



## **FULL COUNCIL MEETING**

**5.30 PM WEDNESDAY, 2ND MARCH, 2022**

### **BACKGROUND PAPERS**

Please note that this supplement only contains background papers that have been provided by the responsible departments.

Anyone requiring information should contact the Democratic Services Department on (01685) 725203 or [democratic@merthyr.gov.uk](mailto:democratic@merthyr.gov.uk)

7. Non-Domestic Rates - Retail, Leisure and Hospitality Rates Relief in Wales - 2022-23

To consider report of the Chief Executive

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## Non-Domestic Rates – Retail, Leisure and Hospitality Rates Relief in Wales – 2022-23

### Guidance

#### About this guidance

This guidance is intended to support county and county borough councils (local authorities) in administering the Retail, Leisure and Hospitality Rates Relief scheme (the relief). On 20 December 2021, the Minister for Finance and Local Government announced the continuation of the relief on a temporary basis for 2022-23. This guidance applies to Wales only.

This guidance sets out the criteria which the Welsh Government will use to determine the funding for local authorities for relief provided to retail, leisure and hospitality properties. The guidance does not replace any existing non-domestic rates legislation or any other relief.

Enquiries about the scheme should be sent to: [localtaxationpolicy@gov.wales](mailto:localtaxationpolicy@gov.wales)

The relief is being offered from 1 April 2022 and will be available until 31 March 2023.

#### Introduction

This relief is aimed at businesses and other ratepayers in Wales in the retail, leisure and hospitality sectors, for example shops, pubs and restaurants, gyms, performance venues and hotels.

The Welsh Government will provide grant funding to all 22 local authorities in Wales to provide the Retail, Leisure and Hospitality Rates Relief scheme to eligible businesses for 2022-23. The scheme aims to provide support for eligible occupied properties by offering a discount of 50% on non-domestic rates bills for such properties. The scheme will apply to all eligible businesses, however the relief will be subject to a cap in the amount each business can claim across Wales. The total amount of relief available is £110,000 across all properties occupied by the same business. All businesses are required to make a declaration that the amount of relief they are seeking across Wales does not exceed this cap, when applying to individual local authorities. An example declaration form is at **Annex 1** for local authorities to utilise when developing their own forms to publish and issue to businesses.

This document provides guidance on the operation and delivery of the scheme.

## **Retail, Leisure and Hospitality Rates Relief**

### **How will the relief be provided?**

As this is a temporary measure, we are providing the relief by reimbursing local authorities that use their discretionary relief powers under section 47 of the Local Government Finance Act 1988. It will be for individual local authorities to adopt a scheme and decide in each individual case when to grant relief under section 47. The Welsh Government will reimburse local authorities for the relief that is provided in line with this guidance via a grant under section 31 of the Local Government Act 2003 and section 58A of the Government of Wales Act 2006.

### **How will the scheme be administered?**

It will be for local authorities to determine how they wish to administer the scheme to maximise take-up and minimise the administrative burden for ratepayers and for local authority staff.

Local authorities are responsible for providing businesses with clear and accessible information on the details and administration of the scheme. If, for any reason, an authority is unable to provide this relief to eligible businesses from 1 April 2022, consideration should be given to notifying eligible businesses that they qualify for the relief and that their bills will be recalculated.

### **Which properties will benefit from relief?**

Properties that will benefit from this relief will be occupied retail, leisure and hospitality properties – such as shops, pubs and restaurants, gyms, performance venues and hotels across Wales. More detailed eligibility criteria and exceptions to the relief are set out below.

Relief should be granted to each eligible business as a reduction to its rates bill based on occupation between 1 April 2022 and 31 March 2023. It is recognised that there may be some instances where a local authority is retrospectively notified of a change of occupier. In such cases, if it is clear that the business was in occupation on or after the 1 April 2022, the local authority may use its discretion in awarding relief.

It is intended that, for the purposes of this scheme, retail properties such as ‘shops, restaurants, cafes and drinking establishments’ will mean the following (subject to the other criteria in this guidance).

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

**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, newsagents, hardware stores, supermarkets, etc)
- Charity shops
- Opticians
- Pharmacies
- Post offices
- Furnishing shops or display rooms (such as carpet shops, double-glazing, garage doors)
- Car or caravan showrooms
- Second hand car lots
- Markets
- Petrol stations
- Garden centres
- Art galleries (where art is for sale or hire)

**Hereditaments that are being used for the provision of the following services to visiting members of the public**

- Hair and beauty services
- Shoe repairs or key cutting
- Travel agents
- Ticket offices (e.g. for theatre)
- Dry cleaners
- Launderettes
- PC, TV or domestic appliance repair
- Funeral directors
- Photo processing
- DVD or video rentals
- Tool hire
- Car hire
- Estate and l
- Letting agents

**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

We consider assembly and leisure to mean the following.

**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) and for the assembly of visiting members of the public**

- Sports grounds and clubs
- Sport and leisure facilities
- Gyms
- Tourist attractions
- Museums and art galleries
- Stately homes and historic houses
- Theatres
- Live Music Venues
- Cinemas
- Nightclubs

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

- Public halls
- Clubhouses, clubs and institutions

We consider hotels, guest and boarding premises, and self-catering accommodation to mean the following.

