NON-DOMESTIC RATING BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Non-Domestic Rating Bill as brought from the House of Commons on 23 May 2023 (HL Bill 140).

- These Explanatory Notes have been prepared by the Department for Levelling Up, Housing and Communities in order to assist the reader in understanding the Bill. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

Table of Contents

These Explanatory Notes relate to the Non-Domestic Rating Bill as brought from the House of Commons on 23 May 2023 (HL Bill 140)

Overview of the Bill

1 This Bill implements a number of changes to the system of non-domestic rates (known as business rates) in England and Wales. The majority of the provisions for England give effect to conclusions of the government's Business Rates Review which covered the rating system in England. The Welsh Government has requested that a number of measures be applied to Wales. The general approach in the commentary that follows is to state explicitly where a measure relates to England only rather than England and Wales. The key measures in the Bill include:

a. Shortening the business rates revaluation cycle in England from five years to three years.

b. In support of a more frequent revaluation cycle, new duties to require ratepayers to provide the Valuation Office Agency (VOA) with information about themselves, their hereditament (the property or part of the property which is liable for business rates), and their business, underpinned by a new compliance regime.

c. New reliefs for improvements to hereditaments and for heat networks with their own business rates bill.

d. New data gateways to enable the Valuation Office Agency to share certain valuation information with (i) rating officials in Northern Ireland and (ii) ratepayers in England.

e. Tightening of the scope of Material Change of Circumstances provisions in England such that legislation, licensing regimes and guidance from public bodies should not be grounds for a change in rateable value between revaluations.

f. A new duty on ratepayers to provide a taxpayer reference number (such as a self-assessment or corporation tax unique taxpayer reference) to His Majesty's Revenue and Customs (HMRC), underpinned by a new compliance regime.

g. Administrative improvements relating to the multipliers, the central rating list, completion notices in England, the accounting of business rates retention in England, and the removal of restrictions on local authorities making retrospective awards of discretionary relief in England.

Policy background

The Business Rates Review

2 In March 2020, the government announced a Business Rates Review with the object of reducing the overall burden on business, improving the system and considering more change in the medium to long term. During the course of the review the government published:

a. A Call for Evidence in July 2020 setting out the terms of reference for the review and inviting views and evidence.[1]

b. An Interim Report in March 2021 including a summary of responses from the Call for Evidence.[2]

c. A consultation on more frequent revaluations in July 2021.[3]

d. A Final Report in October 2021 including a summary of responses to the consultation on more frequent revaluations.[4]

3 The outcome of the review was to make a number of changes to the business rates system including:

a. More frequent revaluations alongside a clear plan to implement this, such as requiring ratepayers to provide information about themselves and their property and clarifying the scope for list alterations between revaluations in respect of material changes of circumstances.

b. A range of measures to reduce the burden of business rates in England.

c. Changes to improve the workings and administration of the business rates system including simplifying discretionary rate relief and streamlining the process for operating the central rating list and setting the multipliers.

4 In November 2021, the Department for Levelling Up, Housing and Communities published a technical consultation[5] considering how the government intends to give effect to a number of measures arising from the Business Rates Review. Some of these measures require primary legislation and are, therefore, to be delivered by this Bill. They are described in more detail below. In August 2022, HMRC published a consultation on proposals for the Digitalisation of Business Rates[6].

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[1] Business Rates Review, Call for Evidence: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/903429/Business_Rates_Review_-_CfE.pdf

[2] Business Rates Review, Interim Report: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/971681/Fundamental_Review_Interim_Report.pdf

[3] Consultation on more frequent revaluations: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/997352/Consultation_More_Frequent_Revaluations.pdf

[4] Business Rates Review, Final Report: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1028478/BRR_final.pdf

[5] Business Rates Review, technical consultation: https://www.gov.uk/government/consultations/business-rates-review-technical-consultation/business-rates-review-technical-consultation

[6] HMRC consultation on the Digitalisation of Business Rates: https://www.gov.uk/government/consultations/digitalising-business-rates-connecting-business-rates-and-tax-data

5 At the Chancellor of the Exchequer's 2023 Spring Statement the government published documents relating to the implementation of policies from the Business Rates Review, namely: a summary of responses to the technical consultation[7], a summary of responses to HMRC's consultation on the Digitalisation of Business Rates[8], a VOA consultation on disclosure of valuation information[9], and documents estimating the anticipated impact on ratepayers of new obligations arising from the move to more frequent revaluations and, separately, the Digitalisation of Business Rates[10].

More frequent revaluations and duties to provide information

6 Liability for business rates is based upon the rateable value of the hereditament which, broadly speaking, is its annual rental value. Rateable values are set independently of the government by the VOA and appear on non-domestic rating lists. There is a rating list for each billing authority and a central rating list held by the Secretary of State (typically containing network hereditaments which span many billing authority areas). The process of compiling new rating lists is known as a revaluation.

7 Between 1990 and 2010, new rating lists were compiled every five years to allow the VOA to update rateable values to reflect changes in the rental market. Due to the economic downturn of 2012, the 2015 revaluation was postponed to 2017 in both England and Wales to give businesses certainty over their rates bills while the economy recovered. Following the 2017 revaluation, the Chancellor of the Exchequer, at the Spring Statement 2018, announced that the next revaluation would be brought forward from 1 April 2022 to 1 April 2021. However, to reduce the uncertainty for firms affected by the impacts of COVID-19, the government announced on 6 May 2020 that the revaluation would be postponed. The date of the next revaluation was subsequently changed to 1 April 2023, based on rents at a valuation date of 1 April 2021.

8 During the Business Rates Review, an overwhelming majority of stakeholders supported a move to more frequent revaluations with a majority supportive of three-yearly revaluations[11]. The government considers that a shorter revaluation cycle represents an improvement to the fairness of the system, and its responsiveness to economic change. Therefore, in the Final Report of the Business Rates Review, the government announced that it would implement a three-yearly cycle for business rates revaluations in England starting from the next

[7] Summary of responses to the business rates technical consultation: https://www.gov.uk/government/consultations/business-rates-review-technical-consultation/business-rates-review-technical-consultation

[8] Summary of responses to HMRC's consultation on the Digitalisation of Business Rates: https://www.gov.uk/government/consultations/digitalising-business-rates-connecting-business-rates-and-tax-data

[9] VOA consultation on providing greater transparency to ratepayers about the calculation of rateable values: https://www.gov.uk/government/consultations/consultation-on-disclosure-sharing-information-on-business-rate-valuations/business-rates-transparency-and-disclosure-of-information-on-business-rates-valuations

[10] Non-Domestic Rating Impact and Information Note (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1142760/M5373_-_Non-Domestic_Rating_Information_and_Impact_Note__NDRIIN__FINAL.pdf) and the Digitalisation of Business Rates Impact Note (https://www.gov.uk/government/publications/digitalising-business-rates/digitalising-business-rates-impact-note)

[11] Final Report of the Business Rates Review paragraph A19 and A20: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1028478/BRR_final.pdf

revaluation in 2023 – meaning the following revaluation will take place in 2026. The Bill will deliver upon this commitment.

9 The consultation on more frequent revaluations in July 2021 set out a number of reforms necessary to support the implementation of a three-yearly revaluation cycle. In particular, the consultation considered new duties on ratepayers to notify the VOA of changes to the occupier or physical property characteristics and to provide rent, lease and, where relevant, trade and other information used for valuation purposes. Following consultation, the government confirmed in the Final Report of the Business Rates Review that the new duties would be taken forward with the aim of being implemented during the 2023 rating list and that they would be accompanied by a fair and proportionate compliance regime led by the VOA.

10 Further details of how the duty and associated compliance regime should be delivered in England were set out by the government in the technical consultation in November 2021.

11 The government's approach to the duty has been to limit the obligations on occupiers so that only information which has changed and which could be relevant to the identification of ratepayers and valuation of properties for business rates needs be provided. The duty will require ratepayers to take reasonable steps to find out what their obligations are under the duty (for example, by reading VOA guidance). In practice this approach ensures that the duty is tailored to the circumstances of each ratepayer and does not place unnecessary burdens on those with little to report. Ratepayers will need to sign up to an online service (or a paper-based alternative) through which they can provide their details and will be supported with detailed guidance. To support the efficacy of the new duty and ensure that the VOA has access to the information it needs early enough, the Bill also introduces penalties for non-compliance in line with HMRC practice.

