

Business Rates Briefing Note

Coronavirus (COVID-19) and Business Rates

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England

Premises forced to close

At 13:00 hours on 26 March 2020 [The Health Protection \(Coronavirus, Restrictions\) \(England\) Regulations 2020](#) came into force. These regulations supersede the [Health Protection \(Coronavirus, Business Closure\) \(England\) Regulations 2020](#) which only came into effect on 21 March. The new regulations increase the range of premises which must close. The details of the properties now required to close, or exempt, are attached as **Appendix A**.

Business rates reliefs – England

Government business rates relief in response to the Coronavirus pandemic is largely targeted at the retail, leisure and hospitality sectors. Whilst recent guidance has clarified many questions, it will not be until we see the full implementation by Billing Authorities that we will know definitely how the grant funding schemes will work.

The main provisions that have been announced in England are:

- 12 month rates ‘holiday’ for properties in the “retail, hospitality and leisure” sectors, with no limit on the rateable value;
- a Retail, Hospitality and Leisure Grant (RHLG) for qualifying properties: the grant is £10,000 per property for rateable values up to £15,000; and up to £25,000 per property with rateable values from £15,000 up to £51,000 (both subject to state aid rules per recipient organisation);
- a Small Business Grant Fund (SBGF) for all businesses in England in receipt of Small Business Rates Relief (SBRR) and Rural Rates Relief (RRR) of £10,000.

When will relief be available?

Immediately – the relief will be applied by Local Authorities using their discretionary powers so that there is no need for legislation before these reliefs can be implemented. The government has promised £3.4bn to Local Authorities on 27 March 2020 and the full £13bn is promised at the beginning of April.

Who gets it?

The list of eligible properties has expanded from the original leisure and hospitality premises at the end of last week to most retail premises and those providing services to the visiting public. We have summarised the property types in **Appendix B**. Full details can be found in [Expanded Retail Discount 2020/21: Coronavirus Response – Local Authority Guidance](#).

SBGF will apply to all properties that on 11 March 2020 were eligible for relief under the Small Business Rate Relief Scheme, including those in the ‘taper’ zone between £12,000 and £15,000 rateable value, or the rural rates relief scheme.

RHLG will be available for those properties of less than £51,000 in a qualifying use. Temporary storage even in a shop may not count as “retail use”.

To qualify for either grant, the properties must be ‘in use’ (i.e. not already vacant for rating purposes) and the ratepayer must not be in liquidation. Property occupied for personal use (beach huts, stables), car spaces and car parks are not eligible.

The guidance for the RHLG and SBGF can be found in the [Small Business Grant Fund \(SBGF\) and Retail, Hospitality and Leisure Grant Fund \(RHLGF\) guidance - version 2](#).

State aid

Our working presumption is that the rate reliefs are not subject to state aid limits but the grants will be. Usually the limit for state aid is €200,000 in any three-year period. On 19 March the European Commission gave notice that they had adopted a [Temporary Framework](#) in response to the Covid-19 pandemic. Under this Framework member states (including the UK whilst we follow the rules) can provide assistance during the pandemic including:

- up to €800,000 in grants, tax advantages and advance payments to a company to address liquidity issues;
- state loan guarantees to banks; and
- subsidised public loans to companies.

Other rates mitigation strategies to consider

The retail relief will not assist struggling businesses in the office, logistics and industrial sectors. Things that could be considered to mitigate the rates for these groups include:

- **Empty rates relief** – This can give immediate relief but property has to be ‘vacant’. Government guidance is that properties standing empty as a result of Covid-19 restrictions are not ‘vacant’ in the rating sense and no relief will be granted. There is no point in claiming empty rates relief for a property already exempt for rates in the retail, hospitality and leisure sectors. The presence of furniture, machinery and equipment does not preclude a successful claim for empty rates provided the items are for use on the premises, as opposed to being stored there. If such machinery is still in use, then the property will not be considered ‘vacant’.
- **S44A relief** – ‘This is a discretionary relief and is not always granted immediately, even when an application is successful.
- **Hardship relief** – Again this is a discretionary relief. Government money has been provided for Council Tax payers but nothing targeted at non-domestic ratepayers. An applicant would need to demonstrate a good reason why the Billing Authority should grant it. We can provide further guidance on request.
- **Occupation prohibited by law** – If a property is ‘vacant’ in the rating sense, and cannot be occupied without breaking the law, then empty rates should not be payable. This situation may arise now that the Coronavirus legislation has come into force.
- **Asking for delay in payment regime** and / or switching to 12 monthly instalments to reduce early payments.
- **Material change of circumstance appeals** – This is a valuation matter so will inevitably be delayed through the Check Challenge Appeal system. The onus of proof that a reduction should be given lies with the ratepayer. We consider there are grounds to make MCC appeals and would be pleased to advise further on this.

