

CABINET

7 JULY 2015

BUSINESS RATE RELIEF

Portfolio Holder: Councillor Rupert Turpin, Business Management

Report from: Phil Watts, Chief Finance Officer

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Summary

Central Government has asked local authorities to consider using their discretionary powers to award business rate relief in certain circumstances.

1. Budget and Policy Framework

1.1 It is the responsibility of Cabinet to approve the procedures to operate for the award of discretionary relief from National Non-Domestic (Business) Rates.

2. Background

2.1 The Local Government Finance Act 1988 provides local authorities with discretionary powers to grant relief from non domestic rates on property occupied by charities and other non-profit making organisations. Following the introduction of the Business Rates Retention Scheme the Government, Medway Council and Kent & Medway Fire Authority share the cost of granting such relief on a 50:49:1 basis.

2.2 The Localism Act 2011 introduced a new power for local authorities to award a local discretionary relief where it is in the council tax payers' interests to do so. The cost of any such discount is ordinarily borne on the same basis as outlined at 2.1 above.

2.3 Since the Autumn statement in 2012, the Government has announced a number of temporary reliefs to assist businesses. As these are temporary measures the Government, rather than changing the rules on eligibility through regulations, has suggested that local authorities use their discretionary relief powers and where they have done so reimbursed them using a grant under s31 of the Local Government Act 2003 (LGA 2003).

- 2.4 Cabinet agreed on 11 February 2014 (decision 30/2014) to adopt three such discounts with the detailed application of those schemes being delegated to the Chief Finance Officer in consultation with the Portfolio Holder for Finance:
- New Builds Empty Property Rate Relief
 - New Occupation of Long Term Empty Property Rate Relief
 - Retail Relief.

Transitional Relief Scheme

- 2.5 In the 2014 Autumn statement the Government announced a package of business rate measures which included the extension of transitional relief scheme for two years for properties with a rateable value up to and including £50,000.
- 2.6 Guidance on the scheme was circulated by the Department for Communities and Local Government in January 2015 again requesting that local authorities award relief under their discretionary powers stating that Central Government would fully reimburse local authorities under s31 LGA 2003. (Appendix A Extension of Transitional Relief for small and medium properties - Guidance).

Automated Teller Machines

- 2.7 Ministers have urged authorities to consider using their discretionary powers to aid access to free to use cash machines (known as Automated Teller Machines or ATMs) where there is a clear community benefit . However, the Government will not reimburse the local share in these cases. (Appendix B).

Childcare provision

- 2.8 In addition Ministers would like to encourage authorities to consider using their business rates local discounts powers to support access to local high quality childcare provision. Again the Government will not reimburse the local share in these cases. (Appendix C).

3. The Current Position

Transitional Relief Scheme

- 3.1 The transitional relief scheme was introduced in 2010 to help those ratepayers who were faced with higher bills following the revaluation of all non-domestic properties. The scheme sought to phase the help out over a five year period ending on 31 March 2015. This means that a small number of ratepayers faced a jump in their full rates bill from 1 April 2015.
- 3.2. Two properties have been identified in Medway so far which would attract a total of £1,836.00 in relief for the ratepayers were the proposed extension of transitional relief to be adopted

Automated Teller Machines

- 3.3 Up until 2014 ATMs were assessed as part of the property to which they were attached. Since then, however, where an ATM is owned & operated

separately from that property it is assessed on its own. For example an ATM located in a bank forms part of the bank's assessment whilst an ATM on a petrol station forecourt is likely to be rated separately.

- 3.4 There are 39 separately rated ATMs across Medway with rates currently due in 2015/2016 amounting to £133,278.75. Should relief be provided this would generate an additional cost to the council of £65,306.59.

Childcare provision

- 3.5 There are approximately 100 nurseries and playgroups in Medway. Many of these share accommodation (for example use church halls or schools) and as such are not rated separately. There are 29 properties in Medway assessed as Day Nursery & Premises. 7 of these assessments are already in receipt of 100% rate relief (either charity relief or small business rate relief). An additional 14 assessments are in receipt of partial relief (either small business rate relief or retail rate relief). Should additional relief be provided it would generate an additional cost to Medway of £105,666.69.

4. Options

- 4.1 From 1 April 2012, the Council has complete discretion to offer business rate discounts to any properties of their choosing. As such it can choose to follow, reject or amend any of the Government's suggested reliefs.
- 4.2 The Cabinet on 12 March 2013 adopted guidelines for the award of hardship relief that can be applied to struggling individual businesses (Decision 60/2103), which is considered to be a more focussed way of providing support.

