



Enterprise Act 2016

2016 CHAPTER 12

PART 6

NON-DOMESTIC RATING

31 Disclosure of HMRC information in connection with non-domestic rating

- (1) The Local Government Finance Act 1988 is amended as follows.
- (2) In Part 3 (non-domestic rating), after section 63 insert—

“63A Disclosure of Revenue and Customs information

- (1) An officer of the Valuation Office of Her Majesty’s Revenue and Customs may disclose Revenue and Customs information to a qualifying person for a qualifying purpose.
- (2) Information disclosed to a qualifying person under this section may be retained and used for any qualifying purpose.
- (3) Each of the following is a “qualifying person”—
 - (a) a billing authority;
 - (b) a major precepting authority;
 - (c) a person authorised to exercise any function of an authority within paragraph (a) or (b) relating to non-domestic rating;
 - (d) a person providing services to an authority within paragraph (a) or (b) relating to non-domestic rating;
 - (e) the Secretary of State;
 - (f) the Welsh Ministers;
 - (g) a prescribed person.
- (4) Each of the following is a “qualifying purpose”—
 - (a) enabling or assisting the qualifying person to whom the disclosure is made, or any other qualifying person, to carry out any functions

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- conferred by or under this Part which are not functions of the Secretary of State or the Welsh Ministers;
- (b) enabling or assisting the Secretary of State or the Welsh Ministers to carry out functions conferred by or under section 53 or 54 (central non-domestic rating), or by or under Schedule 9 so far as relating to central non-domestic rating lists;
 - (c) any other prescribed purpose relating to non-domestic rating.
- (5) In this section—
- “prescribed” means—
- (a) in relation to England, prescribed by regulations made by the Secretary of State, and
 - (b) in relation to Wales, prescribed by regulations made by the Welsh Ministers;
- “Revenue and Customs information” means information held as mentioned in section 18(1) of the Commissioners for Revenue and Customs Act 2005.
- (6) Regulations under this section may only be made with the consent of the Commissioners for Her Majesty’s Revenue and Customs.

63B Restrictions on onward disclosure of Revenue and Customs information

- (1) Information disclosed under section 63A or this section may not be further disclosed unless that further disclosure is—
- (a) to a qualifying person for a qualifying purpose,
 - (b) for the purposes of the initiation or conduct of any proceedings relating to the enforcement of any obligation imposed by or under this Part of this Act,
 - (c) in pursuance of a court order,
 - (d) with the consent of each person to whom the information relates, or
 - (e) required or permitted under any other enactment.
- (2) Information may not be disclosed under subsection (1)(a) to a qualifying person within section 63A(3)(c), (d), (e), (f) or (g) except with the consent of the Commissioners for Her Majesty’s Revenue and Customs (which may be general or specific).
- (3) Information disclosed to a qualifying person under this section may be retained and used for any qualifying purpose.
- (4) A person commits an offence if the person contravenes subsection (1) or (2) by disclosing information relating to a person whose identity—
- (a) is specified in the disclosure, or
 - (b) can be deduced from it.
- (5) It is a defence for a person charged with an offence under this section of disclosing information to prove that the person reasonably believed—
- (a) that the disclosure was lawful, or
 - (b) that the information had already lawfully been made available to the public.

- (6) A person guilty of an offence under this section is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine, or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or to both.
- (7) A prosecution for an offence under this section may be instituted only by or with the consent of the Director of Public Prosecutions.
- (8) In relation to an offence under this section committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (increase in maximum term that may be imposed on summary conviction of offence triable either way) the reference in subsection (6)(a) to 12 months is to be taken as a reference to 6 months.
- (9) This section is without prejudice to the pursuit of any remedy or the taking of any action in relation to a contravention of subsection (1) or (2) (whether or not subsection (4) applies to the contravention).
- (10) In this section—
 - “qualifying person” has the same meaning as in section 63A;
 - “qualifying purpose” has the same meaning as in that section.

63C Freedom of information

- (1) Revenue and customs information relating to a person which has been disclosed under section 63A or 63B is exempt information by virtue of section 44(1)(a) of the Freedom of Information Act 2000 (prohibition on disclosure) if its further disclosure—
 - (a) would specify the identity of the person to whom the information relates, or
 - (b) would enable the identity of such a person to be deduced.
- (2) In this section “revenue and customs information relating to a person” has the same meaning as in section 19(2) of the Commissioners for Revenue and Customs Act 2005.”
- (3) In section 143 (orders and regulations), in subsection (4ZA) after “section” insert “63A or”.

