



Northern Ireland  
Assembly

Committee for Finance

# OFFICIAL REPORT (Hansard)

Non-domestic Rates Valuations  
(Coronavirus) Bill:  
Formal Clause-by-clause Consideration

15 December 2021

# NORTHERN IRELAND ASSEMBLY

## Committee for Finance

### Non-domestic Rates Valuations (Coronavirus) Bill: Formal Clause-by-clause Consideration

15 December 2021

**Members present for all or part of the proceedings:**

Dr Steve Aiken (Chairperson)  
Mr Keith Buchanan (Deputy Chairperson)  
Mr Jim Allister  
Mr Pat Catney  
Ms Jemma Dolan  
Mr Philip McGuigan  
Mr Maolíosa McHugh  
Mr Matthew O'Toole  
Mr Jim Wells

**Witnesses:**

Mr Andrew McAvoy                      Department of Finance  
Mr Ian Snowden                         Department of Finance

**The Chairperson (Dr Aiken):** Hi, Ian.

**Mr Ian Snowden (Department of Finance):** Hi.

**The Chairperson (Dr Aiken):** Hi, Andrew.

**Mr Andrew McAvoy (Department of Finance):** Hi.

**The Chairperson (Dr Aiken):** I draw members' attention to the Committee Clerk's note on the Bill's clause-by-clause scrutiny; the Department's response to recent Committee queries; the Non-domestic Rates Valuations (Coronavirus) Bill as introduced; the explanatory and financial memorandum (EFM) as introduced; and the advice and delegated powers memo from the Examiner of Statutory Rules (ESR). The evidence session will be reported by Hansard.

Ian and Andrew, I have a quick question. One of the things raised in closed discussion was where we are at with this. The Deputy Chair and I have a concern about the third paragraph of your letter, dated 15 December, on the non-domestic rates valuations, because it seems to be open-ended. Can you explain the intent behind it? I will give you a few moments to bring it up.

**Mr Snowden:** OK. Give us a second.

**The Chairperson (Dr Aiken):** I will read out the paragraph for you, Ian. It states:

*"In short, Reval 2023 (and subsequent revaluations) will take into account the impact the pandemic has had on rental values when calculating NAVs. The Bill would remove the right to appeal NAVs where covid has an impact in between the valuation date and the new valuation list coming into effect."*

What does that mean?

**Mr Snowden:** As we explained on Monday, the revaluation takes account of changes in the rental market, so the net annual values (NAVs) are linked to evidence from the rental market. As of the antecedent valuation date of 1 October past, any COVID effects in the rental market will be fed through into the values that go into the list. If there is another closure between 1 October 2021 and 31 March 2023, and that is still having an effect at the beginning of April 2023, those COVID closures will not have an impact on the values put into the list. As I said on Monday, if another variant caused another lockdown to happen in February or March 2023, it would not feed into whatever values are published in the list.

**The Chairperson (Dr Aiken):** OK.

**Mr K Buchanan:** Say that I have a hypothetical business that will be closed at some stage between 1 October 2021 and 31 March 2023, can I appeal in the July before the antecedent date? That says to me, "The Bill will remove the right to appeal between those two dates", but I could say, "My business was affected prior to the antecedent date". Do you know from where I am coming?

**Mr McAvoy:** Are you thinking about a closure in July 2022, for example?

**Mr K Buchanan:** No. July past, so before the antecedent date.

**Mr McAvoy:** If it were in July 2021, that would not have a bearing on an appeal about the current list, because that is based on what your valuation would have been on 1 April 2018. That is the antecedent valuation date for the 2020 list that has just been published. The effect of that is that a July closure would be broadly immaterial to that list.

**Mr K Buchanan:** Is that not after the new valuation list for —?

**Mr McAvoy:** The new valuation list is for 2023.

**Mr K Buchanan:** No. I mean the 2020 valuation list

**Mr McAvoy:** The 2020 list is based on the values as at 1 April 2018.

**The Chairperson (Dr Aiken):** Let me get this right: the 2020 list is based on the 2018 values.

**Mr McAvoy:** From 1 April 2018. That is correct.

**The Chairperson (Dr Aiken):** The next reval is —.

**Mr McAvoy:** That is valued against the values as at 1 October just past.

**The Chairperson (Dr Aiken):** The values at 1 October 2021. OK.

**Mr McAvoy:** In the first scenario, the Bill deals with any closure that took place between 1 April 2018 and the publication of the valuation list for 2020 and takes that out of consideration. Anything after that that has a bearing on the overall rental market will be taken into account for Reval2023.

Are you thinking about it in the context of a purely physical closure? Do you mean if there were another lockdown in July that then lasted close to October?

