



Welsh Government  
Consultation – Summary of Responses

## Non-Domestic Rates

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

January 2021

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 consultation on provisions regarding non-domestic rates for unoccupied properties.

## **Audience**

Businesses and other ratepayers, Welsh local authorities, interest groups, and individuals with an interest in the application of empty property rates relief to non-domestic properties in Wales.

## **Action required**

This document is for information only.

## **Contact details**

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## **Additional copies**

This summary report and copies of all the consultation responses are published in electronic form only and can be accessed from the Welsh Government's website.

## **Related Documents**

Link to the consultation document: <https://gov.wales/empty-property-rates-relief>

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

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## Introduction

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. 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 avoidance<sup>1</sup>, which evidence suggests amounts to an annual revenue loss of between £10 million and £20 million per year in vital revenue for local services. 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 2021.
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.
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, e.g. pop-up and seasonal businesses.
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. This is reported not just in Wales but in other nations too. 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.
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 core of the issue relates to historical judgements in case law of what constitutes occupation of a hereditament. We are exploring ways to improve this

aspect though we know it is a highly complex set of issues and will take some time to develop. Altering the timeframes for relief cycles in the interim should discourage the use of avoidance schemes, and is a measure which was also implemented in Scotland in April 2020.

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.

## Proposal

8. The proposed change will require properties to be occupied for a period of six months (instead of the current 42 days) before an owner could claim a further period of empty property rates relief once the property is vacated, after the initial period of three or six months relief.

## Engagement

9. Views on the technical aspects of the legislation and implementation were invited as part of a six-week consultation period which began on 1 October and ended on 12 November 2020. The consultation was published on the Welsh Government's website<sup>1</sup>. The consultation document was also emailed directly to stakeholders with interest in the points raised, through the Welsh Government's various stakeholder groups. Respondents were able to submit their views and comments on paper, by email or online, and in Welsh or English. A list of respondents to the consultation is provided at Annex A.

## Overview of Responses

10. In total, 27 responses were received to the consultation. The focus of responses were split between commenting on the technical aspect of the Draft Regulations and providing a policy viewpoint on the workings of Empty Property Rates Relief more widely. Responses also focused on current economic conditions brought about by the coronavirus pandemic.
11. The consultation received responses from a range of stakeholders, including individuals, local government representatives, groups representing ratepayers, individual businesses and professional bodies.

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<sup>1</sup> A technical consultation on draft Non-Domestic Rating (Unoccupied Property) (Wales) (Amendment) Regulations 2020. Available at: <https://gov.wales/empty-property-rates-relief>

<b>Respondent type</b>	<b>Number of responses</b>
Individual	12
Local Government	3
Representative Group	9
Individual Business	2
Professional Body	1
<b>TOTAL</b>	<b>27</b>

12. The majority of respondents answered questions one to three, limited views were given in response to questions four and five, and approximately half of the responses provided thoughts in response to question six. Some also provided additional comments, which have been analysed and noted. All respondents were invited to request anonymity: 11 requested this and are not identified at any point in this document. A couple of responses focused instead on issues relating to council tax on empty properties.

## **Summary of Responses**

13. This document is intended to be a summary of the responses received. It does not aim to capture every point raised by respondents but highlights the key themes.

### **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?**

14. Nearly all responses commented that the wording '26 weeks' is clear and no suggestions were given to improve the legislative clarity. One respondent did not provide an answer to this question. No views were put forward on any alternative terminology.

### **Q2. Are there any issues regarding the practical application of the amended regulations?**

15. Responses were mixed with ten respondents stating that there were no issues with the practical implications. Five responses did raise issues specifically with the technical aspects of the regulations, with three respondents commenting that the impact on software systems would need to be considered, two of these responses coming from local government representatives. There were also comments that the regulations did not provide adequate inspection and enforcement powers.

16. A range of wider policy comments were received in response to this question with eight respondents commenting that there would be negative impacts from the change. Although not directly linked to practical application of the regulations, these concerns primarily focused on the negative impact on short term lets, a view shared by varying groups.

