

Frequently Asked Questions for Local Authorities on Circular Fin 20/2021 Targeted Waiver of Rates for Final Quarter 2021.

1. Is this commercial rates waiver scheme a continuation of the commercial rates schemes in place for 2020 under circulars Fin 1, 5 and 14 of 2021?

No, this commercial rates waiver scheme is not a continuation of the commercial rates schemes in place for the first three quarters of 2021 under circulars Fin 1, 5 and 14 of 2020. In terms of funding, implementation and operation, there is no overlap between the rates waiver scheme outlined in this circular and the 2021 rates waiver scheme detailed in circulars Fin 1, 5 and 14 of 2020.

2. What is the credit in lieu of rates?

A 100% waiver, in the form of a credit in lieu of commercial rates will be applied to the rate accounts of eligible businesses in categories listed in Appendix B to Circular Fin 20/2021, for the final quarter of 2021.

3. Which ratepayers are entitled to the waiver?

The three-month credit in lieu of rates will apply for the final quarter of 2021 to all ratepayers in the categories listed in Appendix B to Circular Fin 20/2021.

4. What amount of credit is to be applied to eligible rate accounts?

Local authorities should apply a 100% credit in lieu of commercial rates, for a three month period, to eligible classes and categories of occupied rateable property. The value of the waiver is the equivalent value of 25% of the annual rate bill for 2021.

5. Is an application from a ratepayer required for the waiver?

No, there is no application required for the waiver. Local authorities should automatically apply a 100% credit in lieu of commercial rates, for a three-month period, to properties in the eligible categories listed in Appendix B.

6. What are the exclusions to eligibility?

This credit in lieu of rates for the final quarter of 2021 does **not** apply to property categories not listed in Appendix B.

The credit in lieu of rates does **not** apply to Vacant Properties (all vacant property as is ordinarily understood for rates is excluded from the waiver, without exception).

7. Are there any exceptions to the above criteria?

No

8. Is a ratepayer who was forced to close their premises but who continued to operate their business from elsewhere eligible for the credit in lieu of rates?

The three-month credit in lieu of rates will apply for the final quarter of 2021 to all ratepayers in the categories listed in Appendix B to Circular Fin 20/2021.

9. Is a ratepayer who was forced to close their premises to the public but who continued to offer a delivery or take-away or collection service eligible for the credit in lieu of rates?

The three-month credit in lieu of rates will apply for the final quarter of 2021 to all ratepayers in the categories listed in Appendix B to Circular Fin 20/2021.

10. Is a ratepayer that is in arrears eligible?

Yes.

11. Can conditions be imposed on the ratepayer when applying the three-month credit in lieu of rates, such as agreement to a payment plan?

No conditions can be imposed on a ratepayer in order to receive the three-month credit in lieu of rates, if the rate payer is eligible for the credit.

12. If a ratepayer has already paid 2021 rates, can they get refund or a credit towards next year's bill?

If a ratepayer has already paid the rates bill for 2021, a refund or a credit towards the 2022 bill should be arranged by the relevant local authority.

13. Does the credit in lieu of rates apply to BID levies?

BID contribution levies are not entitled to receive a credit in lieu of commercial rates. While the levying and collection of BID contribution levies is facilitated by local authorities through rates collection powers, BID contribution levies are not rates. The relevant business community, rather than central or local government, is the sponsoring party for BID schemes.

14. When is the closing date?

There is no application process for ratepayers occupying properties in eligible categories listed in Appendix B.

15. Is the local authority required to write to ratepayers to inform them of the waiver?

The waiver may be applied to businesses in the automatically eligible categories in Appendix B without prior communication with those ratepayers.

16. Can a ratepayer in a category that is not eligible, appeal to the local authority to get the credit in lieu of rates?

There is no provision in the Q4 targeted rates waiver scheme for appeals, or to demonstrate financial impact of covid or related restrictions.

However, if a property is excluded from the waiver based on the category or use on its valuation certificate, and this is not accurate to the services/activity of the occupying business, a business may make this known to the local authority and be considered for the waiver in the context of question 17 below.

In the case of a business being deemed ineligible, a ratepayer should be allowed the opportunity to appeal an initial decision of refusal. Local authorities should, upon request, facilitate a review of a decision by a second official.

17. What if the category or use of a property on its valuation certificate is not accurate to the services/activity of the occupying business?

Because of the complete exclusion of all categories except those listed in Appendix B, there will likely emerge a number of properties where the usage or occupancy purpose is different to the use outlined on the valuation certificate. These are properties that would be excluded on the basis of the property usage on the valuation record but that may be eligible for the waiver based on actual usage/occupancy purpose if known or made known to the local authority. An example would be a gym operating from a property classified as Industrial on the valuation certificate. If the local authority is satisfied that the property usage is as a gym even though it is categorised industrial then the property should be included in the waiver.

