

TELECOMMUNICATIONS INFRASTRUCTURE (RELIEF FROM NON- DOMESTIC RATES) BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Telecommunications Infrastructure (Relief from Non-Domestic Rates) Bill as brought from the House of Commons on 6 September 2017 (HL Bill 65).

- These Explanatory Notes have been prepared by the Department for Communities and Local Government in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide some background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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Overview of the Bill

1. As announced in the Autumn Statement 2016, the Government is legislating to provide a new 100% business rates relief for the installation of new optical fibre for the next five years (“the relief”). The Bill provides the framework for the relief with further conditions for eligibility to be provided in regulations.

Policy background

2. At the Autumn Statement in 2016, the Chancellor announced that the Government will provide a new 100% business rates relief for new full-fibre infrastructure for a five year period from 1 April 2017. This was proposed to support rollout of new full-fibre broadband infrastructure and future 5G communications to homes and businesses.

Legal background

3. The Bill amends the Local Government Finance Act 1988 (the “1988 Act”) (in particular Part 3 which deals with non-domestic rating) and makes consequential amendments to the Business Rate Supplements Act 2009 (the “2009 Act”).

Territorial extent and application

4. Clause 5(1) sets out the territorial extent of the Bill. The Bill extends and applies to England and Wales only. See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom.
5. The Government is planning to obtain a legislative consent motion from the Welsh Assembly; this motion was laid before the National Assembly for Wales on 25 July 2017:
<http://www.assembly.wales/laid%20documents/lcm-ld11142/lcm-ld11142-e.pdf>.

Commentary on provisions of Bill

Clauses 1 to 3: Relief for telecommunications infrastructure

6. Clauses 1 to 3 amend Part 3 of the 1988 Act to introduce a new mandatory relief for hereditaments used for the purpose of telecommunications which are shown on non-domestic rating lists. “Hereditament” means property which is or may become liable to a non-domestic rate, being a unit of such property which is, or would fall to be, shown as a separate item on a local non-domestic rating list. “Non-domestic rates” means rates payable under Part 3 of the 1988 Act by the occupier or owner of property shown on a local non-domestic rating list or central non-domestic rating list.
7. To account for the relief to be provided, Clauses 1 and 2 amend Part 3 of the 1988 Act to provide a new formula for calculating the chargeable amounts to be shown on local non-domestic rating lists for eligible hereditaments. Eligible hereditaments must be wholly or mainly used for the purpose of facilitating the transmission of communication by any means involving the use of electrical or electromagnetic energy (e.g. broadband or 5G). Clauses 1 and 2 give the Secretary of State, or in relation to Wales, the Welsh Ministers, the power to prescribe further conditions that must be met for the relief to apply.

8. Clauses 1 and 2 also provide the Secretary of State, or in relation to Wales, the Welsh Ministers, with powers to set the level of the relief by prescribing the amount of relief in regulations (by setting the amount for “T” and “F” in the new formula). Regulations may also impose duties or confer powers on valuation officers and make provision relating to appeals.
9. Clause 3 provides the same provisions in respect of the central rating list.

Clauses 4 to 6: Consequential provision, financial provision and extent, application and short title

10. Clause 4 introduces the Schedule to the Act which makes consequential amendments to both the 1988 Act and the 2009 Act. This clause also specifies that powers to make regulations must be exercisable by statutory instrument. This clause gives the Secretary of State, or in relation to Wales, the Welsh Ministers, powers to make regulations as they consider appropriate in consequence of this Act, including amending primary legislation. If a statutory instrument amends primary legislation, the affirmative procedure applies; all other statutory instruments follow the negative procedure.
11. Clause 5 makes financial provision for the Bill and is self-explanatory.
12. Clause 6 provides that the Bill extends to England and Wales only and that the amendments made by the Bill to the 1988 Act and the 2009 Act have effect from 1 April 2017.

Commencement

13. The Bill will come into force on the day on which it receives Royal Assent.

Financial implications of the Bill

14. The Bill contains provisions which will allow for changes to the chargeable amounts paid upon hereditaments wholly or mainly used for the purposes of facilitating the transmission of communication by any means involving the use of electrical or electromagnetic energy. The planned use of the power to provide relief for new fibre is estimated to cost £60m in total over 5 years.

Compatibility with the European Convention on Human Rights

15. Section 19 of the Human Rights Act 1998 requires a Minister in charge of a Bill in either House of Parliament to make a statement about the compatibility of the Bill with the Convention Rights (as defined by section 1 of that Act). Lord Bourne of Aberystwyth, Parliamentary Under Secretary of State for the Department for Communities and Local Government, has stated that in his view the provisions are compatible with Convention rights.

Related documents

16. The following documents are relevant to the Bill and can be read at the links below:

- The Local Government Finance Act 1988
<http://www.legislation.gov.uk/ukpga/1988/41/contents>
- The Business Rate Supplements Act 2009
<http://www.legislation.gov.uk/ukpga/2009/7/contents>
- Delegated powers memorandum

The delegated powers memorandum can be found in the Bill documents section on the Bill's Parliamentary webpage.

<http://services.parliament.uk/bills/2017-19/telecommunicationsinfrastructure/relieffromnondomesticrates/documents.html>

Annex A – Territorial extent and application in the United Kingdom

The Bill extends and applies to England and Wales.

In the view of the Government of the United Kingdom, clauses 1, 2, 3 and 5 of the Bill (as set out in the table below) would be within the legislative competence of the National Assembly for Wales to make corresponding provision.

Provision	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?	Would corresponding provision be within the competence of the National Assembly for Wales?	Would corresponding provision be within the competence of the Scottish Parliament?	Would corresponding provision be within the competence of the Northern Ireland Assembly?	Legislative Consent Motion needed?
Clause 1	Yes	Yes	No	No	Yes	Yes	Yes	Yes (W)
Clause 2	Yes	Yes	No	No	Yes	Yes	Yes	Yes (W)
Clause 3	Yes	Yes	No	No	Yes	Yes	Yes	Yes (W)
Clause 4	Yes	Yes	No	No	No	No	No	Yes (W)
Clause 5	Yes	Yes	No	No	Yes	Yes	Yes	Yes (W)
Clause 6	Yes	Yes	No	No	No	No	No	Yes (W)
Schedule	Yes	Yes	No	No	No	No	No	Yes (W)

Subject matter and legislative competence of devolved legislatures

The Bill makes provision in relation to local government finance. Local government finance is a devolved matter in Scotland, Wales and Northern Ireland.¹ The Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly could therefore make corresponding provision in respect of these matters.

¹Local government finance is a conferred matter by virtue of Schedule 7, Part 1, paragraph 12 of the Government of Wales Act 2006; local taxes to fund local authority expenditure are exceptions to the fiscal, economic and monetary policy reservation by virtue of Schedule 5, Part 2, paragraph 2, Section A1 of the Scotland Act 1998; and local government finance is not an excepted or reserved matter in Schedules 2 or 3 of the Northern Ireland Act 1998.

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