

<b>Subject:</b>	Discretionary Relief for Non-Domestic (Business) Rates	<b>Status:</b>	For Publication
<b>Report to:</b>	Council	<b>Date:</b>	12 <sup>th</sup> July 2017
<b>Report of:</b>	Head of Finance & Property Services	<b>Portfolio Holder:</b>	Resources and Customer Services
<b>Key Decision:</b>	<input checked="" type="checkbox"/> Forward Plan <input checked="" type="checkbox"/>	General Exception <input type="checkbox"/>	Special Urgency <input type="checkbox"/>
<b>Equality Impact Assessment:</b>	Required:	No	Attached: No
<b>Biodiversity Impact Assessment</b>	Required:	No	Attached: No
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<b>1.</b>	<b>RECOMMENDATION(S)</b>
1.1	Members are recommended to approve the application of relief (discounts) to Non-Domestic Properties (small businesses & pubs) in line with the criteria outlined by Central Government (appendix A) for all cases in which relief awards will be fully funded by Government grant.
1.2	Members are recommended to delegate the final determination of additional discretionary NDR awards, where these are wholly funded from the 2017 Spring Budget, to the Head of Finance and Property Services and the Portfolio Holder for Resources and Customer Services.

## 2. PURPOSE OF REPORT

- 2.1 The purpose of the report is to formally adopt changes in the criteria for the award of National Non-Domestic Rates (NNDR / Business Rates) relief. Following the latest Business Rates revaluation, Government has made available funding for additional relief to be awarded in relation to pubs, small businesses and other business which have seen increased rate liability.
- 2.2 Central Government has laid out detailed technical guidance relating to the circumstances in which they anticipate that the relief will be granted. Despite this guidance, awards will be made under the regulations relating to discretionary relief. Awards are therefore technically a matter of local discretion and represent a change to Council policy.
- 2.3 It is proposed that where specific criteria are set out by Government for relief to be awarded; and that those amounts of relief are fully funded, then awards will be made to the affected businesses automatically and as soon as is practicably possible.
- 2.4 The relief is targeted at:
- Pubs
  - Those ratepayers who, as a result of the change in their rateable value at the revaluation, are losing some or all of their small business or rural rate relief
  - Other small/medium businesses (rateable value less than £200,000) who have been subject to large increases after the revaluation

- 2.5 It is proposed that awards will be made in line with the criteria set out in appendix A – Government advice issued 20<sup>th</sup> June, in respect of pubs and affected small businesses.
- 2.6 It is proposed that eligibility for the general discretionary fund, worth £152k over 4 years to local businesses, be allocated in line with the criteria set out by Government when determining grant levels. That is, businesses with a rateable value less than £200,000 subject to increases of more than 12.5% before other reliefs.
- 2.7 The exact distribution of the additional discretionary relief funding is to be delegated to the Head of Finance and Property Services and the Portfolio Holder for Resources and Customers.
- 2.8 It should be noted that, as outlined in the scheme guidance, all awards will be conditional on the scheme eligibility continuing to be met throughout the period of funding. Where there is a material change to rateable value within the period of entitlement, adjustments will be made automatically. Awards will reduce in line with Government funding throughout the period of the schemes.
- 2.9 Initial awards made in 2017/18 will include these assumptions; any changes to entitlement which arise within the term of the scheme do not represent a variation of the award. Any such change would not be subject to the period of notice for variations of discretionary awards as set out in The Non-Domestic Rating (Discretionary Relief) Regulations 1989 (S.I. 1989/1059). That is to say that minimum notice of 12 months would not be required for changes which are fundamental to the scheme of relief. 12 months' notice would only be required if a future decision was made to stop making awards completely

### 3. CORPORATE PRIORITIES

- 3.1 The matters discussed in this report impact directly on the following corporate priorities:
- **Regenerating Rossendale:** This priority focuses on regeneration in its broadest sense, so it means supporting communities that get on well together, attracting sustainable investment, promoting Rossendale, as well as working as an enabler to promote the physical regeneration of Rossendale.
  - **Responsive Value for Money Services:** This priority is about the Council working collaboratively, being a provider, procurer and a commissioner of services that are efficient and that meet the needs of local people.

### 4. RISK ASSESSMENT IMPLICATIONS

- 4.1 The adoption of this policy ensures that authority is contained within the Council's discretionary scheme with resources funded by Central Government.

### 5. BACKGROUND AND OPTIONS

- 5.1 As part of the Spring budget, on 8<sup>th</sup> March 2017 the Government announced changes to the calculation of NNDR bills for the 2017/18 charge year. These are in addition to the normal scheme of transitional relief which has already been applied to limit increase in rates payable

where rateable values have increased.

