# Non-Domestic Rating (Public Lavatories) Bill
# House of Commons, Second Reading
16 July 2020

### Key Messages

- We support the Non-Domestic Rating (Public Lavatories) Bill which seeks to provide 100 per cent business rates relief for standalone public lavatories in England and Wales. This includes publicly and privately owned, free to use and charging for entry lavatories.

- Currently all public lavatories, as non-domestic properties are liable to pay non-domestic (business) rates, unless they have been specifically exempted or otherwise removed, for instance by a statutory relief from liability.

- In addition, local authorities cannot currently give discretionary relief to public toilets owned by themselves or preceptors such as counties or parish and town and councils. This is because they are statutorily barred from giving discretionary relief to any premises owned by themselves or by preceptors under Section 47(9) of the 1988 Local Government Finance Act. They can give discretionary relief to public lavatories occupied by the private or voluntary sectors.

- It is important that local authorities are compensated for this and other mandatory reliefs. The Local Government Association (LGA) would welcome a wider debate about other council premises where they are also statutorily barred from giving discretionary reliefs by section 47(9) of the 1988 Local Government Finance Act.

- For example, council owned and occupied markets cannot benefit from the current expanded retail discount of 100 per cent for the year 2020/21. We have heard from council market operators and the National Association of British Markets that this unfairly penalises them. Another example is nurseries owned or occupied by councils who have not been able to access the relief for nurseries.

- Given the financial pressures on local government and the predicted funding gap[1], councils want to see a business rates system that is fair and promotes growth through incentives. It should command confidence and provide sufficient income to keep up with the demand for services. Sectors such as online businesses should make a fair contribution either through a change to business rates valuation or through some form of taxation of online business activity where the proceeds go to local government.

- We have called for councils to be given maximum flexibility to target reliefs to suit local circumstances, particularly for reliefs which are currently mandatory, such as charitable, empty property and small business rate reliefs. If local authorities had more discretion in this area, they would be able to help local and independent businesses in order to stimulate the local economy.

- Business rates is one of the largest sources of incomes for councils and the Government should consider how we maximise this revenue stream for councils. The LGA's Business Rates Avoidance report[2] calls on the Government to work with local government to maximise the business rates tax base and to tackle business avoidance effectively along the lines of those being introduced in Wales and Scotland.

Local Government Association

Briefing

For more information, please contact:
Iredia Oboh, Public Affairs and Campaigns Adviser
Iredia.oboh@local.gov.uk 020 7664 3127

## Background information

*About the Bill*

The Non-Domestic Rating (Public Lavatories) Bill seeks to provide 100 per cent business rates relief for standalone public lavatories in England and Wales. This includes publicly and privately owned, free to use and charging for entry lavatories.

Currently all public lavatories, as non-domestic properties are liable to pay non-domestic (business) rates unless they have been specifically exempted or otherwise removed, for instance by a statutory relief from liability. The policy costing in the 2018 Budget was that the measure would cost £5 million a year to implement[3]. This includes all stand-alone public conveniences, not just council owned ones.

In addition, local authorities cannot give discretionary relief to public toilets owned by themselves or preceptors such as counties or parish and town and councils. This is because they are statutorily barred from giving discretionary relief to any premises owned by themselves or by preceptors (section 47(9) of the 1988 Local Government Finance Act). They can give discretionary relief to public lavatories occupied by the private or voluntary sectors.

The Bill provides for a new 100 per cent mandatory relief for all standalone public lavatories, irrespective of ownership. It will do this by amending section 43 of the 1988 Local Government Finance Act.

The previous Government announced in Budget 2018 that it would introduce this relief and that local authorities would be fully compensated for it. The LGA welcomed this and we are pleased that the Government has now introduced this legislation. The Government intend for it to apply from April 2020, it will thus have retrospective effect for the financial year 2020/21.

*Business rates*

Alongside council tax, business rates (non-domestic rates) represent the largest source of income for councils. Retained business rates contribute around a quarter of local authority core spending power. Councils were expecting to collect £26.5 billion in business rates this year. Due to business rates relief, mainly for retail, hospitality and leisure premises, around £11 billion of this will be covered by government grant in 2020/21.

All non-domestic premises pay business rates, unless specifically exempted by legislation. This includes council premises and schools. Councils have little discretion over business rates, although councils which are billing authorities collect the tax and business rates income goes towards financing local government.

The rateable value is set by the Valuation Office Agency, a government agency. Values are based on market rentals and are revalued regularly. The next revaluation, which would have used April 2019 values, was due to have come into effect in 2021 but this has now been postponed. The multiplier (pence in the pound) is set by the Government and its annual rise cannot go above the rate of inflation. Most reliefs are mandatory or, if discretionary, are funded by the Government.

Collectively, councils currently keep half of the business rates collected in England, and this is shared to help councils that are less able to generate business rates. The amount of business rates income kept by local government nationally was proposed to increase to 75 per cent from April 2021 but this has now been deferred along with the review of relative needs and resources ('Fair Funding Review'). We would welcome clarity from the Government of when these reforms will now be implemented.

Business rates appeals are still a major concern. Over 50,000 appeals are unsolved from 2010 and councils have had to make provision for over £3 billion for these and expected appeals against the 2017 valuation list, through the Check, Challenge and Appeal system, money which is not available to spend on services.

As part of the Budget 2020, the Government announced a fundamental review of business rates[4]. A call for evidence is expected to be published in the coming months. This will include consideration of alternatives to business rates.

*Business rates reliefs*

It is important that councils are fully compensated for business rates relief for standalone public lavatories in England and Wales and other mandatory reliefs. We would welcome a wider debate about other council premises where they are also statutorily barred from giving discretionary reliefs by section 47(9) of the 1988 Local Government Finance Act. This has become an issue in particular, during the current COVID-19 pandemic.

For example, council owned and occupied markets cannot benefit from the current expanded retail discount of 100 per cent for the year 2020/21. We have heard from council market operators and the National Association of British Markets that this unfairly penalises them. Another example is nurseries owned and occupied by councils who have not been able to access the relief for nurseries.

*Business rates avoidance*

We published a refresh of our 2014 business rates avoidance survey in January 2020[5]. We estimate avoidance at an average 1 per cent of total net business rates income. An estimated £250 million in England in 2017/18. We have pressed the Government to commit to working with local government to tackle business avoidance effectively along the lines of those being introduced in Wales and Scotland, such as lengthening the period of temporary occupation, which leads to repeated cycles of relief, from 42 days to six months.

---

[1] https://www.local.gov.uk/lga-responds-covid-19-council-funding-package

[2] https://www.local.gov.uk/business-rates-avoidance

[3] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/752208/Budget_2018_policy_costings_PDF.pdf

[4] https://www.gov.uk/government/publications/business-rates-review-terms-of-reference

[5] https://www.local.gov.uk/business-rates-avoidance-survey-report-2019