

**EXPLANATORY MEMORANDUM TO**  
**THE NON-DOMESTIC RATING (TELECOMMUNICATIONS INFRASTRUCTURE**  
**RELIEF) (ENGLAND) REGULATIONS 2018**

**2018 No. 425**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Ministry of Housing, Communities and Local Government and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

- 2.1 The purpose of this instrument is to make provision in relation to a telecommunications infrastructure relief scheme in England in respect of chargeable days falling between 1st April 2017 and 31st March 2022. It prescribes the conditions for eligibility for the relief and the amount of relief in relation to eligible hereditament<sup>1</sup>.
- 2.2 This instrument also imposes duties on valuation officers and makes provision as to appeals relating to things done or not done by them.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

*Other matters of interest to the House of Commons*

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

**4. Legislative Context**

- 4.1 The non-domestic rating system in England and Wales is established by Part 3 of the Local Government Finance Act 1988 (“the 1988 Act”). Sections 43, 45 and 54 of the 1988 Act prescribes the formulae to be used for the calculation of non-domestic rates in respect of occupied hereditaments on the local list, unoccupied hereditaments on the local list and hereditaments on the central list (respectively).
- 4.2 The Telecommunications Infrastructure (Relief from Non-Domestic Rates) Act 2018 amended the 1988 Act to provide for different formulae to apply in respect of certain telecommunications hereditaments.
- 4.3 For occupied hereditaments on the local list, section 43(4E) provides the formula to be used where subsection (4F) applies. For unoccupied hereditaments on the local list, section 45(4D) provides the formula to be used where subsection (4C) applies. For hereditaments on the central list section 54ZA(3) provides the formula to be used where subsection (1) applies.

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<sup>1</sup> A hereditament is the unit of property which is the subject of rating.

- 4.4 Sections 43(4F), 45(4D) and 54ZA(1) apply where, on the day concerned, the hereditament or description of hereditament is wholly or mainly used for the purposes of facilitating the transmission of communications and any conditions prescribed by the Secretary of State by regulations are satisfied.
- 4.5 These regulations prescribe the conditions to be satisfied for those sections to apply. They also prescribe the amount of “F” and “T” which are used in formulae that apply when the conditions for the relief are satisfied. Furthermore these regulations impose duties on valuation officers and makes provision as to appeals relating to things done or not done by them.

## **5. Extent and Territorial Application**

- 5.1 The extent of this instrument is England and Wales.
- 5.2 The territorial application of this instrument is England only.

## **6. European Convention on Human Rights**

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

### *What is being done and why*

- 7.1 In the 2016 Autumn Statement the Chancellor announced that the Government would provide 100% non-domestic rating relief for new fibre infrastructure for a five year period from 1st April 2017 to support rollout of new broadband and future 5G communications to homes and businesses.
- 7.2 The Government wants to create an attractive environment for providers to increase their roll out of fibre connectivity. Allowing business rates relief on new fibre deployment from 1 April 2017 will support all providers who deploy new fibre increasing competition and helping the roll out of 5G.
- 7.3 The relief is targeted at fibre which is part of the hereditament and was not laid, flown, blown, affixed or attached before 1 April 2017. This ensures that the relief is targeted at investment after 1 April 2017 and excludes fibre which, whilst laid, flown, blown, affixed or attached before 1 April 2017, was not lit until after 1 April 2017.
- 7.4 In practice new fibre will comprise only part of a wider telecom network. Therefore, the regulations provide for the valuation officer to certify the proportion of the rateable value which appears to that officer to be attributable to new fibre and plant and machinery used in connection with new fibre. This certificate will then be used by the local authority, in line with the formula in the regulations, to award a percentage of relief for the hereditament reflecting the proportion of the rateable value which is new fibre.

### *Consolidation*

- 7.5 These Regulations are the first to be made under the provisions of the 1988 Act that were added by the Telecommunications Infrastructure (Relief from Non-domestic Rates) Act 2018. These Regulations also amend the Non-Domestic Rating (Chargeable Amounts) Regulations 2016. The Department does not intend to consolidate those Regulations.

## **8. Consultation outcome**

- 8.1 In August 2017 the Government published draft regulations and consulted upon whether those regulations met the Government's objective of providing relief on new fibre. In the consultation paper, the Government explained what fibre it intended to be eligible for relief and how the rateable value of the new fibre should be determined.
- 8.2 The Government received 17 responses to the consultation of which 9 were from the telecoms sector, 6 from local government and 2 from professional bodies concerned with business rates. Having regard to the responses, the Government has decided to proceed with the relief scheme set out in the regulations subject to a number of technical improvements suggested by respondents. A full analysis of the consultation and the Government's response is available on the Department's website<sup>2</sup>.

## **9. Guidance**

- 9.1 The Department does not intend to issue formal guidance in relation to the telecommunications infrastructure relief.

## **10. Impact**

- 10.1 There will be a positive impact for businesses, charities or voluntary bodies who are ratepayers in respect of eligible hereditaments.
- 10.2 The impact on the public sector is minimal. Local authorities are reimbursed by Government for the loss of income associated with the relief for new fibre announced at Autumn Statement 2016.
- 10.3 An Impact Assessment has not been prepared for this instrument as it amends a local taxation regime.

## **11. Regulating small business**

- 11.1 The legislative changes contained in these Regulations are intended to benefit businesses of all sizes.

## **12. Monitoring & review**

- 12.1 The Department's annual national non-domestic rating returns from billing authorities monitor the adjustments made to bills by reliefs and will separately record the relief for new telecom fibre. The Government continues to keep the system of business rates under review.

## **13. Contact**

- 13.1 Nick Cooper at the Ministry of Housing, Communities and Local Government  
Telephone: 0303 44 43610 or email: [nick.cooper@communities.gsi.gov.uk](mailto:nick.cooper@communities.gsi.gov.uk) can answer any queries regarding the instrument.

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<sup>2</sup> <https://www.gov.uk/government/consultations/business-rates-relief-for-new-fibre-on-telecommunication-hereditaments>