5.2 A period of consultation has been undertaken by Government with subsequent guidance and funding details published.

5.3 The estimated amount of funding to be made available to affected businesses for the discretionary element if the Rossendale area is:

2017/18 - £100k

2018/19 - £35k

2019/20 - £15k

2020/21 - £2k

Government will fully fund local Councils for the cost of awards made under this scheme i.e. the level of funding made available to Rossendale will meet the Rossendale share of awards, £40k for 2017/18 since there is currently a 40:60 split in rate retention between Rossendale and other recipients.

5.4 Government has been in contact with the major rating software suppliers, including Northgate, the Councils current supplier. Software upgrades are currently being produced which will enable accounts to be identified and awards made.

5.5 Awards will be made on a discretionary basis, therefore the Council is free to:

- Make awards as outlined by Central Government
- Choose not to make any awards of relief and not to take advantage of the available funding
- Choose to award reliefs by some other criteria.

It should be noted that, if there is a decision to explore entirely new criteria, software suppliers would not facilitate the support of any alternative schemes without additional bespoke work which would not be funded by government grant.

5.6 All awards will be subject to state aid rules

5.7 Appendix A is the Governments latest guidance on which the Council's own discretionary schemes will be based.

#### **COMMENTS FROM STATUTORY OFFICERS:**

#### **6. SECTION 151 OFFICER**

6.1 Financial matters are noted in the report.

#### **7. MONITORING OFFICER**

7.1 There are no legal or constitutional matters to note.

#### **8. POLICY IMPLICATIONS AND CONSULTATION CARRIED OUT**

8.1 Policy changes are noted in the report.

## 9. CONCLUSION

9.1 The additional funding will enable reductions in NNDR to be made. Adopting the relief scheme as outlined by Government will mean that awards can be made at the earliest possible opportunity and that there is no cost to local residents.

### Background Papers

Document	Place of Inspection
Discretionary NNDR Relief scheme grant letter Discretionary NNDR Relief scheme grant determination NNDR 2017 schemes	Council's Service Assurance Team office

## Supporting Small Businesses

At the Spring Budget, the Chancellor announced that a scheme of relief would be made available to those ratepayers facing large increases as a result of the loss of small business or rural rate relief. Initial terms for this scheme were published with the BRIL (2/2017) on 9 March 2017.

The transitional relief scheme does not provide support in respect of changes in reliefs. Therefore, those ratepayers who are losing some or all of their small business or rural rate relief may be facing very large percentage increases in bills from 1 April 2017.

On the 16 May a letter was sent to Chief Finance Officers, it included as an annex final guidance on the scheme to authorities about the operation and delivery of this policy for more complex cases. It includes full technical guidance to identify all eligible ratepayers for the duration of the scheme. For completeness, this guidance is attached at **Annex A**. Local authorities are expected to have begun implementing this scheme for simple cases with the initial terms published on 9 March 2017, with a full rollout to all cases with the attached final terms.

## Discretionary Relief Scheme

At the Spring Budget, the Government announced the establishment of a £300m discretionary fund over four years from 2017/18 to support businesses in their area. The £300m will cover the four years from 2017/18:

- £175m in 2017/18
- £85m in 2018/19
- £35m in 2019/20
- £5m in 2020/21

DCLG published a consultation of the design of the scheme and draft allocations to billing authorities on 9 March. Allocations were confirmed on 21 April in accordance with those draft allocations published as part of the consultation. On the 28 April the accompanying Grant Determination was also circulated to Chief Finance Officers. The allocations can be found at:

<https://www.gov.uk/government/consultations/discretionary-business-rates-relief-scheme>

The Government is grateful for all responses to the consultation, which ran until 7 April. Billing authorities have already begun developing their own discretionary schemes to deliver targeted support to the most hard-pressed ratepayers. For avoidance of doubt, the design and administration of schemes is for authorities to decide and does not necessarily need to follow the distribution methodology used in the consultation to determine allocations.

## Support for Pubs

At the Spring Budget, the Government also announced a new relief scheme for pubs that have a rateable value of below £100,000. Under the scheme, eligible pubs will receive a £1000 discount on their bill. The relief will have effect for 2017/18.

DCLG has worked with key industry stakeholders to determine the operation of the relief scheme for pubs. Many authorities have already begun the work to identify eligible pubs in their area and final guidance on the design and delivery of the scheme is attached at **Annex B**

## **Administration of New Reliefs**

Billing authorities are expected to deliver the scheme through the use of their discretionary relief powers under section 47 of the Local Government Finance Act 1988, as amended. Billing authorities will be compensated through a Section 31 grant for the cost to the authority of granting the relief – up to a maximum amount based on the authority's allocation of the £300m fund. The grants will be made quarterly in arrears for the duration of the scheme.