Scotland

Relief and mitigation measures

On 18 March 2020, Scotland announced similar measures including:

- A full year's 100% non-domestic rates relief for retail, hospitality and tourism for occupied properties, including airports and anything occupied by Loganair Limited – the full list of uses is attached at **Appendix C**;
- £10,000 grants for small businesses in receipt of the Small Business Bonus Scheme or Rural relief
- £25,000 grants for hospitality, leisure and retail properties with a rateable value between £18,000 and £51,000
- Grants are applied per business (not per qualifying property). Businesses with multiple properties in Scotland will only be entitled to a single grant.
- 1.6% relief for all properties effectively freezing the poundage rate rise next year but still subject to a higher multiplier for larger heritages of 1.3p with a rateable value between £51,001 and £95,000 and 2.6p above £95,000.
- Extending the go live date for the deposit return scheme to July 2022.
- Pausing the introduction of the Visitor Levy Bill.

Further information can be found [here](#).

On 26 March [The Non-Domestic Rates \(Coronavirus Reliefs\) \(Scotland\) Regulations 2020](#) was laid before the Scottish Parliament and will come into force on 31 March. This gives the statutory basis for the reliefs described above. Relief is not available for empty property and is specifically stated as being subject to EU law on state aid.

Other rates mitigation strategies to consider in Scotland

The reliefs will not assist struggling businesses in the office, logistics and industrial sectors; although those with lower RVs may be entitled to a grant. Factors that could be considered to mitigate the rates for these groups include:

- Empty rates relief – but we expect there will be resistance to granting empty rates relief if the heritage is only empty because of social-distancing policies connected with Coronavirus (retail properties are specifically deemed as 'occupied' in these circumstances);
- Hardship relief;
- Occupation prohibited by law – subject to the property being (already) empty and establishing the legal prohibition in force;
- Asking for delay in payment regime;
- Material change of circumstance (MCC) appeals.

Despite impending legislative changes Scottish Assessors have a statutory duty to reflect an MCC affecting value even on economic grounds; where they fail to do so there is a right of appeal on the grounds of MCC. In order to benefit during 2019/20 we are serving MCC appeals in Scotland to meet the **31 March 2020** deadline. This approach would override any State Aid limits as, unlike reliefs, this is not subject to a cap.

Wales

Wales has undertaken to provide the same reliefs and grants as England and the measures are contained in [The Health Protection \(Coronavirus Restrictions\) \(Wales\) Regulations 2020](#). The measures very closely mirror those applied in England. The properties required to close, and those entitled to rates relief, are also shown in Appendices A and B with the differences in the Welsh provisions shown in red.

Properties in the retail, leisure and hospitality sectors **with a rateable value of £500,000 or less** will not pay rates in the 2020-21 rate year. The full list of exempt properties is shown in the [Retail, Leisure and Hospitality Rates Relief in Wales – 2020-21](#)

Grants will be made available for properties in those same sectors; of £25,000 with rateable values between £12,001 and £51,000; and £10,000 with a rateable value of £12,000 or less.

The Welsh Government has also announced their intention to make a new small business grant but no details are currently available. Further details can be found [here](#).

Northern Ireland

On 17 March 2020, The Finance Minister announced that all businesses would pay no rates for the next three months (presumably meaning April, May and June 2020). Rates bills will not be issued until June. The total rates payable for 2021-22 will be reduced by 25% as a consequence but this does not apply to public bodies and utilities. He is also looking to reduce the regional business rate component of rates bills. Similar measures will apply to household rates bills. The announcement can be seen [here](#).

The First Minister and Deputy First Minister announced on 18 March a grant scheme similar to that in England including an immediate grant of £10,000 for all businesses eligible for the Small Business Rate Relief Scheme (up to £15,000 net annual value) and a grant of £25,000 for companies in the retail, tourism and hospitality sectors with a NAV between £15,000 and £51,000. The announcement can be seen [here](#).

Details of the rates support being given is found [here](#) and the rates support grant schemes are explained [here](#).

