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Small Business Rate Relief (Automatic Payment) Bill

Bill 13 of 2008-09

Businesses and other occupiers of non-domestic properties pay non-domestic rates, known as business rates, to contribute to the cost of local authority services. A rate relief system for small businesses is in place in England (with different systems in place in Scotland and Wales). This relief is available to businesses which occupy one property with a rateable value below a certain threshold (it is also available to businesses which occupy more than one property in certain circumstances). The amount of relief received depends on the rateable value of the property.

Ratepayers currently have to apply for small business rate relief once every five years, provided that their circumstances have not changed in the interim period. This Bill, introduced by Peter Luff MP, intends to make the payment of the relief to small businesses automatic.

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Summary of main points

- The *Small Business Rate Relief (Automatic Payment) Bill* is a Private Members' Bill introduced by Peter Luff MP. The purpose of the Bill is to make the payment of rate relief for small businesses in England automatic. Currently, businesses have to apply to their billing authority once within each revaluation period (every five years) to receive the relief during the period.
- Some research suggests that there are a number of small businesses that do not apply for the relief. This might be because they are unaware of the relief, they consider the benefit not to be worth the administrative cost of applying, or they may be ineligible because they are recipients of other sorts of relief. The Bill's supporters argue that making rate relief automatic will ensure that businesses receive the relief which they are entitled to.
- Small business rate relief is available to businesses that occupy property below a certain threshold. There are certain restrictions on businesses claiming rate relief if they occupy more than one property. This ensures that large businesses that operate from a number of premises with individual ratings below the threshold do not benefit from the relief. The amount of relief received depends on the rateable value of the property. The relief is paid for by other business rate payers. Therefore, a balance has to be struck between helping smaller businesses and the interests of larger businesses that fund the relief.
- The current system requires businesses to apply for the relief. Local authorities can then check whether they are eligible, and there are sanctions against businesses which provide false information on their application form. In order to make the payment of small business rate relief automatic within the current scheme, each billing authority would need access to every other billing authority's rating list to cross check whether any other properties occupied by the business would make them ineligible for the relief. It is argued that this would place an administrative burden on local authorities and a cost that would have to be met.

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I Introduction

The *Small Business Rate Relief (Automatic Payment) Bill* is a Private Members' Bill, introduced by Peter Luff MP. It was introduced in the House of Commons on 21 January 2009, as Bill 13 of 2009-09, and was published on 2 March 2009. The Bill is scheduled to have its second reading on 6 March 2008. The territorial extent of the Bill is England only.

This Research Paper sets out the basic elements of non-domestic rates (known as business rates) before looking at the introduction and operation of the small business rate relief (SBRR) in England, and its equivalents in Scotland and Wales. The Paper then discusses the take-up of the relief, and issues which arise from the proposals to make its payment automatic. Lastly, it provides details of the content of the Bill and initial responses to it.

II Non-domestic rates

Businesses and other occupiers of non-domestic properties pay non-domestic rates, known as business rates, to contribute to the cost of local authority services. Uniform, nationally set, non-domestic rates were introduced by the *Local Government Finance Act 1988* which also replaced the domestic rates with the community charge. The Act provided for the Government to set a national rate each year in respect of non-domestic property - known as the 'multiplier'. The multiplier, when applied to the rateable value of a premises, gives the basic rates bill payable. Changes in the multiplier are linked to changes in the Retail Price Index. Local authorities neither set rates nor retain the revenues derived from them. Billing authorities collect the rates and pay the revenues to a central pool. It is then redistributed by central government to local authorities as part of the annual grant settlement.

The basis of the valuation system for the business rate is an assessment of a property's annual rental value – that is, the rent at which the property could be let in a free and open market at the specific valuation date. Rateable values are reviewed every five years. They were last updated on 1 April 2005, based on market rents at 1 April 2003. They are due to be updated again on 1 April 2010 based on market rents at 1 April 2008. Factors such as the size of the premises and how they are used are taken into account in determining rateable value. If a property has been changed since the last valuation, for example extended or otherwise modified, it can be reassessed.

Rateable value is defined in Schedule 6 to the *Local Government Finance Act 1988* as:

an amount equal to the rent at which it is estimated the hereditament might reasonably be expected to be let from year to year on these three assumptions –

(a) the first assumption is that the tenancy begins on the day by reference to which the determination is to be made;

(b) the second assumption is that immediately before the tenancy begins the hereditament is in a state of reasonable repair, but excluding from this assumption any repairs which a reasonable landlord would consider uneconomic;

(c) the third assumption is that the tenant undertakes to pay all usual tenant's rates and taxes and to bear the cost of the repairs and insurance and the other expenses (if any) necessary to maintain the hereditament in a state to command the rent mentioned above.¹

Some business properties are exempt from valuation, including agricultural land and buildings, religious premises, and properties used by disabled people. Other properties are subject to a relief or discount from the rate payment. The most significant of these is the small business rate relief scheme (SBRR) which operates in England, with comparable schemes in operation in Scotland and Wales. Some relief is also available for properties where the ratepayer is a charity,² certain rural shops,³ former agricultural premises, unoccupied properties,⁴ and in cases where the ratepayer would suffer real hardship.

