



INSTITUTE OF HISTORIC BUILDING CONSERVATION

Department for Communities and Local Government
Zone 5/C1
Eland House
Bressenden Place
London SW1E 5DU

Dear Sir/Madam

MODERNISING EMPTY PROPERTY RELIEF

The Institute of Historic Building Conservation (IHBC) is the professional body of the United Kingdom representing conservation specialists and historic environment practitioners in the public and private sectors. The Institute exists to establish the highest standards of conservation practice, to support the effective protection and enhancement of the historic environment, and to promote heritage-led regeneration and access to the historic environment for all.

The Institute welcomes the opportunity to comment on the consultation.

1. What, if any, evidence do you have regarding the risks of owning protected non-domestic buildings compared with the risks of owning other non-domestic buildings?

The Institute has no specific evidence on this. It is not believed that the risks of ownership of protected property are any greater for non-domestic properties.

2. Which of the three alternative periods of exemption from rates described at paragraph 3.3.7 do you think should apply to owners of empty protected buildings and why?

The Institute wishes to see the period of exemption be used to promote bringing the property back into beneficial use. A permanent exemption does not do this. In some cases there may be a requirement for listed building consent to be sought and this might justify temporary relief. But planning permission will be required for new uses for many non-protected buildings and relief is not suggested in these cases. On balance, the Institute favours no relief.

3. Do you agree that all protected buildings included on the non-domestic rating list should be treated in the same way for rating purposes, or do you believe that some types of protected buildings should be treated more favourably than others? If so, which types of protected buildings do you think should be treated more favourably, on what grounds, and how might these categories be defined?

The Institute has no reason to differentiate between types of protected building. The value of the building in use would continue to be reflected in the valuation, thus causing lower rates for buildings with lower potential uses. The Institute believes this to be an adequate approach.

4. Which of the three options for the future rates liability of companies that are in administration set out at paragraph 3.4.4 do you think the Department should adopt, and why?

The Institute can see the logic behind option 3. It would not seem to be in the interests of the protected building for its owners to choose liquidation in preference to administration.

5. With regard to the three options described at paragraph 4.2.18, do you think that the valuation officer should be required to value empty property as if it were in the same state as it was:

- i) before the date it was last occupied (and only if it has been damaged in specific circumstances, on which questions 6 and 7 seek views);**
- ii) before the date it was last valued (and only if it has been damaged in specific circumstances, on which questions 6 and 7 seek views); or**
- iii) before an act or omission that caused its state to change and which was done by or on behalf of the owner (and only if the valuation officer can establish that this is the case, on which questions 8 and 9 seek views)? Why?**

The Institute would prefer option (i).

6. If option one or option two were adopted, do you agree that anti-avoidance regulations should not apply to the classes of property described at paragraph 4.2.18 (i.e. property that is damaged as a result of natural disasters; accidental or criminal damage that the owner has taken appropriate action to prevent; permitted development work; or permitted demolitions)? If not, why not?

The Institute believes that as little as possible incentive to avoidance should be given as it is in the property's interests not to be damaged. In the case of protected property, the regulations should apply to all circumstances except those in which the owner has been powerless to avoid.

7. If option one or option two were adopted, are there other classes of property that you think anti-avoidance regulations should not apply to, in addition to those listed at paragraph 4.2.18? If so, what additional classes of property should be exempt, on what grounds, and how could they be clearly defined in legislation?

As with its answer to question 3, the Institute can see no reason to exempt any particular class of property.

8. If option three were adopted, do you agree that anti-avoidance regulations should only apply if the valuation officer is able to prove that damage to the property had been caused or allowed by an act or omission done by the owner, or a person acting on his behalf, as described at paragraph 4.2.18? If not, why not?

If based on the normal civil burden of proof, yes.

9. If option three were adopted, are there additional classes of property to which you think the anti-avoidance regulations should apply? If so, what are they, on what grounds should anti-avoidance regulations apply to them, and how could they be clearly defined in legislation?

As with its answer to question 3, the Institute can see no reason to exempt any particular class of property.

10a. For each of the three options set out at paragraph 4.2.18, are there practical issues which the Department should consider in implementing them?

The Institute is not aware of any such issues.

10b. Having regard to the issues considered at paragraph 4.2.26 – 4.2.28, which of the following options for the period of time that the anti-avoidance regulations could apply do you prefer, and why?:

- i) One year;**
- ii) Two years;**
- iii) Three years;**
- iv) Indefinitely.**

Restoration of protected property would typically require listed building consent. Allowing time for this to be obtained, including pre-application discussions, the period should not be less than one year and might justifiably be eighteen months. The Institute would not wish to see the period any longer as there should be no incentive for delay.

