

# Non-Domestic Rating Bill

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MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
ON REPORT

*The amendments have been marshalled in accordance with the Instruction of 20th July 2023, as follows –*

Clauses 1 to 17	Clauses 18 to 20
Schedule	Title

*[Amendments marked ★ are new or have been altered]*

**Amendment  
No.**

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**Clause 1**

LORD RAVENSDALE  
BARONESS HAYMAN OF ULLOCK  
LORD STUNELL

- 1** Clause 1, page 2, line 25, at end insert –
- “(za) the chargeable day falls after the day on which qualifying energy efficiency improvements are completed,”

***Member's explanatory statement***

*This amendment, and others to Clause 1 in the name of Lord Ravensdale, would allow qualifying energy efficiency improvements improvement rate relief until at least 1 April 2029.*

LORD RAVENSDALE  
BARONESS HAYMAN OF ULLOCK  
LORD STUNELL

- 2** Clause 1, page 2, line 27, after “which” insert “other”

***Member's explanatory statement***

*This amendment, and others to Clause 1 in the name of Lord Ravensdale, would allow qualifying energy efficiency improvements improvement rate relief until at least 1 April 2029.*

LORD RAVENSDALE  
BARONESS HAYMAN OF ULLOCK  
LORD STUNELL

- 3 Clause 1, page 2, line 33, leave out ““Qualifying improvement works” has” and insert ““Qualifying energy efficiency improvements” and “other qualifying improvement works” have”

***Member's explanatory statement***

*This amendment, and others to Clause 1 in the name of Lord Ravensdale, would allow qualifying energy efficiency improvements improvement rate relief until at least 1 April 2029.*

**Clause 4**

LORD SHIPLEY

- 4 Clause 4, page 15, line 36, at end insert –  
“(4) Omit subsections (8A) and (9).”

***Member's explanatory statement***

*The intention of this amendment is to remove the prohibition on a billing authority giving relief on a hereditament occupied by a billing authority, a precepting authority or a GLA functional body.*

**Clause 5**

LORD SHIPLEY

- 5 Clause 5, page 16, line 4, leave out “third” and insert “second”

***Member's explanatory statement***

*This amendment would require central non-domestic rating lists to be compiled every two years.*

LORD SHIPLEY

- 6 Clause 5, page 16, line 6, leave out “third” and insert “second”

***Member's explanatory statement***

*This amendment would require central non-domestic rating lists to be compiled every two years.*

LORD SHIPLEY

- 7 Clause 5, page 16, line 12, leave out “three” and insert “two”

***Member's explanatory statement***

*This amendment would make every second year from now on a relevant period for transitional provision under the 1988 Act.*

**Clause 10**

THE EARL OF LYTTON

8★ Clause 10, page 19, leave out lines 4 and 5 and insert –

“(2) Subject to sub-paragraph (4), V must disclose the information to P if V considers it is reasonable to do so.”

***Member's explanatory statement***

*This is to reinforce the need for a reciprocal duty of disclosure on the VO by making disclosure mandatory save for the exceptions in sub-paragraph (4).*

**Clause 13**

THE EARL OF LYTTON

9★ Clause 13, page 23, line 38, leave out “paragraphs 4J and 4K” and insert “paragraph 4J”

***Member's explanatory statement***

*This, and other amendments to this Clause in the name of the Earl of Lytton, would remove the annual confirmation requirement for ratepayers.*

THE EARL OF LYTTON

10★ Clause 13, page 23, line 39, leave out “or annual confirmation (as the case may be)”

***Member's explanatory statement***

*This, and other amendments to this Clause in the name of the Earl of Lytton, would remove the annual confirmation requirement for ratepayers.*

THE EARL OF LYTTON

11★ Clause 13, page 24, line 15, at end insert –

“(4N) Where the valuation officer makes an alteration to a rating list in relation to notifiable information provided by P pursuant to paragraph 4J or 4K, and where the effect of the alteration is to increase P’s rating liability under the Act, that alteration may have retrospective effect only if it is made within 120 days of the provision by P of the notifiable information.”

***Member's explanatory statement***

*This would ensure that ratepayers do not receive retrospective increases in their rating liabilities unless the VO acts promptly on receipt of ratepayer-provided information.*

## BARONESS SCOTT OF BYBROOK

12 Clause 13, page 27, line 24, at end insert “(but see sub-paragraph (4)).

(4) P’s total liability under sub-paragraph (3) may not exceed £1,800.”

*Member's explanatory statement*

*This amendment would limit the daily penalties that a person can be liable to under new paragraph 5ZD(3) of Schedule 9 to the Local Government Finance Act 1988 (inserted by clause 13(5) of the Bill) for a continuing infringement of new paragraph 5ZC(1) of that Schedule (inserted by the same clause) to a maximum of £1,800.*

## BARONESS SCOTT OF BYBROOK

13 Clause 13, page 31, leave out lines 14 to 17 and insert—

“(3A) On an appeal under this paragraph the valuation tribunal must remit a penalty arising under paragraph 5ZC(3) unless it is satisfied beyond reasonable doubt that P knowingly or recklessly made a false statement (within the meaning of that paragraph).”