32 Alteration of non-domestic rating lists

- (1) Section 55 of the Local Government Finance Act 1988 (non-domestic rating: alteration of lists) is amended as follows.
- (2) After subsection (4) insert—
 - “(4A) In relation to an English list or a Welsh list, the provision that may be included in the regulations by virtue of subsection (4) includes—
 - (a) provision about the steps that must be taken before a person may make a proposal for an alteration of the list (which may include steps designed to ensure the person checks the accuracy and completeness of any information on which any decision by the valuation officer has

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been based and gives the valuation officer an opportunity to consider the results of those checks and alter the list);

- (b) provision restricting the circumstances in which any of those steps may be taken and provision about the timing of any step;
- (c) provision for valuation officers to impose financial penalties on persons who, in, or in connection with, proposals for the alteration of the list, knowingly, recklessly or carelessly provide information which is false in a material particular.

(4B) If provision is made by virtue of subsection (4A)(c)—

- (a) the maximum amount of any penalty that may be specified in, or determined in accordance with, the regulations is £500;
- (b) the regulations must require any sum received by a valuation officer by way of penalty to be paid into the appropriate fund;
- (c) the regulations may include provision for any penalty to be recovered by the valuation officer concerned as a civil debt due to the officer;
- (d) the regulations must include provision enabling a person on whom a financial penalty is imposed to appeal against the imposition of the penalty or its amount to the valuation tribunal.”

(3) After subsection (5) insert—

“(5A) In relation to a proposal made by a person to alter an English list or a Welsh list, the provision that may be included in regulations by virtue of subsection (5) includes provision—

- (a) about the grounds on which an appeal may be made;
- (b) about the matters which are not to be taken into account by the valuation tribunal as part of an appeal;
- (c) about the circumstances in which new evidence may be admitted on an appeal, and about the conduct of an appeal in relation to such evidence;
- (d) about the payment of fees by ratepayers in relation to appeals, the payment of those fees into the appropriate fund and the circumstances in which those fees are to be refunded.

This subsection is without prejudice to the powers to make regulations conferred by Part 3 of Schedule 11 (tribunals: procedure, orders, etc).”

(4) After subsection (7A) insert—

“(7B) For the purposes of subsections (4B)(b) and (5A)(d) “the appropriate fund” means—

- (a) where the provision made by virtue of subsection (4A)(c) or (5) is in relation to a proposal to alter an English list, the Consolidated Fund, and
- (b) where the provision made by virtue of subsection (4A)(c) or (5) is in relation to a proposal to alter a Welsh list, the Welsh Consolidated Fund.”

(5) For subsection (8) substitute—

“(8) In this section—

“English list” means—

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- (a) a local non-domestic rating list that has to be compiled for a billing authority in England, or
 - (b) the central non-domestic rating list that has to be compiled for England;
 - “valuation tribunal” means—
 - (a) in relation to England, the Valuation Tribunal for England;
 - (b) in relation to Wales, a valuation tribunal established under paragraph 1 of Schedule 11;
 - “Welsh list” means—
 - (a) a local non-domestic rating list that has to be compiled for a billing authority in Wales, or
 - (b) the central non-domestic rating list that has to be compiled for Wales.”
- (6) In section 143 of that Act (orders and regulations), after subsection (3C) insert—
- “(3D) Any power to make regulations conferred by section 55 (alteration of non-domestic rating lists) is exercisable by statutory instrument.
 - (3E) A statutory instrument which contains (whether alone or with other provision) regulations made by virtue of section 55(4A)(c) or (4B) (alteration of non-domestic rating lists: financial penalties) may not be made unless—
 - (a) where those regulations relate to a proposal to alter an English list, a draft of the instrument has been laid before and approved by a resolution of each House of Parliament;
 - (b) where those regulations relate to a proposal to alter a Welsh list, a draft of the instrument has been laid before and approved by a resolution of the National Assembly for Wales.
 - (3F) Any other statutory instrument containing regulations under section 55 is—
 - (a) in the case of regulations relating to England, subject to annulment in pursuance of a resolution of either House of Parliament;
 - (b) in the case of regulations relating to Wales, subject to annulment in pursuance of a resolution of the National Assembly for Wales.
 - (3G) In subsection (3E), “English list” and “Welsh list” have the same meaning as in section 55.”