5. Advice and analysis

- 5.1 Given that extending transitional relief will be fully funded by central government, the Council would need to show clear reasons for not creating such a relief in case of future challenge.
- 5.2 The fact that the Council would have to fund 49% of the cost of relief for ATMs and nurseries needs to be consider alongside other budgetary demands and whether to award such relief would meet the stated government objectives.

6. Risk Management

Risk	Description	Action to avoid or mitigate risk
Government funding reduced	Likelihood D (Low) Impact 3/2 (Marginal/Critical) Whilst the Government is currently continuing to part fund some discretionary awards there is no guarantee this will continue	Officers to monitor Government actions and notify cabinet of any adverse changes to funding arrangements

Business Rate Retention Scheme	Likelihood C (Significant) Impact 3 (Marginal) Government has legislated to allow councils to retain a proportion of the growth in the business rates tax base in their area from a baseline position that should reflect the council's spending needs.	Officers to monitor Government actions and notify cabinet of any adverse changes to funding arrangements
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7. Financial and legal implications

7.1 The financial and legal implications are set out in the body & appendices of this report.

8. Recommendations

8.1 That Cabinet adopts an extended transitional relief scheme in accordance with the Government guidelines limited to that funded by central government.

8.2 That Cabinet adopts local discretionary rate reliefs for Automated Teller Machines and childcare provision but that the guideline amount be set at 0% with each case being treated on its own merits.

9. Suggested reasons for decision

9.1 The extended transitional relief scheme has been promoted by and will be funded by central government to assist small business ratepayers. Given the lack of cost to the local taxpayer it is appropriate for the Council to operate such a scheme.

9.2 Creating discounts for ATMs and nurseries will incur additional expenditure for the Council for businesses that may well be able to afford to contribute. The Council already has the ability to award hardship relief to struggling businesses which is a more focussed way of providing support.

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Background papers

Cabinet Report *Capital and Revenue Budgets - 2014/2015* 11 February 2011
Available via the Council's website:
<http://democracy.medway.gov.uk/mgAi.aspx?ID=8829>

Cabinet Report *Business Rate Relief* 12 March 2013

Available via the Council's website:

<http://democracy.medway.gov.uk/ieListDocuments.aspx?CIId=115&MIId=2535&Ver=4>

Appendices

Appendix A –Extension of Transitional Relief for small and medium properties -
Guidance

Appendix B - Business Rates Information Letter 24 October 2014

Appendix C - Business Rates Information Letter 14 January 2015



Department for
Communities and
Local Government

Business Rates

Extension of Transitional Relief for small and medium
properties - Guidance



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Extension of Transitional Relief for small and medium properties - Guidance

About this guidance

1. This guidance is intended to support local authorities in administering the extension of transitional relief for small and medium properties announced in the Autumn Statement on 3 December 2014. This Guidance applies to England only.
2. This guidance sets out the detailed criteria which central government will use to determine funding relief for properties falling out of transition to higher bills in 2015/16. 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

Introduction

4. The transitional relief scheme was introduced in 2010 to help those ratepayers who were faced with higher bills. The scheme ends on 31 March 2015 and as a result a small number of ratepayers will face a jump to their full rates bill from 1 April 2015.
5. The government announced in the Autumn Statement on 3 December 2014 that it will extend to March 2017 the current transitional relief scheme for properties with a rateable value up to and including £50,000.
6. This document provides guidance to authorities about the operation and delivery of the policy. The number of ratepayers affected in each local authority is very small (typically below 100) and the government recognises that authorities may choose to explore manual solutions to calculate the relief. If as a result authorities are unable to include the award of relief in bills for the beginning of 2015/16 then they are encouraged to inform the ratepayers affected that relief is available.

Section 1:

Extension of Transitional Relief

How will the relief be provided?

7. As this is a measure for 2015-16 and 2016-17, the government is not changing the legislation around transitional relief. Instead the government will, in line with the eligibility criteria set out in this guidance, reimburse local authorities that use their discretionary relief powers, under section 47 of the Local Government Finance Act 1988, as amended¹, to grant relief. It will be for individual local billing authorities to adopt a local scheme and decide in each individual case when to grant relief under section 47. Central government will fully reimburse local authorities for the local share of the discretionary relief (using a grant under section 31 of the Local Government Act 2003). In view of the fact that such expenditure can be reimbursed, the government expects local government to grant discretionary relief to qualifying ratepayers.
8. 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.