12 The government's technical consultation considered a wide range of views and a number of final decisions were made in light of these, captured in the summary of responses published at the 2023 Spring Statement. In relation to England, the government has opted to lengthen the amount of time ratepayers will have to notify the VOA of a change, and extend the window available to ratepayers to submit a Challenge against their rateable value from three to six months in the 2026 list. It has also committed not to introduce an additional obligation on ratepayers for an annual confirmation before it is satisfied that meeting that obligation will be straightforward. These measures are designed to support ratepayers to adapt to a shorter revaluation cycle and new ways of working, while ensuring the reforms remain deliverable.

Transitional Relief

13 At each revaluation, the government in England is required to make regulations introducing transitional arrangements[12]. In making the regulations the Secretary of State must have regard to the object of securing that they are revenue neutral[13]. At previous revaluations the government has met this requirement by providing transitional relief for those facing increases in bills but has funded this by capping reductions in bills for those benefitting from the revaluation – known as "downward caps". The Chancellor announced at the Autumn Statement 2022[14] that for the 2023 revaluation, transitional relief would be funded by the

[12] See section 57A(1) of the Local Government Finance Act 1988.

[13] See section 57A(10) of the Local Government Finance Act 1988.

[14] See paragraph 2.16 of the Autumn Statement 2022: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1118417/CCS1022065440-001_SECURE_HMT_Autumn_Statement_November_2022_Web_accessible__1_.pdf

Exchequer and that downward caps will no longer be used. The Bill will facilitate the delivery of this commitment.

14 The transitional relief regulations must come into force before 1 January in the revaluation year[15]. In order to support more frequent revaluations and provide more time for parliamentary scrutiny of the regulations in draft, the government announced that the deadline for passing these regulations will be moved back one month to 1 February[16]. The Bill makes this change. This will not affect local authorities' and ratepayers' ability to plan for these regulations as the government will continue to announce future transitional arrangements in line with the normal Budget process.

Improvement Rate Relief and Heat Networks rate relief

15 In the Call for Evidence for the Business Rates Review, the government asked how business investment and growth can best be supported through the business rates system[17]. The most favoured approach identified by respondents was a relief on investments of between 1 and 3 years[18]. Respondents felt that relief should be available in particular to green energy and decarbonisation.

16 In the Final Report, the government recognised that businesses who invest in their premises could face an immediate increase in bills. Therefore, the government announced a 100% improvement relief, providing 12 months relief from higher bills for occupiers where eligible improvements to an existing property increased the rateable value. It also announced an exemption for 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, as well as a 100% relief for eligible low-carbon heat networks that have their own rates bill. The November 2021 technical consultation provided further detail of how these reliefs and exemptions will be delivered.

17 The object of the improvement relief is to help occupiers making improvements to their existing business premises and is not intended to subsidise general commercial property development such as new construction or refurbishment. Under powers in the Bill, the government will, therefore, target the relief on existing businesses who invest in improvements which result in a positive change in the rateable value and remain in occupation of their property. The Bill also confers powers on the Welsh Ministers to make regulations in relation to the improvement relief on eligible properties in Wales. The government has set out in detail in the November 2021 technical consultation how the relief will operate under the powers in the Bill in England. The improvement relief will take effect in April 2024 and be reviewed in 2028.

18 The Bill will also allow the government and the Welsh Government to deliver 100% relief for heat networks from 1 April 2024. The November 2021 technical consultation provided details of how these powers would be used to target the relief at hereditaments in England being

[15] See section 57A(9) of the Local Government Finance Act 1988.

[16] See paragraph 1.58 of the summary of responses to the technical consultation: https://www.gov.uk/government/consultations/business-rates-review-technical-consultation/business-rates-review-technical-consultation

[17] Question 21 of the Call for Evidence of the Business Rates Review: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/903429/Business_Rates_Review_-_CfE.pdf.

[18] Interim Report of the Business Rates Review paragraph 3.55: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/971681/Fundamental_Review_Interim_Report.pdf

used wholly or mainly as a heat network which have their own rating assessment. The relief will be for those networks generating from a low carbon source to ensure the policy supports decarbonisation.

19 At the Spring Statement 2022, the Chancellor announced that the heat network relief will apply from 1 April 2022 so in England, for the financial years 2022/23 and 2023/24, it will be delivered using existing local government discretionary relief powers funded by the government. The government has worked with the heat network sector and local authorities to prepare and publish guidance for this relief[19]. Regulations will be made under the provisions in this Bill and will take effect from 1 April 2024.

20 At the Spring Statement 2022, the Chancellor announced that the exemption for eligible plant and machinery used in onsite renewable energy generation would also apply in England from April 2022. This was delivered by regulations made under existing powers[20].

Data sharing gateway between Valuation Officers in the Valuation Office Agency of HM Revenue and Customs and the Northern Ireland Department of Finance (NIDOF)

21 To support their statutory functions of compiling rating lists and defending appeals, rating officials in Northern Ireland require information from the valuation officers in the VOA. This includes information such as receipts and expenditure data, leases or other information that may identify a ratepayer.

22 The Commissioners for Revenue and Customs Act 2005 (CRCA) includes a duty of confidentiality in section 18(1) which means that valuation officers cannot disclose any information unless there is a legal basis to do so, for instance, for the purposes of their functions or where there is a legislative gateway.

23 While information which does not identify a person can be shared with valuation officials in Northern Ireland under section 74 of the Digital Economy Act 2017, this is not sufficient to support the data needed for Northern Ireland's revaluation work and to defend against appeals. Absence of this information puts local authorities in Northern Ireland at risk of potential revenue loss, due to the difficulty in defending valuations.

24 The government has decided to include a specific data sharing gateway in this Bill, to allow valuation information held by valuation officers of the VOA in England and Wales to be shared with their rating counterparts in Northern Ireland. This will allow them to use data from the VOA to discharge their statutory functions, and in turn provide more accurate valuations to Northern Ireland ratepayers.

25 The gateway will be one way and only allow data held by valuation officers in connection with their functions to be shared with Northern Ireland rating officials. The Bill includes statutory protections against any wrongful disclosure of information.

[19] https://www.gov.uk/government/publications/business-rates-heat-network-relief-local-authority-guidance-2023-24

[20] The Valuation for Rating (Plant and Machinery) (England) (Amendment) Regulations 2022 No. 405: https://www.legislation.gov.uk/uksi/2022/405/contents/made

Disclosure of information held by valuation officers to ratepayers

26 During the course of the Business Rates Review, respondents indicated a preference for greater transparency with respect to the rental evidence used to calculate individual rateable values[21]. Greater transparency was considered important by some respondents who wanted to understand how their valuations had been arrived at, and to have greater access to the rental information used to calculate their valuation[22].

27 Therefore, in the Final Report of the Business Rates Review, the government announced plans for increasing transparency in two phases:

a. Phase 1. Improved guidance covering rating principles and class-specific valuation approaches.

b. Phase 2. Making available analysis of rental evidence used to set a rateable value for a specific property, such as analysed price per area, and an explanation of how the evidence has been used to arrive at the rateable value.

28 Phase 1 can be delivered under existing powers and has, therefore, been implemented ahead of the 2023 rating list. Phase 2 cannot be delivered under existing legislation because, without an explicit statutory authority, release of such information may constitute wrongful disclosure of information under the Commissioners for Revenue and Customs Act 2005. Therefore, the Bill will allow Valuation Officers to disclose to the ratepayer information that relates to the hereditament and which the valuation officer had regard to in ascertaining its rateable value. This will allow the VOA, once it has concluded the consultation process initiated by the publication of a consultation document at the 2023 Spring Statement[23], to implement Phase 2 Transparency. These changes will apply to both England and Wales.

Digitalising Business Rates (DBR)

29 The final report of the Business Rates Review stated that "modernisation and digitisation…would be an effective way to support firms to navigate the [business rates] system"[24]. The government is introducing DBR reforms in England and Wales in this Bill as a step towards this goal.

30 DBR will connect the business rates information held locally by billing authorities with HMRC tax data. This will help to modernise the business rates system and improve the data available to central and local government. The government issued a public consultation on DBR in July 2022 and in its response, published in March 2023, set out its plans to legislate for DBR.