We expect billing authorities to have communicated with ratepayers on the confirmed terms of the new schemes for relief covered by the BRIL (2/2017) and this BRIL (4/2017), including anticipated timescale for rebilling where necessary.

## **New Burdens**

DCLG recognises that implementing these schemes places additional burdens on billing authorities. In accordance with the New Burdens doctrine, the Department has conducted an assessment of the expected reasonable additional costs of new software and staffing/administration around rebilling affected ratepayers. Full details of this funding will be published shortly so we encourage local authorities to continue to progress with this in mind.

## **Supporting Small Businesses: Annex A**

### **About this Guidance**

1. This guidance is intended to support local authorities in administering the scheme of relief for properties losing some or all of their Small Businesses Rate Relief or Rural Rate Relief as a result of the 2017 Revaluation – known as “Supporting Small Business” relief. This Guidance applies to England only.
2. This guidance sets out the criteria which central government will use to determine funding relief for properties eligible for Supporting Small Businesses relief. The Guidance does not replace existing legislation on any other relief.
3. Enquiries on this measure should be addressed to: [ndr@communities.gsi.gov.uk](mailto:ndr@communities.gsi.gov.uk)



## Introduction

4. For 2016/17, eligible ratepayers<sup>1</sup> with a rateable value less than or equal to £6,000 are entitled to 100% small business rate relief. Those with a rateable value of between £6,000 and £12,000 enjoy tapered relief from 100% to 0%. Following the measures in the 2016 Budget, we are increasing these thresholds from 1 April 2017 to £12,000 for the 100% relief and £15,000 for the tapered relief. This ensures that most ratepayers currently entitled to small business rate relief will pay less or nothing following the revaluation. However, some ratepayers that are facing large increases in their rateable value will lose some or all of their small business rate relief.

**1 Businesses with more than one property are only eligible for small business rate relief if their additional property or properties all have rateable values of under £2,600, and the total rateable value of all their properties are below £18,000 (£25,500 in London).**

5. For 2016/17 the sole post office, general store, pub or petrol station in rural settlements are (subject to rateable value thresholds) entitled to 50% rate relief. This is increasing to 100% relief from 1 April 2017. However, some ratepayers currently eligible for rural rate relief may lose that entitlement if their rateable value increases above the threshold due to the revaluation.

6. The transitional relief scheme does not provide support in respect of changes in reliefs. Therefore, those ratepayers who are losing some or all of their small business or rural rate relief may be facing large percentage increases in bills from 1 April 2017.

7. In the Spring Budget the Chancellor announced that a new scheme of relief would be made available to those ratepayers facing large increases as a result of the loss of small business or rural rate relief due to the revaluation. This document provides guidance to authorities about the operation and delivery of this policy.

## How will the relief be provided?

8. The government is not changing the legislation around transitional relief<sup>2</sup>. Instead the government will, in line with the eligibility criteria for the Supporting Small Businesses scheme, reimburse billing authorities that use their discretionary relief powers, under section 47 of the Local Government Finance Act 1988, as amended<sup>3</sup>, to grant relief. Central government will fully reimburse local authorities for the local share of the Supporting Small Businesses relief (using a grant under section 31 of the Local Government Act 2003). In view of the fact that such expenditure will be reimbursed, the government expects billing authorities to grant Supporting Small Businesses relief to all qualifying ratepayers.

<sup>2</sup> The Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016 No. 1265

<sup>3</sup> Section 47 was amended by the Localism Act 2011

9. Central government will reimburse billing authorities and those major precepting authorities within the rates retention system for the actual cost to them under the rates retention scheme of the relief that falls within the definitions in this guidance. DCLG will also undertake a New Burdens assessment of the IT and administrative costs in local government associated with the Supporting Small Businesses scheme.

# Who is eligible for the relief and how much relief will be available?

10. This section describes in principle the Supporting Small Business Scheme. Local authorities should use the detailed guidance at section 2 to determine eligibility and calculate bills. The Supporting Small Businesses relief will help those ratepayers who as a result of the change in their rateable value at the revaluation are losing some or all of their small business or rural rate relief and, as a result, are facing large increases in their bills.