III Relief for small businesses

The *Local Government Act 2003* introduced the small business rate relief scheme (SBRR), which came into force in England with effect from 1 April 2005. In brief the scheme provides for relief to be given to businesses which occupy one property with a rateable value below a certain threshold (it is also available to businesses which occupy more than one property in certain circumstances). The amount of relief received depends on the rateable value of the property. The cost of the relief paid to eligible businesses is met by an increased multiplier for non-eligible businesses. The scheme, as it currently operates, requires businesses to apply for the relief once within a five year period. Further details are set out in Section A. Separate schemes are in place Wales and Scotland; these are outlined in section B.

A. The Small Business Rate Relief Scheme (England)

1. Background

The Government had promised to consider introducing a rate relief for small businesses in the July 1998 White Paper *Modern Local Government, In Touch with the People*. The White Paper explained the rationale for the relief as follows:

10.27 There is evidence to suggest that the rates, as a proportion of turnover and profits, are greater for small businesses than for large. Research commissioned by the Department in 1995 found that companies with a turnover of less than £100,000 per year paid over 30% of their operating profits in rates – twice as much as larger companies and ten times as much as the very biggest companies with an annual turnover of £1 billion, or more.

¹ *Local Government Finance Act 1988*, Schedule 6, Section 2 (1)

² See Library Standard Note SN/PC/639

³ See Library Standard Note SN/PC/4764

⁴ See Library Standard Note SN/PC/4623

10.28 The research findings are supported by the responses of small firms to the consultation paper, which highlighted the disproportionate rate burden faced by small businesses.

10.29 Such evidence as there is, supports the view that small businesses occupy properties with lower rateable values – predominantly those in the £0 - £5,000 range. When the Government introduces local rates it will consider introducing measures to reduce the rating burden on small businesses.

10.30 The Government will discuss the details of any scheme with business representatives, and others, but we intend that it should be targeted at properties with rateable values below £5,000 and that its cost should be met through a modest increase in the national multiplier of about 1p – or less than 2%.⁵

The Green Paper, *Modernising Local Government Finance*, published in September 2000, contained firm proposals for rate relief for small firms, businesses in rural areas and for non-profit making bodies. The SBRR scheme was described as follows:

...We propose that there should be relief of 50 per cent for all properties with rateable values up to £3,000. This should be gradually reduced for properties with higher values. There would be no relief for properties with rateable values above £8,000...

5.25 It is sensible to target the relief at small firms (as opposed to small properties), but without making the rules too complicated. Some types of property (e.g. advertising hoardings and telecommunications masts) could be excluded from the scheme altogether, since they are clearly not small firms. In other cases, we might take into account whether the company occupied a single property, or look at its turnover or number of employees. We would welcome views on the effectiveness of such tests and on how firms should demonstrate that they meet the criteria (e.g. by reapplying annually to local authorities).

5.26 Unlike other rate reliefs, we propose that other ratepayers, rather than the general taxpayer, should fund this scheme. We estimate that such a scheme would add less than a penny to the national rate multiplier for other businesses.⁶

The proposals in the Green Paper were included in the *Draft Local Government Bill* published by the Office of the Deputy Prime Minister in June 2002.⁷ The draft Bill was considered by the Select Committee on Transport, Local Government and the Regions. The Committee noted a concern that any benefit for small businesses would be offset by increased rents charged by landlords, and recommended that the Government should monitor the scheme accordingly. They also received evidence that the thresholds were set too low to be of benefit.⁸

⁵ *Modern Local Government, In Touch with the People*, 1998, Cm 4014, Chapter 10

⁶ *Modernising Local Government Finance*, September 2000

⁷ Office of the Deputy Prime Minister, *Local Government Bill-Consultation on legislation*, June 2002

⁸ Transport, Local Government and the Regions Committee, *Draft Local Government Bill*, HC 981 2001-02, paras 39-40

The Government published their response to the Select Committee's report in November 2002. They agreed to monitor the scheme and commented that the level of the threshold need to strike a balance between helping those businesses who would get the relief, and the interests of the medium and larger businesses that would be funding it.⁹

The SBRR scheme was included in the *Local Government Bill 2002-03*, which became the *Local Government Act 2003*. The *Non-Domestic Rating (Small Business Rate Relief) (England) Order 2004* was laid before Parliament on 14 December 2004 and came into force on 1 April 2005.¹⁰ The Order contains details of the scheme, some of which have subsequently been changed. The SBRR scheme as it currently operates is set out below.