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[21] Paragraph 3.69 of the Interim Report of the Business Rates Review: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/971681/Fundamental_Review_Interim_Report.pdf

[22] Paragraph 3.12 of the Interim Report of the Business Rates Review: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/971681/Fundamental_Review_Interim_Report.pdf

[23] Business Rates: Transparency & Disclosure of information on business rates valuations consultation: https://www.gov.uk/government/consultations/consultation-on-disclosure-sharing-information-on-business-rate-valuations/business-rates-transparency-and-disclosure-of-information-on-business-rates-valuations

[24] Paragraph 2.26 of the Final Report of the Business Rates Review: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1028478/BRR_final.pdf

31 A new statutory duty will be placed on ratepayers to provide to HMRC an up-to-date taxpayer reference number. Ratepayers will provide this information using a new online service. In order to simplify the experience for ratepayers, this will be the same service through which ratepayers will provide information to the Valuation Office Agency to meet the other duties on ratepayers being introduced in this Bill (set out at paras 6-12 above). HMRC will use the information provided via the service to match the ratepayer to their tax data. An accompanying light-touch penalties regime will be introduced alongside the duty to provide a number, in order to encourage compliance.

32 The matching of ratepayers' property data to their tax data will provide central and local government with a more holistic view of businesses. The availability of better data could facilitate the more targeted design of – and improved compliance with – business rates relief schemes. In order to achieve this, certain information will need to be shared between HMRC and billing authorities (such as information about which reliefs ratepayers are in receipt of). The Bill therefore also provides for a two-way exchange of information between HMRC and billing authorities (subject to data protection safeguards).

Alterations to lists: matters not to be taken into account in valuation

33 Revaluations allow the rateable value of a hereditament, and therefore rate bills, to be updated to reflect changes in economic factors, market conditions or changes in the general level of rents. Between revaluations, the determination of rateable values can only be changed to reflect "material changes of circumstances" including, for example, physical changes to the property or the locality.

34 During the coronavirus pandemic, the VOA received a large number of checks (a prerequisite to challenging rateable values) arguing that interventions concerning the use of property (such as requirements to close businesses or to maintain social distancing to comply with health and safety legislation) were a material change of circumstance.

35 Matters such as the impact on rental values of coronavirus or interventions in response to coronavirus are part of the general market conditions and, as such, should where necessary be reflected in updated rateable values at revaluations and not through material change of circumstances challenges to the rating lists. Therefore, the Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Act 2021 ensured that, with retrospective effect, coronavirus and the government's response were not a material change of circumstance. The government has instead provided support to ratepayers affected by coronavirus through business rates relief.

36 In the consultation on more frequent revaluations in July 2021, the government announced it was reviewing more widely when the material change of circumstances provisions would apply to ensure they reflected the scope of their original intention. The Final Report of the Business Rates Review announced that the government would legislate to clarify that factors arising from legislation, regulations, licensing changes, or guidance are not in scope for material change of circumstances claims in relation to England. The Bill implements this measure.

37 Further details on the reform of the material change of circumstances rules were included in the technical consultation of November 2021 and then included in this Bill. The reform of the material changes of circumstances rules will not prevent matters such as changes in legislation ever being reflected in rateable values – they will merely ensure that these matters are only reflected at revaluations. This will restore the law to its originally intended extent. The

government, in the Final Report of the Business Rates Review, decided against any further restriction on material changes of circumstances than those now included in the Bill.

Administrative improvements to the system

38 The Business Rates Review also identified a number of changes which can be made to simplify and improve the business rates system. These were outlined in chapter 6 of the technical consultation in November 2021. Some of these require changes to primary legislation and have, therefore, been included in the Bill:

a. Moving the powers for the Secretary of State to manage the contents of the central rating list in England from regulations to directions. Under the current arrangements, the Secretary of State must make minor administrative regulations merely to maintain the accuracy of the central rating list. Regulations are currently needed when, for example; a company on the central list sells its assets to another company; or where a new company joins the central rating list. The powers of direction would be used in place of the existing regulation powers and allow for faster and more efficient operation of the central rating list. The provisions in the Bill replicate those in clause 11 of the Local Government Finance Bill in the 2016/17 session which did not reach Royal Assent. The Bill also makes provision for charitable relief in England and Wales and unoccupied property relief in England to be available on the central rating list (a similar measure was also part of the Local Government Finance Bill in the 2016/17 session at clause 10).

b. Simplification of local discretionary rate relief in England. The powers for billing authorities to award discretionary relief were significantly widened as part of the devolution reforms contained in the Localism Act 2011. However, these reforms left in legislation a restriction on applying or changing discretionary relief decisions six months after the end of the financial year. The Bill removes this restriction leaving local authorities to decide whether and when to award retrospective discretionary relief in their areas.

c. Closing a lacuna in the completion notice procedure in England. The Bill will enable billing authorities to serve a completion notice on refurbished buildings (which were previously included in the list but were removed) and return them to the list, using the same completion notice procedure as for new buildings.

d. Improving the administration of the multiplier. The Bill will allow the government to ensure annual increases in the small business multiplier and the national non-domestic multiplier in England are automatically linked to the Consumer Prices Index (CPI) rather than the Retail Prices Index (RPI). This is something which has been government policy for several years and is currently delivered through an annual statutory instrument. The Bill will allow the government to provide by regulations that either multiplier is indexed by a figure less than CPI in England. And the Bill will also allow the government to determine by regulations which ratepayers are entitled to the small business multiplier in England.

39 Also, the government has identified a technical flaw in the legislation governing the main non-domestic rating account in England. The purpose of that account is to show how much business rates income has been paid by local authorities to the government; how much has been used as part of the Business Rates Retention Scheme (BRRS); and how much has been used to finance other grants to local government. The original legislation contained an error and as a result the government has been unable to debit from the account all the actual

amounts that have been paid to local government. The account therefore is showing erroneously a credit – despite this money having already been passed to local government. The Bill will correct this error, and allow for the removal of this erroneous credit and ensure that, in future, the account transparently and accurately records the amounts that have been received and paid by the government, as originally intended.

Legal background

40 Part 3 of the Local Government Finance Act 1988 ("the 1988 Act") concerns non-domestic rating. Sections 41 and 52 of the 1988 Act require new local and central rating lists to be compiled and maintained by Valuation Officers. Sections 42 and 53 require those rating lists to show hereditaments and their rateable values. Sections 43, 45 and 54 concern the liability for non-domestic rates. Section 46A makes provision for determining the completion day of a new building. Section 47 allows billing authorities to use their discretionary relief powers to set a lower chargeable amount. Schedule 6 concerns the determination of rateable values, Schedule 7 concerns the calculation of multipliers, and paragraphs 5 to 6AA of Schedule 9 concern information. Schedule 7B provides for the Business Rates Retention Scheme (BRSS).

Territorial extent and application

41 Clause 18 sets out the territorial extent of the Bill, that is the jurisdictions which the Bill forms part of the law of. The extent of a Bill can be different from its application. Application is about where a Bill produces a practical effect.

42 Business rates policy is fully devolved. A common legal framework for business rates, in the form of the 1988 Act, extends to England and Wales. A number of provisions apply to Wales as well as England at the request of the Welsh Government. Provisions applying to Wales as well as England are detailed throughout these notes but are, in summary:

a. The introduction of new improvement and heat networks reliefs, the removal of obsolete reliefs and introduction of charitable rate relief on the central rating list.

b. Provision for disclosure of information held by valuation officers to ratepayers.

c. The removal of timing constraints on the setting of the multipliers, and the correction of an anomaly in the rules concerning the rounding of the multiplier.

d. Provisions relating to the digitalisation of business rates, including the requirement on ratepayers to provide a taxpayer reference number to HMRC.

e. Provision for the sharing of data by the VOA in England and Wales with valuation officials in Northern Ireland.

43 There is a convention that Westminster will not normally legislate with regard to matters that are within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly without the consent of the legislature concerned. A legislative consent motion is being sought from Senedd Cymru where appropriate (see Annex A).

44 Clause 11 extends to Northern Ireland as it makes provision in relation to the use by rating officials in Northern Ireland of data shared by the VOA in England and Wales. A legislative consent motion from the Northern Ireland Assembly is not required for this measure.

