

Explanatory Memorandum to The Rating Lists (Valuation Date) (Wales) Order 2020

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

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Rating Lists (Valuation Date) (Wales) Order 2020.

Rebecca Evans MS
Minister for Finance and Trefnydd
1 December 2020

Description

1. The Rating Lists (Valuation Date) (Wales) Order 2020 (the Order) is a technical piece of legislation which sets 1 April 2021, as the reference date for the next revaluation of non-domestic properties in Wales.
2. The next revaluation of Non-Domestic Rates (NDR) in Wales is currently scheduled to take place on 1 April 2023. A Written Statement on 11 August 2020 confirmed the intention to postpone the revaluation from 1 April 2022 until 1 April 2023:
<https://gov.wales/written-statement-non-domestic-rates-revaluation-wales>
3. In compiling the rating lists to take effect in 2023, the Valuation Office Agency (VOA) will assess the rateable value of non-domestic properties in Wales based on their market rental value by reference to a specific date, the Antecedent Valuation Date (AVD). Setting the AVD at a point before the rating lists come into effect allows the VOA to consider market performance retrospectively at the valuation date based on evidence and market intelligence to ensure a property's rental value at the AVD is accurately represented.
4. For all previous revaluations since 1990, the AVD has been set two years ahead of the new lists coming into effect, for example 1 April 2015 for the 2017 list.
5. The making of the Order to set the AVD is required to enable the VOA to undertake the necessary preparatory work for the revaluation which will take effect on 1 April 2023.

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

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

Legislative background

7. Sections 41 and 52 of the Local Government Finance Act 1988 (the 1988 Act) make provision for the VOA to compile non-domestic rating lists. Previously, new lists had to be compiled every five years starting on 1 April 1990. However, section 54A of the 1988 Act (inserted by section 30 of the Growth and Infrastructure Act 2013) provides that the Welsh Ministers may, by order, provide that the local and central lists must be compiled on a date specified in that order rather than on 1 April 2015. Section 54A(4) further provides orders taking effect under that section, apply sections 41 and 52 as if they required a list to be compiled on the specified date and on 1 April in every fifth year afterwards. The

Rating Lists (Postponement of Compilation) (Wales) Order 2014¹, changed the date of the following revaluation to 1 April 2017 (rather than 1 April 2015), consequently, the next revaluation in Wales would be scheduled for 1 April 2022.

8. Primary legislation will therefore be required to change the date of the next revaluation. The Non-Domestic Rating (Lists) (No.2) Bill covering England and Wales was introduced into Parliament on 8 September, and contains provision to set the next revaluation date as 1 April 2023.
9. Sections 42(4) and 53(3) of the 1988 Act provide that non-domestic rating lists must also contain the rateable values (RV) of the properties listed. Schedule 6 to the 1988 Act contains provisions setting out how RV is to be determined. Paragraph 2(3) of that Schedule provides, that for the purposes of compiling a list, the RV should be determined by reference to the day on which the list is to be compiled or on a preceding day specified by the Secretary of State in an order. That date is known as the AVD.
10. The power of the Secretary of State under paragraph 2(3)(b) of Schedule 6 to the 1988 Act, so far as it is exercisable in relation to Wales, was transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999. Those functions were subsequently transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.
11. Section 143(3) of the 1988 Act provides that an order setting the AVD under paragraph 2(3)(b) of Schedule 6 to the 1988 Act, is to be made using the negative resolution procedure.

Purpose and intended effect of the legislation

12. During a rates revaluation, the VOA assesses each non-domestic property to determine its RV and compiles the rating lists (central and local lists). For most non-domestic properties, the RV is based on the estimated open market rental value on a specific date, the AVD. The AVD is set by the Welsh Ministers making an order under paragraph 2(3)(b) of Schedule 6 to the 1988 Act.
13. The purpose of the AVD is (a) to ensure all properties are valued on the same basis, so the distribution of the rates liability is fair between different properties, and (b) to allow valuation officers to collect all available rental and other information so they can accurately assess RV for the purposes of compiling lists.
14. The AVD is normally set at two years prior to the new list taking effect. For the next revaluation, the lists take effect on 1 April 2023. Therefore, an order under

¹ (S.I. 2014/1370 (W. 139) <http://www.legislation.gov.uk/wsi/2014/1370/contents/made>

Schedule 6 to the 1988 Act should specify 1 April 2021 as the day by reference to which, the RV of a non-domestic hereditament is to be determined for the purposes of the local and central rating lists taking effect on 1 April 2023.

15. The AVD order is a technical piece of legislation required to enable the VOA to undertake the necessary preparatory work for the revaluation. A similar order has already been made in England and it is a routine consequence of the decision to postpone the revaluation until 2023.

16. The Order also revokes the Rating Lists (Valuation Date) (Wales) Order 2018 which set the AVD for the planned, but cancelled 2021 revaluation as 1 April 2019.

Consultation

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

Regulatory Impact Assessment

18. The Order only makes a necessary technical change resulting from the policy decision to carry out a non-domestic rates revaluation on 1 April 2023. As such, no regulatory impact assessment has been prepared.