2. Main features of the Small Business Rate Relief Scheme

The Government was given the power under Section 62 of the *Local Government Finance Act 2003* to set two non-domestic rate multipliers for England: one for small businesses and one for other businesses. The general non-domestic rating multiplier is set at such a level as to produce an increase in the tax yield from properties that do not qualify for small business relief that is sufficient to meet the cost of the relief given to small businesses. The application of the relief depends on the rateable value of the premises concerned.

The Government website, www.businesslink.gov.uk, sets out the details of the SBRR scheme:

In small business rate relief the amount of relief depends on the rateable value.

If the rateable value of the property is less than £5,000, the rates are calculated using the small business multiplier, which for 2008/09 is 45.8 pence, and reduced by 50 per cent.

If the rateable value is from £5,000 to £9,999, the reduction decreases on a sliding scale of 1 per cent for every £100. For example, if the rateable value is £7,500, the rates are reduced by 25 per cent.

If the rateable value is from £10,000 to £14,999 (£21,499 in London), rates are also calculated using the small business multiplier. For 2008/09, the small business multiplier is 45.8 pence (instead of the standard 46.2 pence).¹¹

The multiplier will change in the next financial year, as set out in this parliamentary question:

⁹ The Government's response to the Transport, Local Government and the Regional Committee's Report on the Draft Local Government Bill, Cm 5638, November 2002

¹⁰ *Non-Domestic Rating (Small Business Rate Relief) (England) Order 2004*, SI 2004/3315

¹¹ Government Business Link website available at: <http://www.businesslink.gov.uk/bdotg/action/layer?r.l1=1073858808&topicId=1074019801&r.lc=en&r.l2=1073859221&r.s=tl> (last viewed 2 March 2009)

Robert Neill: To ask the Secretary of State for Communities and Local Government what business rate multiplier she plans to use for (a) small firms and (b) medium and large firms in (i) 2008-09 and (ii) 2009-10. [246378]

John Healey: The current small business rate multiplier for 2008-09 is set at 0.458 (45.8 pence in the pound) and will rise to 0.481 (48.1 pence) for 2009-10.

The non-domestic multiplier (for larger businesses) is currently 0.462 (46.2 pence) for 2008-09 and will rise to 0.485 (48.5 pence) in 2009-10.¹²

Relief applies to ratepayers that occupy one property within England with a rateable value below £15,000 (£21,000 in London). Additional occupied properties below a rateable value of £2,200 and all empty properties are ignored when deciding if the ratepayer only occupies one property.

There are certain restrictions on businesses claiming rate relief if they occupy more than one property. This ensures that large businesses that operate from a number of premises each with a low rateable value do not qualify for the relief. To qualify for relief, the total of all the rateable values of all the properties occupied by the ratepayer in England, including those below £2,200 must be below £15,000 (£21,000 in London). However, the amount of the relief depends only on the rateable value of the particular property concerned and relief is only intended to apply to one property. Thus a second smaller property below a rateable value of £2,200 is subject to the full charge.

Ratepayers are required to apply for SBRR once between each revaluation,¹³ (provided that certain defined circumstances have not changed). Applications are required because local authorities do not have access to the rating lists of all other local authorities so are unaware of eligibility of the businesses in their area. The application can then be checked for accuracy by the local authority. If an applicant makes a false statement in their declaration, they are liable on summary conviction to imprisonment of no more than three months, a fine, or both.¹⁴

Originally, the relief had to be applied for every year, with a deadline for applications of 30 September after the end of the financial year. However, new arrangements came into effect in the financial year 2007/08 which provide for just one application between revaluations.¹⁵ The ratepayer is not now required to make a further application until the financial year 2010/11, and businesses have until 2010 to claim for rate relief from 2007 onwards. The ratepayer must notify the billing authority of their particular changes in circumstances that may affect their entitlement to relief within four weeks starting on the day after the change occurred.¹⁶

In the 2008 Pre-Budget Report, the Government announced that they would also be extending the small business rate relief by allowing eligible small businesses in England

¹² HC Deb 19 January 2009 c1083W

¹³ The requirement to apply for the relief is set out in the *Local Government Finance Act 1988*, s43 (4B) (a) (iii)

¹⁴ *Local Government Finance Act 1988*, s43 (4C)

¹⁵ *Non-domestic Rating (Small Business Rate Relief) (Amendment) (England) Order 2006* SI 2006/2313

¹⁶ For more information see Business Rates Information Letter 5/2008, 22 September 2008

to claim relief from business rates from the day they begin to occupy a new property (rather than at the beginning of a new financial year).¹⁷ This change would be by Order, and has not yet been introduced.