Which properties will benefit from relief?

9. Properties that will benefit are those with a rateable value up to and including £50,000 who would have received transitional relief in 2015/16 or 2016/17 had the existing transitional relief scheme continued in its current format. In line with the existing thresholds in the transitional relief scheme, the £50,000 rateable value threshold should be based on the rateable value shown for 1/4/10 or the substituted day in the cases of splits and mergers.
10. This policy applies to transitional relief only (i.e. those moving to higher bills).
11. As the grant of the relief is discretionary, authorities may choose not to grant the relief if they consider that appropriate, for example where granting the relief would go against the authority's wider objectives for the local area. We would encourage councillors to be consulted on the final scheme that the local authority adopts, so there is a clear line of accountability.

How much relief will be available?

12. The government will fund Localism Act discounts to ensure eligible properties receive the same level of protection they would have received had the transitional

¹ Section 47 was amended by the Localism Act 2011

relief scheme extended into 2015/16 and 2016/17. The transitional relief scheme should be assumed to remain as it is in the current statutory scheme² except that:

- a. the cap on increases for small properties (with a rateable value of less than £18,000/£25,500 in London) in both 2015/16 & 2016/17 should be assumed to be 15% (before the increase for the change in the multiplier)³, and
 - b. the cap on increases for other properties (up to and including £50,000 rateable value) in both 2015/16 and 2016/17 should be assumed to be 25% (before the increase for the change in the multiplier)⁴.
13. As explained above, the scheme applies only to properties up to and including £50,000 rateable value based on the value shown for 1/4/10 or the substituted day in the cases of splits and mergers. Changes in rateable value which take effect from a later date should be calculated using the normal rules in the transitional relief scheme⁵. For the avoidance of doubt, properties whose rateable value is £50,000 or less on 1 April 2010 (or the day of merger) but increase above £50,000 from a later date will still be eligible for the relief. Where necessary the Valuation Office Agency will continue to issue certificates for the value at 31 March 2010⁶ or 1 April 2010⁷. The relief should be calculated on a daily basis.
14. A detailed explanation and illustration of how the relief (and the associated section 31 grant) should be calculated is at Annex A.

Recalculations of relief

15. As with the current transitional relief scheme, the amount of relief awarded 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.
16. The Non-Domestic Rating (Discretionary Relief) Regulations 1989 (S.I. 1989/1059)⁸ 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.

² As prescribed in the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2009 No. 3343.

³ Specifically, X in regulation 8(3) for the years commencing 1 April 2015 and 1 April 2016 should be assumed to be 115. Q should be assumed to be 1.019.

⁴ Specifically X in regulation 8(2) for years commencing 1 April 2015 and 2016 should be assumed to be 125. Q should be assumed to be 1.019.

⁵ i.e. "N over J" for reductions or "N minus J" for increases.

⁶ Regulations 15 or 16, SI 2009 No. 3342.

⁷ Regulation 14 SI 2009 No.3343.

⁸ The Non-Domestic Rating (Discretionary Relief) Regulations 1989 No. 1059.

17. Therefore, when making an award for the extension of transitional 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

18. 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 extension of transitional relief will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (1407/2013)⁹.
19. The De Minimis Regulations allow an undertaking to receive up to €200,000 of De Minimis aid in a 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)¹⁰) and the requirement to convert the aid into Euros¹¹.
20. 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 instance¹².

How will the relief work in Enterprise Zones?

21. 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 claim funding for the extension of transitional relief on properties which would otherwise qualify for Enterprise Zone government funded relief.
22. If a property in an Enterprise Zone is not eligible for Enterprise Zone relief, or that relief has ended, the extension of transitional relief may be granted in the normal way, and this would be reimbursed by grant under section 31 of the Local Government Act 2003.

⁹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:352:0001:0008:EN:PDF>

¹⁰ 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

¹¹ http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/inforeuro_en.cfm

¹² 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

Section 2:

Calculation for the extension of transitional relief

Calculating the extension of transitional relief where other reliefs apply

Under the existing statutory transition scheme which ends on 31 March 2015, transitional relief is measured before all other reliefs. But the extension of transitional relief into 2015/16 and 2016/17 will be delivered via section 47 of the Local Government Finance Act 1988 (as amended by the Localism Act) which is measured after other reliefs (including other Localism Act delivered reliefs such as retail relief).

