

Guidance Notes

Section 44a Relief for partly occupied properties

Section 44a of the Local Government Finance Act 1988 grants Local Authorities a discretion to grant relief where it appears to the Authority that part of a property is unoccupied and will remain so for a 'short period of time only'.

The Council is not permitted to have a policy with regard to the determination of this rate relief, as the exercise of its discretion must be based on the individual circumstances of each case. This means that each application will be considered on its own merits, however regard will be given to the appropriate legislation and associated guidance provided by Central Government.

The definition of what may constitute a 'short time only' is not prescribed and will be decided by the authority dependant upon the individual circumstances of each case.

Section 44a relief is not intended to be used where part of a property is temporarily not used, it is aimed at situations where there are practical difficulties in occupying or vacating part or parts of the property.

The relief commences on the day the premises became partly occupied and ends on the first day of the following:

- Where all or part of the unoccupied area becomes occupied.
- At the end of a financial year (31st March) a new application will be required if the unoccupied period crosses over two financial years.
- The person liable for Business Rates changes.

From 1st April 2008 following reforms to empty property relief, the empty part of the property will receive a complete exemption from rates for a maximum period of 3 months (or if it is an industrial property, for a maximum period of 6 months). Once the appropriate exemption period has expired, the occupied charge for the whole property will be applied unless the property falls to be exempt for any other reason – contact the Business Rates department for further details regarding this.

- All applications must be made in writing and be made by either the owner or occupier (if different), or persons acting on their behalf (i.e. Agent, Solicitor, Accountant).
- All applications must enclose a floor plan of the assessment in question which clearly identifies the occupied and unoccupied areas.
- Applications will not be considered for retrospective periods after which full

occupation has taken place. The relief will not be awarded under any circumstance where it has not been possible to verify the situation as shown in the application by undertaking a visit to the property during the vacant period.

- Applications will not be considered where a property is partly occupied due to refurbishment.

Situations that **would** normally result in an award of the relief include (although not necessarily limited to) the following:

- Where there is partial occupation of a warehouse, factory or commercial property to facilitate relocation of the company
- Where fire, flood or other natural disaster prevents full use of the premises

Situations that **would not** normally result in an award of the relief include (although not necessarily limited to) the following:

- Where the owner sublets parts of the premises on a commercial basis
- Where the part occupation is likely to continue year on year
- Where there appears to be no effort to let, sell or occupy the empty part
- Where part occupation is seasonal

A visit to the premises in question will be undertaken by an officer of Peterborough City Council before any recommendation is made regarding an application.

Peterborough City Council will determine whether or not your premises are partly occupied and whether they will be unoccupied for a 'short time only'. If the council believes that these conditions have not been met then your application will be rejected.

There is no formal right of appeal against this decision as the award of the relief is a discretionary power; this means that the only recourse is by way of a judicial review.

If your application is successful the council will request a certificate from the Valuation Office Agency which provides rateable values for both the occupied and vacant areas. Once this certificate is received, the relief will be awarded and a revised bill will be issued to confirm the effect this has to your Business Rates account.

As this is a discretionary relief, there is no guarantee that the application will be

approved. Therefore, you must not withhold any payments due for your Business Rates pending the outcome of your application. You must continue to pay in accordance with the details shown on the bill issued to you previously in order to prevent any recovery action from being taken against you.

If you would like assistance with the completion of this form please contact the Income team on 01733 452252 or email business.rates@peterborough.gov.uk