

Explanatory Memorandum to The Ratings List (Valuation Date) (Wales) Order 2018

This Explanatory Memorandum has been prepared by Local Government Strategic Finance Division and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Ratings List (Valuation Date) (Wales) Order 2018. I am satisfied that the benefits justify the likely costs.

Mark Drakeford AM
Cabinet Secretary for Finance
17 September 2018

Description

- 1 The Ratings List (Valuation Date) (Wales) Order 2018 (the 2018 Order) is a technical piece of legislation which sets the reference date for the next revaluation of non-domestic properties in Wales as 1 April 2019.
- 2 The non-domestic rates (NDR) revaluation is currently scheduled to take place on 1 April 2022. A Written Statement on 11 July 2018 confirmed that revaluation would be brought forward to 1 April 2021:
<https://gov.wales/about/cabinet/cabinetstatements/2018/nondomesticratesrevaluation/?lang=en>
- 3 In compiling the ratings lists to take effect in 2021, the Valuation Office Agency (VOA) will assess the rateable values of non-domestic properties in Wales based on the market rental value of properties by reference to a specific date, the Antecedent Valuation Date (AVD). Setting the AVD at a point before the list comes into effect allows the VOA to consider market performance retrospectively at the valuation date based on evidence and market intelligence to ensure a property's rental value at the AVD is accurately represented.
- 4 For all previous revaluations since 1990, the AVD has been set two years ahead of the new list coming into effect, for example 1 April 2015 for the 2017 list.
- 5 The making of the 2018 Order to set the AVD is required to enable the VOA to undertake the necessary preparatory work for the revaluation which will take effect on 1 April 2021.

Matters of special interest to the Constitutional and Legislative Affairs Committee

- 6 There are no matters of special interest to the Committee.

Powers

- 7 Sections 41 and 52 of the Local Government Finance Act 1988 (the 1988 Act) makes provision for the VOA to compile non-domestic rating lists. Previously, new lists had to be compiled every five years starting on 1 April 1990. However, section 54A of the 1988 Act (inserted by section 30 of the Growth and Infrastructure Act 2013) provides that the Welsh Ministers may, by order, provide that the local and central lists must be compiled on a date specified in the order rather than on 1 April 2015. Subsection (4) provides that if an order has effect under this section, sections 41 and 52 apply as if they required a list to be compiled on the specified date and on 1 April in every fifth year afterwards. The Rating Lists (Postponement of Compilation) (Wales) Order 2014¹ changed the date of the previous revaluation to 1 April 2017 (rather than 1 April 2015). Therefore, the next revaluation in Wales would take effect on 1 April 2022.

¹ (S.I. 2014/1370 (W. 139) <http://www.legislation.gov.uk/wsi/2014/1370/contents/made>

Primary legislation will therefore be required to change the date of the next revaluation and a Bill covering England and Wales is likely to be introduced into Parliament in early 2019 to set the revaluation date as 1 April 2021.

- 8 Section 42(4) of the 1988 Act provides that lists must also contain the rateable values (RV) of properties listed. Schedule 6 to the Act provides how the rateable value is to be determined. Paragraph 2(3) provides for the purposes of compiling a list, the rateable value should be determined by reference to the day on which the list is to be compiled or on a preceding day specified by the Secretary of State. This date is known as the Antecedent Valuation Date (AVD).
- 9 The power conferred on the Secretary of State under paragraph 2(3)(b) of Schedule 6 to the 1988 Act was transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999. The power was subsequently transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.
- 10 An Order setting the AVD under paragraph 2(3)(b) of Schedule 6 to the 1988 Act is subject to the negative resolution procedure by virtue of section 143(3) of the 1988 Act.

Purpose and intended effect of the legislation

- 11 During a rates revaluation, the VOA assesses each non-domestic property to determine its RV and compiles the rating lists (central and local lists). For most non-domestic properties, the RV is based on the estimated rental value on the open market at a specific date, the AVD. The AVD is set by Welsh Ministers by making an order under paragraph 2(3)(b) of Schedule 6 to the 1988 Act.
- 12 The purpose of the AVD is (a) to ensure all properties are valued on the same basis so the distribution of the rates liability is fair between different properties, and (b) to allow valuation officers to collect all available rental and other information so they can accurately assess rateable values for the purposes of compiling lists.
- 13 The date is normally set at two years prior to the new list taking effect. For the next revaluation, the lists take effect on 1 April 2021. Therefore, an order under Schedule 6 to the 1988 Act should specify 1 April 2019 as the day by reference to which the rateable value of a non-domestic hereditament is to be determined for the purposes of the local and central rating lists which take effect on 1 April 2021.
- 14 The AVD Order is a technical piece of legislation required to enable the VOA to undertake the necessary preparatory work for the revaluation. A similar Order has already been made in England and it is a routine consequence of the decision to bring forward the revaluation to 2021.
- 15 The Order will also revoke the Rating Lists (Valuation Date) (Wales) Order 2014 which set the AVD for the compilation of the current lists as 1 April 2015.

Consultation

16 An AVD has been set for each previous revaluation since 1990 and, as with these previous exercises, the date has been agreed with the VOA without further consultation on what is a technical piece of legislation. All previous AVDs have been set two years before the relevant list coming into force. The 2018 Order follows established practice.

