Department for Communities and Local Government

Memorandum – Post Legislative Scrutiny
Rating (Empty Properties) Act 2007

July 2012

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July 2012

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1. Introduction

This memorandum has been prepared by Department for Communities and Local Government and provides the Committee with the Department's post – legislative assessment of the previous Government's Rating (Empty Properties) Act 2007.[1] The Act extends to Wales but this memorandum covers England only as business rates in Wales is a matter for the Welsh Assembly Government. The Act was passed to make provision for and in connection with the business rates liabilities of owners of unoccupied properties.

2. Background –

Property taxes on non-domestic property have been part of the English local taxation system for many hundreds of years, for most of that time as part of a combined tax on all property. Owners of empty non-domestic property have been liable for non-domestic rates to some degree since 1966.

The current "business rates" system - the commonly used term for non-domestic rates – was introduced in 1990. The relief available to owners of empty properties was as follows.

- All industrial properties were entitled to a 100% exemption;
- Non-industrial properties were entitled to a 3 month exemption followed by 50% relief;
- Certain other properties were entitled to a 100% exemption such as listed buildings, buildings where occupation was prohibited by law and small hereditaments (hereditaments with a rateable value of below £1,000)

3. Proposals for reform

Changes to empty property rate relief were first mooted in Kate Barker's Review of Land Use Planning[2]. The Barker review stated that

> Accepting that there is a natural rate of vacancy…there are parts of the country where significant amounts of land and property are not in use. This seems at odds with the joint environmental and economic objectives of efficient use of developed land and efficient markets for commercial property.

[1] http://www.legislation.gov.uk/ukpga/2007/9/pdfs/ukpga_20070009_en.pdf
[2] http://www.ukcip.org.uk/wordpress/wp-content/PDFs/Barker_review_landuse.pdf

The Review recommended that:

> The Government should make better use of fiscal interventions to encourage an efficient use of urban land. In particular, it should reform business rate relief for empty property…This reform could be considered in the context of the broader set of issues in relation to local government finance being examined by the Lyons Inquiry.

The Sir Michael Lyons Inquiry and report - Place-shaping: a shared ambition for the future of local government - looked into the future role, function and funding of local government. The report recommended better incentives for the efficient use of land could be provided through reforms to the empty property relief. The report stated: [3].

> Changes to the empty property relief would have a number of implications for businesses. The increased taxation would encourage the owners of empty property to find ways to make better use of it, either through using it themselves, attracting new tenants (perhaps by reducing rents) or redeveloping the site for a new use. The effect across the economy would probably be a fall in future rents that would benefit property occupiers

In response to the Barker Review and the Lyons' Inquiry, the proposal to modernise empty property rates was announced by the then Chancellor of Exchequer in his Budget report of 21 March 2007.

The Government's Regulatory Impact Assessment which was published in May 2007 stated that the rationale for reform was a "combination of competitiveness, efficiency and fairness" and that the specific objectives were:

- To improve UK competitiveness, by increasing incentives for property that is empty to be either re-let or for the property and site to be re-developed and thereby reduce rents and prices for new and existing businesses.

- To improve efficiency in land and property markets, by matching the incentives for the efficient use of property in use with similar incentives for use of the empty stock.

- In doing so to reduce the need for development of business premises on Greenfield sites, and to provide opportunities for re-development of brown field land for both housing and business property.

[3] http://www.webarchive.org.uk/wayback/archive/20070428120000/http://www.lyonsinquiry.org.uk/docs/final-08.pdf

- To remove distortions in the tax treatment of different forms of commercial property, in particular the significant tax advantage given to long term empty warehousing and industrial premises over retail and office space.

- To raise revenue in the most efficient and simple way, with as few distortions to the economy and to incentives for efficient allocation of resources as possible.

4. Rating (Empty Properties) Act 2007

The Rating (Empty Properties) Act 2007 & subsequent regulations[4]:

- raised the liability of owners of empty non-industrial properties to 100% (from 50%) of the occupied rate after a 3 month exemption period; and

- raised the liability of owners of empty industrial properties from the previous exemption to 100% of the occupied rate after a 6 months exemption period.