45 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom

Commentary on provisions of Bill

Clause 1: Local rating: liability and mandatory reliefs for occupied hereditaments

46 Clause 1 of the Bill makes provision as to the liability and mandatory relief for occupied properties. Most of clause 1 (which introduces a new Schedule 4ZA for the rules to determine chargeable amounts) re-enacts the provisions currently in section 43 and 44 of the 1988 Act. The changes in Schedule 4ZA to the existing provisions in section 43 and 44 are:

a. The introduction of improvement relief. Part 2 and paragraph 3 of the new Schedule 4ZA provides the circumstances in which improvement relief will apply on the local rating list where:

   i. The day concerned is within one year of qualifying improvements having been completed (the meaning of qualifying improvements being given in regulations by the appropriate national authority (the Secretary of State in relation to England or the Welsh Ministers in relation to Wales)) and any other conditions prescribed by the appropriate national authority are met. Details of how the government intends to use these powers to set the parameters of the improvement relief in England are explained in the November 2021 technical consultation. The government intends that improvement relief is available on qualifying improvements for one year but under paragraph 3(3)(a) the appropriate national authority may extend that period, and

   ii. The day concerned falls before 1 April 2029. The government intends that relief will be available on qualifying improvements which are completed before 1 April 2028 (and therefore works completed during 2027/28 may continue to receive one year of relief in part during the year 2028/29). The government has said improvement relief will be reviewed in 2028[25] and, therefore, a power has is included in paragraph 3(3)(b) for the appropriate national authority to adopt a later date than 1 April 2029.

b. Where the conditions for improvement relief in paragraph 3 of Schedule 4ZA have been met then paragraph 10(2)(a) of Schedule 4ZA provides that the chargeable amount is found using the hereditament's rateable value less the value G where G is prescribed or calculated in accordance with provisions prescribed by the appropriate national authority. The government has explained in the November 2021 technical consultation that they intend G in relation to hereditaments in England to be the increase in rateable value which is attributable to any works falling within the meaning of qualifying improvement works. Therefore, deducting G from the rateable value for the period of the relief will ensure ratepayers do not pay business rates on the increase attributable to the qualifying improvement works.

c. The introduction of Heat Network Relief. Part 3 and paragraph 5 of the new Schedule 4ZA makes provision for cases where the chargeable amount is zero – i.e. full

[25] Final Report of the Business Rates Review, p.8: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1028478/BRR_final.pdf

mandatory relief. Paragraph 6 provides full mandatory relief for heat networks. To be eligible for the relief the conditions of paragraph 6(1) must be met:

i. The hereditament is wholly or mainly used as a heat network (the meaning being given in regulations made by the appropriate national authority) and any conditions prescribed by the appropriate national authority are met. Details on how the government intends to use these powers in relation to England are explained in the November 2021 technical consultation, and

ii. The day concerned falls before 1 April 2035. The government has said that the relief in England will apply up to 1 April 2035 but under paragraph 6(3) the appropriate national authority may extend that date by regulations,

d. Providing for rural rate relief in England to be a full relief at paragraph 8. The government has ensured that those eligible for rural rate relief receive 100% relief since 1 April 2017[26] by funding local government to use their discretionary powers to top up the existing 50% mandatory relief. Paragraph 8 will put those arrangements on a mandatory basis.

e. New provisions (in paragraph 10(9) & (10)) allowing the Treasury to prescribe whether an English hereditament's chargeable amount should be calculated from the small business non-domestic rating multiplier or the national non-domestic rating multiplier. Currently only those hereditaments eligible for small business rate relief are eligible for the small business non-domestic rating multiplier.

f. The removal of reliefs which are now obsolete. The mandatory rate relief for former agricultural buildings (sections 43(6F) to (6L) of the 1988 Act) which expired on 15 August 2006 and the telecoms relief (sections 43(4E) to (4H) of the 1988 Act) which expired on 1 April 2022.

Clause 2: Local rating: liability and mandatory reliefs for unoccupied hereditaments

47 Clause 2 of the Bill makes provision as to the liability and mandatory relief for unoccupied properties. Most of clause 2 (which introduces a new Schedule 4ZB for the rules to determine chargeable amounts) re-enacts the provisions currently in section 45, 45A and 46 of the 1988 Act. The changes in Schedule 4ZB to the existing provisions in section 45 are:

a. New provisions (in paragraph 3(6) & (7)) allowing the Treasury to prescribe whether an English hereditament's chargeable amount should be calculated from the small business non-domestic rating multiplier or the national non-domestic rating multiplier. Currently the small business non-domestic rating multiplier is unavailable to unoccupied hereditaments.

b. The removal of telecoms relief (sections section 45(4C) to (4G) of the 1988 Act) which expired on 1 April 2022.

Clause 3: Central rating: liability and mandatory reliefs

48 Clause 3 of the Bill makes provision as to the liability and mandatory relief for persons designated on the central rating list. Persons designated on the central rating list may, under their name and a description of their hereditaments, be assessed for a number of hereditaments under one rateable value as a whole. Most of clause 3 (which introduces a new

[26] See Business Rates Information Letter No. 6 2017 paragraphs 1 and 2: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/654885/BRIL_6_-_2017_-_Rural_Rate_Relief__Spring_Budget.pdf

Schedule 5A for the rules to determine chargeable amounts) re-enacts the provisions currently in section 54 of the 1988 Act. The changes in Schedule 5A to the existing provisions in section 43 and 44 are set out below:

a. The provision of improvement relief on the central rating list. Part 2 and paragraph 3 of the new Schedule 5A provides the circumstances in which improvement relief will apply in respect of a person on the central rating list where:

    i. The day concerned falls within one year of qualifying improvement works having been completed in relation to one or more of the hereditaments to which a central list entry relates (the meaning of qualifying improvements being given in regulations made by the appropriate national authority).

    ii. Such a hereditament is not unoccupied (the government intends that improvement relief is not available for unoccupied hereditaments) and any other conditions prescribed by the appropriate national authority are met. Details of how the government intends to use these powers to set the parameters of the improvement relief in England are explained in the November 2021 technical consultation. The government intends that improvement relief in England is available on qualifying improvements for one year but under paragraph 3(4)(b) the appropriate national authority may extend that period, and

    iii. The day concerned falls before 1 April 2029. The government intends that improvement relief will be available on qualifying improvements which are completed before 1 April 2028 (and therefore works completed during 2027/28 may continue to receive one year of relief in part during the year 2028/29). The government has said improvement relief in England will be reviewed in 2028 and, therefore, a power is included in paragraph 3(4)(a) for the appropriate national authority to adopt a later date than 1 April 2029,

b. Where the conditions for improvement relief in paragraph 3 of Schedule 5A have been met then paragraph 6(2)(a) of Schedule 5A provides that the chargeable amount is found using the rateable value against the person's name less the value G where G is prescribed or calculated in accordance with provisions prescribed in regulations by the appropriate national authority. The government has explained in the November 2021 technical consultation in relation to England that they intend G to be the increase in rateable value which is attributable to any works falling within the meaning of qualifying improvement works. Therefore, deducting G from the rateable value for the period of the relief will ensure ratepayers do not pay business rates on the increase attributable to the qualifying improvement works.

c. New provisions to introduce onto the central rating list charitable rate relief in England and Wales (through paragraph 2 of the new Schedule 5A) and unoccupied rate relief for hereditaments in England (through paragraph 4 of the new Schedule 5A). On local rating lists, hereditaments occupied by a charity and used wholly or mainly for charitable purposes receive 80% mandatory relief on the face of the 1988 Act, and unoccupied hereditaments on local rating lists may, in some circumstances through regulations, pay no business rates. No similar provisions exist on the central rating list. To remedy this, clause 3 introduces into the 1988 Act provisions for chargeable amounts providing 80% mandatory relief for charities on the central rating list and powers in England through regulations to provide a zero chargeable amount for a prescribed class of unoccupied hereditaments on the English central rating list.

d. New provisions (in paragraph 6(8) & (9)) allow the Treasury to prescribe whether an English hereditament's chargeable amount should be calculated from the small business non-domestic rating multiplier or the national non-domestic rating multiplier. Currently the small business non-domestic rating multiplier is unavailable to persons on the central rating list.

e. The removal of telecoms relief (currently section 54ZA of the 1988 Act) which expired on 1 April 2022.

Clause 4: Discretionary relief

49 Clause 4 of the Bill amends section 47 of the 1988 Act which contains provisions as to when and how billing authorities may award discretionary relief. Section 47(7) of the 1988 Act provides that a billing authority can make a decision to apply section 47 no more than six months after the end of the financial year. Clause 4(2) introduces a new sub-section (6A) to section 47 removing that restriction in England from the financial year beginning 1 April 2023. Clause 4(3) amends the restriction in section 47(7) so that it continues to apply to Wales.

Clause 5: Frequency with which lists are compiled

50 Clause 5 amends section 41(2A) and section 52(2A) of the 1988 Act to provide for English rating lists to be compiled every three years rather than every five. Clause 5 makes consequential changes to the meaning of "relevant period" in section 57A of the 1988 Act reflecting the shortened three-year revaluation period after the 2023 rating list.

