STATUTORY INSTRUMENTS

2018 No. 425

RATING AND VALUATION, ENGLAND

The Non-Domestic Rating (Telecommunications Infrastructure Relief) (England) Regulations 2018

Made - - - -	*27th March 2018*
Laid before Parliament	*29th March 2018*
Coming into force - -	*20th April 2018*

The Secretary of State for Housing, Communities and Local Government makes these Regulations in exercise of the powers conferred by sections 43(4F), 44(10) and (11), 45(4C) to (4E) and 54ZA(1), (3) and (4) of the Local Government Finance Act 1988(**1**) and sections 4(2), 4(4)(b) and 6(2) of the Telecommunications Infrastructure (Relief from Non-Domestic Rates) Act 2018(**2**).

PART 1

Preliminary

Citation, commencement, application and effect

1.—(1) These Regulations may be cited as the Non-Domestic Rating (Telecommunications Infrastructure Relief) (England) Regulations 2018 and come into force on 20th April 2018.

(2) These Regulations apply in relation to England only.

(3) Part 2 of these Regulations has effect in relation to chargeable days on or after 1st April 2017.

(4) The amendments made by Part 3 of these Regulations have effect in relation to chargeable days on or after 1st April 2017.

(**1**) 1988 c.41. Sections 43(4F), 44(10) and (11), 45(4C) to (4E) and 54ZA were inserted by sections 1 to 3 of the Telecommunications Infrastructure (Relief from Non-Domestic Rates) Act 2018 (c.1). See sections 43(4H), 45(4G) and 54ZA(6) for the definitions of "appropriate national authority".

(**2**) 2018 c.1.

PART 2

Telecommunications infrastructure relief

Interpretation

2. In this Part—

"the Act" means the Local Government Finance Act 1988;

"appropriate valuation officer"—

(a) in relation to a hereditament in respect of which regulations under section 53(1) of the Act (contents of central lists) are in force, means the central valuation officer;

(b) in relation to any other hereditament, means the valuation officer maintaining a local list in which the hereditament is shown;

"central list" means the list compiled and maintained in accordance with section 52 of the Act;

"local list" means a list compiled and maintained in accordance with section 41 of the Act;

"new fibre" has the meaning given in regulation 3(2); and

"plant and machinery" means poles, posts, towers, masts, mast radiators, pipes, ducts and conduits and any associated supports and foundations.

Condition for relief

3.—(1) The condition prescribed for the purposes of sections 43(4F)(c), 45(4C)(c) and 54ZA(1)(d) of the Act, is that new fibre is part of the hereditament.

(2) In these Regulations "new fibre" means fibre that was not laid, flown, blown, affixed or attached before 1st April 2017.

Calculation of the amount of F for occupied hereditaments in a local list

4.—(1) The amount of F prescribed for the purposes of section 44(10) of the Act is the amount calculated in accordance with the formula—

$$1 - \frac{CRV}{RV}$$

where—

CRV is the proportion of the rateable value shown for the hereditament in a local list that is certified by the appropriate valuation officer in accordance with paragraph (3); and

RV is the rateable value shown for the hereditament in a local list for the day.

(2) Where, in relation to a hereditament, the condition in regulation 3(1) is satisfied, the appropriate valuation officer must certify the proportion of the rateable value shown for the hereditament in a local list which appears to that officer to be attributable to—

(a) new fibre;

(b) any plant and machinery used in connection with new fibre; and

(c) the proportion of the hereditament which is exclusively occupied by (a) or (b).

Calculation of the amount of T for unoccupied hereditaments in a local list

5.—(1) The amount of T prescribed for the purposes of section 45(4D) of the Act is the amount calculated in accordance with the formula—

$$1-\frac{CRV}{RV}$$

where—

CRV is the proportion of the rateable value shown for the hereditament in a local list that is certified by the appropriate valuation officer in accordance with paragraph (3); and

RV is the rateable value shown for the hereditament in the local list for the day.

(2) Where, in relation to a hereditament, the condition in regulation 3(1) is satisfied, the appropriate valuation officer must certify the proportion of the rateable value shown for the hereditament in a local list which appears to that officer to be attributable—

(a) to new fibre;

(b) any plant and machinery intended to be used in connection with new fibre; and

(c) the proportion of the hereditament which is exclusively occupied by (a) or (b).

Calculation of the amount of T for descriptions of hereditament in a central list

6.—(1) The amount of T prescribed for the purposes of section 54ZA(3) of the Act is the amount calculated in accordance with the formula—

$$1-\frac{CRV}{RV}$$

where—

CRV is the proportion of the rateable value shown against the ratepayer's name in the central list that is certified by the appropriate valuation officer in accordance with paragraph (3); and

RV is the rateable value shown against the ratepayer's name in the central list for the day.

(2) Where, in relation to a description of hereditament, the condition in regulation 3(1) is satisfied the appropriate valuation officer must certify the proportion of the rateable value shown against the ratepayer's name in the central list which appears to that officer to be attributable to—

(a) new fibre;

(b) any plant and machinery used or intended to be used in connection with new fibre; and

(c) the proportion of the hereditament or hereditaments which is exclusively occupied by (a) or (b).

