EXPLANATORY MEMORANDUM TO

THE NON-DOMESTIC RATING (UNOCCUPIED PROPERTY) (ENGLAND) REGULATIONS 2008

2008 No. 386

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The Non-Domestic Rating (Unoccupied Property) (England) Regulations 2008 ("the 2008 Regulations") revoke and replace the Non-Domestic Rating (Unoccupied Property) Regulations 1989 (S.I. 1989/2251) ("the 1989 Regulations") in their application to England. The 2008 Regulations prescribe the class of property whose owner will be liable for non-domestic rates when the property is empty and the exceptions from that class. The Regulations will apply with effect from the financial year beginning on 1st April 2008.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 With effect from the financial year beginning on 1st April 2008, the 2008 Regulations specify the class of property whose owner is liable for non-domestic rates when the property is empty (provided that the other conditions in section 45(1) of the Local Government Finance Act 1988 are met). This class is prescribed by regulation 3 as, broadly speaking, all properties. Regulation 4 specifies exceptions to the class so that rates are not payable in respect of the properties described in that regulation when they are empty.

4.2 The 2008 Regulations revoke and replace the 1989 Regulations in their application to England. Regulation 3 has been carried over from those Regulations and the exceptions in regulation 4 are largely the same as before. However, regulation 4(b) of the 2008 Regulations provides that the owners of certain industrial properties which have been empty for six months or less will not be liable for rates, whereas this exception was not previously time-limited. Regulation 4(l) is a new exception, which provides that companies in administration are not liable for rates in respect of empty properties they own.

5. Extent

5.1 This instrument applies to England.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The Chancellor of the Exchequer announced in the 2007 Budget report the Government's intention to modernise business rates in respect of empty properties. The purpose of the reforms is to enhance the supply of commercial property available to new and existing businesses and thereby to help to reduce rent levels, which currently place a burden on the competitiveness of the UK.

7.2 The Rating (Empty Properties) Act 2007, which received Royal Assent in July 2007, gives effect to key elements of the Government's reforms, primarily by raising the rates liability for empty commercial properties from 50% to 100% of the basic occupied rate, following an initial three month rate-free period. This is extended to six months in the case of industrial properties.

7.3 These rate-free periods will be provided by the 2008 Regulations. The three month exception in respect of all properties is carried over from the 1989 Regulations while, as noted above, the new six month exception in respect of industrial properties replaces the previous permanent exception in support of the Government's policy of increasing the supply of such properties.

7.4 The 2008 Regulations also introduce a new permanent exception from rates in respect of empty properties owned by companies in administration. This exception supplements other measures intended to promote a rescue culture for insolvent companies that have viable underlying businesses. This additional exception is being introduced in light of responses to the Government's consultation proposals set out in *Modernising Empty Property Relief – a consultation paper*.

7.5 That consultation ran from 9th July to 1st October 2007 and a copy of the paper is archived at http://www.local.communities.gov.uk/finance/busrats/emptyprop.pdf . A full list of consultees was annexed to the paper (Annex B) and these included all local authorities in England, the Royal Institute of Chartered Surveyors, the Institute of Revenues, Rating and Valuation and the Insolvency Service. The paper covered a range of issues and proposals arising from the Government's reforms to empty property rates and a summary of replies and the Government's response can be found at http://www.communities.gov.uk/publications/localgovernment/meprresponse .

7.6 The proposal that companies in administration should benefit from a permanent exception from rates in respect of empty properties they own was supported by 54% of consultees who responded on the issue, compared with only 15% who supported retention of the current position where such companies pay rates in respect of their empty properties. Responses to this issue generally supported the Government's broader policy objective of rescuing companies with an underlying viable business. It was recognised that a company's liability for empty property rates will be a significant factor for an administrator in considering whether there was a viable business capable of rescue. Those in favour of the introduction of a permanent exemption considered that the treatment of insolvent companies in administration should be made consistent with the treatment of insolvent companies and individuals subject to bankruptcy proceedings, who are already excepted from liability for rates in respect of their empty properties.