Contact us – UK Rating team

If you have any queries about the reliefs now available to you, please get in touch with your usual JLL contact or one of the following.

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Properties required to close in England & Wales

Any of the following premises serving food and drink for on-premises consumption must cease such activities:

1. Restaurants, including restaurants and dining rooms in hotels or members' clubs.
2. (1) Cafes, including workplace canteens (subject to sub-paragraph (2)), but not including—
 - (a) cafes or canteens at a hospital, care home or school;
 - (b) canteens at a prison or an establishment intended for use for naval, military or air force purposes or for the purposes of the Department of the Secretary of State responsible for defence;
 - (c) services providing food or drink to the homeless.(2) Workplace canteens may remain open where there is no practical alternative for staff at that workplace to obtain food.
3. Bars, including bars in hotels or members' clubs.
4. Public houses.

Anyone carrying on a business in the following categories must also cease such activities:

5. Cinemas.
6. Theatres.
7. Nightclubs.
8. Bingo halls.
9. Concert halls.
10. Museums and galleries (+ libraries and archive services in Wales).
11. Casinos.
12. Betting shops.
13. Spas.
14. Nail, beauty, hair salons and barbers.
15. Massage parlours.
16. Tattoo and piercing parlours (+ tanning services electrolysis or acupuncture in Wales).
17. Skating rinks.
18. Indoor fitness studios, gyms, swimming pools, bowling alleys, amusement arcades or soft play areas or other indoor leisure centres or facilities.
19. Funfairs (whether outdoors or indoors).
20. Playgrounds, sports courts and outdoor gyms.
21. Outdoor markets (except for stalls selling food).
22. Car showrooms.
23. Auction Houses.

The provision of holiday accommodation must also cease, although there are exceptions for those who have no other residence or cannot return to that residence, or are attending a funeral. **Broadly the same provisions are re-enacted in Wales with the following uses listed specifically: holiday sites, camping sites, hostels, bed and breakfast accommodation and other holiday accommodation (including holiday apartments, hostels and boarding houses).**

The following uses are exempt from the requirement to close:

24. Food retailers, including food markets, supermarkets, convenience stores and corner shops.
25. Off licenses and licensed shops selling alcohol (including breweries).
26. Pharmacies (including non-dispensing pharmacies) and chemists.
27. Newsagents.
28. Homeware, building supplies and hardware stores.
29. Petrol stations.
30. Car repair and MOT services.
31. Bicycle shops.
32. Taxi or vehicle hire businesses.
33. Banks, building societies, credit unions, short term loan providers and cash points.
34. Post offices.
35. Funeral directors.
36. Laundrettes and dry cleaners.
37. Dental services, opticians, audiology services, chiropody, chiropractors, osteopaths and other medical or health services, including services relating to mental health.
38. Veterinary surgeons and pet shops.
39. Agricultural supplies shop.
40. Storage and distribution facilities, including delivery drop off or collection points, where the facilities are in the premises of a business included in this Part.
41. Car parks.
42. Public toilets.

Properties entitled to rates relief in England & Wales

Extract from the Expanded Retail Discount 2020/21: Coronavirus Response – Local Authority Guidance (England) and Retail, Leisure and Hospitality Rates Relief in Wales – 2020-21 Guidance. The effect of these provisions is very similar but the wording is slightly different in some provisions. The numbering system and any differences in Wales are shown in red.

Which properties will benefit from relief?

10(11) Properties that will benefit from the relief will be occupied hereditaments that are wholly or mainly being used:

- a. as shops, restaurants, cafes, drinking establishments, cinemas and live music venues,
- b. for assembly and leisure; or
- c. as hotels, guest & boarding premises and self-catering accommodation.

11(13) We consider shops, restaurants, cafes, drinking establishments, cinemas and live music venues to mean:

i. Hereditaments that are being used for the sale of goods to visiting members of the public:

- Shops (such as: florists, bakers, butchers, grocers, greengrocers, jewellers, stationers, off licences, chemists, newsagents, hardware stores, supermarkets, etc)
- Charity shops
- Opticians
- Pharmacies
- Post offices
- Furnishing shops/ display rooms (such as: carpet shops, double glazing, garage doors)
- Car/caravan show rooms
- Second-hand car lots
- Markets
- Petrol stations
- Garden centres
- Art galleries (where art is for sale/hire)

ii. Hereditaments that are being used for the provision of the following services to visiting members of the public:

