



Non-Domestic Rating (Public Lavatories) Bill HL Bill 131 of 2019–21

The [Non-Domestic Rating \(Public Lavatories\) Bill 2019–21](#) is a government bill that would introduce 100% mandatory business rates relief for public lavatories in England and Wales.

In recent years, organisations such as the Royal Society for Public Health have expressed concern about the rate at which public lavatories have been closing. According to data obtained by the BBC in 2018, local councils have stopped maintaining at least 673 public lavatories across the UK since 2010. The data, supplied by 376 of the 430 councils in the UK, reveals that there were at least 4,486 public lavatories run by councils in the UK in 2018, down from at least 5,159 in 2010.

To help prevent the closure of public lavatories, the Government has sought to reduce the cost of maintaining them. In the 2018 budget, the then Chancellor of the Exchequer, Philip Hammond, announced that owners of stand-alone public lavatories would no longer pay business rates. Consequently, the Government introduced the [Non-Domestic Rating \(Public Lavatories\) Bill \[HL\] 2017–19](#). However, the bill fell when Parliament prorogued in October 2019.

In the March 2020 budget, the current Chancellor of the Exchequer, Rishi Sunak, recommitted to reintroducing a business rates relief measure for public lavatories. He stated that it would apply retrospectively from 1 April 2020.

Following the general election, the bill was introduced in the House of Commons on 18 March 2020. Second reading took place on 16 July 2020, with the remaining stages held on 3 September 2020. During second reading, Simon Clarke, then Minister of State at the Ministry of Housing, Communities and Local Government, said that the bill would “reduce running costs [for local authorities] and help keep these vital facilities open”. The measures in the bill received cross-party support. However, opposition MPs such as the Shadow Secretary of State for Housing, Thangam Debbonaire, expressed concerns that the bill did not “redress the overall damage done” by cuts to local authority funding and that the bill did not cover other public buildings, such as libraries. Despite these concerns, the bill passed through the House of Commons without amendment.

The bill had its first reading in the House of Lords on 7 September 2020.

Eren Waitzman | 15 September 2020

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I. Background

I.1 Non-domestic properties

At present, all non-domestic properties, whether publicly or privately owned, are liable to pay non-domestic rates (known as ‘business rates’) unless they have been specifically exempted or removed from paying them. This includes public lavatories. The Local Government Finance Act 1988 provides for local authorities to compile lists of units of rateable property (also known as ‘hereditaments’). The act then establishes whether a hereditament on the local rating list is liable for business rates, how the liability is calculated, and when various reliefs which remove that liability in whole or in part can be applied. Primary legislation is needed to modify the rules on how the ‘chargeable amount’ is calculated, or to introduce a mandatory business rates relief on them. In the United Kingdom, business rates are devolved to Scotland, Wales and Northern Ireland.¹

I.2 Closure of public lavatories

Concern has previously been expressed by the Royal Society for Public Health, an independent charity, about the rate at which public lavatories have been closing.² In a 2019 report, the body cited figures obtained by the BBC through freedom of information requests in 2018. These showed that major councils (defined as unitary, borough, district and city councils) have stopped maintaining at least 673 public lavatories across the UK since 2010. The data, which was supplied by 376 of the 430 councils in the UK, revealed that there were at least 4,486 public lavatories run by major councils in the UK in 2018, down from at least 5,159 in 2010. The data shows that councils stopped maintaining approximately 13% of public lavatories between 2010 and 2018.³ The BBC also claimed that the figures masked “big regional variations”. For instance, Cornwall Council had stopped maintaining 94% of its lavatories.⁴

The closure of public lavatories has often been attributed to increasing pressure on local authority budgets. A spokesperson for the Local Government Association stated that “with substantial reductions to their budgets”, councils had to “make tough choices”.⁵ According to Raymond Martin, Director of the British Toilet Association (a not-for-profit group that campaigns for better public lavatories), even with “immense pressure” on their budgets, councils have continued to try to halt the decline in public lavatories despite having no legal obligation to do so.⁶

The coronavirus pandemic has also led to local authorities temporarily closing some public lavatories to help reduce the spread of the virus. According to the charity Crohn’s and Colitis UK, which has called for public lavatories to reopen in accordance with social distancing guidelines, the closure of such facilities has had a “massive impact” on those who require access to them, including those with medical needs and pregnant women. Sarah Hollobone, the charity’s campaign manager, has contended

¹ Ministry of Housing, Communities and Local Government, ‘[Factsheet: Non-Domestic Rates \(Public Lavatories\) Bill](#)’, 19 June 2019.