Certificates: general

7.—(1) The appropriate valuation officer must certify the proportion of rateable value which fall to be certified under these Regulations as soon as practicable after the circumstances calling for the certification come to the appropriate valuation officer's attention (whether by virtue of an application by the ratepayer or otherwise).

(2) A certificate under these Regulations has effect for each day beginning with the date that the circumstances which led to the certification first arose.

(3) A certificate under these Regulations must specify the date on which the certificate takes effect in accordance with paragraph (2) or (4), as the case may be.

(4) Where, whether by reason of a decision of the Valuation Tribunal for England(**3**) or otherwise, the appropriate valuation officer forms the opinion that a certificate under these Regulations (other

(**3**) Established by Part 1 of Schedule 11 to the Local Government Finance Act 1988.

than such a certificate which has been confirmed on appeal) is inaccurate, the appropriate valuation officer must certify the proportion of rateable value which in the appropriate valuation officer's opinion should be substituted for that originally certified.

(5) A certificate under paragraph (4) has effect in place of the previous certificate.

(6) The appropriate valuation officer certifying the proportion of rateable value in pursuance of these Regulations must send a copy of the certificate to—

(a) the billing authority in whose area the hereditament is situated, or, in so far as it relates to a liability under section 54 of the Act, the Secretary of State;

(b) the ratepayer; and

(c) any person who—

(i) is a ratepayer of another hereditament in respect of which a certificate under this Part has been issued; and

(ii) requests a copy.

(7) The copy of the certificate sent to a ratepayer under paragraph (6)(b) may be sent to—

(a) the ratepayer's last known address; or

(b) the address of the hereditament.

(8) The copy of a certificate sent to a ratepayer under paragraph (6)(b) must be accompanied by—

(a) a statement of the effect of regulation 8, and

(b) for a value certified under paragraph (4), a statement as to the effect of paragraph (5).

(9) A certificate issued under these Regulations must be retained by the appropriate valuation officer who issued it.

Appeals against certificates

8.—(1) Where an interested person in relation to a hereditament in respect of which the proportion of the rateable value is certified by an appropriate valuation officer under these Regulations is dissatisfied with the proportion so certified, the interested person may appeal against the certificate in accordance with this regulation.

(2) Where—

(a) a person has applied to an appropriate valuation officer to certify the proportion of the rateable value of a hereditament under these Regulations; and

(b) the appropriate valuation officer—

(i) notifies the person that he does not intend to certify an amount; or

(ii) does not certify an amount within the period of 6 months beginning with the date on which the person applied for a certificate;

an interested person in relation to the hereditament may appeal against the appropriate valuation officer's failure to certify an amount.

(3) An appeal under paragraph (1) or (2) is initiated by serving a notice on the appropriate valuation officer stating the appellant's reasons for making the appeal by the later of—

(a) 1st April 2022; or

(b) the expiry—

(i) in the case of an appeal under paragraph (1), of the period of 6 months beginning with the date on which the proportion of the rateable value is certified by the appropriate valuation officer;

(ii) in the case of an appeal under paragraph (2), of the period of 12 months beginning with the date on which the person applied for a certificate.

(4) Unless—

(a) the notice is withdrawn, or

(b) the appropriate valuation officer and the appellant agree in writing as to the value which should be certified,

the disagreement must be referred by that officer to the Valuation Tribunal for England as an appeal against that certification or failure to certify an amount.

(5) Regulations 2 and 3 and Parts 2, 4 and 5 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009(**4**) ("the 2009 Regulations") apply in relation to an appeal referred by the appropriate valuation officer to the Valuation Tribunal for England under this regulation as if—

(a) the appeal were an NDR appeal (as defined in regulation 2(1) of those Regulations); and

(b) references in the 2009 Regulations to "the appellant" were references to the appellant described in paragraph (1).

(6) For the purposes of paragraph (1), "interested person" in relation to a hereditament means—

(a) an occupier or, if unoccupied, owner on any day for which the certificate has effect; or

(b) any person having a qualifying connection with the person described in sub-paragraph (a).

(7) For the purposes of paragraph (2), "interested person" in relation to a hereditament means—

(a) an occupier or, if unoccupied, owner on any day falling within the period beginning with 1st April 2017 and ending with 31st March 2022; and

(b) any person having a qualifying connection with the person described in sub-paragraph (a).

(8) For the purposes of paragraphs (6) and (7), "qualifying connection" has the meaning given in regulation 2(2) of the 2009 Regulations.

PART 3

Chargeable amounts

Amendment of the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016

9. The Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016(**5**) are amended as follows.

10. In regulation 6 (special authorities)—

(a) in paragraph (2) for "(7), (9) and (11)" substitute "(7), (8A), (9), (10A) and (11)";

(b) after paragraph (8) insert—

"(8A) Where paragraph (8B) applies, paragraph (2) has effect as regards the hereditament for the chargeable day as if the reference in that paragraph to the formula —

$$\frac{((D_{SA}-D)\times N)}{C}$$

(**4**) S.I. 2009/2269 as amended by S.I. 2011/434, S.I. 2013/465 and S.I. 2017/156.
(**5**) S.I. 2016/1265.