- Hair and beauty services (such as: hairdressers, nail bars, beauty salons, tanning shops, etc)
- Shoe repairs/key cutting
- Travel agents
- Ticket offices e.g. for theatre
- Dry cleaners
- Launderettes
- PC/TV/domestic appliance repair
- Funeral directors

- Photo processing
- DVD or video rentals
- Tool hire
- Car hire
- Employment agencies (excluded in Wales)
- Estate agents and letting agents
- Betting shops (excluded in Wales)

iii. Hereditaments that are being used for the sale of food and/or drink to visiting members of the public:

- Restaurants
- Drive-through or drive-in restaurants
- Takeaways
- Sandwich shops
- Cafés
- Coffee shops
- Pubs
- Bars or Wine Bars

iv. Hereditaments which are being used as cinemas (included in 14 in Wales).

v. Hereditaments that are being used as live music venues (included in 14 in Wales)

- Live music venues are hereditaments wholly or mainly used for the performance of live music for the purpose of entertaining an audience. Hereditaments cannot be considered a live music venue for the purpose of business rates relief where a venue is wholly or mainly used as a nightclub or a theatre, for the purposes of the Town and Country Planning (Use Classes) Order 1987 (as amended).
- Hereditaments can be a live music venue even if used for other activities, but only if those other activities (i) are merely ancillary or incidental to the performance of live music (e.g. the sale/supply of alcohol to audience members) or (ii) do not affect the fact that the primary activity for the premises is the performance of live music (e.g. because those other activities are insufficiently regular or frequent, such as a polling station or a fortnightly community event).
- There may be circumstances in which it is difficult to tell whether an activity is a performance of live music or, instead, the playing of recorded music. Although we would expect this would be clear in most circumstances, guidance on this may be found in Chapter 16 of the statutory guidance issued in April 2018 under section 182 of the Licensing Act 2003.

12(14). We consider assembly and leisure to mean:

i. Hereditaments that are being used for the provision of sport, leisure and facilities to visiting members of the public (including for the viewing of such activities).

- Sports grounds and clubs
- Museums and art galleries
- Nightclubs
- Sport and leisure facilities
- Stately homes and historic houses

- Theatres
- Tourist attractions
- Gyms
- Wellness centres, spas, massage parlours
- Casinos, gambling clubs and bingo halls

ii. Hereditaments that are being used for the assembly of visiting members of the public.

- Public halls
- Clubhouses, clubs and institutions

13(15) We consider hotels, guest & boarding premises and self-catering accommodation to mean:

i. Hereditaments where the non-domestic part is being used for the provision of living accommodation as a business:

- Hotels, Guest and Boarding Houses
- Holiday homes
- Caravan parks and sites

14(16) To qualify for the relief the hereditament should be wholly or mainly being used for the above qualifying purposes. In a similar way to other reliefs (such as charity relief), this is a test on use rather than occupation. Therefore, hereditaments which are occupied but not wholly or mainly used for the qualifying purpose will not qualify for the relief. For the avoidance of doubt, hereditaments which have closed temporarily due to the government's advice on COVID19 should be treated as occupied for the purposes of this relief.

Uses eligible for rates exemption in Scotland

Land and heritages are exempt from rates for 2020-21 if they are used for or as:

Bed and breakfast accommodation

Camping site

Caravan and caravan site (within the meaning of Part 1 of the Caravan Sites and Control of Development Act 1960(10)).

Chalet, holiday hut and bothy

Guest house, hotel and hostel

Public house or nightclub

Restaurant including any café, coffee shop, bistro, fast food restaurant or snack bar

Self-catering holiday accommodation

Timeshare accommodation

Market

Retail shop

Leisure including an arts gallery or centre, sports club, sports centre, sports ground, clubhouse, gymnasium, museum, cinema, theatre, music venue, ticket office, recreation ground, bingo hall, tourist attraction or tourist facility.

Service providers including hair and beauty services, shoe repairs, key cutting, photo processing, laundry services, car or tool hire, car washing or repair of domestic electronic/electrical goods.

Letting agency and funeral parlour

Travel agency

The following airports are also exempt:

Aberdeen International

Barra

Benbecula

Campbeltown

Cumbernauld

Dundee

Edinburgh

Glasgow

Glasgow Prestwick

Inverness

Islay

Kirkwall

Oban

Stornoway

Sumburgh

Tiree

Wick John O'Groats



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