

Explanatory Memorandum to The Rating Lists (Valuation Date) (Wales) Order 2014

This Explanatory Memorandum has been prepared by the Local Government and Communities Department 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 Rating Lists (Valuation Date) (Wales) Order 2014. I am satisfied the benefits outweigh any costs.

Leighton Andrews

Minister for Public Services

5 November 2014

Part one – Explanatory memorandum

1. Description

The Valuation Office Agency (VOA) is required to revalue the rateable values of all non-domestic hereditaments and the next revaluation date is scheduled for 1 April 2017. The day by reference to which all non-domestic properties in Wales must be valued for the purposes of compiling the new local and central non-domestic rating lists is the day on which the lists must be compiled (1 April 2017) unless an antecedent valuation date (AVD) is set by order by the Welsh Ministers. This Order establishes the AVD as 1st April 2015

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

None

3. Legislative background

Sections 41 and 52 of the Local Government Finance Act 1988 (“the 1988 Act”) requires valuation officers to compile rating lists every five years, starting on 1st April 1990. The next list was due to be compiled on 1 April 2015.

The Rating Lists (Postponement of Compilation) (Wales) Order 2014 was made under section 54A(1) of the 1988 Act (inserted by section 30(1) of the Growth and Infrastructure Act 2013). It postponed the date on which the new non-domestic rating lists in Wales should be compiled from 1 April 2015 to 1 April 2017.

Section 42(4) of the 1988 Act provides that lists must also contain the rateable values of properties listed. Schedule 6 to the Act provides how the rateable value is to be determined. Paragraph 2(3) of that Schedule provides that 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.

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.

The Order to set the AVD is made under the power contained in paragraph 2(3)(b) of Schedule 6 to the 1988 Act and would be subject to the negative resolution procedure by virtue of section 143(3) of the 1988 Act. The Order will also revoke the Rating Lists (Valuation Date) (Wales) Order 2007 which set the AVD for the compilation of the lists on 1 April 2010.

4. Purpose & intended effect of the legislation

Non-domestic rating lists show all non-domestic properties in Wales in respect of which non-domestic rates are payable and their rateable values. They are normally compiled every five years and the next compilation date was due to take place in 2015. A decision was taken by the Welsh Ministers to postpone the date on which the new non-domestic rating lists should be compiled in Wales until 2017, following a decision by UK Government to delay the compilation date in England. The Rating Lists (Postponement of Compilation) (Wales) Order 2014 postponed the 1 April 2015 revaluation of non-domestic rates and rescheduled the revaluation to the 1 April 2017.

The VOA is required by the 1988 Act to send to each local Billing Authority a copy of the proposed local rating list for their area by 30 September 2016. The 1988 Act also requires the VOA to compile and maintain a central rating list for hereditaments with a regional or national character (for example gas and the national grid). The VOA must also provide the Welsh Ministers with a copy of the proposed central rating list by 30 September 2016.

For the purposes of compiling new rating lists, the rateable value of all non-domestic properties is reassessed. The reassessment of the rateable value of non-domestic properties is based on the market rental value of a property on the day on which the list must be compiled or on an earlier date specified by the Welsh Ministers by order which is known as the antecedent valuation date or AVD. The AVD is normally set exactly two years prior to the date on which new non-domestic rating lists must be compiled and, on this basis, the AVD for the purposes of the lists to be compiled on 1st April 2017 has been set as 1st April 2015. This is in line with the approach taken by England and that adopted in previous revaluations.

Setting an AVD ensures that all properties are valued on the same basis so that the distribution of the tax burden is fair between different properties. It also allows valuation officers the opportunity to collect all available rental and other information so they can accurately assess rateable values for the purposes of compiling lists.

5. Consultation

An AVD has been set for all previous revaluations since 1990, and, as with previous revaluations, this date has been agreed with the VOA without further consultation on what is a technical piece of legislation. All previous AVDs have been set 2 years before the list comes into force, and this follows established practice.

Part two - Regulatory Impact Assessment

As set out in point four above, an AVD date of 1 April 2015 is required to allow the VOA to compile the data required for the compilation of the new list and is the preferred option.

Options

Option 1 - Set an earlier AVD

This would mean that properties would be valued according to less up to date data, which is contrary to the purpose of the revaluation.

Option 2 – Set a later AVD

In this case the VOA would have to rely on limited rental evidence and to make a number of assumptions based on market intelligence which poses a risk to the accuracy of the valuations. There is also a risk that they could not complete the compilation of draft lists for issue to Local Authorities in accordance with the timescales prescribed by primary legislation.