11. To support these ratepayers, the Supporting Small Businesses relief will ensure that the increase per year in the bills<sup>4</sup> of these ratepayers is limited to the greater of:

**4 Prior to the Business Rates Supplement (2p for properties in London with a rateable value of more than £70,000) and City of London multiplier (which is 0.5p higher for all properties in London). The level of these supplements are unchanged at the revaluation but changes in the amounts paid through the supplements are outside the transitional relief scheme and the Supporting Small Businesses scheme.**

**5 This will be the bill in the main transitional relief scheme.**

a. a percentage increase p.a. of 5%, 7.5%, 10%, 15% and 15% 2017/18 to 2021/22 all plus inflation. Unlike the transitional relief scheme, for the first year of the scheme the percentage increase is taken against the bill for 31 March 2017 after small business rate relief or rural rate relief , or

b. a cash value of £600 per year (£50 per month). This cash minimum increase ensures that those ratepayers paying nothing or very small amounts in 2016/17 after small business rate relief are brought into paying something.

12. In the first year of the scheme, this means all ratepayers losing some or all of their small business rate relief or rural rate relief will see the increase in their bill capped at £600. The cash minimum increase is £600 per year thereafter. This means that ratepayers who are currently paying nothing under small business rate relief and are losing all of their entitlement to relief (i.e. moving from £6,000 rateable value or less to more than £15,000) would under this scheme be paying £3,000 in year 5.

13. Those on the Supporting Small Businesses relief scheme whose 2017 rateable values are £51,000 or more will not be liable to pay the supplement (1.3p) to fund small business rate relief while they are eligible for the Supporting Small Businesses relief scheme.

14. Ratepayers remain in the Supporting Small Businesses relief scheme for either 5 years or until they reach the bill they would have paid without the scheme<sup>5</sup>. A change of ratepayers will not affect eligibility for the Supporting Small Businesses relief scheme but eligibility will be lost if the property falls vacant or becomes occupied by a charity or Community Amateur Sports Club.

15. There is no 2nd property test for eligibility for the Supporting Small Businesses relief scheme. However, those ratepayers who during 2016/17 lost entitlement to small business rate relief because they failed the 2nd property test but have, under the rules for small business rate relief, been given a 12 month period of grace before their relief ended can continue on the scheme for the remainder of their 12 month period of grace.

16. Guidance on eligibility and the value of the Supporting Small Businesses relief is at Section 2.

## Recalculations of relief

17. As with all reliefs, the amount of relief awarded under the Supporting Small Businesses relief scheme should be recalculated in the event of a change of circumstances. This could include, for example, a backdated change to the rateable value or the hereditament. This change of circumstances could arise during the year in question or during a later year.

18. The Non-Domestic Rating (Discretionary Relief) Regulations 1989 (S.I. 1989/1059)<sup>6</sup> require authorities to provide ratepayers with at least one year's notice in writing before any decision to revoke or vary a decision so as to increase the amount the ratepayer has to pay takes effect. Such a revocation or variation of a decision can only take effect at the end of a financial year. But within these regulations, local authorities may still make decisions which are conditional upon eligibility criteria or rules for calculating relief which allow the amount of relief to be amended within the year to reflect changing circumstances.

**6 The Non-Domestic Rating (Discretionary Relief) Regulations 1989 No. 1059.**

19. Therefore, when making an award for Supporting Small Businesses relief, local authorities should ensure in the conditions of the award that the relief can be recalculated in the event of a change to the rating list for the property concerned (retrospective or otherwise). This is so that the relief can be re-calculated if the rateable value changes.

## State Aid

20. State Aid law is the means by which the European Union regulates state funded support to businesses. Providing discretionary relief to ratepayers is likely to amount to State Aid. However the Supporting Small Businesses relief scheme will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (1407/2013)<sup>7</sup>.

**7** <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:352:0001:0008:EN:PDF>

**8 The 'New SME Definition user guide and model declaration' provides further guidance:**

[http://ec.europa.eu/enterprise/policies/sme/files/sme\\_definition/sme\\_user\\_guide\\_en.pdf](http://ec.europa.eu/enterprise/policies/sme/files/sme_definition/sme_user_guide_en.pdf)

**9** [http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/infoeuro/infoeuro\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/infoeuro/infoeuro_en.cfm)

**10 Article 3(2) of the De Minimis Regulation**

**11 Detailed State Aid guidance can also be found at:**

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/15277/National\\_State\\_Aid\\_Law\\_Requirements.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/15277/National_State_Aid_Law_Requirements.pdf)

21. The De Minimis Regulations allow an undertaking to receive up to €200,000 of De Minimis aid in a rolling three year period (consisting of the current financial year and the

two previous financial years). Local authorities should familiarise themselves with the terms of this State Aid exemption, in particular the types of undertaking that are excluded from receiving De Minimis aid (Article 1), the relevant definition of undertaking (Article 2(2)<sup>8</sup>) and the requirement to convert the aid into Euros<sup>9</sup>. They should ensure each business has not exceeded its threshold through all sources of state funding<sup>10</sup>.

