



**HYNDBURN**

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# Non Domestic Rates Retail Discount Scheme

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February 2019, amended February 2020

## **1. Introduction**

- 1.1 The Government announced in the Budget in October 2018 that it will provide a Business Rates Retail Discount Scheme for occupied retail premises with a rateable value of less than £51,000 in each of the years 2019/20 and 2020/21.
- 1.2 Hyndburn Borough Council published a discretionary scheme for the years 2019/20 and 2020/21 in February 2019. This document replaces that scheme as the criteria and value of the Retail Relief for 2020/21 has been extended by Government. The criteria and value of the Retail Relief for 2019/20 remains unchanged.
- 1.3 The value of the discount for 2019/20 was one third of the remaining non-domestic rates bill after other relevant reliefs had been applied. In a Written Ministerial Statement on 27<sup>th</sup> January 2020, Government announced an increase in the relief to 50% of the business rates bill for eligible premises for the financial year 2020/21.
- 1.4 For each year, the Retail Discount is applied after mandatory reliefs and other discretionary reliefs funded by grants made under section 31 of the Local Government Act 2003 have been applied. Other locally applied discounts under section 47 of the Local Government Finance Act 1988 must be applied after the Retail Discount.
- 1.5 The Retail Discount will be provided to eligible ratepayers in their 2019/20 and 2020/21 bills at the beginning of that year.
- 1.6 Retail Discount awards are made under section 47 of the Local Government Finance Act 1988 as amended.

## 2. Eligibility

- 2.1 Hereditaments that will benefit from the Retail Discount scheme in 2019/20 and 2020/21 will be occupied, being used as shops, restaurants, cafes or drinking establishments.
- 2.2 Amendments made to eligibility criteria for 2020/21 provided by Government extends eligibility to cinemas and live music venues in addition to those hereditaments eligible under the criteria for 2019/20.
- 2.3 We consider shops, restaurants, cafes, drinking establishments, cinemas and live music venues to mean:
  - 2.3.1 Hereditaments that are being used for the sale of goods to visiting members of the public such as:
    - a) Shops (such as: florists, bakers, butchers, grocers, greengrocers, jewellers, stationers, off licences, chemists, newsagents, hardware stores, supermarkets etc.);
    - b) Charity shops;
    - c) Opticians;
    - d) Post Offices;
    - e) Furnishing Shops/display rooms (such as carpet shops, double-glazing, garage doors);
    - f) Car/caravan show rooms;
    - g) Second hand car showrooms or lots;
    - h) Markets;
    - i) Petrol stations;
    - j) Garden centres;
    - k) Art Galleries (where art is for sale/hire)
  - 2.3.2 Hereditaments that are being used for the provision of the following services to visiting members of the public:
    - a) Hair and beauty services (such as hairdressers, nail bars, beauty salons, tanning shops etc.);
    - b) Shoe repair/key cutting;
    - c) Travel Agents;
    - d) Ticket offices i.e. for theatres;
    - e) Dry cleaners;
    - f) Launderettes;
    - g) PC/TV/Domestic appliance repair;
    - h) Funeral directors;
    - i) Photo processing;
    - j) Tool hire;
    - k) Car hire.

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

- a) Restaurants;
- b) Takeaways;
- c) Sandwich shops;
- d) Coffee shops;
- e) Pubs;
- f) Bars.

2.3.4 Hereditaments which are being used as cinemas;

2.3.5 Hereditaments which are being used as live music venues;

- a) 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).
- b) 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).
- c) 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 found in Chapter 16 of the statutory guidance issued in April 2018 under section 182 of the Licensing Act 2003 may be used to help make a determination as to the eligibility for this relief.

2.4 The above lists are not exhaustive and we will consider representations from individual businesses that believe they have similar characteristics to those listed above but who have not been included to date.

2.5 Eligibility for Retail Discount Scheme is a test on use rather than occupation. Therefore, hereditaments which are unoccupied or which are occupied but not wholly or mainly used for the qualifying purposes will not qualify for this discount.

