



Welsh Government
Consultation Document

A technical consultation on draft
Non-Domestic Rating (Unoccupied Property)
(Wales) (Amendment) Regulations 2020

Date of issue: 1 October 2020
Action required: Responses by 12 November 2020

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

Overview The Welsh Government is seeking views about provisions regarding non-domestic rates for unoccupied properties.

How to respond Responses can be emailed or sent direct to:

Non-Domestic Rates Policy Branch
Welsh Government
Cathays Park
Cardiff
CF10 3NQ
Email: LGF1Consultations@gov.wales

Further information and related documents Large print, Braille and alternative language versions of this document are available on request.

Contact details For further information, or queries regarding this consultation, please email: LGF1Consultations@gov.wales

Non-Domestic Rates Policy Branch
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

General Data Protection Regulation (GDPR)

The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses, this work may be commissioned to be carried out by an accredited third party (eg. a research organisation or a consultancy company). Any such work will only be undertaken under contract. The Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing. You should also be aware of our responsibilities under Freedom of Information legislation.

If your details are published as part of the consultation response, these published reports will be retained indefinitely. Any of your data held otherwise by the Welsh Government will be kept for no more than three years.

Your rights

Under the data protection legislation, you have the right:

- to be informed of the personal data held about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection.

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the GDPR, please contact:
Data Protection Officer
Welsh Government
Cathays Park
CARDIFF
CF10 3NQ
e-mail: Data.ProtectionOfficer@gov.wales

The contact details for the Information Commissioner's Office are:
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
Tel: 01625 545 745 or
0303 123 1113
Website: <https://ico.org.uk/>

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1 Introduction

- 1.1 This is a technical consultation on The Non-Domestic Rating (Unoccupied Properties) (Wales) (Amendment) Regulations 2020 (the Draft Regulations) attached at Annex A.
- 1.2 The Draft Regulations amend the criteria for eligibility for Empty Property Rates Relief and are intended to come into effect on 1 April 2021.
- 1.3 The Welsh Government previously consulted on the policy intention, rationale and evidence base for this change. This consultation seeks views about the legislative and practical application of the Draft Regulations. The consultation will be open for a six-week period and will close on 12 November 2020.

2 Tackling non-domestic rates avoidance

- 2.1 Non-domestic rates are a property tax which raise revenue for local government and police services in Wales. Rates are charged on the majority of non-domestic properties and other types of hereditaments, of which there are around 120,000 in Wales. Each year, non-domestic rates raise over £1 billion in vital revenue for local services such as schools, social care, waste management, housing, transport and many other services upon which our communities rely.
- 2.2 We believe that non-domestic rates should be collected as effectively and as fairly as possible. As part of a broader programme of reforms to the local government finance system, we are committed to reducing the opportunities for disingenuous persons to avoid their non-domestic rates liability. In April 2018 we consulted on ways to tackle various methods of rates avoidance¹, which evidence suggests amounts to an annual revenue loss of between £10 million and £20 million per year. The consultation offered options to reduce abuse of Empty Property Rates Relief, the most commonly reported method of avoidance. In October 2018, the Welsh Government announced its intention to amend the scheme from 1 April 2021².

Empty Property Rates Relief

- 2.3 Owners of empty non-domestic properties are not liable to pay rates for the first three months after a property becomes empty (the initial relief period). The aim of the initial relief period is to provide owners with a period of reprieve from paying rates while seeking a new occupier or use for the property. After the end of this period, the owner must pay full rates indefinitely. This is to discourage the keeping of properties empty for speculative reasons. For industrial properties, the initial relief period is six months because industrial properties are generally harder to let and can take longer to repurpose.

¹ Welsh Government consultation. 'Tackling Avoidance of Non-Domestic Rates in Wales', 4 April to 27 June 2018. <https://beta.gov.wales/tackling-avoidance-non-domestic-rates-wales>

² Written Statement, 16 October 2018 <https://gov.wales/written-statement-tackling-fraud-and-avoidance-non-domestic-rates-wales>

- 2.4 However, if at any time the property is occupied for a temporary period of 42 days or more where full rates are paid by the occupier (the 42-day rule), this acts as a reset to the relief cycle arrangements, and the owner is eligible for another cycle of three or six months relief. There is no limit on the number of times an owner can claim future cycles of relief so long as the temporary occupation criterion is satisfied. The 42-day rule was introduced in 2008 to help owners who regularly let properties to short-term occupants, eg. pop-up and seasonal businesses.
- 2.5 While originally well-intended, abuse of the 42-day rule has become the most common and widely known method of non-domestic rates avoidance, where periods of artificial or contrived ‘occupation’ are staged. The Welsh Government and local authorities have consistently held the view that this activity is not within the spirit of the intended purpose of the relief scheme.
- 2.6 We consulted on a number of options to tackle this abuse in 2018 and it was felt that lengthening the 42-day period would alter the balance of financial incentives enough to discourage avoidance. The proposed change will require property owners to prove the property has been occupied for six months (instead of the current 42 days) and the occupier would need to pay six months of full rates before becoming eligible for a further period of relief. It is hoped this will discourage artificial or contrived occupation arrangements and that it will be less financially beneficial for people seeking to exploit a tax advantage.
- 2.7 As part of our broader programme of reforms to the local government finance system and local taxation, we are committed to improving tax administration and to increasing fairness, ensuring our financial investment in relief schemes is targeted where it will have the greatest beneficial impact.

3 Structure of the Legislation

- 3.1 The Draft Regulations make amendments to the Non-Domestic Rating (Unoccupied Property) (Wales) Regulations 2008. The provisions replace in paragraph 5 of the 2008 regulations, the wording ‘six weeks’ with ‘26 weeks’, so that the legislation reads:

*“A hereditament which has been unoccupied and becomes occupied on any day is to be treated as having been continuously unoccupied for the purposes of regulation 4(a) and (b) if it becomes unoccupied again on the expiration of a period of less than **26 weeks** beginning with that day.”*

- 3.2 This amended wording has the legislative effect of lengthening the current six-week period of permissible temporary occupation to a period of 26 weeks.

Q1	Does the wording '26 weeks' used to define the new permissible period of temporary occupation provide clarity? If not, how can it be improved?
Q2	Are there any issues regarding the practical application of the amended regulations?
Q3	Do you have any other comments about the Draft Regulations?

3.3 The consultation response form at the end of this document also includes questions relating to the Welsh language.

4 Next Steps

- 4.1 The technical consultation on the Draft Regulations will be open for a six-week period. Following the end of the consultation, responses will be considered and any further amendments which may be required will be drafted.
- 4.2 Subject to the views submitted during this consultation exercise, it is intended that the Draft Regulations will be laid in due course and come into effect from 1 April 2021.

CONSULTATION RESPONSE FORM

Your name:	
Organisation (if applicable):	
Email / Telephone number:	
Your address:	

Questions

<p>1. Does the wording ‘26 weeks’ used to define the new permissible period of temporary occupation provide clarity? If not, how can it be improved?</p>
<p> </p>
<p>2. Are there any issues regarding the practical application of the amended regulations?</p>
<p> </p>
<p>3. Do you have any other comments about the Draft Regulations?</p>
<p> </p>
<p>4. We would like your views on the effects that the Draft Regulations would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.</p> <p>What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?</p>
<p> </p>

5. Please also explain how you believe the Draft Regulations could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

6. We have asked a number of specific questions. If you have any further points related to this consultation which we have not specifically addressed, please use this space to record them.

Responses to consultations are likely to be made public on the internet or in a report. If you would prefer your response to remain anonymous, please tick here