22. To administer De Minimis it is necessary for the local authority to establish that the award of aid will not result in the undertaking having received more than €200,000 of De Minimis aid. Note that the threshold only relates to aid provided under the De Minimis Regulations (aid under other exemptions or outside the scope of State Aid is not relevant to the De Minimis calculation). Where local authorities have further questions about De Minimis or other aspects of State Aid law, they should seek advice from their legal department in the first instance <sup>11</sup>.

## Other Reliefs

23. Hereditaments eligible for charity or Community Amateur Sports Club relief or hereditaments which are unoccupied are not eligible for Supporting Small Businesses Relief. And, for the avoidance of doubt, small business rate relief or rural rate relief should not be applied to further reduce the bill found under Supporting Small Business relief (to avoid the double counting of relief – see the detailed rules in section 2). For example,

□ a ratepayer eligible for Small Business Rate Relief whose rateable value has increased from £3,000 (paying £0 in 2016/17) to £14,000 would be paying the following in 2017/18 before Supporting Small Businesses relief:

- o Bill before reliefs: £6,524,
- o Bill after transitional relief: £1,555
- o Bill after Small Business Rate Relief (@1/3) £1.037.

□ After Supporting Small Business Relief the bill for 2017/18 would be reduced to £600. No further Small Business Rate Relief should be applied to the £600 bill.

24. The same principle applies to properties for which a Section 44A certificate has been granted (apportionment of rateable values for partly occupied properties). The presence of a section 44A certificate should not further reduce the bill found under the Supporting Small Business scheme.

25. All other discretionary reliefs, including those funded by section 31 grants, should be considered after the application of Supporting Small Businesses relief. Following discussions with local government stakeholders and their software providers, the expectation is that Supporting Small Businesses relief will be shown on the bill as an adjustment to the chargeable amount after any transitional relief – i.e. it will appear as a deduction.

## Compensation Arrangements

26. Central government will reimburse billing authorities and those major precepting authorities for the actual cost to them under the rates retention scheme of the Supporting Small Businesses relief. Local authorities will be asked to provide an

estimate of their likely total cost for providing the relief in a one off estimate for 2017/18. Central government will then provide payments to local authorities for their share of the cost of the estimated relief for 2017/18. The final cost to local authorities will be calculated and reconciled following the NNDR3 for 2017/18.

27. Guidance for local authorities on how to calculate the value of the section 31 grant will be included in the guidance notes for completing the National Non-Domestic Returns (NNDRs). However, in line with the New Burden's principle, section 31 compensation will be calculated having regard to the additional costs on local government of awarding the relief (before any other section 47 reliefs). Therefore, the section 31 grant for Supporting Small Businesses should be calculated by:

a. taking the chargeable amount which would have applied for the hereditament after the transitional arrangements and other mandatory reliefs but before discretionary reliefs,

and deducting

b. the chargeable amount found under the Supporting Small Business scheme before other discretionary reliefs.

28. The same principle will apply for calculation Transitional Protection Payments (TPPs) for the purposes of non-domestic rating income in the rates retention scheme. TPPs on NNDR1s and NNDR3s will be calculating ignoring the Supporting Small Businesses scheme.

## **Section 2: Detailed guidance for operation of the Supporting Small Businesses (SSB) scheme**

### **Day 1 Eligibility for the Scheme**

29. For 1 April 2017, the supporting small businesses (SSB) relief scheme applies to hereditaments for which<sup>12</sup>:

<sup>12</sup> unless otherwise stated, references are to the Local Government Finance Act 1988

a. the chargeable amount for 31 March 2017 is calculated in accordance with section 43(4B) or (6B),

b. in relation to 43(4B) the value of E for 31 March 2017 is greater than 1,

c. the chargeable amount for 1 April 2017 is found in accordance with section 43(4), 43(4B), 43(6A) or where regulations 12(3), 12(7) or 12(9) of the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016 No. 1265 applies, and

d. the chargeable amount for 1 April 2017 is more than (£600/365) higher than the chargeable amount for 31 March 2017.

30. Where for 31 March 2017 the chargeable amount has been found under section 47, then eligibility for SSB should be determined as if section 47 did not apply.

31. Where the hereditament is shown in a local list for the area of a special authority (i.e. the City of London), then eligibility for SSB should be determined as if the special authority's small business non-domestic rating multiplier was 48.4p for 2016/17 and 46.6p for 2017/18.