B. Relief for small businesses – Scotland and Wales

1. Wales

In December 2006 proposals were passed by the National Assembly to replace the existing rural rate relief scheme with a new small business rate relief scheme. The scheme came into operation on 1 April 2007.

Most businesses with a rateable value of up to £2,000 are eligible to receive a 50% reduction in their rates, while businesses with a rateable value between £2,001 and £6,500 receive a 25% reduction. There are other small business reliefs available for post offices, child care premises, retail premises and credit unions.¹⁸ Businesses not eligible to benefit from the scheme include those entitled to other types of mandatory relief, advertising rights (e.g. billboards), beach huts, communication stations, car parks, car spaces and sewage works. The scheme is financed by the Welsh Assembly Government.

Local authorities are able to decide whether they have enough information available to them to be confident that they are paying the relief to eligible businesses; in practice, this has the effect of the rate relief being automatic in most local authority areas in Wales. The Welsh Assembly Government has stated:

Using the rateable values of businesses as the criteria for their eligibility for relief is the cheapest and easiest method. Any other method would incur significant administration costs for both businesses and the local authorities, as alternative criteria would have to be defined, and every business would have to apply to councils demonstrating that they meet the criteria. This would be administratively cumbersome for both businesses and local authorities, and would involve designing, posting and printing forms and also checking each application received. It would also entail additional costs to publicise the scheme, production of guidance, and dealing with amending and recalculating rates bills.¹⁹

2. Scotland

Small Business Rate Relief was introduced in Scotland in April 2003 and ended in March 2008. All non-domestic properties in Scotland with a rateable value of £11,500 or less in 2007-08 were eligible for a discount of between 5 and 50 per cent on the poundage rate. Non-domestic properties in Scotland with a rateable value greater than £11,500 up to

¹⁷ HM Treasury, *Pre-Budget Report*, November 2008, Cm 7484, para 5.115

¹⁸ A summary of rates relief available to all small businesses in Wales is available here <http://wales.gov.uk/docs/dsjlg/publications/localgov/081201smallbusinessrates08e.pdf?lang=en> (last viewed 2 March 2009)

¹⁹ Welsh Assembly Government, *Local Government E-Bulletin No. 9*, <http://new.wales.gov.uk/topics/localgovernment/ebulletin/9/?lang=en#named7> (last viewed 2 March 2009)

£29,000 in 2007-08 fell into the "buffer zone" and paid the standard poundage rate. Non-domestic properties with a rateable value in excess of £29,000 in 2007-08 paid the standard poundage rate plus a small supplement (0.3p in 2007-08) to cover the additional costs of the scheme. The discount on the poundage rate was dependent on the total rateable value of the non-domestic subjects occupied.

From March 2008, the Small Business Rate Relief was replaced by the Small Business Bonus Scheme. This scheme progressively reduces the rates burden for businesses with properties of which the combined rateable value is £15,000 or less. If a business has a number of small properties, then their rateable values will be combined in order to determine the percentage relief available to it. If their combined rateable value exceeds £15,000 then it will not qualify for the bonus scheme.

The level of relief for each business depends on:

- the combined rateable value of all properties in Scotland of which the business is in rateable occupation or (if vacant) which the business is entitled to occupy;
- whether or not each property is eligible for one of the existing rates relief schemes; and
- the level of other public sector assistance received by the business.

Businesses have to apply for the Small Business Bonus Scheme but do not need to reapply as long as their circumstances remain the same. Councils may carry out a review periodically to ensure that the information held about the business is complete, accurate and up to date. Relief can only be awarded for a maximum period of five years without a review being undertaken.²⁰

IV Eligibility and take-up of small business rate relief in England

A. Take-up of small business rate relief

When the SBRR was introduced, it was believed that the number of properties that would benefit would be in excess of 400,000. In 2005 Nick Raynsford, the then Local Government Minister, was asked how this number emerged:

Brian Cotter: To ask the Deputy Prime Minister (1) how his Department reached the assessment in the final regulatory impact assessment on the Local Government Act 2003—Small Business Rate Relief that over 400,000 businesses would benefit from small business rate relief; [212032]

(2) how many of the hereditaments in England with a rateable value of less than £25,000 are defined as small businesses. [212033]

²⁰ More information is available in the Scottish Government leaflet, *Small Business Bonus Scheme 2008-09*, <http://www.scotland.gov.uk/Resource/Doc/212130/0056430.pdf> (last viewed 2 March 2009)

Mr. Raynsford: Small Business Rate Relief is applied to qualifying properties with a rateable value under £10,000 while qualifying properties under the thresholds (£15,000 outside Greater London and £21,500 inside Greater London) pay the lower small business rate multiplier.

