EXPLANATORY MEMORANDUM TO

THE NON-DOMESTIC RATING (CHARGEABLE AMOUNTS) (ENGLAND) REGULATIONS 2022

2022 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by Department for Levelling Up, Communities and Local Government and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 Business rate bills are based upon the rateable value of properties which appear in rating lists prepared by Valuation Officers[1]. The current rating lists date from the last revaluation of all rateable values in 2017 but these will be replaced with a new set of rateable values by the next revaluation on 1st April 2023. The 2023 revaluation will, therefore, revise rateable values and business rates bills to reflect updated market rental values. This instrument introduces a transitional relief scheme to phase in increases in business rates bills following the 2023 business rates revaluation.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 The instrument is subject to the affirmative procedure in both Houses and must come into force on or before 31st December 2022. This is because regulations made under section 57A of the Local Government Finance Act 1988 ("the 1988 Act") in relation to a particular financial year (in this case 2023/24) are not effective unless they come into force before 1st January immediately preceding the year.

4. Extent and Territorial Application

4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

5. European Convention on Human Rights

5.1 The Parliamentary Under Secretary of State for Local Government and Building Safety, Lee Rowley MP, has made the following statement regarding Human Rights:

[1] A Valuation Officer is a statutory officer responsible for compiling and maintaining a rating list. See sections 41 and 52 of the Local Government Finance Act 1988. They are officers of HMRC (see section 61 of the 1988 Act) and are supported by the Valuation Office Agency.

"In my view the provisions of the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2022 are compatible with the Convention rights."

6. Legislative Context

6.1 Section 57A of the 1988 Act, which was inserted by section 65 of the Local Government Act 2003, places a duty on the Secretary of State to make Regulations which provide for a transitional relief scheme in respect of a relevant period. A relevant period is a period of five years beginning on any 1st April 2005 or on any 1st April after that date on which non-domestic rating lists must be compiled. Section 41(2A)(b) and section 52(2A)(b) require a new list to be complied on 1st April 2023. These Regulations apply to the relevant period beginning on 1st April 2023.

6.2 Where these Regulations apply, the ratepayer's liability to non-domestic rates (known as the chargeable amount) is determined in accordance with the relevant provisions of these Regulations rather than under sections 43 (occupied hereditaments: liability), 45 (unoccupied hereditaments: liability) and 54 (central rating: liability) of the 1988 Act.

7. Policy background

What is being done and why?

7.1 Business rates revaluations update rateable values, and therefore business rates bills, to reflect changes in the rental market and ensure bills are distributed fairly. The next revaluation of properties for business rates will take effect from 1st April 2023 based on the rental market at 1st April 2021. The draft 2023 rating list has been published online by the Valuation Office Agency[2]. Statistics on the 2023 revaluation have also been published by the Valuation Office Agency[3].

7.2 At the 2023 revaluation some ratepayers will see their business rates bills fall and others will see no change (in most cases because they will continue to be eligible for 100% Small Business Rate Relief). However, some ratepayers will see their bills increase. Under section 57A of the 1988 Act the government is required to introduce transitional arrangements at each revaluation. This instrument introduces a transitional relief scheme to phase in increases in business rates bills due to the 2023 revaluation.

7.3 The format of the transitional relief scheme is similar to schemes introduced at every revaluation since 1990. The instrument caps annual increases in the bills for those ratepayers facing increases due to the revaluation (before changes in other reliefs or supplements[4]). This approach ensures that ratepayers have time to gradually adapt to their new rate bills.

7.4 The caps on increases for the 2023 revaluation apply for the years 2023/24 to 2025/26 ("the early relevant years") and are set out in the table below.

[2] https://www.gov.uk/find-business-rates
[3] https://www.gov.uk/search/research-and-statistics?organisations%5B%5D=valuation-office-agency&parent=valuation-office-agency
[4] There are 3 supplements. A 1.3p supplement which used to calculate the higher national multiplier paid by those with a rateable value of £51,000 or more, the City of London premium set by the City of London which for 2022/23 is 1.2p and the Crossrail Business Rate Supplement of 2p currently paid in London on properties with a rateable value of more than £70,000.

Rateable value	Cap on increases 23/24	Cap on increases 24/25	Cap on increases 25/26
Up to or including £20,000 (£28,000 in London)	5%	10% plus inflation	25% plus inflation
More than £20,000 (£28,000 in London) and up to and including £100,000	15%	25% plus inflation	40% plus inflation
More than £100,000	30%	40% plus inflation	55% plus inflation

Notes: All caps are before other reliefs, supplements and, in years 2 and 3, inflation. Actual bill changes may therefore vary from these percentages.
Caps are cumulative year on year e.g. for small properties the total cap over the 3 years before inflation is 44%.

7.5 Under section 57A(10) of the 1988 Act the Secretary of State:

> "shall have regard to the object of securing (so far as practicable) that the aggregate amount payable to him and all billing authorities by way of non-domestic rates as regards a particular relevant period is, [….], the same as the aggregate amount which would be so payable apart from the regulations."

7.6 In order to satisfy this requirement the regulations include in the final relevant year a supplement of 3.3p payable on all relevant hereditaments added to what would otherwise be their business rates bill. Previous transitional relief schemes have been funded by also capping reductions in bills for those benefiting from the revaluation. For the 2023 revaluation, in order to make the business rates system more responsive and fairer, given the current economic challenges facing businesses, the government considers that the cost of transitional relief should instead be recovered in 2027/28 and from all relevant hereditaments through the supplement.

