

# **NON-DOMESTIC RATES VALUATIONS (CORONAVIRUS) BILL**

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## **EXPLANATORY AND FINANCIAL MEMORANDUM**

### **INTRODUCTION**

1. This Explanatory and Financial Memorandum has been prepared by the Department of Finance in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.
2. The Memorandum needs to be read in conjunction with the Bill. It is not, and neither is it meant to be, a comprehensive description of the Bill. Where a clause or part of a clause does not seem to require an explanation or comment, none is given.

### **BACKGROUND AND POLICY OBJECTIVES**

3. A key feature of the non-domestic rating system is that valuations are based upon the net annual value of a hereditament (the property or part of the property which is liable for business rates). Net annual values (“NAV’s”) are set by Land & Property Services within the Department of Finance and then appear on periodic non-domestic valuation lists published by the Commissioner of Valuation for Northern Ireland.
4. Business rate bills are calculated on the basis of this valuation list. The values in the list, broadly speaking, represent annual rental values, and are updated as part of periodic general revaluations. The most recent general revaluation for non-domestic property took effect on 1 April 2020. The next revaluation is planned for 1 April 2023 with a valuation date (or antecedent valuation date) of 1 October 2021.
5. The Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2020 came into effect at 11pm on Saturday 28 March 2020, three days ahead of the publication of the new valuation list, specifying businesses that were either required to close or restricted in their operation. The Health legislation made provision for the purpose of enabling a number of public health measures to be taken to reduce the public health risks posed by the spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) in Northern Ireland which causes the disease COVID-19 (“coronavirus”).
6. Despite the necessity of the Health restrictions imposed by the Executive, the intervention of such restrictions just prior to the publication of a new valuation list means that new primary legislation is now required to mitigate the potential or significant associated loss to the overall net annual value of the non-domestic valuation list within the rating system.
7. This Bill aims to mitigate the risk of potential challenges to aspects of valuations within a new non-domestic valuation list, brought on grounds of the public health measures implemented by the Executive, resulting from the operation of Article 39A of the Rates (Northern Ireland) Order 1977, and is intended to ensure that the adjustment operates in

the context of both future non-domestic valuation lists or any pandemic that may occur in future.

8. The UK Government, alongside the devolved administrations in Scotland and Wales, has also announced and commenced legislative intervention so as to prevent challenges to net annual values being brought forward on grounds of Covid-19 health restrictions. This Bill brings forward similar provision tailored to a local statutory context so as to address any potential loss of value in valuation lists and to adjust the rating system to prevent this situation arising again.
9. The UK Government has also announced a supplementary £1.5 billion rate relief package to be implemented on a UK-wide basis. Access to that funding is contingent upon the successful passage of primary legislation at Westminster. It is the Department of Finance's intention to ring-fence any associated Barnett consequential funding, upon successful passage of legislation, to ensure it is allocated to business ratepayers in the 2022/23 financial year.

## **CONSULTATION**

10. There has been no consultation in respect of this emergency Bill.
11. The Bill aims to implement statutory mitigation measures within the non-domestic rating system, made necessary as a result of the public health measures imposed by the Executive in March 2020 to limit the spread of coronavirus.

## **OPTIONS CONSIDERED**

12. The Department of Finance assesses an intervention by way of primary legislation to be the only mechanism available to successfully mitigate the risk of potential challenge to aspects of valuations, resulting from the operation of Article 39A of the Rates (Northern Ireland) Order 1977.

## **OVERVIEW**

13. This Bill aims to mitigate the risk of potential challenges to aspects of valuations within a new non-domestic valuation list, brought on grounds of the public health measures implemented by the Executive, resulting from the operation of Article 39A of the Rates (Northern Ireland) Order 1977.

## **COMMENTARY ON CLAUSES**

### **Clause 1: Non-domestic rates valuations: effects of coronavirus to be disregarded**

Clause 1 of the Bill provides that matters attributable to coronavirus should not be taken into account in the net annual value of a hereditament in a non-domestic rating list.

Clause 1(1) makes retrospective provision for "the matters" affecting the net annual values as referred to in Article 39A(1A) of the Rates (Northern Ireland) Order 1977 to be treated as not including, and as never having included, any matter directly or indirectly attributable to coronavirus.

Clause 1(2) gives examples of what is to be included within matters directly or indirectly attributable to coronavirus.

Clause 1(3) provides for an enabling power to allow the Department of Finance to make consequential retrospective changes to the clause in the event of any future change to the naming conventions surrounding the coronavirus or pandemic outbreak.

Clause 1(4) makes the use of the enabling power in clause 1(3) subject to the draft affirmative control in the Northern Ireland Assembly.

Clause 1(5) provides for the definition of the terms, “coronavirus”, “net annual value”, “the Rates Order” and “statutory provision” within the Bill.

## **FINANCIAL EFFECTS OF THE BILL**

14. This Bill relates to the wider system of non-domestic rating in Northern Ireland and as such is taken forward as an amendment to the wider system of taxation. For that reason it is considered to fall within the scope of the provision within section 63(2)(d) of the Northern Ireland Act 1998.
15. There are no cost implications associated with the implementation of the Bill.
16. The Executive has already provided compensatory and mitigating rate relief to those business ratepayers affected by Health restrictions, through the separate provision of more than £515 million in Covid-19 related business rate relief for both the 2020/21 and 2021/22 rating years. Clause 1 will ensure that certain ratepayers who might otherwise have sought a reduction in their net annual value, or the deletion of their hereditament from the valuation list and therefore a reduction in their business rates bill due to coronavirus, will be unable to argue for such a change.

## **HUMAN RIGHTS ISSUES**

17. The Bill is compatible with the European Convention on Human Rights.

## **EQUALITY IMPACT ASSESSMENT**

18. No effect on this area. The Bill acts to preserve the intended operation of the non-domestic rating system.

## **SUMMARY OF THE REGULATORY IMPACT ASSESSMENT**

19. No effect on this area. The Bill acts to preserve the intended operation of the non-domestic rating system.

## **DATA PROTECTION IMPACT ASSESSMENT/DATA PROTECTION BY DESIGN**

20. No effect on this area. The Bill acts to preserve the intended operation of the non-domestic rating system.

*This Memorandum refers to the Non-domestic Rates Valuations (Coronavirus) Bill as introduced in the Northern Ireland Assembly on 15 November 2021, (Bill 44/17-22)*

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## **RURAL NEEDS IMPACT ASSESSMENT**

21. No effect on this area. The Bill acts to preserve the intended operation of the non-domestic rating system.

## **LEGISLATIVE COMPETENCE**

22. At Introduction the Minister of Finance had made the following statement under section 9 of the Northern Ireland Act 1998:

*“In my view the Non-domestic Rates Valuations (Coronavirus) Bill would be within the legislative competence of the Northern Ireland Assembly.”*

## **RECOMMENDATION**

23. The Minister of Finance, Mr Conor Murphy, has made the following recommendation as required under section 63 of the Northern Ireland Act 1998.

*“As Minister of Finance I recommend the Non-domestic Rates Valuations (Coronavirus) Bill to the Assembly as is required by section 63 of the Northern Ireland Act 1998.”*









Northern Ireland  
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