

CABINET

5 SEPTEMBER 2017

BUSINESS RATE RELIEF

Portfolio Holder: Councillor Rupert Turpin, Business Management

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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. Medway Council's scheme was last reviewed by Cabinet on 17 January 2017 (decision 163/2017). 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 relief 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 reliefs 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.
- 2.5 Cabinet agreed on 7 July 2015 (decision 97/2015) to adopt an extended transitional relief scheme but decided not to create reliefs at that time for Automated Teller Machines (ATMs) and child care provision.
- 2.6 The Government announced two new reliefs in the 2016 Spring Budget that would again be short term and financed through s31 funding.

Local Newspapers

A £1,500 discount for office space occupied by local newspapers subject to a maximum of one discount per local newspaper title and per hereditament, and up to state aid limits, for 2 years from 1 April 2017.

Public Toilets

The Government will legislate to enable local authorities to use their existing discretionary relief powers to support publicly owned public toilets from 1 April 2018.

- 2.7 A further three reliefs were announced in the 2017 Spring Budget.

2.7.1 Supporting Small Business Rate Relief

A scheme to 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. To support these ratepayers, the supporting small businesses relief will ensure that the increase per year in the bills of these ratepayers is limited to the greater of £600 per year or the transitional relief cap on increases for small properties. Ratepayers remain in the Supporting Small Business relief scheme for either 5 years or until they reach the bill they would have paid without the scheme.

Further details of the scheme can be found at Appendix A.

2.7.2 Support for pubs

This is a 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 only apply to the 2017/18 financial year. The Government's stated 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.

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

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

Further details can be found at Appendix B.

2.7.3 New Discretionary Relief Scheme

Government announced the establishment of a national £300m discretionary fund over four years from 2017-18 to support those businesses that face the steepest increases in their business rates bills as a result of the 2017 revaluation. Medway Council has been awarded funding to allow £545,000 of relief to the ratepayer in 2017/18, £265,000 in 2018/19, £109,000 in 2019/20 and £16,000 in 2020/21. Eligibility for the relief is at the authority's discretion although the grant is subject to the condition that it consults with its' major preceptor (Kent & Medway Fire and Rescue Authority). As the funding is provided to the authority in advance there is also a condition that the authority will be required to repay any excess grant paid to it following a reconciliation process at the year end.

3. The Current Position

3.1 Local Newspapers

There is only one hereditament in Medway to which this applies.

The total amount of relief that would be awarded over two years would therefore be £3,000 at no cost to the authority.

3.2 Public Toilets

The legislative changes have yet to take place. There are currently 13 public conveniences in Medway, of which ten are owned by the authority.

3.3 Supporting Small Business Rate Relief

The software to administer this relief was made available by the Council's software supplier on 18 August 2017 and will be tested week commencing 28 August 2017. Software had already been provided to identify the 34 ratepayers who would be entitled and letters were sent week commencing 31 July to inform them of that fact and that revised bills would be issued in September 2017 (ensuring adequate time for testing the software).

The total amount of relief that would be awarded in 2017/18 is £45,109 at no cost to the authority.

3.4 Support for pubs

There are 205 licensed properties in the valuation list, of which 127 are listed as public houses with rateable values under £100,000. However, 44 of these premises already receive 100% small business rate relief leaving 83 properties likely to benefit from the support for pubs scheme.

The total amount of relief that would be awarded in 2017/18 is estimated at £83,000 subject to them not qualifying for any other reliefs. The relief awarded would be at no cost to the authority.

3.5 New Discretionary Relief Scheme

2,279 properties have seen an increase in their rates bill as a result of the revaluation ranging in actual terms from £0.83 to £139,040.00 and in percentage terms from 0.01% to 1507.96%. The total increase across all these properties is £3,984,939. These figures may decrease as a number of charities have still not re-applied for their charitable rate relief as yet.

The properties referred to above cover a broad spectrum of commerce, and as such it may be deemed preferable to exclude some groups if they are seen as going against the authority's wider objectives for the area. This is in keeping with the former retail relief scheme where the following categories were deemed as incompatible over and above those determined by Government:

- Social clubs
- Snooker clubs
- Gymnasiums
- Amusement arcades
- Massage parlour
- Sex shops licensed under Local Government (Miscellaneous Provisions) Act 1982.

