

# **Business Rates Policy 2020-21**

The Award of Pub Discount

## 1 Introduction

- 1.1 The government in a Ministerial statement on 27 January 2020 stated that the Government recognises the important role that pubs play in urban and rural communities across the country. The Financial Secretary to the Treasury announced a £1,000 business rate discount for public houses with a rateable value of less than £100,000 for one year from 1 April 2020.
- 1.2 They have issued guidance on the implementation of the Pub Discount but on the basis that they have issued the changes under Section 47 of the Local Government Finance Act 1988 as amended; the local authority has to define a policy for the administration of the relief.
- 1.3 This policy therefore follows closely the government guidance for Pub Discount, to move away from this could potentially decrease the Section 31 grant paid to the authority.

## 2. How the relief will be provided?

- 2.1 As this is a measure for 2020-21 only, the Government is not changing the legislation around the reliefs available to properties. 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 amended) to grant relief. It will be for individual local billing authorities to adopt a local scheme and determine in each individual case when, having regard to this guidance, to grant relief under section 47.
- 2.2 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). The Government expects local government to apply and grant relief to qualifying ratepayers from the start of the 2020/21 billing cycle.
- 2.3 Local authorities will be asked to provide an estimate of their likely total cost for providing the relief in a supplementary return for 2020/21. Central government will provide payments to authorities to cover the local share, as per the usual process.
- 2.4 Local authorities will also be asked to provide outturn data on the actual total cost for providing the relief, as per the usual process, via the National Non-Domestic Rate 3 (NNDR3) forms for 2020-21. Any required reconciliations will then be conducted at these points.<sup>1</sup>

<sup>1</sup> As required in the NNDR3 guidance notes, the former categories of discretionary relief prior to the Localism Act (i.e. charitable/CASC/rural etc. top up and not for profit) should be applied first in the sequence of discretionary reliefs and before the retail discount. This pubs discount should be applied after all other reliefs, including the retail discount, except for locally funded section 47 reliefs.

### **3. Who will be eligible for Relief**

- 3.1 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.
- 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.
- 3.4 The Government's policy states 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
- 3.5 The proposed exclusions in the list at paragraph 3.4 is not intended to be exhaustive and it will be for the local authority to determine those cases where eligibility is unclear.
- 3.6 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 in the year 2020/21 under this scheme is £1,000 per 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 This relief should be applied to bills after mandatory reliefs and other discretionary reliefs funded by section 31 grants have been applied, including the retail discount, but excluding those where local authorities have used their discretionary relief powers under section 47 which are not funded by section 31 grants. <sup>2</sup> Of course, councils may use their discretionary powers to offer further discounts outside this scheme. However, where an authority applies a locally funded relief under section 47 this must also be applied after the pubs discount.
- 4.3 Ratepayers that occupy more than one property will be entitled to relief for each of their eligible properties, subject to State Aid De Minimis limits.

## **5 State Aid**

- 5.1 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 Retail Relief will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (1407/2013).
- 5.2 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). Slough Borough Council is familiar 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)5) and the requirement to convert the aid into Euros. It is advised that businesses who receive a retail discount make themselves aware of the legislation also.
- 5.3 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).

<sup>2</sup> As required in the NNDR3 guidance notes, the former categories of discretionary relief prior to the Localism Act (i.e. charitable/CASC/rural etc. top up and not for profit) should be applied first in the sequence of discretionary reliefs and before the retail discount. This pubs discount should be applied after all other reliefs, including the retail discount, except for locally funded section 47 reliefs.

<sup>3</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:352:0001:0008:EN:PDF>

<sup>4</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>5</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)

5.4 Whilst the UK is left the EU on 31 January 2020, the Withdrawal Agreement negotiated by the Government and the EU provides that during an implementation period State Aid rules will continue to apply as now and will be subject to control by the EU Commission as at present. Local authorities should therefore continue to apply State aid rules, including De Minimis, to the relief for during the implementation period.

5.5 Guidance on State Aid is available via the government web site at

<https://www.gov.uk/government/publications/enterprise-zones-state-aid-and-business-rate-discounts>

## **6 Splits, mergers, and changes to existing hereditaments**

6.1 The relief should be applied on a day to day basis using the formula set out above. A new hereditament created as a result of a split or merger during the financial year, or where there is a change of use, should be considered afresh for the relief on that day.

## **7 Administration**

7.1 Slough Borough Council will administer the scheme under the guidelines set out by the Department for Communities and Local Government dated January 2020.

7.2 The Pub Discounts awarded will be administered by the Business Rates team who will provide monthly reports to the Section 151 officer for approval.

7.3 Slough Borough Council where possible will include details of the Pub Discount to be provided to eligible ratepayers for 2020-21 in their bills for the beginning of that year. There will be no need for an application if the above criteria is met.

7.4 It will be expected that companies who receive a Pub Discount and are aware that they are in excess of the State Aid Rules will inform the council as soon as possible.

7.5 The council will ensure where appropriate State Aid letters are dispatched if the council has the background information available to it.

## Appendix 1: Calculation examples for 2020/21

The retail discount (50%) is always calculated after mandatory relief and other discretionary reliefs funded by section 31 grant. The multiplier used here is provisional.

**Example 1: An occupied pub with a rateable value of £40,000**

Gross rates (before any reliefs) = £40,000 x 0.499 =	£19,960
Retail discount (50%):=	-£9,980
Pubs discount (-£1,000):=	-£1,000
Rates due (after retail discount and pub discount): =	£8,980

**Example 2: An occupied pub with a rateable value of £70,000**

Gross rates (before any reliefs) = £70,000 x 0.512=	£35,840
Pub discount (-£1,000):=	-£1,000
Rates due (after pub discount):=	£34,840