### **Continued eligibility for the scheme after 1 April 2017**

32. After 1 April 2017, the Supporting Small Businesses (SSB) scheme will cease to apply where:

a. the chargeable amount for a day found under the SSB scheme is the same as or more than the chargeable amount found in the absence of the SSB scheme. This ensures that where, for example, the minimum increase in the chargeable amount in the SSB scheme would take the bill above the level it would otherwise have been then the hereditament will drop out of the SSB scheme. It also ensures that where, for example, with effect from after 1/4/17, the hereditament becomes eligible for 100% Small Business Rate Relief then they also fall out of the SSB scheme,

b. the chargeable amount for a day would otherwise fall to be found by section 43(5) or where paragraph 12(5) or sub-paragraphs 2(4), 3(4), 4(4), 5(4) of Schedule 2 of the Non-Domestic Rating (Chargeable

Amounts) (England) Regulations 2016 No. 1265 applies (charities or registered community amateur sports clubs), or

c. the hereditament for a day is unoccupied.

33. Furthermore, where the ratepayer during 2016/17 lost entitlement to small business rate relief because they failed the 2nd property test but have, under the rules for small business rate relief, been given a 12 month period of grace before their relief ended (and therefore was still entitled to small business rate relief on 31 March 2017), then eligibility for the SSB scheme will cease at the end of that 12 months period of grace.

34. Hereditaments which cease to be entitled to Supporting Small Businesses for a day cannot return to eligibility if their circumstances change from a later day. For example, if a property falls unoccupied it will not then be eligible for Supporting Small Businesses relief if it subsequently becomes occupied again.

## **Chargeable Amount under the Supporting Small Businesses Scheme**

35. Where the Supporting Small Businesses scheme applies then DCLG will fund local authorities to apply a chargeable amount under section 47 of the 1988 Act for the period 1 April 2017 to 31 March 2022 found in accordance with the rules in [Part 1 to Part 3 of] the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016 No. 1265 subject to the following changes:

a. BL for 2017/18 is the chargeable amount for 31 March 2017 x 365 (on the assumption that section 47 did not apply for 31 March 2017 and on the assumption in the City of London that the special authority's small business non-domestic rating multiplier was 48.4p for 2016/17). This ensures the starting base liability for hereditaments eligible for SSB include the SBRR or rural rate relief for 31 March,

b. Where a certificate has been issued under regulations 17 or 18 then BL for 2017/18 should be found in line with a) above but on the assumption that the rateable value in the rating list was the rateable values as certified,

c. References to "(BL x AF)" are to "(BL x AF) or (BL + 600) whichever is the greater". This ensures the bill increase is the greater or £600 or the increase under the caps in the transitional relief scheme,

d. AF is found in accordance with regulation 10(6) irrespective of the rateable value of the hereditament for 1 April 2017. This ensures only the cap on increases for small properties is applied in the SSB scheme irrespective of the actual rateable value of the hereditament,



e. regulation 12(6)(b) is omitted. This ensures SBRR is not also applied to the capped bill in the SSB scheme. This avoids double counting of relief as illustrated at paragraph 23 above,

f. the reference to “2” in regulation 12(8) is “1”. This ensures rural rate relief is not also applied to the capped bill in the SSB scheme. This avoids double counting of relief,

g. “U” is taken to have a value of 0 throughout. This ensures that any hereditament whose rateable value is £51,000 or more does not have to pay the 1.3p supplement whilst eligible for SSB relief,

h. for a year (the year concerned) other than 2017/18, BL is  $(BL \times AF)$  or  $(BL + 600)$  from the year immediately the year concerned whichever is the greater.

36. No change is made to the meaning of NCA. However, as discussed above, eligibility for Supporting Small Businesses relief ceases when the chargeable amount for a day found under the Supporting Small Businesses scheme is the same as or more than the chargeable amount found outside the scheme.

37. Regulation 6 (special authorities) will apply as normal under the Supporting Small Businesses scheme. This ensures ratepayers in the City of London continue to pay any additional amount attributable to the City multiplier.

38. For the avoidance of doubt, the rules for changes in rateable value with effect from after 1 April 2017 (regulation 13) will continue to apply as normal subject to the amendments in paragraph 35 above. This ensures that, for example, later increases in rateable value are paid in full in the normal way<sup>13</sup>.

<sup>13</sup> based on the small business non-domestic multiplier. This is because U is taken to have a value of 0 throughout.

## **Splits and mergers**

39. The SSB scheme will apply to hereditaments:

a. coming into existence because of the circumstances described in paragraph 1 of Schedule 2 of Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016 No. 1265,

b. where one of the hereditaments from which the new hereditament was formed in whole or in part was for the day immediately before the creation day eligible for the SSB scheme, and

c. the circumstances described at paragraph 32 above do not apply for the creation day in respect of the hereditament.

40. After the creation day, the SSB scheme will cease to apply in the circumstances described in paragraph 32 above.

41. The number of hereditaments eligible for SSB which then split or merge is likely to be very small and devising rules in particular for mergers with

properties outside of the SSB scheme would be complex. Therefore, in discussions with local authority stakeholders, DCLG has concluded it would be disproportionate to devise detailed rules to prescribe the chargeable amounts in the various circumstances which could arise from a split or a merger.

