

EXPLANATORY MEMORANDUM TO
THE VALUATION FOR RATING (CORONAVIRUS) (ENGLAND) REGULATIONS
2023

2023 No. 240

1. Introduction

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

2. Purpose of the instrument

2.1 The instrument provides for assumptions to be made about coronavirus in the valuation of non-domestic property on the 2023 rating list. This will ensure that legislation, advice or guidance from a public authority that relates to coronavirus should be regarded as having been reflected at the valuation date for this list, 1 April 2021, rather than being a ‘material change of circumstances’ which could lead to changes of rateable value between general revaluations. This follows Parliament’s passage of the Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Act 2021, which made provision for the treatment of matters related to coronavirus in valuations for the 2017 rating list.

3. Matters of special interest to Parliament

3.1 None.

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 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 (“the 1988 Act”) require Valuation Officers to compile, and then maintain, non-domestic rating lists. Schedule 6 to the 1988 Act concerns the valuation scheme for non-domestic 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 gives the Secretary of State the power to specify a day – known as the antecedent valuation date (“AVD”) - by reference to which the assessment of rateable value in a rating list is to be

made. For the 2023 rating lists, that day was specified as 1 April 2021¹. Therefore, rateable values in the 2023 rating lists are made by reference to valuations as at 1 April 2021.

- 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.

- 6.2 The Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Act 2021 provided that, for the 2017 list, no account should be taken of any matter that is directly or indirectly attributable to coronavirus when making certain determinations. This restricted matters relating to the coronavirus pandemic and the government's response to it from being reflected in rateable values on the 2017 rating list.
- 6.3 This statutory instrument deals with the treatment of coronavirus on the 2023 list which begins on 1 April 2023 based on valuations from the AVD of 1 April 2021.

7. Policy background

What is being done and why?

- 7.1 Non-domestic rates (known as business rates) is a tax based on the rateable value of a hereditament (the property or part of a property liable for business rates). The rateable value of a hereditament is based largely on annual rental values and are determined by the Valuation Office Agency (VOA). The VOA undertake periodic valuations of all non-domestic property to update the rateable values, known as a revaluation.
- 7.2 Revaluations take place roughly every five years to capture changes in economic factors, market conditions and changes in the general level of rents. The last took place on 1 April 2017. The next revaluation will take place on 1 April 2023.
- 7.3 Excluding the appeals process, the rateable values of hereditaments can only be changed between revaluations to reflect “material changes of circumstances” including physical changes to the property, its use or the locality.
- 7.4 The coronavirus pandemic led to large numbers of ratepayers attempting to challenge their valuations by arguing that the interventions concerning the use of property, i.e., that businesses had to close or maintain social distance, were material changes of circumstances. If successful, the valuations of hereditaments would have been impacted across a wide range of properties and sectors, leading to piecemeal valuations, unfair distribution of the tax burden and constant reassessment of hereditaments by the VOA.
- 7.5 At that time the government clarified its view that, due to the nationwide impact of coronavirus and the measures implemented by the government in response, matters relating to it are considered part of general market conditions and, as such, should where necessary be reflected in updated rateable values at each revaluation.
- 7.6 Parliament subsequently passed the Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Act 2021 to give effect to this policy. Given the need to account for the unanticipated volume of ‘checks’ (the first stage in the

¹ The Rating Lists (Valuation Date) (England) Order 2020 No. 832

‘check, challenge, appeal’ process) already received by the Valuation Office Agency, the Act provide that, subject to exceptions, no account should be taken of any matter directly or indirectly attributable to coronavirus when making a relevant determination (i.e. assessing whether a property was rateable or what its rateable value should be). The effect of this was that the backlog of existing coronavirus-related ‘checks’ and ‘challenges’ system could be disregarded by the VOA, and the effects of coronavirus on property valuation would be accounted for at the next revaluation in 2023.

7.7 The start of the 2023 rating list on 1 April 2023 brings new rateable values into effect, reflecting the rental market at the AVD of 1 April 2021. It remains the government’s policy that coronavirus should not lead to a change in rateable value between revaluations. This instrument provides the mechanism to ensure this is the case once the new list has begun, by prescribing matters relating to coronavirus as being fixed at the AVD.

7.8 Therefore, when assessing the rateable value of a hereditament on the 2023 rating list, the instrument provides that certain factors concerning coronavirus should be assumed to be as they were on 1 April 2021 and anything done by a person with a view to compliance with those factors should be assumed not to have occurred. These factors are legislation or provision made under and given effect by legislation; and guidance or advice from a public authority.

7.9 The instrument also provides exceptions where any of those factors affect the physical state of the property or its locality; the quantity of refuse or waste material permanently stored at the property and the quantity of raw material extracted from a property. For these exceptions, changes resulting from coronavirus and the government’s response to it may be considered material changes of circumstances.

8. European Union Withdrawal and Future Relationship

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 No consultation has taken place. As this measure is a continuation of existing government policy, a consultation is not necessary

11. Guidance

11.1 No guidance has or will be issued. The issuance of guidance has been deemed unnecessary as this statutory instrument continues existing government policy and provides continuity of rating principles.

12. Impact

12.1 The impact on business, charities or voluntary bodies, where they are liable for business rates, is that their rateable values shown in a 2023 rating list, and therefore their business rates bills, will assume that certain matters are as they were on the AVD.

12.2 The impact on the public sector 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 provision².

13. Regulating small business

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

13.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the approach taken has been to provide assistance to businesses affected by the coronavirus pandemic through business rates relief schemes.

14. Monitoring & review

14.1 The government continues to keep the administration of business rates under review.³

15. Contact

15.1 Finn Dean at the Department for Levelling Up, Housing and Communities email: finn.dean@levellingup.gov.uk can be contacted with any queries regarding the instrument.

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

15.3 Lee Rowley MP at the Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.

² [Section 22\(4\)\(a\) of the Small Business, Enterprise, and Employment Act 2015](#)

³ The instrument, which is in connection with a local taxation regime, is not subject to the duty to review regulatory provisions in secondary legislation in section 28 of the Small Business, Enterprise, and Employment Act 2015.