- 2.6 Hereditaments occupied for mixed use will be considered with qualification being determined by the main use of the property.
- 2.7 Hyndburn Borough Council will not consider a Retail Discount Relief award for hereditaments being used for the provision of the following services:
- a) Financial services (e.g. banks, building societies, cash points, bureaux de change, payday lenders, betting shops, pawn brokers);
  - b) Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors);
  - c) Professional Services (e.g. solicitors, accountants, insurance agents/financial advisors, tutors);
  - d) Post Office sorting offices;
  - e) Other services (e.g. estate agents, letting agents, employment agencies).
  - f) Other assembly or leisure uses beyond those listed in 2.2.3 to 2.2.5 above (e.g. theatres, museums, nightclubs and gyms)
- 2.8 In addition, the Retail Discount Scheme will not be available for premises that are not reasonably accessible to the public.
- 2.9 The relief will be applied on a daily basis. 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 relief on that day.

### **3. Amount and Duration of Relief**

- 3.1 The total amount of government-funded discount available for each hereditament for 2019/20 under this scheme is one third of the bill. This discount is applied after mandatory reliefs and other discretionary reliefs funded by grants provided under section 31 of the Local Government Act 2003.
- 3.2 The total amount of government-funded discount available for each property for 2020/21 under this scheme is 50% of the bill. This discount is applied after mandatory reliefs and, with the exception of the 2020/21 pubs discount, other discretionary reliefs funded by grants provided under section 31 of the Local Government Act 2003.
- 3.3 Any further reliefs awarded under the Council's discretionary powers under section 47 of the Local Government Finance Act 1988 and the Localism Act 2011 and not funded by the government will be applied after the Retail Discount.
- 3.4 The Retail Discount will applied as a reduction to the overall business rates liability for 2019/20 and/or 2020/21; no cash alternative is available.

- 3.5 There is no discount available under this scheme for hereditaments with a rateable value of £51,000 or more in the relevant financial year to which the discount is to be applied.
- 3.6 Any further reductions will be made at the discretion of Hyndburn Borough Council outside this scheme and in line with our National Non Domestic Rates Discretionary Rates Relief Scheme.
- 3.7 For 2019/20, the eligibility for the discount and the discount itself will be assessed and calculated on a daily basis in accordance with 3.1 and 3.3 above. Calculation of the discount will be by dividing the remaining daily charge by 3.
- 3.7 For 2020/21, the eligibility for the discount and the discount itself will be assessed and calculated on a daily basis in accordance with 3.2 and 3.3 above. Calculation of the discount will be by dividing the remaining daily charge by 2.
- 3.8 Ratepayers who occupy more than one hereditaments may be entitled to the Retail Discount for each of their eligible hereditaments, subject to State Aid de minimis limits.

#### **4. State Aid**

- 4.1 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)<sup>1</sup>
- 4.2 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). Small businesses are unlikely to be impacted by these rules, however larger or national chains face the potential that the cumulative impact of receiving a Retail Discount for each of their stores may exceed the de minimis. In these circumstances these businesses will need to decline the offer of rate relief. Appropriate explanations and forms will accompany the bills sent to premises to allow businesses to decline the relief if they assess they might transgress the State Aid rules.
- 4.3 Whilst the UK 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. State aid rules will therefore apply, including De Minimis, to this relief during the implementation period.

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<sup>1</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:352:0001:0008:EN:PDF>

## **5. Scheme Review**

- 5.1 The discount scheme will be reviewed annually or in line with any changes made by Government in order to ensure that eligibility remains within Government guidance and relevant legislation.

## **6. Data Protection**

- 6.1 Details of our data privacy policy can be found at [www.hyndburnbc.gov.uk/privacy-notice](http://www.hyndburnbc.gov.uk/privacy-notice)

## **7. Equality and Diversity**

- 7.1 The Council remains committed to its obligations under the Public Sector Equality Duty and a 'Customer First Analysis' has been provided with this scheme.

## **8. Appeals and complaints**

- 8.1 As a discretionary power, appeals against decisions made under this Discount Scheme are by way of judicial review and all complaints made directly to the authority will be handled in line with the Council's complaints policy available at [www.hyndburnbc.gov.uk/complaints](http://www.hyndburnbc.gov.uk/complaints)