Clause 6: Transitional relief

51 Clause 6 amends section 57A of the 1988 Act to provide for:

a. The deadline before when regulations must be made under section 57A to be moved from 1 January in a revaluation year to 1 February.

b. Removal of the requirement that the Secretary of State must in making the regulations have regard to the object of securing that the transitional arrangements are self-financing. The amendment will retain a requirement that the Secretary of State must have regard to the object of securing that the transitional arrangements do not generate additional revenue.

Clause 7: Completion notices for buildings ceasing to be, then becoming, occupiable

52 Section 46A and Schedule 4A of the 1988 Act make provision for the service of a completion notice in respect of a new building that is to be added to the rating list. This is a means of determining the completion day in relation to that building. The provisions also apply to part of a building. Clause 7 amends the definition of a 'building' in section 46A so that a completion notice may also be served by a billing authority in England in respect of a building which, although not new in itself, was temporarily unoccupiable for example, due to a refurbishment or alteration. This will allow it to be added or returned to a list, using the same completion notice process as for new buildings, closing a lacuna in the current legislation. Clause 7 also includes provision for where part of a building is added to an existing building, for example as an extension or the creation of a new floor.

Clause 8: Central list administration

53 Currently, section 53 of the 1988 Act allows the Secretary of State to, by regulations, designate persons and descriptions of hereditaments which are shown to be on the English central rating list. The system was devised to accommodate the national utility networks. But since the introduction of the central rating list in 1990, changes in the utilities sectors have given rise

to minor administrative regulations having to be made merely to maintain the accuracy and integrity of the central rating list. The government expects the need for such changes to increase as more telecommunication networks are moved to the central list[27].

54 Under the current regulation making powers, the government believes that operating and maintaining the central list would give rise to an increasingly heavy process and regulatory burden for what is an administrative task. To address this, Clause 8 introduces new powers of direction allowing the Secretary of State to direct the valuation officer to show, add, alter or remove the names of persons and descriptions of hereditaments which should appear on the English central rating list. These powers of direction will be used in place of the existing regulatory powers.

55 New section 52A(7) requires the central valuation officer to comply with any direction given under this section. New section 52A(8) makes further provision relating to directions under this section. New section 52A(9) provides that a direction under this section has effect from the day specified in the direction.

Clause 9: Credits to and debits from main non-domestic rating accounts

56 Schedule 7B to the 1988 Act makes provision for the local retention of non-domestic rates known as the Business Rates Retention Scheme (BRSS). Part 1 of Schedule 7B concerns the main non-domestic rating accounts and provides for the circumstances in which amounts may be credited or debited to the account. Paragraph 2(3) allows the Secretary of State to debit from the account amounts which have been used for the purpose of local government (grants to local government, for example) but this may not exceed the amounts specified in sub-paragraph (4). The provision in sub-paragraph (4) is flawed and does not allow the Secretary to debit from the account the full value of grants he has paid to local government.

57 To correct this the Bill will amend paragraph 2(3) and (4) of Schedule 7B to the 1988 Act to allow the Secretary of State to credit or debit from the main non-domestic rating account amounts which the government have received and then used for the purpose of local government (such as grants). The amendments will ensure that the Secretary of Statement may not make debits such as would result in a deficit on the non-domestic rating account.

Clause 10: Disclosure of valuation information to ratepayers

58 Clause 10 gives effect to the government's commitment to allow greater sharing of information on the valuation of non-domestic properties. The clause amends the 1988 Act inserting new paragraph 7B into Schedule 9 to the 1988 Act, to enable valuation officers to supply information to ratepayers in relation to their hereditament or its rateable value. The permissive nature of sub-paragraphs (2) and (4) allows for the valuation officer to disclose the information where they consider it would be reasonable to do so and where disclosure would not contravene data protection legislation.

59 Sub-paragraph (1) sets out that a valuation officer may disclose the information where a ratepayer has made a request for information that relates to the hereditament and to which the VOA had regard in determining the rateable value of the hereditament. Sub-paragraph (3) makes clear that these requests should be made using the VOA's online service (which will be brought online before this clause is brought into force) or otherwise in another manner agreed with the VOA.

[27] Business rates revaluation 2023: the central rating list: https://www.gov.uk/government/consultations/business-rates-revaluation-2023-the-central-rating-list

Clause 11: Disclosure of valuation information to Northern Ireland rating officials

60 Clause 11 provides a new legal gateway to enable valuation officers in the VOA in England and Wales to disclose information to Northern Ireland rating officials to support them to discharge their statutory valuation functions. Mechanisms already exist for the sharing of valuation information between rating officials in England, Scotland and Wales, so this provision therefore removes an anomalous barrier to data-sharing within the UK.

61 Subsections (1) and (2) in the new section 63D in the 1988 Act set out the limited circumstances in which information may be disclosed by the VOA to Northern Ireland rating officials:

a. The information is held in connection with the valuation officer's statutory functions.

b. A Northern Ireland rating official reasonably believes it will assist them to perform their valuation functions.

c. The valuation officer considers it reasonable to disclose the information.

62 Appropriate limits to the power are specified in subsections (4) and (5), including limits on the use and onward disclosure of information by NI rating officials for purposes other than their statutory functions. However, there are some exceptions to this set out in subsections (6) and (7).

63 Subsection (8) applies the criminal offence and penalty provisions contained in section 19 of the CRCA in respect of the unauthorised use or further disclosure of information received under this section. This is a common approach where new information disclosure gateways are created relating to information which is subject to the duty of confidentiality in section 18 of the CRCA. The offence applies where a person's identity is specified in or can be deduced from the wrongful disclosure.

64 Subsection (9) ensures consistency with how information which identifies a person is treated under section 23 of the CRCA.

Clause 12: Sharing of non-domestic rating information between billing authorities and HMRC

65 Clause 12 supports the introduction of the digitalising business rates (DBR) provisions (see clause 13 below) by providing for the two-way sharing of information between HMRC, which will administer the DBR system, and billing authorities.

66 Clause 12(1) amends section 63A of the 1988 Act to provide an officer of HMRC with the power to disclose revenue and customs information to a billing authority for a qualifying purpose. Qualifying purposes are set out in subsection (4) of section 63A. Officers of HMRC may only disclose such information to a billing authority; new subsection (1A) does not give an officer the power to disclose information to any of the other qualifying persons listed in subsection (3). The restrictions on the onward disclosure of revenue and customs information set out at section 63B of the 1988 Act will apply to any disclosures made under the new subsection.

67 Clause 12(1) is needed because it is HMRC, rather than the Valuation Office Agency, which will administer the DBR system, including the sharing of information with billing authorities. Section 63A(1) as currently drafted is therefore not wide enough, as it restricts disclosures only to those made by an officer of the Valuation Office Agency, rather than an officer of HMRC more widely.

68 Clause 12(2) inserts new section 63E into the 1988 Act. This provides for the sharing of information by a billing authority with HMRC. Subsection (1) in the new section 63E gives a billing authority permission to disclose non-domestic rating information to HMRC for the purpose of assisting HMRC to carry out its functions, while subsection (2) gives a power to officers of HMRC to require a billing authority to disclose information for that purpose. Subsection (3) provides that disclosures made under new section 63E must be compliant with data protection legislation.

Clause 13: Requirements for ratepayers etc to provide information

69 Clause 13 provides for: a new duty on ratepayers in England and Wales to provide a taxpayer reference number to HMRC (as part of the digitalisation of business rates); and new duties on ratepayers in England to provide information to the VOA to support a shorter revaluation cycle and improve the accuracy of the list. The duties are each accompanied by a set of penalties to ensure compliance and a system for reviews and appeals. The clause amends Schedule 9 (administration) to the 1988 Act.