² Royal Society for Public Health, [Taking the P***—The Decline of the Great British Public Toilet](#), 30 May 2019, p 3.

³ Lora Jones and Rachel Schraer, ‘[Reality check: public lavatories mapped](#)’, BBC News, 15 August 2018.

⁴ *ibid.*

⁵ *ibid.*

⁶ Rebecca Smithers, ‘[Use Our Loos campaign urges UK firms to open lavatories to non-customers](#)’, *Guardian*, 8 August 2018.

that the closure of such facilities could push people “further into the shadows” and “heighten their isolation”.⁷

1.3 Recent government policy on maintaining public lavatories

To help reduce the cost of maintaining public lavatories, the Government has introduced measures to support those operating them. In the 2018 budget, the then Chancellor of the Exchequer, Philip Hammond, stated that public or private owners would no longer pay business rates on public lavatories. The tax relief would apply to any stand-alone facilities for public use. However, the relief would not apply to lavatories in larger hereditaments, such as those in public libraries.⁸

The Government subsequently introduced the Non-Domestic Rating (Public Lavatories) Bill [HL] 2017–19 in the House of Lords on 18 June 2019, which sought to implement that commitment by providing, in effect, a 100 percent mandatory relief from business rates for eligible public lavatories in England and Wales. During second reading in the House of Lords on 10 July 2019, Members supported the bill, although some outlined that they would consider tabling amendments to it at committee stage. The bill was subsequently read for a second time and committed to a committee of the whole house.⁹ However, the bill fell before committee stage could take place, when parliament was prorogued in October 2019.¹⁰

In the 2020 budget, the current Chancellor of the Exchequer, Rishi Sunak, recommitted to reintroducing this relief, announcing that it would apply retrospectively from 1 April 2020. The bill seeks to implement this commitment.¹¹

On 28 June 2020, Simon Clarke, then Minister of State at the Ministry of Housing, Communities and Local Government,¹² and Rebecca Pow, Parliamentary Under Secretary of State at the Department for Environment, Food and Rural Affairs, wrote a joint letter to councils calling for the reopening of public lavatories in line with the Government’s guidance on reducing the risk of coronavirus transmission. This included using signs and posters to promote handwashing and considering social distance marking in areas where queues normally form.¹³

Although the Government has recommitted to reintroducing a relief for public lavatories in England and Wales, the Labour Party has criticised the Government for not offering enough support for local authorities. In July 2020, the Leader of the Labour Party, Keir Starmer, warned that both the recent coronavirus pandemic and “the Government’s inaction” could lead to “a black hole of around £10 billion” in local council finances.¹⁴

⁷ Mary O’Connor, ‘[Coronavirus: When will public toilets be reopened?](#)’, BBC News, 29 May 2020.

⁸ [HC Hansard, 29 October 2018, cols 663–4.](#)

⁹ [HL Hansard, 10 July 2019, col 1823.](#)

¹⁰ UK Parliament website, ‘[Non-Domestic Rating \(Public Lavatories\) Bill \[HL\] 2017–19](#)’, accessed 29 July 2020.

¹¹ HM Treasury, [Budget 2020: Delivering on Our Promises to the British People](#), 11 March 2020, p 90.

¹² Simon Clarke resigned from the Government on 8 September 2020: BBC News, ‘[MP Simon Clarke resigns from government for personal reasons](#)’, 8 September 2020.

¹³ Ministry of Housing, Communities and Local Government, ‘[Coronavirus \(COVID-19\): Letter to Councils on the Re-opening of Public Toilets and Tips](#)’, 28 June 2020.

¹⁴ Labour Party, ‘[Keir Starmer: Coronavirus and Government inaction have created a perfect storm for local councils](#)’, 1 July 2020.

2. Provisions of the bill

The bill is formed of four clauses.

Clause 1 amends part 3 of the Local Government Act 1988 to insert a new relief into section 43. This would ensure that the chargeable amount in relation to a hereditament consisting wholly or mainly of a public lavatory is zero. The clause also makes consequential changes to the formula used to calculate a hereditament's chargeable amount, to ensure it is subject to the new relief. According to the bill's explanatory memorandum, this relief is expected to cost no more than £6 million in England and £450,000 in Wales.¹⁵

Clause 2 makes consequential amendments to sections 57A and 67 of the 1988 act, section 13 of the Business Rate Supplements Act 2009 and the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016 (SI 2016/1265). These amendments would reflect the zero-rating for public lavatories.

