

**Inverclyde Council - Finance
Revenues and Benefits**

Non Domestic Rates

Empty Property Relief Policy

Version 2.0

February 2024

Inverclyde Council - Finance Revenues and Benefits

Document Control

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Approved by:

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February 2024

Change Control Table

Version	Version Date	Revised By	Reason for Change
1.0	January 2023	T.Bunton	New Policy
2.0	February 2024	T. Bunton	Unoccupied industrial property relief: 50% relief for the first three months of unoccupation followed by 10% until occupied. Policy amendments from 1 October 2024. Unoccupied listed building relief tapered from 100% to 0% over 24 months. Policy amendments from 1 October 2024.
			Minimising tax evasion through contrivance.

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1.0 Introduction

1.1 This document details Inverclyde Council's policy on non-domestic rates reliefs on empty property.

2.0 Background

2.1 With effect from 1 April 2023 local authorities were required to set their own policy for the rating and reliefs of unoccupied properties. Empty property rating and relief is no longer a mandatory relief of rates as existing regulations do not apply from that date.

2.2 Section 19 of the Non-Domestic Rates (Scotland) Act 2020 repealed Section 24 of the Local Government (Scotland) Act 1966 . The default position with effect from 1st April 2023 is that non-domestic rates are now payable in respect of unoccupied lands and heritages.

2.3 Section 140 of the Community Empowerment (Scotland) Act 2015 added Section 3A to the Local Government (Financial Provisions etc.) (Scotland) Act 1962, permitting local authorities to introduce a scheme to reduce or remit any rate leviable by it.

2.4 Council policy replicates the previous legislative arrangements from 1st April 2023. Amendments to this Non-Domestic Rates Empty Property Relief (NDR EPR) Policy shall take effect from 1st October 2024.

2.5 Amendments to this policy will be subject to review should funding arrangements change or if other local arrangements require to be taken into account.

3.0 Empty Property Relief Eligibility and Rates of Relief

3.1 Councils can provide relief of up to 100% of the rates due.

3.2 Under this policy the Empty Property Reliefs applied by Inverclyde Council are:

3.2.1 Unoccupied property is eligible for 50% relief while so unoccupied for the first three months of such unoccupation reducing to 10% relief thereafter for the period that the property remains empty. Where such a three month period of unoccupancy commenced prior to the coming into force of this policy (the policy date) then relief under this paragraph 3.2.1 will only apply for the balance of that three month period that is on or after the policy date, unless earlier brought to an end by the property ceasing to be unoccupied.

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3.2.2 Unoccupied industrial property is eligible for 100% relief while so unoccupied for] the first six months of such unoccupation where such a period of unoccupancy commenced prior to 1st October 2024, relief under this paragraph 3.2.2 will only apply for the balance of that six month period that is on or after the coming into force of this policy (the policy date) or the policy amendment date, unless earlier brought to an end by the property ceasing to be unoccupied, and 10% relief thereafter, until occupied.

3.2.3 Unoccupied listed building property is eligible for 100% relief while so unoccupied for] the first twelve months of such unoccupation, 50% relief for a further twelve months after which the level of relief reduces to 0%. Where a period of unoccupancy commenced prior to the coming into force of this policy amendment then 100% relief under this paragraph 3.2.3 will apply until 30th September 2025, followed by 50% for a further twelve months after which the level of relief reduces to 0%, unless earlier brought to an end by the property ceasing to be unoccupied.

3.2.4 100% relief is awarded indefinitely for unoccupied properties where the property is empty and:

- subject of a building preservation order; or
- the rateable value is under £1,700; or
- where the person entitled to possession of the property is so entitled by virtue only of being:
 - the Trustee under a Trust Deed for creditors or under an award of Sequestration; or
 - the Executor of a Deceased person; or
 - a liquidator by virtue of an order made under section 112 or section 145 of the 1986 Act;
- kept vacant by reason of action taken by or on behalf of the Crown or any local or public authority with a view to prohibiting the occupation of the lands and heritages or to acquiring them; or
- the owner of the property is prohibited by law from occupying them or allowing them to be occupied; or
- has no buildings (i.e. ground or land that contain no buildings); or
- the owner is a company or limited liability partnership, which on or after 1st April 2008 (i) remains subject to an administration order made under Part II of the 1986 Act, or (ii) is in administration within the meaning of paragraph 1 of schedule B1 of that Act; or the owner is a company or limited liability partnership which is subject to a winding-up order made under the 1986 Act or which is being wound up voluntarily under that Act.