*Member's explanatory statement*

*This amendment would require the valuation tribunal to remit a penalty imposed on a person under new paragraph 5ZC(3) (inserted by clause 13(5) of the Bill) unless it is satisfied beyond reasonable doubt that the person knowingly recklessly made a false statement (instead of the position under the current drafting which merely permits the tribunal to remit such a penalty in circumstances where it is satisfied beyond reasonable doubt that the person did not knowingly or recklessly make the false statement).*

**Clause 14**

## THE EARL OF LYTTON

14★ Leave out Clause 14

**After Clause 15**BARONESS HAYMAN OF ULLOCK  
LORD SHIPLEY  
LORD THURLOW

15 After Clause 15, insert the following new Clause—

**“Review of non-domestic rating system**

(1) Within 90 days of the day on which this Act is passed, a Minister of the Crown must lay before both Houses of Parliament a review of the non-domestic rating system.

- (2) The review must include an assessment of the impact of reducing the threshold for small business rate relief on the future of the high street.”

***Member's explanatory statement***

*This would ensure a Minister reviews the non-domestic rating system, with consideration for the possibility of reducing the small business rate relief threshold.*

LORD SHIPLEY

16 After Clause 15, insert the following new Clause –

**“Non-domestic rating: accreditation of non-domestic rating advisors**

- (1) Within 90 days of the day on which this Act is passed the Secretary of State must commence a consultation on the merits and practicability of a system of accreditation and the introduction of professional standards for non-domestic rating advisors.
- (2) The consultation must consider the benefits of introducing a criminal or financial penalty for failing to comply with accreditation and adhering to professional standards.
- (3) For the purposes of this section, a “non-domestic rating advisor” is defined as any person providing or attempting to provide rating advice on a commercial basis to the occupier of a non-domestic premises.
- (4) In carrying out the consultation under subsection (1) the Secretary of State must consult with the following non-exhaustive list of stakeholders –
  - (a) professional surveying bodies;
  - (b) small and medium-sized business representatives;
  - (c) local authorities.
- (5) The Secretary of State must lay the findings of this consultation before both Houses of Parliament within one year of the commencement of the consultation.”

***Member's explanatory statement***

*This amendment would require the Secretary of State to consult on the benefits and practicability of a system of accreditation for rating advisors. This amendment is seeking to explore an avenue to combating the rogue and unprofessional practices of some rating advisors.*

LORD SHIPLEY  
LORD BLACK OF BRENTWOOD

17 After Clause 15, insert the following new Clause –

**“Exemptions**

- (1) Schedule 5 to the Act (non-domestic rating: exemption) is amended as follows.

- (2) Before paragraph 20 (power to confer exemption) insert –

*“Advertising rights in respect of social infrastructure sites*

19B(1) A hereditament is exempt to the extent that it consists of any advertising rights in respect of social infrastructure site.

- (2) An advertising right in respect of a social infrastructure site is –

- (a) any advertising right granted to an economic operator by a contracting authority pursuant to a public contract procured under the Public Contracts Regulations 2015 or the Concession Contracts Regulations 2016;
- (b) any other advertising right granted to an economic operator by a contracting authority pursuant to a public contract or otherwise; and
- (c) any advertising right in respect of a public telephone box or kiosk.

- (3) In this paragraph –

“contracting authority” means the State, regional or local authorities, bodies governed by public law or associations formed by one or more such authorities or one or more such bodies governed by public law, and includes central government authorities, but does not include His Majesty in his private capacity;

“economic operator” means any person or public entity or group of such persons and entities, including any temporary association of undertakings, which offers the execution of works or a work, the supply of products or the provision of services on the market.””

***Member's explanatory statement***

*This amendment provides that advertising rights in respect of social infrastructure sites including, bus shelters, other advertising rights granted by contracting authorities and public telephone kiosks shall be exempt from local non-domestic rating.*

LORD SHIPLEY

- 18 After Clause 15, insert the following new Clause –

**“Anti-avoidance regulations**

After section 67 of the Act insert –

**“67A Anti-avoidance regulations**

- (1) The Secretary of State may by regulations (“anti-avoidance regulations”) make such provision as they consider appropriate with a view to preventing or minimising advantages (see section 67B) arising from non-domestic rates avoidance arrangements that are artificial (see sections 67C and 67D).

- (2) The Secretary of State may not make anti-avoidance regulations unless he considers that it is appropriate to do so.
- (3) Anti-avoidance regulations –
  - (a) may modify any enactment (but not this Part);
  - (b) may make different provision for different purposes;
  - (c) may make incidental, supplementary, consequential, transitional, transitory or saving provision.