42. Instead, for hereditaments meeting the criteria in paragraph 39 and 40 above, DCLG will fund local authorities to apply a chargeable amount under section 47 of the 1988 Act found in accordance with the following principle:

- a. that the protection offered by the SSB scheme (that the bill will not rise by the greater of £600 p.a. or the transitional relief caps) will continue to apply in principle to that part of the newly created hereditament which was immediately before the creation day in the SSB scheme, and
- b. that increases (or reductions) in overall rateable value arising from the split or merger are not subject to the protection of the SSB scheme.

43. For simple splits of hereditaments previously eligible for SSB, authorities may wish to simply apportion the chargeable amount in the SSB scheme for the hereditament before the split in line with the change in rateable value from the split (i.e. in line with the principle in Schedule 2 of Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016 No. 1265).

44. For mergers and reorganisations, authorities will have to estimate the degree to which, in line with the principle of the SSB scheme, that part of the hereditament which was formerly eligible for SSB should continue to receive support under the SSB scheme. DCLG does not expect authorities to seek any formal apportionments of the rateable value for this purpose.

# Support for Pubs Guidance: Annex B

## 1. About this guidance

1.1 This guidance is intended to support local authorities in administering the “Pubs Relief Scheme” announced in the Budget on 8 March 2017. This guidance applies to England only.

1.2 This guidance sets out the detailed criteria, which local Government will use to provide funding relief for pubs. This guidance does not replace existing legislation or any other relief.

1.3 Enquiries on this measure should be addressed to:

[ndr@communities.gsi.gov.uk](mailto:ndr@communities.gsi.gov.uk)

## 2. Introduction

2.1 The Government recognises the important role that pubs play in urban and rural communities across the country. At Spring Budget 2017, the Chancellor announced a £1,000 business rate discount for public houses with a rateable value of up to £100,000 for one year from 1 April 2017. This was part of a wider £435m package to support businesses – including pubs - facing significant increases in rate bills following the business rates revaluation. This included £110m of support for small businesses losing small business rates relief (SBRR) or rural rate relief (RRR) and providing local authorities with funding to support £300 million of discretionary relief.

2.2 This document provides guidance on the pubs relief scheme. It sets out how the scheme should operate and the eligibility criteria that should apply.

2.3 The Government expects local billing authorities to use their discretionary relief powers under section 47 of the Local Government Finance Act 1988 to grant relief to all qualifying ratepayers. We will reimburse local authorities using grants under section 31 of the Local Government Act 2003, provided they have acted in accordance with guidance. No new legislation will be required to deliver the scheme. Sections below explain how the scheme will operate, the level of funding available, and the means of compensation.

2.4 The guidance will be of interest to local authorities, operators of pubs and similar businesses, and their representative bodies.

### 3. Eligibility criteria - which properties should benefit

3.1 This section describes in principle the Pubs Relief Scheme. Local authorities should use this section to determine eligibility for the relief. The scheme will be available to eligible occupied properties with a rateable value of less than £100,000. The majority of pubs are independently owned or managed and will not be part of chains. Where pubs are part of a chain, relief will be available for each eligible property in the chain, subject to meeting State Aid requirements (see section 5 of this guidance).

3.2 There is no definitive description of a traditional pub or public house in law which could be readily used by local authorities to determine eligibility. The objective has been to adopt an approach that makes the design and eligibility of the scheme easy to implement by local authorities in a clear and consistent way, is widely accepted by the industry and which is consistent with the Government's policy intention as set out in this section.

3.3 The Government's policy intention is that eligible pubs should:

- be open to the general public
- allow free entry other than when occasional entertainment is provided
- allow drinking without requiring food to be consumed
- permit drinks to be purchased at a bar.

For these purposes, it should exclude:

- restaurants
- cafes
- nightclubs
- hotels
- snack bars
- guesthouses
- boarding houses
- sporting venues
- music venues
- festival sites
- theatres
- museums
- exhibition halls
- cinemas
- concert halls
- casinos

3.4 The proposed exclusions in the list at para 3.3 is not intended to be exhaustive and it will be for the local authority to determine those cases where eligibility is unclear. We believe that billing authorities will already have a good understanding of the licensed premises in their areas and will be able to readily form a view on eligibility in the majority of cases. We expect local authorities to design the implementation of the scheme with regard to their business rates base and existing collection practices.

