

Rating (Empty Properties) Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Department for Communities and Local Government are published separately as HL Bill 80 – EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Lord Davies of Oldham has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Rating (Empty Properties) Bill are compatible with the Convention rights.

Rating (Empty Properties) Bill

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TO

Make provision for and in connection with the liability of owners of unoccupied hereditaments to a non-domestic rate.

Most Gracious Sovereign,

W^E, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, towards making an addition to the public revenue, have freely and voluntarily resolved to give and grant unto Your Majesty the increases in non-domestic rating receipts resulting from the provisions hereinafter made; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Unoccupied hereditaments: chargeable amount

- (1) In section 45 of the Local Government Finance Act 1988 (c. 41) (unoccupied hereditaments: liability), for subsection (4) (determination of chargeable amount) substitute—

“(4) Subject to subsection (4A) and to section 45A below, the chargeable amount for a chargeable day shall be calculated in accordance with the formula— 5

$$\frac{A \times B}{C}$$

where A, B and C have the meanings given by section 46.

- (4A) An order may provide that subsection (4) shall have effect as if the following formula were substituted— 10

$$\frac{A \times B}{C \times N}$$

where N is such number (greater than one but not greater than two) as may be prescribed.

- (4B) An order under subsection (4A) may be made –
- (a) in relation to England, by the Secretary of State;
 - (b) in relation to Wales, by the Welsh Ministers.”.
- (2) After that section insert –
- “45A Unoccupied hereditaments: zero-rating** 5
- (1) Where section 45 applies in relation to a hereditament, the chargeable amount for a chargeable day is zero in the following cases.
- (2) The first case is where –
- (a) the ratepayer is a charity or trustees for a charity, and
 - (b) it appears that when next in use the hereditament will be wholly or mainly used for charitable purposes (whether of that charity or of that and other charities). 10
- (3) The second case is where –
- (a) the ratepayer is a registered club for the purposes of Schedule 18 to the Finance Act 2002 (community amateur sports clubs), and 15
 - (b) it appears that when the hereditament is next in use –
 - (i) it will be wholly or mainly used for the purposes of that club and that club will be such a registered club, or
 - (ii) it will be wholly or mainly used for the purposes of two or more clubs including that club, and each of those clubs will be such a registered club.”. 20
- (3) In section 143 of that Act (orders and regulations), after subsection (3A) insert –
- “(3B) The power to make an order under section 45(4A) shall be exercisable by statutory instrument, and no such order shall be made – 25
- (a) in the case of an order relating to England, unless a draft of the order has been laid before and approved by resolution of each House of Parliament;
 - (b) in the case of an order relating to Wales, unless a draft of the order has been laid before and approved by resolution of the National Assembly for Wales.”. 30
- 2 Consequential provisions**
- (1) Schedule 1 provides for consequential amendments.
 - (2) The enactments specified in Schedule 2 are repealed. 35
- 3 Short title, commencement and extent**
- (1) The short title of this Act is the Rating (Empty Properties) Act 2007.
 - (2) The provisions of this Act come into force on the day this Act is passed.
 - (3) The provisions of this Act have effect in relation to the year 2008-09 and subsequent financial years. 40

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- (4) Any provision of this Act relating to the making of regulations or orders has effect as from the passing of this Act as regards the making of provision in relation to any such year.
 - (5) If the power to make regulations by virtue of paragraph 4 of Schedule 1 (change of state of property to be disregarded) is exercised before 1st April 2008, it may be exercised so that the regulations—
 - (a) apply to acts or omissions taking place at any time after the regulations come into force, and
 - (b) also have effect in relation to the year 2007-08.
 - (6) This Act extends to England and Wales.

SCHEDULES

SCHEDULE 1

Section 2(1)

CONSEQUENTIAL AMENDMENTS

Partly unoccupied hereditaments

- 1 (1) Section 44A of the Local Government Finance Act 1988 (c. 41) (partly occupied hereditaments) is amended as follows. 5
- (2) In subsection (6) (cases in which unoccupied part not subject to charge), for paragraph (b) substitute –
- “(b) the hereditament to which the apportionment relates –
- (i) does not fall within a class prescribed under section 45(1)(d), or 10
- (ii) would (if unoccupied) be zero-rated under section 45A.”.
- (3) In subsection (8) (cases in which unoccupied part subject to lower rate of charge), for paragraph (b) substitute – 15
- “(b) the hereditament to which the apportionment relates –
- (i) falls within a class prescribed under section 45(1)(d), and
- (ii) would (if unoccupied) not be zero-rated under section 45A, and 20
- (c) an order under section 45(4A) is in force and has effect in relation to the hereditament.”.
- (4) In subsection (9) (determination of amount of charge in cases within subsection (8)), in the subsection (2) substituted in section 43 of that Act, for paragraph (b) substitute – 25
- “(b) such part of that rateable value as is assigned by the relevant apportionment to the unoccupied part of the hereditament, divided by the number prescribed by the order under section 45(4A) as it has effect in relation to the hereditament.”.
- (5) After that subsection insert – 30
- “(9A) In relation to a day to which neither subsection (7) nor subsection (9) applies, an apportionment under subsection (1) does not have any effect in relation to the chargeable amount.”.