7.7 The Government will be monitoring the success of its reforms to empty property rates and will work closely with the Local Government Association, the rating professional bodies and the Valuation Office Agency to ensure that it is kept appraised of how the reforms are working on the ground.

8. Impact

8.1 An Impact Assessment has been prepared for this instrument and is reproduced in the Annex to this memorandum.

9. Contact

Richard Enderby at the Department for Communities and Local Government Tel: 020 7944 4224 or e-mail: richard.enderby@communities.gsi.gov.uk can answer any queries regarding the instrument.

Summary: Intervention & Options

Department /Agency: Communities and Local Government	Title: Impact Assessment of : Unoccupied Property Regulations 2008	
Stage: **Statutory Instrument**	Version: **1**	Date:

Related Publications: **Modernising Empty Property Relief: Summary of consultation replies and Government Response**

Available to view or download at:

http://www..communities.gov.uk/documents/localgovernment/pdf/emptypropertyre

Contact for enquiries: **Richard Enderby** Telephone: **020 7944 4224**

Owners of empty non-domestic property currently qualify for significant relief from rates, receiving a minimum 50% relief from the occupied business rate. UK office rents are amongst the highest in the world, and there is significant pressure on land for new housing and commercial developments. It does not, therefore, make sense for other taxpayers to subsidise owners to keep properties empty. The measures will modernise relief from non-domestic rates in respect of empty properties to provide a positive incentive to bring vacant shops, offices, factories and warehouses back into use.

The aim is to reform empty property rates by raising liability in respect of empty commercial properties from 50% to 100% of the basic occupied rate, following an initial three month rate-free period. This is extended to six months in the case of industrial properties. This will provide a strong incentive for owners to re-let, re-develop or sell empty non-domestic buildings, reducing the need for new development on greenfield sites and increasing access to existing premises for business, helping to reduce rents and increase the competitiveness of the UK.

What policy options have been considered? Please justify any preferred option.

a) Do nothing - continue to provide over £1bn of tax relief to owners of empty commercial property;

b) Reform Empty Property Relief - retaining an initial period of relief, and then incentivise re-use of empty non-domestic buildings through the application of a 100% rate;

c) Abolition of Empty Property Relief so that all owners are liable to pay 100% of business rates as soon as they fall empty.

Option b) is the one selected as the choice which will provide initial relief to property owners, whilst

The policy will be reviewed on an ongoing basis

John Healey 18th February 2008

Summary: Analysis & Evidence

Policy Option:	Description:

COSTS		
ANNUAL COSTS	Description and scale of **key monetised costs** by 'main affected groups'	
One-off (Transition) **Yrs**	£1.66m one-off administration cost for Local Authorities, £900-950m increased NNDR burden on business, £45m loss in NNDR revenue as a result of increased relief to businesses in administration.	
£ 1.7m		
Average Annual Cost (excluding one-off)		
£ 910.6 million	**Total Cost** (PV)	**£ 911 million**

Other **key non-monetised costs** by 'main affected groups'

Increase in administration cost of dealing with increased appeals as a consequence of higher burden on empty properties, that were previously effectively exempted from rates due to the relief.

BENEFITS		
ANNUAL BENEFITS	Description and scale of **key monetised benefits** by 'main affected groups'	
One-off **Yrs**	£900-950m increase in NNDR due to empty property reform, £45m saving to businesses in administration.	
£ 0		
Average Annual Benefit (excluding one-off)		
£ 910.6 million	**Total Benefit** (PV)	**£ 910.6 million**

Other **key non-monetised benefits** by 'main affected groups'

A reduction of rents (of around 0.25-0.5%), a reduction in empty properties (of about 10%) and fewer properties becoming empty in the future leading to increased UK competitiveness and more efficient use of capital

Price Base Year 2007	Time Period Years 4	**Net Benefit Range** (NPV) **£ + non-monetised benefits**	**NET BENEFIT** (NPV Best estimate) **£ -1.7m**

			England		
			1 April 2008		
			Local Authorities		
What is the total annual cost of enforcement for these organisations?			£		
			Yes		
			No		
What is the value of the proposed offsetting measure per year?			£ 0		
What is the value of changes in greenhouse gas emissions?			£ 0		
			No		
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large	
	No	No			

Key: **Annual costs and benefits: Constant Prices** **(Net) Present Value**

Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Introduction

This Impact Assessment considers the benefits arising from the Government's reforms to empty property rates for non-domestic properties, in particular the changes flowing from the Non-Domestic Rating (Unoccupied Property) (England) Regulations 2008 ("the 2008 Regulations"). The figures setting out the costs and benefits incorporate those costs and benefits flowing from the Rating (Empty Properties) Act 2007. This is because the data available on current reliefs does not distinguish between those reliefs available for industrial properties, and those for other commercial, non-domestic properties.