REGULATORY IMPACT ASSESSMENT

Benefits & Costs

17 The next revaluation for non-domestic rating purposes will be brought forward to 1 April 2021. The making of the Order setting the AVD does not affect this date, it only specifies the reference date for the calculation of rateable values, in effect shortening or lengthening the period between the calculation of rateable values and the date on which they take effect.

Option 1 – Set an earlier AVD

Benefits

18 This option would allow the VOA more time to gather evidence to compile the ratings lists which could result in more thorough valuation data as the VOA would have more time to assess rental and other information so that it can accurately assess rateable values.

19 This option would also allow more time for the Welsh Government to consider policy implications of the revaluation. Local authorities might also have a longer time period in which to calculate and issue rates bills.

Risks

20 Setting an earlier date for revaluation in Wales would require separate revaluations for Wales and England. There would be a longer period between the date of valuation and the new list coming into effect, meaning that bills would not be based on up-to-date information. There would be an increased risk of appeals and dissatisfaction from ratepayers who would be concerned the revaluation was not based on the most up-to-date information. In addition, there is insufficient time to make the necessary preparations to set an earlier date and design accurate valuation methodologies.

Costs

21 This option would incur additional costs as it would result in separate valuation approaches needing to be established for Wales and England. It could also result in a high number of queries to the VOA from ratepayers who are concerned about their RV not being aligned to current rental values. It could also result in increased numbers of appeals which would incur higher costs for the Welsh Government in funding the VOA and the Valuation Tribunal for Wales (VTW).

Option 2 – Set a later AVD

Benefits

22 This would shorten the length of time between properties being valued and the new lists taking effect. As such ratepayers may consider their RV to be more closely aligned to current rental values.

Risks

- 23 As with Option 1, this would require separate revaluations for Wales and England. In addition, there could be significant risks to the accuracy of the list due to the shorter time available for the VOA to gather accurate evidence to support its valuations. Compressing the time between the AVD and the list coming into effect would reduce the time for the VOA and ratepayers to check valuations.
- 24 This option would also limit the time available for the Welsh Government to consider policy implications of the revaluation, to calculate the multiplier and to forecast expected NDR yield: this again increases the financial risk. Local authorities would also have less time in which to calculate and issue rates bills.

Costs

- 25 The reduction in evidence available to inform and support the revaluation could lead to greater numbers of successful appeals from ratepayers. This would reduce the tax-base and potentially reduce the contribution from non-domestic rates to the Welsh Budget. This could lead to a reduction in the funding available for local services, or alternatively be offset through setting a higher multiplier which would negatively affect ratepayers.

Option 3 – Do not make an AVD Order

Benefits

- 26 The new lists would be compiled by reference to the date on which they take effect with no time lag between the date of the assessment and the date on which it takes effect.

Risks

- 27 The new lists would be compiled based on estimates and models rather than evidence-based valuations.
- 28 As with Options 2 and 3, this would require separate valuations for Wales and England. It would also involve the development of a new and untested methodology for setting rateable values within a very short space of time. This is very unlikely to be feasible.

Costs

- 29 Even if it were feasible, the approach would involve much higher costs in developing and implementing a new methodology. It could result in much higher volumes of appeals and, as with Option 3, this would reduce the tax-base and funding available to the Welsh Budget.

Option 4 – Make the proposed Order

Benefits

30 The VOA will be able to calculate new rateable values and publish the proposed ratings lists by the statutory deadline of 30 September 2020 using the most up-to-date information and the established methodology.

Risks

31 This is the approach which has been taken in previous valuations and presents the lowest risk.

Costs

32 Every non-domestic property in Wales is reassessed by the VOA as part of a revaluation. The costs associated with a revaluation for 2021 are currently estimated at £3.6m over 3 years.

Analysis of other effects and impacts

Promoting Economic Opportunity for All (Tackling Poverty)

33 Scheduling a revaluation for 2021 and setting an AVD for 1 April 2019 will ensure rateable values are based on the most up-to-date rental information. This will provide certainty for ratepayers and enable them to plan ahead.

UN Convention on the Rights of the Child (UNCRC)

34 No impact on the rights of children arising from the 2018 Order has been identified. The 2018 Order will not affect the funding available to local authorities and there should, therefore, be no impact on the provision of children's services.

Welsh language

35 No effect on the opportunities to use the Welsh language or the equal treatment of the language has been identified as a result of making the 2018 Order.

Equalities

36 No specific impacts, positive or negative, on persons who share a protected characteristic have been identified as a result of the 2018 Order.

Well-being of Future Generations (Wales) Act 2015

37 Consideration has also been given to the wellbeing duty contained in section 3 of the Well-being of Future Generations (Wales) Act 2015.

Impact on voluntary sector

38 All non-domestic properties, including those owned or occupied by the voluntary sector, are reassessed as part of a revaluation. The 2018 Order will ensure that all properties are reassessed on a consistent basis and with reference to the same date. Charities and not-for-profit organisations are supported by a range of mandatory and discretionary rates reliefs under the 1988 Act. Entitlement to these reliefs is not affected by the 2018 Order.

Competition Assessment

39 A competition filter test has been applied to the Order. The test suggests there is unlikely to be any detrimental or beneficial effects on competition. All non-domestic properties are reassessed using consistent methods.

Post implementation review

40 Revaluations are normally carried out every five years. The making of the 2018 Order is a technical aspect of the revaluation process. Separately, the Welsh Government is exploring options for alternative approaches to valuing non-domestic properties following the 2021 revaluation.