#### **67B Meaning of “advantage”**

- (1) An “advantage”, in relation to non-domestic rates, includes in particular –
  - (a) avoidance of a possible valuation;
  - (b) remission;
  - (c) relief (or increased relief);
  - (d) repayment (or increased repayment);
  - (e) deferral of a payment or advancement of a repayment.
- (2) In determining whether a non-domestic rates avoidance arrangement has resulted in an advantage, regard may be had to the amount of non-domestic rates that would have been payable in the absence of the arrangement.

#### **67C Non-domestic rates avoidance arrangements**

- (1) An arrangement (or series of arrangements) is a non-domestic rates avoidance arrangement if, having regard to all the circumstances, it would be reasonable to conclude that obtaining an advantage is the main purpose, or one of the main purposes, of the arrangement.
- (2) An “arrangement” includes any agreement, transaction, undertaking, action or event (whether legally enforceable or not).

#### **67D Meaning of “artificial”**

- (1) A non-domestic rates avoidance arrangement is artificial if Condition A or B is met.
- (2) Condition A is met if the entering into or carrying out of the arrangement is not a reasonable course of action in relation to the non-domestic rates provisions in question having regard to all the circumstances, including –
  - (a) whether the substantive results of the arrangement are consistent with –
    - (i) any principles on which those provisions are based (whether express or implied), and
    - (ii) the policy objectives of those provisions,
  - (b) whether the arrangement is intended to exploit any shortcomings in those provisions.

- (3) Condition B is met if the arrangement lacks economic or commercial substance.
- (4) Each of the following is an example of something which might indicate that a non-domestic rates avoidance arrangement lacks economic or commercial substance—
  - (a) the arrangement is carried out in a manner which would not normally be employed in reasonable business conduct;
  - (b) the legal characterisation of the steps in the arrangement is inconsistent with the legal substance of the arrangements as a whole;
  - (c) the arrangement includes elements which have the effect of offsetting or cancelling each other;
  - (d) transactions are circular in nature;
  - (e) the arrangement results in an advantage that is not reflected in the business risks undertaken.
- (5) The examples given in subsection (4) are not exhaustive.
- (6) Where a non-domestic rates avoidance arrangement forms part of any other arrangements, regard must also be had to those other arrangements.

#### **67E Procedure for anti-avoidance regulations**

- (1) Anti-avoidance regulations may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (2) Before laying a draft of a statutory instrument containing anti-avoidance regulations before Parliament, the Secretary of State—
  - (a) must consult such person or persons as appear to the Secretary of State to represent the interests of—
    - (i) local authorities, or
    - (ii) the Commissioners for His Majesty's Revenues and Customs as the Secretary of State consider appropriate, and
  - (b) may consult—
    - (i) such ratepayers or potential ratepayers, and
    - (ii) such other persons, as the Secretary of State considers appropriate.
- (3) Consultation under subsection (2) must include a copy of the proposed anti-avoidance regulations.
- (4) The Secretary of State must, as soon as reasonably practicable after consultation under subsection (2) begins, notify Parliament about the consultation.
- (5) The Secretary of State must have regard to any representations about the draft anti-avoidance regulations received as a result of the consultation.



- (6) When laying a draft of a statutory instrument containing anti-avoidance regulations, the Secretary of State must also lay before Parliament a document which—
- (a) explains why the Secretary of State considers that it is appropriate to make the anti-avoidance regulations, and
  - (b) gives details of—
    - (i) the consultation,
    - (ii) any representations received as a result of the consultation, and
    - (iii) the changes (if any) made to the draft anti-avoidance regulations as a result of those representations.”

***Member's explanatory statement***

*The intention of this amendment is to introduce into law the power to make anti-avoidance regulations, as provided for in Part 4 of the Non-Domestic Rates (Scotland) Act 2020. The amendment mirrors Part 4, with such changes as to make it applicable to UK law.*

LORD THURLOW

19★ After Clause 15, insert the following new Clause—

**“Review of non-domestic rating system for high street and internet-based retail premises**

- (1) Within 90 days of the day on which this Act is passed, a Minister of the Crown must lay before each House of Parliament a review of the non-domestic rating system.
- (2) The review must include an assessment of the potential for rateable values to be adjusted to introduce parity between high street retail properties and internet-based retail properties operating and distributing from warehouses or other non-high street premises.”

***Member's explanatory statement***

*This would ensure a Minister reviews the non-domestic rating system, with consideration given to the possibility of improving the balance between high street and internet-based retail premises.*

**The Schedule**

BARONESS SCOTT OF BYBROOK

20 The Schedule, page 55, line 30, at end insert—

- “67A In section 140(2) of the Act (separate administration in England and Wales)—
- (a) omit the “, and” at the end of paragraph (a);
  - (b) omit paragraph (b).”

***Member's explanatory statement***

*This amendment would omit section 140(2)(b) of the Local Government Finance Act 1988 which is no longer needed as a result of the provision being made by clause 15 of the Bill, which makes separate provision about the calculation of multipliers for England.*



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*15 September 2023*

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