The Act also:

- provided a new zero rate for charities and community amateur sports clubs

- provided a power to reduce the empty property rate back to 50%; and

- provided a power to make anti-avoidance regulations

The Act came into effect on 1 April 2008.

5. Subsequent Changes to the Empty Property Rates Regime.

However, the new reduced relief regime only operated for one year – 2008-09 – before being amended.

In response to the economic downturn, the 2008 Pre Budget Report[5] announced a temporary increase in the rateable value threshold below which empty properties were exempt from rates, raising it from £2,200 to £15,000 for the 2009-10 financial year only. The temporary increase was made through 'The Non-Domestic Rating (Unoccupied Property) (England) (Amendment) Regulations 2009[6] The Government estimated that approximately 70% of properties were under that threshold and therefore, if empty, would be exempt from empty property rates.

[4] http://www.legislation.gov.uk/uksi/2008/386/contents/made
[5] http://www.hm-treasury.gov.uk/d/pbr08_completereport_1721.pdf
[6] http://www.legislation.gov.uk/uksi/2009/353/regulation/2/made

The 2009 Pre Budget Report[7] announced a one year extension to the temporary measure for 2010-11. The change was made through 'The Non-Domestic Rating (Unoccupied Property) (England) (Amendment) Regulations 2010'[8]. In addition, the rateable value threshold was uprated to £18,000 in line with the effects of the 2010 Business Rates Revaluation.

The threshold reverted to £2,600 (£2,200 uprated in line with the 2010 revaluation) on 1 April 2011. In a Written Ministerial Statement[9] of 13 December 2010, the Government stated that it would cost an estimated £400 million[10] to continue with the temporary measure and that was unaffordable taking into account the targeted support already provided for business rates and the overriding need to reduce public expenditure and support the economy generally by reducing the deficit. The Government had already temporarily doubled Small Business Rate Relief, committed to waive £175 million of backdated business rates demands levied on businesses and committed to give local authorities discretionary powers to provide business rates discount.

However, the Government fully recognised concerns about the reduced relief regime introduced by the previous Government and committed to keep empty property rates under review.

6. Preliminary Assessment of the Act

As mentioned above, the objectives of the previous Government's reforms to empty property relief were, in essence, to promote the supply of commercial property and to reduce commercial property rents. The reforms were only in place for one year before the temporary measure was introduced in response to the downturn. The reforms were not effective long enough to have had a significant impact. The table on the next page provides a summary of the trend in the amount of empty property relief received, the number of properties in receipt of the relief and the total number of empty properties.

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[7] http://webarchive.nationalarchives.gov.uk/+/http:/www.hm-treasury.gov.uk/prebud_pbr09_index.htm
[8] http://www.legislation.gov.uk/uksi/2010/408/regulation/2/made
[9] http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm101213/wmstext/101213m0001.htm#10121320000012
[10] http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm101213/wmstext/101213m0001.htm#10121320000012

	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13
Net Empty Property Rates granted (£ million)	1,313.5	1,361.8	1,294.0	487.0	1,117.1	1,121.4	757.3	859.9
Number of hereditaments in receipt of Empty Property Rates as at 31 December (thousands)	-	-	186.4	147.9	228.8	220.6	210.2	-
Estimated number of empty hereditaments as at 31 March (thousands)	-	-	[11]237.0	[12]237.0	267.0	269.0	-	-

Source: For 2005/06 to 2010/11 data are from National Non-Domestic Rating 3 outturn forms returned by local authorities and published in 'National Non-Domestic Rates collected by local authorities in England'. For 2011/12 and 2012/13 data are from the National Non-Domestic Rating 1 forecast forms returned by local authorities and published in 'National Non-Domestic Rates to be collected by local authorities in England'.