Background

The Government's objectives for reform to the existing empty property relief from business rates are:

- To improve UK competitiveness, by increasing incentives for property that is empty to be either re-let or for the property and site to be re-developed and thereby reduce rents and prices for new and existing businesses;
- To improve efficiency in land and property markets, by matching the incentives for the efficient use of property in use with similar incentives for use of the empty stock;
- In doing so, to reduce the need for development of business premises on greenfield sites, and to provide opportunities for re-development of brownfield land for both housing and business property;
- To reduce distortions in the tax treatment of different forms of commercial property, in particular the significant tax advantage given to long term empty warehousing and industrial premises over retail and office space;
- To raise revenue in the most efficient and simple way, with as few distortions to the economy and to incentives for efficient allocation of resources as possible.

Empty property relief is the most generous of the statutory reliefs in business rates and is currently costed at £1.3 billion per year in England. On being re-occupied, the property loses the relief from business rates.

At present, qualifying empty warehouses and industrial properties receive full relief from business rates on an ongoing basis. Empty retail and office premises receive full relief for three months, and 50% relief thereafter.

The Rating (Empty Properties) Act 2007 ("the 2007 Act") raised the empty property rate for commercial and retail premises from 50% to 100%. The 2008 Regulations provide that properties which have been empty for 3 months or less will continue to be excepted from rates, extended to 6 months for the owners of qualifying industrial properties. The 2007 Act also introduced a zero empty property rate for charities, and community and amateur sports clubs. These changes will take effect from 1 April 2008.

The proposal to reform empty property relief was announced in Budget 2007 in response to recommendations made by Kate Barker's Review of Land Use Planning and Sir Michael Lyons inquiry into Local Government. The rationale for reform is a combination of competitiveness, efficiency and fairness.

Competitiveness. High business rents are a key driver for reform. A series of reports by the private sector – by CB Richard Ellis in 2006, and by DTZ Research in 2004 and 2005 – have identified UK rents as amongst the highest in the world. The fact that West End office space in London is regularly ranked as the most expensive in the world reflects a variety of influences, of which land supply will be an important contributing factor. However, as London is the world's financial capital, high rents in the capital are less surprising than to find office rents in cities such as Birmingham, Manchester, and Leeds ranked as more expensive than Manhattan, Madrid, Frankfurt and Sydney by these reports. At the same time, 16% - by value - of City property stood empty in 2004-05; 18% in Manchester; and 19% in Birmingham.

Efficiency. As Kate Barker noted in her review of Land Use Planning, the planning system enables and manages sustainable development. However she recommended that land granted planning permission should then be used as efficiently as possible, a principle that supports economic, environmental and social policy objectives. Empty property relief – as a £1.3billion relief for unused, but usable, empty commercial property – therefore is not necessary or appropriate, given the Government's wider land use objectives. Kate Barker suggested, and Sir Michael Lyons agreed, that reform can help to improve incentives for better use of the stock of property in the UK. Since stocks, rather than flows, dominate the property market, improving incentives for the stock will have immediate effects and will reduce the need for more land to be consumed to meet future growth in demands for commercial property or housing.

Fairness. The current structure of empty property relief discriminates in favour of warehousing and industrial premises which receive 100% relief no matter how long they remain empty, whereas empty retail and office premises enjoy 100% relief for three months only, after which the relief is halved. This creates a distortion in the use of land which might be justified if, for example, the risk of holding industrial property were greater than holding office property. However, Kate Barker found that this was not the case, and that there is very little justification for favouring the owners of empty industrial premises over the owners of empty offices. This is not to say that there is no reason to treat these types of property in slightly different ways, and these are discussed below in the detail of the reforms.

