



Ministry of Housing,
Communities &
Local Government

Business Rates: Relief for New Fibre on Telecommunication Hereditaments

Summary of Responses and Government's Response



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Introduction

1. In the 2016 Autumn Statement the Chancellor of the Exchequer announced that the Government will provide 100% business rates relief for new fibre infrastructure for a five year period from 1 April 2017, to support the rollout of fibre connectivity for broadband and future 5G communications to homes and businesses.
2. The Telecommunication Infrastructure (Relief from Non-Domestic Rates) Act 2018 received Royal Assent on 8 February 2018 and provides the powers necessary to implement this relief. In August 2017 the Government published a consultation document seeking views on draft regulations to implement the relief. The Government made clear that it was not consulting upon:
 - a. the policy of the relief;
 - b. who should be eligible for the relief;
 - c. when the relief should apply, or;
 - d. the length of time for which the relief applies.
3. Views were invited by 21 November 2017.

Summary of Responses and Government Response

4. In total 17 responses were received to the consultation. 9 were from telecoms operators or the wider sector, 6 were from local government and 2 were from professional bodies concerned with business rates.

Fibre Eligible for Relief

5. The consultation document asked if the draft regulations put into practice the Government's policy intention in respect of the fibre to be eligible for relief.
6. Some respondents said that the rate relief should apply for a period longer than 5 years as otherwise, due to the lead in time required for investment in the telecom network, operators deciding to invest now would only see a benefit towards the end of the 5 year period. This is out of scope of the consultation. The 5 year period of the relief will support operators who are currently investing in their networks. In response to concerns raised during debates in the House of Lords the Government amended the Bill so that the final Act includes the 5 year period, but still allows the Government to extend the relief in future if they wish. As with all tax matters, that will be a decision for future Budgets.
7. Some respondents also argued that previously "dark" (unused) fibre which had been laid before 1 April 2017 but not "lit" should also be eligible for relief. This is also out of scope of the consultation. The relief is intended to support investment in new fibre. Accordingly the Government will not permit relief for dark fibre which, whilst lit after 1 April 2017, was in fact present before 1 April 2017.

8. One telecom operator argued that Hybrid Fibre Coaxial (HFC) should be included in the relief. The policy intention is to incentivise new fibre and any new fibre as part of a new mixed-technology network, such as fibre-to-the-cabinet or fixed wireless will attract the relief, but not the whole of the new network (unless it is all fibre). The relief will not extend to other technologies. .
9. One telecom operator questioned whether the definition of eligible fibre should include the word “blown” as well as “laid, flown, affixed for attached”. The Government agrees with this response and has included that term in the final regulations.

Determining the rateable value of the new fibre

10. Some operators raised concerns about the challenges for the Valuation Office Agency and rating surveyors in attributing a rateable value to just the new fibre in part of a wider network. Others supported the approach in the draft regulations. These challenges were recognised in the consultation document. The Government considers the relief should be based upon rateable value providing a strong link to the rates bill. Other measures, such as the number of premises or customers passed, may be less subjective and easier to implement but will break the link to the valuation and are likely to give rise to outcomes inconsistent with the policy objective of providing rate relief for new fibre. Therefore, whilst recognising the challenges for the Valuation Office Agency and rating surveyors, the Government has, subject to the modification explained below, decided to retain the proposed approach to determining the rateable value of the new fibre.
11. The methodology or approach the Valuation Office Agency should adopt for the purposes of the certificate is out of scope of the consultation. However, the Valuation Office Agency has commenced discussions with the telecom sector on this matter with a view to agreeing a methodology for certificates which combines accuracy of values with certainty for the sector.
12. One operator noted that the reference to fibre and plant and machinery should also make clear that land used in connection with the new fibre is also part of the relief. The Government considers that the certificate of rateable value should include the value of the land but only that land being the space within which the fibre and plant and machinery sits. The Government does not consider that land which goes beyond those boundaries, such as land under or surrounding the new fibre, should be included in the certificate of value. The regulations have been amended to make this clearer.
13. One respondent sought clarification as to whether wayleaves and ducts were included in the relief. Ducts are included in the regulations as part of plant and machinery used in connection with new fibre. Wayleaves are a means by which telecom operators may occupy land. Whilst the presence of the wayleaves may be relevant for deciding whether a hereditament exists and whether a person is in occupation, wayleaves are not separately rateable from the occupation of the land (in the same way that a lease or licence is not separately rateable from land). Therefore, the Government considers it unnecessary to refer to wayleaves in the certificate of value.
14. One operator argued for the definition of plant and machinery in the regulations to be widened to include others items of equipment. The regulations provide that certain

items of plant and machinery used in connection with new fibre are to be included in the relief. The list of items of plant and machinery in the regulations replicates the list of items which are rateable under the normal rules for business rates¹. Expanding the list of plant and machinery items in the regulations could, therefore, extend the relief beyond items that are, under the normal rules for business rates, rateable because they are used in connection with fibre. The Government believes this would go beyond the policy intention of providing relief for new fibre.

Appealing against the certificate

15. Some operators raised concerns that they would not have a right of appeal if the Valuation Office Agency failed to issue a certificate. The Government accepts this point and has amended the regulations to allow a right of appeal for interested persons in instances where a person has applied for a certificate but, after 6 months, the Valuation Office Agency has failed to issue a certificate.
16. The draft regulations did not include any time limits within which ratepayers could appeal, meaning that as drafted the right of appeal would remain open many years after the rate relief scheme had ended. Therefore, the final regulations allow for appeals up to 1 April 2022, within 6 months of the certificate being issued or within 12 months of an interested person requesting a certificate – whichever is the later.
17. Some operators asked for the regulations to include deadlines by which the Valuation Office Agency must consider appeals against certificates before referring them to the Valuation Tribunal for England. Due to the likely variety and complexity of any appeals and the specialist nature of these valuations, the Government does not believe it should include a set deadline for when such appeals should be referred to the Valuation Tribunal for England.

Final Regulations

18. The Non-Domestic Rating (Telecommunication Infrastructure Relief) (England) Regulations 2018 have been made alongside this response.

¹ Class 3(f) of the Valuation for Rating (Plant and Machinery) (England) Regulations 2000 SI 2000 no. 540.