

National Non- Domestic Retail Relief Scheme 2019/20 and 2020/21

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Tracking

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Document Approvals

Each revision requires the following approvals:

Sponsor Approval		Name	Date
Chief Legal Officer			

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Introduction

The Government announced in the Budget on 29 October 2018 that it would provide a Business Rates Retail Discount, to be applied to occupied retail properties in each of the years 2019-20 and 2020-21.

For 2019/20 the value of discount should be one third of the bill for retail properties with a rateable value of less than £51,000. This is to be applied after mandatory reliefs and other discretionary reliefs have been applied.

In response to the coronavirus, in the budget on 11 March and subsequent statements, the Government announced that for 2020/21 it would increase the discount to 100% and extend it to include the leisure and hospitality sectors. There will be no rateable value limit on the relief.

Where the Council has applied locally funded relief not reimbursed by Government this is applied after any Retail Discount.

No new legislation is required to deliver the scheme. Instead, we will use our discretionary relief powers, under section 47 of the Local Government Finance Act 1988 to grant relief. Central Government will reimburse Epsom & Ewell using grants under section 31 of the Local Government Act 2003.

To ensure the discount is awarded in the manner the Government intended and is fully reimbursed to the council Epsom & Ewell's scheme mirrors guidance issued by Government.

Qualifying properties

Properties that will benefit from the relief in 2019/20 will be **occupied** hereditaments with a rateable value of less than £51,000, that are **wholly or mainly being used** as shops, restaurants, cafes and drinking establishments.

Properties that will benefit from the relief in 2020/21 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.

The government and the council 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
 - 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: hair dressers, 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
- Tool hire
- Car hire
- Employment agencies
- Estate agents and Letting agents
- Betting shops

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

- Restaurants
- Takeaways
- Sandwich shops
- Coffee shops
- Pubs
- Bars
- Bingo Halls

iv. Hereditaments which are being used as cinemas (2020/21 only)

v. Hereditaments that are being used as live music venues (2020/21 only):

- 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

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) (2020/21 only)
 - 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 (2020/21 only).
 - Public halls
 - Clubhouses, clubs and institutions

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 (2020/21 only):
 - Hotels, Guest and Boarding Houses
 - Holiday homes
 - Caravan parks and sites

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 will be treated as occupied for the purposes of this relief.

The list set out above is not intended to be exhaustive as it would be impossible to list the many and varied uses that exist within the qualifying purposes. There will also be mixed uses. However,

it is intended to be a guide and mirrors the types of uses that Government considers for this purpose to be eligible for relief. The council will determine whether particular properties not listed are broadly similar in nature to those above and, if so, consider them eligible for the relief. Equally, properties that are not broadly similar in nature to those listed above will not be eligible for the relief.

Non-Qualifying properties

The list below sets out the types of uses that the Government and the council does not consider to be an eligible use for the purpose of this relief. Again, the council will determine whether particular properties are broadly similar in nature to those below and, if so, to consider them not eligible for this relief.

- i. Hereditaments that are being used for the provision of the following services to visiting members of the public:
 - Financial services (e.g. banks, building societies, cash points, bureaux de change, short term loan providers)
 - Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors)
 - Professional services (e.g. solicitors, accountants, insurance agents/ financial advisers, tutors)
 - Post office sorting offices

- ii. Hereditaments that are not reasonably accessible to visiting members of the public

Amount of relief available

The total amount of relief available for each property under this scheme is one third of the bill for 2019/20 and 100% of the bill for 2020/21, after mandatory reliefs other discretionary reliefs funded by section 31 grants have been applied, excluding those where the council has used its discretionary relief powers introduced by the Localism Act which are not funded by section 31 grants.

For 2020/21 there is no rateable value limit. For 2019/20 only there is no relief available under this scheme for properties with a rateable value of £51,000 or more.

The eligibility for the discount and the discount itself will be assessed and calculated on a daily basis. The following formula is used to determine the amount of relief to be granted for a chargeable day for particular hereditament:

For the Financial year 2019-20 amount of relief to be granted =
$$\frac{V}{3}$$

For the Financial year 2020-21 amount of relief to be granted =
$$V$$

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 the pubs discount and those where the council has used its discretionary relief powers introduced by the Localism Act which are not funded by section 31 grants.

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

The award will apply for the year it is granted in only. Each award in either 2019/20 or 2020/21 will be a separate award for that bill year only and cease at the end of that bill year.

Ratepayers that occupy more than one property will be entitled to relief for each of their eligible properties, subject to any State Aid De Minimis limits.

Where an award has been found to have been awarded incorrectly or in error the discount will be removed and amended bills issued. If a change in circumstances that would affect the discount, including exceeding state aid limits, is not informed to the council within 28 days the council reserves the right to cancel all relief granted and refuse any further application for local relief(s).

Splits, mergers, and changes to existing hereditaments

The relief will 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, will be considered afresh for the relief on that day.

Application process

The council is able to identify a number of properties usage using the property description and other records and information sources (note the property description will be used to aid identifying possible qualifying properties only. As stated elsewhere the actual usage will determine eligibility).

Where the property appears to be occupied for an eligible use the council may apply the discount automatically and instruct the ratepayer to inform us should they not be entitled (for example, incorrectly identified usage or a breach of State Aid limits)

Where we have not determined the usage an application can be submitted by the ratepayer, or an agent authorised to act on their behalf.

Section 47 of the Local Government Finance Act 1988 states any decision to award must be made before six months after the end of the financial year in which the award days falls. Therefore, no new decision to award relief to a year will be made after the 30 September of the following year.

Appeals Process

There is no statutory right of appeal against a decision regarding discretionary rate relief unless the decision is so unreasonable that no reasonable person could have reached it ('Wednesbury Rules').

However, the Council recognises that ratepayers should be entitled to have a discretionary decision reviewed if dissatisfied with the outcome. Only the ratepayer or authorised agent may appeal against the decision not to award relief or the level of relief awarded. Appeals must be made within four weeks of the notification of decision.

Appeals must be in writing specifying reasons why a decision should be amended and supported by relevant new or additional evidence.

An appeal will be deemed to be discontinued if further evidence requested from the ratepayer has not been received within four weeks of the request.

Appeals against decisions made under delegated authority by the Head of Finance will be considered by the Section 151 Officer, Strategic Director and Deputy Chief Executive.

State Aid

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.

Whilst the UK left the EU on 31 January 2020, the Withdrawal Agreement negotiated by the Government and the EU provides that during a transition period State aid rules will continue to apply and will be subject to control by the EU Commission as at present.

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).

However, the Government has notified the EU of its intention to bring forward an immediate change to the UK's tax treatment of non-domestic property, in response to the ongoing Covid-19 emergency, and to seek clearance under Article 107(3)(b) of the Treaty on the Functioning of the European Union. Subject to this approval, for 2020/21 the Expanded Retail Discount scheme will become a notified State aid. If this approval is confirmed, in 2020/21 the Expanded Retail Discount will not be subject de minimis limits and therefore the €200,000 of De Minimis aid limit will not apply.

If we award relief that you feel would lead to you exceeding the threshold you must contact us for the relief to be cancelled.