The scheme is aimed at businesses occupying a single small property and so is not available to larger businesses with several small hereditaments (e.g. a chain of small shops, a company with many advertising rights).

About 1,017,000 hereditaments outside London have a rateable value (RV) less than £15,000 and 196,000 hereditaments within Greater London are under £21,500 RV. Because the rating list does not distinguish between those occupied by large companies with many small hereditaments from those occupied by businesses occupying a single hereditament, the Government conducted research in early 2004 on the likely eligibility for the relief. This research indicated that around 350,000 businesses would benefit. A summary of this research is on the Office of the Deputy Prime Minister's website.

This figure was based on a proposed threshold of £8,000 and was revised when the threshold was set at £10,000. The new estimates indicated that about 430,000 would be eligible for the relief and this was reflected in the consultation paper and RIA as over 400,000".

As a result of the feedback from the consultation, the Office of the Deputy Prime Minister further extended the eligibility for the relief by allowing applicants to discount additional properties with a rateable value below £2,200. We estimate that this will further increase the eligibility for the relief.²¹

On 31 December 2006, some 392,000 businesses in England were claiming small business rate relief.²² Figures for December 2008 are expected to be published early in 2009.²³

It has been stated by those who wish to reform the rate relief scheme that take-up of SBRR by eligible businesses is low. A 2006 press notice from the Local Government Association (LGA) suggested that take-up of the relief was less than half, with some considerable variation across England. A press notice reported that:

Half of small businesses across England are missing out on money that could make the difference between staying afloat and going bankrupt...

A snapshot survey of local councils has revealed that under half of all businesses that could qualify for Small Business Rate Relief, and cut their bills by up to £2,500, have failed to apply for it.

²¹ HC Deb 31 January 2005 c643W. See also Table showing SBRR granted in each local authority in England for the years 2005/06 to 2007/08 and the number of hereditaments claiming SBRR as at 31 December 2006, DEP2009-0188

²² HC Deb 4 February 2009 c1272W. See also Table showing SBRR granted in each local authority in England for the years 2005/06 to 2007/08 and the number of hereditaments claiming SBRR as at 31 December 2006, DEP2009-0188

²³ HC Deb 18 November 2008 c122

Regional take up figures are:

- North West with 26% of eligible businesses taking up relief
- London with 34% of eligible businesses taking up relief
- South East with 43% of eligible businesses taking up relief
- Midlands with 48% of eligible businesses taking up relief
- South West with 48% of eligible businesses taking up relief
- East with 57% of eligible businesses taking up relief
- North East with 79% of eligible businesses taking up relief

Just 48% of small businesses have applied for relief with around £400million left unclaimed in England. Council leaders have issued an urgent plea to businesses across the country to come forward and claim the money they are entitled to. Most recent figures show that there were 3,439 company liquidations, a rise of 17.6% on the previous year, in the first quarter of 2006 in England and Wales.

Council leaders are urging small businesses to contact their local council urgently to see how much tax relief they could be entitled to.

Chairman of the Local Government Association, Sir Sandy Bruce-Lockhart, said:-

“Small businesses up and down the country are facing immense difficulties keeping their heads above water. Hundreds of millions of pounds is sitting around waiting to be claimed by hard pressed bosses of small firms.

“When local businesses are facing rising costs, it is vital that they apply for the tax relief that they are entitled to.

“Many thousands of businesses are entitled to a tax rebate that could make the difference between business as usual and bust.

“Many of the shops that face the biggest cost increases are the very ones that the local community depends on. They have nothing to lose by contacting their local council as they could see their rates bill slashed by half.”²⁴

However, there are no government statistics on the value of unclaimed small business rate relief because, as the Minister explained in November 2008:

Without a ratepayer making a claim for the relief it is not always possible to establish whether all the eligibility criteria, including whether the ratepayer occupies only one property in England, have been met. Therefore there is no estimated value of unclaimed small business rate relief.²⁵

There are a variety of reasons why businesses that occupies a property with a rateable value below the threshold have not applied for relief. For example:

- the property may be empty;

²⁴ Local Government Association, *500,000 small businesses miss out on £400million giveaway*, 1 June 2006, <http://www.lga.gov.uk/lga/core/page.do?pageId=45351> (last viewed 2 March 2009)

²⁵ HC Deb 3 November 2008 c131W

- the property may be subject to some other relief, such as that available to charities or village shops;
- the occupier may also occupy one or more other properties, making it ineligible;
- the relief may be worth very little in monetary terms, and the business may decide therefore not to apply (this is more likely to be the case where a property is only just below the threshold and the sliding scale applies to the amount of relief received); or
- the occupier was unaware of their eligibility.