3.5 Where eligibility is unclear authorities should also consider broader factors in their considerations – i.e., in meeting the stated intent of policy that it demonstrates the characteristics that would lead it to be classified as a pub, for example being owned and

operated by a brewery. Additionally, local authorities may also wish to consider other methods of classification, such as the planning system and the use classes order to help them decide whether a property is a pub or not. However, permission for a particular use class will not necessarily mean that the property meets the definition of a pub.

## 4. How much relief will be available?

4.1 The total amount of Government-funded relief available for 2017/18 under this scheme is up to £1,000 for each eligible property. There is no relief available under this scheme for properties with a rateable value of £100,000 or more. Eligibility for the relief and the relief itself will be assessed and calculated on a daily basis.

4.2 In addition to the pub scheme set out in this guidance, the Chancellor announced in the Spring Budget that £110 million will be available to assist ratepayers losing small business rates relief or rural rate relief as a result of revaluation. On top of this, the Government is also making available a separate £300 million discretionary relief fund over the next four years to enable local authorities to help individual businesses that are facing increased rates bills. Both of these schemes may also be available to pubs.

## 5. Compensation arrangements

5.1 Government will reimburse billing authorities and those major precepting authorities for the actual cost to them under the rates retention scheme of the relief that falls within the adopted criteria for pubs relief. Local authorities will be asked to provide an estimate of their likely total cost for providing the relief in a one off estimate for 2017/18. The Government will then provide payments to local authorities for their share (under the rates retention scheme) of the cost of the estimated relief for 2017/18. The final cost to local authorities will be calculated and reconciled following the NNDR3 for 2017/18.

### State Aid

5.2 State Aid law is the means by which the European Union regulates state funded support to businesses. Providing discretionary relief to ratepayers is likely to amount to State Aid. However the support for ratepayers will be State Aid compliant where it is provided in accordance with the *de minimis* regulations (EC 1407/2013)<sup>14</sup>.

<sup>14</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:352:0001:0008:EN:PDF>

<sup>15</sup> The 'New SME Definition user guide and model declaration' provides further guidance:

[http://ec.europa.eu/enterprise/policies/sme/files/sme\\_definition/sme\\_user\\_guide\\_en.pdf](http://ec.europa.eu/enterprise/policies/sme/files/sme_definition/sme_user_guide_en.pdf)

<sup>16</sup> [http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/inforeuro/inforeuro\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/inforeuro_en.cfm)

<sup>17</sup> Detailed State Aid guidance can also be found at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/15277/National\\_State\\_Aid\\_Law\\_Requirements.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/15277/National_State_Aid_Law_Requirements.pdf)

5.3 The *de minimis* regulations allow an undertaking to receive up to €200,000 of '*de minimis*' aid over a rolling three year period (consisting of the current financial year and the two previous financial years). Local authorities should familiarise themselves with the terms of this State Aid exemption, in particular the types of undertaking that are excluded from receiving *de minimis* aid (Article 1), the relevant definition of undertaking (Article 2(2))<sup>15</sup> and the requirement to convert the aid into Euros<sup>16</sup>.

5.4 It is necessary for the local authority to establish that the awarding of aid will not result in the undertaking having received more than €200,000 of *de minimis* aid. Note

that the threshold only relates to aid provided under the *de minimis* regulations (aid under other exemptions or outside the scope of State Aid is not relevant to the *de minimis* calculation). Where local authorities have further questions about the *de minimis* regulations or other aspects of State Aid law, they should seek advice from their legal department in the first instance<sup>17</sup>.

5.5 Pubs are within the scope of State Aid law as companies within the hospitality sector can and do set up business in other Member States as they trade on a market. Linked enterprises are considered as one single undertaking for the application of the *de minimis* rule, therefore can receive €200,000 *de minimis* aid (including that outside of business rates relief) over three years.

### ***Discretionary Relief in Enterprise Zones?***

5.6 Where an eligible property is also eligible for Enterprise Zone relief, then Enterprise Zone relief should be granted and this will be funded under the rates retention scheme by a deduction from the central share. Local authorities should not provide pub relief to properties which would otherwise qualify for Enterprise Zone Government funded relief.

### ***Other Discretionary Reliefs reimbursed by s.31 grants***

5.7 Similarly, if a property is eligible for relief under other schemes for which s.31 grant is payable – for example, “new empty property” relief, or the Supporting Small Business Scheme– authorities should first award relief under those schemes and claim s.31 grant funding in the normal way. Only having awarded relief under those schemes, should they then award additional relief in accordance with the Pubs Relief Scheme.

5.8 DCLG does not prescribe whether Scheme 2 (Discretionary Relief) is calculated before or after Scheme 3 (Support for Pubs). However, DCLG understands that authorities and software companies will follow the practice of taking the Discretionary Relief before the Pubs Relief.