70 Clause 13(2) creates, in new paragraphs 4B to 4H of Schedule 9, a new duty on ratepayers in England and Wales to provide an up-to-date taxpayer reference number to HMRC:

a. Paragraph 4B provides that the duty applies to persons who are ratepayers in respect of hereditaments in England and Wales. The term 'ratepayer' will be defined in section 67 (interpretation: other provisions) and includes those who may be in receipt of relief of 100% and therefore have a chargeable amount of nil.

b. Paragraph 4C sets out the scope of the duty on those persons. Where they have a taxpayer reference number (as defined in new paragraph 4F(1)), they must make a notification to HMRC if: they have not already done so; or they have already done so, but the number they provided was, or has since become, incorrect (for example, if they have since been issued with a new number).

c. Paragraph 4D provides for persons to make the notification within 60 days either of becoming a ratepayer in respect of the hereditament, or of when they knew, or ought to have known, that the number they provided was, or became, incorrect.

d. Paragraph 4E provides for the notification to be made using an online facility provided by HMRC, or in another agreed manner.

e. Subparagraph 4F(1) defines taxpayer reference number to cover: unique taxpayer references (such as self-assessment, partnership, corporation tax), VAT registration numbers, and national insurance numbers. It also defines taxpayer reference notification as a notification made to HMRC by the ratepayer in respect of a hereditament, specifying their taxpayer reference number.

f. Subparagraph 4F(2) gives the Commissioners for HMRC a power to amend, by regulations, the definition of taxpayer reference number given in subparagraph (1), for example to add another type of number to the definition. So far as these regulations apply to Wales, the Commissioners for HMRC must consult the Welsh Ministers before making them.

g. Paragraph 4G gives the Commissioners for HMRC a power to provide, by regulations, that the duty to provide a taxpayer reference number, as set out in the preceding paragraphs, does not apply to a person or a group of persons. So far as these regulations apply to Wales, the Commissioners for HMRC must consult the Welsh Ministers before making them.

71 Clause 13(3) creates, in new paragraphs 4I to 4M of Schedule 9, a set of duties on ratepayers to provide notifiable information to the VOA:

a. Paragraph 4I provides that the duties apply, in respect of a hereditament in England, to persons who are or would be a ratepayer. The term 'ratepayer' will be defined in section 67 (interpretation: other provisions) and includes those who may be in receipt of relief of 100% and therefore have a chargeable amount of nil.

b. Paragraph 4J provides for a duty for that person to provide notifiable information within a notifiable period. Information is notifiable if it relates to the identity of the ratepayer or the existence, extent or rateable value of the hereditament, and the ratepayer could reasonably be expected to know that it would assist the VOA in carrying out its functions. The notifiable period is within 60 days of the change in notifiable information or such longer period as may be specified by the VOA.

c. Paragraph 4K provides for the person to make an annual confirmation in which they confirm within 60 days of the start of the financial year that they have either provided notifiable information or confirm that they were not required to provide such information. The government has said the duty for annual confirmation will not come into force until the government is satisfied it will be straightforward to use.

d. Paragraph 4L provides for the information to be submitted using an online facility provided by the VOA or in another agreed manner.

e. Paragraph 4M replicates the existing powers in paragraph 5 of Schedule 9 to the 1988 Act which allow the VOA to also request information which they believe will assist them in carrying out their functions. The VOA may still need to request information using this power; in particular for specialist properties and in respect of very specific types of information.

72 Clause 13(4) creates, in new paragraphs 5ZA to 5ZF of Schedule 9 to the 1988 Act, a system of penalties for failures by ratepayers to comply with the new duties:

a. Paragraphs 5ZA and 5ZB (covering the duty to provide a taxpayer reference number) provide for:

i. A new civil penalty (5ZA(1)) where a person fails to comply with the requirement to make a taxpayer reference notification to HMRC. The maximum penalty for a failure to make a notification is set at £100.

ii. A new civil penalty (5ZA(2)) where a person carelessly or deliberately provides false information in purported compliance with the requirement to make a taxpayer reference notification to HMRC. 5ZA(3) defines carelessness as a failure to take reasonable care. The maximum penalty for the provision of false information deliberately or carelessly is set at £3,000. The maximum is set at this level so as to give flexibility to HMRC to charge higher amounts where the circumstances warrant it (for example, where the false information has been provided deliberately and in an attempt to conceal fraudulent activity) and a lower amount where, for example, the false information has been provided simply as a result of carelessness on the part of the ratepayer. HMRC intends to issue guidance on how it will operate the penalties regime.

iii. A person's liability to further penalties of up to £60 per day where that person has been served with a penalty under either 5ZA(1) or 5ZA(2) and has still failed to provide an acceptable taxpayer reference number within a further 30

days (5ZA(6)). A person's liability to daily penalties is ongoing until their failure is rectified, but the maximum liability a person may accrue in daily penalties is capped at £1,800 (5ZA(7)).

iv. The contents of penalty notices (5ZA(4)), which are to be served by HMRC on persons who are being issued with a penalty under subparagraphs (1) or (2).

v. The possibility that a person might be liable to penalties under both subparagraph (1) and subparagraph (2) simultaneously (5ZA(5)), for example where a ratepayer has more than one hereditament and has failed to make a notification in respect of one hereditament and has provided false information in respect of another.

vi. A power for HMRC to mitigate or remit any maximum penalty to which a person falls liable or which is imposed on them (5ZB). This will allow HMRC to operate a penalties regime which is fair, proportionate and which gives due regard to individual circumstances. HMRC intends to issue further guidance on how it will operate the penalties regime, including what level of penalties (up to the maximums provided for) it intends to issue and in what circumstances. The government has made a commitment only to issue penalties for a failure to make a taxpayer reference notification as a last resort and where all other methods of encouraging compliance have failed. The government has further committed not to issue a penalty for a failure to make a taxpayer reference notification where a person has already been issued with a penalty for a failure to make a relevant notification to the VOA, where those requirements to notify arose simultaneously.

b. Paragraphs 5ZC to 5ZF cover the duty to provide notifiable information to the VOA. Paragraph 5ZC provides for:

i. A new civil penalty (at paragraph 5ZC(1)) where a person fails to comply with the duties introduced in clause 13(3) by paragraphs 4H to 4L. The penalty is determined under paragraph 5ZD.

ii. A new criminal offence (at paragraph 5ZC(2)) where a person makes a false statement while purporting to comply with the duty. A person is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding level 3 on the standard scale. For a criminal offence, as is normal, this must meet the test of beyond reasonable doubt. Alternatively, the person may be liable for a civil penalty for making a false statement of the same nature if this is beyond reasonable doubt (the civil penalty is determined under paragraph 5ZD). In practice the VOA expect to pursue the civil penalty in the first instance in this situation.

iii. The arrangements for serving and the contents of penalty notices where the person is liable for a civil penalty.

c. Paragraph 5ZD provides for the level of civil penalty:

i. Where the person has failed to comply with a notification requirement as a result of knowingly or recklessly making a false statement, the maximum penalty is the sum of 3% of their rateable value and £500.

ii. Where the person has failed to comply with a notification requirement for any other reason, the maximum penalty is the greater of 2% of their rateable value

and £900, and a further penalty of £60 per day if the person fails to comply within 30 days of being serviced with an associated penalty notice.

d. Paragraph 5ZE provides for the determination of rateable values for the purposes of calculating penalties where a matter affecting the rateable value has changed between the day when the notifiable information should have been provided and the day of the penalty notice. These provisions ensure that the penalty calculated under paragraph 5ZD is not increased or reduced merely due to changes to the hereditament after the liability to the penalty first arose.

e. Paragraph 5ZF provides for the valuation officer to mitigate or remit any of the above penalties. This will allow the VOA to operate the duties and penalties fairly and with due regard to individual circumstances. The VOA intends to produce a policy statement setting out how it will determine the level of penalty it will impose in particular cases. In exercising their discretion under paragraph 5ZF, the government has said that the VOA will draw upon the existing HMRC practice for mitigation of sanctions and HMRC's approach to Reasonable Excuse[28].

73 Clause 13(6) creates, in new paragraphs 5BA to 5BF of Schedule 9 to the 1988 Act, a process for reviewing and appealing penalties:

a. Paragraphs 5BA to 5BC cover reviews and appeals of penalties imposed by HMRC in relation to the duty to provide a taxpayer reference number:

i. Paragraph 5BA gives a person 30 days to request a review of a penalty notice (5BA(2)). The review is conducted by a reviewing officer in HMRC different to the officer who applied the penalty (5BA(10)). The nature and extent of the review are such as appear appropriate to the reviewing officer (5BA(6)) – HMRC will follow its standard principles for conducting reviews, including consideration of 'reasonable excuse'. The review must be completed within 45 days (5BA(8)), otherwise the review is treated as having confirmed the penalty (5BA(9)).

ii. Paragraph 5BB provides for a right of appeal against the conclusions of the review conducted under 5BA to the valuation tribunal within 30 days of the review conclusions (5BB(2)). For ratepayers in England, appeals are to be made to the Valuation Tribunal for England; for ratepayers in Wales, they are to be made to the Valuation Tribunal for Wales (5BB(4)).

iii. Paragraph 5BC provides that the incidence of a review or appeal does not prevent a further penalty being applied where the person continues to fail to comply with their duty.

b. Paragraphs 5BD to 5BF cover reviews and appeals of penalties imposed by the VOA in relation to its information duty:

i. Paragraph 5BD gives a person 30 days to request a review of a penalty notice. The review is done by a reviewing officer of the VOA different to the officer who applied the penalty. The nature and extent of the review are such as appear appropriate to the reviewing officer but the government has said the mitigating criteria will be based on HMRC's approach to Reasonable Excuse.

