

EXPLANATORY MEMORANDUM TO
THE VALUATION FOR RATING (CORONAVIRUS) (ENGLAND) REGULATIONS
2021

2021 No. 398

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Ministry of Housing, Communities and Local Government and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This instrument ensures that rateable values in the current 2017 rating lists, used in the calculation of business rate bills, will continue to be based upon the economic factors, market conditions and the general level of rents which prevailed at the valuation date for those lists of 1 April 2015. It will do this by assuming, for the purpose of assessing rateable values, that interventions to control Covid-19 had not occurred. The next revaluation will take effect on 1 April 2023 and will reflect market rental values at 1 April 2021.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 The Regulations will come into force the day after the day on which it is made so as to ensure the law in relation to business rates is restored to its intended meaning, and put beyond doubt, as quickly as possible. Therefore, the instrument will break the convention that negative statutory instruments should not come into effect until a minimum of 21 calendar days after they are laid.
- 3.2 Until these Regulations have come into force, the law will require rateable values, and therefore business rate bills, to reflect the impact of the interventions to control coronavirus. This would reduce rateable values and, therefore, business rates income. As a result, while the law remains unchanged, there remains a risk, once rateable values have been adjusted, of a daily loss of local business rates income for local government and the Exchequer. In order to limit this daily loss, the regulations will come into force the day after the day on which they are made.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.3 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England.

5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation no statement is required.

6. Legislative Context

6.1 Sections 41 and 52 of the Local Government Finance Act 1988 (“the 1988 Act”) require valuation officers to compile non-domestic rating lists. Previously, new lists had to be compiled every five years starting on 1 April 1990. However, section 29 of the Growth and Infrastructure Act 2013 amended sections 41 and 52 of the 1988 Act so that new rating lists of non-domestic properties in England must be compiled in 2017 and every five years subsequently instead of on 1 April 2015 as would have otherwise been the case. Accordingly, the current non-domestic rating lists were compiled on 1 April 2017.

6.2 Schedule 6 to the 1988 Act contains the valuation scheme for business rates and provides for the rateable value, during the lifetime of a rating list, to be assessed by reference to two dates:

- 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 2017 rating lists, that day was specified as 1 April 2015¹. Therefore, rateable values in the 2017 rating lists are made by reference to valuations as at 1 April 2015.
- 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.

6.3 Therefore, rateable values in the 2017 rating lists are made by reference to factors affecting valuations as at 1 April 2015 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 may need to be amended. This is known as a material change of circumstances. A change in any matter not within the list in paragraph 2(7) of Schedule 6 should not lead to a change in the rateable value before the next rating lists are compiled. The next rating lists will be compiled on 1 April 2023 based on the rental market at 1 April 2021².

6.4 Paragraph 2(8) of Schedule 6 to the 1988 Act gives the Secretary of State powers to make assumptions in relation to a prescribed class when applying the above provisions.

¹ The Rating Lists (Valuation Date) (England) Order 2014 No. 2841

² See the Non-Domestic Rating (Lists) Act 2021 (c.8).

7. Policy background

What is being done and why?

- 7.1 Business rate bills are calculated from rateable values which, broadly speaking, represent annual rental values. These rateable values are updated at general revaluations - the most recent being in 2017 when rateable values were based on the rental value market at 1 April 2015 (known as the valuation date). The next revaluation is planned for 1 April 2023 with a valuation date of 1 April 2021. It is at these general revaluations that rateable values and, therefore, rate bills, are updated to reflect changes in economic factors, market conditions or changes in the general level of rents.
- 7.2 Between revaluations rateable values can only be changed to reflect “material changes of circumstances” including, for example, physical changes to the property or the locality. Since the start of the Covid-19 pandemic, the Valuation Office Agency has 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) are a material change of circumstances. If successful, these checks and subsequent challenges may impact the level of rateable values across a wide range of properties, sectors and regions ahead of the next revaluation.
- 7.3 Matters such as the impact on rental values of Covid-19 or interventions in response to the coronavirus are part of the general market conditions and, as such, should where necessary be reflected in updated rateable values at each revaluation. If it were otherwise, the Valuation Office Agency would have to constantly reassess all rateable values with every Covid-19-related intervention or change in intervention regarding the use or enjoyment of property or the locality.
- 7.4 Therefore, this instrument ensures that rateable values on the 2017 rating lists will continue to reflect the economic factors, market conditions and the general level of rents present at the valuation date for those lists of 1 April 2015. It will ensure that the Government’s response to the coronavirus is not reflected in rateable values ahead of the next general revaluation in 2023. It will also ensure the same, for hereditaments in England, in respect of any requirements, advice or guidance from a public authority, the Scottish and Welsh Governments, the Northern Ireland Executive or another government. And it will ensure that rateable values are based on the circumstances which existed at the valuation date of 1 April 2015 in relation to the measures necessary to comply with health and safety legislation. This will ensure, for example, that where occupiers have decided that in order to comply with health and safety legislation, they have had to implement social distancing in their buildings, then the impact of this on rateable values should be ignored.

8. **European Union (Withdrawal) Act/Withdrawal of the United Kingdom they have had to implement social distancing in their buildings from the European Union**

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

9. Consolidation

- 9.1 These Regulations do not amend existing regulations.

10. Consultation outcome

- 10.1 The Government is undertaking a Fundamental Review of Business Rates and as part of that is considering responses on reform of the rating valuation system.

11. Guidance

- 11.1 No guidance has been issued. Rating lists are maintained by the Valuation Office Agency whose guidance (the Rating Manual) is published online³.

12. Impact

- 12.1 The impact on business, charities or voluntary bodies, where they are liable for business rates, is that their rateable values and, therefore business rate bills, will for the remainder of the 2017 rating lists assume that the Government's response to the coronavirus, together with the requirements, advice or guidance from a public authority, the Scottish and Welsh Governments, the Northern Ireland Executive or another government, in response to the coronavirus, had not occurred and that rateable values are based on compliance with health and safety legislation reflecting the circumstances at the Valuation Date for the rating lists of 1 April 2015. Rateable values are assessed independently of Ministers by the Valuation Office Agency. The next general revaluation will take effect on 1 April 2023 and will be based on rental values at 1 April 2021.
- 12.2 The impact on the public sector, where they are liable for business rates, is the same as described in paragraph 12.1.
- 12.3 An Impact Assessment has not been prepared for this instrument as it amends a local taxation regime and amendments to any tax are excluded from the definition of a regulatory provision⁴.

13. Regulating small business

- 13.1 The legislation applies to small business. This instrument will be implemented by the Valuation Office Agency with minimal administrative burden upon small businesses.

14. Monitoring & review

- 14.1 The Government continues to keep the system of business rates under review.

15. Contact

- 15.1 Nick Cooper at the Ministry of Housing, Communities and Local Government Telephone: 07458 090955 or email: nick.cooper@communities.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Chris Megainey, Deputy Director for Local Taxation, at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Luke Hall MP at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.

³ <https://www.gov.uk/government/publications/valuation-office-agency-rating-manual>

⁴ Section 22(4)(a) of the Small Business, Enterprise, and Employment Act 2015