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Welsh Government
Consultation – Summary of Responses

Non-Domestic Rates

A technical consultation on the draft Non-Domestic Rating (Persons Required to Supply Information and Service of Notices) (Wales) Regulations 2023 – Summary of Responses

15 November 2022

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

Overview

This document provides a summary of the responses to the technical consultation on the draft Non-Domestic Rating (Persons Required to Supply Information and Service of Notices) (Wales) Regulations 2023.

Action Required

This document is for information only.

Further information and related documents

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

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Additional copies

This summary of response and copies of all the consultation documentation are published in electronic form only and can be accessed on the Welsh Government's website.

Link to the consultation documentation:

<https://gov.wales/draft-non-domestic-rating-regulations-address-fraud-and-avoidance>

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Introduction

1. Non-domestic rates, sometimes known as business rates, are levied on most non-domestic properties. Liability is calculated by multiplying the rateable value, which is determined independently by the Valuation Office Agency (VOA), by the annual multiplier which is set on an annual basis by the Welsh Government. Non-domestic rates raise more than £1.1bn every year in Wales. All this funding is used help to fund local public services which people and communities rely on.
2. Non-domestic rates should be collected as effectively and as fairly as possible. The overwhelming majority of ratepayers pay what is owed in full and on time – only a small minority avoid paying their fair share. Avoidance of non-domestic rates is to the detriment of local services, the wider community and other ratepayers.
3. A range of measures to combat non-domestic rates fraud and avoidance were consulted upon in the summer of 2018, following an evidence gathering exercise that took place in 2017. Following the consultation, the Cabinet Secretary for Finance announced a range of measures on 16 October 2018.
4. One of these measures was to introduce a new legal power for local authorities to request information from ratepayers and third parties providing a service in relation to a property, to support their role in the billing and collection of non-domestic rates.
5. This consultation sought views on the draft Non-Domestic Rating (Persons Required to Supply Information and Service of Notices) (Wales) Regulations 2023, referred to in this summary of responses as ‘the draft Regulations’. The draft Regulations set out measures aimed to help address issues of fraud and avoidance within the non-domestic rates system. The consultation was technical in nature and sought views on aspects of the clarity and practical implementation of the legislation.
6. This consultation applied to Wales only.

Proposals

7. Information that would help local authorities ensure their billing details are accurate for a property may be held by parties that are neither the owner nor occupier, for example a business providing a service in relation to the property. The aim of the draft Regulations is to enable local authorities to request information from prescribed third parties and set out the process for the service of notices in this regard. This is intended to help local authorities to identify certain changes impacting the rateable value of a hereditament or eligibility for reliefs and exemptions, and to assist them in ensuring changes of ratepayer and in the use of a property are identified more promptly. This, in turn, would improve the accuracy of non-domestic rates bills, reduce the potential for avoidance and result in more timely changes in liability.

Engagement

- Views were invited as part of a 12-week consultation which ran from 24 June 2022 to 16 September 2022. The consultation was published on the consultation pages of the Welsh Government's website. Respondents were able to submit their views and comments on paper, by email or online, and in Welsh or English.

Overview of responses

- In total, the consultation received eight responses. Three responses were from local authorities, two from professional bodies, two from individuals, and one from a rating agent.
- A full list of respondents is available at Annex A.

Summary of responses

- This document is intended to be a summary of the responses received. It does not aim to capture every point raised by respondents, but to highlight the key themes. Where responses were in agreement with the proposals, limited views are provided.

Q1. Does Regulation 3 of the draft Regulations provide clarity on which third parties the regulations apply to? If not, how can it be improved?

- Six of the eight responses, including all local authority responses, stated that there was necessary clarity in Regulation 3.
- One response suggested that Regulation 3 could more explicitly define a rating agent, but noted that they would fall within the existing broader definition. Another raised concerns about how a third party would be identified and questioned why information could not be requested solely from a ratepayer.

Q2. Does Regulation 4 of the draft Regulations provide clarity on the way notices may be served on third parties? If not, how can it be improved?

- Six of the eight responses, including all local authority responses, stated that there was necessary clarity in Regulation 4.
- One response called for additional detail about proof of the service of notices. Another response stated a lack of clarity as to whether Regulation 4(4), which relates to the service of a notice on the owner or occupier of the property, would be applicable to third parties.

Q3. Are there any issues regarding the administration and enforcement of the draft Regulations?

- Four responses highlighted possible issues with the administration and enforcement of the draft Regulations. Concerns about costs to the taxpayer, local

authorities unduly making use of the powers in a non-targeted way, data protection implications, and how a third party would be identified.

17. All three local authority responses were of the view that there were no administration and enforcement issues presented by the draft Regulations.

18. One respondent did not provide any views in response to this question.

Q4. Do you have any other comments about the draft Regulations?

19. Half of the responses provided no other comments about the draft Regulations.

20. Those who did provide comments included concerns about costs to the taxpayer, data protection implications, the burden on rating agents, and the broader intent of the Regulations.

Q5. The Welsh Government would like your views on the effects the draft Regulations would have on the Welsh language, specifically on:

i. opportunities for people to use Welsh; and

ii. on treating the Welsh language no less favourably than English.

What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

21. Five responses either provided no comment, felt they were unable to provide a view on this matter, or viewed the question as not applicable.

22. Among those who did provide views, there was a consistent view that the draft Regulations would have no detrimental impact on the Welsh language. One response highlighted existing bilingual duties upheld by local authorities.

Q6. Please also explain how you believe the draft Regulations could be formulated or changed so as to have:

i. 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

ii. 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.

23. Six responses either provided no comment, felt they were unable to provide a view on this matter, or viewed the question as not applicable.

24. One response stated that the draft Regulations would have no detrimental impact on the Welsh language.

25. One response noted the relevance of existing legislation that sets out the requirements for local authorities to uphold Welsh language standards.

Q7. We have asked a number of specific questions. If you have any related points which we have not specifically addressed, please use this space to record them.

26. Five of the eight responses raised no further points.
27. One response commented that the draft Regulations would be an infringement of privacy laws without elaborating. Another raised concern about possible impacts on rating agents of any penalties. The other view put forward reiterated responses to previous questions about to whom the Regulations should apply.

Next steps

28. The Welsh Government notes the comments raised in response to the consultation. The draft Regulations are intended to address the minority of situations whereby information to enable local authorities to carry out their billing functions is not forthcoming from ratepayers. Third parties may be in a position to provide relevant information in these circumstances. This forms part of a broader package of measures to address fraud and avoidance within the non-domestic rates system.
29. Local authorities would use the process enabled by the draft Regulations in a limited and targeted manner. The Welsh Government, therefore, considers that the draft Regulations would place minimal additional burden on third parties. The use of penalties would only occur in scenarios where third parties do not cooperate with an information notice. Third parties would not be expected to provide information they do not hold.
30. With regard to compatibility with data protection legislation, the draft Regulations are intended to support third parties to provide information by providing a legislative basis for doing so. The duties imposed on local authorities and third parties by data protection legislation will continue to apply.
31. The Welsh Government will make the Regulations, as drafted and consulted on, to come into force on 1 April 2023.

Annex A: List of respondents

Responses were received from the following.

Caerphilly County Borough Council
Ceredigion County Council
Denbighshire County Council
GL Hearn
Institute of Revenues, Rating and Valuation
Royal Institution of Chartered Surveyors

Two respondents wished to remain anonymous.