11. Having regard to the issues considered at paragraph 4.2.31, which of the following options do you think would best ensure that the owner's rates liability is not affected by the anti-avoidance provisions for any longer than the specified time period, and why? What practical issues should the Department consider in implementing those options?

i) On the day that the time period for which the change in the state of property can be disregarded expires, the property is automatically removed from the rating list until the valuation officer next values the property, when he will value it in its actual condition.

ii) On the day that the time period for which the change in the state of property can be disregarded expires, the rating list entry for the property is altered or removed to reflect its actual condition on the day it was last valued.

iii) From the day that the time period for which the change in the state of property can be disregarded expires, the owner may appeal against the continued application of the anti-avoidance provisions by making a proposal to the valuation officer.

The Institute wishes to see the greatest possible protection for protected property. These will not necessarily be the same as the owner's. The Institute favours option (iii) for protected property.

12. Do you agree that anti-avoidance provisions should cease to apply if the property is re-developed or re-occupied during the period of time for which the anti-avoidance regulations apply? If not, why not?

The Institute agrees with this proposal.

13. Which of the following options do you think would strike the best balance between the need to treat new owners fairly and the need to prevent rates avoidance?

i) Anti-avoidance provisions cease to apply if the hereditament is sold, and the rating list entry can immediately be altered or removed in the usual way.

ii) Anti-avoidance provisions apply for a reduced period of time if the hereditament is sold, and the rating list entry can be altered or removed three months after the sale.

iii) The period of time for which anti-avoidance provisions apply does not change if the hereditament is sold.

The Institute favours option (iii). It is concerned that tactical sales might be used to undermine the best interests of protected property.

14. Do you agree that, if option three at paragraph 4.2.18 is adopted, acts or omissions shall be treated as having been done on behalf of the owner if they are done by any person connected with the owner? If not, why not?

Yes.

15. Do you agree that, if option three at paragraph 4.2.18 is adopted, some or all of the persons listed at paragraph 4.2.38 should be treated as connected with the owner? If not, why not? What alternative means of determining whether damage is caused by a person acting on behalf of the owner would be preferable, if option three is adopted?

Yes.

16. Do you agree that, if option three at paragraph 4.2.18 is adopted, the change in the state of property should be disregarded where property is damaged as a result of omissions as well as acts done by or on behalf of the owner?

No. The Institute does not believe this would be in the interests of protected property.

17. Do you agree that owners should have a right to make a proposal on the grounds that the valuation officer has applied the anti-avoidance regulations, and disregarded changes to the state of property, in circumstances when they should not have done so? If not, why not?

The Institute agrees with this proposal.

18. Do you foresee any difficulties in ensuring owners have a right to make proposals on these grounds? If so, what are they and how might they best be avoided or overcome?

The Institute does not wish to respond to this question.

19. How widespread do you believe the practice of failing to complete a development in order to avoid rates is, based on your experience? Please provide any evidence, or describe any cases, of this happening that you have.

The Institute does not wish to respond to this question.

20. How might billing authorities best be encouraged to make full use of their existing powers to serve completion notices and so prevent owners from avoiding empty property rates by failing to complete developments?

The Institute does not wish to respond to this question.

21. How widespread do you believe the practice of intermittent occupation in order to avoid rates is, based on your experience? Please provide any evidence, or describe any cases, of this happening that you are aware of.

The Institute does not wish to respond to this question.

22. With regard to the time period for which a property should have to be re-occupied before it re-qualifies for the initial three or (in future) six month exemption when it next becomes empty, which of the options at paragraph 4.4.5 do you think would strike the best balance between preventing rate avoidance whilst preserving the ability to let premises on a flexible, short-term basis, and why?

The Institute does not wish to respond to this question.

22. Are you aware of instances where an owner has let a property to a company that does not in fact operate from the premises, for the purpose of avoiding empty property rates?

The Institute does not wish to respond to this question.

23. How widespread do you believe this practice is, based on your experience, and how do you think it might best be prevented?

The Institute does not wish to respond to this question.

24. Are you aware of other forms of rate avoidance employed by owners of empty properties that you think the Department should address with the LGA and IRRV? If so, what are they and how do you think they might best be addressed?

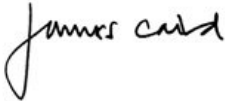
The Institute does not wish to respond to this question.

25. Are there any further comments that you would like to make on the issues considered in this consultation, or any other issues relating to the reformed empty property rate that you think the Department should have regard to?

The Institute does not wish to respond to this question.

We would be grateful if these comments could be taken into account.

Yours faithfully

A handwritten signature in black ink that reads "James Caird". The signature is written in a cursive style with a large initial 'J'.

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