18. What is the approach to take with a business which occupies multiple properties associated with the main business activity, where one or more property is in a valuation category eligible for the waiver (Appendix B of the circular) and one or more property is in a valuation category excluded from the waiver?

This scenario may arise in situations such as the following examples:

Example A: A nightclub with an associated and adjacent office (Office Category) and store room (Industrial Uses Category) valued as separate properties.

Example B: A restaurant with an adjacent store room (Industrial Uses Category) valued as a separate property.

Example C: A pub with an associated and adjacent office (Office Category) and store room (Industrial Uses Category) valued as separate properties.

Example D: A business which is eligible under Appendix B, which uses offsite storage in a property in an excluded category such as an industrial estate for example.

Local authorities are advised to implement the waiver in a way which takes account of the main activity/use undertaken by businesses in occupation of properties ancillary to and in close proximity to the main business property.

If a business's main categorisation is eligible in Appendix B and there are additional properties which are understood to be part of the enterprise and which are ancillary to and in close proximity to the main business property (but which if viewed as standalone would be excluded), then the local authority should grant the waiver to those additional properties also. However, if a business's main categorisation is eligible in Appendix B and there are additional properties associated with business which are offsite and not ancillary, nor in close proximity to the main business property, and which are excluded, then the additional properties remain excluded.

In the case of Examples A-C above, nightclubs, restaurants and pubs are all eligible property categories and the associated properties, though valued separately and with different valuation categories, are core to the operation of the business and are ancillary to and in close proximity to the main business property. These associated properties would be eligible for the waiver. In the case of Example D above, the associated property category is in an excluded category, is offsite and not ancillary nor in close proximity to the main business property. In this example the associated property is not eligible for the waiver.

19. What is the approach to take where the valuation certificate of an individual property identifies multiple categories/uses from both Appendix B (eligible) and excluded categories?

Local authorities are advised not to apportion the waiver or split valuations under an individual property number. For the purposes of identifying properties in eligible and excluded categories, the category of the main activity/use undertaken at the premises shall be deemed to be the category of the entire premises.

It is accepted there will be instances where a single property/property number will contain valuations from both Appendix B (eligible) and excluded categories. An example would be a bookshop with an additional use of cafe. The main activity/use of the property is bookshop and the valuation certificate classifies it as Retail; eligibility should be determined on that basis.

20. What qualifies as a vacant property for the purposes of exclusions to eligibility?

All vacant property (i.e. vacant property as is ordinarily understood for rates) is, without exception, excluded from the waiver. Note that appeals and application of the waiver to vacant properties are not permitted under the circular.

However, please have regard to businesses in categories in Appendix B which were forced to close due to restrictions and which have not re-opened. If, in the view of the local authority, it is likely that the businesses would have continued as a going concern other than for the onset of the restrictions, then the waiver should be applied to the rates account. In that case, the rates due which are not to be refunded under vacancy refund provisions, should be included in the waiver.

21. Is there an appeal process following consideration by the local authority of applications from businesses in the excepted categories who claim severe impact?

There is no appeal process outside of the normal avenues a ratepayer has for querying a decision of a local authority i.e. internal appeal systems etc.

22. Does the three-month waiver apply to the Entry Year Property Levy?

Yes, occupiers of premises subject to the entry year property levy and the post-entry year property levy are entitled to the three-month waiver in the final quarter of 2021, if they would otherwise be entitled to the waiver.

23. If there was a change of occupier in the final quarter should the waiver be apportioned for the relevant period to ensure both occupiers receive the portion applicable to the respective occupancy of the premises?

Yes, each occupier should benefit from the appropriate portion of the three-month waiver.

24. If a company is in receivership / liquidation are they entitled to the waiver?

Yes.

25. Are local authority occupied properties excluded from the waiver?

Local authority occupied properties, where services are provided directly by the local authority, are excluded from the three-month rate waiver on the basis of being a public service. Properties where services are provided by subsidiary or ancillary companies, or outsourced to a separate management company or external contractor are not excluded.

26. If a property was vacant prior to the waiver but a business was to take a lease on the property during the waiver period, are they entitled to a partial waiver for the relevant period under the scheme?

The waiver should be treated in the same manner as the rates bill. If this rate payer would receive a rates demand for the period of occupation, then a waiver would apply.

27. Are airports excluded from the waiver?

Airports listed as an eligible category in Appendix B.

28. Are sports clubs excluded from the three-month rate waiver?

Sports clubs are not excluded.