

Business Rates Policy 2014-15

Business Rates Relief for Flooded Premises

1 Introduction

- 1.1 The Prime Minister announced on 12 February 2014 a new business rates relief for properties that have been flooded. Local authorities will administer this business rates “flooding relief”.
- 1.2 The legislation was amended to introduce this change under the discretionary powers which means that each Local Authority needs to develop a policy to deal with the operation and delivery of the relief.

2. How the relief will be provided?

- 2.1 As this is a measure for 2014-15 only, the Government is not changing the legislation around the reliefs available to properties. Instead the Government will reimburse local authorities that use their discretionary relief powers, introduced by the Localism Act to grant relief.
- 2.2 It will be for individual local billing authorities to adopt a local scheme and decide in each individual case when to grant relief under section 47.
- 2.3 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 grant relief to qualifying ratepayers.

3. Who will be eligible for Relief

- 3.1 The Government will fund 100% rate relief for three months, for those properties that will benefit from the relief will be those that meet the following criteria
 - For any day between 1 December 2013 and 31 March 2014:
 - The property has been flooded in whole or in part as a result of adverse weather conditions;
 - and
 - on that day, as a result of the flooding at the property, the business activity undertaken at the property was adversely affected;
 - and
 - the rateable value of the hereditament (property) on that day was less than £10 million.
- 3.2 In considering whether the business activity has been adversely affected, Slough Borough Council will consider the impact of the flooding in the full context of all business activities undertaken at the hereditament. Very small or insignificant impacts will be ignored.
- 3.3 The funding is for the impacts of flooding from the recent adverse weather conditions and not, for instance, from the failure of a water main, internal

water systems or the failure of a sewerage system (unless the failure was itself caused by the adverse weather conditions). As a guide the definition of flood from Section 1 of the Flood & Water Management Act 2010 – (Appendix A)

- 3.4 The scheme applies to all types and uses of non-domestic hereditaments (other than those occupied by the Billing Authority).

4. How much relief will be available?

- 4.1 Funding will be provided to authorities for the 3 months of relief granted starting on the day the hereditament first met the criteria set out above. The 3 months relief will apply irrespective of how long the flooding or adverse business impacts last.
- 4.2 Where a hereditament has been flooded more than once and business activities are adversely impacted, only one period of 3 months relief will be funded and should be applied from the first date on which the criteria above were met.
- 4.3 In calculating the cost of the relief to be refunded to the local authority, the Government will assume that all other reliefs have first been applied, including the retail relief where applicable.
- 4.4 This relief should be calculated ignoring any prior year adjustments in liabilities which fall to be liable on the day.
- 4.5 Ratepayers that occupy more than one property may be granted relief within the scheme for each of their eligible properties.
- 4.6 Where a new hereditament is created as a result of a split or merger from a hereditament which for the day immediately prior to the split or merger met the criteria funding will be provided to allow relief to be given for the remaining balance of the three months.
- 4.7 Funding for rate relief will continue to be given following a change of ratepayer. In other words, the relief should run with the property rather than the ratepayer.
- 4.8 The scheme does not cover relief for any hereditament which was empty at the time it was flooded as there was no business activity on the premises at the time. Where a hereditament becomes empty after the flood then it will receive the normal 3 or 6 months (as applicable) empty property rate free period or will continue to receive the balance of the flooding relief.
- 4.9 Where a property is eligible for Enterprise Zone relief, that relief should be granted and this will be funded under the rates retention scheme by a deduction from the central share. If a property in an Enterprise Zone is not eligible for Enterprise Zone relief, or that relief has ended, Flooding Relief may be granted in the normal way, and this would be reimbursed by grant under section 31 of the Local Government Act 2003.

- 4.10 Seriously damaged property may be taken off the ratings list. Where a property is removed from the rating list the ratepayer is not liable for business rates. Where as a result of the floods the property is removed for more than three months from the rating list that property will not require rates relief. Where it is less than three months rate relief should be provided so in total the occupier gets three months equivalent where they are not liable for rates.

5 State Aid

- 5.1 There are European Union regulations which restrict the award of state aid and under certain circumstances the award of discretionary relief could be considered to be state aid.
- 5.2 These circumstances in which the EU regulations need to be considered will be where the organisation engages in commercial activities or competes with commercial bodies because of an activity it carries out. For example a not for profit training organisation that also provides training services to businesses.
- 5.3 If the organisation undertakes any commercial activity it must be commercially insignificant and localised so that there is no potential impact on intra-community trade, otherwise the regulations governing state aid will apply.
- 5.4 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 Administration

- 6.1 Slough Borough Council will administer the scheme under the guidelines set out by the Department for Communities and Local Government dated 25th February 2014.
- 6.2 It will provide relief as outlined above to all occupied retail premises with a rateable value of £10m
- 6.3 The scheme is fully funded by central Government.
- 6.4 The reliefs awarded will be administered by the Business Rates team who will provide monthly reports to the Section 151 officer for approval.

Annex A – Definition of Flood

Section 1 of the Flood & Water Management Act 2010

1(1) “Flood” includes any case where land not normally covered by water becomes covered by water.

(2) It does not matter for the purpose of subsection (1) whether a flood is caused by—

- (a) heavy rainfall,
- (b) a river overflowing or its banks being breached,
- (c) a dam overflowing or being breached,
- (d) tidal waters,
- (e) groundwater, or
- (f) anything else (including any combination of factors).

(3) But “flood” does not include—

- (a) a flood from any part of a sewerage system, unless wholly or partly caused by an increase in the volume of rainwater (including snow and other precipitation) entering or otherwise affecting the system, or
- (b) a flood caused by a burst water main (within the meaning given by section 219 of the Water Industry Act 1991).