[28] See paragraphs 2.29 to 2.34 of the November 2021 technical consultation: https://www.gov.uk/government/consultations/business-rates-review-technical-consultation/business-rates-review-technical-consultation#chapter-3-appeals-reform-and-transparency

The review must be completed within 45 days (or otherwise the review is treated as having confirmed the penalty).

ii. Paragraph 5BE provides for a right of appeal against the conclusions of the review in 5BA to the valuation tribunal within 30 days of the notification of the review conclusions.

iii. Paragraph 5BF provides that the incidence of a review or appeal does not prevent a further penalty being applied where the person continues to fail to comply with the notification requirement.

Clause 14: Alterations to lists: matters not to be taken into account in valuation

74 Clause 14 of the Bill makes provision to ensure that matters concerning legislation and advice or guidance given by a public authority should not be taken into account when determining rateable values in England between revaluations.

75 Rateable values are determined in line with rules in Schedule 6 to the 1988 Act. Broadly speaking the rateable value is the annual rental value of the hereditament. Schedule 6 to the 1988 Act provides for the rateable value, during the lifetime of a rating list, to be assessed by reference to two dates:

a. Paragraph 2(3)(b) of Schedule 6 to the 1988 Act gives the Secretary of State the power to specify a day – known as the valuation date – by reference to which the assessment of rateable value in a rating list is to be made. For the 2023 rating list, that day was specified as 1 April 2021[29]. Therefore, rateable values in the 2023 rating list will be made by reference to valuations as at 1 April 2021.

b. Paragraph 2(6A) of Schedule 6 to the 1988 Act gives the Secretary of State powers to specify rules for determining the day – known as the material day - by reference to which certain matters are to be reflected. Those matters are listed in paragraph 2(7) of Schedule 6 to the 1988 Act and include matters such as those affecting the physical state of the hereditament or mode or category of occupation of the hereditament.

76 Therefore, for example, rateable values in the 2023 rating list are to be made by reference to factors affecting valuations as at 1 April 2021 except for those matters listed in paragraph 2(7) of Schedule 6 which are reflected as at the material day. As a result, where one of the matters listed in paragraph 2(7) of Schedule 6 changes during the life of a rating list then the rateable value of existing hereditaments may need to be amended and that matter may need to be reflected in the rateable value of new hereditaments. A change in any matter not within the list in paragraph 2(7) of Schedule 6 should not lead to a change in an existing rateable value or be reflected in the rateable value of new hereditaments, before the next rating list is compiled.

77 Clause 14 provides that when an English list is being compiled by reference to a day specified under paragraph 2(3)(b) of Schedule 6 to the 1988 Act or subsequently altered, then determinations of rateable values should not take account of a subsequent change in a matter directly or indirectly attributable to the matters listed in the new paragraph 2ZA(2) of Schedule 6 inserted by clause 14. Those matters are: legislation (such as the legislative aspects of the government's Non-Pharmaceutical Interventions[30] in relation to coronavirus); provisions made under or given effect by legislation (such as a statutory license regime);

[29] The Rating Lists (Valuation Date) (England) Order 2020 No. 832: https://www.legislation.gov.uk/uksi/2020/832/contents/made

[30] Non-Pharmaceutical Interventions is a term used to describe measures that can be used to prevent disease control other than vaccination and medication.

advice or guidance given by a public authority (such as guidance from the Health and Safety Executive in relation to social distancing); and anything done by a person with a view to compliance with these matters; but only so far as they concern:

a. The physical enjoyment of the hereditament (and not matters affecting the physical state of the hereditament).

b. Matters which, though not affecting the physical state of the locality are, nonetheless, physically manifest there.

c. The use or occupation of other premises in the locality.

78 Therefore, the new provisions do not apply to matters affecting the physical state of the hereditament or the physical state of the locality. They also, under the new paragraph 2ZA(4) of Schedule 6 do not apply to matters concerning whether a hereditament is domestic or non-domestic or exempt. The new provisions will apply for a list compiled on or after 1 April 2023 but can still (under subsection (3) of Clause 13) have effect in relation to a change in a matter prior to that date.

Clause 15: Multipliers

79 Clause 15(2) makes provision for the multipliers in England. Most of Clause 15(2) (which inserts a new Part A1 of Schedule 7 to the 1988 Act) re-enacts the provisions currently in Part 1 of Schedule 7. The changes to the existing provisions in Schedule 7 are:

a. Chapters 2, 3 and 5 of the new Part A1 provide for both the non-domestic rating multiplier and the small business non-domestic rating multiplier to be indexed each year in line with the change in Consumer Prices Index at the September preceding the year in question rather than the Retail Prices Index. It also provides that the Treasury may, by regulations, index either multiplier by a figure less than the Consumer Prices Index. The existing requirement in paragraphs 3A and 4A of Part 1 that the non-domestic rating multiplier is found by making an addition to the small business non-domestic rating multiplier of an amount to meet the cost of the providing Small Business Rate Relief is omitted from the new Part A1.

b. The requirement in paragraph 6(4) of Schedule 7 that the multipliers cannot be confirmed until the relevant local government finance report has been approved by the House of Commons in relation to England has been removed for Part A1.

c. An anomaly in paragraph 4 of Schedule 7 which currently provides for the multiplier to be rounded down when it is calculated to between 5 and 6 ten thousandths (whereas the normal rules of rounding would result in that situation in rounding up) is corrected in Part A1 paragraph A9.

80 Clause 15(3)(a) and (c)(ii) correct similar anomalies in the existing provisions in relation to the indexation and rounding of the multiplier in Wales. To allow Wales to independently commence these changes, clause 15(3)(b) and (c)(i) separate out the existing provision in paragraph 5(11) of Schedule 7. Clause 15(4) removes the requirement that a multiplier in Wales cannot be confirmed until the relevant local government finance report(s) has been approved by the Senedd.

Clause 16: Interpretation

81 Clause 16 makes provision for interpretation of the meaning of "the Act".

Clause 17: Consequential provisions

82 Clause 17 introduces the Schedule which makes changes consequential on clauses 1 to 3, 5, 6, 8, 12, 13, and 15 of the Bill. Clause 17 also gives the appropriate national authority power to make regulations to make such provision as it considers appropriate in consequence of the Bill.

Commencement

83 Clauses 1 to 6, 9, 14, 15(3)(b) and (c)(i), 16, 17(1)(a) and (2) to (10), 18 to 20, and Parts 1 and 2 of the Schedule will come into force on Royal Assent, however the amendments made by clauses 1 to 3, and Part 1 of the Schedule, will only have effect in relation to financial years beginning on or after 1 April 2024.

84 Clauses 7 and 11 will come into force two months after Royal Assent.

85 Clauses 10, 12, 13(2), (4) and (6) (and clause 13(1) so far as relating to those subsections), and paragraphs 39(a), 46, 49 (c) and (d), 50 and 53(a) of Part 4 of the Schedule, as well as section 17(1)(d) and paragraph 40 of the Schedule so far as they relate to those paragraphs, will come into force in accordance with regulations made by the appropriate national authority.

86 Section 15(3)(a), (c)(ii), (d) and (4), and section 15(1) so far as relating to those subsections, come into force in accordance with regulations by the Welsh Ministers.

87 The remaining provisions will come into force in accordance with regulations made by the Secretary of State.

Financial implications of the Bill

88 The introduction of new reliefs and the Exchequer funding of transitional relief will result in reduced business rates income for local authorities in England. DLUHC will, therefore, provide compensation to local authorities in line with existing processes. Compensation for new reliefs will be provided using section 31 of the Local Government Act 2003, which allows for the government to pay a grant to local authorities. There will also be an increased cost to the public purse of increasing the frequency of revaluations, and a cost arising to HMRC to administer the DBR measures. The new provisions in the Bill may also lead to changes in the amounts paid by ratepayers (and in some cases the chargeable amounts could be higher).