3.2.5 In this policy, and with particular reference to paragraphs 3.2.1 to 3.2.5:

- “1986 Act” means the Insolvency Act 1986;

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- “building preservation order” means a building preservation notice within the meaning of section 3(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997;
- “industrial property” means lands and heritages (other than retail property) comprising one or more buildings which is, or all of which are—
 - (a) constructed or adapted for use in the course of a trade or business; and
 - (b) constructed or adapted for use for one or more of the following purposes, or one or more such purposes and one or more purposes ancillary thereto:—
 - (i) the manufacture, repair or adaptation of goods or materials;
 - (ii) the subjection of goods or materials to any process;
 - (iii) storage (including the storage or handling of goods in the course of their distribution);
 - (iv) the working or processing of minerals;
 - (v) the generation of electricity;
- “listed building” means lands and heritages included included in a list compiled under section 1 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997;
- “retail property” means any lands and heritages where any building or part of a building comprised in them is constructed or adapted for the purpose of the retail provision of—
 - (a) goods; or
 - (b) services (other than storage for distribution services) on or from the lands and heritages.

4.0 Subsidy Control

4.1 The Council must consider and comply with the Subsidy Control Act 2022 (the “Act”) in relation to the local reliefs and reductions it provides under this policy. Where a recipient or as the case may be prospective recipient (referred to in either case here as the “Applicant”) of empty property rates relief is involved in commercial activity, the Council will have to consider whether an award of relief would result in the level of financial assistance received by that Applicant in the applicable period as set out in Section 36 of the Act exceeding the permitted level of minimal financial assistance (“MFA”) as set out in the Act, and may reduce the amount of relief awarded in terms of this policy if the MFA limit would be exceeded. The Council’s use of application forms to request information from Applicants shall assist the Council in determining the subsidy position.

5.0 Application Process

5.1 Applications for Empty Property Relief are made by completing the relevant application form accompanied by relevant supporting evidence. Application forms are available on the Council’s website: [Reductions on your Rates bill - Inverclyde Council](#).

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5.2 Eligibility for Empty Property Relief shall be determined in accordance with this policy.

5.3 A decision will be made on whether the property is eligible following receipt of an Applicant's application form.

5.4 Any additional information or evidence required will be requested from the owner.

5.5 Visiting officers may also be utilised to follow up on individual properties.

5.6 Officers will carry out checks to verify applications and any decision made is final subject to review.

5.7 Once the application form has been processed the owner will be notified in writing of the decision and their right to request a review of any decision and also of their responsibility to advise of any change in circumstances or of any erroneous assumptions made by the Council.

6.0 Backdating

6.1 An application for relief can be backdated to the start of the financial year in which the application is made provided the organisation satisfied the requirements at that time. Any applications for the previous financial year can be considered provided sufficient evidence is submitted in support of the application. Consideration may also be given where an organisation has been rated retrospectively either through the actions of the Council or the Assessor

7.0 Minimising Tax Evasion

7.1 The Non-Domestic Rates (Miscellaneous Anti-Avoidance Measures) (Scotland) Regulations 2023 introduces new measures to minimise tax evasion through contrivance. Where Non-Domestic Rates Empty Property relief has ceased to be available in respect of any lands and heritages, any subsequent application for relief by the same owner, or a person or body that has entered into a tenancy arrangement with that owner in relation to those lands and heritages, must demonstrate to the local authority that the making of the application is not part of an artificial non-domestic rates avoidance arrangement within the meaning of sections 39 and 40 of the Non-Domestic Rates (Scotland) Act 2020.

7.2 Where the person or body fails to demonstrate the matters described in paragraph 7.1 to the satisfaction of the local authority, no relief shall be awarded.

8.0 Review Process

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8.1 The ratepayer will be notified of the decision in writing. As this is a discretionary power there is no formal appeal process against the Council's decision. However the decision can be reconsidered in light of any additional points the ratepayer wishes to make.

8.2 Applicants who disagree with a decision in relation to the Empty Property Relief policy have a right to request a review. The review will be carried out by the Director of Environment and Regeneration whose decision will be final.

9.0 Amendments to Policy

9.1 The policy will be reviewed at intervals of no more than 3 years.

9.2 Ratepayers will be given at least 3 months notice of any change to the policy affecting their entitlement to rates relief or rates liability.