Telecommunications Infrastructure (Relief from Non-Domestic Rates) Bill (HL Bill 65 of 2017–19)

Summary

The Telecommunications Infrastructure (Relief from Non-Domestic Rates) Bill is a government bill that seeks to implement 100 percent relief from non-domestic rates (business rates) for all new full-fibre infrastructure over the next five years. This policy was announced in the 2016 Autumn Statement, along with a number of other measures related to digital communications.[1] The Bill had its second reading in the House of Commons on 10 July 2017 and completed its Commons stages on 5 September 2017. It received its first reading in the House of Lords on 6 September 2017 and is scheduled for second reading on 9 October 2017. The rate relief was initially due to be implemented through clause 8 of the Local Government Finance Bill in the 2016–17 session, but this Bill fell when Parliament was dissolved on 3 May 2017 for the general election.[2] The Telecommunications Infrastructure (Relief from Non-Domestic Rates) Bill applies to England and Wales only. As the National Assembly for Wales has responsibility for local government finance, the UK Government is seeking to obtain a legislative consent motion from the Welsh Assembly.[3] A legislative consent memorandum was laid before the Welsh Assembly on 25 July 2017 and is currently being considered by the Welsh Assembly Economy, Infrastructure and Skills Committee.[4] It will report to the Assembly on 12 October 2017.[5] The Bill has six clauses and had cross-party support during its consideration in the House of Commons.

Government Policy

In the 2016 Autumn Statement, the Government announced that it would introduce 100 percent business rate relief for new full-fibre infrastructure over a five year period, beginning in April 2017.[6] This was expected to cost £60 million in total over the five years.[7] The rate relief formed part of a number of announcements on digital communications. Overall, the Government said that it would invest over £1 billion (which included £740 million from the National Productivity Investment Fund (NPIF)) by 2020–21 to support the roll-out of full-fibre connections and future 5G communications.[8] 5G is a "term used to describe the fifth generation of mobile communications technologies".[9] These technologies have not been fully developed yet and definitive standards are expected to be agreed in 2019.[10] 5G is expected to deliver ultrafast, reliable and low latency mobile communication and be able to support increasing data requirements.[11]

Of £1 billion announced by the Government, £400 million was pledged for a new Digital Infrastructure Fund to "invest in new fibre networks over the next four years", which would be "at least matched by private finance".[12] In addition, the Government announced that it would provide funding to local areas to "to support investment in a much bigger fibre 'spine' across the UK, prioritising full-fibre connections for businesses and bringing together public sector demand".[13] The Autumn Statement also said that the Government would provide funding for a programme of integrated fibre and 5G trials.[14] The Government subsequently announced in the 2017 Spring Budget that it would invest £16 million for a national 5G Innovation Network to trial new 5G technology.[15] At the same time, the Government also published its

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5G strategy, which set out its ambition for the "UK to be a global leader in the new generation of mobile technology".[16]

Key Provisions

Clauses 1 to 3 of the Bill would amend Part 3 of the Local Government Finance Act 1988 to provide business rate relief for properties wholly or mainly used to provide full-fibre infrastructure in England and Wales. Currently, properties that are liable for non-domestic rates are known as 'hereditaments'. Each billing authority in England and Wales has a local ratings list which lists unoccupied and occupied hereditaments that are liable for business rates.[17] There are also two 'central ratings lists' which list the liable hereditaments in England and Wales. Business rates for hereditaments on the central lists in England are paid direct to the Department for Communities and Local Government, and in Wales to the Welsh Government.[18] According to the Valuation Office Agency, the central rating lists "contain the rating assessments of the network property of major transport, utility and telecommunications undertakings and cross-country pipelines".[19] Clauses 1 and 2 of the Bill would provide the power to give business rate relief for occupied hereditaments and unoccupied hereditaments respectively, and clause 3 would provide relief for properties on the central lists. Each of these clauses state that hereditaments eligible for the rate relief must be "wholly or mainly used for the purposes of facilitating the transmission of communications by any means involving the use of electrical or electromagnetic energy". These clauses introduce a new formula to calculate the chargeable amount for eligible hereditaments.