89 No Impact Assessment has been prepared for the Bill as it amends a local taxation regime and amendments to any tax are excluded from the definition of a regulatory provision[31].

Parliamentary approval for financial costs or for charges imposed

90 The House of Commons passed a money resolution and a ways and means resolution for the Bill. A money resolution is required where a Bill authorises new charges on the public revenue – broadly speaking, new public expenditure – and a ways and means resolution is

[31] Section 22(4)(a) of the Small Business, Enterprise, and Employment Act 2015: https://www.legislation.gov.uk/ukpga/2015/26/section/22

required where a Bill authorises new charges on the people – broadly speaking, new taxation or other similar charges.

91 There is potential expenditure under various provisions of the Bill. In particular, for the reasons given above the introduction by the Bill of improvement and heat network reliefs may lead to increases in public expenditure under section 31 of the Local Government Act 2003. There is potential increased expenditure by the Secretary of State as a result of clause 5 of the Bill, since increasing the frequency of revaluations involves the government undertaking the expense of administering a revaluation more frequently. And the effect of clause 6 (which removes the requirement that transitional relief schemes must be self-funded) will be to increase expenditure on transitional relief. There is also the potential for the Bill to result in new charges on the people. In particular, increasing the frequency of revaluations might result in certain ratepayers paying more by way of business rates than they would have done if a revaluation had not taken place (but also in some paying less). In addition, the power that allows for completion notices to be issued in a wider range of circumstances than at present (clause 7), the power allowing the Treasury to prescribe which multiplier should be used to calculate a hereditament's rateable value (clauses 1 to 3) and changes to the matters that can be taken into account in calculating rateable values between revaluations (clause 14) may all result in some ratepayers paying more.

Compatibility with the European Convention on Human Rights

92 In accordance with section 19 of the Human Rights Act 1998, Baroness Scott of Bybrook OBE, Parliamentary Under Secretary of State at the Department for Levelling Up, Housing and Communities, has made the following statement: "In my view, the provisions of the Non-Domestic Rating Bill are compatible with the Convention Rights."

93 The Bill engages Article 6 (right to a fair trial), Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (right to the peaceful enjoyment of possessions) ("A1P1") of the European Convention on Human Rights ("ECHR"). The Bill is compatible with these rights for the reasons summarised below.

Article 6

94 Clause 13 of the Bill introduces civil penalties for the failure to comply with any of the new information duties. A person served with a penalty notice will be able to request an internal review of the penalty and, if the penalty is upheld, will be able to appeal to the relevant valuation tribunal -– an independent and impartial tribunal established by law – for a fair and public hearing.

95 Clause 13 also expands the application of an existing criminal offence. A decision to prosecute would be made by the Crown Prosecution Service, which will bear the burden to prove the offence beyond reasonable doubt in a criminal court.

Article 8

96 The power for the VOA to disclose information used in valuing a hereditament to Northern Ireland rating officials or ratepayers; the provision regarding data sharing between billing authorities and HMRC; and the duty for ratepayers to provide information to the VOA and HMRC may, in some cases, amount to an interference with Article 8 privacy rights. However, any interference will be for the legitimate aims of improving the accuracy and reliability of the

valuations that underpin the non-domestic rating system in England, Wales and Northern Ireland; to facilitate more frequent revaluations; to help ratepayers understand and verify the valuations that determine their liability; and to achieve a fair, efficient and effective system of taxation.

97 The VOA, billing authorities and HMRC will have regard to privacy rights before exercising the powers to disclose, or request, data. The duties in clause 13 will be strictly limited to information that is needed to assist a valuation officer in carrying out his or her functions or to facilitate the digitalisation of business rates. All processing of personal data must be carried out in accordance with data protection legislation.

A1P1

98 There are provisions in the Bill that could result in an increase, either directly or indirectly, in the amounts owed by ratepayers and therefore may engage A1P1. These include the availability of local relief schemes; the approach to rounding when calculating a taxation rate; the use of a particular inflationary measure; and the availability of a small business discount.

99 The interference with property rights for taxation purposes is generally justified and the State is allowed a wide margin of appreciation for measures of economic strategy. The measures in the Bill have a reasonable foundation and strike a fair balance between the demands of the general interest of the community and the protection of an individual's fundamental rights.

Consideration of the Environment Act 2021

100 Baroness Scott of Bybrook OBE, Parliamentary Under Secretary of State at the Department for Levelling Up, Housing and Communities, is of the view that the Bill as introduced into the House of Lords does not contain provision which, if enacted, would be environmental law for the purposes of section 20 of the Environment Act 2021. Accordingly, no statement under that section has been made.

Related documents

101 The following documents are relevant to the Bill and can be read at the stated locations:

- The Local Government Finance Act 1988.https://www.legislation.gov.uk/ukpga/1988/41/contents
- Various documents associated with the Business Rates Review. https://www.gov.uk/government/consultations/hm-treasury-fundamental-review-of-business-rates-call-for-evidence
- The November 2021 technical consultation. https://www.gov.uk/government/consultations/business-rates-review-technical-consultation
- The March 2023 summary of responses to the technical consultation and associated impact note. https://www.gov.uk/government/consultations/business-rates-review-technical-consultation

- The August 2022 consultation on Digitalisation of Business Rates (DBR). https://www.gov.uk/government/consultations/digitalising-business-rates-connecting-business-rates-and-tax-data
- The March 2023 summary of responses to the consultation on DBR and associated impact note. https://www.gov.uk/government/consultations/digitalising-business-rates-connecting-business-rates-and-tax-data
- The March 2023 consultation on providing greater transparency to ratepayers about valuations: https://www.gov.uk/government/consultations/consultation-on-disclosure-sharing-information-on-business-rate-valuations/business-rates-transparency-and-disclosure-of-information-on-business-rates-valuations

Annex A – Territorial extent and application in the United Kingdom

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	**Extends to E & W and applies to Wales?**	**Legislative Consent Motion process engaged?**	**Extends and applies to Scotland?**	**Legislative Consent Motion process engaged?**	**Extends and applies to Northern Ireland?**	**Legislative Consent Motion process engaged?**
1 Liability and mandatory reliefs							
Clause 1	Yes	Yes	Yes	No	No	No	No
Clause 2	Yes	No	No	No	No	No	No
Clause 3	Yes	Yes	Yes	No	No	No	No
2 Discretionary relief							
Clause 4	Yes	No	No	No	No	No	No
3 Administration etc							
Clause 5	Yes	No	No	No	No	No	No
Clause 6	Yes	No	No	No	No	No	No
Clause 7	Yes	No	No	No	No	No	No
Clause 8	Yes	No	No	No	No	No	No
Clause 9	Yes	No	No	No	No	No	No
4 Information							
Clause 10	Yes	Yes	Yes	No	No	No	No
Clause 11	Yes	Yes	Yes	No	No	Yes	No
Clause 12	Yes	Yes	Yes	No	No	No	No
Clause 13	Yes	In part	Yes	No	No	No	No
5 Valuation and multipliers							
Clause 14	Yes	No	No	No	No	No	No
Clause 15	Yes	In part	Yes	No	No	No	No
6 Final provisions							
Clause 16	Yes	Yes	No	No	No	No	No
Clause 17	Yes	In part	Yes	No	No	No	No

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
Clause 18	Yes	Yes	Yes	No	No	Yes	No
Clause 19	Yes	In part	Yes	No	No	No	No
Clause 20	Yes	Yes	Yes	No	No	No	No
Schedule	Yes	In part	Yes	No	No	No	No

Subject matter and legislative competence of devolved legislatures

102 The Bill makes provision in relation to local government finance (non-domestic rating). Local government finance is a devolved matter in Scotland, Wales and Northern Ireland. Local taxes to fund local authority expenditure are an exception to the fiscal, economic and monetary policy reservation by virtue of Schedule 7A, Part 2, Section A1 of the Government of Wales Act 2006 (as amended). Local taxes to fund local authority expenditure are exceptions to the fiscal, economic and monetary policy reservation by virtue of Schedule 5, Part 2, Section A1 of the Scotland Act 1998. Local government finance is not an excepted or reserved matter in Schedule 2 or 3 of the Northern Ireland Act 1998.

NON-DOMESTIC RATING BILL

EXPLANATORY NOTES

These Explanatory Notes relate to the Non-Domestic Rating Bill as brought from the House of Commons on 23 May 2023 (HL Bill 140).

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