Option 3 - Do not make an Order

This would mean the AVD would be 1st April 2017, and the VOA would be required to make forward estimates as to the state of the rental market on 1st April 2017 which poses considerable risk to the accuracy of the valuations.

Option 4 – Make proposed Order

This would allow the VOA to have adequate time to ensure all properties are valued on the same basis so that the distribution of the tax burden is fair between different properties. It also allows valuation officers the opportunity to collect all available rental and other information so they can accurately assess rateable values for the purposes of compiling lists.

Benefits & Costs

Option 1 - Set an earlier AVD

Benefits

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 they can accurately assess rateable values.

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

Risks

This option increases the risk of appeals and dissatisfaction from rate payers who would be concerned the revaluation was not based on the most up to date data, due to the length of time between the valuation date and commencement of the new lists. However it would decrease the financial risk as it would allow more time for the Welsh Government to calculate the multiplier and forecast the expected yield.

Costs

This option could be costly for the VOA as it could result in a high number of queries from ratepayers who are concerned about their rateable valuable not being aligned to current rental value. It is possible this could also result in an increased number of appeals this would be costly for the VOA and the Valuation Tribunal for Wales (VTW).

Option 2 – Set a later AVD

Benefits

This shortens the length of time between hereditaments being reassessed and the new lists being compiled, as such rate payers are likely to believe their rateable values are more closely aligned to current rental values.

Risks

There could be significant risks to the accuracy of the list due to the shortened amount of time available for the VOA to gather accurate evidence to support their valuations. Such inaccuracies would pose reputational risks to both the VOA and Welsh Ministers. In addition, compressing the time period between the AVD and the list coming into effect would have knock on consequences for the time available for the VOA and ratepayers to check valuations.

It also limits the time available for the Welsh Government to consider policy implications of the revaluation, to calculate the multiplier and forecast expected yield, this again increases the financial risk. Local Authorities would also have a shortened time period in which to calculate and issue rates bills.

Costs

The reduction in evidence available to inform and support the revaluation would lead to increased financial risks for the Welsh Government, as the likelihood of successful appeals from ratepayers reducing the tax base is greatly increased. As a result it is probable in such circumstances additional provision for appeals would need to be made, reducing the funding available for Local Government services. The alternative would be to offset the increased risk through a greater increase in the multiplier which would negatively impact ratepayers.

Option 3 - Do not make an Order

Benefits

There could be a perception from ratepayers their rateable values would be based upon current valuation data as at 1 April 2017. However, the new lists would be compiled based on forward estimates rather than available data.

Risks

The VOA would have no hard evidence to accurately make valuations and they would be forced to make forward estimates as to the rental values of properties. Consequently, this option is also likely to lead to an increased level of appeals for the VOA and the VTW.

Costs

As the list would be based on estimates it would pose financial risks to the Welsh Government as there is a likelihood appeals would be more successful which in turn would reduce the tax base. An increase in appeals would also be more costly for the VOA, the VTW and the Welsh Government who provide a large proportion of their budget and could ultimately impact on the funding available for the provision of local services.

Option 4 – Make proposed Order

Benefits

The benefits of making this Order in the proposed timescales would result in the VOA being able to publish proposed rating lists by the statutory deadline of 30 September 2016 based upon the most up to date information. This will allow the VOA to publish online valuation and rateable value information encouraging ratepayers to check their details prior to the new lists coming into

force on 1 April 2017. This would improve the accuracy of the information used thus reducing the number of queries and subsequent appeals.

The VOA have also advised this is their preferred option as it allows them sufficient time and the most efficient allocation of resources to complete the necessary work for a revaluation in 2017.

Risks

This is the approach which has been taken in previous valuations. There are limited risks with this option as the VOA have indicated this as the preferred option which enables them sufficient time to complete their revaluation work in enough detail to present a robust list to ratepayers for evaluation within the regulatory timeframe.

Costs

As with any revaluation exercise there are potential additional costs due to an increase in appeals that may result from the new rateable values however there are no additional costs associated with this option unlike some of the other options considered.

Competition Assessment

This has been scored against the competition filter test which indicated there should be no detrimental effect on competition.

Equality Impact Assessment

In drafting this Order consideration has been given to Welsh Minister's duty to promote equality and eliminate discrimination.

United Nations Convention on the Rights of the Child

In drafting this Order due regard has been given to the United Nations Convention on the Rights of the Child.

Post implementation review

The VOA and Welsh Government consider a realistic AVD for each revaluation which normally take place at 5 yearly intervals.