

EXPLANATORY MEMORANDUM TO
THE CENTRAL RATING LIST AND TELECOMMUNICATIONS APPARATUS
(ENGLAND) (AMENDMENT) REGULATIONS 2022

2022 No. 1083

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 Most non-domestic properties are for the purposes of non-domestic rates (known as “business rates”) included on local rating lists held by local authorities. However, some properties are by their size and nature unsuitable for local rating lists and are instead included on a central rating list held by the Secretary of State. These are typically utility networks spanning several local authority areas such as energy, telecommunication, and rail networks. This instrument moves a number of telecommunication networks and the HS1 rail link from local rating lists to the central rating list from 1 April 2023.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 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 Most non-domestic properties (in rating law known as “hereditaments”) appear on the local non-domestic rating list (“local rating list”) for the local authority area in which they are situated and business rates are paid to that local authority. However, some hereditaments appear on the central non-domestic rating list (“the central rating list”) compiled and maintained under section 52 of the Local Government Finance Act 1988 (“the 1988 Act”). Business rates on the central rating list are paid to the Secretary of State for Levelling Up, Housing and Communities. The person liable for business rates is the occupier of the property or, if it is empty, the owner.

- 6.2 The Central Rating List (England) Regulations 2005 (S.I. 2005/551) (“the Central Rating List Regulations”) which are made under sections 53, 64 and 65 of the 1988 Act, prescribe those hereditaments which must appear on the central rating list rather than a local rating list and designate the person who occupies or owns the hereditament for the purposes of business rates. Those hereditaments include certain large, fixed line telecommunication networks and certain large railway networks.
- 6.3 In contrast, most mobile telecommunication sites (mobile phone masts and towers) are assessed for business rates on local rating lists. Under the normal rules of business rates, the landlord of each mast or tower (known as the “mast host”) would typically have their own business rates bill but additionally each telecom company using apparatus on that mast or tower (known as “mast sharers”) would also have a separate business rates bill for their equipment.
- 6.4 The Non-Domestic Rating (Telecommunications Apparatus) (England) Regulations 2000 (S.I. 2000/2421) (“the Mast Sharer Regulations”), which are made under sections 64 and 65 of the 1988 Act, provide instead that the apparatus of the mast sharers are treated as one rating assessment together with the mast and occupied by the host of the site. Therefore, the mast sharer regulations ensure that only one business rates bill applies to a mast site irrespective of the number of sharers at the site. This supports the practice of mobile telecommunication operators sharing facilities.

7. Policy background

What is being done and why?

- 7.1 The government keeps under review the contents of the central rating list and in the lead up to the next revaluation (which will take effect from 1 April 2023) has considered whether any hereditaments currently on local rating lists should in fact be moved to the central rating list. In August 2021 the government published a consultation document¹ which at Annex A contains a full description of the criteria it has regard to in considering whether a hereditament should appear on the central rating list. In summary the criteria concern a), the nature and use of the hereditament, b) the size and geographical spread of the hereditament, and c) the suitability or otherwise for assessment of the hereditament on local non-domestic rating lists.
- 7.2 A summary of responses to the consultation and the government’s response was published in May 2022². The government concluded that a number of fixed line telecommunication networks and the Channel Tunnel Rail Link (“HS1”), which are all currently included on local rating lists, may be suitable for including on the central rating list. Following case by case consideration of each of those networks against the central list criteria, the government decided that 12 fixed line telecom networks and HS1 should, from 1 April 2023, move to the central rating list. All of these networks cross many local authority areas, are often national networks and are no longer suitable for including in a single local rating list.

¹ <https://www.gov.uk/government/consultations/business-rates-revaluation-2023-the-central-rating-list/business-rates-revaluation-2023-the-central-rating-list>

² <https://www.gov.uk/government/consultations/business-rates-revaluation-2023-the-central-rating-list/outcome/business-rates-revaluation-2023-the-central-rating-list-summary-of-responses-and-government-response>

- 7.3 This instrument therefore adds to the central rating list from 1 April 2023 the names of the companies occupying those networks. Some of these companies operate mobile phone masts and towers or occupy equipment on such masts separate to their fixed line networks. The instrument therefore also ensures that such separate mast or tower hereditaments will remain in local rating lists and also that the Mast Sharer Regulations will continue to apply to those hereditaments.
- 7.4 Under the Business Rates Retention Scheme, local authorities retain a share of business rates income from their local rating lists. Therefore, as part of the consultation, the government agreed that, as far as is practicable, retained business rates incomes would be unaffected by any changes it makes in moving by regulations ratepayers from local lists to the central rating list at the 2023 revaluation.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

- 9.1 No consolidation is planned.

10. Consultation outcome

- 10.1 There were 29 responses to the consultation document split broadly between local authorities and ratepayers. There was general support for the criteria the government was using to determine whether a hereditament should appear on the central rating list. And there was also support amongst respondents for moving large fixed line telecommunication networks and HS1 to the central rating list. As discussed above, a summary of responses was published in May 2022³.
- 10.2 The government has shared the instrument in draft with the companies concerned to ensure it accurately captures the company names and the description of the hereditaments to be moved to the central rating list.
- 10.3 The consultation document also considered proposals for moving the mobile telecommunication side of the sector to the central rating list in light of concerns that the number of “small cell” mobile sites could grow to such an extent that it would no longer be feasible to include them on local rating lists. The government concluded, following feedback from the mobile telecommunication sector, that the growth in small cell sites would be less than assumed and that the mobile sector could continue to be administered on local rating lists. Therefore, the instrument does not move mobile telecommunication hereditaments to the central rating list.

11. Guidance

- 11.1 The Valuation Office Agency are responsible for compiling and maintaining the central rating list and, once the instrument has come into force, will ensure that the relevant hereditaments are moved to the central rating list from 1 April 2023. The Valuation Office Agency publish guidance on the operation of the central rating list⁴.

³ <https://www.gov.uk/government/consultations/business-rates-revaluation-2023-the-central-rating-list/outcome/business-rates-revaluation-2023-the-central-rating-list-summary-of-responses-and-government-response>

⁴ <https://www.gov.uk/government/collections/the-central-rating-list>

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies as a very similar system of billing for business rates exists on the central rating list as exists in respect of local rating lists.
- 12.2 There is no, or no significant, impact on the public sector. As discussed above, the government has promised that, as far as is practicable, local authorities' retained business rates incomes will be unaffected by any changes it makes in regulation moving ratepayers from local lists to the central rating list at the 2023 revaluation.
- 12.3 A full Impact Assessment has not been prepared for this instrument because it amends a local taxation regime and amendments to any tax are excluded from the definition of a regulatory provision⁵.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 The government continues to keep the administration of business rates under review⁶.

15. Contact

- 15.1 Nick Cooper at the Department for Levelling Up, Housing and Communities Telephone: 0303 444 3610 or email: nick.cooper@levellingup.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Chris Megainey, Deputy Director for Local Taxation, at the Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Andrew Stephenson at the Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.

⁵ Section 22(4)(a) of the Small Business, Enterprise, and Employment Act 2015.

⁶ 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.