The cost of the small business rate relief is paid for by the use of an increased multiplier on medium and large businesses. This Parliamentary answer, given by the Local Government Minister John Healey on 26 February shows the amount of relief granted under the scheme, and the amount raised to meet the cost:

...Details of the total relief granted and the value of the supplement collected since 2005-06 are given, in £ millions, in the following table.²⁶

<i>£ million</i>		
	<i>Relief granted</i>	<i>Amount raised</i>
2005-06	202	306
2006-07	237	311
2007-08	260	133

B. Small Business Rate Relief and the economic downturn

In recent months the current economic conditions have focused minds on the financial demands which small businesses face, including business rates. The wider impact of policies affecting small businesses in the UK is set out in the 2008 House of Commons Library Research Paper, *Small Business, Insolvency and Redundancy*.²⁷

In October 2008 the LGA announced that they had conducted a survey of 48 councils in August and September 2008. This found that:

... more than half of all councils are reporting that firms in their area are having difficulty paying regular business rates to local authorities. It also shows that one in three councils has seen an uptake in Small Business Rate Relief.²⁸

²⁶ HC Deb 26 February 2009 c1046W

²⁷ House of Commons Library, *Small Business, Insolvency and Redundancy*, RP 08/87

²⁸ Local Government Association, *Businesses Struggle to pay rates*, 30 October 2008, <http://www.lga.gov.uk/lga/core/page.do?pagelid=1160959> (last viewed 2 March 2009)

In November 2008 the Secretary of State was asked whether there had been a change in the level of uptake of small business rate relief since the start of the economic downturn. She replied that the Government did not keep an ongoing account of rate relief, but that the last available figures from December 2006 showed that 392,000 businesses claimed relief. The Secretary of State was then asked about promoting take-up of the relief:

Mr. Kidney: ... So many small businesses are suffering from cash-flow problems, but is the benefit not a source of help that is available now, waiting to be asked for? Does she agree that the Department could carry out a campaign to promote take-up of that relief, that there are good examples of local authorities already doing so, and that all of them should do so? Would she encourage all hon. Members to join in promoting take-up of that relief—even those who voted against setting it up in the first place?

Hazel Blears: My hon. Friend is absolutely right. There is a relief that helps more than 400,000 businesses, and in the current economic circumstances the smallest businesses are feeling the greatest strain. I wrote to all local authorities on 17 September, encouraging and urging them to start a take-up campaign for small businesses, and Members from all parts of the House will be delighted to join us in that...²⁹

The Business Rates Information Letter referred to by Hazel Blears contains some clarification on how to apply for the relief, and also states that:

Local authorities are also reminded that they should, where necessary, encourage small businesses to apply for the relief.³⁰

Sutton Council, for example, has reported in their newsletter that:

An estimated 1,000 firms across Sutton may be missing out on up to £500,000 in small business rate relief.

Before Christmas the council sent letters to hundreds of local firms informing them of how much they stood to gain by claiming rate relief and what they should do to claim it.

Within three weeks 191 businesses had claimed over £195,000, with individual companies saving from £55 to over £250,000, with many having their claims backdated to April 2007.³¹

A parliamentary question has asked whether there could be any further flexibility introduced into the scheme in order to increase payments. Hazel Blears replied that:

... we do not close our minds on that issue, but I remind hon. Members that local authorities have to provide essential services to the community, and that is dependent on high rates of collection of both council tax and non-domestic rates.

²⁹ HC Deb 18 November 2009 c122

³⁰ Business Rates Information Letter (5/2008), 17 September 2008, DEP2009-0082

³¹ London Borough of Sutton, *Sutton Scene*, Feb/March 09, p17

The money has to be found somewhere. Equally, I am conscious that we do not want to tip an otherwise viable business over the edge and so lose employment opportunities. It is all a balancing act, but we have to make sure that we maximise our income as well as supporting business.³²

C. Automatic payment

1. Ensuring those who are entitled receive relief?

Those in favour of automatic payment of the SBRR argue that removing the requirement to apply for the relief would ensure that businesses receive the relief that they are entitled to.

Peter Luff came fourth in the ballot for Private Members' Bills in the 2008/09 session of parliament. On 15 January 2009 he announced that he was working with the Federation of Small Businesses (FSB) to "pioneer a Private Members' Bill which would see business rate relief granted automatically for small businesses". Its supporters argue that automatic payment would increase uptake, thereby saving small businesses money, and ease administrative burdens on small firms.

In a press notice announcing his intention to introduce the Bill, Mr Luff was quoted as follows:

The worsening economic situation is having a devastating effect on small businesses. A recent study shows small businesses are collapsing at a rate of nearly 100 a day. My bill provides a simple way of easing the pain for many of them.