### **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

### **Other considerations**

To qualify for the relief, the hereditament should be wholly or mainly used for the qualifying purposes. In a similar way to other reliefs, this is a test on use rather than occupation. Therefore, hereditaments that 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 closed temporarily due to the government's advice on Covid-19 should be treated as occupied for the purposes of this relief.

The above list is not intended to be exhaustive as it would be impossible to list all the many and varied retail, leisure and hospitality uses that exist. There will also be mixed uses. However, it is intended to be a guide for local authorities as to the types of uses that the Welsh Government considers for this purpose to be eligible for relief. Local authorities should determine for themselves whether particular properties not listed are broadly similar in nature to those above and, if so, to consider them eligible for the relief. Conversely, properties that are not broadly similar in nature to those listed above should not be eligible for the relief.

The grant of the relief is discretionary. Should local authorities decide to exercise their discretion not to apply the relief to eligible businesses, they may wish to consider taking their own legal advice upon any potential consequential legal issues which might arise from such a decision and on a case by case basis.

Businesses may view that they have been able to continue trading at a substantial level during Coronavirus restrictions and as such may be inclined to not apply for the relief.

### **Types of hereditaments that are not considered to be eligible for Retail, Leisure and Hospitality Rates Relief**

The following list sets out the types of uses that the Welsh Government does not consider to be retail, leisure or hospitality use for the purpose of this relief and which would not be deemed eligible for the relief. However, it will be for local authorities to determine if hereditaments are similar in nature to those listed and if they would not be eligible for relief under the scheme.

**Hereditaments that are being used wholly or mainly for the provision of the following services to visiting members of the public**

- Financial services (eg banks, building societies, cash points, ATMs, bureaux de change, payday lenders, betting shops, pawnbrokers)
- Medical services (eg vets, dentists, doctors, osteopaths, chiropractors)
- Professional services (eg solicitors, accountants, insurance agents, financial advisers, tutors)
- Post Office sorting offices
- Day nurseries
- Kennels and catteries
- Casinos and gambling clubs
- Show homes and marketing suites
- Employment agencies

**Hereditaments that are not reasonably accessible to visiting members of the public**

If a hereditament is not usually reasonably accessible to visiting members of the public, it will be ineligible for relief under the scheme, even if there is ancillary use of the hereditament that might be considered to fall within the descriptions listed under *Which properties will benefit from relief?*

**Hereditaments that are not occupied**

Properties that are not occupied on 1 April 2022 should be excluded from this relief. However, under the mandatory Empty Property Rates Relief scheme, empty properties will receive a 100% reduction in rates for the first three months (and in certain cases, six months) of being empty.

**Hereditaments that are owned, rented or managed by a local authority**

Hereditaments owned, rented or managed by a local authority, such as visitor centres, tourist information shops and council-run coffee shops or gift shops attached to historic buildings, are exempt from this scheme.



### **How much relief will be available?**

The total amount of government funded relief available for each property under this scheme for 2022-23 is 50% of the relevant bill. This is subject to a cap of £110,000 per business across all their properties in Wales. The relief should be applied to the net bill remaining after mandatory reliefs and other discretionary reliefs funded by section 31 grants have been applied (excluding those where local authorities have used their wider discretionary relief powers introduced by the Localism Act 2011, which are not funded by section 31 grants).

The eligibility for the relief and the relief itself will be assessed and calculated on a daily basis. The following formula should be used to determine the amount of relief to be granted for a particular hereditament in the financial year.

Amount of relief to be granted =  $V/2$ , where

V is the daily charge for the hereditament for the chargeable day after the application of any mandatory relief and any other discretionary reliefs (excluding those where local authorities have used their discretionary relief powers introduced by the Localism Act 2011, which are not funded by section 31 grants).

This should be calculated ignoring any prior-year adjustments in liabilities which fall to be liable on the day.

Businesses who occupy more than one property will be entitled to Retail, Leisure and Hospitality Rates Relief for each of their eligible properties, within the cap of £110,000 per business across Wales.

A business with a single property with a remaining liability (after reliefs) greater than £220,000 can use the entire allocation of relief. No other properties owned by that business will be eligible for the scheme.

Retail, leisure and hospitality properties which are excluded from Small Business Rates Relief due to the multiple occupation rule are eligible for this relief scheme, subject to the cap being applied.

### **Changes to existing hereditaments, including change in occupier**

Empty properties becoming occupied after 1 April 2022 will qualify for this relief from the time of occupation.

If there is a change in occupier part way through the financial year, after relief has already been provided to the hereditament, the new occupier will qualify for the relief if they operate in the retail, leisure or hospitality sectors, on a pro-rata basis. This will be calculated based on the remaining days of occupation using the formula used in the section titled *How much relief will be available?*

The discount 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 discount on that day.

**State Aid / Subsidy Control Regime**

Following the end of the transition period for the United Kingdom leaving the European Union on 31 December 2020, EU State Aid regulations only apply in limited circumstances. As the relief is not funded by EU residual funds, EU State Aid regulations no longer apply for this scheme. As of 1 January 2021, the UK Subsidy Regime came into force. The scheme is considered by the Welsh Government to be outside the scope of any international trade agreements as measures are focused locally within Wales.