Discretionary relief

- 2 (1) Section 47 of that Act (discretionary relief) is amended as follows. 35

(2) In subsection (1)(b) (exclusion of main charging provisions) for “45(4) to (6)” substitute “45(4) to (4B)”.

(3) After subsection (9) insert –

“(10) This section does not apply where the hereditament is zero-rated under section 45A.”.

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Transitional provisions in connection with revaluation

3 (1) In sections 57A(2)(a) and 58(2)(a) of that Act after “45” insert “, 45A”.

(2) In sections 57A(3)(b) and 58(3)(b) of that Act for “45(4) to (6)” substitute “45(4) to (4B), 45A”.

Change of state of property to be disregarded

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4 (1) After section 66 of that Act insert –

“66A Unoccupied hereditaments: change of state of property to be disregarded

(1) Regulations may provide that, for the purposes of this Part as it applies in relation to an unoccupied hereditament, the state of any property comprising or included in the hereditament shall be deemed not to have changed –

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(a) since before any event of a prescribed description, or

(b) by reason of any act done by or on behalf of a prescribed person.

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(2) The regulations may make provision as to the circumstances in which, and period for which, that is deemed to be the case.

(3) The regulations may provide for the making of such assumptions or apportionments as may be prescribed in determining whether, or to what extent, the state of any property has changed in comparison with an earlier point in time.

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(4) The regulations may –

(a) provide that an act is to be treated as done on behalf of a prescribed person if it is done by any person connected with that person, and

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(b) define in what circumstances persons are to be treated for that purpose as connected.

(5) The regulations may provide that they have effect (with any necessary adaptations) in relation to omissions as well as to acts.

(6) Regulations under this section may be made –

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(a) in relation to England, by the Secretary of State;

(b) in relation to Wales, by the Welsh Ministers.”.

(2) In section 143 of that Act (orders and regulations), after subsection (4) insert –

“(4ZA) The power to make regulations under section 66A shall be exercisable by statutory instrument, and no such regulations shall be made unless –

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- (a) in the case of regulations relating to England, a draft of the regulations has been laid before and approved by resolution of each House of Parliament;
- (b) in the case of regulations relating to Wales, a draft of the regulations has been laid before and approved by resolution of the National Assembly for Wales.” 5

Interpretation etc

- 5 In section 67(7) of that Act (interpretation etc: application of provisions in relation to particular days), for “45(6)” substitute “45A(2) and (3)”.

Disapplication of time limit for making certain regulations 10

- 6 Paragraph 4(6) of Schedule 8 to that Act (which provides that regulations specifying the basis of calculation of authorities’ non-domestic rating contributions must come into force no later than 31st December preceding the financial year to which they relate) does not apply to regulations relating to the year 2008-09. 15

Application of provisions to trustees of the National Heritage Memorial Fund

- 7 In paragraph 2 of Schedule 1 to the National Heritage Act 1980 (c. 17), for “45(6)” substitute “45A”.

Power to make further consequential amendments

- 8 (1) Provision may be made by order amending, repealing or revoking any enactment to which this paragraph applies to such extent as appears necessary or expedient in consequence of the provisions of this Act. 20
- (2) This paragraph applies to—
- (a) any enactment passed or made before the passing of this Act, and
 - (b) any enactment passed or made before the end of the session in which this Act is passed. 25
- (3) In this paragraph “enactment” includes an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978 (c. 30).
- (4) Orders under this paragraph must be made by statutory instrument, and may be made— 30
- (a) in relation to England, by the Secretary of State;
 - (b) in relation to Wales, by the Welsh Ministers.
- (5) An order under this paragraph amending or repealing a provision of an Act of Parliament must not be made— 35
- (a) in the case of an order relating to England, unless a draft of the order has been laid before and approved by resolution of each House of Parliament;
 - (b) in the case of an order relating to Wales, unless a draft of the order has been laid before and approved by resolution of the National Assembly for Wales. 40
- (6) Any other order under this paragraph—

- (a) in the case of an order relating to England, is subject to annulment in pursuance of a resolution of either House of Parliament;
- (b) in the case of an order relating to Wales, is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

SCHEDULE 2

Section 2(2)

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REPEALS

<i>Short title and chapter</i>	<i>Extent of repeal</i>	
Local Government Finance Act 1988 (c. 41)	Section 45(5) and (6). Section 48(2) and (2A).	
Local Government Act 2003 (c. 26)	Section 64(2) and (4).	10

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