...

Making these payments automatic would ensure the money gets directly to those who need it. It will be a boost to small businesses and even cut administrative costs for local authorities that promote the availability of the rate relief. Rates are the third largest item of expenditure for small businesses after wages and rents, so this relief would make a huge difference.³³

The LGA has stated that it supports automatic payment of business rates. They have called for:

...the Government to make small business rate relief automatic to companies that qualify and give councils the power to offer breaks on business rates to small businesses in trouble. These measures would be aimed at stopping shops from going bust in the first place.³⁴

³² HC Deb 20 January 2009 c608

³³ Peter Luff MP, *MP's Bill will help small businesses*, 15 January 2009, <http://www.peterluff.org.uk/news.php> (last viewed 2 March 2009)

³⁴ Local Government Association, *Urgent action needed to stop high streets becoming 'ghost towns'*, Media Release 28 February 2009, <http://www.lga.gov.uk/lga/core/page.do?pagelid=1653794> (last viewed 2 March 2009)

In a press notice issued on 5 February 2009 the LGA stated that they were:

...backing calls for small businesses to receive tax cuts automatically rather than having to apply for them and save on average up to £500 a year on rates.

It is thought that up to 200,000 more small businesses could benefit from another £100m worth of Small Business Rate Relief every year, which could be the difference between staying afloat and going bankrupt during the recession.

Small firms have been able to save up to £ 1,200 a year in tax cuts since April 2005 but they have to apply to their local authority in order to receive the tax relief. The LGA believes that this application process prevents many hard pressed small businesses from getting the money they are entitled to.

LGA research also shows that:

- More than half of all councils (56%) are reporting that firms in their area are having difficulty paying regular business rates to local authorities
- Small firms are seeking business support from local authorities in eight out of ten council areas

Vice Chair of the Local Government Association, Sir Jeremy Beecham, said:

"The recession is claiming around 85 small businesses every day and they need every single last bit of help and support to get through tough times.

"Small companies don't have the staff or manpower that bigger businesses do. The last thing they need when they're working flat out just to keep their heads above water is more paperwork to fill in. Hard pressed small firms should receive this tax cut automatically rather than having to go through the hassle of applying for it. It is deeply worrying that so many businesses seem to be struggling to pay their rates."³⁵

John Wright, National Chairman of the Federation of Small Businesses, has said:

After rent and wages, rates are the biggest cost to a business and automatically getting the relief they are entitled to would be extremely welcome. During the recession, this cash injection could save many small businesses from laying-off staff or closing down completely.³⁶

Ron Bailey, Director of Local Works has said:

Communities are falling apart because small businesses are in danger. Making automatic the rate relief to which they are entitled would not only help small businesses stay afloat, it would also be a step towards keeping communities

³⁵ Local Government Association, *Overhaul of tax breaks needed for small businesses*, 5 February 2009

³⁶ Federation of Small Businesses, Press Notice, *Businesses take action for automatic rate relief*, <http://www.fsb.org.uk/News.aspx?loc=pressroom&rec=5007> (last viewed 2 March 2009)

together. And this would in turn help with climate change as it would reduce the need to travel to shop and work.³⁷

Mr Luff has tabled an Early Day Motion in support of his Bill. It states:

That this House notes with concern that business rate relief is not taken up by over half of those small businesses eligible to claim it; further notes that as a result small businesses are losing out on saving up to £2,500 yearly; further notes that across the country around £400,000 million earmarked for rate relief to be paid to small businesses is returned to the Treasury; and calls on the Government to support the Small Business Rate Relief (Automatic Payment) Bill.³⁸

At time of writing the motion had support from 111 Members of Parliament.

2. Or placing a burden on local authorities?

However, has also been argued that without an application process, the burden of determining eligibility will fall on the local authority. As explained above, a business that occupies a number of small properties can mean that the property is ineligible for SBRR. Properties with a rateable value of £2,200 and below are ignored when deciding whether a ratepayer only occupies one property. However, all the properties occupied by the ratepayer combined must be below the £15,000 threshold (£21,000 in London). A business might occupy a number of small properties in more than one local authority area, bringing the combined total to more than £15,000 making it ineligible for the relief.

Currently, businesses have to make an application in order to receive the relief. If businesses declare false information on their application, they are liable on summary conviction to imprisonment of no more than 3 months, a fine, or both.³⁹ If local authorities have a suspicion that the information provided is false, they can check with other local authorities.

An automatic scheme, based on current eligibility criteria, would require every local authority to have access to every other local authority's rating list to cross check which businesses occupy more than one property below the threshold. There are currently over 350 local authorities in England. Contact would also still have to be made with businesses to check that the information in the rating lists is accurate and up to date, and to check that where multiple properties are identified, this was in fact the case. This is likely to place an administrative burden on the local authorities, and a cost that would have to be met. The sharing of each database with each local authority may also raise questions about data protection. The extra work could lead to delays in making payments.