7.7 However, the government has announced its intention to bring forward the next revaluation to 1st April 2026 and also remove from section 57A of the 1988 Act the requirements in subsection (10) regarding the funding of transitional relief. This will make the business rates system more responsive and fairer. Both of these measures require primary legislation so, subject to the introduction and passage of such legislation, the government will remove from the regulations the supplement in the final relevant year and fund this scheme via the Exchequer.

7.8 These Regulations apply to properties on both local rating lists and to properties on the central rating list held by the Secretary of State. The central rating list is concerned with large network style properties such as gas, water, electricity, railways and telecommunications. The transitional relief scheme applies equally as regards ratepayers on the central rating list and those on local rating lists.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 The regulations are free standing and do not amend other regulations.

10. Consultation outcome

10.1 A consultation on the transitional arrangements for the 2023 revaluation was run for 8 weeks starting 30 May 2022[5]. The scope of this consultation was limited to the format of the transitional arrangements for the 2023 revaluation and did not extend to the level of transitional relief and the rateable value thresholds for the different levels of relief which have been determined as part of the Chancellor's 2022 Autumn Statement.

10.2 A total of 102 responses were received mainly from businesses and business organisations[6]. Responses were also received from 16 local authorities and 16 chartered surveyors.

10.3 Respondents were asked a set of questions concerning how transitional relief should be provided to support those facing increases and how it should be funded. 77% of respondents were in favour of a transitional relief scheme which capped annual increases in bills (the same approach as has been adopted in previous schemes and in this instrument). Respondents frequently stressed the importance of offering businesses protection from large and unexpected increases in bills and the need for certainty in 2023.

10.4 Having regard to these responses the government has decided to continue the practice of supporting business at the revaluation through annual caps on increases in business rates bills. The instrument provides for three years of caps given that the government intends for there to be a new revaluation in 2026.

10.5 As regards how transitional relief should be funded, the majority of respondents (54%) favoured funding the scheme from the Exchequer and not from other ratepayers. The second most popular method of funding favoured by 45% of respondents was through a supplement on the multiplier.

10.6 Having regard to these responses the government has decided to end the practice of funding transitional relief by capping annual reductions in rate bills. As discussed above, the government is required by law to have regard to the object of funding transitional relief within the business rates system and cannot, under current law, fund transitional relief from the Treasury and general taxation.

10.7 Therefore, the instrument provides for funding of transitional relief through a supplement in 2027/28. Businesses would have advanced warning and be better placed in 2027/28 to meet the cost of transitional relief and such an approach would also allow the government to recover the cost in part from those who have received the relief in the earlier years. However, the government has announced its intention to bring forward primary legislation to set the date of next revaluation to 1st April 2026 and also remove the funding requirement in respect of transitional relief. At which point the government will remove from the instrument the supplement in the 2027/28. The resulting scheme will follow that favoured by the majority of respondents.

---

[5] https://www.gov.uk/government/consultations/business-rates-revaluation-2023-consultation-on-the-transitional-arrangements

[6] A summary of responses was published on 17 November 2022. https://www.gov.uk/government/consultations/business-rates-revaluation-2023-consultation-on-the-transitional-arrangements/outcome/business-rates-revaluation-2023-consultation-on-the-transitional-arrangements-summary-of-responses-and-government-response

11. Guidance

11.1 The systems to support and deliver transitional arrangements are well established and implemented by existing staff working on business rates in local authorities. The Department does not intend to issue formal guidance on the transitional relief scheme but works closely with local government on the delivery of all relief schemes including transitional relief.

12. Impact

12.1 The impact on business, charities or voluntary bodies is that those eligible for transitional relief will see a reduction in their business rates bill compared to the level they would have paid without the regulations. As required by the 1988 Act, transitional relief will be funded within the business rates system by requiring all relevant hereditaments to pay a supplement in 2027/28 although the government has announced its intention to amend the 1988 Act and remove that supplement.

12.2 The impact on the public sector is that rate bills will be determined using the rules in these Regulations. The government will also compensate local government for the cost of the transitional relief in this instrument[7].

12.3 A full Impact Assessment has not been prepared for this instrument because it amends a local taxation regime and amendments to any tax are excluded from the definition of a regulatory provision[8].

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to minimise regulatory burden on small businesses. The basis for the final decision on what action to take to assist small businesses is that the transitional relief scheme will reduce liabilities, with particular support directed at small properties, and will be applied automatically to business rate bills by local authorities.

14. Monitoring & review

14.1 The government continues to keep the administration of the business rates system under review.

15. Contact

15.1 Nick Cooper at the Department for Levelling Up, Housing and Communities Telephone: 0303 444 3610 or email: nick.cooper@levellingup.gov.uk can be contacted with any queries regarding the instrument.

15.2 Chris Megainey, Deputy Director for Local Taxation, at the Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.

---

[7] The government's policy is that retained business rates income from the Business Rates Retention system should, as far as practicable, be unaffected by either Business Rates Revaluations. The technical adjustments necessary to meet this policy intention were explained in a consultation document published in September 2022.
[8] Section 22(4)(a) of the Small Business, Enterprise, and Employment Act 2015.

15.3 Lee Rowley MP, Parliamentary Under Secretary of State for Local Government and Building Safety at the Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.