Clauses 1 to 3 would also grant a number of powers to an 'appropriate national authority', meaning the Secretary of State in relation to England, or Welsh Ministers in relation to Wales. Clauses 1 and 2 would grant powers to specify further conditions, through regulations, that will need to be met for the relief to apply. In addition, clauses 1 to 3 all contain provisions for the appropriate national authority to set the level of rate relief through regulations. Under these regulations, the appropriate national authority may also impose duties or confer powers on valuation officers, and to make provision relating to appeals.

Clause 4 would give effect to a schedule making consequential amendments to the Local Government Finance Act 1988 and to the Business Rate Supplements Act 2009. In addition, clause 4 would provide powers for the appropriate national authority to make consequential amendments by statutory instrument. If such a statutory instrument was used to amend the primary legislation, clause 4 states that it would be subject to the affirmative procedure, while all others would be subject to the negative procedure. Clause 5 makes financial provision for the Bill and clause 6 states that the Bill applies to England and Wales only. In addition, clause 6 provides that the amendments made by this Bill would have effect on or after 1 April 2017. The Parliamentary Under Secretary of State for Communities and Local Government, Marcus Jones, stated that the Bill would have retrospective affect as the announcement in the 2016 Autumn Statement said the relief would be available from April 2017.[20]

Summary of Commons Stages

Second Reading

Introducing the second reading debate in the House of Commons, the Minister of State for Digital, Matt Hancock, stated that the Bill "is all about improved connectivity" and that "our task is to prepare for a world of considerably greater demand for digital connectivity".[21] Given the increasing data demands, Mr Hancock contended that the "challenge is always to stay a step ahead of need" and that the UK needed to lay more fibre-optic cable.[22] He added that fibre was important for implementing the Government's 5G strategy and for improving mobile phone coverage where "people live, work and travel”.[23] On the issue of business rate relief, Mr Hancock added that business rates had “long been cited as a barrier to investment by the telecoms sector”.[24] He noted that while the Bill allows variable rates to be paid, the Government would set them so that no rates are paid for five years from April 2017.[25]

Labour’s Shadow Secretary of State for Communities and Local Government, Andrew Gwynne, stated that the Opposition “cautiously” welcomed the Bill. Mr Gwynne observed that the UK’s main providers had estimated that the economic benefits of fibre broadband would be outstripped by 5G infrastructure by 2026.[26] He explained that estimates suggested that 5G broadband could boost the UK economy by “£5 billion to £7 billion just six years from roll-out, with 5G broadband delivering economic growth almost twice as quickly as conventional fibre broadband used today”.[27] In addition, Mr Gwynne stated that he was disappointed the Bill did not contain other measures found in the Local Government Finance Bill that fell in the 2016–17 session, which included proposals for business rate retention for local authorities. He asked what had happened to these proposals, and why the business rate relief had been put forward in a separate bill.[28] Mr Gwynne also argued that the Bill did not mention expanding broadband coverage in rural areas and expressed concern that the Bill would not necessarily benefit independent providers.[29]

In his response to some of these questions, the Parliamentary Under Secretary of State for Communities and Local Government, Marcus Jones, argued that the Bill would help smaller providers and open up competition by putting “smaller providers on a more level playing field”.[30] Mr Jones added that the Government remained committed to local authorities keeping more of the taxes raised locally and were looking at ways this could be implemented.[31]

Remaining Commons Stages

The programme motion for the Bill specified that the committee stage would be a committee of the whole House and this was held on 5 September 2017. One amendment was tabled at committee stage by the Shadow Communities Minister, Jim McMahon. New clause 1 would have required the Secretary of State to provide an assessment to Parliament of how the business rate relief was working over its first year. Mr McMahon argued that the new clause was needed “because it would allow the Government to assess, within a 12-month period, whether the £60 million is delivering the type of roll-out and coverage that they intended”.[32] He added that the new clause was also tabled in response to concerns that some of the larger broadband providers might seek to ‘game’ the rules.[33] For example, the former Minister of State for Culture and the Digital Economy, Ed Vaizey (Conservative MP for Wantage), suggested that companies could “switch off lit fibre and light dark fibre in order to take advantage of the tax relief”.[34] Mr McMahon argued that the new clause would “send a message to the big providers that Government are watching to make sure that they deliver what is required”.[35]