The Local Government Association is supporting the principle of automatic payment, and has said that they will be working with the FSB to see how this can be made possible:

³⁷ *Ibid*

³⁸ EDM No. 676, 2008-09

³⁹ *Local Government Finance Act 1988*, s43 (4C)

Councils are in favour of making small business rate relief automatic and will be working with the Federation of Small Business to find the best way to do this. In the meantime, councils will continue to do all they can to encourage higher take up of the tax cut.⁴⁰

3. The Government's view

On 20 January 2009 Peter Luff asked whether the Government would "look sympathetically" on his Bill. The Secretary of State, Hazel Blears, said:

.... I am aware of his Bill. We wrote to local authorities in October last year, reminding them that it is their job to promote the scheme and encourage small businesses to make applications. I understand that my right hon. Friend the Minister for Local Government will meet the hon. Gentleman to discuss his private Member's Bill. It is important to note that the rate relief is designed for those small businesses that occupy only one property. We have to make sure that there are checks in the system so that we do not get applications from multiple property owners. However, I am pleased to facilitate that discussion.⁴¹

She continued:

...As I say, we will look at the private Member's Bill, but I want to make sure that the system has integrity and is very good. At the moment, the information about the small business rate relief scheme is sent out with the business rates bill. Perhaps there is more that local authorities can do to draw people's attention to that application, and we will pursue that. We certainly do not want to hide the relief; we want to maximise take-up, because we recognise the contribution that small businesses make.

On 4 February 2009 Edward Davey also asked whether the Government would consider making the small business rate relief automatic. The Local Government Minister, John Healey, replied:

Small business rate relief is a valuable scheme that we introduced relatively recently; it probably benefits about 400,000 small firms across the country. It is for the local authorities, as the billing authorities, to promote the scheme. Back in September, I wrote to them reminding them of that and urging them to do so. Making the relief automatic is not straightforward, not least because there is a difficulty in ensuring that the person liable to pay business rates on one property does not have a string of similar properties, thereby breaching the eligibility criteria for claiming the relief.

However, I recognise that people are making the hon. Gentleman's argument at present, and there are things that we have done and can do to make the scheme better. Last year, we simplified the administration arrangements for it and we are

⁴⁰ Local Government Association, *Overhaul of tax breaks needed for small businesses*, 5 February 2009

⁴¹ HC Deb 20 January 2009 c607

now changing the eligibility that allows people to claim the relief back to the beginning of the financial year; that will come into play in April this coming year.⁴²

The Government has also suggested that the current system of application was unlikely to be off-putting to many eligible businesses. A Parliamentary Question from October 2008 asked:

Mr. John Baron (Billericay) (Con): May I return the Minister to the issue of small business rate relief? Many businesses across south Essex are eligible for the relief, but do not access it because of the paperwork and bureaucracy involved. Why will the Government not make it automatic?

Ian Pearson: I understand that there is a two-page form for the claiming of small business rate relief, and that it needs to be filled up only once every five years. It has been suggested that it might be possible to automate the relief, and we will consider that possibility, but I do not think it is as difficult to apply for it at present as the hon. Gentleman seems to suggest.⁴³

V The Bill

The *Small Business Rates (Automatic Payment) Bill* was published on 2 March 2009. Second reading of the Bill will take place on 6 March 2009. It is England only legislation. The Bill consists of four clauses.

Clause 1 (1) of the Bill requires the Secretary of State to make regulations to provide for the automatic and mandatory payment of the small business rate relief to the ratepayer by the billing authority (the local authority) without any requirement for businesses to apply for the relief. Under **Clause 1 (2)** the regulations would include any additional provisions needed to alter the existing legislation in order for the relief to be paid automatically. The Bill provides for the regulations to be subject to the affirmative statutory instruments procedure in Parliament.

Eligibility for the relief is set out in **Clause 2**. If the rateable value of a hereditament, as it appears on the non-domestic rating list, fits the criteria set by the Government as prescribed by Order under the *Local Government Finance Act 1988*, the business will be eligible for the mandatory relief. The Bill also states that the information in the rating list will be sufficient evidence, and therefore no declaration by the business would be required.

If a business does receive the relief, and it emerges that they were in fact ineligible to receive it, **Clause 2 (3)** allows the billing authority to require the mandatory relief to be repaid. The Secretary of State may, by regulation, make the provision for the recovery of such sums. Regulations under this section would be by statutory instrument subject to the negative procedure.

⁴² HC Deb 4 February 2009 c487

⁴³ HC Deb 22 October 2008 c314