**Mr K Buchanan:** No. I am playing devil's advocate here. You are doing a reval from 1 October 2021 to 31 March 2023.

**Mr McAvoy:** Yes.

**Mr K Buchanan:** The statement quoted says to me, "The Bill will remove the right to appeal between those two dates", but I come back to you and say, "My business took pain in July 2021, which is outside those two dates".

**Mr Snowden:** On —.

**Mr K Buchanan:** Do you know where I am coming from? Where does that fall? That line closes your argument, whereas my understanding is that I cannot use coronavirus as an argument to appeal any period.

**Mr Snowden:** It is not about the date on which the appeal is made but the date of the event to which the appeal relates.

**Mr K Buchanan:** Forget about the date of my appeal. Let us say that my business took pain in the two months of June and July 2021 because of coronavirus.

**Mr Snowden:** You can appeal at any time, and for a wide range of reasons. If you still think that your valuation is wrong because it does not reflect the market for your property — leaving aside coronavirus or any other issues — you can still submit an appeal against your valuation. That right to appeal has not been removed. It has been removed for specific COVID-related reasons, such as your property was closed while restrictions were in place. Those have been dealt with, and we have compensated businesses for the problems you have just described by the very generous set of grants and rate reliefs, which total over £1 billion from the Department of Finance to date. Other Departments have been involved in that as well.

**Mr McAvoy:** In England, the issue is dealt with through a mechanism called a material change of circumstance. That is where, in between two revals, where there is a closure, the provision in the business rates legislation in England allows a reduction to be made in that case. In the rating law for Northern Ireland, the date of valuation is always the starting point, so what happens in between revaluations is not taken into account. The Bill that went through Westminster — it finishes its passage today — nullifies the impact that you are talking about in the English legislation. That does not need to be done for Northern Ireland's legislation, however, because we do not have that mechanism. Our revals are set at a point in time and last for the period of the list. They are rebased when there is a new reval.

**Mr Snowden:** It is a difficult thing to explain.

**The Chairperson (Dr Aiken):** Yes. *[Inaudible.]* I am sorry.

**Mr Snowden:** We spent all day yesterday trying to write that letter to make it as understandable as it could be without getting into the technical details.

**Mr K Buchanan:** The letter, to be fair, is fine. The second line of the third paragraph just confused me. I thought that coronavirus could not be used as an argument at any time, but your letter states that it is purely between the revaluation dates that it cannot.

**Mr McAvoy:** Properties in Northern Ireland are only ever valued against one date, unless there are physical changes that have occurred between the antecedent valuation date and the publication date of the list. Where those physical changes are taken into account, an adjustment can be made. Aside from that, businesses must wait until the new list comes into operation.

**Mr K Buchanan:** Give me that again.

**Mr McAvoy:** Aside from for coronavirus-related reasons, businesses can still appeal at any time.

**Mr K Buchanan:** Interrupt me if I am heading in the wrong direction, but jump forward to July 2023, after a new revaluation date has been issued on 1 April 2023, and I am not happy with my NAV. Will the only period that will be looked at be between 1 October 2021 and 31 March 2023?

**Mr Snowden:** No. We will look back to 1 October 2021 and then look at the evidence that you have brought forward. If there has been a mistake in the valuation of the property — for example, it is down as the wrong size or the rent in the marketplace is wrong — you can appeal on those grounds. If the appeal is because, somewhere between 1 October and 31 March 2023, there has been an enforced closure because of COVID or other restrictions that have affected the operation of your business, an appeal cannot be made for that reason, but for that reason only. If there are other reasons for an appeal, as there will be in any normal cycle, that appeal can still be made.

**Mr K Buchanan:** Only in that window of time, however.

**Mr Snowden:** In any window of time. As Andrew said, all valuations are done on the one date.

**Mr K Buchanan:** OK.

**The Chairperson (Dr Aiken):** I think I have got it.

**Mr K Buchanan:** I apologise for dragging this out, but I want to go back. What was the original antecedent date for 1 April 2020?

**Mr McAvoy:** 1 April 2018.

**Mr K Buchanan:** There was a two-year window, so 1 April 2018.

**Mr O'Toole:** Thank you, Ian and Andrew. I am asking you to repeat yourselves, but it is for the record, given that, when the Bill was introduced and we started to consider it, omicron was a twinkle in I do not know whose eye. We did not know about it. We have heard from the Finance Minister. We all hope that further restrictions, as in anything approaching a lockdown, will not be needed, but there may be restrictions, and, clearly, there already are economic impacts from omicron. What would you say to people who say that the Bill was introduced on the basis of a belief that the worst of the effects were over by mid-2021 and that it is clear now that they are not and it is clear, including the evidence we heard from the Finance Minister, that there may well not be much in the way of further economic support from Treasury, so, if we pass the Bill, we remove any ability of ratepayers to appeal, not necessarily on the basis of the economic impact of the first, second or even third wave of the coronavirus but the wave that we are about to experience?

