

Property & Construction

Changes to Commercial Rates Law

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Local Government Reform Act 2014

Changes to Commercial Rates law, which come into effect today, 1 July 2014, allow businesses to take up new premises without fear of facing rates arrears from previous occupiers whilst not affecting the collection powers of the relevant local authorities to recoup the rates arrears in question.

Under previous law dating back to 1838, a subsequent occupier of a commercial property could be held liable for up to two years arrears of rates which could not be recovered from the previous occupier. Section 32 of the Local Government and Reform Act 2014 removes liability from subsequent occupiers and instead imposes new duties on owners of commercial property.

The Act defines an owner as any person other than a mortgagee not in possession who is entitled to receive the rents from the property thus extending its application to landlords, receivers, liquidators and mortgagees in possession.

Under the Act, where a property or an interest in a property is transferred so that a change in the party primarily liable for rates occurs, two obligations are introduced.

1. An owner must notify the relevant Local Authority of the transfer within two weeks. It should be noted that a transfer would include not just the sale of a commercial property but also leases, assignments or surrenders.
2. The party transferring the property or interest in the property is obliged to discharge all rates for which he/she is liable for and on the date of the transfer.

Even though the Act provides that the primary liability of the previous occupier for outstanding rates is not affected, an owner can become liable for up to two years rates due by a previous occupier if the owner fails to notify the local authority within the permitted two weeks - or if the arrears are not discharged at the time of the transfer, even if those arrears in fact relate to another party's occupation of the property.

Any rates due by an owner, and not discharged, shall remain on as a charge on the property for up to 12 years.

Potential purchaser/lessees will need to seek evidence at the time of the transfer that all rent arrears have been cleared and obtain evidence of notification of transfer to the local authority. Owners not in occupation will need to be particularly vigilant in insuring the prompt discharge of rates by occupiers given the risk of the possible liability for any arrears passing to that owner.

These changes come into effect on 1 July 2014.

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