Therefore, for the purposes of awarding relief and claiming section 31 grant, authorities should measure the extension of transitional relief after all other reliefs. To do this authorities will need to:

- Step 1: identify those eligible properties which would have qualified for transitional relief in 2015/16,
- Step 2: calculate the actual rates bill for those properties in 2015/16 after all other reliefs assuming transitional relief has ended,
- Step 3: calculate the rates bill for those properties in 2015/16 after all other reliefs assuming transitional relief continued (in line with the assumptions in this guidance), and
- Step 4: calculate the difference between stage 2 and 3 and award a Localism Act discount to that value.

Authorities will be asked to report the cost of extending the transitional relief scheme using this methodology from which the associated section 31 grant will be calculated (using the appropriate local share).

Example

If a ratepayer would have been eligible for transitional relief of 25% caps in 2015/16 then their bill is calculated as follows (ignoring inflation):

	Step 1	Step 2	Step 3	Step 4
	2014/15	2015/16	2015/16	2015/16
Bill before any reliefs	10,000	10,000	10,000	10,000
Transitional relief (had the original scheme continued)	-4,000	n/a	-2,500	n/a
Net bill before Localism Act discount	6,000	10,000	7,500	10,000
Localism Act discount (to give effect to transitional relief)	n/a	n/a	n/a	-2,500
Net rates bill	6,000	10,000	7,500	7,500

For illustration we have assumed the multiplier does not change between years.

This is the simple case. The value of the transitional relief had the scheme continued is £2,500. In practice extending transitional relief will be achieved by awarding a Localism Act discount which is calculated at the end of the bill. But because there are no other reliefs the value of the discount to ensure in practice transitional relief continues is also £2,500.

But if, for example, the same ratepayer would otherwise have fallen out of transitional relief in 2015/16 also receives 80% charitable mandatory relief then their bill is calculated as follows (ignoring inflation):

	Step 1	Step 2	Step 3	Step 4
	2014/15	2015/16	2015/16	2015/16
Bill before any reliefs	10,000	10,000	10,000	10,000
Transitional relief (had the original scheme continued)	-4,000	n/a	-2,500	0
Net bill before Charitable relief or Localism Act discount	6,000	n/a	7,500	10,000
Charitable Relief	-4,800	-8,000	-6,000	-8,000
Localism Act discount (to give effect to transitional relief)	0	0	0	-500
Net rates bill	1,200	2,000	1,500	1,500

For illustration we have assumed the multiplier does not change between years.

In the above example, whilst the reported cost of transitional relief in 2015/16 would still have been £2,500 had the scheme continued in its current form, this is measured before all other reliefs. In practice extending transitional relief will be achieved by awarding a Localism Act discount which is calculated after all other reliefs. So the value of the discount to ensure in practice transitional relief continues is £500.



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24 October 2014

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Chief Finance Officers of English Billing Authorities

FOR THE ATTENTION OF THE BUSINESS RATES SECTION

Dear Chief Finance Officer

Business Rates Information Letter (10/2014)

This is the tenth business rates information letter to be issued by the Department for Communities and Local Government this year. Previous letters are available on the internet at:

<https://www.gov.uk/business-rates-information-letters>,

or for archived letters:

<http://webarchive.nationalarchives.gov.uk/20120919132719/http://www.communities.gov.uk/localgovernment/localgovernmentfinance/businessrates/busratesinformationletters/>.

This letter covers:

- **business rates retention and shale oil and gas: consultation on draft regulations**
- **business rates on cash machines**
- **information on local authority websites**

Business Rates Retention and Shale Oil and gas: Consultation on Draft Regulations

1. The Government announced on 24 October the start of a technical consultation on draft regulations to implement 100% local retention of business rates on shale oil and gas sites.
2. The Government believes shale oil and gas may hold potential for adding to the UK's energy sources, helping to improve energy security, create jobs and meet carbon targets. And to ensure shale development is safe there are robust rules in place to ensure on-site safety, prevent water contamination and mitigate seismic activity and minimise air emissions.
3. The Government also believe that local councils and communities should share in the economic opportunities and benefits of shale oil and gas. The draft regulations will ensure that local councils that host shale oil or gas sites can benefit from millions of pounds in business rates paid by site operators. The measure could be worth up to £1.7 million for a typical site and will be funded by central Government.
4. The draft regulations define the sites on which 100% retention of business rates will apply and set out the arrangements for sharing that revenue between the different tiers of local government. Consultation will allow us to ensure we have correctly defined shale oil and gas sites and that the regulations, once made, will give local government the certainty they need over future business rates income.
5. The consultation closes on 5 December. Once the Government has considered responses to the consultation the regulations will be laid before Parliament with a view to them coming into force by 1 April 2015. The regulations can be found at the following link:

www.gov.uk/government/consultations/business-rates-retention-and-shale-oil-and-gas-technical-consultation