Clause 3 details the provisions for money to be paid to cover lost business rate incomes to local authorities because of the new relief. Compensation will be provided to local authorities through section 31 of the Local Government Act 2003, which allows for both the UK and Welsh Governments to pay a grant to local authorities towards expenditure either incurred or to be incurred by local authorities. This is paid out by money provided by Parliament.

Clause 4 contains miscellaneous provisions. These include that the provisions in the bill have effect from 1 April 2020. The bill will apply to England and Wales. As business rates are devolved to Wales, the part of the bill affecting Wales requires a legislative consent motion. A motion for the bill was laid before the Senedd on 7 May 2020.¹⁶

3. House of Commons stages

The bill was introduced in the House of Commons on 18 March 2020.¹⁷

3.1 Second reading

Second reading took place on 16 July 2020. Speaking on behalf of the Government, Simon Clarke, then Minister of State at the Ministry of Housing, Communities and Local Government, described the bill as “small but important” in reducing running costs and in “help[ing] keep these vital public facilities open”.¹⁸ In the context of the coronavirus pandemic, Mr Clarke also stated that the bill would:

[...] make a real difference to many people's lives, including essential workers, as lockdown eases. The savings will assist councils. Removing the additional costs of business rates could make the difference in helping to keep these vital facilities open, while supporting high standards of public hygiene as we emerge from the virus.¹⁹

¹⁵ [Explanatory Notes](#), p 5.

¹⁶ Senedd Cymru website, [Legislative Consent Memorandum: Non-Domestic Rating \(Public Lavatories\) Bill](#), 7 May 2020. At the time of writing, the motion has not yet been agreed in the Senedd: Senedd Cymru website, [Legislative Consent: Non-Domestic Rating \(Public Lavatories\) Bill](#), accessed 14 September 2020.

¹⁷ UK Parliament website, [Non-Domestic Rating \(Public Lavatories\) Bill 2019–21: Bill stages](#), accessed 7 September 2020.

¹⁸ [HC Hansard, 16 July 2020, col 1719](#).

¹⁹ [ibid](#), col 1720.

In response, the Shadow Secretary of State for Housing, Thangam Debbonaire, spoke in support of the bill but outlined several concerns. These were as follows:

- There was a “lack of help” within the bill for lavatories in other public buildings, such as libraries.
- The bill did not “redress the overall damage done” by cuts to local authority funding, which have resulted in councils making “difficult decisions” to remove loos or restrict their use.
- There was no “recognition of the consequent inequality of access to public space” for the elderly, disabled and parents of young children, amongst others.
- There was nothing in the bill to support local councils to restore and provide additional cleaning and staffing of public lavatories during the coronavirus pandemic.²⁰

In response to these concerns, Luke Hall, Parliamentary Under Secretary of State for Housing, Communities and Local Government, said that the Government would be “happy to work with the Opposition” throughout the bill’s passage through Parliament.²¹

3.2 Remaining stages

On 3 September 2020, the bill had its remaining stages in the House of Commons. During committee stage, Labour tabled several amendments to the bill. These included extending the relief to publicly owned libraries and community centres, in addition to local authority properties which are free to enter and contain public lavatories that are free to use. Labour also tabled a new clause that would have required the Government to publish a report within a year of the bill gaining royal assent examining the impact that the act would have on the provision of public lavatories. However, these amendments were later withdrawn.

Discussing the amendments, Kate Hollern, Shadow Minister for Housing, Communities and Local Government, said that Labour would welcome a commitment to consider its proposals either in the House of Lords or outside the bill process, even if the Government was not minded to accept them in the Commons. In addition, Ms Hollern contended that although Labour would be supporting the bill, it was concerned that it did not “sufficiently remedy the gaps in loo provision”.²² In response, Simon Clarke stated that the cost to extend the relief to public libraries alone would cost approximately £60 million, a tenfold increase to the gross cost of the bill as introduced. Mr Clarke also argued that the requirement for a review after a year would “not assist the long-term implementation of the policy”. Instead, he assured the bill committee that the Government would keep all reliefs under review.²³

As no amendments were made to the bill at committee stage, the bill was not debated at report stage. At third reading, Labour repeated that it would support the bill despite its concerns. The bill was passed without division.²⁴

²⁰ [HC Hansard, 16 July 2020, cols 1720–1.](#)

²¹ *ibid*, col 1734.

²² [HC Hansard, 3 September 2020, col 332.](#)

²³ *ibid*, col 336.

²⁴ *ibid*, col 338.

4. Read more

- House of Commons Library, [Non-Domestic Rating \(Public Lavatories\) Bill 2019–21](#), 10 July 2020
- HM Treasury, [HM Treasury fundamental review of business rates: terms of reference](#), 11 March 2020