committee divided on one amendment, proposed by Liberal Democrat spokesperson Helen Morgan.[34] This amendment would have removed the requirement for businesses in receipt of small business rates relief to provide to the VOA information that could lead to a change in the rateable value of the property. The amendment was defeated by 282 votes to 168 votes.

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[33] HC Hansard, 24 April 2023, col 534.

[34] HC Hansard, 22 May 2023, cols 70–2.

At third reading Lee Rowley, a parliamentary under secretary of state at the Department for Levelling Up, Housing and Communities, reiterated the government's view that the bill constituted substantial reforms to the business rates system that would reduce the tax burden on businesses.[35]

Labour's Sarah Owen called the bill a "step in the right direction" but also a "missed opportunity" to help businesses more.[36]

The bill passed third reading without a division.

[35] HC Hansard, 22 May 2023, col 73.

[36] HC Hansard, 22 May 2023, col 74.

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