Business Rates on Cash Machines

6. Ministers would like to urge authorities to consider using their business rates local discounts powers to aid access to free to use cash machines. Recent reports have highlighted the difficulties of obtaining cash in certain localities. We would therefore like authorities to consider using their powers to provide relief to cash machines where there is a clear community benefit, such as where cash machine providers commit to introduce extra cash machines or reduce charges on existing machines. We would also like to remind authorities that, under business rates retention scheme, central government funds 50% of the cost of any local discount granted.

Information on Local Authority Websites

7. We have been contacted by a number of ratepayers who say that some local authority websites have out-of-date or inaccurate information. As you will appreciate, it is vital that ratepayers are able to easily access accurate information on business rates, particularly on business rates reliefs. Authorities may therefore wish to review the information on their websites and

discuss best practice with other authorities. Current information on business rates can be found at the following link:

<https://www.gov.uk/introduction-to-business-rates>



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14 January 2015

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Chief Finance Officers of English Billing Authorities

FOR THE ATTENTION OF THE BUSINESS RATES SECTION

Dear Chief Finance Officer

Business Rates Information Letter (1/2015)

This is the first business rates information letter to be issued by the Department for Communities and Local Government this year. Previous letters are available on the internet at:

<https://www.gov.uk/business-rates-information-letters>,

or for archived letters:

<http://webarchive.nationalarchives.gov.uk/20120919132719/http://www.communities.gov.uk/localgovernment/localgovernmentfinance/businessrates/busratesinformationletters/>.

- **Business Rates and Childcare Providers**
- **Extension of Transitional Relief for Small and Medium Properties - Guidance**

Business Rates and Childcare Providers

1. Ministers would like to encourage local authorities to consider using their business rates local discounts powers to support access to local high quality childcare provision.

2. The Government believes the provision of high quality childcare is crucial to stopping development gaps emerging and ensuring all children get the best

start in life. Good childcare provision can also help aid economic growth. We would therefore encourage authorities to consider using their powers to provide relief to childcare providers where there is a clear community benefit, such as where it would help with narrowing the gap, school readiness, or maternal employment. We would also like to remind authorities that central government funds 50% of the cost of any local discount granted.

3. Childcare providers may also be eligible for charity relief or Small Business Rate Relief.

4. Charities (organisations established for charitable purposes) receive 80 per cent relief where the charity is the rate payer, and the charity uses the property wholly, or mainly, for charitable purposes. Authorities are able to increase that up to 100% using their local discounts powers. Authorities can also use their local discounts powers to support voluntary organisations or social enterprises that are not charities.

5. Small Business Rates Relief – which provides up to 100% relief - is broadly available to ratepayers that occupy a single property with a rateable value below £12,000.

6. Further details can be found at the following link:

<https://www.gov.uk/introduction-to-business-rates/overview>

7. We would urge authorities to remind childcare providers of those important reliefs where in contact on wider matters.

8. Prompt payment is also critical to many childcare providers and failure to pay on time can lead to serious problems, ultimately putting at stake their ability to continue trading. We would also therefore like to remind local authorities of the need for prompt payment for services received, including funding for free early education entitlement places.

Extension of Transitional Relief for Small and Medium Properties - Guidance

9. The transitional relief scheme was introduced in 2010 to help those ratepayers who were faced with higher bills. The scheme ends on 31 March 2015 and as a result a small number of ratepayers will face a jump to their full rates bill from 1 April 2015. The government announced in the Autumn Statement on 3 December 2014 that it will extend to March 2017 the current transitional relief scheme for properties with a rateable value up to and including £50,000. The government has published guidance to authorities about the operation and delivery of the policy.

10. The government will, in line with the eligibility criteria set out in the guidance, reimburse local authorities that use their discretionary relief powers, under section 47 of the Local Government Finance Act 1988, as amended, to grant relief. It will be for individual local billing authorities to adopt a local scheme and decide in each individual case when to grant relief under section 47. Central government will fully reimburse local authorities for the local share

of the discretionary relief (using a grant under section 31 of the Local Government Act 2003). In view of the fact that such expenditure can be reimbursed, the government expects local government to grant discretionary relief to qualifying ratepayers.

The guidance can be found at:

<https://www.gov.uk/government/publications/business-rates-extension-of-transitional-relief-for-small-and-medium-properties>.