In response to these concerns, Mr Jones argued that “the relief is all about the physical laying of new fibre in the ground” and stated that “[w]e believe that the definitions in the regulations provide a clear way of capturing what constitutes new fibre”.[36] However, Mr Jones said the Government could not agree to the new clause, as reviewing the relief after one year would cause uncertainty for business over the future of the relief.[37] He added that the Government would “continue to track the operation of the scheme, and where we believe it can be improved, we will take action”.[38] The Bill was reported without amendment.

Clauses 1, 2 and 5 of the Bill were certified as relating exclusively to England and Wales under the English Votes for English Laws procedure. The House resolved itself into the Legislative Grand Committee of English and Welsh MPs and consented to those clauses. During the third reading, Mr Hancock stated that the Bill was “part of a wide-ranging strategy to deliver world-class connectivity for our country” and reiterated the Government’s commitment to improving connectivity in the UK.[39] Mr McMahon restated the Labour Party’s support for the Bill, but regretted the lack of provision for rural broadband in the Bill.[40]

[1] HM Treasury, *Autumn Statement 2016*, November 2016, Cm 9362, pp 28–9.
[2] UK Parliament website, 'Local Government Finance Bill 2016–17', accessed 25 September 2017.
[3] Explanatory Notes, p 2.
[4] National Assembly for Wales, *Legislative Consent Memorandum: Telecommunications Infrastructure (Relief from Non-domestic Rates) Bill*, July 2017.
[5] National Assembly for Wales Business Committee, *Timetable for Consideration of the Legislative Consent Memorandum for the Telecommunications Infrastructure (Relief from Non-Domestic Rates) Bill*, September 2017.
[6] HM Treasury, *Autumn Statement 2016*, November 2016, Cm 9362, pp 28–9.
[7] Explanatory Notes, p 3.
[8] HM Treasury, *Autumn Statement 2016*, November 2016, Cm 9362, p 28.
[9] Department for Culture, Media and Sport and HM Treasury, *Next Generation Mobile Technologies: A 5G Strategy for the UK*, March 2017, p 20.
[10] ibid.
[11] *Wired*, 'What is 5G and When Will it Launch in the UK', 7 June 2017.
[12] HM Treasury, *Autumn Statement 2016*, November 2016, Cm 9362, p 28.
[13] ibid, p 29.
[14] ibid.
[15] HM Treasury, 'Spring Budget 2017: 21 Things You Need to Know', 8 March 2017.
[16] Department for Culture, Media and Sport and HM Treasury, *Next Generation Mobile Technologies: A 5G Strategy for the UK*, March 2017, p 6.
[17] Valuation Office Agency, *Central and Local Rating Lists: Non-Domestic Rating in England and Wales: Release Notes*, 11 December 2014.
[18] Valuation Office Agency, 'The Central Rating List', 21 September 2016.
[19] Valuation Office Agency, 'The Central Rating List—2017', 12 September 2017.
[20] HC *Hansard*, 5 September 2017, col 112.
[21] HC *Hansard*, 10 July 2017, col 64.
[22] ibid.
[23] ibid, col 67.
[24] ibid, col 68.
[25] ibid.
[26] ibid, col 70.
[27] ibid.
[28] ibid.
[29] ibid, cols 70 and 72.
[30] ibid, col 124.
[31] ibid.
[32] HC *Hansard*, 5 September 2017, col 119.
[33] ibid.
[34] ibid, cols 112–13.
[35] ibid, col 119.
[36] ibid, col 120.
[37] ibid.
[38] ibid.
[39] ibid, cols 122–4.
[40] ibid, cols 124–5.