17. Concerns were also raised about the impact on new businesses and the length of time it takes to let a property. Views put forward on this basis called for a longer period of relief than the current three month, or six when industrial, limit. There were also comments on the potential risks of demolition of empty properties to avoid liability as well as the timing of the proposed changes in the current economic climate.
18. Three respondents did not pass comment, and one respondent commented instead on council tax relief for empty properties.

### **Q3. Do you have any other comments about the Draft Regulations?**

19. There were 15 responses raising further comments. The majority of these comments focused on issues with either the proposed regulations or Empty Property Rates Relief more generally.
20. Six respondents raised concerns about the timing of proposed changes, with current economic uncertainty resulting from coronavirus restrictions cited. These views were given by various groups, including two representatives from local government. One suggestion put forward was that any change should be postponed until the next non-domestic rates revaluation in April 2023.
21. Issues raised with the current workings of Empty Property Rates Relief included that empty properties should not have to pay rates and that Empty Property Rates Relief should revert to the pre-2008 policy, whereby empty properties were charged 50% liability following an initial relief period.
22. Wider policy ideas were also put forward. These included bringing in a new type of relief for new build or improved properties, similar to that in place in Scotland, increasing the rateable value threshold below which empty properties are exempt from paying rates, currently at £2,600, and widening the tax base to include agricultural property, reducing the burden on current ratepayers.
23. It was also suggested that regulations be amended such that to receive another period of relief, a new occupant would be required in the property. Also, one respondent commented they felt that the proposed changes were long overdue.
24. Two respondents commented they had no further comments, eight respondents did not provide an answer and two respondents provided an answer in relation to council tax policy.

### **Q4. 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. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?**

25. No specific concerns about the impact of proposals on the Welsh language were raised. Wider comments focused on possible negative impacts on the Welsh economy as well as complications caused from differing regulations between England and Wales.

**Q5. 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.**

26. As above, no specific concerns about the impact on the Welsh language were raised.

**Q6. 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.**

27. Nine responses put forward further views. These covered a range of topics, including matters raised in responses to earlier questions. Views were generally focused on the fairness of empty property rates, with queries on the effectiveness of the tax if people were refusing to pay. The issue of timing was again raised alongside further calls for a return to the position prior to 2008.

28. There were a couple of responses commenting that investment and business activity in Wales may need to be reconsidered should the proposed changes be carried out at a time when property owners, investors and developers are rethinking strategies as a result of Covid-19.

29. Two responses commented on the need for reform of the non-domestic rates system. The Welsh Government continues to look at longer term options for local taxes in Wales.

30. 14 responses did not provide any responses to this question. Three responses commented they had no further comments and one response focused on issues relating to council tax.

### **Other Comments**

31. Wider comments, provided separately to a response to any of the questions in the consultation, included concerns that the proposed changes would deter investment in Wales.



## Next Steps

32. In light of current circumstances, and the evidence provided in response to the consultation, the Welsh Government is of the view that we should proceed with our intentions to tackle avoidance of empty property rates but delay implementation until 1 April 2022, a year later than proposed in the consultation. This will allow businesses and other ratepayers adequate time to prepare for the changes and for us to monitor the impact of Covid-19 on local property markets. We remain committed to supporting businesses through the pandemic and any pressures which may arise from exiting the European Union.
33. However, we also remain committed to reducing instances of avoidance within the non-domestic rates system. The Welsh Government will continue to engage with all partners to ensure the efforts of the considerable majority of businesses who pay their fair share towards the cost of local services are not undermined by the few who exploit the system.
34. We also continue to assess longer term options for local taxes in Wales and will shortly be publishing an update of all our research in this area.

## **Annex A: List of Respondents**

Responses were received from:

### **Individuals**

Mr A H Walker MRICS

Neil McKenzie

Ray McGovern

Steve Gould

Vivien Mitchell

### **Organisations**

Avison Young

CBRE

GL Hearn

Harris Lamb

Hattrick Property

Institute of Revenues, Rating and Valuation

Legat Owen

North & Mid Wales Association of Local Councils

Rating & Surveyors Association

Telgwen

Whitley Estates Ltd