

Agenda Item	<b>10</b>
Report No	<b>RES/33/22</b>

## HIGHLAND COUNCIL

**Committee:** Corporate Resources Committee

**Date:** 1 December 2022

**Report Title:** Non-Domestic Rates - Empty Property Relief Scheme

**Report By:** Executive Chief Officer Communities and Place

### 1. Purpose/Executive Summary

- 1.1 The legislation relating to Non-Domestic Rates Empty Property Relief (EPR) will be repealed on 31 March 2023 while rating authorities (local authorities) are being given powers to establish an Empty Property Relief Scheme, referred to in this report as the Scheme, with effect from 1 April 2023. This report details the Council's proposed replacement pan-Highland Scheme to ensure this relief can continue to be available for eligible Non-Domestic Rate payers.
- 1.2 The gross amount of Non-Domestic Rates due for financial year 2022/23 amounted to £195.5m. As set out in Appendix 1 to this report, Empty Property Relief to the value of £1.97m was awarded during 2021/22 and so far, £1.87m has been awarded for 2022/23.
- 1.3 In addition to establishing and implementing a Scheme, there are other important non-domestic rates workstreams being managed by the Non-Domestic Rates team that must also be implemented by 1 April 2023 to ensure ongoing legislative compliance and to support income from Non-Domestic Rates.
- 1.4 The next non-domestic rates revaluation in Scotland will take effect from 1 April 2023, based on market conditions at 1 April 2022. Once these rateable values are published, the Council's Non-Domestic Rates team will then need to undertake a review of 12,412 accounts which are currently in receipt of the Small Business Bonus Scheme and ensure that the revised entitlements are credited to the relevant accounts during March 2023, while also assessing and determining new relief applications.
- 1.5 Preparations are already underway for the annual billing process for 2023/24 from 1 April 2023. The annual bills will reflect the rateable values applicable from 1 April 2023, include the relief categories that have been applied for and assessed as applicable, and updated with Direct Debit details for ratepayers who elect to pay by this method.
- 1.6 The Scottish Government continue to review a range of options for distribution of the quantum for Empty Property Relief from 1 April 2023. At the time of writing this report, the Council has not received confirmation of its allocation for Empty Property Relief from 1 April 2023. Accordingly, the proposed Scheme set out in this report assumes that the 2023/24 allocation will as a minimum reflect the current value of awards in Highland uplifted to reflect the impact of revaluation and poundage rates from 1 April 2023 and to

support the significant efforts required to deliver billing from 1 April 23 timeously as detailed earlier in this report.

- 1.7 Having assessed the impact on resources and the planning/lead in times to manage and implement the revaluation process, review of Small Business Bonus Scheme and other relief, and complete annual billing by 1 April 2023, it has been necessary to invite Members to decide this policy proposal today. Once the quantum has been confirmed, should the agreed Scheme be undeliverable within the allocated budget, Officers would be required to propose a modified Scheme for Member consideration at the next available meeting of Members.

## **2. Recommendations**

- 2.1 Members are invited to:

### **Note**

- i. the existing legislation for Empty Property Relief scheme will be repealed from 31 March 2023 when powers to establish a replacement scheme will pass to local authorities;
- ii. this Highland-wide scheme supports local businesses and therefore the local economy; and
- iii. the Scottish Government will confirm distribution of the quantum in due course and as a result the proposed Scheme set out in this report assumes that the Council's allocation will enable the Scheme from 1 April 2023 to be deliverable within budget.

### **Agree**

- i. the proposed Highland Council Empty Property Relief Scheme effective from 1 April 2023 for 2023/24 as set out in section 6 to this report;
- ii. that should the Scheme be undeliverable within the quantum that a further report setting out a modified Scheme for 2023/24 be provided to a future meeting for Members' consideration; and
- iii. That a review of the Scheme for 2023/24 be undertaken to provide Members with a proposed Scheme which would take effect from 1 April 2024.

## **3. Implications**

- 3.1 Resource – resource implications for the proposed Empty Property Relief Scheme are set out in the main body of this report as are the wider planning and resourcing requirements to ensure ongoing compliance and protection of income from Non-Domestic Rates from 1 April 2023. When devising a Scheme, the rating authority must have regard to the local authority's expenditure and income and the interests of persons liable to pay council tax.
- 3.2 Legal – the type of support and recommendations set out in this policy mean that the Council will be exercising its powers to establish an Empty Property Relief Scheme effective from 1 April 2023.
- 3.3 Community (Equality, Poverty and Rural) – By being inclusive of the Highland Council area, the proposed EPR Scheme will continue to help address the needs of urban and rural communities with regard to supporting Non-Domestic Rate payers.
- 3.4 Climate Change/Carbon Clever – There are no Climate Change/Carbon Clever Gaelic implications arising from this policy.

- 3.5 Risk – There is a risk that the proposed Scheme will not be deliverable within the quantum. Should this occur, Members will be invited to consider a modified scheme at the next available meeting of Members.

Should Members decide to defer a decision, there is a major risk that the Council will not be able to reflect Empty Property Relief in the annual bills for financial year 2023/24. In these circumstances, those rate payers who are receiving Empty Property Relief in the current year, will receive annual bills requiring payments in full of their annual rates liabilities. In the event that a Scheme is put in place at a future date, there will be a need to issue revised bills and to deal with increased enquiries, which will result in actual and opportunity costs.

