

August 2007

## Rating Empty Properties – Update

In his Budget speech in March, Gordon Brown announced that empty property relief would be reformed with full rates being paid on all empty property after an initial rate free period. Since then, the property industry has strongly condemned these changes but the protests have fallen on deaf ears. The Rating (Empty Properties) Act 2007 has now been passed. However, perhaps in a belated attempt to placate the critics, the Government has published a consultation paper inviting views on the details of the reforms. This newsletter provides a brief explanation of what you can expect.

### Rating (Empty Properties) Act 2007

This is an enabling Act with little in the way of detail. The main provisions are:

- From the 1st April 2008 all empty properties will pay full rates after an initial rate free period.
- Exemption will be given to empty property where the ratepayer is a charity or a community amateur sports club. This only applies where it is likely that the property will next be used by a charity or community amateur sports club.
- Anti-avoidance measures are introduced in an attempt to deal with owners who might otherwise take action to avoid empty business rates.
- New Regulations will be passed to cover many aspects of the reforms including rate free periods. From the 1st April 2008 there will be a 3 month rate free period for all properties with a further 3 months (total 6 months) for industrial premises and warehouses.

It is still not clear whether property that has already received empty rate relief for at least 3 (or 6 months), will benefit from another void period from the 1st April 2008 but it seems likely that full rates will be payable.

The Act applies to both England and Wales although the National Assembly for Wales has the power to reverse or amend the provisions.

In Scotland where separate legislation governs business rates, there is no indication that there will be any changes to the existing empty rates system.

### Consultation Paper: Modernising Empty Property Rate Relief

The Communities and Local Government has recently published its consultation paper, *Modernising Empty Property Relief*, which seeks views on the detailed aspects of this legislation. The issues include:

#### Existing Exemptions

The Government plans to retain some existing exemptions for empty property including:

- Vacant small properties with a rateable value below £2,200.
- Where the occupation of the property is prohibited or prevented either by the operation of the law or action taken by a public authority.
- Where part of a property is vacant ratepayers can still apply for discretionary rates relief to their local authority. However, from the 1st April 2008, this discretionary relief will be limited to 3 months (or 6 months in the case of industrial and warehouse premises).

#### Listed Buildings

Currently listed buildings are exempt from empty business rates but this concession may be removed "..... as an incentive for owners to bring empty properties back into use". The consultation paper suggests three options:

- Whether total exemption should remain.
- Whether listed buildings should be treated like other empty properties with a 3 month initial rate free period.
- Whether all listed buildings should receive a 6 month rate free period

## Anti Avoidance Measures

The consultation paper provides detailed proposals for new "anti avoidance" Regulations which are designed to stop owners from rendering their empty property incapable of beneficial occupation e.g. by removing the roofs. Without these new measures property could be deleted from the rating list and no rates would be payable.

The government wishes to introduce a 'simple' system based on existing valuation practice. This is completely contrary to the details contained in the consultation paper which are complex and will be very difficult to apply. The details are briefly:

- Owners that cause or allow damage to their vacant properties will be penalised as rateable values will continue to be based on the previous state i.e. their existing (damaged or demolished) state will be ignored.
- The following will not be caught by these anti-avoidance measures:
  - Properties demolished under permitted rights
  - Properties redeveloped with planning permission
  - Properties damaged by natural disaster such as floods, gales etc.
  - Properties damaged accidentally e.g. by gas explosion, burst water main etc.
  - Properties subject to criminal damage.
  - In the case of accidental or criminal damage the owner will have to prove he has taken reasonable steps to prevent it.



## Failing to complete a development

Local authorities already have powers to serve Completion Notices specifying a completion date after which the 3 or 6 month void period begins. These are issued when a property is considered to be complete or where the work remaining can reasonably be expected to be done within 3 months. The Government is keen to see these powers used more frequently and so prevent owners avoiding rates by failing to complete development.

## Intermittent Occupation

Currently, a property which has already received 3 months empty rate relief can be re-occupied for a minimum of six weeks before it qualifies for a further period of empty relief. This general provision will continue but the government is undecided as to whether the minimum period of re-occupation should be 6 weeks or extended to 3 months or even 6 months.

## Bogus Tenancies

The Government recognises the possibility of empty properties being let on so called "bogus tenancies" to organisations that do not occupy the premises but are exempt from empty rates e.g. charities. The consultation paper provides no solutions, but asks for comments on how widespread this practice is and the problems that it raises.

## Insolvency

Companies in liquidation will continue to be exempt from empty property rates. However, under existing legislation, companies in administration will be liable for rates on their empty property. The Government seeks views on whether the current system should continue, whether companies in administration should be given a 12 months empty rate-free period or whether full exemption should apply.

## Conclusion

The Government is going full steam ahead with its reforms of empty property rates but there is still some way to go before the detailed Regulations are published. If you would like to comment on any of the aspects outlined above you should submit your views and concerns to [emptyproperty@communities.gov.uk](mailto:emptyproperty@communities.gov.uk) by the 1st October 2007. GVA Grimley will be responding to this consultation paper through our representation on various rating committees. If you would like to discuss this or any particular aspect of the reforms please let us know.

This newsletter is published as part of our general service to clients. It can only give the most generalised indication of what is involved and is no substitute for proper advice on the actual properties concerned.