As could be expected, after the reforms were introduced on 1st April 2008, the amount of empty property relief granted in 2008/09 fell by 62% when compared to 2007/08 (£487m compared to £1,294m). There was also a 21% drop in the number of hereditaments in receipt of the relief. However, the estimated number of empty hereditaments before and after the reforms were introduced remained the same at 237,000. These data are insufficient to draw any conclusions over the efficacy of the reforms. It is not possible to tell what would have happened to the number of empty properties in the absence of these reforms and the data on the number of empty properties was experimental for 2007/08 and 2008/09.

The amount of empty property rate relief granted rose in 2009/10 and 2010/11 which would be expected as the relief was temporarily made more generous for those years. The number of empty hereditaments also increased in 2009-10 and 2010-11. That period, of course, coincided with the downturn in the economy.

As mentioned above, the empty property regime for 2011-12 reverted to the same system as for 2008-09, i.e. the previous Government's intended reduced regime. The estimated relief and estimated number of properties in receipt of relief for 2011-12 are higher than for 2008-09, which again could be explained by the economic conditions.

Views of Industry

It should be noted that a number of organisations, including the Royal Institute of Chartered Surveyors, the British Property Federation, the Federation of Small Business and the Taxpayers' Alliance, argue that the previous Government's reforms will not have the intended effect and will damage growth. They also argue that it is inequitable to tax businesses on assets that are unproductive.

[11] Experimental Data
[12] Experimental Data

For example, the Royal Institute of Chartered Surveyors have stated that:

> "Incentives already exist within the system as it is rarely in a landlord's interest to keep a property empty and not be receiving rent. Where taxes are put in place they can have a negative impact with developers reluctant to build new properties which may stand empty for some time, causing additional costs through tax payments, and the viability of regeneration schemes damaged."[13]

The Royal Institute of Chartered Surveyors argue that Empty Property Rate Relief should be available for 12 or 18 months before full business rates become payable. And would argue that ideally the Government would remove or significantly reduce Empty Property Rates across all non domestic property.

Proposed reforms in Scotland

The Scottish Government has recently introduced the Local Government Finance (Unoccupied properties etc.) (Scotland) Bill [14]in order to alter the level of empty property relief available in Scotland, with the aim of providing "incentives to bring vacant commercial premises back into use and raise additional revenue for the Scottish Government." The new reforms will save an estimated £18m per year and aim to encourage maximum occupancy of Scotland's town centres, providing links to the Scottish Government's Regeneration and Town Centre Strategies. The Scottish Government proposes that, generally, 10% rate relief will be available instead of 50%, following the initial 3 month zero-rated period.

7. Government changes to the business rates system

The issue of empty property rate relief should be seen in the context of the wider changes that the present Government has made to the business rates system.

This includes:

- the temporary doubling of small business rate relief. Over half a million businesses in England are estimated to benefit, with approximately a third of a million businesses paying no rates at all for that period;
- the introduction of a deferral scheme to allow businesses to defer payment of 60 per cent of the Retail Price Index increase in 2012-13 business rates bills;
- the cancellation of certain backdated liabilities, including in ports, costing an estimated £175 million;

[13] http://www.rics.org/site/scripts/documents_info.aspx?documentID=768
[14] http://www.scottish.parliament.uk/parliamentarybusiness/Bills/48900.aspx

- making it easier for business to claim small business rate relief by, amongst other things, removing the legal requirement for ratepayers to have to submit an application form;

- the introduction of a new power to allow authorities to fund their own business rates discounts, entirely as they see fit;

- the introduction of 24 new Enterprise Zones across the country. Businesses that move into a Zone before April 2015 will benefit from a 100 per cent business rate discount worth up to a £275,000 over a five year period for firms.

8. Conclusion

As mentioned above, the lack of available data, the existence of confounding factors (the economic downturn) and the short period for which the reforms were in place mean that it is not possible to conclude whether or not the previous Government's reforms introduced through the Rating (Empty Properties) Act 2007 produced their intended effect.

The Government recognises the concerns about the previous Government's reforms and, therefore, while changes to the empty property rates regime are currently unaffordable, the Government is still committed to keeping this matter under review.

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