Budget 2007 announced the Government's intention to reform empty property relief. These reforms were set within a broader package of measures that seek to increase competitiveness and provide stronger incentives to bring vacant land and property into productive use.

Such measures include the business premises renovation allowance, introduced in April 2007 – almost a full year before the reforms to empty property relief take effect - as a new 100% capital allowance for the renovation of empty commercial property.

The Government published a consultation at Budget 2007 on reforms to land remediation relief proposing an extension to the relief to long-term derelict land to improve economic incentives to bring derelict land back into active use. The Government has recently announced that the Government was minded to extend the relief to long-term derelict land and will make a further announcement at Budget 2008.

Budget 2007 announced a package of reforms to Corporation Tax (CT) including a reduction in the main CT rate, increased investment allowances and an increased R&D tax credit for large companies.

Policy Options Considered, and Preferred Options

Changes to Empty Property Relief

The Government has considered three options in reviewing empty property relief and the contribution that it makes as an effective fiscal instrument contributing to the efficiency of the commercial property markets. These are:

Option One - Do nothing

Continue to provide over £1billion of tax relief to owners of empty commercial properties with the economic and environmental implications set out above.

Option Two - Reform Empty Property Relief

Reform empty property relief to enhance competitiveness, with significant benefits to the efficiency of the land and property markets and to the fairness of the tax system. This reform will help to bring more empty property forward to be re-let and thus increase the flexibility of the commercial property rental market.

The Government considers that, as in the current form of empty property relief, all property should receive an initial period of relief from business rates when it first becomes empty. The process of turning over tenants or vacating and selling property is an important part of an efficient property market. The proposed reforms therefore provide that the initial three month period of 100% relief from business rates for all empty property be retained.

The Government has also examined the case for a slightly extended period of rates relief for industrial and warehouse property. Kate Barker's independent report on Land Use Planning found that there was an apparent equivalence of risk in owning these premises. However, the Government considers that moving qualifying industrial premises on to the same three month rate free period would represent a major reform to the tax relief for the sector. The Government has therefore decided to provide industrial premises a further three month exemption from business rates from the date they first fell empty, bringing the total rate free period for those premises to six months.

Option Three – Abolish Empty Property Relief

Abolish empty property relief completely so that all property owners are liable to pay 100% of business rates as soon as a property falls empty (with no distinction between property types).

Selected Option

To reform empty property relief, ensuring that there is a period of relief available when property initially becomes empty, but then introducing an incentive to re-let or redevelop the property through the application of a 100% empty property rate.

Introduction of Exemption from Empty Property Rate for Companies in Administration

The modernisation of empty property relief is intended to strengthen the incentive for owners to make efficient use of empty property, and to ensure that the incentive applies equally to owners of all classes of empty property wherever that makes good sense. However, the Government recognises that owners of empty property who are insolvent will face particular hardship in meeting their rates liability, and that their creditors could be disadvantaged if they were required to do so.

There are therefore no plans to change the existing exemptions from empty property rates for individuals who are bankrupt or companies in liquidation. However, the Government consulted on changes to the treatment of companies in administration via "*Modernising Empty Property Relief*" inviting views on the merits of extending a similar exemption to companies in administration. Responses were requested by 1 October 2007.

The Consultation Document offered three options, as follows:

Option One – Companies in administration continue to pay empty property rates;

Option Two – Companies in administration are exempt from empty property rates for twelve months;

Option Three – Companies in administration are permanently exempt from empty property rates.

Selected Option

The most popular choice (54%) of those who commented on these options was that a permanent exemption should be provided. The Government's response was published on 17 December and confirmed that it would introduce a permanent exemption from empty property rates for empty properties owned by companies in administration.

Costs and Benefits

Although costs and benefits may accrue over a longer time period, the analysis in this impact assessment calculates costs and benefits over a four year period. This is partly because of the uncertainty about tax projections over any longer term than four years and partly because the monetised costs and benefits are estimated to offset each other anyway.