For ongoing compliance, to protect income from Non-Domestic Rates, and to ensure that rate payers receive timely notification of their liabilities for 2023/24, the annual billing process will proceed in accordance with the planned timetable even if it is not possible to implement an Empty Property Relief scheme within the required timescales.

- 3.6 Gaelic – There are no Gaelic implications.

#### 4. Background

- 4.1 Non-Domestic Rates are a tax on non-domestic properties to help fund Council services. They are charged on non-domestic properties held by the private, public and third sectors and payable by individuals, sole traders, businesses, charities and public sector organisations. Some types of premises are exempt from business rates, eg Churches whilst others may be eligible to claim Non-Domestic Rates Relief based on circumstances, eg small businesses, charities and unoccupied properties.
- 4.2 Currently, the Scottish Government determine the eligibility criteria for Empty Property Relief (EPR) and local authorities administer the Government's scheme including managing appeals. There are 2 different types of EPR as set out below:

- **Unoccupied - industrial properties** are eligible for 100% relief for the first six months of being unoccupied and thereafter 10% relief is available indefinitely, providing the property continues to be unoccupied.
- **Unoccupied - other properties** are eligible for 50% relief for the first three months of becoming unoccupied and thereafter 10% indefinitely, providing the property continues to be unoccupied.

Where a property falls into one of the following Non-Domestic Rates classes, 100% relief is available indefinitely for as long as the property continues to be unoccupied:

- Listed building
- Rateable value less than threshold, which is currently set by the Scottish Government at £1,700
- Sequestration, Liquidation, Administration, Receivership
- Occupation prohibited by the local authority or Court; and
- entries in valuation roll with no building ie empty land

- 4.3 Currently, EPR is mandatory and 100% funded by the Scottish Government. This means that providing the eligibility criteria are satisfied, EPR must be awarded.
- 4.4 The Scottish Government's Empty Property Relief scheme is coming to an end and local authorities have powers to establish a replacement scheme with effect from 1 April 2023. Details of the Highland Council's proposed Empty Property Relief Scheme are set out in section 6 of this report.

## 5. Devolution of Empty Property Relief in Scotland

- 5.1 The Scottish Government announced in the Scottish Budget Corporate Report, published 28 January 2021, that empty property relief would be devolved to Local Authorities at the next Non-Domestic Rates revaluation on 1 April 2023.
- 5.2 As a result, the Regulations covering Empty Property Relief would be repealed, effective from 1 April 2023. These are set out as follows:
- sections 24 to 25 of the Local Government (Scotland) Act 1966.
  - the Non-Domestic Rating (Unoccupied Property) (Scotland) Regulations 1994; and
  - the Non-Domestic Rating (Unoccupied Property) (Scotland) Regulations 2018.
- 5.3 The Regulations specified in paragraph 5.2 shall be superseded on 1 April 2023 by Part 11 of The Community Empowerment (Scotland) Act 2015) (Non-Domestic Rates). Part 11 states the following:

### 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.

- 5.4 Members should be aware that until such time as the Council establishes a localised Empty Property Relief Scheme, there is no legal basis to grant this type of relief for eligible Highland businesses from 1 April 2023.

## **6. Proposed Highland Council Empty Property Relief Scheme 2023/24**

- 6.1 Effective from 1 April 2023, it is proposed to replicate the existing Scottish Government scheme in Highland, as set out in paragraph 4.2 above for Year 1 of the Scheme. This approach aligns with the emerging position across other local authorities. Adopting the Scottish Government's Scheme for 2023/24 will enable the Council to offer assurances and confidence for local non-domestic rates payers during the prevailing economic challenges.
- 6.2 Whilst Scottish Government provided 100% funding for the current scheme, the quantum for the proposed Empty Property Relief Scheme from 1 April 2023 is still to be confirmed. Should the quantum not be sufficient to fully support the proposed Scheme, then Officers will present a modified Scheme to a future Committee for Member consideration.
- 6.3 To ensure that Empty Property Relief is reflected in the Non-Domestic Rates Annual Bills for 2023/24, it is necessary to agree a Scheme at this Committee cycle. This provides the necessary lead in times to ensure Empty Property Relief is properly included in the 2023/24 Annual Billing process for eligible businesses and to enable new applications for this relief to be considered. It is also intended that as part of the budget process for 2024/25, an update report on this policy matter will be reported to Members to enable further consideration of this policy from April 2024.
- 6.4 At the same time, the Non-Domestic Rates team will be implementing the Re-valuation of all non-domestic rateable subjects (23,686) which will also require a review of all businesses currently in receipt of the Small Business Bonus Scheme (12,412) and others that may become entitled to this important relief from non-domestic rates.

Designation: Executive Chief Officer, Communities and Place

Date: 28 October 2022

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**Scottish Government Empty Property Relief scheme value 2021/22**

<b>Empty property relief class</b>	<b>Level of relief</b>	<b>Number of properties</b>	<b>Value</b>
Industrial property relief	initial 6 months – 100%	7	£84,355
Unoccupied other	initial 3 months – 50%	74	£101,650
Ongoing unoccupied relief (10%)	10%	266	£208,493
Listed building	100%	132	£805,095
Entry in valuation roll with no building	100%	21	£84,194
Occupation prohibited by local authority or court	100%	2	£2,940
Rateable value less than threshold: (current £1,700)	100%	216	£76,426
Sequestration, Liquidation, Administration, Receivership	100%	24	£633,130
<b>Total</b>		<b>742</b>	<b>£1,966,283</b>