

# Get in on the Act

Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018

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### Background

The Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Bill which was introduced in the House of Commons on 28 March 2018, completed its parliamentary stages on 16 October 2018 and received Royal Assent, becoming law on 1 November 2018.

The Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018 (the Act) makes provision, where two or more hereditaments (or properties) occupied or owned by the same person meet certain conditions as to contiguity (are clearly linked or adjoining in some way), for those properties to be treated for business rates purposes as one single hereditament. Consequently such properties will have one single business rates bill. This measure retrospectively reinstates particular features of business rates valuation practice which applied before the judgment of the Supreme Court in *Woolway (VO) v Mazars* [2015] UKSC 53.

The other function of the Act is to increase the percentage by which a council in England may increase the council tax payable in respect of a long-term empty dwelling, up to 300 per cent for some properties.

The Act is made up of 3 parts as follows:

#### **Section 1: Non-domestic rating in England**

- Hereditaments occupied or owned by the same person.

**Section 2: Council tax in England** - Higher amount for long-term empty dwellings.

**Section 3: General provisions** - Extent, interpretation and short title.

This publication aims to provide readers with an introduction to the Act and summarises the main issues affecting local government.

### The role of the LGA and local government in influencing the legislation

We worked with LGA Vice-Presidents, ministers and shadow ministers, MPs and Peers as the Bill made its way through Parliament to provide background information on the proposals, and influence the legislation on behalf of local government. We submitted written evidence to the House of Commons Public Bill Committee, in order to put forward councils' voice in the parliamentary process. We also provided briefings for parliamentarians at different stages of the Bill.

As well as seeking to influence the legislation, we also took the opportunity to raise councils' voice in the debate on housing. In particular, we were successful in ensuring that councils' calls for greater powers to build more homes to meet local need were heard in debates in both Houses of Parliament.

Key highlights include:

- We supported the measures proposed in the Bill to empower councils to reduce the number of empty properties by increasing the council tax empty homes premium. As we said in our briefings, this is welcome recognition by the Government that councils need greater powers to bring empty homes back into use.
- Our written evidence to the House of Commons Public Bill Committee highlighted councils' concerns about the loss of income that would occur as a result of the change to business rates valuation for some properties.
- The Housing, Communities and Local Government Committee's pre-legislative scrutiny report recognised our concerns with the potential loss of revenue that some councils would face as a result of the changes to business rates valuation.
- During Second Reading of the Bill in the House of Commons, Shadow Housing, Communities and Local Government Minister, Jim McMahon MP, referred to our calls for more powers to be granted to councils to build homes in their areas.
- At Committee Stage in the House of Lords, the Minister responsible for the Bill, Lord Bourne of Aberystwyth, reaffirmed the Government's intention to work with us to assess the potential impact of the legislation on councils which are involved in business rates retention pilots.
- We supported a successful amendment to the Bill in the House of Lords which would allow councils to increase the empty homes premium by up to 300 per cent for properties which have been empty for 10 years or longer.

# The key provisions and their implications for local government

## Section 1: Non-domestic rating in England – Hereditaments occupied or owned by the same person

**Section 1** inserts a number of sections into the Local Government Finance Act 1988 relating to non-domestic rating valuations for ‘hereditaments’ occupied or owned by the same person. A hereditament is a “unit of assessment for business rates”, according to the Valuation Office Agency. The section would apply retrospectively back to 1 April 2010, and reinstates the business rates valuation practices that were in use prior to changes brought about by the judgment of the Supreme Court in *Woolway (VO) v Mazars* [2015] UKSC 53. Since the Supreme Court case, ‘contiguous’ properties accessed separately by a communal staircase or corridor have been valued as separate hereditaments.

Under Section 1 of the Act, these ‘contiguous’ properties will be viewed as one property for business rates purposes if the following conditions are met:

- a) two or more hereditaments (whether in the same building or otherwise) are occupied by the same person
- b) the hereditaments qualify as ‘contiguous’ (for example separated by a common wall, or located on separate floors of the same office building), and
- c) none of the hereditaments is used for a purpose which is wholly different from the purpose for which any of the other hereditaments is used.

## Section 2: Council tax in England - Higher amount for long-term empty dwellings

**Section 2** amends the Local Government Finance Act 1992 where it concerns a higher amount of council tax for long-term empty dwellings in England. It extends the maximum percentage by which council tax may be increased by a council on an empty home, from 50 per cent to 100 per cent for the financial year beginning 1 April 2019. For the financial year beginning on 1 April 2020, the relevant maximum increase of council tax is:

- a) 100 per cent for properties which have been empty for up to five years
- b) 200 per cent for properties which have been empty for at least five years.

For the financial years beginning on or after 1 April 2021, the relevant maximum increase of council tax is:

- a) 100 per cent for properties which have been empty for up to five years
- b) 200 per cent for properties which have been empty for between five and 10 years
- c) 300 per cent for properties which have been empty for at least 10 years.

## Thank you

Throughout the passage of the legislation we worked closely with our Vice-Presidents, as well as other MPs and Peers, briefing them ahead of debates and supporting amendments. On behalf of local government, we are grateful to all those parliamentarians who supported us and championed the concerns and arguments of the sector.

## Useful links

For the full text of the Act, please refer to:  
[www.legislation.gov.uk/ukpga/2018/25/  
contents/enacted](http://www.legislation.gov.uk/ukpga/2018/25/contents/enacted)

For the LGA's briefings on the Bill, please go to:  
[www.local.gov.uk/parliament/briefings-and-  
responses](http://www.local.gov.uk/parliament/briefings-and-responses)



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