

Fife Council

Empty Property Relief Policy

Effective Date

This policy will become effective from 1st April 2024.

Legislative Background

The policy is required to be put in place to allow relief to Non-Domestic Rates for Empty Rateable Subjects. Section 19 to the Non-Domestic Rates Act (Scotland) 2020 repeals the existing provisions for award of relief (Section 24 to the Local Government (Scotland) Act 1966).

This policy is introduced in terms of Section 3A to the Local Government (Financial Provisions etc) (Scotland) Act 1962 as amended by Section 140 to the Community Empowerment (Scotland) Act 2015.

Section 3A States:

“Schemes for reduction and remission of rates

- (1) This section applies in relation to rates leviable for the year 2015-16 and any subsequent year.
- (2) A rating authority may, in accordance with a scheme made by it for the purposes of this section, reduce or remit any rate leviable by it in respect of lands and heritages.
- (3) Any reduction or remission under subsection (2) ceases to have effect at such time as may be determined by the rating authority.
- (4) A scheme under subsection (2) may make provision for the rate to be reduced or remitted by reference to—
 - (a) such categories of lands and heritages as may be specified in the scheme,
 - (b) such areas as may be so specified,
 - (c) such activities as may be so specified,
 - (d) such other matters as may be so specified.
- (5) Any reduction or remission under subsection (2) ceases to have effect on a change in the occupation of the lands and heritages in respect of which it was granted.
- (6) Before exercising the power conferred by subsection (2), or amending a scheme made under that subsection, the rating authority must have regard to the authority's expenditure and income and the interests of persons liable to pay council tax set by the authority.”.

This policy will apply from 01st April 2024 to 31 March 2026 and continue thereafter should the Scottish Government review continue to devolve empty rates to Local Authority control.

Empty Rates Policy Definitions and Content

Definition

Empty properties are defined as those rateable subjects on the Valuation Roll which are not currently occupied. Part Occupied properties are not included in this policy as they are covered by Section 24A to the Local Government (Scotland) Act 1966.

Empty Relief to be awarded – Time Limited

- a) Industrial Properties (with the same definition as was contained previously in the Local Government (Scotland) Act 1966) will receive 100% relief for 3 months from the last date of occupation and 10% relief thereafter.
- b) All other properties (non-industrial) will receive 100% rates relief for the first 3 months from the last occupation date and 10% relief thereafter (this includes all subjects listed in (d) below which were previously exempt from charging).
- c) Short periods of occupation of 6 months or less will be ignored when assessing last occupation date for (a) & (b) above and (d) below.
- d) From 30th June 2024 Fife Council will remove without limit of time exemptions previously awarded to the following categories of rateable subjects and this will be replaced with 10% relief from 1st July 2024:

Unoccupied subjects where current without limit of time exemption that will end on 30th June 2024 are as follows:

1) Listed Buildings or subject to preservation order.

The rateable subjects are:

- a) Are subject of a building preservation notice/s as defined by Section 56 of the town and Country Planning (Scotland) act 1972 (a) or included in a list compiled under Section a of that Act; or
- b) Included in the Schedule of Monuments compiled under Section 11 of the Ancient Monuments and Archaeological Areas Act; or
- c) Industrial lands and heritages.

2) Properties that do not comprise any building or part-building.

- a) Property not comprising one or more buildings or a part of a building which includes all descriptions of Land (except shooting rights which have not been utilised see (6) below), Yards etc.

100% Relief awarded – without limit of time (Numbers 1 to 6 below)

The following types of properties/owners/rateable occupiers will continue to receive 100% rates relief for an indefinite time on unoccupied properties as follows:

- 1) Properties with a rateable value is less than £1700.
- 2) Properties where the rateable occupier is a trustee for sequestration, liquidation, or an executor.

The person entitled to possession of the lands and heritages is so entitled by virtue only of being: -

- a. The trustee under a trust deed for creditors; or
- b. The trustee under an award of sequestration; or
- c. The executor of the estate of a deceased person.

- 3) Properties where the rateable occupier is a company that has been wound up under the Insolvency Act.

a) The person entitled to possession of the lands and heritages is so entitled in his capacity as liquidator by virtue of an order made under Section 112 or Section 145 of the Insolvency Act 1986 (d); or

b) The owner of the lands and heritages is a company which is subject to a winding-up order made under the Insolvency Act 1986, or which is being wound up voluntarily under that Act.

- 4) Properties where occupation is prohibited by law.

The owner of the lands and heritages are prohibited by law from occupying them or allowing them to be occupied.

- 5) Properties which are subject to a compulsory purchase order.

The lands and heritages are 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.

- 6) Land that has Shooting Rights which have not been utilised by the owner.

Awarding Relief to unoccupied properties

Fife Council will transfer existing empty reliefs and exemptions existing on 31st March 2024 awarded to empty properties except where owners have not responded to empty period review forms and the relief in this circumstance will be ended on 31/03/24.

Where time limited reliefs are in place as of 31st March 2024 Fife Council will continue to award the relief, but each premises will only receive the balance of relief based on the overall maximum period of 3 months followed by 10% relief.

For new reliefs, the rateable occupier (or others who are held liable) will need to make application to Fife Council for the relief to be applied. Application forms and advice are available from Fife Council. Relief must be applied for in a timeous manner and will only be backdated where there are reasonable grounds to do so. Any backdating will be limited to the current and previous financial year from the date of application. Rate payers will be required as part of the application process to supply sufficient information and evidence as requested by the Council.

Discretion not to Charge empty Rates.

Empty rates will not be charged in exceptional circumstances and/or where the owner is taking reasonable steps to bring the property back into use (it is expected, but not absolutely required, that such applications would also be supported by Economic Development). Non-Charging is at the sole discretion of the Head of Revenues and Commercial Services or other nominated officer of Fife Council such as the appropriate Revenues Manager. In such cases relief may be extended for up to 12 months.

Subsidy Control

As this policy applies to all lands and heritages within Fife and is open to all landlords regardless of business classification, the policy is deemed as an open policy and advice received is that this relief will not be considered under the Subsidy Control regime.