Benefits

Reform to Empty Property Relief

It is estimated that the reform of relief from business rates in respect of empty property will increase net tax yields by £950m in 2008/09 and by £900m in 2009/10 (and around £900m thereafter). This estimate reflects the increase in yield from rates, offset against reduced corporation tax yield (because rates are a legitimate deduction from corporation tax) and changes in other tax yields resulting from increased transactions and associated behaviour.

The Government anticipates the following benefits from reforming empty property relief:

- A reduction in commercial property rents (routinely the second largest cost to business after wages). It is estimated that the increased rate of re-letting of empty property could reduce commercial property rents by around 0.25-0.5%. This is equivalent to around a £80-165m reduction in rents across the whole sector.

- Helps provide incentives for currently under-used property to become available for use, promoting supply of property. It is anticipated that at any given time this measure could reduce the amount of property that is empty by more than 10% in the sectors currently covered by empty property relief, by incentivising the sale or re-letting of property.

- Both of these outcomes would improve the UK's competitiveness, particularly for small and medium enterprises (SMEs) and other companies that want to rent.

- A behavioural response from the owners of empty property that results in property being re-let (and hence scoring additional tax on the flow of rental payments as well as full business rates) and property being sold.

- The Government also anticipates that less property will become empty in the future as landlords attempt to retain tenants or to avoid void periods altogether.

The 2007 Act reduced the empty property rate payable by charities and community and amateur sports clubs from 10% of the occupied rate to 0%, i.e. zero pounds. This will provide further additional support to those sectors.

Abolish Empty Property Relief

Abolishing empty property relief altogether would yield £1.3 billion in tax revenues, with the same (but marginally greater) benefits as for reforming the relief.

Introduction of permanent exemption to companies in administration

The Government is keen to promote a rescue culture to enable insolvent companies with viable underlying businesses to be rescued. The Enterprise Act 2002 streamlined the process for entering into administration. The Non-Domestic Rating (Unoccupied Property) (England) Regulations 2008 introduce a permanent exemption from empty property rates for companies in administration until the end of the period of administration. This will mean that insolvent companies that are in administration are treated in exactly the same way as those in liquidation. This will remove any potential for decisions about whether to enter administration or to wind-up the company to be distorted by differences in rates liability.

In 2005-06, 3,560 companies entered administration, while the average duration of an administration is 363 days. Whilst no data are held centrally on the number or rateable value of empty properties held by the average company in administration, a sample collected by the Insolvency Service of 465 companies in administration provides an estimate that the average company in administration holds empty property with a rateable value of £195,000. About 52% hold empty property that is eligible for empty property relief and, within this sector, there is an average of 6.9 empty properties per administration.

This suggests that exempting companies in administration from empty property rates could provide additional relief available to those companies, over and above their previous entitlement, of up to £45 million. In addition, it could also lead to more insolvent companies entering administration and continuing to operate, rather than entering liquidation with the associated impacts for their staff, suppliers and creditors.

Costs

Reform to Empty Property Relief

These reforms to empty property relief represent an additional burden on business of £950m in 2008/09 and £900m in 2009/10 (and around £900m thereafter).

The Government anticipates the following administrative costs from reforming empty property relief:

The assessment of the net additional costs arising from reforms to empty property relief suggests that local authorities will face a one-off additional cost during 2007-08 totalling £1.66 million. This has resulted from the need to: raise awareness of the reforms and their impact on bills amongst ratepayers; update their software systems so that accurate bills are printed; and ensure that they hold accurate details of the owners of empty property not previously liable for rates in their area so that bills can be sent to them. The Government is in the process of preparing a funding package to ensure that this cost is funded.

Beyond the preliminary year, the Government has estimated that any additional costs will be cancelled out by savings. There may be some additional costs arising from the possibility that it may prove more difficult to collect and enforce the payment of empty property rates – since it could be more difficult to locate an owner than an occupier of a building, and in the event of non-payment it is possible that there would not be much for the bailiffs to remove from an empty building. However, authorities are allowed to deduct a fixed percentage from their contribution to the pool to cover losses in collection as a result of bad debts etc.