It may also be considered appropriate to exclude fast food outlets, vape lounges, betting and gambling premises, pawnbrokers and pay day lenders. Once the excluded categories have been identified, it will then be necessary to determine a scheme that will maximise the relief awarded at minimum risk to the authority. Given the complex interactions of the numerous reliefs now

available, the possible backdating of rateable value increases, and lack of qualifying criteria, it is not possible to accurately predict the cost of the new scheme.

4. Options

- 4.1 From 1 April 2012, the Council has complete discretion to offer business rate reliefs 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 As yet, officers are not in a position to be able to identify, quantify and award all these reliefs although the possibility of reliefs being awarded is taken into account by officers considering any recovery action. Whilst each relief could be brought before Cabinet as and when full details are known, a decision now to approve the reliefs up to the level of Government funding, with the detailed qualifying criteria to be delegated to the Chief Finance Officer, in consultation with the Portfolio Holder for Business Management, would enable the reliefs to be awarded as soon as agreed as both the speed of delivery and the amount of relief are important to businesses.

5. Advice and analysis

- 5.1 Given that all the above reliefs 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 There are areas of discretion regarding the eligibility for reliefs and consideration should be given as to whether an award of new discretionary relief in particular would be appropriate when considering the authority's wider objectives for the local area.
- 5.3 The DCLG released the information on these schemes late in the day, and with little detail at first. As a result, many authorities are still formulating their policies nearly half way through the financial year. As a consequence the DCLG are now pushing authorities to award the reliefs in the face of criticism from the business sector for the delays in implementation.
- 5.4 With regards to public toilets (as set out in paragraph 3.2 above), given that legislative changes are awaited at this time, it is proposed that no action be taken at this time.

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

7. Financial and legal implications

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

8. Recommendations

8.1 That Cabinet adopts the discretionary rate relief scheme for local newspapers in line with Government guidelines.

8.2 That Cabinet adopts the Supporting Small Business Rate Relief scheme in line with Government guidelines.

8.3 That Cabinet adopts a Support for Pubs discretionary relief scheme and agrees to delegate authority to the Chief Finance Officer, in consultation with the Portfolio Holder for Business Management, to set the qualifying criteria, as outlined in paragraph 3.4 of the report.

8.4 That Cabinet adopts a New Discretionary Rate Relief scheme to be met within Government funding limits, and agrees to delegate authority to the Chief Finance Officer, in consultation with the Portfolio Holder for Business Management, to agree the detailed application of the scheme, as outlined in paragraph 4.2 of the report.

9. Suggested reasons for decision

- 9.1 The relief schemes have 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 The business usages for which the New Discretionary Rate Relief is awarded will be compatible with the Authority's wider objectives for the local area.

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Background papers

None

Appendices

Appendix A – Supporting Small Businesses: Annex A

Appendix B - Support for Pubs Guidance: Annex B

Supporting Small Businesses Relief Scheme

Section 31 Guidance

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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

Introduction

4. For 2016/17, eligible ratepayers¹ 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.
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.

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).

How will the relief be provided?

8. The government is not changing the legislation around transitional relief². 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 amended³, 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.
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 bills⁴ of these ratepayers is limited to the greater of:
 - 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.

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

³ Section 47 was amended by the Localism Act 2011

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.

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 scheme⁵. 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)⁶ 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.

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

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)⁷.
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)⁸) and the requirement to convert the aid into Euros⁹. They should ensure each business has not exceeded its threshold through all sources of state funding¹⁰.
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 instance¹¹.

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

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

⁹ 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

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:
 - Bill before reliefs: £6,524,
 - Bill after transitional relief: £1,555
 - 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 which¹²:
- 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,

¹² unless otherwise stated, references are to the Local Government Finance Act 1988

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 way¹³.

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.

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

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

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)¹⁴.
- 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)¹⁵) and the requirement to convert the aid into Euros¹⁶.
- 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 instance¹⁷.

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

¹⁵ 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

¹⁶ http://ec.europa.eu/budget/contracts_grants/info_contracts/infoeuro/infoeuro_en.cfm

¹⁷ 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

- 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.