**Mr Snowden:** Even in the normal course of events, it would not be possible for a person to appeal mid-list because of an event that had happened. As Andrew has explained, we always go back to the start of the list and the antecedent valuation date. The problem that we have in Northern Ireland is that the closures happened in between the antecedent valuation date and the date of the publication of the list. That engaged article 39A(1A). Imagine that that had not happened and the pandemic started and closures came in after 1 April. In normal circumstances, people would have had the opportunity to apply for appeals, and they may well have been taken into account, but the Bill would not necessarily remove that ability in the same way, because we are dealing with article 39A(1A) issues.

Rating legislation is complex, and I am not a specialist. Andrew has been working on it for 12 years or thereabouts, and Sharon Magee and Angela McGrath, who were here on Monday, have about 60 years of experience between them. It is a complex area of work and difficult to explain. It has lots of nuances, and it takes a long time to get a full grasp of it. Essentially, the best way to deal with a situation that you have and the difficulties that those businesses have is with rate reliefs, which are targeted to the businesses most directly affected. That is what we have done up to this point.

**The Chairperson (Dr Aiken):** That is what the £50 million is for.

**Mr Snowden:** Yes. That is the best way to approach the issue. Otherwise, we will have an unravelling of the rate base and the rate revenues that come in to district councils and the Executive in a way that cannot be predicted or controlled. The consequences of that will be widespread and long-term.

**Mr O'Toole:** I appreciate that it is dense to understand, but, if I understand it correctly, your argument is that the rating appeals system should not be a default economic support and the list system is designed to take into account major structural and economic changes that happen from year to year. It is not there to compensate people for the like of pandemics. We do not yet know what will happen with

omicron, and we do not know how much support will be needed or given, but you say that it would not be appropriate to leave this anomaly to invite people to claim.

**Mr Snowden:** That is correct. The fundamental point is that the rates system is a system of taxation and the valuation list is the way in which the distribution of the tax burden is worked out on as equitable a basis as possible, using market information. Rates themselves can never really properly function as any kind of business support or economic support mechanism, and an attempt to adjust or use the rating appeals system as an economic support mechanism will always have distorting and, probably, counterproductive impacts.

**Mr McAvoy:** *[Inaudible owing to poor sound quality]* align really with the sectors that are —.

**Mr O'Toole:** Impacted.

**Mr McAvoy:** Yes, those that are most impacted necessarily.

**Mr Snowden:** Yes, because rates are levied on the property, not on the business that occupies the property.

**The Chairperson (Dr Aiken):** Thank you. Are you happy, Matthew?

**Mr O'Toole:** That is ample. Thank you, Chair.

**The Chairperson (Dr Aiken):** I have a quick question. The delegated powers memorandum anticipates the use of this power to amend the Bill to respond to changes in the naming conventions to coronavirus. What is the Department's view of whether the power as drafted is instead to make amendments only in relation to other infections or contaminations to which a matter of a kind, referred to in, I think, clause 1(2) is attributable, whether by replacing or in addition to the application of clause 1 to matters attributable to coronavirus?

**Mr McAvoy:** Clause 1(3) is designed at the moment to address any mutation of the virus that would constitute another infection. If it were to mutate and be deemed to be another infection that would require a name change, the power allows us to make consequential changes to the clause as it stands or the section, if it were to be enacted.

**The Chairperson (Dr Aiken):** Basically, the power will lie with the Department to change the name of whatever virus is happening.

**Mr McAvoy:** It covers infections instead of or in addition to any infection covered in the Bill as drafted. It has been worded that way to keep it as tight as possible because our concern was that a lot of the clauses, when they go through, have general provisions to say that they have power to amend a clause, so we tried to tighten it a bit more than that but with an attempt at future-proofing the Bill. We were concerned about a future pandemic of the same type, with nationwide application effecting closures across the country, and, because it was a slightly mutated virus with a different form of infection, finding ourselves back in the same position with the problems that we are in at the minute prior to the legislation. That is what it attempts to do.

**Mr K Buchanan:** Chair, can you help me out by telling us which page in the tabled pack you are reading that from?

**The Chairperson (Dr Aiken):** It is from the Examiner of Statutory Rules. It is on page 40, Keith.

**Mr K Buchanan:** You talked about a national pandemic. Do you classify a farm comprising a dwelling house and three chicken houses, where he or she loses their business because of avian flu, in that category? I understand that the chicken houses are not rated but the dwelling house is. That is going on at the moment, obviously. It is a live issue. If that develops, that would not be covered under this, but could it be?