There are also likely to be savings as a result of the reforms to empty property relief. For instance, authorities currently have to regularly inspect properties receiving empty property relief to check that they are indeed still empty. In future, in the vast majority of cases, there will be no difference in the rating of empty and occupied properties, so we anticipate that authorities will not have to carry out as many inspections.

We anticipate that the ongoing savings resulting from the reforms will cancel out the ongoing costs, and that there will not be any net additional impact on authorities' administrative costs beyond 2007-08.

Empty properties are already included on the rating list maintained by the Valuation Office Agency (VOA), and as a result the proposed reforms are not expected to lead to an increase in the number of properties requiring valuation. However, there is a possibility that the reforms might lead to an increase in the number of appeals to the VOA about the current valuation of empty properties. The Government will liaise closely with the VOA to monitor any change in appeal activity.

There is a risk that the reforms to empty property relief could lead to an increase in the dereliction of buildings as some owners seek opportunities to avoid paying rates. The Government has powers in the Rating (Empty Properties) Act 2007 to introduce regulations to tackle such avoidance activity. It will monitor the implementation of the reformed empty property relief regime and will not hesitate to introduce such regulations if there is clear evidence of such activity.

Abolish Empty Property Relief

Abolishing empty property relief altogether would reduce the efficiency and flexibility of the commercial property market. It does not recognise that there is likely to be a natural rate of vacancy in the property market and that property owners need a certain amount of time to find new tenants after a property becomes vacant. This is likely to be especially important for owner-occupying firms that go into shock and need an opportunity to restructure.

Introduction of permanent exemption to companies in administration

The introduction of a permanent exemption from empty property rates for companies in administration could lead to a reduction of up to £45million in tax revenues.

Sectors Affected

Business
Modernising empty property rates will bring the treatment of all forms of commercial property closer to parity. The current distortion between the treatment of empty industrial property and empty offices and shops would be greatly reduced, and hence returns to owners and investors would not be skewed by the tax system. This removal of tax as a distortion in property investment decisions supports the Government's wider approach to property investment, for example the introduction of UK-Real Estate Investment Trusts from January 2007 and the announcement at Budget that parallel treatment would be created for Authorised Investment Funds investing in property. Impacts on investor's returns arising from reduced rents should be considered in this wider context.

Reducing the tax relief available to owners or tenants of empty property will increase the cost of holding such property, and therefore increase the supply of property to all sectors. Kate Barker's analysis of risk showed that there is no structural difference in the propensity of property in different sectors to fall empty. Hence we anticipate an equal effect across the sectors.
We also anticipate that the same risk characteristics will mean that the payment of empty property rates will reflect the wider characteristics of the business rates base. For example, owners of industrial property are expected to pay 10-15% of the additional empty property rates.

The wider context of business rates policy is important in this respect, since Government has also announced its intention to retain the link between the Retail Prices Index and yield from business rates. Reforms to empty property rates were made within the context of this decision to retain the constant real burden of business rates.

Public Sector

The public sector occupies about 10% of the commercial property market by value. However, the Government's policy to public sector assets is to ensure efficient use is made of public buildings, and surplus stock is either re-developed for alternative use or sold. In order to reduce burden to tax payers, there should be no public buildings capable of occupation that are sitting empty, and if there are we should be providing an incentive for them to re-let or, sold as soon as possible.

Costs to Local Authorities

The assessment of the net additional costs arising from reforms to empty property relief suggests that local authorities will face a one-off additional cost during 2007-08 totalling £1.66 million. As set out above, the Government is developing a funding package to ensure that these costs are met.

We anticipate that the ongoing savings resulting from the reforms will cancel out the ongoing costs, and that there will not be any net additional impact on authorities' administrative costs beyond 2007-08.

Charities

The Government will exempt charities and community amateur sports clubs (CASCs) from paying business rates on empty properties they own. This represents an improvement to the current situation, in which empty property held by charities and CASCs is liable for 10% of the full business rate.

Regional Impact

The geography of the burden of the reform is not necessarily intuitive. Communities and Local Government estimates that 16% by value of commercial property in the City of London was empty in 2004/5, and independent analysis using a different methodology by the University of Reading confirms this order of magnitude of vacancies.

