



Llywodraeth Cymru
Welsh Government

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OPEN CONSULTATION

Draft council tax (exceptions to higher amounts) (Wales) (amendment) Regulations 2023

We are consulting on the draft Regulations to amend Class 6 of the exceptions to the council tax premiums for second homes.

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Introduction

The purpose of the legislative change is to amend Class 6 of the exceptions to the council tax premiums for dwellings occupied periodically and add properties subject to a planning condition that specifies a dwelling may only be used for short-term holiday lets or that restricts occupancy of the property from use as a person's sole or main residence. Such properties would be liable for council tax at the standard rate but could not be charged a premium.

This consultation applies to Wales only.

Background

Welsh Ministers have power under section 12(B)(5) of the Local Government Finance Act 1992 to prescribe dwellings which will be exempt from a council tax premium by reference to such factors as the Welsh Ministers think fit and may, among other factors, be prescribed by reference to:

- the physical characteristics of, or other matters relating to, dwellings
- the circumstances of, or other matters relating to, any person who is liable for the amount of council tax concerned

This power enables the Welsh Ministers to ensure that the premium does not apply in circumstances where it would be unreasonable or incompatible with the policy aims. These circumstances are prescribed in the Council Tax (Exceptions to Higher Amounts) (Wales) Regulations 2015 ('the 2015 Regulations') and provide for classes of dwelling in relation to which a billing authority may not apply a premium to the standard rate of council tax.

An exception already exists for properties for which occupation is restricted by a planning condition (the seasonal occupancy condition) which prevents occupancy for a continuous period of at least 28 days in any one year. This relates to property where the character of its construction or design means it is not suitable for continuous occupation, especially during the winter months. Also, seasonal conditions may be applied to protect local features, for example where the site is near a fragile habitat which requires protection at particular times of year.

Much modern self-catering accommodation is capable of being occupied all year round. However where such accommodation is located in areas where the provision of permanent housing would be contrary to national and/or local policies, a local planning authority can impose a condition specifying its use as holiday accommodation only or restrict the occupancy of that property from use as a person's sole or main residence. Examples include conversions of redundant buildings into holiday accommodation where conversion into residential dwellings would not be permitted, for example to reduce pressure on other housing in rural areas or to reduce pressure on local services.

There is currently no exception from the council tax premium for property with a planning condition specifying its use as holiday accommodation or restricting the occupancy of that property as a person's sole or main residence.

Why are the draft regulations being proposed?

The Non-Domestic Rating (Amendment of Definition of Domestic Property) (Wales) Order 2022 (the 2022 Order) increased the availability and letting thresholds which a self-catering property must meet to be classified as non-domestic and liable for non-domestic rates.

The 2022 Order amends the minimum number of days a self-catering property is required to be made available to let in any 12 month period, from 140 to 252, and actually let, from 70 to 182, for the property to be classified as non-domestic from 1 April 2023 onwards.

Self-catering properties which do not meet the new criteria will be classified as domestic property and will be liable for council tax. This will include a premium where the local authority has determined to apply such a charge to second homes.

The Welsh Government is aware that some self-catering properties are subject to planning restrictions which prevent permanent occupancy or specifies their use as short-term holiday let accommodation only. Such properties cannot be sold or let long-term as a home for a member of the local community, without a change of planning conditions, and are arguably not limiting the local housing stock in being let short-term to holiday makers. The owners of such properties, therefore, potentially have fewer options for responding to the new criteria.

The draft Council Tax (Exceptions to Higher Amounts) (Wales) (Amendment) Regulations 2023 ('the draft Regulations') extend class 6 of the exceptions to council tax premiums to add properties subject to a planning condition which specifies that a dwelling may only be used for short-term holiday lets or which prevents occupancy of the property as a person's sole or main residence. Such properties would become liable for council tax at the standard rate if they do not meet the letting criteria for definition as non-domestic property but they could not be charged a premium.

The proposed application date for introducing the exception will be from 1 April 2023, in conjunction with the increased thresholds for properties providing self-catering accommodation to be classified as non-domestic.

The draft statutory instrument

The draft statutory instrument is at **annex a** (<https://gov.wales/sites/default/files/consultations/2022-11/annex-a.pdf>).

Next steps

This technical consultation on the draft Regulations will be open for a 6 week period. Following the end of the consultation, all responses will be considered and any amendments which may be considered necessary will be drafted.

It is intended the draft Regulations will be brought into effect as soon as possible and will apply from 1 April 2023.

Consultation questions

Question 1

Do the draft Regulations provide clarity on the circumstances in which a property with a planning condition can be excepted from the council tax premium? If not, how can it be improved?

Question 2

Are there any unintended consequences for the proposal to extend Class 6 of the council tax premium exception? Can you provide any examples?

Question 3

Do you have any other comments about the draft Regulations?

Question 4

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

- opportunities for people to use Welsh
- 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?

Question 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
- 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

Question 6

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.

How to respond

Submit your comments by **22 December 2022**, in any of the following ways:

- complete our **online form** (<https://gov.wales/node/50820/respond-online>)
- download, complete our **response form** (<https://gov.wales/sites/default/files/consultations/2022-11/wg46230-online-form.docx>) and email: **LGFR.Consultations@gov.wales** (<mailto:LGFR.Consultations@gov.wales>)
- download, complete our **response form** (<https://gov.wales/sites/default/files/consultations/2022-11/wg46230-online-form.docx>) and post to:

Council Tax Policy Branch
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

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.

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 **tell us** (<https://gov.wales/draft-council-tax-exceptions-higher-amounts-wales-amendment-regulations-2023>).

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 see contact details below.

Data Protection Officer

Data Protection Officer
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

E-mail: data.protectionofficer@gov.wales

(mailto:data.protectionofficer@gov.wales)

Information Commissioner's Office

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Telephone: 01625 545 745 or 0303 123 1113

Website: ico.org.uk (https://ico.org.uk/)

UK General Data Protection Regulation (UK 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 then 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. 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 then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

Further information and related documents

Number: **WG46230**

This document is also available in Welsh. You can view this document in **alternative languages**. (<https://gov.wales/alternative-languages>) If you need it in a different format, please **contact us** (<https://gov.wales/contact-welsh-government>).

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