**Mr McAvoy:** No. This is a non-domestic Bill. The farmhouse would be considered domestic. Domestic properties are valued against —.

**Mr K Buchanan:** Is the farm not rated at all?

**Mr McAvoy:** The farm is not rated as an agricultural business. The farmhouse already gets in and around 20% for a farmhouse allowance in any event under the system.

**Mr K Buchanan:** So, avian flu, in no circumstances, could be classified under this because the Bill applies to non-domestic properties.

**Mr McAvoy:** First, if bird flu were to apply nationwide and had the same impact as COVID —.

**Mr K Buchanan:** This has to be nationwide, as in the United Kingdom nation.

**Mr McAvoy:** Going forward, it would need to be brought forward by a Minister and voted on by the Assembly.

**The Chairperson (Dr Aiken):** You said "nationwide". It has to be a notifiable virus or disease in the United Kingdom.

**Mr McAvoy:** At the moment, as it is drafted, it deals with the legislation and guidance provided for coronavirus, which was nationwide. I do not envisage it being used for anything more localised.

**Mr Snowden:** An event that had an impact in Northern Ireland and not in England, Scotland and Wales is what, I think, you envisage.

**The Chairperson (Dr Aiken):** Yes.

**Mr Snowden:** As rates is a devolved issue and the legislation is devolved, we would have to look at this again if, say, there were an island of Ireland problem that was contained and did not affect Britain. If we had to have a slew of closures of businesses across Northern Ireland at the same time, we would certainly have to look at it again, because the same problem would arise in those circumstances. That is, essentially, what we are dealing with here. Again, as Andrew said, that would have to be brought forward by the Minister as an order made by affirmative resolution in the Assembly. It would need to be brought to a Committee for discussion and to be voted on in the Assembly.

**Mr McAvoy:** There is nothing to stop it being used for a localised, discrete thing, but the tenor of the drafting and the accompanying documentation shows that it is aimed at a nationwide thing of a similar nature to coronavirus. We could not justify bringing it forward for anything more localised.

**The Committee Clerk:** To clarify, Chair, as the witnesses have indicated, the regulation-making power would be subject to a draft affirmative resolution. That means that it would have to come back to the Assembly. Members would have a "yes or no" say on it. You could not amend it, but you would be able to say no. I think I am right in saying that, to be clear, the Bill does not specify that the provision should be nationwide. In theory, the Department could bring back anything, but the Assembly could say, "No. Wise up. We are not doing that" or "Yes. OK".

**Mr McAvoy:** We selected the draft affirmative procedure, as the tightest control, for that reason. We do not want this to become a mechanism that is used again, if it can be avoided.

**The Chairperson (Dr Aiken):** Are members happy?

**Mr Catney:** Content. Let us go.

**The Chairperson (Dr Aiken):** Team, thank you very much indeed. Thank you, Ian and Andrew.

**Mr McAvoy:** Thank you.

**The Chairperson (Dr Aiken):** We will move to the formal clause-by-clause scrutiny of the Bill. This is the final part of the Committee Stage and will inform a Committee report on the Bill. The Committee will proceed through the clauses, and the Questions will be put formally.

As there are no amendments, the Questions will be put on the clauses as drafted, if members are clear on that and happy to proceed.

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

**The Chairperson (Dr Aiken):** Clause 1 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. It will apply in the future and retrospectively. The clause also includes delegated powers in respect of the renaming of the pandemic and the inclusion of other pandemics, subject to Assembly approval. Members, do we understand clause 1?

*Members indicated assent.*

**The Chairperson (Dr Aiken):** No amendments have been proposed. Are members content with clause 1 as drafted?

**The Committee Clerk:** Sorry, Chairperson. I ask members to speak up and be clear.

*Question, That the Committee is content with clause 1, put and agreed to.*

**Clause 2 (Commencement and short title)**

**The Chairperson (Dr Aiken):** Clause 2 sets out the commencement and the short title, which is the Non-domestic Rates Valuations (Coronavirus) Act (Northern Ireland) 2021. Members, do we understand clause 2?

*Members indicated assent.*

*Question, That the Committee is content with clause 2, put and agreed to.*

**Long Title**

**The Chairperson (Dr Aiken):** The long title is given as:

*"A Bill to Vary the application of Article 39A of the Rates (Northern Ireland) Order 1977 in consequence of matters attributable to coronavirus; and to confer power to make equivalent provision for other infections or contaminations."*

*Question, That the Committee is content with the long title, put and agreed to.*

**The Chairperson (Dr Aiken):** That concludes the Committee Stage of the Non-domestic Rates Valuations (Coronavirus) Bill. Thank you very much, Committee and team.

**The Committee Clerk:** Is the Committee content that I draft the report and bring it to the next meeting?

*Members indicated assent.*