Also, the top 10 local authorities by proportion of the commercial property base that was empty in 2004/5 included Slough, Ealing, Birmingham and Manchester. These are amongst the fastest growing local and regional economies in the UK. There are pressures on land use in each of these authorities, but in each case at least 15% of the commercial property base was empty. Conversely there are also areas in the top 10 where demand for the existing commercial property stock is lower; for example, Wolverhampton, Sandwell and Brent.

Some commentators, such as the British Property Federation, have claimed that the reforms will deter speculative development and re-development, and so have a negative impact on urban regeneration in deprived areas where the market is weaker. The Government has introduced – a year ahead of the reforms to empty property relief - a new Business Premises Renovation Allowance, which provides a 100% capital allowance to support renovation and conversion of property in Assisted Areas.

Specific impact tests

Competition

The Government's general presumption is that all owners of empty property should be liable for the reformed empty property rate, and that exemptions should only be provided in exceptional circumstances. This supports the overarching objectives for reform, which seek to improve competitiveness by reducing differences in the tax treatment of different types of property, and to improve efficiency by providing strong incentives to bring property back into use. Industrial premises and warehouses will receive a longer period of relief than offices and retail property. This reflects the current distinction between the types of property, but reform goes a long way towards reducing competitive differentials in the tax treatment of owning the various forms of commercial property.

Small Firms

When assessing the impact of reform upon small firms, the most important factor is the tendency of small firms to be tenants rather than owners of business property. The impact of reforms to empty property relief and reforms to the exemptions from empty property rates is expected to fall primarily on property owners rather than tenants. That is why organisations such as the Federation of Small Businesses have generally welcomed reforms to empty property relief.

Legal Aid

No impact on legal aid has been identified as arising from the options for exemptions from the reformed empty property rates.

Sustainable Development, Carbon Assessment, Other Environment

Reform of empty property relief will help to encourage owners to make efficient use of land and property, and so reduce the need for new development on greenfield land. The Government's reforms ensure that all owners are subject to the same strong incentive to bring empty property back into use, apart from in specified particular circumstances where exemptions from the reformed empty property rate can be justified.

Health

No impact on health has been identified as arising from the options for exemptions from the reformed empty property rates.

Race, Disability, Gender and Other Equality

No equality impacts have been identified as arising from the options for exemptions from the reformed empty property rates.

Human Rights

There are two provisions of the European Convention which could be relevant to the options set out in the consultation document – Article 1 of the First Protocol and Article 14.

Article 1 of the First Protocol provides that everyone is entitled to the peaceful enjoyment of his possessions, and may not be deprived of them except in the public interest and subject to the conditions provided for by law and by the general principles of international law. There is an exception for the right of the State to secure the payment of taxes and discretion for the State to impose taxes in the public interest. The Department is confident that the options published for consultation are justified as in the public interest and proportionate to the policy aims.

The second provision is Article 14 of the Convention which provides that the enjoyment of the rights and freedoms set out in the Convention shall be secured without any discrimination. This means that any differential treatment in terms of the right to peaceful enjoyment of property, protected by Article 1 of the First Protocol, including differential treatment for tax purposes, is in principle unlawful. The European Court has, however, consistently said that differential treatment is not unlawful provided that it is objectively and reasonably justified.

Rural

The options for exemptions from the reformed empty property rates are expected to have broadly equivalent impacts in rural and urban areas. Any particular rural dimensions to the cost of empty property relief will be reflected in the rateable value of the property which will take into account the market conditions in that area.

Contact Point

For further information, please contact Richard Enderby, Communities and Local Government, 5/B1, Eland House, Bressenden Place, London, SW1E 5DU, telephone 020 7944 4224.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

	Yes/No	Yes/No
	Yes/No	Yes/No
	Yes/No	Yes/No
	Yes/No	Yes/No
	Yes/No	Yes/No
	Yes/No	Yes/No
	Yes/No	Yes/No
	Yes/No	Yes/No
	Yes/No	Yes/No
	Yes/No	Yes/No
	Yes/No	Yes/No
	Yes/No	Yes/No

Annexes